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DELINQUENCY—WHERE GIRL GUILTY BEFORE ARRIVING AT EIGHTEEN YEARS OF AGE—COMPLAINT NOT FILED OR HEARING HELD UNTIL AFTER CHILD IS EIGHTEEN—JUVENILE COURT HAS JURISDICTION—SECTION 2101 G. C. PROHIBITS COMMITMENT TO GIRLS' INDUSTRIAL SCHOOL, IF AT TIME OF HEARING CHILD HAS ARRIVED AT EIGHTEEN YEARS OF AGE.

## SYLLABUS:

When a girl commits an act or acts of delinquency before arriving at the age of eighteen years, and the complaint is not filed or hearing held until after said child arrives at the age of eighteen years, the juvenile court has jurisdiction to hear and dispose of such complaint, the same as if the complaint and hearing were held before such child arrived at the age of eighteen years, except that Section 2101, General Code, prohibits the commitment of such child to the Girls' Industrial School if, at the time of such hearing, she has arrived at the age of eighteen years.

Columbus, Ohio, May 8, 1945

Hon. Forrest D. Pfalzgraf, Prosecuting Attorney  
Woodsfield, Ohio

Dear Sir:

You have requested my opinion upon the following question:

"Can the Juvenile Court commit to the Girls' Industrial School a girl who is now almost nineteen years of age when the complaint was filed after the girl arrived at the age of eighteen, and the admitted and provable acts of Juvenile Delinquency occurred sometime prior to the arrival of the age of eighteen?"

The jurisdiction of the Juvenile Courts of Ohio is fixed by Section 1639-16, General Code, and in so far as pertinent to the question under consideration, that section reads:

"(a) The court shall have exclusive original jurisdiction under this chapter or under other provisions of the General Code:

1. Concerning any child who is (1) delinquent, (2) neglected, (3) dependent, or (4) crippled. \* \* \*

The word child is defined by Section 1639-1, General Code, as follows:

“The word ‘child’ includes any child under eighteen years of age.”

Apparently your question arises by reason of the fact that Section 1639-30, General Code, extends the jurisdiction of the Juvenile Court to include children who committed an act or acts of delinquency before arriving at the age of eighteen years and against whom the complaint is filed or hearing held after such child arrives at the age of eighteen. The section referred to prescribes the method of hearing and manner of disposition of the child in the event the court finds said child to be delinquent, neglected or otherwise within the provisions of the act. The entire section reads as follows:

“The court may conduct the hearing in an informal manner, and may adjourn the hearing from time to time. In the hearing of any case the general public may be excluded and only such persons admitted as have a direct interest in the case. All cases involving children shall be heard separately and apart from the trial of cases against adults. The court shall hear and determine all cases of children without a jury.

If the court shall find that the child is delinquent, neglected, dependent or otherwise within the provisions of this act, it may by order duly entered proceed as follows:

1. Place the child on probation or under supervision in its own home or in the custody of a relative or other fit person, wherever situate, upon such terms as the court shall determine;
2. Commit the child to a suitable public institution or agency or to a suitable private institution or agency incorporated under the laws of the state, approved by the state department of public welfare or analogous department of the state in which such institution or agency is situate, and authorized to care for children or to place them in suitable family homes;
3. If, in his judgment, it is for the best interests of a delinquent child, the judge may impose a fine upon such child not exceeding twenty-five dollars or costs, or both, and if such child is over fourteen years of age, he may order such child to stand committed until such fine and costs are paid.
4. Make such further disposition as the court may deem to be for the best interests of the child, except as herein otherwise provided.
5. In case of a male child over sixteen years of age who has committed an act which if committed by an adult would be a

felony, the judge may commit such child to the Ohio state reformatory.

Whenever a child commits an act or acts of delinquency before arriving at the age of eighteen years, and the complaint is not filed or hearing held until after said child arrives at the age of eighteen years, the court shall have jurisdiction to hear and dispose of such complaint, the same as if the complaint and hearing were held before such child arrived at the age of eighteen years.

No adjudication upon the status of any child in the jurisdiction of the court shall operate to impose any of the civil disabilities ordinarily imposed by conviction, nor shall any child be deemed a criminal by reason of such adjudication, nor shall such adjudication be deemed a conviction, nor shall any child be charged with or convicted of a crime in any court, except as provided in Section 1639-32, General Code. The disposition of a child or any evidence given in the court shall not be admissible as evidence against the child in any case or proceeding in any other court, nor shall such disposition or evidence operate to disqualify a child in any future civil service examination, appointment or application.

Whenever the court shall commit a child to any institution or agency it shall transmit with the order of commitment a summary of its information concerning such child."

The paragraph causing concern is that which follows subdivision 5. That paragraph extends to the court the jurisdiction to hear and dispose of such complaint the same as if the complaint and hearing were held before such child arrived at the age of eighteen years. It has nothing to do with either commitment or eligibility for admission to an Industrial School.

Section 1639-31, General Code, reads:

"No child not delinquent, nor any child under ten or over eighteen years of age shall be committed to an industrial school maintained by the state except as provided in the next preceding section."

The sections referred to above have received the attention of the Attorney General in previous opinions. In Opinions of the Attorney General for 1925, at page 63, the syllabus reads:

"A girl over eighteen years of age may be admitted to the Girls' Industrial School, when the Juvenile Court, prior to her eighteenth birthday, has duly committed her thereto provided said

order of commitment has not been rescinded or suspended, requiring further order of commitment after said eighteenth birthday."

In discussing Section 1652, General Code, which has now become Section 1639-30, General Code, and Section 1653-1, General Code, which is now Section 1639-31, General Code, both of which are quoted in full above, the opinion pointed out that the inhibition is against the commitment and not against the admission to the industrial school. The commitment occurs when the order is made under which the person is to be kept in prison.

Section 2101, General Code, amended, effective September 4, 1941 (119 Ohio Laws 577), reads:

"The girls' industrial school shall be maintained for the industrial, intellectual and moral training of those admitted to its care under the laws governing commitments by the juvenile courts; provided, that no girl under twelve nor over eighteen years of age at the time of hearing in the juvenile court, nor any girl coming before the court because of dependency alone shall be committed; and provided further that only such girls as have normal mental and physical capacity for intellectual and industrial training may be committed and admitted to the institution."

Again, the inhibition is against the commitment, not the admission. The language is clear and unambiguous and clearly provides that no girl over eighteen years of age at the *time of hearing* shall be *committed* to the girls' industrial school.

A statute must be construed, if possible, so as to harmonize and reconcile its provisions with other laws or sections so that all of them may be given full effect, and unless an ambiguity of law appears there is no basis for consideration of the question of reconciliation. The question is, then, whether the statutes under consideration, taken together, produce an ambiguity concerning the authority of the juvenile court over commitments to the girls' industrial school. I find no such ambiguity.

Section 1639-16, General Code, gives the juvenile court exclusive jurisdiction concerning any child under eighteen years of age who is delinquent, neglected, dependent or crippled. By the paragraph which follows subdivision 5 of Section 1639-30, General Code, this jurisdiction is extended to include situations where a child commits an act or acts of delinquency before arriving at the age of eighteen years, and the complaint

is not filed or hearing had until after said child arrives at the age of eighteen years. Section 1639-31, General Code, provides that no child under ten or over eighteen years of age shall be committed to an industrial school except as provided in the next preceding section. This statute, standing alone, would give the juvenile court authority to commit to an industrial school any child over which said court had acquired jurisdiction. As pointed out above, this jurisdiction would extend to a child over eighteen if the act or acts were committed before the child arrived at that age, even though the complaint was filed and the hearing had after the child arrived at the age of eighteen years. However, Section 2101, General Code, as last amended, limits the authority to commit a girl to the Girls' Industrial School to those instances where the girl is not over eighteen years of age at the time of hearing. Since said latter section does not limit the jurisdiction of the juvenile court to hear and dispose of the complaint if such girl has reached the age of eighteen years at the time of the hearing, it would follow that such court has authority to entertain jurisdiction and dispose of the complaint in the instant case in any manner provided in Section 1639-30, General Code, other than by commitment to the Girls' Industrial School.

Therefore, in answer to your inquiry, I am of the opinion that the juvenile court has no authority to commit to the Girls' Industrial School a girl who was over eighteen years of age at the time the complaint was filed and hearing had, although the acts of delinquency occurred prior to the time said girl arrived at the age of eighteen years.

Respectfully,

HUGH S. JENKINS,

Attorney General