



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

HERALD C. MANN  
ATTORNEY GENERAL

Mrs. Violet S. Greenhill, Chief  
Division of Child Welfare  
State Board of Control  
Austin, Texas

Dear Madam:

Opinion No. O-1074

Re: Right of the Division of  
Child Welfare of the State  
Board of Control under au-  
thority of its licensing  
power to prohibit taking  
of life insurance by foster  
parents on children placed  
in their care.

We have your letter of June 29, requesting our opin-  
ion upon the following questions:

- "1. Does the foster parent of a boarding home for children have an insurable interest in the child or children boarded in the home when unrelated by either blood or affinity to such children?
- "2. In question No. 1, would the foster parent have an insurable interest if related by blood or affinity to the child or children boarded in the home? If so, within what degree of kindred would there be an insurable interest in the child?
- "3. If it is found that certain classes of foster parents of boarding homes have no insurable interest in the child or children boarded with them, would it be a reasonable regulation of this office, under the licensing functions of the Division as found in Vernon's Texas Statutes, Article 695a, Section 8 and Article 4442a, to prohibit such foster parents from taking insurance on the child or children boarded with them? Where the foster parents are beneficiaries? Where the estate of the child is made beneficiary?"

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Under the facts set out in your letter our answer to your first question is "no".

An insurable interest insofar as life insurance is concerned is defined in Volume 24, Section 70, page 767, Tex. Juris. as follows:

"In the case of life insurance, an insurable interest exists only if there be a reasonable ground, founded upon the relation of the parties, either pecuniary or of blood or affinity, to expect some benefit or advantage from the continuance of the life of the assured." First National Bank vs. Livesay, 37 S. W. (2d) 765.

Public policy prohibits insurance in favor of one having no insurable interest. Wilke vs. Finn, 39 S. W. (2d) 836.

Our answer to your second question is that a foster parent as defined in your letter is governed by the same rules of insurability that apply to people generally. This being true, you are advised that such foster parents would have an insurable interest in the life of the child if related within the degree considered necessary to sustain such insurable interest. Equitable Life Insurance Company vs. Hazelwood, 12 S. W. 621.

In this state our courts have held that where the insurable interest rests on relationship alone, as distinguished from a reasonable expectation of a pecuniary benefit or advantage from the continued life of the insured, that this relationship must be as close as the second degree. Wilton vs. New York Life Insurance Company, 78 S. W. 403.

Our answer to your third question is that you are authorized under the provisions of Article 695 (a), Section 8, in conjunction with Article 4442 (a), Vernon's Annotated Civil Statutes, to prescribe reasonable and uniform regulations requisite to issuing licenses to foster parents of boarding homes.

In our opinion to prohibit the taking of insurance on the life of a child by a foster parent having no insurable interest either where the foster parent or the estate of the child is named beneficiary, would be a reasonable regulation

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supported by sound public policy and such regulation could be made within the sound discretion of the Division of Child Welfare of the State Board of Control.

Trusting that the above satisfactorily answers your question, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *E. R. Simmons*

E. R. Simmons  
Assistant

ERS: jm

APPROVED AUG 18, 1939

*Guadalupe Mann*

ATTORNEY GENERAL OF TEXAS

