assistance may be allowed for the support of such child without complying with any law of this state other than the provisions of this Act." (Our italics.)

There are other statutes, which in the absence of this legislation might be controlling to some extent, but in view of the fact that The Welfare Act of 1936 is the last expression of the legislature on the subject, I feel that it is controlling so far as it affects dependent children.

The conclusion I arrive at is that Herbert Martin is not a dependent child as defined by Section 1, subdivision (1) of The Welfare Act of 1936, and is not eligible under the provisions of Section 71 of this Act, to be cared for as a dependent child in this state.

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WELFARE, DEPARTMENT OF PUBLIC: Minor child, application for assistance to; where application should be filed.

August 12, 1936.

Mr. Wayne Coy,
Acting Administrator,
Department of Public Welfare,
141 South Meridian Street,
Indianapolis, Indiana.

Dear Mr. Coy:

I have before me your letter of July 25, 1936, asking for an official opinion construing that part of The Welfare Act of 1936 relating to assistance for dependent children. You specifically ask for an answer to the following questions:

(1) If a child has resided in the State of Indiana for one year, is said child eligible for assistance as a dependent child under The Welfare Act of 1936 so far as residence is concerned, even though the parent or parents of said child may live outside the State and have their legal domicile outside the State?

(2) If a child resides in one county with a qualified relative and the parents reside in another county, in which county should application for assistance to dependent children be filed?
(3) If an application is filed in one county and it is found as a result of an investigation that the child should be placed in a suitable family home with a proper relative in another county, which county is responsible for the assistance granted?

(4) If an application is filed in a county in which a child resides and before a grant of assistance is made the child moves to another county, should a new application be filed in the second county and will the assistance granted, if the child is found eligible, be a charge on the second county?

(5) As used in The Welfare Act with regard to assistance to dependent children, does residence refer to legal domicile or to physical presence?

(6) With regard to assistance to dependent children can it be said that residence applies to the physical home of the child rather than the place of his legal settlement or domicile as usually used in connection with matters of residence?

In answering these questions it will be necessary to take up Sections 71, 73, 79 and Subsection (1) of Section 1 of the Act. Subsection (1) of Section 1 of this Act defines who is a dependent child and is as follows:

"(1) The term 'dependent child' means a needy child, under the age of sixteen years, who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and whose relatives liable under the law for his support are not able to provide adequate care or support for such child without public assistance, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle or aunt, in a place of residence maintained by one or more of such relatives as his or their home."


Section 71 of The Welfare Act is as follows:

"Eligibility for assistance to dependent children. Assistance shall be given under the provisions of this Act to any dependent child who:
(a) Has resided in this state for a period of at least one year immediately preceding the date of the application for such assistance, or was born within the state within one year immediately preceding the date of application, and whose mother has resided in the state for a period of at least one year immediately preceding the birth of such child; and

(b) Is living in a suitable family home conforming to the standards of care and health, fixed by the laws of this state and the rules and regulations of the state department thereunder."


Section 78 of The Welfare Act is as follows:

"Application for assistance. Application for assistance for a dependent child under the provisions of this Act shall be made to the county department of the county or district in which the dependent child resides. The application shall be in writing, or shall be reduced to writing, and shall be made in the manner and upon the form prescribed by the state department. The application shall be made and verified by the oath of the parent or guardian of or other person standing in loco parentis to such dependent child. Every such application shall contain information as to the age and residence of the child and such other information as may be required by the rules and regulations of the state department. One application may be made for several children of the same family if they reside with the same person."


Section 79 of The Welfare Act is as follows:

"Removal to another county. Any child who is qualified for and who is receiving assistance pursuant to the provisions of this Act, in any county of this state, and who moves or is taken to another county in this state, with the approval of the state department, shall be entitled to continue to receive assistance from the county from which he has moved or is taken, until
such child shall have resided continuously for a period of one full year in the county to which he has moved or is taken and thereafter such child shall be entitled to receive assistance from the county to which he has moved or is taken. If any recipient shall move or be taken from one county to another with the approval of the state department, the state department shall give written notice thereof to the county department of the county to which such recipient moves or is taken and to the county department of the county from which the recipient moves or is taken. The county department of the county from which such child moves or is taken shall retain the records relating to such child until he shall have resided in the county to which he has moved or is taken for one year. Thereupon the county department of the county from which he has moved or is taken shall transfer all necessary records relating to the child to the county department of the county to which he has moved or is taken. During the time the recipient is residing in one county and receiving assistance from another, he shall be under the supervision of the county to which he has moved or is taken."


The definition of a dependent child under Subsection (1) of Section 1 of The Welfare Act includes a child under sixteen years of age, who has been deprived of parental support, by continued absence of a parent from the home and who is living with certain named relatives in a place of residence maintained by one or more of such relatives. This would indicate that the legal settlement or domicile of a parent would not be controlling and the term "has resided in this state for a period of at least one year," and so forth, as used twice in Subsection (a) of Section 71 of The Welfare Act, should be construed as living in a home in this state. This term has been construed by our Supreme Court as follows:

"Resided" means to take up one's abode; to dwell permanently or for a considerable time; to have a settled abode for a time. (McCormick vs. Wall, 201 Ind. 349.)
Residence may import temporary sojourn or permanent domicile. (Wallace vs. State, 147 Ind. 621.)

It is said that the precise meaning depends upon the purpose and phraseology of the particular statute. (Anderson’s Law Dictionary).

The Welfare Act, Section 115, further provides that its purpose “is to provide necessary and prompt assistance to citizens and residents of this state who are entitled to avail themselves of its provisions. This Act shall be liberally construed in order that its purposes may be accomplished as equitably, economically and expeditiously as possible.”

Section 73 of this Act provides that the application for assistance for a dependent child shall be made to the county department of the county in which the dependent child resides, and the following Section provides for an investigation which shall include a visit to the home of the child and of the person who will have the custody of the child during the time assistance is granted.

To comply with the purpose of the Act granting assistance to residents of the state, with a “liberal construction” that its purpose may be expeditiously administered and the investigation shall be made by the county in which the dependent child resides and a visit to the home of the child by the county investigator and the definition of a dependent child as given in Section 1 of the Act as being one deprived of parental support or care by reason of ** continued absence from the home or physical or mental incapacity of a parent, leads one inevitably to the conclusion that the term resided or resides as used in Sections 71 and 73 of The Welfare Act of 1936 should be construed as a place of temporary sojourn and not a permanent domicile and is the place where the dependent child is living at the time the application is made. Accordingly, your question Number One should be answered in the affirmative and the dependent child who has resided in this state for one year, if otherwise eligible, would be entitled to assistance even though the parents have a legal domicile outside the State of Indiana.

The answer to your question Number Two is likewise based upon the same Sections of this Act as is the answer to your first question and the residence of the child would govern rather than the residence of the parents. The fact that the
definition of a dependent child particularly includes living in a home of certain named relatives and its eligibility for assistance depends upon living in a “suitable family home” (Section 71 supra) together with the other Sections of this Act as hereinabove set out or referred to, leads me to the conclusion that the residence of the child is the determining factor and not the residence of the parent and the application should be made in the county where the dependent child resides and is living.

In answer to your Question Number Three, if the application is filed in one county and is properly filed in that county and the investigation discloses that the best home for the dependent child is with a qualified or proper relative in another county, the county in which assistance is granted would be liable for the amount of assistance granted for one year, under Section 79 of The Welfare Act, which governs removals to another county. This Section provides that when a dependent child moves or is taken to another county, it is with the approval of the State Department, and the State Department should first approve the placing of this child with a qualified relative in another county than the one in which the application is properly made.

Your question Number Four should be considered in the light of the residence of the child at the time assistance is granted. If the child’s home is rightfully changed by the persons having the custody or care of the child while the application is pending, the County Board where the application is pending could refuse aid upon the ground that the child is not a resident of or living in its county. An application could then be made by the proper person in the county where the child is then living and the assistance granted will be a charge upon the county granting it. Section 79 of this Act provides that when assistance is granted in one county and the child afterwards moves to another county that the first county is chargeable with the amount of assistance for one year, but this Section only covers cases where assistance has actually been granted. I believe a new application should be filed in the second county.

Questions Number Five and Six are governed by the Sections set out above and referred to in this opinion, taken in connection with the definition of residence as hereinabove set
out. *Residence in this connection, does not* refer to legal domicile or legal settlement as quite commonly used in connection with matters of residence, but as used in this portion of The Welfare Act, refers to *physical home or presence of the child*. I think this is made certain, if there could be any doubt of it, by Section 82 of The Welfare Act which is as follows:

"Compliance with other laws. When the investigation discloses that a child in whose behalf an application for assistance has been made is a dependent child, as defined in this Act, and that such child is living or will live with one or more of the relatives prescribed in sub-section (1) of Section 1 of this Act, assistance may be allowed for the support of such child without complying with any law of this state other than the provisions of this Act."

In other words, the place where the child is living is the determining factor.

PUBLIC INSTRUCTION, OFFICE OF SUPT. OF: Elementary school teachers' licenses—Power of Department of Education to require four years of college training as prerequisite to issuance of.

August 13, 1936.

Hon. Grover Van Duyn,
Assistant Superintendent of
Public Instruction,
Department of Education,
Indianapolis, Indiana.

Dear Sir:

I have at hand your communication of August 1st, submitting the following question:

"Does the statute authorize the State Board of Education to pass a regulation and establish a curriculum requiring four years' college training as a prerequisite for an elementary teacher's license?"

The licensing of public school teachers is governed by the provisions of Chapter 11, Acts of 1923. Section 4 of said Act reads as follows: