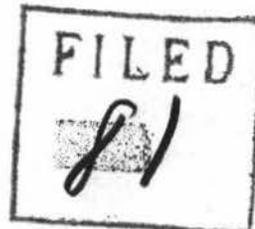


JUVENILES: Board of Training Schools cannot accept child into their custody until properly committed by a court of competent jurisdiction.

June 9, 1949



Mr. W. E. Sears, Director
Board of Training Schools
Jefferson City, Missouri

Dear Mr. Sears:

Your letter of recent date requesting an opinion of this department reads as follows:

"Only recently officials of the Training School for Girls at Chillicothe, and this office were contacted by a sheriff of one of the northern counties of the State, regarding the possibility of placing a girl in our school for custodial purposes until such time as the judge of the appropriate district heard the case and made decision with regard to the delinquency problem of which the girl was charged. The sheriff was acting under instructions of the Circuit Judge who would hear the case within the next ten days.

"In view of the fact that no commitment had been made on the girl, a question arose as to whether or not the Missouri Training School Board, or the officials of the School under the Board's control, had the authority to accept the responsibility of handling the girl without due legal process.

In view of the facts outlined above, this office would appreciate receiving legal interpretation of the statute covering the possible admittance of girls for custodial purposes, without the benefit of a commitment order."

In checking the Missouri Statutes applicable to children referred to in the above letter, the Legislature recently passed and enacted a new law which is found in Vol II, Laws of Missouri 1947, page 320, Senate Bill 289, wherein we find Section 8994, which reads as follows:

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"(1) Any boy over the age of 12 years and under the age of 17 years and any girl over the age of 12 years and under the age of 21 years who has been convicted of a crime or who is found by the juvenile or circuit court to be in need of training school education and discipline may be committed to the state board of training schools. Except where a child who is convicted of a crime and sentenced for a period of time which will not expire until after his 21st birthday, all commitments to the Board shall be made for an indeterminate period of time.

"(2) The following persons shall not be committed to such board: (1) any child whom the court finds to be in need of parental care in a family home; (2) any epileptic, feeble-minded or insane child; or (3) any child who has a communicable or contagious disease; except that the Board may, by regulation, when facilities for the proper care and treatment of persons having such diseases become available at any of the institutions under its control, authorize the commitment of children having such diseases to it for treatment and training in such institution. Notice of any such regulation shall be promptly mailed to the judges of all courts having jurisdiction of cases involving delinquent children. Any child under the age of twelve years who is convicted of a crime or who is found to be delinquent may be committed to the guardianship of the Division of Welfare of the State Department of Public Health and Welfare."

It will be noticed that this Section sets out specifically when and under what conditions a child, within the ages therein stated, may be committed to the care and custody of the Missouri Board of Training Schools. Reading the section in applicable terms, it means, that, only when a child within the limits set out has been convicted of a crime or who is found by the Juvenile Court to be in need

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of training school education and discipline may be committed to the Board of Training Schools.

The law does not provide for committing a child to the care and custody of the Board of Training Schools before one or the other of the above conditions exists and only then could the Board legally accept a child into its custody.

CONCLUSION

Therefore, it is the opinion of this department that no child within the age limits specified in Section 8994, Laws of Missouri 1947, Vol II, page 321, should be committed to the custody of the Missouri Board of Training Schools until a court of competent jurisdiction has found the child to be in need of training school education or discipline or has been convicted of a crime.

Respectfully submitted

GORDON P. WEIR
Assistant Attorney General

APPROVED:

J. E. TAYLOR
ATTORNEY GENERAL

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