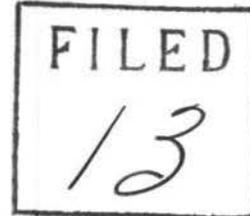


DELINQUENT JUVENILES:

Discretionary with court as to who executes commitment.

March 31, 1943



Honorable L. M. Bywaters
Asst. Prosecuting Attorney
Clay County
Liberty, Missouri

Dear Mr. Bywaters:

This will acknowledge recent of your letter of March 26, in which you request an opinion as follows:

"I respectfully request an opinion from your office based on the following facts:

Clay County, Missouri has a population of more than 20,000 and less than 50,000 and has a Superintendent of Public Welfare who derives his office through appointment of the Circuit Court of said county.

I should like to know who is the proper officer under the law that is required to convey any delinquent minors to state institutions, such as the Missouri Training School For Boys, and who should receive fees therefor in pursuance to decrees issued by the Juvenile Court.

The question has arisen in this office as to whether said duties should be carried out by the sheriff's office or by the office of the Superintendent of Public Welfare.

I am of the opinion that either officer would have the authority to commit such prisoner depending upon the decree of the Juvenile Court. However, in this county there seems to be quite a heated dispute

March 31, 1943

between these two offices as to who should receive the fees therefor. Consequently, I would greatly appreciate your opinion on this matter.

Thanking you for your co-operation in this connection and for all and any past favors."

The Juvenile Court Act creates a special code of procedure for taking care of neglected and delinquent minors. The procedure authorized is civil in nature, State ex rel. Matacia v. Buckner, et al., 254 S. W. 179, 300 Mo. 359; State ex rel. Shartel v. Trimble, 63 S. W. (2d) 37, 333 Mo. 888. The costs of the proceeding may be charged to the petitioner or any person summoned, and costs not so charged and collected are to be paid by the county, Section 9676 R. S. Mo. 1939.

When jurisdiction of the child is once acquired by the juvenile court the court retains its jurisdiction until the child attains its majority, R. S. Mo. 1939, and the court has great latitude in the action it may take for the welfare and reformation of the child, Section 9688 R. S. Mo.:

"In the case of a delinquent child, the court may suspend the sentence or execution thereof from time to time, and may in the meantime commit the child to the care and control of a probation officer duly appointed by the court, and may allow such child to remain in its home subject to the visitation and control of the probation of the probation officer, such child to report to the probation officer as often as may be required, and to be subject to be returned to the court for further proceedings whenever such action may appear to the court to be necessary; or the court may authorize the child to be placed in a suitable family home, subject to the friendly supervision of a probation officer and the further order of the court, or it may authorize the child to be boarded out in some suitable family home, in case provision is made by voluntary contribution or otherwise for

payment of the board of such child, until suitable provision may be made for the child in a home without such payment; or the court may commit the child, if a boy, to the Missouri training school for boys, or, if a girl, to the state industrial school for girls; or the court may commit the child to any institution within the county, incorporated under the laws of this state, that may care for children, or to any institution which now or hereafter may be established by the state or county for the care of boys or girls, or to any special truant or parental school which now or hereafter may be established by the board of education of said county."

This section, as you will observe, makes no direction concerning who shall execute the commitment, if a child is committed to the Missouri Training School for Boys. Nor is there any other section in this article which makes any such provision. The only section which could have any bearing on the question is Section 9695:

"Nothing in this article shall be construed to repeal any portion of the law relating to the state industrial home for girls or the Missouri training school for boys; and in all commitments to either of said institutions the law in reference to said institutions shall govern the same."

Section 9004, R. S. Mo., 1939, directs who shall execute the commitment in the event a minor is ordered confined to the Missouri Training School for Boys for conviction of a criminal offense. No mention is made concerning the carrying out of an order confining a juvenile delinquent to the same institution.

CONCLUSION

The purpose of the act is the reformation of the juvenile delinquents. As the act fails to direct who shall

Hon. L. M. Bywaters

-4-

March 31, 1943

carry out the orders of the Juvenile Court, when a delinquent is committed to an institution, it would seem to be within the discretion of the Judge of the court to make such direction as he deems proper for the carrying out of his judgment. The order could be directed to the sheriff, to the probation officer or to any other person the judge considers proper.

Respectfully submitted,

W. O. JACKSON
Assistant Attorney General

APPROVED:

ROY McKITTRICK
Attorney General

WOJ/mh