

1842.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND HIRAM MILLER OF TOLEDO, OHIO, FOR CONSTRUCTION OF IMPLEMENT SHED FOR TOLEDO STATE HOSPITAL, TOLEDO, OHIO, AT AN EXPENDITURE OF \$5,447.00—SURETY BOND EXECUTED BY THE STANDARD SURETY AND CASUALTY COMPANY.

COLUMBUS, OHIO, May 9, 1930.

HON. H. H. GRISWOLD, *Director of Public Welfare, Columbus, Ohio.*

DEAR SIR:—There has been submitted for my approval a contract between the State of Ohio acting by the Department of Public Welfare (Toledo State Hospital) and Hiram Miller of Toledo, Ohio. This contract covers the construction and completion of Implement Shed for the Toledo State Hospital, Toledo, Ohio, and calls for an expenditure of Five Thousand Four Hundred Forty Seven Dollars (\$5,447.00).

There has been submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. There has also been submitted evidence that the consent of the Controlling Board to the release of funds has been obtained in accordance with Section 4 of House Bill No. 203 of the 88th General Assembly.

In addition there has been submitted a contract bond upon which the Standard Surety and Casualty Company of New York appears as surety, sufficient to cover the amount of the contract.

There has further been submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also it appears that the law relating to the status of surety companies and the Workmen's Compensation have been complied with.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all the data submitted in this connection.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1843.

DELINQUENT CHILD—HABITUAL TRUANT FROM SCHOOL IN COUNTY OTHER THAN THAT OF HIS RESIDENCE—WHAT PROBATE COURTS MAY TAKE JURISDICTION.

SYLLABUS:

A Probate Court may take jurisdiction of a child who is found to be in the county of which such court has jurisdiction under facts and circumstances which constitute truancy, irrespective of the school to which such child is assigned. Ordinarily the county of the child's residence will be the county in which such delinquency occurs, although it is possible for such child to be delinquent in another county for the same cause.

COLUMBUS, OHIO, May 9, 1930.

HON. EMMITT L. CRIST, *Prosecuting Attorney, Circleville, Ohio.*

DEAR SIR:—In your recent communication you present the following inquiry:

“When a child of school age living in Fayette County but attending a Pickaway County school district school, and said child is an habitual truant; which County Juvenile Court has jurisdiction of such delinquency?”

Section 1644 of the General Code defines who shall be regarded as delinquent children. Said section provides that any child under eighteen years of age who is an habitual truant shall be regarded as a delinquent. Section 1645 defines a dependent child. Section 1647 of the General Code provides in substance that any person having knowledge of a minor who appears to be either a delinquent or dependent child may file a sworn complaint against such child with a juvenile court. From the above, it would appear that the Juvenile Court has the same jurisdiction with reference to a dependent child that it has with reference to a delinquent child.

In my opinion No. 755 issued to Hon. Hal H. Griswold, under date of August 17, 1929, it was held as disclosed by the syllabus:

“A Juvenile Court has jurisdiction to declare any child to be a dependent which is found within the county under facts and circumstances which constitute dependency. The legal residence of the child or its parents or those standing in loco parentis do not determine the jurisdiction of the court.”

It is believed that the holding in the opinion above referred to is dispositive of your inquiry. In other words, it is believed that in any county in which a child is found under facts and circumstances which constitute habitual truancy, the court of such county would have jurisdiction. Undoubtedly if a child resides in one county and fails to attend school in the district to which he is properly assigned, irrespective of where such district may be, he would be guilty of truancy in the county in which he resides. On the other hand, if such child is habitually in a county other than his residence and habitually refrains from attending school, it is believed that it is possible for him to be a truant in a county other than his residence to the end that a Juvenile Court could take jurisdiction.

While there are a number of sections which provide for the appointment of a county attendance officer and fix his duties with reference to enforcing the compulsory school laws, it is believed unnecessary to discuss them in detail for the purposes of this opinion. Suffice it to say that said sections make the attendance officer subject to the direction of the county superintendent of schools and the county board of education, and the jurisdiction of such officers is not necessarily confined to the county school district. See Section 7769-1, General Code. However, it will be apparent that the jurisdiction of the Juvenile Court will not be enlarged or diminished by reason of the jurisdiction of the attendance officer.

Based upon the foregoing and in specific answer to your inquiry, it is my opinion that a Probate Court may take jurisdiction of a child who is found to be in the county of which such court has jurisdiction under facts and circumstances which constitute truancy, irrespective of the school to which such child is assigned. Ordinarily the county of the child's residence will be the county in which such delinquency occurs, although it is possible for such child to be delinquent in another county for the same cause.

Respectfully,
GILBERT BETTMAN,
Attorney General.