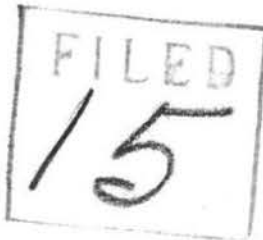


JUVENILE OFFICERS:  
JUVENILE COURTS:  
CIRCUIT COURTS:  
THIRD AND FOURTH CLASS  
COUNTIES:

In circuits consisting of third and fourth class counties, juvenile officers must be appointed for entire circuit or two or more circuits, rather than for individual counties.



January 13, 1958

Honorable William J. Cason  
Prosecuting Attorney  
Henry County  
Clinton, Missouri

Dear Mr. Cason:

This refers to your request for an opinion concerning certain provisions of the so-called New Juvenile Code, Sections 211.351 and 211.391, RSMo Cum. Supp. 1957, which request reads, in part, as follows:

"The first section noted provides for the appointment of a juvenile officer in counties of the first, second, third and fourth class and provides for their compensation. I would like to know if it would be within the discretion of a Circuit Judge of a circuit containing counties of the third and fourth class to designate a juvenile officer for each individual county in his circuit providing the total compensation to be paid the respective officers would not exceed the sum of \$5,000."

Section 211.351, RSMo Cum. Supp. 1957, reads as follows:

"1. The juvenile court shall appoint a juvenile officer and other necessary juvenile court personnel to serve under the direction of the court in each county of the first and second class and the circuit judge in circuits comprised of third and fourth class counties

"(1) may appoint a juvenile officer and other necessary personnel to serve the judicial circuit;  
or

"(2) circuit judges of any two or more adjoining circuits may by agreement, confirmed by judicial order, appoint a juvenile officer and other necessary personnel to serve their respective judicial circuits and in such a case the juvenile officers and other persons appointed shall serve under the joint direction of the judges so agreeing.

Honorable William J Cason

"2. In the event a juvenile officer and other juvenile court personnel are appointed to serve as provided in subdivisions (1) and (2) of subsection 1, the total cost to the counties for the compensation of these persons shall be prorated among the several counties and upon a ratio to be determined by a comparison of the respective populations of the counties."

Section 211.391, RSMo Cum. Supp. 1957, insofar as it relates to circuits consisting of third and fourth class counties, reads as follows:

"1. In counties of second class and in those judicial circuits comprised of counties of the third and fourth classes, the employees of the juvenile court shall receive as compensation annual salaries not to exceed the following amounts:

"(1) Juvenile officer, five thousand dollars;

"(2) Chief deputy juvenile officer, four thousand four hundred dollars;

"(3) Deputy juvenile officers, three thousand eight hundred dollars;

"(4) Secretaries and stenographers, three thousand dollars; and

"(5) Clerks and typist, two thousand one hundred dollars.

"2. Actual expenses, including a mileage allowance not to exceed that amount allowed state officers for each mile traveled on official business but exclusive of office expense, incurred by the juvenile officer and deputy juvenile officers while in the performance of their official duties shall be reimbursed to them out of the funds of the county or counties.

\* \* \* \* \*

"4. The salaries and expenses of juvenile officers and other juvenile court personnel serving two or more counties of the third and fourth classes which comprise one or more judicial circuits are payable

Honorable William J. Cason

out of county funds and prorated among the several counties served upon a ratio determined by a comparison of the respective populations of the county."

With respect to the appointment of juvenile court personnel in circuits consisting of third and fourth class counties, subsection 1 of Section 211.351, provides for the appointment by a circuit judge of "a juvenile officer and other necessary personnel to serve the judicial circuit" or for the appointment by the circuit judges of two or more adjoining circuits of "a juvenile officer and other necessary personnel to serve their respective judicial circuits."

Subsection 2 of Section 211.351 and subsection 4 of Section 211.391 require that the salaries and expenses of the juvenile court personnel so appointed be prorated between the counties of the circuit or circuits served by such personnel on the basis of the population of the respective counties.

Subsection 1 of Section 211.391 provides that in circuits comprised of counties of the third and fourth classes the annual salary of the juvenile officer shall not exceed \$5,000.00; and it fixes maximum salaries for various classes of subordinate juvenile court personnel in such circuits. No limitation on the total compensation of all such personnel within a circuit is prescribed.

Construing subsection 1 of Section 211.351 literally, and considering the pattern set by the various pertinent statutory provisions, it seems clear that the law contemplates that, in circuits consisting of third and fourth class counties, juvenile court personnel shall be appointed for a circuit (or for two or more circuits), rather than for individual counties, and that there shall be a single juvenile officer, and such subordinate personnel as may be necessary, to serve an entire circuit (or circuits).

The fact that it is not the intent of the law that a juvenile officer shall be appointed for each individual county within such a circuit is emphasized by the legislative history of the pertinent statutory provisions. These provisions were enacted as part of Senate Bill No. 15, 69th General Assembly. As originally introduced, the bill contained the following provisions concerning the appointment of juvenile court personnel:

"211.340. 1. The juvenile court shall appoint a juvenile officer and other necessary juvenile court personnel to serve under the direction of the court in each county in the judicial circuit except that in counties where such appointments

Honorable William J. Cason

are deemed impracticable for any reason:

"(1) The juvenile court may appoint a juvenile officer and other necessary personnel to serve two or more counties in the judicial circuit; or

"(2) Circuit judges of any two or more adjoining circuits may by agreement, confirmed by judicial order, appoint a juvenile officer and other necessary personnel to serve their respective judicial circuits and in such a case the juvenile officers and other persons appointed shall serve under the joint direction of the judges so agreeing."

The original bill thus expressly provided for the appointment of a juvenile officer and other necessary personnel in each county, subject to an exception which permitted appointments of personnel to serve two or more counties where appointments on a single county basis were deemed impracticable. During the course of the passage of the bill, however, this provision was amended to read as it now does in subsection 1 of Section 211.351. From a comparison of the original provision and the one finally enacted, it is apparent that the sole purpose of the amendment was to eliminate the authority for appointments on a single county basis in circuits consisting of third and fourth class counties and to provide only for appointments for entire circuits or for two or more circuits.

#### CONCLUSION

Upon the basis of the foregoing, it is the opinion of this office that Section 211.351, RSMo Cum. Supp. 1957, does not authorize the appointment of a juvenile officer for each individual county in a judicial circuit consisting of third and fourth class counties, and that, instead, such officer must be appointed to serve an entire circuit or two or more circuits.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. John C. Baumann.

JCB:mv

Yours very truly,

John M. Dalton  
Attorney General