



OFFICES OF THE

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

April 7, 1976

JOHN C. DANFORTH
ATTORNEY GENERAL

OPINION LETTER NO. 83

Honorable Russell Goward
Representative, District 65
Room 312, State Capitol Building
Jefferson City, Missouri 65101

Dear Representative Goward:

This letter is in response to your opinion request asking whether a prosecuting attorney has authority under Section 208.040, V.A.M.S., to initiate civil proceedings to secure support for the children referred to in Section 208.040. If the prosecuting attorney does have authority to initiate civil as well as criminal proceedings under Section 208.040, you inquire further whether the prosecuting attorney is limited to any particular form of civil proceeding.

Section 208.040 provides that aid shall be granted on behalf of certain dependent children. Subsection 2 of that section also provides in part as follows:

" . . . When any report is made to the prosecuting attorney of the desertion or nonsupport of a child for whom benefits are claimed, and the whereabouts of the deserting or defaulting parent is known, or can be ascertained, it shall be the duty of the prosecuting attorney to fully investigate all the facts concerning the desertion or nonsupport and institute such action as he deems necessary to secure support for such child. If the prosecuting attorney determines for any reason that an action should not be instituted, a report of his findings and the reason an action was not instituted

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shall be made to the division of family services.
. . ." (Emphasis added)

It seems clear that in enacting the quoted provision the legislature has not in any manner attempted to limit the form of the action the prosecutor might bring. It is thus our view that the prosecuting attorney may, under Section 208.040, bring whatever action either civil or criminal he deems appropriate to secure support for such child.

Yours very truly,

A handwritten signature in cursive script that reads "John C. Danforth". The signature is written in dark ink and is positioned below the typed name.

JOHN C. DANFORTH
Attorney General