



**OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN**

**GERALD C. MANN  
ATTORNEY GENERAL**

**Honorable Chas. W. Castner, Chief  
Eleemosynary Division  
State Board of Control  
Austin, Texas**

*Travis Co*

**Dear Dr. Castner:                   Opinion No. 0-2977**

**Re: Classification of a child as  
an orphan or half-orphan to  
make it eligible for benefits,  
under Public Welfare Act.**

**This will acknowledge receipt of your letter  
of inquiry, as follows:**

**"The Child Welfare Division of the State  
Department of Public Welfare has submit-  
ted the following question to this Board,  
which we in turn submit to you for an  
opinion:**

**"What length of time is  
necessary to elapse be-  
fore a child is classi-  
fied as an orphan or half-  
orphan following the di-  
vorce or the desertion of  
one parent? This is in  
the sense that a child is  
deprived of the protection  
and support of a parent  
for a long period because  
of the divorce or desertion  
of a parent."**

**There is no general statute defining the status  
of a child as an orphan or half-orphan by reason of the  
death of one of the parents, or the divorcement of the  
pair, or the desertion by the one or the other of the  
parents.**

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Article 695c, Vernon's Civil Statutes, Section 1, Subdivision (e), defines as follows:

"The term 'dependent child' means a needy child under the age of fourteen (14) years, who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and whose relatives liable under the law for his support, are not able to provide adequate care or support for such child without public assistance, and who living with his father, adoptive father, mother, adoptive mother, grandfather, grandfather-in-law, great-grandfather, grandmother, grandmother-in-law, great-grandmother, stepfather, stepmother (but not their parents), brother, brother of the half blood, brother-in-law, adoptive brother, sister, sister of the half blood, sister-in-law, adoptive sister, step-brother, step-sister, uncle and aunt of the whole or half blood, uncle-in-law, aunt-in-law, great-uncle, or great-aunt in a place maintained by one or more of such relatives as his or her home."

Sections 22, 23 and 24 of the Act are as follows:

"Sec. 22. The amount of assistance which shall be granted for any needy dependent child shall be determined by the State Department through its district or county agencies in the county or district in which the child resides, with due regard to the resources and necessary expenditures of the family of such child and the conditions existing in each case, and in accordance with the rules and regulations made by the State Department, and shall be sufficient, when added to all other income and support available to the child to provide such child with a reasonable subsistence compatible with decency

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and health, within the limitations and provisions of the Constitution of Texas as are now provided, or may later be provided, and, in addition thereto, such funds as the Federal Government may appropriate and allocate to the State of Texas from time to time shall be distributed to the recipients of assistance in like manner as State funds are paid under the terms of this Act.

"Sec. 23. Application for assistance for a needy dependent child under the provisions of this Act shall be made in the manner and upon the form prescribed by the State Department. During the period in which assistance is granted, the State Department shall have jurisdiction over general guidance of all children aided.

"Sec. 24. When the investigation discloses that a child in whose behalf application for assistance has been made is a needy dependent child as defined in this Act, and that such child is living, or will live, with one or more of the relatives prescribed in this Act, assistance may be allowed for the support of such child if other provisions of this Act are complied with."

It will be seen these Sections are broad, and confer upon the Department a reasonable and liberal discretion in providing for dependent children eligible for benefits. The "reasonable subsistence" authorized to be supplied is determined upon the facts and circumstances surrounding the child at the time of inquiry, or application for aid, rather than by any question of the time during which the child has been a dependent child, or of the cause or causes which may have produced the conditions.

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This answer is indeed most general, but we can hardly be more specific in view of the generality of your inquiry.

Trusting that this will be a sufficient answer to your question, however, we are

Very truly yours

APPROVED JUL 7, 1941

ATTORNEY GENERAL OF TEXAS,

*Robert Sullivan*  
By  
FIRST ASSISTANT  
ATTORNEY GENERAL

*Ocie Speer*  
Ocie Speer  
Assistant

OS-MR

