

**Opinion No. 39-3229**

August 5, 1939

**BY:** FILO M. SEDILLO, Attorney General

**TO:** John W. Myers, M. D. Superintendent, N.M. State Hospital, Las Vegas, New Mexico.

{\*89} I have your letter of August 3rd requesting an opinion with respect to Section 26, Chapter 76, of the Laws of 1933.

The question is whether an inmate of Arizona, born January 2nd, 1918, whose parents were legal residents of Arizona when the child was ten years old and at which time he was committed to the hospital there, may be removed to your hospital under the above provision of the statute.

Your correspondence shows that two years after this boy's commitment his parents moved to New Mexico and have lived here since, and that the boy is now over twenty-one years of age.

In my opinion, he is not subject to removal under the above section of the statute. This young man was a resident of Arizona under the terms of the statute, since he had lived there continuously for at least one year. The statute specifically provides that "the time spent in a public institution, or on parole therefrom, shall not be counted in determining the matter of residences in this or another state."

That being the case, the time during which his parents have been in New Mexico while he was confined in the hospital in Arizona is not to be counted.

If he was continuously confined in Arizona, or on parole, during all the time before he became twenty-one years of age, he has never acquired residence anywhere else.

By: A. M. FERNANDEZ,

Asst. Atty. Gen.