

**Note from the Attorney General's Office:**

1963 Op. Att'y Gen. No. 63-553 was overruled in part by  
1980 Op. Att'y Gen. No. 80-101.

## SYLLABUS:

(1) A detention home provided by authority of Section 2151.34, Revised Code, is for the detention of "delinquent, dependent, neglected children, or juvenile traffic offenders \* \* \* until final disposition."

(2) The placement or detention of delinquent, dependent, neglected children, or juvenile traffic offenders, under Section 2151.35, Revised Code, is upon final disposition of the juvenile court and does not include placement in a detention home provided under Section 2151.34, Revised Code.

(3) Under Section 2151.35, Revised Code, the juvenile court "shall, at time of placing the child, determine which school district must bear the cost of educating the child while he is residing at such place as the court directs."

Columbus, Ohio, September 30, 1963

Hon. John S. Ballard  
Prosecuting Attorney  
Summit County  
Akron, Ohio

Dear Sir:

I have your request for my opinion which asks, in substance, whether the conclusion in Opinion No. 261, Opinions of the Attorney General for 1963 with regard to the expense of educating delinquent, neglected and dependent children in a detention home, under Section 2151.34, Revised Code, is applicable to children permanently placed by order of a juvenile court under Section 2151.34, Revised Code.

Section 2151.34, Revised Code, states:

"No child under eighteen years of age shall be placed in or committed to any prison, jail, or lockup, nor shall such child be brought into any police station, vehicle, or other place where such child can come in contact or communication with any adult convicted of crime or under arrest and charged with crime; provided that a child fourteen years of age or older may, for good cause shown, and with the consent of the juvenile judge or a person designated by him, be placed in a place of detention for adults, but in a room or ward separate from adults. All children under eighteen years of age, when confined in such places of juvenile detention, shall not be detained

for a period to exceed ninety days during which time a social history can be prepared to include court record, family history, personal history, school and attendance records, and such other pertinent studies and material as will be of assistance to the juvenile court in its disposition of the charges against such juvenile offenders.

“Upon the advice and recommendation of the judge, the board of county commissioners shall provide, by purchase, lease, construction, or otherwise, a place to be known as a detention home, which shall be within a convenient distance of the juvenile court, and not used for the confinement of adult persons charged with criminal offenses, where delinquent, dependent, neglected children, or juvenile traffic offenders may be detained until final disposition. \* \* \*

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The syllabi of Opinion No. 261, Opinions of the Attorney General for 1963, issued June 5, 1963, states:

“1. Pursuant to Section 2151.34, Revised Code, the governing authority of the juvenile detention home shall when possible provide ‘a comparable educational program’ for those children of school age in the home, and the expense thereof shall be treated in the same manner as any other expense of operation of a juvenile detention home.

“2. When it is not possible for the governing authority of a juvenile detention home to provide ‘a comparable educational program,’ an educational program shall be provided by the school district in which the home is located by force of Section 3313.55, Revised Code, and the expense thereof shall be assumed by the county.”

Section 2151.10, Revised Code, states in pertinent part:

“The board of county commissioners shall appropriate such sum of money each year as will meet all the administrative expense of the juvenile court, including reasonable expenses of the juvenile judge and such officers and employees as he may designate in attending conferences at which juvenile or welfare problems are discussed, and such sum each year as will provide for the maintenance and operation of the detention home, the care, maintenance, education, and support of neglected, dependent, and delinquent children, other than children entitled to aid under sections 5107.01 to 5107.16, inclusive, of the Revised Code, \* \* \*”

In my opinion the reasoning used in Opinion No. 261, cited

above, and the language of Section 2151.10, Revised Code, requires the counties to assume the cost of educating children in county detention homes. This opinion has no application to delinquent, neglected and dependent children placed by order of a juvenile court under Section 2151.35, Revised Code.

Section 2151.35, Revised Code, states:

“The juvenile court may conduct its hearings in an informal manner, and may adjourn such hearings 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. The juvenile court shall permit a child to be represented by an attorney-at-law during any hearing before such court and shall extend to such child all the rights and privileges of section 2935.17 of the Revised Code. Such attorney-at-law, the parents or guardian of such child and any attorney-at-law representing them shall be entitled to visit such child at any reasonable time and to be present at any hearing involving the child and shall be given reasonable notice of such hearing.

“Any report or part thereof concerning such child which has been prepared by an employee of the court which is used in the hearing and is pertinent thereto shall for good cause shown be made available to any attorney-at-law representing the parents or guardian of such child, upon written request prior to any hearing involving such child. All cases involving children shall be heard separately and apart from the trial of cases against adults. The court may excuse the attendance of the child at the hearing in cases involving neglected, dependent, or crippled children. The court shall hear and determine all cases of children without a jury. If the court finds that the child is a juvenile traffic offender or is delinquent, neglected, or dependent, it may by order entered proceed as follows:

“(A) Place the child on probation, under supervision in its own home, in the custody of a relative, in an institution, or in a certified foster home, wherever situate, upon such terms as the court shall determine; provided that the court may place delinquent children on a free or wage basis in uncertified foster homes. The court shall, at the time of placing the child, determine which school district must bear the cost of educating the child while he is residing at such place as the court directs. The decision of the court concerning the expense of the child’s edu-

cation shall be made a part of the order provided by this section;

“(B) Commit the child temporarily or permanently to the division of social administration of the department of public welfare, or to a county department of welfare which has assumed the administration of child welfare, county child welfare board, or certified organization, or to any institution, or to any agency in Ohio or in another state authorized and qualified to provide or secure the care, treatment, or placement required in the particular case;

“\* \* \*

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The seeming conflict between Section 2151.34, Revised Code, and that part of Section 2151. 35, Revised Code, subsection (A) which provides that the juvenile court “shall, at time of placing the child, determine which school district must bear the cost of educating the child while he is residing at such place as the court directs” is resolved by a consideration of both sections in their entirety.

Section 2151.34, *supra*, by its terms provides for the purchase or construction of “a place to be known as a detention home \* \* \* where delinquent, dependent, neglected children, or juvenile traffic offenders may be detained until final disposition”.

It is further provided that children under eighteen “shall not be detained for a period to exceed ninety days”. It is clear that the confinement of a child under Section 2151.34, *supra*, is of a temporary nature pending a compilation of a social and family history etc., and a general investigation, and pending a permanent disposition of the child.

Section 2151.35, Revised Code, on the other hand provides for the permanent disposition of delinquent, neglected, or dependent children after the compilation of histories and the investigation required under Section 2151.34, *supra*, and provides that the court as a part of its order of placement shall determine which school district must bear the cost of educating.

While the term “institution” in Section 2151.35, *supra*, standing alone, would be broad enough to include a detention home operating under the authority of Section 2151.34, *supra*, this latter

section specifically states that children under eighteen years of age shall not be detained in a detention home for a period to exceed ninety days. This time limitation would appear to preclude the permanent or final placement under Section 2151.34, *supra*, in a detention home.

Therefore, it is my opinion and you are advised that:

(1) A detention home provided by authority of Section 2151.34, Revised Code, is for the detention of "delinquent, dependent, neglected children, or juvenile traffic offenders \* \* \* until final disposition."

(2) The placement or detention of delinquent, dependent, neglected children, or juvenile traffic offenders, under Section 2151.35, Revised Code, is upon final disposition of the juvenile court and does not include placement in a detention home provided under Section 2151.34, Revised Code.

(3) Under Section 2151.35, Revised Code, the juvenile court "shall, at time of placing the child, determine which school district must bear the cost of educating the child while he is residing at such place as the court directs."

Respectfully,  
WILLIAM B. SAXBE  
Attorney General