

1918.

JUVENILE COURT—JUDGE—JURISDICTION—HAS POWER TO PLACE CHILD IN CUSTODY OF RELATIVE OR OTHER FIT PERSON IN HOME OUTSIDE OF STATE—PAYMENT FOR TRANSPORTATION—MAY BE MADE FROM COUNTY TREASURY—ITEMIZED VOUCHERS CERTIFIED BY JUDGE.

SYLLABUS:

1. *The judge of a Juvenile Court has the power to place a child, under its jurisdiction, in the custody of a relative or other fit person in a home outside the State of Ohio.*

2. *Payment for the transportation of a child placed in a home outside of the State may be made from the county treasury upon specifically itemized vouchers certified to by the judge of Juvenile Court.*

COLUMBUS, OHIO, February 15, 1938.

HON. FRANK T. CULLITAN, *Prosecuting Attorney, Cleveland, Ohio.*

DEAR SIR: I am in receipt of your request for my opinion which reads as follows:

“Will you kindly render an opinion upon the following facts:

J. D. is a boy of the age of fourteen years and a resident of Cuyahoga County, Ohio. In December, 1937, a complaint was filed in the Juvenile Court of this County charging this boy with being a delinquent. A full investigation was made and it was found that the boy had relatives living in Alabama, who were willing to take the boy into their home. The matter came on to be heard and the Court committed J. D. to a probation officer to be placed with the relatives in Alabama with an order that he shall not return to Cleveland for at least one year. The Alabama home was investigated by the Department of Public Welfare of that County in Alabama and the home was approved. The parents of the boy are unable to raise or to furnish any funds for his transportation to or from Alabama.

The question is whether or not the County Commissioners of Cuyahoga County can legally pay for the transportation of J. D. to Alabama and likewise pay for his return to Cleveland at a later date if found necessary, or can the

County be charged therewith. In connection with this matter we respectfully call to your attention an opinion of the Attorney General, No. 2865, in Volume 2, 1934. Also the new Juvenile Court Act which became effective August 19, 1937, and particularly Section 1639-30, paragraphs 1 and 4. Also, Section 1639-56.

Thanking you for your consideration in this matter, I remain."

Section 1639-56, General Code, referred to in your letter provides as follows:

"The court shall tax and collect the same fees and costs in adult cases as are allowed the clerk of the court of common pleas for similar services. No fees or costs shall be taxed in cases of delinquent, dependent or neglected children other than that authorized by Section 1639-30 of this act. The expense of transportation of children to places to which they have been committed, and the transportation of children *to and from another state* by police or other officers, acting upon order of the court, except that of the sheriff and his deputies, and other police officers, shall be paid from the county treasury upon specifically itemized vouchers certified to by the judge." (Italics the writer's).

Your attention is directed to the *italicized* portion.

The basic proposition here involved was considered by the then Attorney General in an opinion appearing in opinions of the Attorney General for 1934, Volume 2, No. 2865 at page 920 and it was therein held as indicated in the syllabus that:

"County Commissioners have no authority to contribute to the expense of boarding a psychopathic child outside the territorial limits of Ohio even though such child is in indigent circumstances."

The conclusion set forth in the syllabus was based upon the well accepted proposition that statutes do not have extra territorial effect unless there is specific provision therefor. At the time this opinion was rendered, there was no provision in the General Code of Ohio comparable to Section 1639-56 and, therefore, the conclusion therein was inescapable.

However, in my opinion, Section 1639-56 clearly indicates the intention by the Legislature that the Juvenile Court shall have authority to commit and place children in homes and institutions

outside the State of Ohio and that expenses of transporting the children shall be paid by the county treasurer.

It is true that Section 1639-30 pertaining to the placement of children contains no language indicating an authority to place a child in homes beyond the confines of the State. The pertinent provision of this section is as follows:

“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, upon such terms as the court shall determine.”

This section, however, must be read in *pari materia* with Section 1639-56 and when the two sections are considered together, I believe there is no question but that it was the intention of the Legislature to authorize the placement and commitment of children to homes and institutions outside the state, for otherwise, Section 1639-56 would authorize the payment of expenses in connection with matters which were entirely beyond the jurisdiction of the Juvenile Court.

However, it must be kept in mind that the action contemplated by Section 1639-56, General Code, is the action to be taken in the Juvenile Court and there is nothing in the New Juvenile Court Act, Sections 1639-1, et seq., to indicate that the county commissioners shall have any jurisdiction over this matter, for as above pointed out, the placement of the child in a home is made by the court under the provisions of Section 1639-30, General Code, and the payment of expenses is made from the county treasury under the provisions of Section 1639-56, “upon specifically itemized vouchers certified to by the judge.”

Respectfully,

HERBERT S. DUFFY,
Attorney General.