

MAINE STATE LEGISLATURE

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Liability of State for Damage Caused by Misdeeds of Minor Child Committed
to State Custody

SYLLABUS:

The State has no legal liability for damage inflicted by a minor child committed by the courts to the custody of the Department of Health and Welfare.

FACTS:

A minor child who was duly committed, under Title 22, section 3792, M.R.S.A., to the custody of the Department of Health and Welfare, and who was thereafter placed in a licensed foster home, allegedly took a car without permission of the owner. She was involved in a one-car accident in which the car was substantially damaged. The owner of the car is now requesting that the State reimburse him for the damages sustained to the car and other damages sustained as a result of his loss of transportation immediately following the accident.

QUESTIONS:

1. Is the State legally liable for the damages sustained by the car owner because of the alleged misdeeds of this committed child?
2. What recourse, if any, does the owner of the car have for obtaining reimbursement for damages to his car?

ANSWERS:

1. No. The State is not legally liable for damages inflicted by the misdeeds of a committed child.
2. The only recourse available for reimbursement from State funds would be a special resolve submitted to the Legislature.

REASONS:

1. The statutes impose no legal liability upon the State for damages inflicted by a child committed by a court decree to the custody of the Department of Health and Welfare.

The pertinent statute providing for such commitment reads, in part as follows:

"The...department to which said child is committed shall have full custody and control over such child... and, if no other guardian is appointed, the department shall have all the powers as to the person, property, earnings and education of every child committed to its custody during the term of commitment which a guardian has as to a ward..."

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To define the extent of the powers of the department as to committed children, we must look to Title 18, section 3533, which provides as follows:

"Such guardian (of a minor) shall have the care and management of all his ward's estate and continue in office until the ward is 21 years of age unless sooner lawfully discharged. The care of the person and the education of the minor shall be jointly with the father and mother, if competent, or if one has deceased, with the survivor. Otherwise these duties devolve upon the guardian. In any case, the judge may decree them to him, if he deems it for the welfare of the minor, until his further order."

Section 3793 of Title 22 provides that "orders and decrees provided for in section...3792 shall have the same effect to divest the parent or parents of all legal rights in respect to said child as specified in Title 19, section 535..." The provision of Title 19 referred to defines the legal effect of an adoption decree. Thus a judicial commitment under section 3792 of Title 22 works to divest the parents of all legal rights as to the child in the same manner as adoption. By virtue of the commitment order, the parents are declared legally incompetent to care for their child and thus the Department of Health and Welfare becomes guardian of both the person and the property of such committed child.

A guardian does not have any legal liability for the acts of his ward. The Law Court in Appeal of Look, 129 Maine 359, has ruled that the "relationship between guardian and ward, even when quasi-parental, is that of trustee and cestui que trust". Other cases which clearly state that a guardian stands in a strictly fiduciary capacity with no personal liability for his ward's debts are Hicks vs. Chapman, 10 Allen 463; Inhabitants of Raymond vs. Sawyer, 37 Maine 406; Sanford vs. Phillips, 68 Maine 432; and Dorr vs. Davis, 76 Maine 305.

It should be noted that under section 217 of Title 19, even parents have only limited liability for damages caused by minor children. By this statute a parent is held liable for an amount not to exceed \$250. But this liability is not imposed upon anyone other than the parent or parents with whom a minor child is living.

2. If the minor child had any assets, action would lie against his estate for the damages sustained. See Sanford vs. Phillips, and Inhabitants of Raymond vs. Sawyer, both supra. Unfortunately, in the case at hand it is known that the committed child has no assets available from which reimbursement could be made.

Since the State has no legal liability to pay a claim for such damages, any payment authorized by any agency other than the Legislature would be clearly irregular. The Legislature, in its discretion, can pass a Special Resolve to reimburse this claimant for his damages, even though there is no legal basis for liability.

RLC:mgb

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