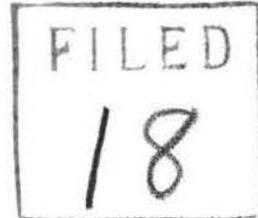


Opinion No. 18 (1965)  
No. 337 (1964)  
Answered by Letter

March 23, 1965



Honorable J. R. Fritz  
Prosecuting Attorney  
Pettis County  
Sedalia, Missouri

Dear Mr. Fritz:

This opinion is in response to your request of September 25, 1964, regarding the following:

" . . . as to whether or not the Juvenile Division of the Circuit Court under Chapter 211 of the Missouri Statutes would have jurisdiction of a child under the age of 17 years for the purpose of ordering the commitment of said child to the State School at Marshall, Missouri, upon a petition filed by the Juvenile Officer alleging that the said child is suffering from cerebral palsy causing a mental and physical deficiency to such an extent that the parents of said child cannot furnish for the child proper care and medical because of the increasing need on the part of said child for specialized care on account of said disease, even though the parents are doing their best to care for the child but at the same time the parents are not trained or equipped to furnish the specialized care that the child requires."

In a subsequent telephone conversation with you, you advised that the parents were in no way fighting this action by the juvenile court and were in fact seeking the juvenile court to obtain jurisdiction over their children. Your question calls for two answers: (1) Can a juvenile court obtain jurisdiction of a juvenile under the facts? (2) If the court has jurisdiction, what can it at that time, do with that child?

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In the recent case of In Re Linda, 362 SW2d, 782, a Kansas City Court of Appeals case, the court held that a juvenile court could obtain jurisdiction of a mentally disturbed child and if it was in the best interests of the child, remove the child from the control of the parents and send the juvenile to a state hospital. The court cites Section 211.011, RSMo 1959, which describes the purpose of the juvenile act. Also, the court refers to Section 211.031, RSMo 1959, citing specifically Section 1, Subsection C of that statute:

"Except as otherwise provided herein, the juvenile court shall have exclusive original jurisdiction in proceedings:

"(1) Involving any child who may be within the county who is alleged to be in need of care and treatment because:

"(c) The behavior, environment or associations of the child are injurious to his welfare or to the welfare of others;  
\* \* \* "

It would thus seem that the court of appeals has held 211.031 to apply to mentally disturbed children.

I am also enclosing attorney general's opinion to Addison M. Duval, Director of the Division of Mental Diseases, dated January 16, 1961, dealing with the jurisdiction of the juvenile court to commit a child to a state hospital under Section 211.201. We believe, since the child may be committed to the Division of Mental Diseases for care and treatment and since the state school at Marshall is in that division, the court could order the child committed to that institution. As a practical matter, however, by reasoning from the In Re Linda case, the court tends to look at a case where the juvenile court has taken the child away from the parents in a very critical manner. Just the practical considerations of your case, where the parents are in agreement with the removal of the child to the state school, makes this disposition much easier.

The language of the statute is broad enough to authorize the juvenile court to take jurisdiction of this child based on the facts related, and when the court has jurisdiction over the child it may then order the child committed to any state

Honorable J. R. Fritz

school or state mental hospital.

Yours very truly,

NORMAN H. ANDERSON  
Attorney General

Enclosure (1)