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PROBATE JUDGE—ACTING AS JUDGE OF JUVENILE COURT IN ANY COUNTY—HAS AUTHORITY TO APPROVE EXPENSE ACCOUNT OF EMPLOYE WHO ATTENDED STATE WELFARE CONFERENCE, CALLED BY BOARD OF STATE CHARITIES IN ADMINISTRATION, AID TO DEPENDENT CHILDREN—COUNTY COMMISSIONERS NOT REQUIRED TO ALLOW OR APPROVE PAYMENT.

SYLLABUS:

A Probate Judge when acting as the judge of the juvenile court in any county, has the authority to approve for payment the expense account of an employe of that court working in the administration of aid to dependent children, which expense was incurred in attendance at a state welfare conference, duly called by the board of state charities, and it is not necessary that the county commissioners allow or approve such payment.

Columbus, Ohio, December 22, 1942.

Hon. Marvin A. Kelly, Prosecuting Attorney,
Portsmouth, Ohio.

Dear Sir:

I have your request for opinion, reading as follows:

“If the Probate Judge approves an expense account of an A.D.C. worker who attends the state welfare conference at Columbus, Ohio, is it necessary to have the additional approval of the county commissioners, or may the county auditor prepare the necessary voucher upon the approval of the said Judge?”

I assume that your reference to a A.D.C. worker has reference to an employe in the juvenile court in the administration of what is known as the Aid to Dependent Children Act. This act became effective April 9, 1936, and is contained in Sections 1359-13 to 1359-46, inclusive, of the General Code. Its purpose appears to be the administration of aid to dependent children, as defined in the act, through funds contributed by the county and state and supplemented by federal appropriations. The supervision of the relief provided by this act is placed in the hands of what is called “the county administration”.

“County administration” is defined in Section 1359-31 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.”

Section 1639-7 of the General Code establishes what is known as the juvenile court. That section provides in part as follows:

“ * * * Except in counties in which there now is, or may hereafter be created, a separate and independent juvenile court or court of domestic relations, there is hereby established and created within the probate court, a juvenile court, presided over by the probate judge, which shall be a court of record, and which shall exercise such powers and jurisdiction. * * * ”

Section 1356 authorizes the board of state charities to call an annual conference of the various social agencies. The provision of that section as to such conference reads in part as follows:

“The board of state charities may call an annual conference, of the officials specified in section 1357 and representatives of the various social agencies in the state, to be known as the Ohio welfare conference. The purpose of the conference shall be to facilitate discussion of the problems and methods of practical human improvement, to increase the efficiency of agencies and institutions devoted to this cause; to disseminate information and to consider such other subjects of general social importance as may be determined upon by the conference itself. * * * ”

Section 1357 authorizes the payment of the necessary expenses of such officers and employes in attendance at such conference from funds available for their respective offices, boards and institutions, provided they first secure a certificate from the board of state charities as evidence that they were invited to and were in attendance at such conference.

The board of state charities referred to in the sections above quoted was abolished by the enactment of the so-called Administrative Code (Sections 154-1 et seq. General Code), and the powers of said board and the duties imposed on it were transferred to the department of public welfare by said act; the particular sections which accomplished this change being Sections 154-26 and 154-57.

The provisions of Section 2989-1, General Code, enacted by the

94th General Assembly, and more recent than the statute above quoted, might seem to require the authorization of the county commissioners before the employes here under consideration could lawfully attend the conference called by the department of public welfare as provided in Section 1356, General Code. This new section reads as follows:

Section 2989-1:

“Except as otherwise provided by law, no elected county officer, deputy or employe of the county, shall attend, at county expense, any association meeting, or convention, unless authorized by the board of county commissioners. Before such allowance may be made, the head of the county office desiring such allowance, shall make application in writing to the board of county commissioners showing the necessity of such attendance and the probable costs to the county. If a majority of the members of the board of county commissioners approve the application, such expenses shall be paid from the moneys appropriated to the said office for traveling expenses.”

It is my opinion, however, that that section was not intended to and does not limit the power of the department of public welfare to call a conference of the character and for the purposes set forth in Section 1536, and that it does not in any way control or limit the right of the officers and employes mentioned in Sections 1536 and 1537 to attend such conference. The conference provided for by that section is in no sense an “association meeting” and is not a “convention”. It is a matter of common knowledge that in practically every branch of service in the counties of the state voluntary associations have been formed, such as state associations of sheriffs, auditors, engineers, commissioners, etc., and that so-called conventions of these organizations are held periodically. It was to prevent promiscuous attendance of officers and their deputies, at such meetings at public expense, that Section 2989-1 was enacted.

Section 1359-36 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.

The county auditor shall issue warrants upon the county treasurer for the payment of the amounts which have been certified by the county administration to be due and payable under this act."

It would appear from the last paragraph of Section 1359-36, above quoted, that warrants upon the county treasurer, for payments out of the special fund which has been set up for the maintenance of the department of aid for dependent children, are to be approved by the judge of the juvenile court and that they do not require any additional approval by the county commissioners.

I call attention to Section 2570, General Code, which establishes the rule as to the payment of obligations of the county generally. This section provides as follows:

"Except moneys due the state which shall be paid out upon the warrant of the auditor of state, the county auditor shall issue warrants on the county treasurer for all moneys payable from such treasury, upon presentation of the proper order or voucher therefor, and keep a record of all such warrants showing the number, date of issue, amount for which drawn, in whose favor, for what purpose and on what fund. He shall not issue a warrant for the payment of any claim against the county, unless allowed by the county commissioners, except where the amount due is fixed by law or is allowed by an officer or tribunal authorized by law so to do." (Emphasis mine.)

In view of the special provision of Section 1359-36 of the General Code, to which I have called attention, it is plain that as to the funds appropriated for aid to dependent children, their disbursement is otherwise provided by law, and the certificate of approval by the judge is all that is required.

Respectfully,

THOMAS J. HERBERT
Attorney General.