

## OPINION NO. 75-035

**Syllabus:**

Children committed by a juvenile court to a county department of welfare pursuant to R.C. Chapter 2151, either permanently or temporarily, remain the responsibility of the department until they reach the age of twenty-one, unless the court, upon a proper application, terminates the order of commission at an earlier date.

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To: Ronald J. Kane, Portage County Pros. Atty., Ravenna, Ohio  
By: William J. Brown, Attorney General, May 20, 1975

I have before me your request for my opinion, which reads as follows:

"The Portage County Welfare Department has requested of this office an opinion on the following question:

"In view of the recent changes whereby age eighteen is now established as being legal maturity, I find it necessary to get an opinion from you.

"We have children in our custody where it has been our legal responsibility to act as custodian up to the age of twenty-one. Thus, for example, I personally have had to sign official documents such as medical consent, etc., as 'legal custodian.' Our financial responsibility has likewise continued to age twenty-one if the child is not self supporting.

"It seems to me that even without an amendment in the original court commitment papers, our responsibility does legally end at age eighteen.

"Because of the complexity of the amendments recently adopted by the State Legislature relative to the legal disability of infants, we hereby request an opinion from you concerning Welfare's responsibility toward persons between the ages of eighteen and twenty-one."

Under R.C. 5153.15 through 5153.19 certain powers and duties relative to needy children are delegated to the county children services board. If the county has no such board, its functions are performed by the county department of welfare. R.C. 5153.02. It is apparent from your letter that this is the case in your county.

The authority of a county department of welfare, or a children services board, to accept custody of children is conferred by R.C. 5153.16(C) which reads as follows:

"The county children services board, subject to the rules and standards of the department of public welfare, on behalf of children in the county deemed by the board or department to be in need of public care or protective services shall:

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

"(C) Accept custody of children committed to the board by a court exercising juvenile jurisdiction;

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

(Emphasis added.)

The term, "children", as used in this Section, is defined as persons under twenty-one years of age, R.C. 5153.01(A); and this definition was not altered when the General Assembly, by an act effective January 1, 1974, lowered the age of majority from twenty-one to eighteen. See R.C. 3109.01.

Nor did the act of January 1, 1974, make any change in the statutory age limitations on the jurisdiction of the juvenile court. For that purpose, a "child" has always been defined as "a person who is under the age of eighteen years." R.C. 2151.011 (B)(1) and (2). But there are two exceptions to this jurisdictional limitation. Under subsection (B)(1) a "child" who violates a law is still considered a "child" irrespective of his age at the time the complaint is filed or hearing had thereon. Furthermore, if the juvenile court orders a temporary commitment of a "child" to a welfare organization, it retains jurisdiction to modify or terminate the order until the "child" reaches the age of twenty-one. And, although the court's jurisdiction ceases when it commits the "child" to the permanent custody of a welfare organization, it may still terminate the order, prior to the time the "child" reaches majority, upon application by the guardian. This second exception appears in R.C. 2151.38 which provides:

"When a child is committed to the legal custody of the youth commission, or to the permanent custody of a county department of welfare which has assumed the administration of child welfare, county children services board, or certified organization, the jurisdiction of the juvenile court in respect to the child so committed shall cease and terminate at the time of commitment, except that if the department or any county department, board, or certified organization having such permanent custody makes application to the court for the termination of such custody, the court upon such application, after notice and hearing and for good cause shown, may terminate such custody at any time prior to the child becoming of age. The court shall make disposition of the matter in whatever manner will serve the best interests of the child. All other commitments made by the court shall be temporary and shall continue for such period as designated by the court in its order, or until terminated or modified by the court, or until a child attains the age of twenty-one years."

In view of this specific retention of the age of twenty-one, I am

convinced that the General Assembly intended that to remain the age of majority for the purposes of this Section of the Revised Code.

In further support of this conviction I note that the act of January 1, 1974 did not make any change in the definition of legal disability which includes persons under the age of twenty-one years. See R.C. 2131.02(A).

Whether your county department of welfare has temporary or permanent custody over the children committed to it, it is obvious that it stands in loco parentis to them. The pertinent terms are defined in R.C. 2151.011(B) as follows:

"(10) 'Legal custody' means a legal status created by the court order which vests in the custodian the right to have physical care and control of the child and to determine where and with whom he shall live, and the right and duty to protect, train, and discipline him and to provide him with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by any section of the Revised Code or by the court.

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"(12) 'Permanent custody' means a legal status created by the court which vests in the county department of welfare which has assumed the administration of child welfare, county welfare board, or certified organization, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of any and all parental rights, privileges, and obligations, including all residual rights and obligations.

"(13) 'Temporary custody' means legal custody as defined in division (B)(10) of this section which may be terminated at any time at the discretion of the court."

In the light of this language I conclude that the county department of welfare is responsible for the support and medical care (see R.C. 5153.11) of the children committed to its custody until they reach the age of twenty-one, or until the juvenile court, upon proper application, terminates the order of commission.

In specific answer to your question it is my opinion, and you are so advised, that children committed by a juvenile court to a county department of welfare pursuant to R.C. Chapter 2151, either permanently or temporarily, remain the responsibility of the department until they reach the age of twenty-one, unless the court, upon a proper application, terminates the order of commission at an earlier date.