

COURT REPORTER:
JUVENILE COURT:
AUDITS:
COSTS:
FEES:

The clerk of the juvenile court should tax as cost the five dollar fee provided for by Section 485.120, RSMo 1959, when the juvenile court appoints an official court reporter. The five dollar fee must be paid by the clerk into the county or city treasury and the court reporter is not entitled to same.

OPINION NO. 105

October 9, 1968



The Honorable Haskell Holman
State Auditor
State of Missouri
Capitol Building
Jefferson City, Missouri 65101

Dear Mr. Holman:

This is in answer to your request for an opinion of this office, which request reads as follows:

"Several questions have arisen during the process of a county audit pertaining to the fee of the court reporter and I respectfully request and will appreciate your official opinion relative to the following questions:

"1. Should the clerk of the juvenile court tax as cost in each juvenile proceeding and collect from the county the court reporter fee of \$5.00 and when collected pay over the fee to the court reporter?

"2. In the event the answer to question No. 1 is in the affirmative, would the court reporter be entitled to retain said fee or is it an accountable fee and must be reported and paid over to the county treasurer by the court reporter?

"Your earliest possible attention to this matter will be greatly appreciated."

The Honorable Haskell Holman

A juvenile court is defined in Section 211.021, RSMo 1959, as:

"(3) 'Juvenile court' means the Cape Girardeau court of common pleas and the circuit court of each county, except that in the judicial circuits having more than one judge, the term means the juvenile division of the circuit court of the county;"

The clerk of the circuit court or a deputy acts as the clerk of the juvenile court. Section 211.211, RSMo 1959, and Section 483.300, RSMo 1959.

The procedure for juvenile court hearings is provided for in Section 211.171, RSMo 1959, which reads in part as follows:

"4. Stenographic notes or an authorized recording of the hearing shall be required if the court so orders or if requested by any party interested in the proceeding."

Fees are provided court reporters by Section 485.120, RSMo 1959, which reads as follows:

"In every contested case, or case in which the evidence is to be preserved, except for the collection of delinquent or back taxes, in any circuit court or division thereof, when an official court reporter is appointed, the clerk of said court shall tax up the sum of five dollars, to be collected as other costs, and paid by said clerk into the county or city treasury, towards reimbursing the county or city for the compensation allowed such reporter as hereinbefore provided."

It is our opinion that an official court reporter may be appointed in a juvenile court proceeding under the authority of Sections 211.171 and 485.120, supra. When this occurs, the clerk of the juvenile court shall tax five dollars as cost. The five dollar fee should be collected as determined by the juvenile court under Section 211.281, RSMo 1959, which reads as follows:

"The costs of the proceedings in any case in the juvenile court may, in the discretion of the court be adjudged against the parents of the child involved or the informing witness as provided in section 211.081, as the case may be, and collected as provided by law. All costs not so collected shall be paid by the county."

The Honorable Haskell Holman

Enclosed is a copy of Attorney General's Opinion dated October 29, 1943, issued to the Honorable Max R. Wiley, discussing Section 211.281, supra.

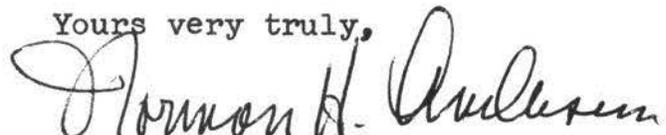
Section 485.120, supra, directs that such five dollar fee, when collected, shall be paid into the county or city treasury to reimburse the county or city for the court reporter's compensation. Court reporters receive yearly compensation paid by the state and counties. Section 485.060 and 485.065, RSMo Supp. 1967. Therefore, the five dollar fee is not paid to the court reporter and so the answer to your second question is in the negative.

CONCLUSION

It is the opinion of this office that the clerk of the juvenile court should tax as cost the five dollar fee provided for by Section 485.120, RSMo 1959, when the juvenile court appoints an official court reporter. The five dollar fee must be paid by the clerk into the county or city treasury and the court reporter is not entitled to same.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Walter W. Nowotny, Jr.

Yours very truly,


NORMAN H. ANDERSON
Attorney General

Enclosure: Opinion dated 10/29/43 - Wiley