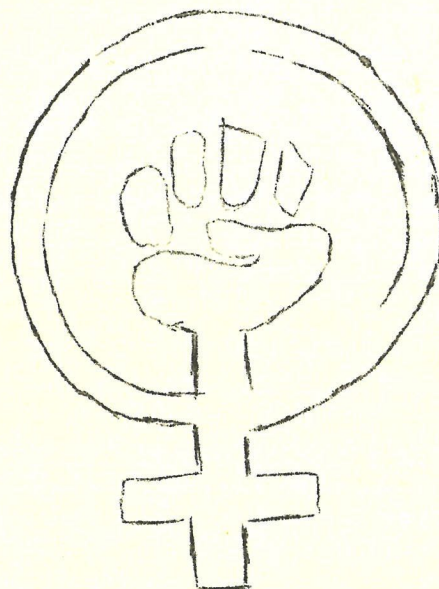


SEIZING THE REINS:

KNOWING YOUR LEGAL RIGHTS AS A WOMAN



Seizing the Reins: Knowing Your Legal Rights As A Woman

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INTRODUCTION

This pamphlet is written for women who are most in need of practical instruction about their legal rights. They are those women who have been made to feel that they must depend on others to the extent that they have lost all control over their own lives. To them, the notion of self-determination is obsolete.

The pattern is clear: a woman is raised to depend upon a man. Inevitably, she marries one and bears children. She fulfills her "biological destiny". As long as she has her husband, she is relatively safe. However, if she leaves him because he refuses to provide for her and her children, or makes life with him unbearable, she is thrown into a position in which she has no power. She has perhaps three or four children of pre-school age, for whom she must provide. She may have no skills in which case she is forced to apply for welfare assistance (or she may not be able to earn enough money to provide for herself and the children). Again she is dependent, only this time on the government. She is made to feel that she is receiving something that is not her due and yet no alternative is offered to her. If she works for more than 120 hours a month her welfare assistance may be suspended or cancelled. She is immobile.

Women must think about the fact that they would be more productive as individuals if they were given some incentives to maintain themselves.

There should be nationwide economically controlled daycare centres so that a woman who cannot afford to pay for daycare can be relieved of her children. Women should be encouraged to take retraining courses. Finally, there should be an upgrading of the acceptance of women in the profession and jobs which pay well enough that a woman can support her family.

At present these women are caught in what seems to them to be a hopeless situation. They are not allowed the right of directing their own lives.

The object of this pamphlet is to inform women of their rights so that they may seize the reins by which others have been manipulating them and direct themselves.

THE INFORMATION IN THIS PAMPHLET IS SUBJECT TO CHANGE AND IS THEREFORE NOT TOTALLY ACCURATE.

Although this pamphlet was prepared as accurately as possible, administrative policies and the laws change so rapidly that there is no guarantee that this information is completely up to date. Therefore contact one of the groups listed on pp.34 and 35.

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Part I
Welfare Assistance

Chapter I: Am I Eligible?

As a woman, you are eligible for Permanent Welfare, under the Family Benefits Act, if you are in one of the following situations:

- I. You are a mother with a dependent child (see definition of "dependent child" on page 5) and you are
- a) a widow, or
 - b) your husband has deserted you for three months or more, or
 - c) your husband has deserted you and was not able and is not able to be employed due to physical or mental disability, or
 - d) you are an unwed mother, and your child is at least three months old, or
 - e) your husband is serving a prison term with at least six months left to serve, or
 - f) your husband is in an institution such as a mental hospital or sanitarium, a nursing home or a home for the aged.

However, you cannot receive welfare support if you are separated from your husband. You must be either deserted or divorced.

Part I

You are considered to be a deserted wife if you are living apart from your husband and he is not providing for your family's support. Normally this means that your husband has left you. However, "constructive desertion" also makes you eligible for assistance. This means that you have left your husband because:

- a) he has refused to supply you with food or basic necessities, or
- b) he has been guilty of adultery which has been proven in court, or
- c) he has acted cruelly towards you, making life with him intolerable.

2. You are a foster parent. This means that you are looking after a child that is not your own child because the child's legal parents are dead or unable to provide for the child. You can get assistance for the child if he or she is not under the care of a Children's Aid Society.

Whether or not you qualify for welfare assistance for the child depends on the needs and resources of the child, not on the needs of you as foster parent.

3. If you are blind or disabled and 18 years of age or older, you can receive welfare assistance. This means that you have a physical or mental handicap that makes you unable to work. You can get permanent welfare (under the Family Benefits Act) if your handicap is not likely to get better, or you can get temporary welfare (under the General

Welfare Assistance Act) if you will eventually be able to be employed again. Temporary and Permanent welfare will be further explained in Chapter 3.

4. You can get welfare assistance if you are at least 60 years of age but not yet 65 (not yet receiving Old Age Security), and

- a) your husband is receiving Old Age Security, or
- b) you have never been married, or
- c) you are divorced, or
- d) you have been deserted by your husband for more than 3 months and his whereabouts are unknown, or
- e) you have been living apart from your husband for more than 5 years, or
- f) your husband is serving a prison term with at least 6 months left to serve, or
- g) you are a widow, or
- h) your husband is in an institution such as a mental hospital, sanitarium, a nursing home or a home for the aged for at least 6 months.

Chapter 2: How Much Will I Receive?

Remember that the amount of money you receive as welfare assistance depends on how much you have and how much you need. Therefore, the things that the welfare worker is going to consider are:

- a) what liquid assets you own (cash, money in the bank, redeemable stocks and bonds)
- b) your income
- c) your expenses

You are allowed to have up to \$1,000 in liquid assets for yourself and \$200. for each of your dependents when you apply for Permanent Welfare Assistance. If a wife or husband is 60 years of age or older, the couple can have up to \$1500. in liquid assets and still receive assistance. After you start obtaining aid you may increase your savings by up to 10%. Therefore, if you are a single person, you may have up to \$1,100. in liquid assets and still receive assistance.

Usually your belongings such as your furniture, clothing and jewelry are not liquid assets. A car can be considered a liquid asset if it is not necessary (i.e. public transportation is available) .

The house that you own and in which you live is not a liquid asset. However, the value of any other property that you own will be considered a liquid asset if it is marketable.

If the value of all your liquid assets combined is more than you are allowed, then you cannot get welfare assistance since you do not qualify financially.

You are allowed to reduce the total amount of your assets "in any reasonable manner": you may buy a house to live in; you may pay off your debts; or you may reduce your mortgage. It's a good idea to discuss what is "reasonable"

with your field worker before you make any decisions, however.

You might find that your first cheque is delayed and it is necessary for you to live on your liquid assets. If, however, you had nothing to do with the delay and you ask, you may be paid the amount you would have received for up to three months.

Your income includes all earnings, gifts, pensions, rent from lodgers, and so on that you receive.

If your child is not attending school full-time, is over 16, and living at home, then he or she is considered a boarder rather than a dependent. But if a child who is under 19, and living at home, leaves school to work and earns less than \$80. a month, he or she is not considered a boarder. If one of your children, whether in school or not, earns more than \$80. a month, the amount he or she earns beyond \$80. will be added to your income-- up to \$22. a month.

Anyone living with you other than your husband is considered a lodger or a boarder. Therefore you will be considered to be obtaining rent from him or her. You must also consider the problem of having a man living in the house who is not your husband. At one time the welfare payments of a woman could be cancelled if there was a man living in her house. It was assumed that if a man was living with her then he must be giving her money. However,

since 1970, there has been a change of regulations in the province: welfare payments cannot be cancelled because of a "man in the house" unless the people in the neighbourhood consider them to be living as man and wife, and the man is employed.

When your income is examined by the welfare authorities, some of it does not count at all, some counts only in part, and some counts completely.

A. Income that doesn't count at all:

1. casual gifts of small value
2. donations from religious, charitable or benevolent organizations
3. interest and dividends earned on your liquid assets
4. tax rebates paid to homeowners and tenants (under the Residential Property Tax Reduction Act)
5. Family Allowances (the "baby bonus")
6. Youth Allowances
7. Special Assistance and Supplementary Aid allowances
8. payments made by the Children's Aid Society for the care of a foster child, or by another government for the care of a child
9. if you are in a nursing home, payments by your friends or relatives for special services for you in the home
10. any Indian band treaty

B. Income that counts in full:

1. Old Age Security payments and Guaranteed Income Supplement payments
2. Canada Pension Plan payments or Quebec Pension Plan payments
3. Unemployment Insurance benefits
4. Workmen's Compensation Board payments
5. War Veteran's and War Widow's allowances
6. Civilian War Pensions and allowances
7. any regular payments from any annuity, pension plan, superannuation plan, or insurance plan
8. payments under a separation agreement or an order made in a divorce
9. payments under any agreement made between the father and mother of a child born out of wedlock (under the Child Welfare Act, or any other agreement)
10. any payments made under The Deserted Wives' and Children's Maintenance Act
11. mortgage, loan, or agreement for sale payments
12. all other money that is not referred to in this chapter

C. Income that counts in part: (to allow for the cost of obtaining it)

1. money that you get from a person who rooms and boards in your home. Only 40% of this money (gross) is counted as income with a minimum of \$22. a month.
2. money that you get from a person rooming in your house.

The amount considered as income will be 60% of the gross amount you get from a tenant, or \$10. monthly for each person, whichever is greater.

3. Money you get from a person who rents a self-contained place such as a flat or basement apartment. 60% of this gross amount of money counts as income.

4. Maintenance allowances paid under a training program. Deductions are allowed by the Director of Family Benefits for reasonable costs of attending the training course, such as transportation costs, fees, cost of books, and cost of lunches.

5. earnings from a job

6. revenue from a business or farming operation

You may work full-time and still get assistance if you are in financial need. However, if you are a mother with dependent children there is a limit to the number of hours you can work and still receive welfare assistance. You may work up to 120 hours a month (averaged over a 4 month period). You may earn \$24. for yourself and \$12. for each dependent without it counting as income. After this free amount, three quarters of the rest you earn is taken to be income. For example, if you earn \$120. a month gross and you have four dependent children, \$36. of this is considered income. (\$24 plus 4x\$12. equals \$72., subtract this from \$120. and you have \$48, and three quarters of this is \$36.)

Your expenses must also be examined to determine your need. The expenses considered necessary are 1) food, clothing, and other living expenses, 2) shelter expenses, 3) fuel costs, 4) special expenses.

Your expenses are considered in two ways: some are figured to be the amount you pay; others are determined by the legislation, a table of rates called the "Pre-added Budget". The amount you are allowed to spend for living expenses, (household supplies, personal needs, food, clothing and utilities), is fixed in this table of rates. The fixed amount for a single adult person is \$68. per month. If you have one child who is nine or under you are allowed \$100. for these expenses. The amounts vary depending upon how many children you have and what their ages are.

Shelter expenses include rent; mortgage payment, taxes, fire insurance and reasonable costs of maintenance and repairs. You should discuss "reasonable" with your welfare worker. Though the amount of your shelter expense is the amount you actually pay each month, there are maximums. These are: \$47./month for a single person without any dependents: \$85./month for a person living in "unheated" premises (heat not included in rent) with one dependent and an additional \$5. for every other dependent: \$95./month for a person living with one dependent in heated premises and an additional \$5. for every other dependent. This usually applies to persons renting. No matter how low your rent is you are still allowed a minimum amount for shelter--

\$23./month for a single person and \$34./month for couples or families.

Your fuel costs are determined by the Annual Fuel Expense rates table. If your fuel costs are higher than the amount allotted for your home the Director may raise the amount of your fuel expense up to the actual annual cost of your fuel. You should keep your receipts for oil, gas or coal, since you may be paid the difference if your cost for fuel was greater than it was figured to be. /

Special expenses are also considered as expenses when your need for assistance is examined. These include:

- a) Life Insurance premiums if you are a mother with dependent children
- b) special diets if you are pregnant, or ill
- c) special age expense for those people 65 years of age and over who do not receive Old Age Security.

If you are caring for a foster child, your allowance for the child will be \$50. for the first foster child, \$45. for the second foster child and \$40. for each additional foster child.

To determine the amount of your welfare payment, subtract your income from your expenses. This is the approximate amount you will receive each month. It will only change if your income or expenses change. If your income or expenses do change, bring it to the attention of your welfare worker as soon as possible.

Chapter Three: How Do I Apply?

There are three types of welfare which you can apply for. The first is what I have been referring to as Permanent Welfare, under the Family Benefits; the second is Temporary Welfare, under the General Welfare Assistance; the third is Emergency Welfare which is again under the General Welfare Assistance Act. So far I have been talking about Permanent Welfare. Basically, this means that as long as you are in the same financial situation (i.e. your income does not change and your expenses do not change for any reason) then you will keep receiving the same amount of assistance.

Temporary Welfare is different in several ways. It is supposedly for people who only need temporary assistance; however you may receive it sometimes for a long period of time. You may receive temporary welfare if you are:

- a) out of work and looking for a job (you should be registered with Manpower)
- b) a mother raising children alone
- c) sick, disabled or blind
- d) elderly
- e) a foster parent

In other words, although you are not necessarily eligible^a for permanent welfare you may be eligible for temporary welfare. The advantage of getting temporary welfare is that you begin to receive payments more quickly. You may have to wait as long as six weeks for your first cheque after

you apply for permanent welfare. You get your cheques twice a month with temporary welfare and you have to pick them up. When you go down to see your welfare worker to pick up your cheque, she will ask you if anything has changed (if you have moved or if a dependent child has left home). In this way you are kept in fairly close contact with your worker and may be more able to discuss your needs with her.

Another advantage of being on temporary is that your medical bills are paid immediately by the government. You do not have to wait to get your money back from the government after you have paid the bills yourself as you do when you are receiving permanent welfare. You are given a card to present to your doctor.

Emergency Welfare is the assistance you receive when you are completely out of money and cannot even afford the necessities of food, shelter, clothing etc. . There is one office in Toronto that provides emergency money for you if you need it. This office is at 345 George St. and the phone number is 367-8608. This is the number to call if you are urgently in need of assistance. The only problem you might find is that you must come down to the office to get your money. They will not bring it to you. However, at the end of this pamphlet there will be a list of the places that you should contact for help if you find that you are not able to get to the office because you have no money for

transportation. Sometimes when you are already receiving temporary welfare, you may be able to get emergency advances from your welfare worker.

You may want to apply for Special Assistance if you are not receiving welfare but need money for any of the following expenses:

- a) moving
- b) prescribed drugs
- c) surgical supplies
- d) dental services
- e) optical services
- f) artificial limbs, eyeglasses, hearing aids, etc.
- g) vocational training
- h) transportation (to doctors or job interviews, etc.)
- i) funerals and burials
- j) spending money for people in nursing homes

If you are already receiving welfare, Old Age Security or a training allowance from the Ontario Rehabilitation Services Branch, you may receive Supplementary Aid. This gives you money for:

- a) prescribed drugs
- b) optical services
- c) dental services
- d) high rent costs
- e) any other extraordinary need

The amount you get depends upon the amount you need, up to \$20./month for each person who actually receives the needed item or service.

Welfare Offices in Toronto

| | |
|------------|--|
| District A | East York 670 Cosburn Avenue, east of Coxwell 425-3433 |
| District B | Etobicoke 4887 Dundas St, W. at Burnhamthorpe 239-8401 |
| District C | North York 5740 Yonge St. above Finch 223-2840 |
| District D | Scarborough 777 Warden Avenue, south of Eglinton 757-5131 |
| District E | York 2700 Eglinton Ave., West in the York Municipality Building at Keele 653-3130 |
| District F | 455 Dovercourt Rd. north of College St. 537-2171 |
| District G | 345 George St. 367-8608 |
| District H | 1631 Queen St., east at Coxwell 698-5681 |

These are all Temporary Welfare offices. However, they can help you to transfer to Permanent Welfare eventually, and it is faster to apply for Temporary Welfare at first. The Permanent Welfare (Family Benefits) office in Toronto is at 110 Eglinton Ave., W. and the phone number is 487-4392.

Chapter 4: What Should I Expect?

When you apply for welfare at one of the regional offices, the usual procedure is as follows:

- 1) You wait at a wicket where you are asked if this is the first time you have applied for welfare.
- 2) You are given a pencil and some forms to fill out.
- 3) You sit down and try to fill out the forms. If you find that you cannot answer some of the questions DON'T WORRY. You will be seeing a worker later on and she will help you with those questions that you couldn't answer.
- 4) You return the forms to the wicket.
- 5) You wait to see the worker. This can sometimes take from two to three hours.

The social worker will ask you questions and make suggestions about what you should do. She will want to know about:

- 1) your bank accounts
- 2) whether you rent or own your home and if you own it, what mortgages are paid, etc.
- 3) the ages of all your children
- 4) where you have lived for the last three years
- 5) whether you are employed
- 6) insurance policies you have and how much you pay in premiums
- 7) the details surrounding your application, i.e. why you need welfare assistance
- 8) what debts you owe.

She will also want to see a note from your doctor if you are disabled or blind.

There are also certain things you should know before you apply for welfare assistance:

- a) You are debt-proof. For example, your landlord can sue you and sign a statement declaring that you owe him back rent; however, he cannot enforce his claim while you are receiving welfare assistance. If you stop receiving assistance and go to work, it is possible that your landlord could require your employer to deduct up to 30% of each pay cheque until he receives the full amount owed to him.
- b) If you are an unwed mother or a deserted wife, the welfare authorities will certainly request that you obtain some support from your child's father by taking him to court. However, you are not obliged by law to take him to court, or to sign any paper requiring him to pay.

It is expected that a social worker from the welfare office will come visit you. She is supposed to come during daylight hours. Make sure the social worker has your telephone number. Usually there is no reason for her to come after working hours.

Although the home visit is to determine whether you are really in need of assistance, many times you get money on the same day as you apply and then receive your home visit.

To Appeal

If you are refused welfare, cut off or receive lower payments for any reason, there is a way of appealing this action. You may appeal your case to City Hall (Metro Welfare and Housing- 5th floor). They have the power to overrule decisions made by your welfare administrator. The phone number is 367-8598.

If you still have problems, ask your welfare worker for a form 6, or write for one from:

Board of Review,
Macdonald Block,
Room M1-57
Parliament Buildings
Toronto 182

If you live in Toronto, you will probably have your hearing in the Macdonald Block at Bay and Wellesley. If you do not live in Toronto it may be held anywhere in Ontario which is most convenient to both you and the Board.

You will receive a registered letter telling you where and when the hearing is to be. You may attend by yourself or with a friend and you may be represented by legal council.

You will receive a copy of the Board's decision. If you are still dissatisfied, you may appeal to the Supreme Court. You should definitely have a lawyer to do this.

Before making any appeal, try to talk with one of the groups listed on the page at the end of the pamphlet. They will give you help and advice.

Part II

Children

Chapter 1: What are My Rights as a Mother

When a child is born to a man and woman who are living together, whether they are married or not, the couple is primarily responsible for bringing up the child and for providing the child with food, clothing, shelter and other necessities. Within limits, the couple may also make decisions about the child's future. For instance, the couple may decide on the child's religion, his or her legal name, and what language he will speak at home. However, the law requires that a child must attend school and a parent cannot decide that his or her child will not attend school (though there are many alternative kinds of educational facilities available and approved as schools in particular cases.)

When a child is born to a mother who is not married and who does not live with a man who wishes to be the father of the child, she may decide to give up her rights to the child for all time and to place the child for adoption. (See Adoption) On the other hand, she may decide to keep the child even in the absence of a father for the child. She may wish to sign a contract with the child's father by which he promises to support the child or obtain a court order to this effect. (See Affiliation Orders) In some cases, an unmarried mother may wish

to keep her child without obtaining any support from the child's father. She is entitled to do this, though it is often necessary to make very careful plans for the child's future in such a case.

It often happens that a couple may decide to separate several years after the date of their marriage or the time when they began to live together. Usually it is the wife who keeps the children in such cases. If the husband decides to seek custody by going to court, the judge must decide where the children should live according to the best interests of each child. For female children and children under the age of 10, the court will usually find that the mother should have custody. For such a hearing, it is a good idea to have a lawyer, and you may obtain a Legal Aid certificate to hire a lawyer if you do not have enough money to pay a lawyer yourself. (See Legal Aid)

Chapter 3: Can I Lose My Rights to My Children?

Although parents are basically entitled to look after their children without interference from others, there are some circumstances when it has been decided that parental rights are less important than the present and future well-being of their children. In these circumstances, the law provides that the parents' rights may be temporarily suspended or, in very serious cases, entirely ended, and the children are cared for by other people thereafter. Basically, parents' rights may be lost or suspended if the child is found to be :

- a) a delinquent

b) in need of protection.

a) Delinquency

A "juvenile delinquent" is anyone actually or apparently under 16 years old who is found to have committed any criminal offence, or to have breached a municipal bylaw, or who is "guilty of sexual immorality or any similar form of vice". Any child liable to be committed to a training school is also a juvenile delinquent.

Any child who is arrested for committing an offence or an act of delinquency is entitled to have legal representation, and it is possible to obtain a Legal Aid certificate if neither the child nor his parents can afford to pay a lawyer. A child is entitled to be considered for bail, and if he is refused bail and must remain in custody until his trial, he must be detained in a special detention home for juveniles and be segregated from adults who are being held in custody.

The law requires that a child who is found to be a juvenile delinquent by the court must not be treated as an "offender" or criminal; he is to be given help, guidance and supervision in order to prevent him from committing further offences. It is the duty of the court to notify a child's parents that he or she is to appear in court, and the parents have the right to attend the court hearing. Such a hearing is closed to the public and anyone else who is not directly concerned with the case. Newspapers are prohibited from publishing the names of any juveniles who are charged or convicted, the names of

their parents or the school they attend. The procedure at the hearing is not as formal as in an adult court, and the judge will want to hear the views of the child's parents as well as the child's comments. He will usually spend a lot of time trying to find out why the child has done the delinquent act, and will want to know whether the parents are willing to try to help the child in the future. On the other hand, if the court hears the evidence and concludes that it was due to the neglect or bad influence of his parents that the child has committed the delinquent act, the court may impose a fine on the parents. It is also an offence for any adult (including parents) to aid or cause a child to become a delinquent or to do anything likely to promote or contribute to a child becoming a delinquent. The penalty for such an offence may be a fine up to \$500., imprisonment for up to 2 years, or both. For this to be an offence, it doesn't matter whether the child actually committed an offence or not.

Where a court has found that a child is a juvenile delinquent, the judge must look into all the facts of the child's background, his home, and his relationship with his parents. He may:

1. Suspend or adjourn the case, or
2. Impose a fine on the child of up to \$25. and order the child to be allowed to pay it in installments if necessary, or
3. Temporarily place the child in the custody of a probation officer or any other suitable person, or

4. Allow the child to remain at home, but require that the probation officer visit the child there regularly, and/or require the child to report to the judge periodically, or
5. Temporarily place the child in a foster home and require the probation officer to visit the child there regularly.
6. Impose any conditions on the child in addition to his order which the judge thinks advisable, or
7. Place the child temporarily in the care of the Children's Aid Society. A child whose parents are Roman Catholic must be placed in the care of the Catholic Children's Aid Society: usually, non-Catholic children are placed with the Children's Aid Society. (A child of an unmarried woman takes its religion from its mother.), or
8. Commit the child to training school. A child must be 12 years old but under 16 years old at the time of the order for committal to training school. Once a child is admitted to a training school, the superintendent of the school is authorized to exercise "the rights and duties of a guardian for the purpose of the care, custody and control of the child, and the right of his parents to do so cease temporarily. A child remains in training school until he is 18 years old unless the school superintendent recommends that he be released earlier. Any child who escapes from training school must be returned and it is an offence for anyone to assist

a child to escape from training school or to conceal a child who has escaped. The penalty for this offence may be up to \$500. or 3 months' imprisonment or both.

In all of these situations, the rights of the parents are never completely taken away. In many cases, the parents must try to help the child by reporting to the court from time to time or by cooperating with the probation officer. Sometimes they are asked to contribute money for the child's support. Where the child is placed in a foster home, or a training school, or in the care of the Children's Aid Society, the rights of parents are temporarily suspended. However, even in these circumstances, parents are usually permitted periodic visits with their children. If you wish to be able to see the children, ask your lawyer to request the judge for an access order during the hearing. Usually when parents attempt to cooperate and show a desire to see the child, the judge will be happy to make such an order. Always bear in mind, however, that he can do so only if he feels it is in the best interests of the child.

If you feel that the judge has made an order which is improper, it is possible to request permission to have the order appealed. You will need a lawyer to do this and you may apply for a Legal Aid certificate if you cannot afford a lawyer, and a certificate may sometimes be issued. If you feel that you are being denied access to your children unreasonably, you may be able to obtain a Legal Aid Certificate to take action in this regard also.

b) Protection of Children

The law provides that in certain circumstances, a child may be found to be in need of protection. For instance, a child is deemed to be in need of protection if he is an orphan and no one can care for him, if he has been deserted by his parents or they have died; if his parents or guardians cannot care for him because they are in prison, are sick or have no money; if the child is living in the unfit place or associates with an unfit person or begs in public. A child who is a truant or whose parents cannot control him may also be considered in need of protection. If parents refuse or are unable to provide medical assistance for a child, or if parents emotionall reject a child, if the child's life, health or morals are endangered by the conduct of his parents, the child may be found to be in need of protection.

A police officer or a worker from the Children's Aid Society may take a child to a place of safety when a child appears to be in need of protection. Unless a child has been unlawfully concealed, there must be a court hearing within the next five days. The parents of the child must be notified of the time and place of this court hearing, and are entitled to be represented by a lawyer. (see Legal Aid)

The procedure in this hearing is less formal than in some other courts and the judge will want to ask you questions about your child and your role as parents. You should bring to his attention your interest in your child and your

willingness to co-operate and help your child in the future. The hearing is private and any persons not directly concerned with the case, are excluded.

After hearing the case, the judge may decide that the child is not in need of protection. In this case, the child must be returned to the custody of the parents. If the judge finds that the child is in need of protection he may :

1) Place the child with the parents or other persons subject to supervision by the Children's Aid Society for several months.

2) Order that the child be made a "Society Ward" for up to one year at a time, but not more than two years altogether. In this case, the child will probably be placed in a foster home or a group home. Usually, if requested, the judge will make an order that will allow the parents to visit regularly. Sometimes the parents may be asked to contribute to the child's support.

3) Order that the child be made a "Crown Ward" . When a child has been made a Crown Ward, the parents lose all rights to the child, completely and for all time. (subject to the right of appeal-see below). Normally, a judge makes a child a Crown Ward only when the parents are totally uninterested in the child or when there is evidence of complete incompetence or neglect of the child in the past. Once the order has been made and the time for appealing the order has expired, a parent has no right to the child at all, and the child may be legally adopted. When a parent receives notice that an application is being made to have the child declared a Crown Ward, legal advice

should be sought immediately before consent is given to the order and before the court hearing.

Any person affected by this hearing has a right to appeal the order; proper legal notice must be given within 30 days after the order was made. You will need a lawyer to handle the appeal (see Legal Aid) . You may also, at any time, request the judge who heard the case to change his order regarding your rights to visit your child if he or she was made a Society Ward.

When a child is found in need of protection because he or she has abandoned, deserted or found begging, the person responsible for the child may be fined up to \$500. or imprisoned for up to one year or both. This is in addition to the suspension of termination of her rights as the parent of the child.

Chapter 3: A Note About Adoption

In order to adopt a child, you must apply to the Children's Aid Society and be considered suitable adopting parents. A court must make an order for the adoption and thus you will need a lawyer to help you. (See Legal Aid) In most cases, an adoption order will not be made when there is only one adopting parent, and a couple must always be married. Adoption orders are usually only temporary at first-- they are made final after a probation period of six months.

Private Adoption is an application for adoption when the adopting parents know the natural parent or parents. For instance, when a child is born to an

unmarried woman, the man she subsequently marries may want to adopt her child. The mother must consent to such an adoption, and if the natural father has in any way recognized the child as his by giving her or him his name or providing any support, he must also consent to the adoption. It is possible to apply to the court to permit an adoption without the consent of the natural father, but this may be difficult. A child older than 7 years must also consent to her or his adoption. As with other adoptions, it is necessary for the Children's Aid Society to recommend the suitability of adopting parents, and there is a probation period of six months before the order is final.

Once a child is legally adopted, he is entitled to all the rights of a natural child, and the parents have all the rights of natural parents.

Part III
Maintenance and Support

Chapter 1: What Are My Rights If I Am Not Married?

If you are unmarried at the time your child is born, it is possible for you to make arrangements with the child's natural father so that he may make payments to you for the support of the child. The law does not require your making any arrangements with the child's father -- the decision is yours.

If the child's natural father agrees, you may make an agreement with him in the presence of a social worker from the Children's Aid Society. Any agreement may be varied at a later date if the father's financial circumstances change. Once the father has entered into the agreement, he must make the required payments; if he defaults, the Children's Aid Society or the mother may take legal action to recover the amounts owing.

If you wish to have the father make support payments for your child, and he is not willing to sign an agreement voluntarily, you may make an application to the court for an affiliation order. You must make this affiliation before the child is 2 years old, and no application can be granted after the death of the father. If the father acknowledges the child as his child any time after the child's second birthday (by words, gifts or money payments), you may bring an

affiliation application within one year after the acknowledgement.

You will need a lawyer for an affiliation application. There will be a court hearing and both you and the alleged father will have an opportunity to give evidence. If the judge is satisfied with the evidence and makes an affiliation order, he can order the father to pay your hospital and medical expenses for the child's birth, and periodic payments for the support of your child until the child is sixteen years old.

Chapter 2: Are My Children and I Deserted?

You are considered a "deserted wife", under The Deserted Wives' and Children's Maintenance Act if you are living apart from your husband because he has left you and is not providing you with the basic necessities. "constructive desertion" can also be constituted even though you left your husband, when:

- 1) he has refused to provide you with the basic necessities of food, shelter, clothing, etc.

- 2) he is guilty of adultery which is proven in court and of which you did not approve.

- 3) he has acted cruelly towards you making your life with him intolerable, Your husband shall be considered to have acted cruelly towards you if he has made you fear bodily injury or injury to health without proof of actual violence.

The home is therefore unfit for you to live in and your

departure is justified.

Your husband must be considered to have deserted your children if:

- 1) desertion has been constituted without adequate provision having been made for those involved.
- 2) your husband was able to provide in whole or part
- 3) he neglected or refused to do so.

Chapter 3: Can I Obtain Maintenance for Myself and My Children?

You may obtain support for yourself if you are deemed to have been deserted by your husband and:

- 1) you have not committed adultery or
- 2) you have committed an act or acts of adultery, which your husband has encouraged.

Your husband can be made to pay up to \$20./week per child if he has deserted them. Also, in keeping with the aim of reconciliation in all family disputes, you must show your good faith by establishing your willingness to reunite with your husband despite his awful conduct towards you and your children.

Chapter 4: What Should I Do?

If you wish to start proceedings against your husband in order to receive maintenance for yourself and/or your children you should lay and information before a justice of the peace. This usually is done in Toronto, at 311 Jarvis St. You simply tell the justice of the peace the details surrounding your case. If he believes

that you have been deserted, he will issue a summons against your husband. A hearing will then take place before a magistrate or a judge of a juvenile and family court. This also takes place in Toronto at 311 Jarvis St.

At the hearing the judge will want to know the circumstances surrounding your desertion. He will also want to know whether you have any income. Your husband will then be sworn in and asked some questions. The judge will want to know: 1) whether he is employed

2) what is his income

3) what are his expenses

It may be decided that he is able and must pay some support for you and your children. If he can only afford to pay part of your support, and you are receiving welfare, then he must pay it to the Welfare authorities. However, if he can afford to pay it all, then you receive it directly.

Your husband may appeal this decision but your payments must still be paid until the order is changed. If you are receiving Welfare; or likely to be if your husband refuses to make his payments, he may be ordered to report to a probation officer to insure that the payments are made. A penalty of up to 3 months imprisonment is prescribed for failure to report to the probation officer.

If your husband suspends or stops his payments, a justice of the peace may summon him to explain the default. If he does not appear or it seems likely that he

is trying to run away, the court may order a warrant for his arrest. If no sufficient explanation is made for his failure to pay and it is not due to inability to pay, he may be imprisoned for up to three months.

When an order for Maintenance has been granted, the court may also award custody of the child; however, no such custody order can be made in the absence of a maintenance award.

Remember that you do not have to take action against your husband. If you are receiving welfare assistance, you will be urged to lay an information against your husband. However, if your husband cannot afford to pay you as much as you receive in assistance, it may not be worth the effort. You are not obliged by law to take your husband to court or sign any declaration of desertion against him.

If You Need Help

1) Legal Aid

If you are unsure of your legal rights or you wish to obtain legal advice or find a lawyer to represent you in court, you may be entitled to a Legal Aid certificate. You may then choose a lawyer and his services will be paid for by the government.

If you wish to apply for a Legal Aid certificate, you must go to the Legal Aid office at 73 Richmond St. (one block west of Bay St. . You will be asked to fill out a form to identify yourself. You will also be asked whether your legal action is civil or criminal (unless you have been charged with a criminal offence, your action is a civil one). You will be interviewed by a lawyer and he will advise you what action you are entitled to take. You must also be interviewed to determine your financial resources.

You may be told immediately that you are entitled to a certificate; in any event, you should hear within ten days.

If you do not receive a Legal Aid certificate, you are entitled to appeal this decision. However, it would probably be a good idea for you to talk to one

of the agencies listed here. They may be able to assist you with your appeal after you have been refused a Legal Aid certificate, or they may be able to help you by giving advice. They may even represent you in court.

Places to call if you need advice:

The Women's Place

31 Dupont St., at Avenue Rd. and Dupont

929-3185 or 929-3186

Monday thru' Saturday from 10:30A.M. to 5:30P.M.

Operation Family Rights

310 Danforth Ave.

461-1168

Parkdale Legal Services Clinic

1267 Queen St.,W.

533-3508

High Park Information Centre

145 Annette St., West of Keele

762-8331

Bloor-Bathurst Community Information Centre

896 Bathurst St

531-4613

Community Information Centre Of Metro Toronto

110 Adelaide St.,E.

863-0505

Legal Aid

73 Richmond St.,W.

366-9631

Open from 9:30 to 3:30 each weekday except

for Tuesday when it is open to 7:30 p.m.

Phone for an appointment.