

1975 WL 29159 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
October 29, 1975

***1 Re: Recognition of Adoptions Decreed in Germany in the United States of America**

Honorable Ernest F. Hollings
United States Senator
141 East Bay Street
Charleston, South Carolina

Dear Senator Hollings:

Your letter of October 21, 1975, addressed to the Attorney General, has been referred to me for consideration and reply.

I have reviewed the questions raised in the letter of the Consulate General in which he asks whether or not adoptions decreed in Germany are recognized in the State of South Carolina.

Section 10-2587.17, Code of Laws of South Carolina (1962), as amended, provides as follows:

'When the relationship of parent and child has been created by a decree of adoption of a court of any other state or nation, the rights and obligations of the parties as to matters within the jurisdiction of this State shall be determined by § 10-2587.13' (Emphasis added.)

Section 10-2587.13 referred to in Section 10-2587.17 provides as follows:

'(a) After the final decree of adoption is entered, the relation of parent and child and all the rights, duties and other legal consequences of the natural relation of child and parent shall thereafter exist between such adopted child and the person adopting such child and the kindred of the adoptive parents. From the date the final decree of adoption is entered, the adopted child shall be considered a natural child of the adopting parents for all inheritance purposes, both by and from such child, to the exclusion of the natural or blood parents or kin of such child. These rules of inheritance shall also apply to all the parties where one of the natural parents is united in bonds of matrimony to the other adopting parent.

(b) After a final decree of adoption is entered, the natural parents of the adopted child, unless they are the adoptive parents, shall be relieved of all parental responsibilities for the child and have no rights over such adopted child.'

It appears that by virtue of Section 10-2587.17, supra, the State of South Carolina has expressed a policy of comity insofar as foreign adoption decrees are concerned, whether they be obtained in another State, which is really a matter of full faith and credit, or in a foreign nation, which is expressly a matter of comity.

The Consulate General also raises the question of whether an adoption decree in Germany, involving a citizen of the United States either as the adopted child or as the adopting parents, is effective immediately, becomes effective after an adoption decree has been issued by a legal authority in the State of residence, or is ineffective from the beginning. The answer to the latter question is not quite clear based on the limited law that we have pertaining to the same. However, it would appear that it is the intent under Section 10-2587.17 that the adoption decreed in Germany could become effective immediately insofar as 'the rights and obligations of the parties as to matters within the jurisdiction of' South Carolina are concerned. We have no case law interpreting either Section 10-2587.13 or Section 10-2587.17, and the two Sections

which I have quoted, supra, are the only laws that we have which in any way are responsive to the questions raised by the Consulate General.

*2 I trust that the foregoing will be of assistance in responding to his inquiry.

Very truly yours,

Raymond G. Halford
Assistant Attorney General

1975 WL 29159 (S.C.A.G.)

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.