

COUNTY: To pay for support and maintenance of boys under seventeen years of age, committed to the Missouri training school for boys.

Smith

October 5, 1945

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Honorable Thos. E. Whitecotton, Director
Department of Penal Institutions
Jefferson City, Missouri

Dear Sir:

Your letter of October 1st, 1945, addressed to General Taylor, requesting an opinion on certain charges for inmates committed to the Missouri Training School for Boys at Boonville, is as follows:

"Our records indicate that for a number of years the maintenance of boys committed to the Missouri Training School for Boys at Boonville has been charged to the State of Missouri and paid from an appropriation entitled 'Costs in Criminal Cases Reformatory.' Section 9004, 'Revised Statutes 1939' relating to costs and how paid reads as follows:

'In all cases of conviction of felony, wherein the punishment is committed (commitment) to the Missouri training school for boys, the cost of the proceedings and of the delivery of such person to the Missouri training school for boys shall be paid by the state; and in all cases of misdemeanor, wherein the punishment is commitment to the Missouri training school for boys, the cost of the proceedings and of the delivery of such person to the Missouri training school for boys shall be paid by the county in which the conviction is had

"Section 9005, relating to expenses and how paid, reads as follows:

'There shall be paid to the commission of the department of penal institutions the sum of fifteen dollars per month for the support, maintenance, clothing and all other expenses of each person committed to said Missouri training school for boys, from the time of his reception into said institution until his discharge therefrom:

"Section 9006, relating to expenses paid by county in certain cases, reads as follows:

'When any boy under seventeen years of age shall be committed to said Missouri training school for boys 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 Missouri training school for boys, 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 When any person between seventeen and twenty-one years of age shall be committed by a court having competent jurisdiction, to confinement in said Missouri training school for boys, or is transferred from the penitentiary to said Missouri training school for boys by order of the governor, the support of such person shall be paid by the state out of money appropriated for that purpose

"I have on my desk at this time invoices from Boonville to the State Auditor for the quarter beginning January 1, 1945 in the

amount of \$4,036.50, and for the quarter beginning April 1, 1945 in the amount of \$4,118.50. There was appropriated for this period in the 'Costs in Criminal Cases Reformatory' \$2,500.00. There is at this time a deficit in the Auditor's Office of \$5,564.00 due the Missouri Training School for Boys Earning Fund which will require a deficiency appropriation.

"I have also an invoice to the State Auditor from the Missouri Training School for Boys for the quarter beginning July 1, 1945 in the amount of \$4,043.00. The appropriation for the fiscal year 1945-46 'Costs in Criminal Cases Reformatory' was \$5,000.00. This amount, budgeted quarterly, provides only \$1,250.00 and since the first quarter has already been paid to the Missouri Training School, there is now a deficit in this period of \$2,793.00. Should these charges continue to be made to this fund, a deficit of some \$15,000 to \$18,000 will be created by the end of this fiscal year.

"We respectfully request your official opinion as to whether these charges are correct or whether under the law above cited all of these charges should be against the counties in which inmates of the Reformatory were convicted."

The foregoing sections, referred to in your letter, being Sections 9004, 9005 and 9006, R. S. Mo. 1939, constitute the law governing the question asked in your letter, and, for the purpose of this opinion said sections are herein set out in full, as follows:

Sec. 9004:

"In all cases of conviction of felony, wherein the punishment is commitment to the Missouri training school for boys, the cost of the proceedings and of the delivery of such person to the Missouri training school for boys shall be paid

by the state; and in all cases of misdemeanor, wherein the punishment is commitment to the Missouri training school for boys, the cost of the proceedings and of the delivery of such person to the Missouri training school for boys shall be paid by the county in which the conviction is had. The sheriff, marshal or other person charged with the delivery of any person to the Missouri training school for boys shall be allowed the necessary traveling expenses of himself and such person, and a per diem of two dollars for the time actually occupied in taking such person to said Missouri training school for boys and in returning therefrom, to be paid by the state or county, as the case may be."

Sec. 9005:

"There shall be paid to the commission of the department of penal institutions the sum of fifteen dollars per month for the support, maintenance, clothing and all other expenses of each person committed to said Missouri training school for boys, 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 Missouri training school for boys on probation. 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 training school for boys shall not receive any county warrants for the maintenance and support of any person committed to such institution."

Sec. 9006:

"When any boy under seventeen years of age shall be committed to said Missouri train-

ing school for boys 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 Missouri training school for boys, 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 commission of the department of penal institutions 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 commission to said county court: 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 training school for boys shall not receive any county warrants for the maintenance and support of any person committed to such institution. When any person between seven-teen and twenty-one years of age shall be committed, by a court having competent jurisdiction, to confinement in said Missouri training school for boys, or is transferred from the penitentiary to said Missouri training school for boys by order of the governor, the support of such person shall be paid by the state out of money appropriated for that purpose, and the auditor shall draw its warrant therefor in favor of the commission of the department of penal institutions quarterly upon requisitions filed with him by the secretary of

said commission; and provided further, that if it shall be shown to the court before which the conviction is had that any person committed to said Missouri training school for boys, has an estate sufficient to maintain him at said institution, judgment shall be entered against him for his maintenance while confined in said institution; but if such person is under twenty-one years of age, such judgment shall be against his guardian, curator or other person having possession of his estate to pay to the commission of the department of penal institutions, quarterly in advance, the amounts hereinbefore provided for his support in said institution."

(Emphasis ours.)

"All sections of an act must be construed together and harmonized if possible."

(In re Rosing's Estate, 85 S.W. (2d) 495, 337 Mo. 544.)

"Where a statute is plain and unambiguous there is no room for construction."

(State v. Mills, 142 S.W. 477, 161 Mo. App. 179.)

"Intent of Legislature as expressed in statute must be given effect where meaning is plain."

(Betz v. K. C. So. Ry. Co., 284 S.W. 455, 314 Mo. 390.)

Maintenance of a person is defined in Vol. 38 C. J., p. 338, as: "Supply of the necessaries of life."

Vol. 18 C. J. S., Sec. 12, p. 113, entitled "Support and Maintenance," reads as follows:

"The expense of maintenance of persons who have been committed to prison for violations of the criminal law may, in varying circumstances and under governing statutes, be imposed on the federal government, a state, a county, a municipality, or the prisoner himself.

"Contractors for the labor of state or county convicts may be bound by law, or by the express terms of their contracts, to support in a suitable manner the convicts committed to their charge, and this includes not only food and clothing, but also suitable and necessary medical care and attention."

From the foregoing it is apparent that these sections should be read together and, where statutes are plain and unambiguous, they need no construction.

CONCLUSION

Therefore, it is the opinion of this department that each county should pay the sum of \$15.00 per month for the expenses and maintenance of each boy under seventeen years of age sentenced to the institution, and the State should pay the expenses and maintenance of each boy between the ages of seventeen and twenty-one years of age admitted to such institution, except where such boy has an estate of his own sufficient to support him.

Respectfully submitted,

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Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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