

233.

RELIEF — LEGAL RESIDENCE REQUIREMENT — DUTY,  
 LOCAL SUBDIVISION OF COUNTY AT TIME APPLICA-  
 TION MADE TO AFFORD RELIEF — REQUIREMENT,  
 NINETY DAYS' RESIDENCE IN COUNTY—THREE YEARS  
 IN STATE.

*SYLLABUS:*

*Under the provisions of Amended Senate Bill Number 465, 92nd General Assembly, as amended by Amended Substitute House Bill Number 91, 93rd General Assembly, it is the duty of a local subdivision within a particular county, in which subdivision a person in need of relief resides at the time application for relief is made, to afford relief to such person, providing such person has resided in said county for a period of 90 days and been a resident of the State of Ohio for three years.*

COLUMBUS, OHIO, March 2, 1939.

HONORABLE PAUL O. BOESEL, *Prosecuting Attorney, Wapakoneta, Ohio.*

DEAR SIR: This is to acknowledge receipt of your request for my opinion which reads as follows:

"As prosecuting attorney of Auglaize County, I should like to request your official opinion on a relief question which is in urgent need of an immediate ruling as soon as practicable.

"Amended Senate Bill 465, which became effective July 11, 1938, provides in section one, that:

'No person shall be eligible to receive relief unless said person has resided in the county for a period of ninety days and been a resident of the state of Ohio for three years.'

"A subsequent paragraph in section 6 of the same bill, provides:

'Nothing in this Act shall be construed to change, amend or abrogate the duty of county, municipal and township officials to afford relief as provided in section 3476 and other sections of the General Code relating thereto.'

"I find that many counties are holding that a person to be eligible for relief must still meet the old residence requirements of section 3476 and following, in order to be eligible for relief,

while other counties hold that Amended Senate Bill 465, assuming that a person has been a resident of the state for at least three years, only ninety days residence in the county is required, and that during this period a person need not be self-supporting, as was required by the older sections of the Code.

"In moving from one township to another within the same county, if effect is to be given to the ninety-day clause of Amended Senate Bill 465, no period of time whatever need be spent in the second township before a person is eligible for relief, assuming that he has lived in the same county for a period of ninety days.

"We have three or four cases with adjoining counties involving these questions, some holding to the ninety-day residence requirement, and others being governed by the residence requirements of 3476 and following sections.

"I understand the former relief director has issued an order holding that the residence requirements of 3476 and following sections have not been changed by Amended Senate Bill No. 465, but what authority he has for this ruling, I have no idea.

"However, it is clear to me that if the old residence requirements are followed, then the paragraph first referred to in Amended Senate Bill 465, must be completely ignored.

"I understand that a new relief act was passed by the Legislature last week, and having seen a copy of it, I find that it contains exactly the same clauses as to residence and the former sections of the Code, as Amended Senate Bill 465.

"I would, therefore, greatly appreciate your opinion on the two following questions:

"1. Under the present law, what are the residence requirements necessary to entitle a person to relief on moving from one county to another?

"2. What are the present legal requirements necessary to entitle a person to relief on moving from township to another township within the same county?"

The problems to which you refer in your letter have arisen because of the apparent conflict, in so far as residence requirements are concerned, between Sections 3476, General Code, et seq., and Amended Senate Bill Number 465, 92nd General Assembly, effective July 11, 1938, as amended by Amended Substitute House Bill Number 91, 93rd General Assembly, effective February 8, 1939. Below are quoted the pertinent provisions of these statutes:

## Section 3476, General Code:

“Subject to the conditions, provisions and limitations herein, the trustees of each township or the proper officers of each city therein, respectively, shall afford at the expense of such township or municipal corporation public support or relief to all persons therein who are in condition requiring it. It is the intent of this act that townships and cities shall furnish relief in their homes to all persons needing temporary or partial relief who are residents of the state, county and township or city as described in sections 3477 and 3479. Relief to be granted by the county shall be given to those persons who do not have the necessary residence requirements, and to those who are permanently disabled or have become paupers and to such other persons whose peculiar condition is such they cannot be satisfactorily cared for except at the county infirmary or under county control. \* \* \*”

## Section 3477, General Code:

“Each person shall be considered to have obtained a legal settlement in any county in this state in which he or she has continuously resided and supported himself or herself for twelve consecutive months, without relief under the provisions of law for the relief of the poor, or relief from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief. No adult person coming into this state and having dependents residing in another state, shall obtain a legal settlement in this state so long as such dependents are receiving public relief, care or support at the expense of the state, or any of its civil divisions, in which such dependents reside.”

## Section 3479, General Code:

“A person having a legal settlement in any county in the state shall be considered as having a legal settlement in the township, or municipal corporation therein, in which he has last resided continuously and supported himself for three consecutive months without relief, under the provisions of law for the relief of the poor, or from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief. When a person has for a period of more than one year not secured a legal settlement in any county, township or city in the state, he shall be deemed to have a legal settlement in the county, township or city where he last has such settlement.”

Amended Senate Bill Number 465, Section 1, as amended by Amended Substitute House Bill Number 91 :

*“For the purpose of this act no person shall be eligible to receive relief unless said person has resided in the county for a period of ninety days and been a resident of the state of Ohio for three years.”* (Italics the writer’s.)

Amended Senate Bill Number 465, Section 6, as amended by Amended Substitute House Bill Number 91 :

*“Nothing in this act shall be construed to change, amend or abrogate the duty of county, municipal and township officials to afford relief as provided in section 3476 and other sections of the General Code relating thereto.”* (Italics the writer’s.)

Taking the first question you submit, it must be determined whether county, municipal and township officials are under a duty to afford relief to those persons who have a legal settlement as defined in Section 3476, General Code, et seq., or to those persons who have “resided in the county for a period of 90 days and been a resident of the State of Ohio for three years”, as provided in Amended Substitute House Bill Number 91, supra.

The duty of county, municipal and township officials to afford relief to indigent persons has existed on our statute books, in a form similar to that now contained in Section 3476, General Code, long before the present unemployment problem arose. The 92rd and 93rd General Assemblies, however, apparently felt the existing “poor” statutes were inadequate to handle the present relief load and as a result amended them to conform to present needs. These amendments resulted in the passage of Amended Senate Bill Number 465 and Amended Substitute House Bill Number 91, quoted in part above.

It appears to me that the words of the bills above italicized afford an answer to your problem. Amended Substitute House Bill Number 91 is an emergency measure effective during 1939 and requires that local subdivisions must match all state funds allocated for relief purposes to said subdivisions. Prior to the enactment of recent poor relief legislation it was the duty of local subdivisions to afford relief at their own expense to those indigent persons who could meet the legal settlement requirements set forth in Sections 3477 and 3479, General Code. Now that the state has decided to assist the subdivisions, the Legislature has changed for the purposes of the Act (Amended Substitute House Bill Number 91), the residence requirements to include a person who has resided in a county for 90 days and has been a resident of Ohio for three years. The duty to afford relief, however, has not been changed and remains the same as provided in Section 3476, General Code, et seq.

If local subdivisions afford relief from their own funds, as provided in Section 3476, General Code, et seq., the applicant for such relief must meet the legal settlement requirements of Sections 3477 and 3479, General Code. When, however, local subdivisions afford relief from state funds which they have matched, the applicant need only comply with the residence requirements of Amended Substitute House Bill Number 91, supra. For the purposes of that Bill, if a person in need of relief has resided in a county for a period of 90 days and been a resident of the State of Ohio for three years, regardless of whether or not such person has been self-supporting during that period, such person is now eligible for relief under the provisions of said Bill.

Turning now to your second question, we find provision in Section 3479, General Code, for determining legal settlement within a particular county. Amended Substitute House Bill Number 91, however, makes no mention of how to ascertain what local officials within a particular county are under the duty to afford the relief. The conclusion I have reached in answering my first proposition constrains me to apply the same rule to the provisions of Section 3479, General Code, as I applied to Section 3477, General Code. In other words, the provisions of Section 3479, General Code, have no bearing in so far as relief is afforded under the provisions of Amended Substitute House Bill Number 91. If a needy person has met the requirements for county purposes, such person may then apply for relief in the particular local subdivision in which he resides at the time.

In conclusion, it is my opinion that under the provisions of Amended Senate Bill Number 465, as amended by Amended Substitute House Bill Number 91, it is the duty of a local subdivision within a particular county, in which subdivision a person in need of relief resides at the time application for relief is made, to afford relief to such person, providing such person has resided in said county for a period of 90 days and been a resident of the State of Ohio for three years.

Very truly yours,

THOMAS J. HERBERT,

*Attorney General.*