

Chapter 416

Recovery of Assistance Payments

Chapter 416

NOTES OF DECISIONS

The Relatives' Responsibility Act was not unconstitutional as denying equal protection of the laws under U.S. Const., Am. 14 and Ore. Const. Art. 1, §20. *Kerr v. State Public Welfare Comm.*, (1970) 3 Or App 27, 470 P2d 167, Sup Ct review denied, cert. denied, 402 US 950.

There was no violation of due process in either of the enforcement procedures provided by the Relatives' Responsibility Act. *Denny v. Pub. Welfare Div.*, (1971) 5 Or App 226, 483 P2d 463.

416.010 to 416.270

ATTY. GEN. OPINIONS: Power of State Public Welfare Commission under state law to conform to Public Law 86-778, sec. 1, relating to medical assistance for the aged, prior to 1961 amendment, 1960-62, p 106; eligibility for old-age assistance of persons with tuberculosis or psychosis, 1964-66, p 474.

416.010

CASE CITATIONS: *Kerr v. State Public Welfare Comm.*, (1970) 3 Or App 27, 470 P2d 167, Sup Ct review denied, cert. denied, 402 US 950.

416.020

CASE CITATIONS: *Shelley v. Shelley*, (1960) 223 Or 328, 354 P2d 282, 91 ALR 2d 250.

ATTY. GEN. OPINIONS: Power of State Public Welfare Commission under state law to conform to Public Law 86-778, sec. 1, relating to medical assistance for the aged, prior to 1961 amendment, 1960-62, p 106.

416.030

NOTES OF DECISIONS

Consideration of "financial circumstances" means measurement by ability to pay and in the usual case this is the amount fixed in the scale under ORS 411.425 [now 416.061]. *Mallatt v. Luihn*, (1956) 206 Or 678, 294 P2d 871.

Where the amount fixed in the scale under the statute would deprive the individual of means to provide for his own reasonable necessities, the commission may determine the liability in an amount less than the amount fixed by the scale. *Id.*

"Cruelty" which will exempt a child from contribution for support of his parent is an act which is done with an intention to injure the child or is of such a cruel nature in and of itself as to evidence not a reasonably normal parental mind, but an evil mind, *malo animo*. *Kerr v. State Public Welfare Comm.*, (1970) 3 Or App 27, 470 P2d 167, Sup Ct review denied, cert. denied, 402 US 950.

There is no presumption that a child who is a dependent child as defined by ORS 419.476 has become so without

good cause. *Denny v. Pub. Welfare Div.*, (1971) 5 Or App 226, 483 P2d 463.

LAW REVIEW CITATIONS: 37 OLR 82.

416.040

ATTY. GEN. OPINIONS: Obtaining information on responsible relatives from the State Tax Commission, (1969) Vol 34, p 669.

416.061

NOTES OF DECISIONS

Where the amount fixed in the scale under a former similar section would deprive the individual of means to provide for his own reasonable necessities, the commission could determine the liability in an amount less than the amount fixed by the scale. *Mallatt v. Luihn*, (1956) 206 Or 678, 294 P2d 871.

Relatives' Responsibility Act was constitutional. *Mallatt v. Luihn*, (1956) 206 Or 678, 294 P2d 871; *Kerr v. State Public Welfare Comm.*, (1970) 3 Or App 27, 470 P2d 167, Sup Ct review denied, cert. denied, 402 US 950.

FURTHER CITATIONS: *Shelley v. Shelley*, (1960) 223 Or 328, 354 P2d 282, 91 ALR 2d 250.

ATTY. GEN. OPINIONS: Liability of legally liable relative to contribute cash to support of public assistance recipient although recipient refuses to live with relative and receive all of his support from relative directly, 1952-54, p 38; meaning of "gross annual income," 1952-54, p 232.

416.070

CASE CITATIONS: *Kerr v. State Public Welfare Comm.*, (1970) 3 Or App 27, 470 P2d 167, Sup Ct review denied, cert. denied, 402 US 950.

416.090

NOTES OF DECISIONS

This section was constitutional. *Mallatt v. Luihn*, (1956) 206 Or 678, 294 P2d 871.

416.100

NOTES OF DECISIONS

Regardless of fact that assistance to the full extent provided in scale in ORS 411.425 [now ORS 416.061] is given by commission to a needy person, recovery under this section is limited to amount less than amount fixed by scale where amount fixed by scale would deprive responsible relative of the means to provide for his own reasonable necessities. *Mallatt v. Luihn*, (1956) 206 Or 678, 294 P2d 871.

This section was constitutional. *Id.*

| 416.170 | 416.510 to 416.810 |
|---|---|
| <p>NOTES OF DECISIONS This procedure for enforcement of commission's claim was constitutional. <i>Mallatt v. Luihn</i>, (1956) 206 Or 678, 294 P2d 871.</p> | <p>ATTY. GEN. OPINIONS: Power of State Public Welfare Commission under state law to conform to Public Law 86-778, sec. 1, relating to medical assistance for the aged, prior to 1961 amendment, 1960-62, p 106.</p> |
| 416.180 | LAW REVIEW CITATIONS: 39 OLR 131. |
| <p>NOTES OF DECISIONS This procedure for enforcement of commission's claim was constitutional. <i>Mallatt v. Luihn</i>, (1956) 206 Or 678, 294 P2d 871.</p> | 416.540 |
| 416.230 | <p>ATTY. GEN. OPINIONS: Power of State Public Welfare Commission under state law to conform to Public Law 86-778, sec. 1, relating to medical assistance for the aged, prior to 1961 amendment, 1960-62, p 106.</p> |
| <p>ATTY. GEN. OPINIONS: Obtaining information on responsible relatives from the State Tax Commission, (1969) Vol 34, p 669.</p> | 416.550 |
| 416.310 | <p>ATTY. GEN. OPINIONS: Power of State Public Welfare Commission under state law to conform to Public Law 86-778, sec. 1, relating to medical assistance for the aged, prior to 1961 amendment, 1960-62, p 106.</p> |
| <p>CASE CITATIONS: <i>Kerr v. State Public Welfare Comm.</i>, (1970) 3 Or App 27, 470 P2d 167, Sup Ct review denied, cert. denied, 402 US 950.</p> | 416.810 |
| | <p>ATTY. GEN. OPINIONS: Eligibility for old-age assistance of persons with tuberculosis or psychosis, 1964-66, p 474.</p> |