

1121.

RELIEF—RESIDENCE REQUIREMENT—IF PERSON HAS NOT RESIDED IN ANY ONE COUNTY OF STATE FOR TWELVE MONTHS AND OF SUCH TERM NOT RESIDED IN A CITY IN SUCH COUNTY THREE MONTHS—NOT ENTITLED TO RELIEF FROM CITY POOR RELIEF AUTHORITY—SECTIONS 3477, 3479, 3391, 3391-1 TO 3391-13 G. C.

*SYLLABUS:*

*If a person has entered the State of Ohio from another state but has not resided in any one county of this State for a period of twelve months or more, without receiving poor relief, and of such term has not resided in a city in such county for a period of three months, such person, by reason of the provisions of Sections 3477 and 3479, General Code, is not entitled to receive poor relief from a city poor relief authority under the authority of House Bill No. 675 (Sections 3391, 3391-1 to 3391-13, General Code).*

COLUMBUS, OHIO, September 1, 1939.

HON. NICHOLAS F. NOLAN, *Prosecuting Attorney, Dayton, Ohio.*

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

“May we respectfully ask your formal opinion upon legal settlement for poor relief purposes in connection with the following situation which is typical and about which there is a difference of opinion between the city and county relief authorities.

In September of 1938 a family residing in the city of Dayton qualified for and did receive public relief from the city of Dayton under the legal settlement provisions of A. S. B. 465 then in effect, which required a three-year residence in the State of Ohio and ninety days in the County. The family had come to Ohio from another State, but has not resided to date in this county for twelve consecutive months without receiving public relief. There are several minor children in school; the head of the family worked several months on WPA locally, having been certified from the City of Dayton. These facts relating to the school and WPA may not be determinative or vital, but they do indicate that the family was accepted into the local community.

Now, under the provisions of the recently enacted House Bill No. 675, which requires twelve months self-supporting residence in this county, the City of Dayton refuses to grant direct relief to this family which has been laid off the WPA, claiming it to be non-resident, and therefore a legal charge of the County Commissioners.

Question: Under these circumstances, is this family now legally settled in the city of Dayton for the purpose of receiving public relief?"

The question of legal settlement, for purposes of poor relief, is purely a matter of statute. In considering the proper interpretation of a statute, we are not permitted to consider the policy of such legislation. Such considerations are solely for the legislative branch of the government.

In your request for my opinion you state that the indigent in question has not resided in the State for a period of twelve months without receiving poor relief. You further state that this person did have sufficient residence requirements to obtain poor relief under former Amended Senate Bill No. 465.

In such Amended Senate Bill No. 465, the following provision as to residence for purposes of poor relief was contained:

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For the purposes 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.

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Such provision was also contained in Amended Substitute House Bill No. 91 of the Ninety-third General Assembly.

You will note that there is no language in such statutory provision as to whether or not the person may or may not have received relief under provisions of law during such statutory period. During the time such Amended Senate Bill No. 465 or such Amended Substitute House Bill No. 91 was effective, it is probable that their provisions as to the eligibility of recipients of poor relief thereunder superseded conflicting provisions of general law as to legal settlement for poor relief. However, such language was not carried forward into House Bill No. 675 (Sections 3391, 3391-1 to 3391-13, G. C.).

As stated in the first paragraph of the syllabus of the case of Board of Education v. Boehm, 102 O. S., 292, and quoted with approval in Board of Education v. Board of Education, 112 O. S., 108, 114:

"When an existing statute is repealed and a new and different statute upon the same subject is enacted, it is presumed that the legislature intended to change the effect and operation of the law to the extent of the change in the language thereof."

In the enactment of House Bill No. 675, the legislature has made no residence requirements for recipients of poor relief which are in-

consistent with those contained in Sections 3477 and 3479, General Code. Such sections read:

Sec. 3477, G. C.

“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.”

Sec. 3479, G. C.

“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.”

Since there is no language in House Bill No. 675 which expressly repeals such numbered sections and no language that is in conflict therewith, they cannot be said to be repealed either expressly or by implication. Repeals by implication are never presumed to have been intended by the legislature. Black on Interpretation of Laws, Sec. 53.

As stated in the seventh paragraph of the headnotes of the case of State of Indiana v. Gearhart, 145 Ind., 439, 33 L. R. A., 278:

“Statutes relating to the same thing or general subject matter are to be construed together, and are in *pari materia* no matter when they were passed.”

Sections 3477 and 3479, General Code, clearly are concerning the same subject matter as House Bill No. 675, viz., poor relief to indigents. It is therefore evident that they should be construed together and effect given to each. Black Interpretation of Laws, Section 86; Endlich on Interpretation of Statutes, Section 53.

I am therefore of the opinion that we must look to the provisions of Sections 3477 and 3479, General Code, to determine the residence requirements of applicants for poor relief.

Specifically answering your inquiry, it is my opinion that if a person has entered the State of Ohio from another state but has not resided in any county of this State for a period of twelve months or more, without receiving poor relief, and of such term has not resided in a city in such county for a period of four months, such person, by reason of the provisions of Sections 3477 and 3479, General Code, is not entitled to receive poor relief from a city poor relief authority under the authority of House Bill No. 675 (Sections 3391, 3391-1 to 3391-13, General Code).

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

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CONTRACT—STATE WITH VILLAGE OF GENEVA, IMPROVEMENT, STATE HIGHWAY NO. 2, VILLAGE OF GENEVA, ASHTABULA COUNTY.

COLUMBUS, OHIO, September 1, 1939.

HON. ROBERT S. BEIGHTLER, *Director, Department of Highways, Columbus, Ohio.*

DEAR SIR: You have submitted for my approval a contract in duplicate covering the following improvement:

Section Geneva (Part)  
State Highway No. 2  
Ashtabula County  
Village of Geneva.

After examination, it is my opinion that said contract is correct as to form and legality and accordingly I have endorsed my approval thereon and am returning the same herewith.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*