

TO BE PUBLISHED IN THE OFFICIAL REPORTS

OFFICE OF THE ATTORNEY GENERAL
State of California

GEORGE DEUKMEJIAN
Attorney General

OPINION	:	No. 80-314
	:	
of	:	<u>October 30, 1980</u>
	:	
GEORGE DEUKMEJIAN	:	
Attorney General	:	
	:	
Victor D. Sonenberg	:	
Deputy Attorney General	:	

SUBJECT: SUPPORT OF WARD COMMITTED TO YOUTH AUTHORITY BY TWO COUNTIES—When a ward has been committed to the Youth Authority from the juvenile courts of two different counties, the Youth Authority should bill the county of the ward's residence the \$25 a month specified in Welfare and Institutions Code section 912.

The Honorable Pearl S. West, Director, Department of the Youth Authority. has requested an opinion on the following questions:

1. When a ward has been committed to the Youth Authority from the juvenile courts of two different counties, must the Youth Authority bill both counties \$25 a month pursuant to Welfare and Institutions Code section 912?
2. If the answer to question 1 is no, which county should be billed?

CONCLUSIONS

1. When a ward has been committed to the Youth Authority from the juvenile courts of two different Counties, the Youth Authority should not bill both counties \$25 a month pursuant to Welfare and Institutions Code section 912.

2. The county of the ward's residence, as determined under sections 17.1 and 750 of the Welfare and Institutions Code, should be billed the \$21 a month specified in Welfare and Institutions Code section 912.

ANALYSIS

Provisions concerning the support of wards and dependent children of the juvenile court are contained in article 25 (Welf. and Inst. Code §§ 900–914)¹ of the Juvenile Court Law (§§ 200–945). Among these provisions is section 912 which relates to the support of such juveniles who have been committed to the Youth Authority. Section 912 provides in pertinent part:

“For each person hitherto committed to the Youth Authority, the county from which he is committed shall pay the state at the rate of twenty-five dollars (\$25) per month for the time such person so committed remains in such state school or in any camp or farm colony, custodial instruction, or other institution under the direct supervision of the Youth Authority to which such person may be transferred, in the Deuel Vocational Institution, or in any boarding home, foster home, or other private or public institution in which he is placed by the Youth Authority, on parole or otherwise, and cared for and supported at the expense of the Youth Authority”

We are informed by the requester of the present opinion that on occasion a ward may be committed to the Youth Authority from more than one county. This can occur, for example, because during the time of his original commitment to the Youth Authority, the ward commits another offense in the county where he is in the Youth Authority's custody, or while he is on parole.

The question that has been presented is how the provisions of section 912 (requiring the \$25 monthly payment to the state from the committing county) are to be applied in the event that the ward has been committed from more than one county?

In seeking to ascertain the legislative intent in the present situation it is appropriate to consider the statutory context and history relevant to section 912. (See *In re Marriage of Bouquet* (1976) 16 Cal. 3d 583, 587.)

Looking at the section immediately preceding section 912 in this regard, we note that section 911 provides in relevant part that:

¹ Hereafter all section references are to the Welfare and Institutions Code unless otherwise specified.

“When any ward of the juvenile court is, with the consent of the juvenile court of the county committing him and the officer in charge of the state school to which he was committed or in which he is confined, placed in a boarding home, foster home, or work home, but continues to be under the supervision of such state school, the county may reimburse the boarding home, foster home, or work home in an amount adequate for the maintenance of the ward but not to exceed twenty-five dollars (\$25) per month.”

It would thus appear that when it enacted section 911, the Legislature regarded \$25 as an amount adequate to provide for the maintenance of juvenile court wards. Section 911 was enacted together with section 912 in 1961 (Stats. 1961, ch. 1616, § 2, p. 3502). In fact the provisions upon which both of these sections are based were formerly combined in the same section. (See former section 869 as enacted in Stats. 1937, ch. 369, p. 1050.)² “It is the usual rule of statutory construction that words or phrases in a provision that were used in a . . . closely related act pertaining to the same subject will be construed to be used in the same sense.” (*Estate of Hoertkorn* (1979) 88 Cal. App. 3d 461, 465–466; *accord, Stillwell v. State Bar* (1946) 29 Cal. 2d 119, 123.) Thus when the Legislature indicated that “an amount . . . not to exceed twenty-five dollars” was “adequate for the maintenance of the ward,” under section 911, it can be reasonably assumed that it similarly regarded that \$25 it required the counties to pay the state under section 912 to also be adequate for such maintenance.

We thus discern from examining section 912 within its statutory context and history that because \$25 was regarded by the Legislature enacting it as adequate to provide for the maintenance of a juvenile court ward, the Legislature in the multicounty commitment situation intended that the state receive but one payment of \$25 pursuant to section 912 for any particular ward committed to the Youth Authority regardless of the number of counties that have committed him. This conclusion is reinforced by the fact that the state’s cost of maintaining a ward with the Youth Authority is the same whether he has been committed by one or by several counties. In connection with this legislative intent regarding the adequacy of the \$25 payment we would further note that while section 912 and its predecessors have been amended several times since the \$25 amount was set in 1947 (see Stats. 1961, ch. 1616, § 2, p. 3502; Stats. 1965, ch. 263, § 16, p. 1259; Stats. 1965, ch. 605, § 1, p. 1939), the requirement for the \$25 payment has remained unchanged. As the Supreme Court in *Orr v. Superior Court* (1969) 71 Cal. 2d 220, 226, noted: “. . . failure to make changes in a given statute in a particular respect when the subject is before the Legislature, and changes are made in other respects, is indicative of an intention to leave

² At the time of the 1937 enactment, the county’s maintenance payment was set at \$20 a month. The amount was set at \$25 per month in 1947. (Stats. 1947, ch. 290, §§ 2, 3, pp. 751–752.)

the law unchanged in that respect.”

But in concluding that the state is to receive only \$25 a month under section 912 for each ward committed to the Youth Authority, whether or not a multicounty commitment is involved, there still remains the question: to whom the obligation to pay the \$25 is to be assigned in the event of such multicounty commitment.³

To resolve this question we again turn to the context of the statutes related to section 912, and we note that another section of the Juvenile Court Law, section 750, provides that:

“Whenever a petition is filed in the juvenile court of a county other than the residence of the person named in the petition, or whenever, subsequent to the filing of a petition in the juvenile court of the county where such minor resides, the residence of the person who would be legally entitled to the custody of such minor were it not for the existence -of a court order issued pursuant to this chapter is changed to another county, the entire case may be transferred to the juvenile court of the county wherein such person then resides at any time after the court has made a finding of the facts upon which it has exercised its jurisdiction over such minor, and the juvenile court of the county wherein such person then resides shall take jurisdiction of the case upon the receipt and filing with it of such finding of the facts and an order transferring the case.”

Thus under this section any time after a juvenile court makes its jurisdictional findings, it may transfer a case to the juvenile court in the county of the minor’s residence:⁴ (1) where the petition is filed in a county other than that in which the minor resides, or (2) where, subsequent to such filing, the residence of the person ‘legally entitled to custody of such minor’ is changed to another county.” (*In re Ratnana S.* (1976) 64 Cal. 3d 945, 950.) The duty of the residence county to accept such transfer is mandatory. (*Lassen County v. Superior Court* (1958) 158 Cal. App. 2d 74, 75.)

³ See *Jensen v. McCullough* (1928) 94 Cal. App. 382, 394–395 noting that the Legislature has the power to place upon the county the entire burden of maintaining “dependent persons,” such as “juvenile delinquents,” as well as the power to allocate such burden between the county and the state.

⁴ We note that under the provisions of section 17.1 (which are applicable to the Juvenile Court Law, see *In re Ramona S.*, *supra*, 64 Cal. App. 3d at p. 949) the primary determinants of the residence of a minor are “[t]he residence of the parent with whom a child maintains his or her place of abode or the residence of an individual who has been appointed legal guardian or the individual who has been given the care or custody by a court of competent jurisdiction. . . .”

Thus the provisions of section 750 allowing for the transfer of a case to the county of the minor's residence at any time after a juvenile court establishes jurisdiction clearly reflects the Legislature's evaluation of the minor's county of residence as the county with the predominating responsibility for those juveniles who are subject to the processes of the juvenile courts. (To this effect see also § 755.) As the court noted in *In re Ramona S.*, *supra*, 64 Cal. App. 3d at p. 952:

“It is patently contrary to sound policy and the relevant statutes to permit one county to shift the administrative and financial burden of a juvenile court wardship to another county, at a time when the minor's residence remains in the former county according to either of the criteria of Welfare and Institutions Code section 17.1.”

Further, there would appear to be no basis for determining that, as between the various counties, the primary status of the residence county's responsibility for the minor diminishes after the minor is committed to the Youth Authority. Since section 912 involves the responsibility of counties to those who are committed to the Youth Authority, it would be appropriate in construing section 912 to utilize the indications of legislative intent afforded by section 750 regarding the residence county's primary responsibility. (“Under general rules of statutory construction [a court] may, in construing a statute, consider other statutes that might bear on the meaning of the statute at issue.”) (*People v. Corey* (1978) 21 Cal. 3d 738, 743.)

In light of such legislative intent it is our view that since the county of the ward's residence is always obligated under section 750 to accept a transfer to it of a juvenile court proceeding that has been commenced in another county (*Lassen County v. Superior Court*, *supra*, 159 Cal. App. 2d at p. 75), the fact that another county might have actually ordered a particular commitment should not relieve the ward's county of residence of its primary responsibility for such ward. We therefore conclude that when a ward has been committed from two different counties, the state pursuant to section 912 is entitled to only one monthly payment of \$25, and the county which is obligated to make that payment is the county of the ward's residence as determined under the provisions of sections 17.1 and 750.
