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AID TO DEPENDENT CHILDREN—HOUSE BILL 418, 96 GENERAL ASSEMBLY, CODIFIED AS SECTIONS 3070-1 TO 3070-36 G. C., DOES NOT AFFECT POWERS AND DUTIES VESTED IN AND IMPOSED UPON JUDGE OF JUVENILE COURT—ADMINISTRATION OF SUCH AID—SECTION 1359-31 ET SEQ., G.C.

SYLLABUS:

House Bill No. 418 passed by the 96th general assembly, and codified as Sections 3070-1 to 3070-36 General Code, does not in any way affect the powers and duties vested in and imposed upon the judge of the Juvenile court in the administration of aid to dependent children as provided in Section 1359-31 et seq. of the General Code.

Columbus, Ohio, February 27, 1946

Hon. Henry J. Robinson, Chief, Division of Social Administration  
Department of Public Welfare, Columbus, Ohio

Dear Judge Robinson:

I have before me your communication in which you request my opinion whether in a county having no county department of welfare, the judge of the juvenile court is deprived of his power and duty as county administrator to administer the Aid for Dependent Children Law, by reason of the enactment by the 96th General Assembly of House Bill No. 418.

The provisions for aid for dependent children are found in Section 1359-31 et seq. of the General Code. Section 1359-31 reads in part, as follows:

“As used in this act: ‘County administration’ means the juvenile judge, excepting *in counties in which, by charter or by law*, the powers and duties vested in and imposed upon the county administration by this act are vested in and imposed upon a county department, board, commission, or officer other than the juvenile judge. \* \* \*” (Emphasis added.)

Section 1359-32 General Code, prescribes the conditions under which a “needy child residing in the state of Ohio” shall be entitled to aid. Briefly stated, such aid is to be given when the child has been deprived of parental support and is living with any one of the several relatives named. He must be less than eighteen years of age and must have resided in the state for at least one year.

By the next following section it is provided that the amount of aid to any child is to be determined on the basis of actual need, taking into consideration other resources. He is also to be given necessary medical and surgical care in the discretion of the county administration.

By Section 1359-34 General Code, application for aid under the act is to be made to the county administration which is charged with the duty of investigation and from the decision of the county administration an appeal may be had to the department of public welfare.

By Section 1359-36 General Code, payments from the fund provided for aid for dependent children are to be made on warrants issued by the

county auditor upon the county treasurer for amounts which have been certified by the county administration.

By Section 1359-37 General Code, it is provided in part:

“All amounts received by the state from the federal government under the provisions of the social security act, or any act of the congress of the United States amendatory thereof or in substitution therefor, for aid to dependent children, shall be paid into the state treasury to the credit of a *special trust fund* therein to be designated by such name or title as the auditor of state may prescribe.” (Emphasis added.)

It is to be noted that amounts so received are to be paid into the state treasury to the credit of a special trust fund. By further provisions of this section this fund is to be apportioned to the several counties. By the sections which follow provision is made for an appropriation by the legislature which is also apportioned to the several counties.

Section 1359-36 General Code, provides in part as follows:

“The county commissioners of each county shall include in the annual tax budget and transfer from the general fund to a special fund for aid to needy children and for defraying the expenses of administering this act within the county an amount not less than the computed yield of a levy of fifteen one-hundredths of one mill on each dollar of the general tax list of the county. All amounts paid into the treasury of any county from county, state and federal funds pursuant to this act shall be credited to the special fund therein, created pursuant to this section, and shall thereupon be deemed to be appropriated for the purpose of carrying out the provisions of this act including the necessary cost of administration as approved by the state department of public welfare. \* \* \*”

While the county is thus required to make a contribution to this special fund, the fact remains that the major portion of the fund comes from the state and the federal government. That aid to dependent children under this act is not a part of county relief but on the contrary is state-wide, is indicated by several provisions of the act. In the first place, the only residence requirement is that found in Section 1359-32 General Code, the pertinent portion of which reads as follows:

“He shall have resided in the state of Ohio for at least one year immediately preceding the application for such aid or his

parent or relative with whom he lives or is to live shall have resided in the state for one year immediately preceding application; or if born within a year immediately preceding application shall have been born within the state or shall have resided in the state substantially from the time of birth."

There is no specific provision that one who applies to the county administration for aid must be a resident of the county, but Section 1359-38 General Code, provides that in making the apportionment of the funds appropriated by the state it shall be "in the proportion that the number of children under sixteen years of age *in each county as estimated* by the department of public welfare bears to the total number of such children in the state as so estimated."

A further provision of Section 1359-32 *supra* is as follows:

"Subject to the rules and regulations of the state department of public welfare, aid may be continued by the county administration heretofore responsible for the care of the said child to a recipient who is temporarily outside of the state and aid shall be continued for a period of twelve months to a recipient who moves to another county within the state provided eligibility for assistance continues."

This indicates that the relief given is not always to those children residing in the county, which is quite consistent with the fact which is quite evident on an examination of the entire plan, that that plan is for statewide aid and that the county through its juvenile judge is merely chosen as a convenient way of administering it. In other words, it is no part of the county system of relief or child welfare.

It may be further noted that broad powers of supervision are given to the department of public welfare of the state, it being provided in Section 1359-39 that where it finds that the provisions of the law and orders of the department are not being complied with by the county administration, the department may temporarily supersede the county administration and disburse the special fund in the county treasury.

The 96th general assembly enacted House Bill No. 418, the express purpose of which is as indicated in the title to the act, "to clarify and supplement existing statutes relating to *county care* of dependent, neglected, delinquent and handicapped children and to provide for the

unification of *county services* to children.” This act is codified as Sections 3070-1 to 3070-36 General Code. The purpose of the act is further stated in Section 3070-1 as follows:

“The purpose of sections 3070-1 to 3070-35, inclusive, is to supplement, expand, modernize and integrate child welfare services and the care and placement of children in the several counties of the state, and to this end this act shall be liberally construed.”

By Section 3070-2 General Code, “child” is defined as meaning “any person under twenty-one years of age.” “Board” shall mean “a county child welfare board.” “Department” means “a county department of welfare which has assumed the administration of child welfare.”

Section 3070-3 General Code, provides as follows:

“The powers and duties enumerated in section(s) 3070-17 to 3070-20, inclusive, of the General Code, with respect to the care of children, needing or likely to need public care or services, shall be vested in a single agency of county government, namely, either in a county department of welfare or a county child welfare board, in the manner hereinafter set forth.”

The act provides in Section 3070-4 General Code, as follows:

“In any county where there exists a child welfare board at the time of the effective date of this act, and in which county said board has not transferred its powers and duties to a county department of welfare, the members of said board shall continue in office and said board shall have all of the powers and duties given to child welfare boards under the provisions of this act.”

Section 3070-6 General Code, provides in part, as follows:

“In any county where a county children’s home exists at the time of the effective date of this act, and in which the board of trustees of said home have not transferred their powers and duties to a county department of welfare, such board of trustees shall hereafter be known as the ‘child welfare board’, and shall have all the powers and duties vested by this act in such boards. \* \* \*”

Plainly the above provisions are intended to carry out one of the main purposes of the act, viz: to centralize *county* child welfare agencies

in one authority, and eliminate duplicating agencies. To that end the act repealed all the sections of the General Code dealing with children's homes, houses of refuge, infants in workhouses and kindred subjects.

It is important to note the provisions of Sections 3070-17 to 3070-20 General Code, which have been referred to as prescribing the duties of the board which is to exercise all the powers conferred by the act.

Section 3070-17 General Code, confers upon the child welfare board, subject to the control of the division of public welfare, the following powers and duties:

- (a) Investigation;
- (b) Agreements as to custody;
- (c) To accept custody of children committed by a juvenile court;
- (d) To provide care of all kinds which the board may deem to be for the best interests of any child whom the board may find to be in need of public care or service;
- (e) To provide social services;
- (f) Care of crippled children;
- (g) To provide temporary, emergency care for any child deemed by the board to be in need thereof;
- (h) Placement in foster homes;
- (i) Establishment of training schools with or without cooperation and support of political subdivisions;
- (j) To acquire and operate the county children's home, or to provide for temporary care of children and procure foster homes;
- (k) To enter into agreement with trustees of any district children's home;
- (l) To cooperate with, make its services available to, and act as the agent of persons, courts and the state department of public welfare and other organizations within and outside the state in matters relating to the welfare of children;
- (m) To make investigations at the request of school authorities.

Practically all of these duties appear to deal with social service rather than with the distribution of relief.

Section 3070-18 General Code, provides for keeping records of investigations and of the care of children in foster homes.

Section 3070-19 General Code, authorizes the board to institute proceedings in courts, and provides also that the executive secretary of the board may act as next friend of the child or as trustee of the estate of any ward within certain limits, or as trustee of a ward.

Section 3070-20 General Code, requires the board to investigate the ability of the child, parent, guardian or other person to pay for the cost of such care.

Section 3070-36 General Code, provides :

“The boards of county commissioners of the several counties shall, pursuant to law, levy taxes and make appropriations sufficient to enable the board to perform its functions and duties hereunder.”

This review of the new act relating to child welfare certainly reveals that it was intended solely to deal with county agencies and county responsibilities. There is no provision in it whereby in any general terms the powers and duties of all or any of the agencies of the state are transferred to the county child welfare board or its equivalent. There is certainly no express provision taking away from the judge of the juvenile court as county administrator his powers or duties in reference to aid to dependent children. The provision above noted in paragraph (1) of Section 3070-17 does suggest that a child welfare board should cooperate with “courts” and other agencies dealing with child welfare.

It is therefore my opinion, in specific answer to your question that House Bill No. 418 passed by the 96th general assembly, and codified as Sections 3070-1 to 3070-36 General Code, does not in any way affect the powers and duties vested in and imposed upon the judge of the juvenile court in the administration of aid to dependent children as provided in Section 1359-31 et seq. of the General Code.

Respectfully,

HUGH S. JENKINS,  
Attorney General.