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1. TERM "LEGAL SETTLEMENT"—AS USED IN CHAPTER 2151, R. C.—PARENTS, GUARDIANS OR PERSONS IN RELATION OF *LOCO PARENTIS*—CHILDREN UNDER JUVENILE COURT JURISDICTION—DEFINED IN SECTION 5113.05 R. C.—OPINION No. 6542, O. A. G., 1956, APPROVED AND FOLLOWED.
2. RESIDENCE OR LEGAL SETTLEMENT OF CHILD—SECTION 2151.06 R. C.—SAME AS CUSTODIAN OR PERSON IN RELATION OF *LOCO PARENTIS*—MAY BE ACQUIRED OTHERWISE THAN PROVIDED IN SECTION 5113.05, R. C.—OPINION No. 6542, O. A. G., 1956, MODIFIED.

SYLLABUS:

1. The term "legal settlement," as used in Chapter 2151., Revised Code, with respect to parents, guardians, or persons standing in the relation of *loco parentis* of children within the jurisdiction of the juvenile court, has reference to that term as defined in Section 5113.05, Revised Code (Opinion No. 6542, Opinions of the Attorney General for 1956, approved and followed).

2. Under the terms of Section 2151.06, Revised Code, a child has, for the purposes of the sections enumerated therein, the same residence or legal settlement as his custodian who stands in the relation of *loco parentis*, and in such a case a child may acquire a legal settlement otherwise than in accordance with the definition of legal settlement provided in Section 5113.05, Revised Code. (Opinion No. 6542, Opinions of the Attorney General for 1956, modified.)

Columbus, Ohio, August 15, 1956

Hon. John D. Porterfield, Director
Department of Mental Hygiene and Correction
State Office Building, Columbus, Ohio

Dear Sir:

I have for consideration a request initiated by the Chief of the Division of Juvenile Research Classification and Training, that I review the ruling in Opinion No. 6542, dated May 1, 1956, relative to the term "legal settlement" as used in Section 2151.36, Revised Code, as applied to the case of an infant who resides not with his parents or legal guardian but with individuals who stand in the relation of *loco parentis* to him.

In Opinion No. 6542, *supra*, the question there presented was considered as involving primarily the meaning of the term "legal settlement" of a parent, it being assumed that the legal settlement of the infant would follow that of the parents; and no consideration was given in that opinion to a situation in which the infant might be deemed to acquire legal settlement different from that of his parents.

As to the meaning of the term "legal settlement" as used in Section 2151.36, Revised Code, as applicable to the parents, guardian, etc., of an infant, I must adhere strictly to the ruling therein made, namely, that this term has the same significance as that described in Section 5113.05, Revised Code.

As to the "legal settlement" of an infant who does not reside with his parents or a legally designated guardian, it appears that special provision is made in Section 2151.06, Revised Code, which reads:

"Under sections 2151.01 to 2151.54, inclusive, of the Revised Code, a child has the same residence or legal settlement as his parents, legal guardian of his person, *or his custodian who stands in the relation of loco parentis.*" (Emphasis added.)

In connection with your request, there is presented the following fact situation:

The infant involved has been committed to the juvenile diagnostic center. The juvenile court which committed her maintains that she is not a legal resident of the county from which she was committed, and the county is reluctant to provide for her support in a private training school. This infant was born outside the state of Ohio, and her parents are not residents of this state at the present time. The infant has lived for several years with her grandparents who are residents of the county from which she was committed.

It should be understood that where a juvenile court has for consideration a question of payment for the care, maintenance, etc., of a child under the provisions of Section 2151.36, Revised Code, it is entirely within the jurisdiction of such court to determine the mixed question of law and fact as to such child's legal settlement, and it would be wholly improper for this office to express an opinion thereon in such a pending judicial proceeding.

I do express the view, however, that under the terms of Section

2151.06, Revised Code, *supra*, an infant has for certain purposes, the same residence or legal settlement as the grandparents, provided the facts are such that they stand in the relation of *loco parentis*. The term "*loco parentis*" describes the situation of one who has assumed the obligations of the parental relationship without going through the formalities of legal adoption. See 189 F (2d), 494; 76 F. Supp., 778, 25 Words and Phrases, 572, as supplemented.

I am of the opinion, and advise you, that:

1. The term "legal settlement," as used in Chapter 2151., Revised Code, with respect to parents, guardians, or persons standing in the relation of *loco parentis* of children within the jurisdiction of the juvenile court, has reference to that term as defined in Section 5113.05, Revised Code (Opinion No. 6542, Opinions of the Attorney General for 1956, approved and followed).

2. Under the terms of Section 2151.06, Revised Code, a child has, for the purposes of the sections enumerated therein, the same residence or legal settlement as his custodian who stands in the relation of *loco parentis*, and in such a case a child may acquire a legal settlement otherwise than in accordance with the definition of legal settlement provided in Section 5113.05, Revised Code. (Opinion No. 6542, Opinions of the Attorney General for 1956, modified.)

Respectfully,

C. WILLIAM O'NEILL
Attorney General