

PUBLIC ASSISTANCE:
AID TO DEPENDENT CHILDREN:

Property owned by step-parent does
not render child ineligible for aid
to dependent children benefits.

August 30, 1966

OPINION NO. 371

Honorable Gordon R. Boyer
Prosecuting Attorney
Barton County
Lamar, Missouri



Dear Mr. Boyer:

In your letter of June 24, 1966 you requested an opinion from this office which reads in part as follows:

"Does Section 208.010 preclude payment of Aid to Dependent Children, where the step-father has property in excess of \$6,000.00?

The facts are that an application was made by the natural mother of minor children for aid on the grounds that the natural father was confined in the state penitentiary. Her present husband, the step-father of the children, is the owner of property valued in excess of \$8,000.00. The natural mother of the children and the children live with the step-father."

This office has been informed that the step-father in question has made no attempt to legally adopt these children.

Section 208.010, Missouri Cumulative Supplement 1965, provides in part that:

"In determining the eligibility of a claimant for public assistance . . . it shall be the duty of the division of welfare to consider

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and take into account all facts and circumstances surrounding the claimant, including his living conditions, earning capacity, income and resources, from whatever source received, and if from all the facts and circumstances the claimant is not found to be in need, assistance shall be denied * * *

It further provides that benefits shall not be payable to any claimant who:

"(4) Owns or possesses property of any kind or character, or has an interest in property, of which he is the record or beneficial owner, the value of such property, as determined by the division of welfare, less encumbrances of record, exceeds six thousand dollars, or if married and actually living with husband or wife, if the value of his or her property, or the value of his or her interest in property, together with that of such husband and wife, exceeds said amount; provided, however, that in the case of an aid to dependent children claimant this limitation shall apply only to property owned by parent and child or children in the home and not to other relatives with whom the child may reside."

Section 208.040, RSMo 1959 provides in part that aid shall be granted in behalf of any dependent child who is deprived of support or care by reason of the death, continued absence from the home, or physical or mental incapability of a "parent" and who is living with certain designated relatives including a "step-father."

Section 208.050, RSMo 1959 provides in part:

"Aid to dependent children benefits shall not be granted or continued with respect to any child:

"(2) Who is living in the home with a parent and step-parent, both of whom are able-bodied;"

This office is informed that the step-father is able to

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work on only a very limited basis, and further that he is under legal guardianship. Thus, we conclude that the step-father is not able-bodied within the meaning of Section 208.050, subsection 2, RSMo 1959.

The question submitted is whether the value of property owned by a step-parent is to be considered under Section 208.010 (4) in determining the eligibility of a child to receive aid to dependent children benefits.

Under the common law, in the absence of a statute, a step-parent is under no legal obligation to support his step-children. Stricklin v. Richters, Mo.App., 256 S.W.2d 53.

In the construction of statutes, words and phrases are taken in their plain and ordinary meaning. Section 1.090, RSMo 1959. The word "parent" in its common and accepted meaning refers to the natural parent or mother and does not include a "step-parent." The word "parent" usually denotes consanguinity rather than affinity. 67 C.J.S. "Parents", p. 624; 31 Words and Phrases, "Parents", p. 109.

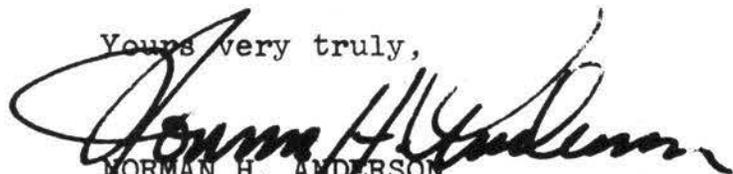
Apparently, the legislature recognized the distinction between parent and step-parent when these statutes were enacted because it used both terms which indicates that they did not intend for the word "parent" to include "step-parent." If the legislature had intended for the word "parent" used in Section 208.010 (4) supra, to include a "step-parent", it could have done so very easily by including the word "step-parent" as well as "parent" in said section.

CONCLUSION

It is the opinion of this office that under Section 208.010 (4), RSMo Supp 1965, the value of property owned by a step-parent is not to be considered in determining the eligibility of a parent for aid to dependent children under Section 208.040, RSMo.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Moody Mansur.

Yours very truly,


NORMAN H. ANDERSON
Attorney General