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1. CHILDREN, NEGLECTED, DEPENDENT, DELINQUENT IN COUNTY—COUNTY COMMISSIONERS UNDER DUTY EACH YEAR TO APPROPRIATE MONEY FOR CARE, MAINTENANCE, EDUCATION AND SUPPORT OF SUCH CHILDREN, EXCEPTION: CHILDREN ENTITLED TO AID UNDER AID TO DEPENDENT CHILDREN LAW, SECTION 1359-31 ET SEQ., G. C.—JUVENILE COURT MAY AUTHORIZE NECESSARY ORTHOPEDIC, SURGICAL, MEDICAL TREATMENT AND SPECIAL CARE FOR ANY NEGLECTED OR DELINQUENT CHILDREN OF COUNTY — SECTIONS 1639-1 TO 1639-62 G. C. — HOW VOUCHERS AND WARRANTS ISSUED.

2. WHEN BUREAU AFTER EXAMINATION FINDS PUBLIC MONEY DUE MUNICIPALITY FROM COUNTY, NOT COLLECTED, BUREAU AUTHORIZED AND REQUIRED TO MAKE FINDINGS AGAINST COUNTY IN FAVOR OF MUNICIPALITY TO RECOVER SUCH MONEY—SECTION 284 ET SEQ., G. C.

SYLLABUS:

1. *Having due regard for other expenditures made mandatory by statute, each year the county commissioners are under duty to appropriate sufficient money to provide for the care, maintenance, education and support of neglected, dependent and delinquent children of the county, other than children entitled to aid under the Aid to Dependent Children Law, Section 1359-31, et seq., General Code, and for necessary orthopedic, surgical and medical treatment and special care as may be authorized by the Juvenile Court for any neglected, dependent or delinquent children of the county, as required by the Juvenile Court Code (Sections 1639-1 to 1639-62, inclusive, General Code). Upon presentation of specifically itemized vouchers, certified to by the judge of the Juvenile Court, to the county auditor, he shall draw his warrant on the county treasury in conformity with such appropriations.*

2. *Under the provisions of Section 284, et seq., General Code, when a report of examination by the Bureau of Inspection and Supervision of Public Offices sets forth that public money due a municipality from a county has not*

been collected, said Bureau is authorized and required to render findings for recovery of the same against the county and in favor of the municipality.

Columbus, Ohio, January 8, 1941.

Bureau of Inspection and Supervision of Public Offices,
State House Annex,
Columbus, Ohio.

Gentlemen:

This will acknowledge receipt of your request for my opinion on the following:

"We are enclosing herewith a letter received in this office from one of our City of Cleveland Examiners, in which it is indicated that the City is maintaining an institution in which delinquent and dependent children are committed by the Cuyahoga County Juvenile Court. It is also shown that the City of Cleveland bears all the cost of maintaining such children, less such sums as are collected from the parents of such children by the Juvenile Court and paid by the Court of the City.

In this connection the Examiner makes reference to the provisions of Sections 1639-1 to 1639-62 of the General Code, and submits the following questions:

Question 1. Is it the duty of the county commissioners to provide funds for the care, maintenance, education and support of neglected, dependent and delinquent children, and the duty of the county auditor and treasurer to pay such expenses upon presentation of specifically itemized vouchers certified to by the Judge of the Court?

Question 2. If the answer to the above question is in the affirmative, is the Examiner authorized and required to render findings for recovery against Cuyahoga County and in favor of the City of Cleveland, for all such expenses since the enactment of Sections 1639-1 to 1639-62 of the General Code?

May we request that you examine the inclosed correspondence and give us your opinion in answer to the above noted questions."

The Juvenile Court Code, in its present form, was enacted in 1937 by the 92nd General Assembly (117 O. L. 520) and codified as Sections 1639-1 to 1639-62, inclusive, General Code.

Section 1639-7, General Code, provides in part that the Juvenile Court shall have and exercise the powers and jurisdiction conferred in said Code. Under the provisions of Section 1639-16, General Code, said court is given

exclusive original jurisdiction concerning any child who is delinquent, neglected, dependent or crippled. The manner in which cases shall be heard and disposed of by the Juvenile Court is set forth in Section 1639-30, General Code, which provides in part as follows:

“ * * * If the court shall find that the child is delinquent, neglected, dependent or otherwise within the provisions of this act, it may by order duly entered proceed as follows:

1. Place the child on probation or under supervision in its own home or in the custody of a relative or other fit person, upon such terms as the court shall determine;

2. Commit the child to a suitable public institution or agency or to a suitable private institution or agency incorporated under the laws of the state, approved by the state department of public welfare and authorized to care for children or to place them in suitable family homes;

3. If, in his judgment, it is for the best interests of a delinquent child, the judge may impose a fine upon such child not exceeding \$25.00 or costs, or both, and if such child is over fourteen years of age, he may order such child to stand committed until such fine and costs are paid.

4. Make such further disposition as the court may deem to be for the best interests of the child, except as herein otherwise provided.

5. In case of a male child over sixteen years of age who has committed an act which if committed by an adult would be a felony, the judge may commit such child to the Ohio state reformatory.

* * * ”

By virtue of the broad terms of the foregoing statute, it is apparent that the Juvenile Court is clothed with large discretionary powers with respect to commitment and placement of delinquent, neglected and dependent children.

From an examination of your request and the report of your state examiner inclosed therewith, it appears that under authority of Section 1639-30, supra, the Juvenile Court of Cuyahoga County has committed a number of children under its jurisdiction to the Cleveland Boys' Farm at Hudson, Ohio, which institution is owned and operated by the City of Cleveland. It is further shown that the cost of maintaining such children is borne in full by the City of Cleveland, less certain monies collected by the Juvenile Court from parents and in turn paid over to the city.

This practice prompts your first question which concerns itself with the

proper political subdivision chargeable with the duty of providing funds for the care, maintenance, education and support of the children so committed by the Juvenile Court.

Section 1639-34, General Code, provides:

“When a child has been committed as provided by this chapter, the court may make an examination regarding the income of the parents or guardian or person charged with its support, and may then order that such parent or guardian or person pay for the care, maintenance and education of such child, and for expenses involved in providing orthopedic, medical or surgical treatment or special care of such child. * * *

Any expense created by the court for the care, maintenance and education of dependent, neglected or delinquent children, or for orthopedic, medical or surgical treatment or special care of such children under the provisions of this chapter, except such part thereof as may be paid by the state or federal government, shall be paid from the county treasury upon specifically itemized vouchers, certified to by the judge of the court.”

Under the provisions of this statute, the Juvenile Court may order the parents, guardian or person charged with the duty of supporting a child who has been committed as provided by the Juvenile Court Code to pay for the care, maintenance, education and medical care of such child. The section further contemplates that such payments will not always be forthcoming from parents and that it will be necessary for the expenses incurred to be met from another source. This latter source is the county treasury from which such expenses must be paid upon specifically itemized vouchers, certified to by the juvenile judge.

Section 1639-57, General Code, places a mandatory duty upon county commissioners to appropriate yearly sufficient money to meet the expenses incurred in the administration of the Juvenile Court Code and in the care of the children affected thereby. Said Section reads as follows:

“It is hereby made the duty of the county commissioners to appropriate such sum of money each year as will meet all the administrative expense of the court exercising the powers and jurisdiction conferred in this chapter, * * * and such sum each year as will provide for the care, maintenance, education and support of neglected, dependent and delinquent children, other than children entitled to aid under the aid to dependent children law, section 1359-31 et seq., G. C., and for necessary orthopedic, surgical and medical treatment, and special care as may be authorized by such court, for any neglected, dependent or delinquent children, as here- in provided. All disbursements from such appropriations shall be

upon specifically itemized vouchers, certified to by the judge of the court."

This duty to appropriate, however, must be considered in the light of available revenue in the county treasury and also with due regard to other expenditures of county commissioners made mandatory by statute. In allocating available funds among county agencies, the county commissioners are vested with a discretionary power and so long as said power is not abused, the allocation will not be disturbed. Opinion No. 744, 1927 Opinions of the Attorney General, Vol. II, page 1282; Opinion No. 745, 1927 Opinions of the Attorney General, Vol. II, page 1285.

A reading of the two sections above quoted leads to but one conclusion and it is accordingly my opinion, in specific answer to your first inquiry, that, having due regard for other expenditures made mandatory by statute, each year the county commissioners are under duty to appropriate sufficient money to provide for the care, maintenance, education and support of neglected, dependent and delinquent children of the county, other than children entitled to aid under the Aid to Dependent Children Law, Section 1359-31, et seq., General Code, and for necessary orthopedic, surgical and medical treatment and special care as may be authorized by the Juvenile Court for any neglected, dependent or delinquent children of the county, as required by the Juvenile Court Code (Sections 1639-1 to 1639-62, inclusive, General Code). Upon presentation of specifically itemized vouchers, certified to by the judge of the Juvenile Court, to the county auditor, he shall draw his warrant on the county treasurer, who shall then pay said warrants from the county treasury in conformity with such appropriations.

In order to answer the second question presented by your request, it is necessary to examine the powers and duties of your Bureau. Such powers and duties are set forth generally in Section 274, General Code, which provides in part as follows:

"There shall be a bureau of inspection and supervision of public offices in the department of auditor of state which shall have power as hereinafter provided in sections two hundred seventy-five to two hundred eighty-nine, inclusive, to inspect and supervise the accounts and reports of all state offices, including every state educational, benevolent, penal and reformatory institution, public institution and the offices of each taxing district or public institution in the state of Ohio. * * * "

Under authority of that section and those enumerated therein, your

Bureau is empowered to examine the accounts of all public offices within the state to determine whether or not the public funds under the control of each have been expended, etc. in accordance with law. The powers granted are broad and far reaching and necessarily so in order to permit effective control and supervision.

The procedure to be followed by your Bureau in cases wherein your examination shows "that any public money has been illegally expended, or that any public money collected has not been accounted for, *or that any public money due has not been collected*, or that any public property has been converted or misappropriated" is contained in Section 286, General Code. In substance said section provides for the correction of illegal transactions and for the reimbursement of public money illegally expended in such transactions. The statute was obviously enacted for the benefit and protection of the people and to insure that all monies expended by their representatives would be in accordance with the statutory requirements.

In the instant case, we have a situation wherein the City of Cleveland has been expending its funds to support, etc. certain children when, as pointed out earlier in the opinion, the money for such support, etc. should be forthcoming from the treasury of Cuyahoga County. Such situation, it appears to me, comes within the purview of Section 286, General Code, and under its broad powers, your Bureau has authority to correct the practice under consideration by requiring Cuyahoga County to reimburse the City of Cleveland for funds so expended since August 19, 1937, the effective date of the Juvenile Court Code and further, to acquire future expenditures to be made by those public officers affected in accordance with the views expressed in the instant opinion.

Respectfully,

THOMAS J. HERBERT,
Attorney General.