

OPINION 14

OFFICIAL OPINION NO. 14

June 15, 1971

Mr. Robert P. Heyne, Commissioner
Department of Correction
804 State Office Building
Indianapolis, Indiana 46204

Dear Commissioner Heyne:

This is in response to your request for my Official Opinion to the following question:

“May a court of Juvenile Jurisdiction commit a boy who is 18 years of age or over to the Indiana Boys’ School?”

ANALYSIS

If a juvenile court has obtained jurisdiction over a youth under 18 years of age, then that court retains jurisdiction until the child reaches the age of 21, or until the juvenile court discharges the youth, or until such youth is committed to a correctional or other state institution. See: IC 1971, 31-5-7-7, as found in Burns’ (1970 Supp.), Section 9-3207.

However, statutes defining the authority of a juvenile court to commit boys to the Indiana Boys’ School provide, in part, as follows:

“* * * notwithstanding any law or laws of this state conferring authority on juvenile courts, no court or courts of the state shall possess the authority to commit boys over the age of eighteen (18) years to said institution.” IC 1971, 11-3-2-3, as found in Burns’ (1956 Repl.), Section 13-914 (a).

“In all cases where an infant is committed to the instruction and discipline of the Indiana Boys’ School, the age of the infant at the time when he is actually sent to such institution shall be given and considered and not the age of such infant at the time of the commission of the crime or act or acts of incorrigibility.” IC 1971, 11-3-4-1, as found in Burns’ (1956 Repl.), Section 13-922.

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The question, therefore, presents itself when a juvenile court obtains valid jurisdiction over the youth before he reaches the age of 18, but for some reason does not commit the youth until after he has reached his 18th birthday.

In my opinion, the above-quoted language is unambiguous and may not be interpreted in any other manner, and this acts as a bar to any juvenile court committing a youth to Boys' School who has reached the age of 18 on the date of commitment.

Of course, a juvenile court, after having obtained lawful jurisdiction, can commit a youth between the ages of 18 and 21 to some other institution, as provided by IC 1971, 31-5-7-15, as found in Burns' Section 9-3215, or jurisdiction may be waived, before trial, to the appropriate court having jurisdiction over adult offenders, as provided by IC 1971, 31-5-7-14, as found in Burns' Section 9-3214.

CONCLUSION

It is, therefore, my official opinion that a court having juvenile jurisdiction does not possess the authority to commit a boy over the age of 18 years to the Indiana Boys' School. He can be committed to some other institution, or jurisdiction may be waived, before trial, to an appropriate adult court.