

TRAINING SCHOOLS:
JUVENILE COURTS:
SENTENCES:

The order of commitment of a delinquent juvenile must be made in accordance with jurisdiction conferred by the legislature. Such an order seeking to limit the period of commitment to the time when the child committed reaches eighteen years of age is invalid and cannot be applied because the controlling statutes require that all such commitments be for an indeterminate period.

February 29, 1968

OPINION NO. 186

Mr. W. E. Sears, Director
State Board of Training Schools
State of Missouri
Box 447
Jefferson City, Missouri 65102



Dear Mr. Sears:

This is in response to your request for an opinion concerning the duration of commitments to the State Board of Training Schools in view of a recent court order as follows:

"Wherefore it is by the court considered, ordered, adjudged, and decreed, that said child be and is hereby declared in need of training school education and discipline, and is accordingly, committed to the custody of the State Board of Training Schools to be by them dealt with in all respects as required by law and for an indeterminate period but not longer than the period until said child shall have attained the age of eighteen."

Although not stated in the opinion request, we assume that the order was made by a juvenile court.

Section 211.041 RSMo 1959, provides that a child coming under the aegis of the juvenile court may remain under the jurisdiction of the court until attaining age 21, " * * * except in cases where he is committed to and received by the State Board of Training Schools."

Section 211.191 RSMo 1959, provides that, " * * * in all commitments [to the state training schools] the law in reference to them shall govern."

Section 219.160 RSMo 1959, provides that:

" * * * Except where a child who is convicted of a crime and sentenced for a period of time which will not expire until after his twenty-first birthday, all commitments to the board shall be made for an indeterminate period of time."

The order of commitment in question seeks to limit the period of time during which the child committed may be held in custody and is therefore contrary to the provisions of Section 219.160, supra. This situation is analogous to the circumstances outlined in State v. Campbell, Mo., 307 S.W.2d 486, 490, where the court stated.

" * * * the inclusion of an unlawful and ineffective provision in a judgment of conviction, otherwise valid, does not render the entire judgment void, because the portion of the sentence which is contrary to law will be treated as surplusage and disregarded."

CONCLUSION

The order of commitment of a delinquent juvenile must be made in accordance with jurisdiction conferred by the legislature. Such an order seeking to limit the period of commitment to the time when the child committed reaches eighteen years of age is invalid and cannot be applied because the controlling statutes require that all such commitments be for an indeterminate period.

This opinion which I hereby approve was prepared by my assistant, Mr. Howard L. McFadden.

Very truly yours,


NORMAN H. ANDERSON
Attorney General