

1985 WL 259201 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 8, 1985

*1 The Honorable Ulysses Frieson

Magistrate

Florence County

City-County Complex

Florence, SC 29501

Dear Magistrate Frieson:

In a letter to this Office you questioned whether a wife may charge her husband with criminal sexual conduct.

Section 16-3-658 of the Code states:

'(a) person cannot be guilty of criminal sexual conduct under §§ 16-3-651 to 16-3-659.1 if the victim is his legal spouse, unless the couple are living apart, by reason of court order, and the actor's conduct constitutes criminal sexual conduct in the first degree or second degree as defined by §§ 16-3-652 and 16-3-653.

Therefore, consistent with such provision, the General Assembly has mandated that a husband could not be charged with criminal sexual conduct unless the conditions specifically set forth as stated in Section 16-3-658 are applicable.

If there is anything further, please advise.

Sincerely,

Charles H. Richardson

Assistant Attorney General

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