

STATE BOARD OF CHARITIES: County Superintendent of Public Welfare is not authorized to administer direct relief.

February 5, 1936.



Mrs. W. W. Henderson,  
Executive Director,  
State Children's Bureau,  
Carrollton, Missouri.

Dear Mrs. Henderson:

This will acknowledge receipt of your inquiry which is as follows:

"Our Department of Child Welfare is in need of interpretation from you concerning Article 10, Chapter 125, 'Superintendent of Public Welfare in Certain Counties'. This information is necessary because our work is largely with superintendents of public welfare in rural counties and it has been our desire to strengthen that office and urge each county to appoint such an officer.

"It has been our opinion that such a person in each county would handle the relief and such other duties as are designated in the above article, covering what we call the 'social welfare' of the county while the county court would be the business administrators.

"Under the provisions of the Social Security Act as passed by congress, Missouri could qualify to secure its benefits for our dependent children if we strengthen the office of County Superintendent of Public Welfare.

"Many counties have a Probation Officer who is appointed by the Juvenile Judge or Circuit Judge and draws anywhere from \$10 to \$50 a month. In some of the counties they also have a Superintendent of County Welfare who draws from \$50 to \$100 a month. Our belief is that the two offices combined, with one salary, would enable the counties to secure the services of a good strong man or woman as Superintendent of Public Welfare.

"All this is leading up to the question I wish to ask of you and is brought about because of the newspaper reports of the opinion rendered by your office with respect to the situation in St. Louis County which desired to create a Department of Public Welfare.

"In the newspaper reports the statement is made that under present statutes the county court of St. Louis County has no authority to delegate its duties with respect to caring for the poor and that the county court must perform the duties prescribed by statute, in person, and cannot delegate these duties to other persons.

"Question 1. Does this opinion apply only to St. Louis County because it has a population of more than 50,000 and therefore would not come under Article 10, Chapter 125, R. S. 1929, because of the last paragraph of Section 14182?

"Question 2. Does Section 14184 give the County Superintendent of Public Welfare the right to administer direct relief to the poor, and if so did your opinion refer only to St. Louis and Jackson County, etc, where it said, 'The duties and power imposed upon the county court

for the direct relief of the poor involve a trust and confidence, judgment and discretion, and these cannot be delegated'?

"I have recently discussed with Mr. Jameson, President of the Elee-mosynary Board which governs my department of Child Welfare, the advisability of this and the economy that might result to the counties if the office of Superintendent of Public Welfare in each county could be strengthened and developed into a real county office.

"My department has just received from Washington the assignment to administer the Federal Child Welfare program in Missouri, and I should be glad to discuss in person with your assistant who studies the welfare provision of our statute, the status of Missouri whereby we can operate without much changing of our present laws, as I think it possible for us to do."

Replying thereto, Sections 12953 and 12954, R. S. Mo. 1929, are laws of general application and apply to the county courts of all the counties in Missouri. Section 12953 states that "the county court of each county" shall be governed by its provisions, and does not state that merely St. Louis County or some other county shall come within its operative effect.

The opinion dated December 23, 1935, from this department to Hon. John J. Wolfe, Associate Prosecuting Attorney, St. Louis County, Clayton, Missouri, a copy of which is enclosed, in construing said statute with reference to St. Louis County, applies with equal force to every other county in the state.

The above referred to opinion merely holds that where a certain duty is placed on the county court involving the exercise of its judgment, that body must exercise its own judgment instead of setting up a new and different board

or body with power in the latter to exercise its judgment in lieu of the county court, to whom the Legislature delegated such duty.

Section 14184, R. S. Mo. 1929, places the duty on the county superintendent of public welfare "to administer all of the funds of the county devoted to outdoor relief and allowances to needy mothers. He shall seek to discover any cases of neglect, dependent, defective or delinquent children in the county, and take all reasonable action in his power to secure for them the full benefit of the laws enacted for their benefit."

The same authority, to-wit, the Legislature, which conferred on the county court the power and duty to look after the poor, likewise placed on the county superintendent of public welfare the duties set forth above. Those duties, in the main, are not to look after the poor, but are to "administer all of the funds of the county devoted to outdoor relief" and allowances to needy mothers, and to seek to discover any cases of neglect, dependent, defective or delinquent children in the county and take action to secure for them the full benefit of the laws enacted for their benefit.

By Section 14182 that course is optional with the county, provided the population of the county is less than fifty thousand, but when such option is exercised by the county and the county superintendent of public welfare has been so appointed, he is authorized to perform the duties of probation and parole and attendance officers of the county, and also the duties of such officers for incorporated cities, towns and villages which have a population of over one thousand inhabitants, and his services therein are in lieu of the other probation, parole and attendance officers who would, absent his appointment, perform the duties of such officers.

The case of *Peindexter v. County*, 295 Mo. 629, 246 S. W. 38, holds that when the county has so appointed a county superintendent of public welfare, he thereupon becomes the probation officer of the juvenile division of the circuit court regardless of the provisions of Section 14171, which authorizes the circuit judge to designate or appoint a probation officer and deputy probation officers.

Section 14185 empowers the state board of charities and corrections to deputize such county welfare agent to perform on behalf of said state board of charities and correc-

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tions, and as its agent, "any work to be done by said board within the county," and when so authorized he is clothed within the county with all the authority the state board of charities and corrections has, and he may at any time call on the state board of charities and corrections for advice and assistance. He has other specified duties to perform as set forth in Article 10, Chapter 125, R. S. Mo. 1929.

CONCLUSION

It is our opinion that the county superintendent of public welfare does not have the authority to administer direct relief to the poor as such, but does have authority to administer, under Section 14184, R. S. Mo. 1929, "all of the funds of the county devoted to outdoor relief and allowances to needy mothers," and that it is his duty to "seek to discover any cases of neglect, dependent, defective or delinquent children in the county and take all reasonable action in his power to secure for them the full benefit of the laws enacted for their benefit."

Yours very truly,

DRAKE WATSON,  
Assistant Attorney General.

APPROVED:

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ROY McKITTRICK,  
Attorney General.

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