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THE REGISTRATION OF MOTOR VEHICLES MAY, IN THE CASE OF AN ACCIDENT IN WHICH LESS THAN \$200.00 DAMAGE WAS DONE TO A MINOR, WAIVE THE REQUIREMENT FOR DEPOSIT OF SECURITY UPON A RELEASE FROM LIABILITY EXECUTED BY A NATURAL OR LEGAL GUARDIAN—THE REGISTRAR MAY WAIVE THE DEPOSIT UPON COURT APPROVAL OF A RELEASE FROM LIABILITY REGARDLESS OF THE AMOUNT—IF NEITHER A RELEASE BY THE GUARDIAN OR COURT APPROVAL IS OBTAINED IN CLAIMS UNDER \$200.00, THE PERSON CONCERNED MUST DEPOSIT THE REQUIRED SECURITY—§§4509.21, 4509.12, 4509.15 R.C.

SYLLABUS:

1. Under Section 4509.21, Revised Code, when upon review of a motor vehicle accident involving a minor, the registrar of motor vehicles evaluates the injuries or damages to said minor in an amount not more than two hundred dollars, the registrar may, upon evidence of a release from liability executed by a natural guardian or a legal guardian on behalf of the minor, and without approval of any court, waive the requirement for deposit of security as found in Section 4509.12, Revised Code.

2. Regardless of the evaluated amount of the injuries to the minor, the registrar may, pursuant to said Section 4509.21, waive the deposit of security upon proper court approval of the minor's release of any claim for liability, and the form of the approval by the court is governed by the rules applicable in civil actions generally to the form, rendition, entry, etc., of judgments and decrees.

3. Where the evaluated amount of the injuries to the minor is two hundred dollars or less but neither a release from liability from a guardian nor approval of a court to a release of claim, is obtained, then the person concerned must deposit the required security, which under Sections 4509.12 and 4509.15, Revised Code, must be at least five hundred dollars.

Columbus, Ohio, February 20, 1962

Hon. J. Grant Keys, Director
Department of Highway Safety
240 Parsons Avenue, Columbus 5, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“The second paragraph of Section 4509.21 of the Revised Code provides as follows:

“If the registrar of motor vehicles has evaluated the injuries or damages to a minor in an amount not more than two hundred dollars the registrar may accept for the purpose of this section only, evidence of a release from liability executed by a natural guardian or a legal guardian on behalf of such minor without the approval of any court.’

“As a result of the provisions contained in this paragraph, considerable difficulty has been encountered since the inception of the law with a great many of the probate and juvenile courts in this state. It seems to be the consensus of opinion of these courts that approval, as provided in this particular section, by the court of any releases given in behalf of a minor by a natural or legal guardian is not necessary, and that it causes undue hardship and expense to the parties involved.

“The provisions of this section now seem to be the source of even greater confusion, in view of the amendment to the law effective July 1, 1960, which provides that there must be a minimum evaluation of \$500.00 in cases involving personal injury. As a result of this amendment there are no longer any cases where the evaluation in behalf of a minor would be in an amount of \$200.00 or less.

“In view of the provisions of Section 4509.21 of the Revised Code and the amendment to the law, all releases in behalf of minors for personal injuries would require approval by the probate or juvenile court before the uninsured party could be relieved of the security deposit and suspension requirements of the law.

“I would like a formal opinion concerning your interpretation of these provisions of the law as they pertain to releases given in behalf of minors.

“Would you also advise as to the form of approval by the court that would be acceptable under the provisions of this section without requiring the parties to go to the added expense involved in guardianship cases.”

Chapter 4509., Revised Code, pertains to motor vehicle accidents and the motor vehicle financial responsibility law. In this regard, Section 4509.12, Revised Code, as effective July 1, 1960, reads in part:

“(A) The registrar of motor vehicles upon the expiration of twenty days after the receipt of a motor vehicle accident report, required under sections 4509.01 to 4509.78, inclusive, of the Revised Code, shall determine the amount of security which is sufficient to satisfy any judgments for damages resulting from the accident as may be recovered against each driver or owner involved in the accident; *provided that in any accident resulting in personal injury such amount shall in no case be less than five hundred dollars.* This determination shall not be made with respect to drivers or owners who are exempt

under sections 4509.14 to 4509.78, inclusive, of the Revised Code from the requirements as to security and suspension.

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(Emphasized language inserted in 1960—128 Ohio Laws, 1221, 1222)

Section 4509.15, Revised Code, as effective July 1, 1960, reads as follows:

“The security required under section 4509.12 of the Revised Code shall be in the form of money, or bonds of the United States, or of this state, or a political subdivision of this state, at their par or face value, in such amount as the registrar of motor vehicles may require, *but in no case involving personal injury in an amount less than five hundred dollars*, or in excess of the limits specified in section 4509.20 of the Revised Code.” (Emphasized language inserted in 1960—128 Ohio Laws, 1221, 1223)

Section 4509.21, Revised Code, deals with a release from the requirement for deposit of security, reading as follows:

“A person is relieved from the requirement for deposit of security if he is released from liability by all persons injured or damaged in the accident, and for this purpose a covenant not to sue has the same effect as a release.

“If the registrar of motor vehicles has evaluated the injuries or damages to a minor in an amount not more than two hundred dollars the registrar may accept for the purpose of this section only, evidence of a release from liability executed by a natural guardian or a legal guardian on behalf of such minor without the approval of any court.”

Said Section 4509.21, was enacted in 1951 (124 Ohio Laws, 563, 570) as Section 6298-30, General Code, and was amended in 1953 by House Bill No. 1 of the 100th General Assembly to read as above.

Sections 4509.12 and 4509.15, *supra*, state that in case of personal injury the security must not be in an amount less than five hundred dollars. Section 4509.21, *supra*, deals, however, with a release from the requirement to deposit security, not with the required deposit of security which must be furnished.

Thus, the registrar in evaluating the injuries or damages to a minor might arrive at an amount of two hundred dollars or less. If the person concerned is not relieved of the requirement for deposit of security, however, the security must be at least five hundred dollars.

Ordinarily, the validity of a minor's release of a claim against another party is dependent upon whether the minor affirms the release upon his arriving at age (See 28 Ohio Jurisprudence 2d, Infants, Section 23, pages 563 and 564). But in a proper court action, a release of a claim can be sanctioned by the court (See 28 Ohio Jurisprudence 2d, Infants, Section 55, pages 601 and 602).

The registrar might evaluate the injuries or damages to a minor at two hundred dollars or less. If so, upon evidence of a release from liability executed by a natural guardian or a legal guardian on behalf of the minor, the registrar is authorized by Section 4509.21, *supra*, to waive the requirement of depositing security. Without this specific provision as to a minor, the registrar could not waive security without court approval, since under the general rule, neither the minor himself nor his parent or guardian could validly release the claim of the minor.

As to the form of a court approval, I can only refer to the statement in 28 Ohio Jurisprudence 2d, Infants, Section 67, pages 613 and 614, reading:

"In the main, the form, rendition, entry, etc., of judgments and decrees in favor of or against infants are governed by the rules applicable in civil actions generally. * * *"

Under the pertinent statutes, if the injuries or damages to the minor are evaluated by the registrar at not more than two hundred dollars, but neither a release from liability from a guardian nor approval of a court is obtained, then the person concerned will be required to deposit security which, under Section 4509.12 and 4509.15, *supra*, must be at least five hundred dollars.

To conclude, it is my opinion and you are advised:

1. Under Section 4509.21, Revised Code, when upon review of a motor vehicle accident involving a minor, the registrar of motor vehicles evaluates the injuries or damages to said minor in an amount not more than two hundred dollars, the registrar may, upon evidence of a release from liability executed by a natural guardian or a legal guardian on behalf of the minor, and without approval of any court, waive the requirement for deposit of security as found in Section 4509.12, Revised Code.

2. Regardless of the evaluated amount of the injuries to the minor, the registrar may, pursuant to said Section 4509.21, waive the deposit of

security upon proper court approval of the minor's release of any claim for liability, and the form of the approval by the court is governed by the rules applicable in civil actions generally to the form, rendition, entry, etc., of judgments and decrees.

3. Where the evaluated amount of the injuries to the minor is two hundred dollars or less but neither a release from liability from a guardian nor approval of a court to a release of claim, is obtained, then the person concerned must deposit the required security, which under Sections 4509.12 and 4509.15, Revised Code, must be at least five hundred dollars.

Respectfully,

MARK McELROY

Attorney General