

OPINION NO. 78-012**Syllabus:**

1. Where the Department of Public Welfare obtains subrogation rights, under R.C. 5101.58, as the result of an automobile accident, the Department is a party "claiming an interest arising out of a motor vehicle accident," and is therefore entitled to an accident report from the Director of Highway Safety under R.C. 5502.12.
2. Where the Director of Highway Safety issues an accident report, pursuant to R.C. 5502.12, to the Department of Public Welfare, R.C. 115.45 requires

that the Department of Public Welfare pay the statutory fee of one dollar.

To: **Robert M. Chiarmonte, Director, Ohio Dept. of Highway Safety, Columbus, Ohio**

By: **William J. Brown, Attorney General, April 11, 1978**

I have before me your request for an opinion on the following questions:

1. May the Department of Highway Safety release to the Department of Public Welfare copies of accident reports received under R.C. 5502.12?
2. If so, may such reports be sent without charge to the Department of Public Welfare?

R.C. 5502.11 provides:

Every state highway patrolman, sheriff, deputy sheriff, police officer, or other law enforcement officer investigating a motor vehicle accident shall, within 5 days, forward a written report of such accident to the director of highways and a copy to the director of highway safety on a form which the director of highways shall adopt subject to the provisions of sections 119.01 to 119.13, inclusive, of the Revised Code.

Distribution of the accident reports is controlled by R.C. 5502.12. That section provides:

The accident reports submitted pursuant to section 5502.11 of the Revised Code shall be for the use of the director of highway safety for purposes of statistical, safety, and other studies. The director of highway safety shall furnish a copy of such report to any person claiming an interest arising out of a motor vehicle accident, or to his attorney, upon the payment of a fee of one dollar, and with respect to accidents investigated by the state highway patrol, the director of highway safety shall furnish to such person all related police reports, statements, and photographs upon the payment of said fee of one dollar and the cost of each document and photograph reproduced by said department.

Such state highway patrol reports, statements, and photographs may, in the discretion of the director of highway safety, be withheld until all criminal prosecution has been concluded; and the director of highway safety may require proof, satisfactory to him, of the right of any applicant to be furnished such documents. (Emphasis added.)

Under R.C. 5101.58, the Department of Public Welfare is granted a right of subrogation ". . . for the liability of a third party for the cost of medical services and care arising out of injury, disease, or disability of an applicant for or recipient of medical assistance . . ." It is therefore clear that the Department of Public Welfare is "a person claiming an interest arising out of a motor vehicle accident" under R.C. 5502.12, *supra*, in any accident in which a recipient of medical assistance is injured and requires medical services which are paid for in whole or in part by the Department. This is not to say, however, that the Department of Public Welfare should be allowed to examine all accident reports. It may only

request those reports which relate to accidents that result in the Department having to make medical payments. Accordingly, your first question is answered in the affirmative.

The second question you raise involves the very practical problem of who should pay for the reports which are issued to the Department of Public Welfare. It appears that this question is answered by R.C. 115.45 which provides, in pertinent part, as follows:

All service rendered and property transferred from one institution, department, improvement, or public service industry to another shall be paid for at its full value. No institution, department, improvement, or public service industry shall receive financial benefit from an appropriation made or fund created for the support of another . . .

Thus, where your department supplies an accident report to the Department of Public Welfare, then the Department of Public Welfare is required, under R.C. 115.45, to pay "its full value." Under R.C. 5502.12, *supra*, the statutory fee for providing such reports is one dollar, and such fee should therefore be paid by the Department of Public Welfare prior to issuing the accident report.

Accordingly, it is my opinion and you are so advised, that:

1. Where the Department of Public Welfare obtains subrogation rights, under R.C. 5101.58, as the result of an automobile accident, the Department is a party "claiming an interest arising out of a motor vehicle accident," and is therefore entitled to an accident report from the Director of Highway Safety under R.C. 5502.12.
2. Where the Director of Highway Safety issues an accident report, pursuant to R.C. 5502.12, to the Department of Public Welfare, R.C. 115.45 requires that the Department of Public Welfare pay the statutory fee of one dollar.