

OPINION NO. 70-166

Syllabus:

A foster home is not an educational facility within the meaning of Section 2151.357, Revised Code, and the section has no application to a foster home.

To: Thomas R. Spellerberg, Seneca County Pros. Atty., Tiffin, Ohio
By: Paul W. Brown, Attorney General, December 22, 1970

I have your request for my opinion wherein you inquire whether the phrase "other facility, public or private," in Section 2151.357, Revised Code, effective November 19, 1969, encompasses a foster home.

The November, 1969, version of Section 2151.357, Revised Code, referred to in your request was amended approximately seven months later; and the passage of the new bill was too recent to be reported in the latest supplements to commercial printings of the Revised Code. Due to these facts, your request is being answered with regard to the present law.

Section 2151.357, Revised Code, as enacted on July 16, 1970, reads as follows:

"(1) The court shall at the time of making any order which removes a child from his own home determine which school district shall bear the cost of educating such child. Such determination shall be made a part of the order which provides for the child's placement or commitment.

"(2) Whenever a child is placed in a detention home established under Section 2151.34 of the Revised Code, or a public school within this state, not including a school operated by the state, his school district as determined by the court shall pay the cost of educating said child based on the per capita cost of the educational facility within such detention home, or public school. Whenever a child is placed by the court in a private institution, school, residential treatment center, or other private facility, the state shall pay to the court a subsidy to help defray the expense of educating such child in an amount equal to the product of the daily per capita educational cost of such facility and the number of days the child resides thereat, provided that such subsidy shall not exceed five hundred dollars per year. The subsidy shall be paid quarterly to the court."

The purpose of Section 2151.357, *supra*, is to provide a quick and speedy procedure to establish the entity responsible to pay for the cost of educating a child under the jurisdiction of a juvenile court so as to enable a child to continue to receive an education without interruption. These words are not

used by the Ohio General Assembly in a context to grant authority to the juvenile court as to where a child is to be committed for a violation of the juvenile code, either by the child's own actions or the actions of other persons.

Such authority is set forth in the following sections: Section 2151.353, Revised Code, neglected or dependent children; Section 2151.354, Revised Code, unruly children; Section 2151.355, Revised Code, delinquent child; and Section 2151.356, Revised Code, juvenile traffic offender. The words "placed in", as used in Section 2151.357, supra, refer to the type of educational facility the child is to be placed in and not to the type of institution to which the child is committed for a violation of the juvenile code.

A review of Sections 2151.353 thru 2151.356, Revised Code, indicates that a juvenile court is authorized to commit a child to a foster home. Because the juvenile court is authorized to place or commit a child to a foster home, a question arises as to whether or not a foster home can be considered an educational facility.

A reading of Section 2151.357, supra, suggests that the legislature's use of the term "educational facility" is in the context of a facility where the educational cost can be assessed in fairly precise terms. A family home is not ordinarily in a position to provide this data within the requirements of the statute.

A definition of foster home is set forth in Section 2151.01, (B) (5), Revised Code, as "a family home in which any child is received apart from his parents for care, supervision, or training." Since a foster home is defined in terms of a "family home" by the Ohio General Assembly and a family home does not come within the meaning of an educational facility as used in Section 2151.357, supra, such section has no application to a foster home.

In summary, it is my opinion and you are advised that a foster home is not an educational facility within the meaning of Section 2151.357, Revised Code; and the section has no application to a foster home.