

JUVENILE COURTS:
CHILDREN:
COUNTY COURTS:

It is mandatory that a fourth class county pay
cost of foster home care.

OPINION NO. 182

April 11, 1967

Honorable Edward M. Wetton
Prosecuting Attorney of Carter County
Van Buren, Missouri 63965



Dear Mr. Wetton:

Recently you submitted an opinion request as follows:

"Mr. Clarence Coleman, County Clerk, Carter County, Missouri, has advised me that our county is suddenly faced with the problem of foster child care; in the immediate instance of a family of two minor children in Ellsinore, Missouri, who have been abandoned by their natural mother. These children are in dire need of assistance, and are receiving it.

"Mr. Coleman has propounded this query: Is it mandatory that the County Court participate in foster child care?

"Mr. Coleman also advised that he was told that the county receives 90% reimbursement from the state, but a study of House Bill, 1965 does not appear to answer this question.

"I would appreciate your guidance in this matter."

We assume for the purposes of this opinion that the juvenile court has assumed jurisdiction over the children mentioned in your letter.

Carter County is a fourth class county and laws applicable to fourth class counties would have to be followed in arriving at the answer in your letter.

Under Section 211.031, RSMo, the juvenile court has exclusive jurisdiction in proceedings involving neglected or delinquent children as defined therein including a child without proper care,

Honorable Edward M. Wetton

custody or support. Under Section 211.181, RSMo, the juvenile court may commit such child to the custody of a public agency or institution authorized by law to care for children or place the child in a family home. Under Section 211.241, RSMo, the court may, either on its own motion or upon application of any person, institution or agency having custody of such child, inquire to the ability of the parent to support or contribute to the support of such child and if the court finds the parent is able to support or contribute to the support, the court may enter such an order which order may be enforced by execution as provided therein. If the court finds the parent is not able to support the child as provided herein, the necessary support shall, unless the court commits the child to a person or institution willing to receive the child without a charge, be paid by the county, but only upon approval of the judge of the juvenile court. It is our opinion under this statute that it is mandatory that the county pay for the support of the child in such amount as is determined by the juvenile court upon the order of the said court.

Under Section 207.020 (17), RSMo Cum. Supp., 1965, the State Division of Welfare has authority to accept for social services, dependent or neglected children in second, third and fourth class counties when legal custody is vested in the division by the juvenile court. However, before the juvenile court is authorized to vest custody in the Division of Welfare, the Division of Welfare must notify the court that it has adequate facilities and appropriated funds available to care for said child and when this is done, the cost should be paid jointly with the county and the Division of Welfare, with reimbursement by the Division of Welfare of not less than 50 per cent of the cost to be paid quarterly to the county upon receipt and approval of an itemized statement of such expenditure.

Under this statute, the State Division of Welfare is not required to accept custody of a child unless it has adequate facilities for said child together with available funds to pay the cost for support and care. If custody is accepted the cost shall be paid jointly with the county and the Division of Welfare is to reimburse the county quarterly by not less than 50 per cent of the cost. It is our opinion that under this provision, it is mandatory that the county pay the cost for foster home care for a child whose custody is vested in the Division of Welfare by the juvenile court as provided in the above statute. Under this statute, the percentage of reimbursement may in the discretion of the Division of Welfare exceed 50 per cent of the total expenditure made by the county, but it must pay at least 50 per cent to the county.

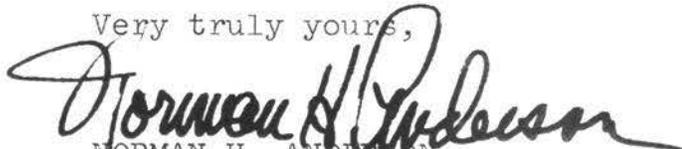
Honorable Edward M. Wetton

CONCLUSION

It is the opinion of this office that when legal custody of a neglected child is vested in the State Division of Welfare by the juvenile court under Section 207.020, RSMo Cum. Supp., 1965, it is mandatory that the county court pay the cost of foster home care and the county is to be reimbursed quarterly by the State Division of Welfare for at least 50 per cent of such expenditure.

The foregoing opinion which I hereby approve was prepared by my Assistant, Moody Mansur.

Very truly yours,



NORMAN H. ANDERSON
Attorney General