

Mother's Pension—Residence.

When at the time of the father's death he is a resident of another state, the mother is not entitled to a mother's pension upon becoming a resident of Montana.

Denzil R. Young, Esq.
County Attorney,
Baker, Montana.

July 8, 1929.

My dear Mr. Young:

You have requested my opinion concerning the right of a woman to a mother's pension in this state when at the time of her husband's death they were residents of another state.

My opinion is that the father must have been a resident of the state of Montana at the time of his death in order to entitle the mother to a pension under our law. The purpose of the act is to care for the dependent children of the residents of this state who have been by reason of death or other incapacity rendered unable to provide for their children.

It could hardly have been the intention of the legislature in enacting the act to intend to use taxes levied upon the people of Montana to support the dependent children of residents of other states upon the sole condition that they become residents of Montana after the death of the father occurred. The raising and use of taxes for such a purpose would be highly questionable from a constitutional view. It certainly could not have been the intention of the legislature that a person might contribute his entire usefulness as a citizen to another state during his lifetime and then place upon the people of Montana the burden of caring for his dependents if in their discretion they found it advantageous to come to Montana for the purpose of securing the benefits of a charitable law which the state of their former residence did not have, or if it had such a law, it was found to be less beneficial than Montana's law.

Very truly yours,

L. A. FOOT,
Attorney General.