



TRINIDAD AND TOBAGO.

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[L.S.]

I ASSENT,

J. HUGGINS,
Acting Governor.
23rd May, 1939.

AN ORDINANCE to provide for the maintenance of
illegitimate children.

[25th May, 1939.]

Commencement,

ENACTED by the Governor of Trinidad and Tobago with
the advice and consent of the Legislative Council
thereof.

1. This Ordinance may be cited as the *Affiliation* Short title.
Ordinance, 1939.

Interpreta-
tion.

2. In this Ordinance—

“ child ” means an illegitimate child ;

“ custodian ” of a child means a person, other than the mother or putative father of such child, who is appointed to have custody thereof under the provisions of this Ordinance ;

“ single woman ” includes a widow.

Putative
father to be
summoned on
application
of mother.

3. Any single woman who may be with child or who may be delivered of a child may—

(a) before the birth of the child, or

(b) at any time within twelve months from the birth of the child, or

(c) at any time thereafter upon proof that the man alleged to be the father of the child has within twelve months next after the birth of the child paid money for its maintenance, or

(d) at any time within the twelve months next after the return to the Colony of the man alleged to be the father of the child, upon proof that he ceased to reside in the Colony within the twelve months next after the birth of the child,

make application, by complaint on oath to a Magistrate of the district in which she may reside, for a summons to be served on the man alleged by her to be the father of the child, and if such application be made before the birth of the child the woman shall make a deposition upon oath stating who is the father of the child, and such Magistrate shall thereupon issue his summons to the person alleged to be the father of the child to appear before a Magistrate on some day to be named in the summons.

Condition of
issue of
summons.

4. It shall be lawful for a Magistrate, on any application for a summons under this Ordinance, to refuse to issue such summons if he is not satisfied that there is reasonable cause to believe that the man alleged to be the father of the child is in truth and in fact the father of such child, and that such application is made *bona fide* and not for any purpose of intimidation or extortion.

5. (1) After the birth of such child, on the appearance of the person so summoned, or on proof that the summons was duly served on such person or left at his last place of abode seven days or more before the hearing, a Magistrate of the district in which the summons was issued shall hear the evidence of such woman and such other evidence as she may produce, and shall also hear any evidence tendered by or on behalf of the person alleged to be the father, and, if the evidence of the mother be corroborated in some material particular by other evidence to the satisfaction of the Magistrate, he may adjudge the person summoned to be the putative father of the child, and the Magistrate may also, if he sees fit, having regard to all the circumstances of the case, proceed to make an order on the putative father for the payment to the mother of the child or to any person who may be appointed to have the custody of the child under the provisions of this Ordinance of a sum of money weekly not exceeding one dollar and fifty cents a week for the maintenance and education of the child, and of the expenses incidental to the birth of the child, and of the funeral expenses of the child if it has died before the making of such order, and of such costs as may have been incurred in obtaining such order; and if the application be made before the birth of the child or within two calendar months after the birth of the child, such weekly sum may, if the Magistrate thinks fit, be calculated from the birth of the child.

Order of
maintenance.

(2) If at any time after the expiration of one calendar month from the making of such order as aforesaid, it shall be made to appear to a Magistrate of the district in which the order was made upon oath that any sum to be paid in pursuance of such order has not been paid, the Magistrate may, by warrant under his hand, cause the putative father to be brought before him, and in case such putative father neglect or refuse to make payment of the sums due from him under such order, or since any commitment for disobedience to such order as hereinafter provided, together with the costs attending such warrant, apprehension, and bringing up of such putative father, the Magistrate may, by warrant under his hand, direct the sum so appearing to be due, together with such costs, to be recovered by distress and sale of the goods and

Enforcement
of order.

chattels of such putative father, and may order such putative father to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless he gives sufficient security by way of recognizance or otherwise to the satisfaction of such Magistrate for his appearance before a Magistrate on the day which may be appointed for the return of such warrant of distress, such day not being more than seven days from the time of taking any such security.

(3) If upon the return of such warrant, or if by the admission of the putative father, it appear that no sufficient distress can be had, then the Magistrate may, if he sees fit, by warrant under his hand, cause such putative father to be committed to prison, there to remain without bail for any term not exceeding three calendar months, unless such sum or costs and all reasonable charges attending the said distress, together with the costs and charges attending the commitment and conveying to prison and of the persons employed to convey him thither be sooner paid and satisfied.

(4) Upon the application of either the mother or custodian of the child, or of the putative father, a Magistrate may, after enquiring into the circumstances, make an order either increasing or decreasing the amount previously ordered to be paid by the putative father, but so that in no case shall such amount exceed one dollar and fifty cents per week.

Time of
cessation
of order.

6. No order for the maintenance and education or for contribution towards the relief of any child made in pursuance of this Ordinance shall, except for the purpose of recovering money previously due under such order, be of any force or validity after the child in respect of whom it was made has attained the age of thirteen years, or after the death of such child: Provided that a Magistrate may by the original order or by any subsequent order direct that the payments shall continue for any period after the child has attained the age of thirteen years but not beyond the day on which the child attains the age of sixteen years, in which case such order shall be in force for the period so fixed.

7. All moneys payable under any order as aforesaid shall be due and payable to the mother of the child unless a custodian has been appointed, in which case all such moneys shall be due and payable to such custodian.

Money to be paid to mother or custodian.

8. (1) Whenever under this Ordinance an order has been made against the putative father for payments in respect of a child, any Magistrate may at the time of making such order or from time to time thereafter, on being satisfied that the mother of the child is not a fit and proper person to have custody of such child, appoint some person other than the mother to have custody of such child provided that such person be willing.

Appointment of custodian.

When the mother dies, or becomes of unsound mind, or is in prison, any Magistrate shall from time to time appoint some person, who is willing, to have custody of the child.

(2) The appointment of a custodian under the provisions of the preceding sub-section may be made on the application of an inspector of poor relief, or of the putative father, or of the mother when she is alive, and such appointment may be revoked and another person appointed to have custody of the child.

Application, by whom made.

(3) A custodian shall have power to make application for the recovery of all payments in arrear or becoming due under an order made under section 5 of this Ordinance, in the same manner as the mother of the child might have done.

Claims by custodian.

(4) Upon any order of appointment or of revocation being made under this section, the Magistrate may also order the child to be delivered by any person to the person appointed to have the custody thereof as aforesaid.

Magistrate may order delivery of child.

(5) A Magistrate may also on the application of the putative father of a child under the age of sixteen years or of any inspector of poor relief make an order that the custody of such child be committed to the father.

Custody of child may be granted to putative father.

(6) If a child, in respect of whose maintenance and education an order subsists or is sought, shall be wrongfully taken out of the custody of the mother or custodian of such child, a Magistrate may on the application of the mother or custodian make an order that the custody of the child be committed to such mother or custodian.

Child taken out of mother's custody may be returned to mother.

Penalty.

(7) Any person who contravenes any order made under the preceding sub-section shall be guilty of an offence and shall, on summary conviction before a Magistrate, be liable to a fine not exceeding one hundred and twenty dollars or to imprisonment with or without hard labour for any term not exceeding three months.

Neglect and desertion of child.

9. Every woman neglecting to maintain her child, being able wholly or in part so to do, or deserting her child, shall, on summary conviction before a Magistrate, be liable to a fine not exceeding forty-eight dollars or to imprisonment with or without hard labour for any term not exceeding one month.

Misapplying moneys or illtreating a child.

10. Every person having the custody of a child under any order as hereinbefore provided who misapplies moneys paid by the putative father for the support of such child, or who withholds proper nourishment from such child, or who in any manner illtreats such child shall, on summary conviction before a Magistrate, be liable to a fine not exceeding forty-eight dollars or to imprisonment with or without hard labour for any term not exceeding one month.

Appeal against order.

11. Any order made under this Ordinance may be appealed against either by the mother or custodian of the child or by the putative father in the same manner as any other order made by a Magistrate under and subject to the provisions of the Summary Conviction Offences (Procedure) Ordinance.

Cap. 24.

Procedure.

12. Except as provided for or varied by this Ordinance, all procedure, including the computation of and other matters with respect to costs, shall be as near as may be according to the procedure under the Summary Conviction Offences (Procedure) Ordinance.

Cap. 24.

Form of warrant.

13. The form in the Schedule hereto may, with such variations and additions as the circumstances of the particular case require, be used in the cases to which it applies and when so used shall be good and sufficient in law.

Repeal.

14. The Bastardy Ordinance, Cap. 65, and sections 6 to 11 both inclusive of Ordinance No. 26 of 1936 are hereby repealed.

SCHEDULE.

TRINIDAD AND TOBAGO.

THE AFFILIATION ORDINANCE, 1939.

Warrant of apprehension for disobedience of Order.

(Section 13.)

To all Constables.

WHEREAS it has been made to appear to me.....
 Magistrate for the County of.....on the Oath of
(hereinafter called the complainant)
 that by an order duly made on.....19 ,

 of..... (hereinafter called the defendant)
 was adjudged to be the putative father of an illegitimate child of which
was the mother and was ordered to pay
and that the payments directed to be made by
 the said order have not been made according thereto by the defendant and
 that there is now in arrear the sum of.....being
 the amount due for.....

This is therefore to command you to apprehend the said.....
and bring him before a Magistrate unless the said
 sum (or sums) and the costs and charges of executing this warrant amounting
 to the further sum of.....shall be sooner paid;
 And for your so doing this shall be your sufficient warrant.

Dated this.....day of.....19.....

Magistrate.

Passed in Council this nineteenth day of May, in
the year of Our Lord one thousand nine hundred and
thirty-nine.

W. E. BOARDMAN,
Clerk of the Council.