

**OPINION  
51-206**

February 9, 1951 (OPINION)

WELFARE

RE: Burial

Your letter of January 26, 1951 has been received. You would like to have our opinion as to the meaning of section 50-0734, relating to burial of old age assistance clients.

In your letter you tell me that it is the practice of certain welfare boards to prohibit additional payments by relatives and friends of the deceased, taking the attitude that the law requires them to do so, as their claim is that the law sets a limit on total burial expense allowable. You add that you were a member of the legislature when the present statute was passed and you state that this was not the intent of the law. Rather it was intended merely to place a limitation on the county or welfare fund as to the amount they may pay, without regard to the amount of total expense.

The section to which you refer specifically states that on the death of any recipient of old age assistance under the provisions of this chapter, the total amount of assistance paid under this chapter shall be allowed as a preferred claim against the estate of such person in favor of the state, after funeral expenses for recipient and his or her spouse, not to exceed in each individual case \$150 and such expenses of the last illness of recipient and spouse as are authorized or paid by the county agency, have been paid, and after the expenses of administering the estate, including the attorney's fees, has been paid. No claim shall be enforced against the following: 1. Real estate of a recipient for the support, maintenance, or comfort of the surviving spouse or a dependent; 2. Personal property necessary for the support, maintenance, or comfort of the surviving spouse or a dependent; 3. Personal effects, ornaments, or keepsakes of the deceased, not exceeding in value \$200.

It is my opinion that your impression of the law is correct. I see nothing in the section prohibiting friends, organizations, or relatives, who may wish to contribute to a better funeral of an indigent person, from doing so. The statute specifically states that those who are without means of supporting themselves and have been dependent upon the charity of the county and state shall be given a funeral not exceeding the sum of \$150 in cost. No reference is made to aid or assistance or offering of any nature or kind by relatives, friends, or organizations. The statute does not purport to impress such a construction on it.

It is, therefore, our opinion that any offering or contribution made is separate and apart from the obligations contained in section 50-0734 of the 1949 Supplement.

ELMO T. CHRISTIANSON

Attorney General