

1975 S.C. Op. Atty. Gen. 128 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4052, 1975 WL 22349

Office of the Attorney General

State of South Carolina

Opinion No. 4052

July 17, 1975

\*1 South Carolina law requires mothers to support their minor children in circumstances when the father cannot or will not.

TO: Archie Ellis  
Commissioner  
Department of Social Services

#### QUESTION(S) PRESENTED

Does South Carolina require a mother to support her dependent children?

#### STATUTES, CASES, ETC., INVOLVED

Section 25, ACT No. 1195 of 1968 [Section 15–1095.25(b), 1974 Supplement to Code of Laws of South Carolina (1962)].

[Workman v. Workman](#), 174 S.C. 490 (1935).

[Caroll v. Britt](#), 227 S.C. 9 (1955).

[Campbell v. Campbell](#), 200 S. C. 67 (1942).

#### DISCUSSION OF ISSUE(S)

The South Carolina Supreme Court held in [Workman v. Workman](#), *supra*, that ‘it is the (Mother's) duty to support her children, if she can and has the means.’ In a later case, the court held that a mother could not recover monies that she expended toward the education of her daughter, ‘as this was her duty, as a mother’ to do so. [Caroll v. Britt](#), *supra*. In these cases and in others on point the court found this obligation to be firmly vested in the common law and in natural law. See [Campbell v. Campbell](#), *supra*.

This duty and obligation of the mother is more clearly defined in Section 15–1095.25(b), [1974 Supplement to the S. C. Code, 1962](#), which provides:

(b) when the father of a child is dead, is incapable of supporting his child or cannot be found within the State, the mother of such child is hereby declared to be chargeable with its support and, if possessed of sufficient means or able to earn such means, may be required to pay for its support a fair and reasonable sum according to her means, as may be determined by the court. Likewise, when a child has been removed from the custody of the mother for cause and its custody has been placed elsewhere, the mother and father shall be equally liable for its support.

#### CONCLUSION

Therefore, it is the opinion of this office that a mother has a duty of support to her defendant children under the circumstances outlined in Section 15-1095.25(b), supra.

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