

MAINE STATE LEGISLATURE

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July 18, 1963

R.P.C. *F.H.D.*
Hon. Fisher, M. D., Commissioner of Health and Welfare - Attn: Miss Pauline Smith,
Director, Division of Family Service
Ruth L. Crowley and Frank J. Davis, Assistant Attorneys General

Opinion Concerning Trust Set Up By Superior Court Justices

You have asked us for an opinion concerning trusts set up by Superior Court Justices in accident cases involving minor children.

When a minor child is awarded damages in Superior Court in an accident case, it is customary for the presiding Justice to order that the amount of the damages, after payment of medical and legal fees have been deducted, be set up as a trust fund for the benefit of the minor child with any expenditures to be made only on authority from the Justice making the order or another Superior Court Justice acting on his behalf. It is unusual, and indeed rare, for a Justice to authorize withdrawals for anything other than extraordinary expenses of the child, such as education. The ordinary expenses of living would be deemed to be the responsibility of the parents or the State, in case of a committed child and would not be payable from the proceeds of the accident award.

Neither the parent, guardian, nor child has any control over the withdrawal and use of these funds, and this is an irrevocable trust during the child's minority.

Therefore, it is our opinion that such funds cannot be considered a cashable asset in determining eligibility for public assistance.

cc: Attorney General

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