

**Dependent Children, Expense of Keeping at Institutions.  
Children, Dependent, Expense of Keeping at Institutions.**

Chap. 131, Laws of 1909, provides certain cases in which children may be committed to proper institutions, and further provides that when so committed the expense of caring for such children must be paid by the county from which they are committed.

Whenever children are committed by any authority to any institution other than those established and maintained by the

state, the expense of caring for the same is a county charge.

Helena, Montana, July 6, 1909.

Hon. W. H. Trippet,  
County Attorney,  
Anaconda, Montana.

Dear Sir:

I am in receipt of your letter of the 2nd inst., requesting an opinion upon the following question:

"The court in this county, in several instances, has sent dependent children to the Home of the Good Shepherd at Helena, and such institution has sent bills to the board of county commissioners for the keeping of these children. I know of no provision of law by which such a matter is a claim against the county. Can you inform me where such a law is?"

Hon. J. M. Kennedy, of the Bureau of Child and Animal Protection informs me that the children sent to the Home of the Good Shepherd from your county were two girls who were committed to such institution pursuant to the provisions of chapter 131, laws of 1909. You will notice that section 1 of the act provides that under certain circumstances, where a female makes application herself to the secretary of the bureau of child and animal protection, that he may make an order that such person be committed to a suitable institution. Section 2 provides that when any female is brought before any court or judge, who would be authorized from the facts to commit the female to the reform school, that such female may be committed to some institution devoted to the reclaiming and reforming of women. Section 3 provides that when any female is convicted of drunkenness, disorderly conduct or vagrancy, that the court may commit her to such an institution, while section 4 provides the method by which institutions in this state may qualify so as to entitle them to receive such females. Section 5 provides for the payment of the expenses of caring for children committed in any of the methods mentioned in sections 1, 2 and 3, and expressly states that such institution shall be entitled to compensation from the county at the rate of \$10 per month, to be allowed and paid as other claims against the county are paid. Under sections 7829 to 7843 of the Revised Codes relating to dependent and neglected children, the law does not expressly state who should pay the expenses of supporting such children when committed to some institution. If the children are such as to be lawfully entitled to admission to the Orphans' Home under section 1250, the county must pay the expenses of transporting the children, after which time the expense is borne by the state, or, if the children are committed to the Reform School, the county bears the expense of transmitting the children to the school, after which the state pays the expense. However, section 7832 provides that the court must issue a citation to the parents or guardians of dependent or neglected children, directing them to show cause why such children should not be sent to the State Orphans' Home "or otherwise cared for;" and in section 7834 it is provided that the court may commit such children to the State Orphans' Home, or "if said home is unable to receive said child, or if from any other reason

it should appear to the best interest of said child, the court may make such disposition of such child as seems best for its moral and physic welfare." The last two sections give the court a wide latitude in committing dependent children brought before it, but the only cases in which the state can be held liable for the maintenance and support of such children are when they are sent to the orphans' home or to the reform school, as indicated above. In all other cases the charge, not only of transporting the children, but of keeping them in the institution, is primarily against the county. You will notice that section 7837 provides for the giving of a bond for the support, care and maintenance of children, and section 7840 provides that where such bond is forfeited that the money collected shall be turned over to the county treasurer to be applied on the care and maintenance of the children, which clearly shows that it was the intention of the law that such children should be cared for at the expense of the county, except when sent to the reform school or orphans' home.

I will state for your information that at present the State Orphans' Home is filled to its utmost capacity, and it is doubtful if any children would be accepted there over twelve years of age, or with any physical defects whatever, as the home, of necessity, must limit the admission of the children in order to properly accommodate them.

Very truly yours,

ALBERT J. GALEN,

Attorney General.