

NEGLECTED CHILDREN:
COUNTY LIABILITY FOR
SUPPORT:
DIVISION OF WELFARE:

County in which "neglected child" is so
declared by court liable for support if child
has not been committed to guardianship.
Division of Welfare may assist county with
child welfare funds.

March 21, 1951

3-22-51

Honorable Elton A. Skinner
Prosecuting Attorney
Howard County
Fayette, Missouri



Dear Sir:

We have your recent letter in which you request an opinion of
this department. Your letter is as follows:

"We respectfully request your opinion on the
following question. The facts are thus:

"The child was born in Cooper County, Mo. on
February 10, 1940. On June 4, 1945, the
Circuit Court of Cooper County, made an
order declaring the child a neglected and abandoned
child and made him a ward of that Court. At
the same time the Court awarded Mr. and Mrs. Henry
Smith custody of the child. The Smiths assumed
no responsibility for the child's medical expenses
and a \$15.00 a month allowance was provided from
the State Boarding Funds for the child's care.
A short time ago the Smiths along with the child
moved to Howard County. The child, while attending
public school at New Franklin (Howard County)
fell and broke his arm. The school authorities
took him to the local doctor for treatment. That
doctor in turn submitted his bill to the Howard
County Welfare Board. The child is still a ward
of the Cooper County Circuit Court.

"My question is: Who is responsible for the pay-
ment of the doctor bill."

We have discussed this matter with the Division of Welfare and
have ascertained that it was the circuit court of Morgan county
that declared this child a neglected child.

Sections 211.310 to 211.510, RSMo. 1949, inclusive set forth
the law pertaining to "neglected children" in counties of the third

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and fourth classes. The counties involved in your opinion request, namely, Morgan and Howard Counties, come within this classification. The child above mentioned was a resident of Morgan county on June 4, 1945, when the circuit court of that county declared him a neglected and abandoned child. The circuit court in so doing was of course exercising its juvenile jurisdiction conferred by the statutes above cited. The court awarded custody of the child, according to your letter, to a Mr. and Mrs. Henry Smith and a \$15.00 allowance was made from state funds for the child's care, Mr. and Mrs. Smith assuming no liability for medical attention. The Smiths subsequently moved from Morgan county to Howard county, your county, taking the child with them and the child, while attending school in Howard county, broke his arm whereupon the school obtained medical attention and the local doctor submitted his bill to the Howard County Welfare Board. You ask who is responsible for the payment of this doctor's bill.

Section 211.310, RSMo 1949, and subdivisions 1 and 2 thereof, are quoted here as follows:

"Sections 211.310 to 211.510 shall apply to children under the age of seventeen years, in counties of the third and fourth classes, who are not now or hereafter inmates of any state institution or any institution incorporated under the laws of the state for the care and correction of delinquent children. When jurisdiction has been acquired under the provisions hereof over the person of a child, such jurisdiction shall continue, for the purpose of sections 211.310 to 211.510, until the child shall have attained the age of twenty-one years.

"2. For the purpose of sections 211.310 to 211.510, the words 'neglected child' shall mean any child under the age of seventeen years, who is homeless or abandoned, or who habitually begs or receives alms, is found living in any house of ill-fame; or with any vicious or disreputable person, or who is suffering from depravity of its parents, or other person in whose care it may be."

It will be observed that the section last above quoted provides that when the court acquires jurisdiction under the provisions of the section it retains that jurisdiction until the child shall have attained the age of 21. The circuit court of Morgan county in its juvenile capacity therefore still has jurisdiction of this child. It will be further observed that the above quoted section definitely

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defines a neglected child as "any child under the age of 17 years who is homeless or abandoned or who habitually begs or receives alms, is found living in a house of ill-fame; or with any vicious or disreputable person, or who is suffering from depravity of its parents or other person in whose care it may be."

Section 210.120, RSMo 1949, provides for the commitment of a neglected child to the guardianship of the Division of Welfare of the Department of Public Health and Welfare. This commitment is made by a proceeding in the circuit court in its juvenile capacity and is made for the purpose of procuring foster or boarding home care for said child. Subdivision 1 of the last cited section provides as follows:

"The juvenile court of the county of a homeless, dependent, neglected or ill-treated child's residence may commit such child to the guardianship of the division of welfare of the department of public health and welfare for the purpose of procuring foster or boarding home care for said child."

We have thus far set forth the fact that the circuit court in its juvenile capacity, once it acquires jurisdiction of the child, retains that jurisdiction until the child reaches the age of 21 years. We desire to consider this fact in connection with the provisions of Section 211.430, RSMo 1949, which section, while it pertains principally to the provisions for compelling parents who are able to support their neglected child to do so, contains the following language:

"* * * otherwise the necessary support of the child shall, until the court shall commit the child to a person or institution willing to receive it without charge, be paid out of the funds of the county, only, however, upon the approval of the judge of the circuit court."

We are of the opinion that when the last cited section states that the necessary support of such a child shall be paid out of the funds of the county upon approval of the judge of the circuit court it cannot be referring to any county other than the county in which the circuit court, having jurisdiction of the child, sits or exists. We are therefore of the opinion that while this child is in the custody of persons now living in Howard county it is still under the jurisdiction of the circuit court of Morgan county and the mere fact that the circuit court has designated a home for the child outside of the county does not, in any way, affect the liability of Morgan county for the support of the child and we are of the

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further opinion that Morgan county is therefore liable for the payment of this item of expense with the approval of the circuit court of that county unless said court, prior to the injury of the child, had committed it to the guardianship of the Division of Welfare of the Department of Public Health and Welfare for the purpose of procuring foster or boarding home care for said child as provided by section 210.120, supra. We are also of the opinion that since section 211.430, supra, makes the county liable for the support of such child, only until the court shall commit the child to a person or institution willing to receive it without charge, the county is not liable if the court has so committed the child to said Division.

However, we are informed by the Division of Welfare that this child has been placed by the court in the custody of the married couple with whom he lives under the supervision of the Division of Welfare and that said Division is contributing \$15.00 per month for board. We therefore think it appropriate to quote and discuss the following sections of the statutes of Missouri.

Section 207.010, RSMo 1949, sets forth the duties of the Division of Welfare and is quoted in part as follows:

"1. The division of welfare is an integral part of the department of public health and welfare and shall * * * * * be the state agency to:

- "(1) Administer * * *;
- "(2) * * * * *;
- "(3) * * * * *;
- "(4) * * * * *;
- "(5) Child Welfare services;
- "(6) * * * * *;
- "(7) * * * * *."

Section 207.020, RSMo 1949, entitled "Powers of division of welfare" is here quoted in part as follows:

* * * * *

"2. The department of public health and welfare, through and on behalf of the division of welfare,

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"2. * * * * *

"3. * * * * *

"4. Money or services available for child welfare services;

"5. * * * * *."

We are of the opinion that section 207.010, supra, definitely provides that "child welfare services" shall be administered by the Division of Welfare and that section 207.020, supra, provides that the Division of Welfare shall have the power to supervise juvenile probation under the direction of, but not in derogation of, the order of the circuit court sitting in its juvenile capacity and that section 207.060, supra, provides that the Director of Welfare shall establish a county office of the Division of Welfare and that such office shall be in charge of a county welfare director in each county and that section 208.060, supra, provides that applications for money or services available for "child welfare services" shall be filed in the county office of the Division of Welfare.

With the foregoing deductions from the above quoted statutes in mind, together with information to the effect that the child involved has been granted a \$15.00 per month allowance from the "state child welfare fund," we are of the opinion that since additional money is needed to pay for services rendered to the child by a physician as a result of the injury mentioned in your opinion request the county welfare director of Morgan county, the county in which the court which declared the child a neglected child, sits, or whatever employee of the Division of Welfare supervises juvenile probation under the direction of the court may initiate procedure in the Morgan county office of the Division of Welfare of the State of Missouri for an allowance sufficient to defray said expenses and that said expenses may be paid from money available for child welfare services mentioned in section 208.060, supra, if said allowance shall be made.

CONCLUSION

We are, accordingly, of the opinion that since the neglected child under discussion in this opinion has not been committed by the circuit court of Morgan county to the Division of Welfare of the Department of Public Health and Welfare of the State of Missouri

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through the Morgan county office of said Division, or to any other person willing to receive him, the county of Morgan is liable for the payment of the doctor bill in question if the circuit court of Morgan county approves.

However, we are of the further opinion that since section 207.020, supra, gives the Division of Welfare the power "to extend child welfare service funds for payment of part of the cost of district, county or other local child welfare services," said Division may, through proceedings initiated in its Morgan county office, determine whether it will pay the doctor bill in question and may pay same if it reaches an affirmative decision.

Respectfully submitted,

SAMUEL M. WATSON
Assistant Attorney

APPROVED:



J. E. TAYLOR
Attorney General

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