

2938

PAYMENT OF SUPPORT FOR A CHILD COMMITTED TO A SPECIALIZED SCHOOL IN ANOTHER STATE BY A JUVENILE COURT—§§2151.35, R.C., 3317.08, R.C., 2151.36, R.C., 2151.10, R.C.

**SYLLABUS:**

Where, under division (B) of Section 2151.35, Revised Code, a juvenile court commits a child to a specialized school in another state, the court, under Section 2151.36, Revised Code, must itself pay expenses occasioned by the commitment and authorized by the court at the time of commitment, which expenses are paid out of funds appropriated to the court by the board of county commissioners under Section 2151.10, Revised Code; and pursuant to Section 2151.36, Revised Code, the court may order the parents, guardian, or person charged with the child's support to reimburse the court for such payments.

Columbus, Ohio, April 12, 1962

Hon. G. William Brokaw, Prosecuting Attorney  
Columbiana County, Lisbon, Ohio

Dear Sir:

Your request for my opinion reads:

“A problem has been presented to my office in connection with the payment of tuition charges for two (2) children who have been placed in school systems outside the State of Ohio. The fact situation is as follows:

“Two children of school age, both of whom are residents of the East Liverpool City school district were before the Juvenile Court of Columbiana County some months ago. In the course of the matter before the Court, the Juvenile Court committed each of these children to the Juvenile Diagnostic Center at Columbus. The recommendation of the Juvenile Diagnostic Center included the enrollment of both children in the George Junior Republic, which is a specialized school at Grove City, Pennsylvania. The Grove City, Pennsylvania, School System and the George Junior Republic demand payment of tuition for these children for the time that they have been attending school. Both children were committed by the Juvenile Court of Columbiana County to the custody of the Columbiana County Welfare Department, prior to their placement in the above mentioned school.

“The question presented is, should the Board of Education of the East Liverpool city school district or the Columbiana

County Welfare Department pay the tuition charges for the two (2) children under the above set of facts? Your opinion and reply as to this question is respectively solicited."

The juvenile court may commit a child to a specialized school in another state under Section 2151.35, Revised Code, which so far as is pertinent to this inquiry, reads:

"\* \* \* \* \* \* \* \*"

"\* \* \* If the court finds that the child is a juvenile traffic offender or is delinquent, neglected, or dependent, it may by order entered proceed as follows:

"(A) Place the child on probation, under supervision in its own home, in the custody of a relative, in an institution, or in a certified foster home, wherever situate, upon such terms as the court shall determine; provided that the court may place delinquent children on a free or wage basis in uncertified foster homes. The court shall, at the time of placing the child, determine which school district must bear the cost of educating the child while he is residing at such place as the court directs. The decision of the court concerning the expense of the child's education shall be made a part of the order provided by this section;

"(B) Commit the child temporarily or permanently to the division of social administration of the department of public welfare, or to a county department of welfare, which has assumed the administration of child welfare, county child welfare board, or certified organization, *or to any institution, or to any agency in Ohio or in another state* authorized and qualified to provide or secure the care, treatment, or placement required in the particular case;

"\* \* \* \* \* \* \* \*"

(Emphasis added)

The subject of tuition for school children attending schools outside their own school districts is covered under Section 3317.08, Revised Code, reading in part:

"Pursuant to law, a pupil may attend school outside his district or school residence, and his board of education shall pay tuition \* \* \*.

"\* \* \* \* \* \* \* \*"

Thus, under ordinary circumstances where, owing to a commitment by a juvenile court, a child must attend school outside his own school district, the child's tuition should be paid by the board of education of his school district in accordance with the formula in Section 3317.08, *supra*.

In the situation you present, however, other factors exist owing to the commitment having been made to an out of state school. Nowhere in Section 3317.08, *supra*, is there any indication that it may apply where the school attended is outside of Ohio. Some of the statutory requirements placed on officials of the school district attended are indications to the contrary, as Ohio certainly cannot require officials of another state to follow any particular procedure. Furthermore, statutes are impliedly limited in operation to the territorial limits of the sovereignty by which they were promulgated; 50 Ohio Jurisprudence (2d.), "Statutes", Section 345, pages 321-23.

Aside from this, the payment of expenses occasioned by a child's commitment is considered in the last paragraph of Section 2151.36, Revised Code, reading:

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\* \* \*

*"Any expense ordered by the court for the care, maintenance, and education of dependent, neglected, or delinquent children, or for orthopedic, medical or surgical treatment, or special care of such children under sections 2151.01 to 2151.54, inclusive, of the Revised Code, except such part thereof as may be paid by the state or federal government, shall be paid from the county treasury upon specifically itemized vouchers, certified to by the judge. The court shall not be responsible for any expense resulting from the commitment of children to any home, county department of welfare which has assumed the administration of child welfare, county child welfare board, certified organization, or other institution, association, or agency, unless such expense has been authorized by the court at the time of commitment."* (Emphasis added)

Thus, where the expense incurred was ordered by the court, the court must pay the costs through vouchers certified to by the judge and drawn upon the county treasury. Funds for such costs are provided under Section 2151.10, Revised Code. Pursuant to that section the board of county commissioners must each year appropriate money to pay for expenses incurred by the court for children over whom the court exercises jurisdiction; said section reading in part:

*"The board of county commissioners shall appropriate such sum of money each year \* \* \* as will provide for the \* \* \* care, maintenance, education, and support of neglected, dependent, and delinquent children, other than children entitled to aid under sections 5107.01 to 5107.16, inclusive, of the Revised Code, and for necessary orthopedic, surgical, and medical treatment, and*

*special care* as may be *ordered by the court* for any neglected, dependent, or delinquent children. All disbursements from such appropriations shall be upon specifically itemized vouchers, certified to by the judge." (Emphasis added)

I might note that under the first paragraph of Section 2151.36, Revised Code, the court may order the parents, guardian, or person charged with the child's support to reimburse the board for expenses paid. That paragraph reads as follows:

"When a child has been committed as provided by sections 2151.01 to 2151.54, inclusive, of the Revised Code, the juvenile court may make an examination regarding the income of the parents, guardian, or person charged with such child's support, and may then order that such parent, guardian, or person pay for the care, maintenance, and education of such child and for expenses involved in providing orthopedic, medical or surgical treatment, or *special care* of such child. The court may enter judgment for the money due and enforce such judgment by execution as in the court of common pleas. Provided that whenever a child which has a legal settlement in another county comes within the jurisdiction of the court, the court may certify such case to the juvenile court of the county of legal settlement for further proceedings, and such court shall thereafter proceed as if the original complaint had been filed in said court.

\* \* \*

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\* \* \*

(Emphasis added)

For your further information, I would suggest that if the children concerned in the present question were committed to the county welfare department with only an informal direction rather than an express order that the children be sent to the specialized school, the county welfare department could, under Section 2151.38, Revised Code, apply to the juvenile court for the termination of its custody over the children, and the juvenile court could then commence new proceedings in such a way as to invoke the provisions of Section 2151.36, Revised Code.

Accordingly, it is my opinion and you are advised that where, under division (B) of Section 2151.35, Revised Code, a juvenile court commits a child to a specialized school in another state, the court, under Section 2151.36, Revised Code, must itself pay expenses occasioned by the commitment and authorized by the court at the time of commitment, which expenses are paid out of funds appropriated to the court by the board

of county commissioners under Section 2151.10, Revised Code; and pursuant to Section 2151.36, Revised Code, the court may order the parents, guardian, or person charged with the child's support to reimburse the court for such payments.

Respectfully,

MARK MCELROY

Attorney General