

MAINE STATE LEGISLATURE

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RICHARD S. COHEN
ATTORNEY GENERAL



STEPHEN L. DIAMOND
JOHN S. GLEASON
JOHN M. R. PATERSON
ROBERT J. STOLT
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

October 9, 1979

The Honorable Barbara M. Trafton
State Senator
Maine State Senate
State House
Augusta, Maine 04333

Re: Duty of Support Owed by Fathers and Putative Fathers to
Pregnant Women

Dear Senator Trafton:

This letter responds to your request for an opinion as to the duty of support owed by fathers and putative fathers to pregnant women. These questions were originally raised by the Welfare Director for the City of Auburn regarding general assistance rendered to pregnant women.

It is important to realize that a putative father (i.e. one who is not married to the woman who is carrying the child) has no duty of support for the woman or child until such time as he either acknowledges that he is the natural father, pursuant to 18 M.R.S.A. §1003, or is found to be the father in a paternity action, brought pursuant to 19 M.R.S.A. §271 et seq. Until such time as either event occurs, the putative father cannot be forced or ordered to provide any support or assistance. Once paternity is either established or acknowledged the father may be found liable for all support rendered within the last six years. 19 M.R.S.A. §273. Furthermore the court may enter an order against the father for the "reasonable expenses of pregnancy, confinement, education, necessary support or funeral expenses" of the minor child.

A municipality may not bring a paternity action until such time as the child is born. Once the child is born and the determination is made that the child has needs not covered by Aid to Families with Dependent Children, and thus is eligible for General Assistance, such a paternity action would be brought under Section 272, as the municipality would then be a "public authority chargeable by law with the support of the child."

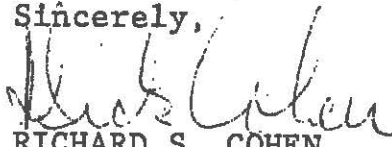
The Honorable Barbara M. Trafton
Page Two
October 9, 1979

The common-law duty of support owed by a husband to his wife or child has been codified into positive law by the Maine Legislature in several statutes. 19 M.R.S.A. §§ 214, 301, 442 and 581. This duty of support is broad enough to encompass any unborn child which the wife may be carrying. Until such time as the child is born, the duty owed to it can be enforced through the support obligation owed the wife. This may be enforced under 19 M.R.S.A. §301 which may require the husband to contribute to the support of his wife "such sums payable weekly, monthly or quarterly as one deemed reasonable and just."

Title 19 M.R.S.A. §441 et seq. would be of most assistance to a municipality which is attempting to enforce a support obligation as well as seeking reimbursement for past assistance rendered to a wife and unborn child. Section 448 states that the right of support may be enforced by the State or any political subdivision, if it has previously rendered support to the wife (or child).

I hope this information is helpful. Please feel free to call on us if we can be of any further assistance.

Sincerely,



RICHARD S. COHEN
Attorney General

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