PUBLIC WELFARE: Appointment by County Court in
SUPERINTENDENT: counties of the third and fourth class.

FILED
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January 24, 1947

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Honorable Esco V. Bell
Prosecuting Attorney
Howell County
West Plains, Missouri

Dear Sir:

This acknowledges your recent request for an opinion, based on the following facts:

> "The question has come up in this county regarding the appointment of County Superintendent of Public Welfare and whose authority it is to make such an appointment.
>
> "Section 9719, Laws of Missouri, March, 1946, provides as follows: 'The county court in counties of the third and fourth classes may in its discretion, with an order of the juvenile court showing approval, appoint a county superintendent of public welfare, and such assistants as it may deem necessary, ----.'
>
> "The question is, then, whether the County Court makes the appointment of the Superintendent of Public Welfare or does the Juvenile Court make it.
>
> "May I have the opinion of your office regarding the interpretation of the above portion of Section 9719, Laws of Missouri, 1946?"

The appointment of a County Superintendent of Public Welfare, and such assistants as are necessary, in third and fourth class counties is provided for in Section 9719, Mo.

R.S.A., March 1946 Pamphlet, House Bill No. 682, and is as follows:

> "The county court in counties of the third and fourth classes may in its discretion, with an order of the juvenile court showing approval, appoint a county superintendent of public welfare, and such assistants as it may deem necessary. Whenever the county court or any county has appointed a superintendent of public welfare such officer shall assume all the powers and duties now conferred by law upon the probation or parole officer of such county and shall assume all the powers and duties of the attendance officer in said county and all the powers and the duties of the attendance officer in any incorporated town or village having a population of more than 1,000 inhabitants, and no other or different probation or parole officer or attendance officer or officers shall be appointed by the judge of the juvenile court, by the county superintendent of public schools, or by the school board or any incorporated city, town, or village school district or consolidated school district."

The functions of the Juvenile Court under this section are only to sanction and order the County Court to appoint such superintendent. The actual power to appoint is lodged with the County Court, and then it is only discretionary with the Court as to whether or not the appointment shall be made. Said section goes further in clarifying the Court's power to appoint the Superintendent of Public Welfare wherein it reads, "Whenever the county court of any county has appointed a superintendent of public welfare." This section clearly places the appointment with the County Court.

Conclusion.

It is therefore the opinion of this department that when the Juvenile Court orders and approves the appointment of a County Superintendent of Public Welfare in third and fourth class counties, the County Court has authority, in its discretion, to appoint such superintendent.

Respectfully submitted,

W. BRADY DUNCAN
Assistant Attorney General

WBD:ml

APPROVED:

J. E. TAYLOR
Attorney General