

SCHOOLS & CHILDREN: Manner of enforcing compulsory school attendance laws.

October 16, 1939

10-19



Miss Anna Stearns
County Superintendent of Schools
Dallas County
Buffalo, Missouri

Dear Miss Stearns:

We are in receipt of your request for an opinion, dated October 12, 1939, regarding the procedure in enforcing the compulsory school attendance laws, and which is as follows:

"Please send a written opinion of the exact proceedings of enforcing the compulsory school law."

Section 9433, R. S. Missouri, 1929, required the attendance at school of children between the ages of seven and sixteen years, and which is as follows:

"Every parent, guardian or other person in this state having charge, control or custody of a child between the ages of seven and fourteen years shall cause such child to attend regularly some day school, public, private, parochial or parish, not less than the entire time the school which said child attends is in session, or shall provide such child at home with such regular daily

instruction during the usual hours as shall, in the judgment of a court of competent jurisdiction, be substantially equivalent at least to the instruction given the children of like age at said day school in the locality in which said child resides; and every parent or person in this state having charge, control or custody of a child between the ages of fourteen and sixteen years, who is not actually and regularly and lawfully engaged for at least six hours each day in some useful employment or service, shall cause said child to attend regularly some day school as aforesaid: Provided, that a child between the ages aforesaid may be excused temporarily from complying with the provisions of this section, in whole or in part, if it be shown to the satisfaction of the attendance officer, or if he declines to excuse, to the satisfaction of a court of competent jurisdiction, that said child is mentally or physically incapacitated to attend school for the whole period required, or any part thereof, or that said child has completed the common school course as prescribed by constituted authority, or its equivalent, and has received a certificate of graduation therefrom."

This section has been amended by Laws of Missouri, 1937, at page 453, to require compulsory attendance of deaf children between the ages of six and fourteen years.

Section 9435, R. S. Missouri, 1929, has been repealed and a new section enacted at page 379, Laws of Missouri, 1933, which sets out the powers of the county attendance officer, who is now the County Superintendent of Schools, which section is as follows:

"The county superintendent of schools in each county shall act as school attendance officer for the county without additional compensation for such services. The county superintendent of schools shall have the power of a deputy sheriff in the performance of the duties of school attendance officer in all school districts of the county except as hereinafter provided: Provided, that the board of education in school districts organized under the provisions of Article 4, Article 16 and Article 17, of chapter 57, R. S. 1929, may appoint and remove at pleasure one or more school attendance officers and shall pay them from the public school funds; and provided further, that, if any board of education in any school district organized under the provisions of the aforesaid articles does not appoint a school attendance officer, the county superintendent of schools shall act in such district. The attendance officer or officers, as aforesaid, shall have the right to investigate the claims of children for exemptions under section 9433, and to issue certificates of exemption when such claims are established to his or their satisfaction; shall serve written or printed notices upon the parents or guardians or persons who, having charge, control or custody of children, as aforesaid, violate the provisions of said sections; shall, when reasonable doubt exists as to the age of any such child, require a properly attested birth certificate or an affidavit stating such child's age, giving date of birth, physical characteristics and bearing the signature of the child; shall have

the right to enter and visit any mine, office, factory, workshop, business house, place of amusement, or other place in which children are employed or engaged in any kind of service, or any place or building in which children loiter or idle during school hours; shall have the right to require a properly attested certificate of the attendance of any child or children at such day school shall have the power to arrest, without warrant, any truant, or non-attendants or other juvenile disorderly persons, and place them in some school, or take them to their homes, or take them to any place of detention provided for neglected children in such county or school district; shall serve in the cases which they prosecute without further fee or compensation than that paid by the board as aforesaid, and shall carry into effect such other regulations as may lawfully be required by the board appointing them. "Whenever a county superintendent of public welfare has been appointed in any county, such county superintendent of public welfare may be appointed by the county superintendent of schools as the county school attendance officer, with such additional compensation as may be fixed by the county court. "Where any law confers any powers or imposes any duty on the county school attendance officer such law shall be construed to mean the county superintendent of schools, except as otherwise provided herein, and such power shall hereafter be conferred upon and such duties imposed upon the county superintendent of schools, except as otherwise provided herein."

The following section 9436, R. S. Missouri, 1929, sets out the manner in which the county superintendent of schools who is now ex-officio county attendance officer, shall enforce the attendance of children at school. It provides that the teacher shall furnish a list of all non-attendants children between the ages of seven and sixteen years, together with the names of their parents or guardians, to the county superintendent of schools at least once a month. The County Superintendent of Schools shall investigate and shall warn the parents or guardians of any child who is not in attendance as provided by law to place and keep said child in regular attendance within three days after the service of a written or printed notice to be given said parents or guardians by the County Superintendent. After the parents or person having control of any such truant child and such failure to keep such child in school, then it shall be the duty of the County Superintendent (Ex-officio County attendance officer) to make a complaint against such parent, guardian or other person in charge of such child before the Judge of the Juvenile Division of the Circuit Court or before a Justice of the Peace. Since Article 12 of Section 2 of the Constitution of Missouri provides that all punishment for criminals shall be inflicted under indictments or informations, this complaint should be in the form of an information setting out fully the time and place of the offense. After the filing of such complaint or information, the Judge or Justice of the Peace shall issue a warrant directed to the defendant and upon his entry of appearance shall proceed in the same manner as provided in other criminal cases.

There is a second manner in which your problem may be solved. Under Section 14161, R. S. Missouri, 1929, which is applicable to counties of less than 50,000 population, and which applies to Dallas County, we find the following definition of a delinquent child:

"The words 'delinquent child' shall include any child under the age of seventeen years * * * *; or who is either habitually truant from any day school, or who, while in attendance at any school, is incorrigible, vicious or immoral."

Section 14164, R. S. Missouri, 1929, as amended by Laws of Missouri, 1939, at page 273, sets out the manner of procedure for the correction of delinquent children, which is, in part, as follows:

"When any reputable person, being a resident of the county, shall file a complaint with the prosecuting attorney, stating that any child in the county appears to be a neglected or delinquent child, the prosecuting attorney shall thereupon file with the clerk of the juvenile court a petition in writing, setting forth the facts and verified by his affidavit. It shall be sufficient that the affidavit be on his information and belief. It shall be the duty of the prosecuting attorney immediately thereafter to fully investigate all the facts concerning such neglected or delinquent child including its school attendance, home condition, and general environment, and to report the same in writing to the juvenile court, and upon hearing of such complaint to appear before the juvenile court and present evidence in connection therewith. * * * * *"

Section 14167, R. S. Missouri, 1929, as amended by Laws of Missouri, 1931, at page 167 sets out the manner of procedure by the court and the disposition to be made of a delinquent child by the court.

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The court may commit the child to some suitable person or family or agency, or may permit it to remain in the home of its parents, subject to the control of a probation officer and may make such orders in regard to its attendance at school as it may consider necessary.

We believe that either of the procedures above outlined will take care of any situation that may arise in your county.

Respectfully submitted,

ROBERT L. HYDER
Assistant Attorney General

APPROVED:

W. J. BURKE
(Acting) Attorney General

RLH:RV