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JUSTICE BUILDING, LITTLE ROCK 72201

(501) 371-2007

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OPINION NO. 85-93

Mr. Ray Scott, Director
Arkansas Department of Human Services
Donaghey Building - Suite 1300
Seventh and Main Streets
Little Rock, Arkansas 72201

Dear Mr. Scott:

This letter is written in response to your opinion request in which you posed the question of whether under Ark. Stat. Ann. §45-445 (Repl. 1977) a person under eighteen (18) years old can be guilty of contributing to the delinquency of another person under eighteen (18) years old? Stated differently, the question is whether a minor can contribute to another minor's delinquency.

By the plain wording of §45-445, a minor cannot be convicted of contributing to the delinquency of another minor. The statute first uses the words "any person" to define a potential defendant under the act. Reading the words in their popular and well known sense, as they must be read, Henderson v. Russell, 267 Ark. 140, 143, 589 S.W.2d 565 (1979), one would conclude that the provision encompassed minors. This conclusion changes later, however, when it is seen that the statute authorizes the issuance of a bench warrant for violation of the act only for an adult. The provision provides for adjudication and punishment by the juvenile court and by its definition of minor impliedly defines adult as anyone eighteen (18) years old or older. If the juvenile court is to enforce this section, it must necessarily have the power to issue a bench warrant for violation. Hence, who the juvenile court can issue a bench warrant for is who can be guilty of this crime, and that person is an adult, defined as a person eighteen (18) years old or older.

As was stated in Scott v. Greene, 229 Ark. 1043, 1048, 321 S.W.2d 262 (1959), quoting 50 Am. Jur. 371, Statutes, §376, " . . . where there is in the same statute a specific provision, and also a general one which in its most comprehensive sense would include matters embraced in the former, the particular provision must control."

The short answer to your question is no.

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The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Theodore Holder.

Sincerely,


STEVE CLARK
Attorney General

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