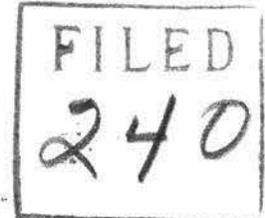


July 8, 1964



Mr. Charles W. Kunderer
Assistant Prosecuting Attorney
City of St. Louis
Municipal Courts Building
St. Louis, Missouri

Dear Mr. Kunderer:

In your letter of June 22, 1964, relative to aid to dependent children, you state the St. Louis Welfare Office has recently sent a case to the Prosecuting Attorney's office in which the mother claims two different men is the putative father and, secondly, you ask if it is necessary for the Welfare Department to refer cases where the paternity cannot be proved or is questionable, for example, where the mother has several children born out of wedlock and fathered by different men.

In our telephone conversation of June 24, you stated that you had a great number of applicants for aid referred to you by the welfare office in St. Louis, numbering from 85 to 100 a day, and that you question whether it was necessary for the welfare office to send these women back every few months.

Section 559.350, RSMo 1959, provides that if any man shall without good cause fail, neglect or refuse to provide adequately for his children born in or out of wedlock, he shall, upon conviction, be punished by not more than one year in the county jail or by fine not exceeding \$1000 or both.

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Section 208.040, RSMo 1959, provides that aid to dependent children shall be granted where the child has been deprived of parental support under certain conditions. It further provides that the Division of Welfare "shall, as a condition to granting benefits require the claimant to initiate or prosecute legal proceedings against the defaulting parent to secure support for said child, or through its investigation determine the claimant has in good faith informed and assisted the proper authorities and made all reasonable efforts to apprehend the parent and charge him with the support of said child."

This charges the Welfare Department to make an investigation and to see that the claimant has aided and assisted the prosecuting attorney in the apprehension of the delinquent father. We point out that this is a "condition to granting of benefits."

Further, this section provides that when a report is made to the prosecuting attorney of the desertion or non-support of the child for whom benefits are sought, and the whereabouts of the defaulting parent is known or can be ascertained, it shall be the duty of the prosecuting attorney to fully investigate all the facts and institute such action as he deems necessary.

Again, we wish to point out that it is the duty of the Welfare Department to report the facts to the prosecuting attorney and the prosecutor in turn must investigate the facts and file charges if he deems it necessary.

The section (Section 208.040) further states that if the prosecuting attorney determines that an action shall not be instituted, a report of his findings and the reason therefor shall be made to the Division of Welfare.

It is to be seen that in all cases where charges are not filed, the prosecutor must set forth the reason and a report of his investigation must be made to the Division of Welfare.

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A reading of this statute makes clear that before the Welfare Department can make any payments they must make an investigation, refer the matter to the prosecuting attorney, and that the prosecuting attorney must make an investigation, but that it is up to the prosecuting attorney to determine whether or not charges should be filed.

With reference to the problem of two alleged fathers, this would appear to be a situation where investigation would appear to be important in an effort to determine who is the defaulting parent. Very often the investigation by the prosecuting attorney will obtain an admission of paternity by the defaulting parent or evidence sufficient to submit the issue to the court.

As to the Welfare Department referring the matter to the prosecutor more than once, it would appear that if their investigation discloses any change of condition or where facts have been discovered changing the situation, or where it is a new application for aid, it is the department's duty to refer or re-refer the claimant to the prosecuting attorney.

We have outlined our interpretation of the law and the proper procedure thereunder, and we trust that this information will be of some benefit to you in the future.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

OHS/BJ/fh