

Counties, Liability of For Expense Humane Officer. Humane Officer, Liability of County For Expense. Bureau Child and Animal Protection, Liability of Counties For Expense of. Children, Apprehending and Transporting Dependent, Liability of County For.

The county is liable for expenses incurred by officers of the Bureau of Child and Animal Protection in apprehending

and transporting dependent children, for such officer acts only for the benefit of the county, and no duty rests upon him to act at all, except the county pays him such expense.

December 18, 1915.

Hon. Jay S. Baker,
County Clerk and Recorder,
Dillon, Montana.

Dear Sir:

I am in receipt of your letter of the 26th ultimo, written by direction of the Board of County Commissioners, submitting the inquiry: as to whether a county is liable for actual expenses incurred by the officers of the Bureau of Child and Animal Protection in apprehending and transporting dependent children within your county?

I am not able to give sanction to the advice contained in the letter addressed to Mr. Theodore Nelson of your county on May 5th, 1915. The primary duty of caring for dependents, whether children or otherwise, rests with the county. The officers of the Bureau of Child and Animal Protection when apprehending or transporting children within the county, are only discharging the duties which otherwise would rest upon the county officers, and if such duty were performed by the sheriff, the county would be liable for the payment of his mileage. Whereas, when an officer of the Bureau discharges this duty, only his actual expenses are paid, and these should be paid by the county. The county is then at a less expense than it should be if the sheriff had discharged the duty. Section 7829 et seq. Revised Codes, and Chapter 131, Laws of 1909, I believe sustain this contention. A very similar question was once before this department, wherein it was held that the expense in such cases was a proper charge against the county until the child was committed by authority to a state institution.

Opinions Attorney General, 1908-10, 152 et seq.

Not any appropriation is made to the Bureau of Child and Animal Protection to meet such expenses. Hence, unless the county allows and pays the bills incurred by the officers of the Bureau, that department will necessarily cease acting in the county, and leave such duties to be discharged by the sheriff's office.

I return herewith the letters enclosed by you.

Yours very truly,

J. B. POINDEXTER,

Attorney General.