

1976 S.C. Op. Atty. Gen. 409 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4541, 1976 WL 23158

Office of the Attorney General

State of South Carolina

Opinion No. 4541

DECEMBER 13, 1976

***1 RE: Enforcement of § 15–1095.17(d), § 15–1095.40, § 15–1095.41, Code of Laws of South Carolina (1962), 1975 Cum. Supp., and the effect of South Carolina Freedom of Information Act on the above sections.**

The contempt power under § 15–1095.23, Code of Laws of South Carolina (1962), 1975 Cum. Supp., defines the punishment for violations of § 15–1095.17(d), § 15–1095.40, § 15–1095.41, § 1–20, et seq., Code of Laws of South Carolina (1962), 1975 Cum. Supp., (Freedom of Information Act) has no effect on the above sections.

TO: W. Frank Rogers, Jr.
Lexington County Family Court Judge

QUESTIONS PRESENTED:

1. What are the means of enforcement for violations of § 15–1095.17(d), § 15–1095.40 and § 15–1095.41 of the Code of Laws of South Carolina (1962), 1975 Cum. Supp., regarding the privileged records of the juvenile offender within the jurisdiction of the Family Court?
2. What effect does § 1–20, et seq., Code of Laws of South Carolina (1962), 1975 Cum. Supp. (Freedom of Information Act) have on § 15–1095.17(d), § 15–1095.40 and § 15–1095.41, Code of Laws of South Carolina (1962), 1975 Cum. Supp?

AUTHORITIES CITED:

Statutes: § 15–1095.17(d), § 15–1095.23, § 15–1095.40, § 15–1095.41, § 1–20, et seq., Code of Laws of South Carolina (1962), as amended.

DISCUSSION:

You have requested an opinion regarding the enforcement of the sections of the Family Court Act which insure that the records of the juvenile offender remain privileged information. § 15–1095.23 of the Code of Laws of South Carolina (1962), 1975 Cum. Supp., provides:

Any adult who wilfully violates, neglects or refuses to obey or perform any lawful order of the court, or who violates any provision of this chapter, may be proceeded against for contempt of court. Any adult found in contempt of court may be punished by a fine or by imprisonment on the public works of the county, or both fine and imprisonment, in the discretion of the court, but not to exceed imprisonment for one year or a fine of fifteen hundred dollars, or both. (Emphasis added).

This section is the only provision in the Act itself which pertains to enforcement of the applicable sections and applies to any provision of the chapter, the chapter including all provisions of the Family Court Act.

§ 1–20, et seq., Code of Laws of South Carolina (1962), 1975 Cum. Supp. (Freedom of Information Act), would not apply to the cited code sections. § 1–20.1, Code of Laws of South Carolina (1962), 1975 Cum. Supp., provides in part: [R]ecords such as income tax returns, medical records, scholastic records, adoption records and other records which by law are required to be closed to the public shall not be deemed to be made open to the public under the provisions of this article, nor shall the definition of public records include those records concerning which it is shown that the public interest is best served by not disclosing them to the public. (Emphasis added).

*2 The emphasized phrase would exclude application of the Freedom of Information Act to the cited sections. Additionally, the courts do not come within the definition of ‘Public Agency’ as defined in § 1–20.1.

Therefore, the only punishment for a violation of § 15–1095.17(d), § 15–1095.40 and § 15–1095.41 is that provided in § 15–1095.23 of the Code of Laws of South Carolina (1962), 1975 Cum. Supp. The offender would be held in contempt of court and, in the discretion of the court, could be imprisoned for up to one year or fined up to fifteen hundred (\$1,500.00) dollars, or both.

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