

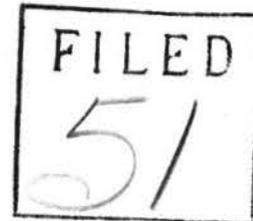
PENAL INSTITUTIONS: Sufficiency of formal account in  
demands for expenses of Reforma-  
tory inmates

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February 2, 1938

23

Honorable G. W. Lane  
Secretary to Department of  
Penal Institutions  
Box 236  
Jefferson City, Missouri



Dear Mr. Lane:

We acknowledge your request for an opinion dated January 12, which reads as follows:

"I would appreciate an opinion from your office as to the form statements of accounts due from various counties to the Department of Penal Institutions for the credit of the institutions at Boonville, Chillicothe and Tipton, when it is desired to file suit against delinquent counties.

"I enclose a sample of statement of account that has been in use since my connection with this institution. General Reagan has had charge of this class of work. Kindly let me know if enclosed form is considered sufficient, if not will you please suggest one that meets the approval of your department.

"Of course this office bills each county quarterly and in advance by sending a statement to the county clerk of each county having inmates at any or all three of the institutions above mentioned, giving the name of each inmate, date

February 2, 1938

received and date of parole, discharge, escape or death. These 'billings' are made up from the original records which are and remain in my office.

"In the event there is a credit by reason of discharge, parole etc. it is shown on the left hand side, as are all credits by cash. The sum total of all credits are deducted from the gross amount due thus leaving the net amount on which suit is filed.

"We have several counties delinquent and it is the desire of Director Matthews that suit be filed as soon as the method of procedure is suggested or approved by your department."

The expense of each person committed to Boonville Reformatory, payable by the counties, is provided in Section 8358, Revised Statutes Missouri 1929, which reads:

"There shall be paid to the state prison board the sum of fifteen dollars per month for the support, maintenance, clothing and all other expenses of each person committed to said reformatory, from the time of his reception into said institution until his discharge therefrom: Provided, that no payment shall be made for the time that any such person may be absent from the reformatory on probation, by permission of the board. All payments shall be made quarterly in advance: Provided, that all payments for the support of persons chargeable to

a county shall be paid by such county in cash, and for that purpose the county court is authorized to discount its warrants, but the Missouri reformatory shall not receive any county warrants for the maintenance and support of any person committed to such institution."

Section 8359, Revised Statutes Missouri 1929, provides, in part:

"When any boy under seventeen years of age shall be committed to said reformatory or said training school by any court having competent jurisdiction, upon conviction of any felony or misdemeanor, or when the governor, except as hereinafter provided, shall commute the sentence of any person from imprisonment in the penitentiary to commitment to the reformatory, the expenses of the maintenance of said boy, as provided in the foregoing section, shall be paid by the county in which he was convicted. The clerk of the court in which the conviction is had shall certify the judgment of conviction to the county court of said county, and the governor shall cause to be certified to said county court any commutation made by him. The board shall cause to be filed with the said court a certificate showing the date when such boy was received into said institution, and the support of said boy, at the rate and in the manner stated in the foregoing section shall be paid by said county upon an account presented by the Secretary of said board to said county court: \* \* \* "

The expense of each person committed to Chillicothe Reformatory, payable by the counties, is provided in Section 8372, Revised Statutes Missouri, 1929, which reads:

"There shall be paid to the state prison board the sum of fifteen dollars per month for the support, maintenance, clothing and all other expenses of each person committed to said industrial home for girls, from the time of her reception into said institution until her discharge therefrom; Provided, that no payment shall be made for the time that any such person may be absent from the industrial home for girls on probation, by permission of the board. All payments shall be made quarterly in advance; Provided, that all payments for the support of persons chargeable to a county shall be paid by such county in cash, and for that purpose the county court is authorized to discount its warrants, but the industrial home for girls shall not receive any county warrants for the maintenance and support of any person committed to such institution."

The expense of each person committed to Tipton Reformatory, payable by the counties, is provided in Section 8385, Revised Statutes Missouri 1929, the language being identical with Section 8372, supra.

In addition to the above legislative mandate the Legislature has given the prison board power to make rules and regulations, as provided in Section 8338, Revised Statutes Missouri 1929, which reads, in part:

"The state prison board shall, subject to law, have the exclusive government, regulation and control of the Missouri state penitentiary, the Missouri reformatory, the industrial home for girls, the industrial home for negro girls and of all other penal or reformatory institutions hereafter created and of all persons who now are or who hereafter shall be legally sentenced to either of the institutions hereinabove mentioned or referred to and who shall be committed to the custody of said board, and said board shall make and enforce such by-laws, rules and regulations as they from time to time deem necessary and proper in the management of all institutions or persons now or hereafter legally committed to said board, and shall be vested with and possessed of all other powers and duties necessary and proper to enable it to carry out fully and effectually all the purposes of this article. \* \* \* \* "

#### CONCLUSION

The by-laws, rules and regulations of the prison board, as to formality of statements of account, which are not in conflict with Sections 8359, 8372 or 8385, supra, have the same legal force as statutory mandates, and the secretary of the board must consider them along with the statutes if his formal statements of account are to be sufficiently up to legal specifications.

Where there are no by-laws, rules or regulations of the penal board, then, the regulatory statutes

touching the subject matter are the only yardstick of legal requirement for statements of account and their sufficiency in form.

The form of statements of account demanding from counties the expense of inmates at Chillicothe and Tipton is not mentioned in any particular statute.

As to computing any demand account against any county for expenses of inmates at Boonville, Sections 8358 and 8359, supra, provide that the prison board cause to be filed with the county clerk a certificate showing the date when such boy was received, the amount due on said boy at the rate of fifteen dollars per month, secured quarterly in advance. The Legislature makes it the specific duty of the secretary to the board to present the county court with an account of the state's claim as a condition precedent to payment for these expenses. This account to the county court is in addition to the quarterly advance certification filed with the county clerk.

The intention of the Legislature in Sections 8358 and 8359, supra, was to completely inform county officers in detail, and by items, exactly how much their county owes on each individual boy committed to Boonville. This information to a county court or to any court is not unreasonable and is no more definite information than any court is entitled to before adjudicating payment of any alleged account which is claimed to be due and owing.

In Section 8359, supra, the phrase "account presented by the secretary of the board" means more than a mere statement of alleged balances. The phrase means that alleged balances be broken down and itemized. This, you state, is done in the certified quarterly advance statement. The statute speaks of "such boy" and "said boy", which would indicate that the Legislature intended the secretary's system of accounting to a county court be broken down to show exactly how the alleged account of each boy stands when submitting the

Honorable G. W. Lane

-7-

February 2, 1938

statutory account. Where the individual items of account are correct the net balance due is bound to be correct.

This Department is of the opinion, based upon the facts stated and the purported account statement to the county court which you exhibited herewith, that such an account statement presented to any county court for expenses of any boy at Boonville is not sufficiently specific to comply with statutory preciseness.

The sum total of all credits by reason of discharge, parole, etc., subtracted from the alleged gross amount due leaves the alleged net amount due. If suit be filed, this alleged net amount would figure the same total in net amount due if you credit the account of individual boys with such credits, pursuant to a ruling of the board. In this way the county receives full credits and each boy's separate account stands on its own merits, both on your books and in the courts, as was intended by the Legislature. When suit is filed under such suggested bookkeeping and accounting, then each boy's expenses can be adjudicated on its own merit and if disallowed by the trial court it will be an easy matter to so note on your book the claim of the particular boy that was disallowed.

Respectfully submitted

Wm. ORR SAWYERS  
Assistant Attorney General

APPROVED

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J. E. TAYLOR  
(Acting) Attorney General

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