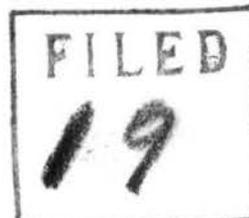


COUNTY COURTS:
CIRCUIT COURT'S
BUDGETARY ESTIMATES:

1. The preparation of the budget for foster homes for neglected and delinquent juveniles is the function of the juvenile court, and the inclusion by the county court in the court's budget for the circuit court's estimate is a purely ministerial function for the county court.
2. Mandamus will lie to enforce the county court to perform this ministerial function.

January 27, 1956

Honorable Frank D. Connett, Jr.
Prosecuting Attorney
Buchanan County
St. Joseph, Missouri



Dear Mr. Connett:

In your letter of January 3 you state that the county court reduced the circuit court's \$8,000 budget estimate for foster home care of neglected and delinquent juveniles to \$1,000, without the circuit court's consent. You then ask:

1. What would be the legal effect of the budget as to this particular item if it is finally adopted and the appropriation order made with only \$1,000 budgeted and appropriated for foster home care for neglected and delinquent children;
2. What may the circuit court do to prevent the county court from finally adopting and appropriating the money for this budget without their consent to the change in their estimates.

The authority for "foster homes" for neglected or delinquent children in counties of the first or second class is found in Chapter 211, RSMo 1949, Sections 211.010 to 211.300, inclusive.

Section 211.020 provides the circuit courts with original juvenile court jurisdiction.

Section 211.040, among other things, provides that:

" * * * Pending the disposition of any case, the child may be retained in the custody of the person having charge of the same, or may be kept in some place of detention provided by the county, or by any association having for one of its objects the care of delinquent or neglected children, or in such

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other custody as the court may direct."

Section 211.050 provides that the juvenile court may, after finding that a child is a neglected one, commit it " * * * to the care of some reputable person of good moral character, or to the care of some association willing to receive it. * * * "

Section 211.090 precludes the commitment of a child to a place where it might associate with convicted adults and provides that the juvenile court may make an order for the temporary care of any child coming within the provisions of this chapter.

Section 211.110 provides that after the juvenile court determines that a child is delinquent it may place the child " * * * in a suitable family home * * * 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; * * *."

Section 211.120 provides that the juvenile court shall retain the jurisdiction of the neglected and delinquent cases.

Section 211.130 provides that the juvenile court shall have the power to withdraw a "child sent to any institution or association or person at any time, and to make other provision therefor."

Section 211.160 provides that the court may compel the parents to support neglected or delinquent children when able " * * * 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 juvenile court."

In view of these various provisions of Chapter 211, to the effect that only the juvenile court can authorize the expenditures in question there can be no doubt, we think, about the preparation and submission of the budget for foster

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home care of neglected and delinquent juveniles being a proper function or activity for the circuit court.

We enclose an opinion to the Honorable Ray G. Cowan, Judge of the Juvenile Court of Jackson County, dated January 12, 1951, on the question of the county court interfering with the budget estimates of the circuit court.

Presently, the section that prohibits such is 50.640, RSMo 1949.

It is the opinion of this office that the inclusion of the circuit court's estimate on these matters in the county budget becomes a purely ministerial function for the county court. The circuit court's estimate becomes as much a part of the budget as though the county court actually included the whole amount submitted. See Gill v. Buchanan County, 142 S.W. (2d) 665.

On the point of what action the circuit court may take see the attached opinion to Honorable Richard K. Phelps, Prosecuting Attorney of Jackson County, dated September 20, 1955. This shows that mandamus will lie to enforce a county court to perform a purely ministerial function. Although it is on the question of an assistant prosecuting attorney's salary, it also supports our contention that the inclusion of the circuit court's estimate in the county budget is a purely ministerial function for the county court.

CONCLUSION

It is the opinion of this department that: 1. The failure of the county court to include in the county budget the complete budgetary estimates submitted by the circuit court for foster home care for neglected and delinquent children, has no legal effect, but once the circuit court submits the estimate the same becomes a part of the budget as though properly and fully included by the county court; 2. That mandamus will lie to enforce the county court to include the same or to issue warrants for obligations incurred thereunder.

The foregoing opinion, which I hereby approve, was pre-

Honorable Frank D. Connett, Jr.

pared by my assistant, Russell S. Noblet.

Very truly yours

John M. Dalton
Attorney General

RSN:lc
2 enclosures