

**Note from the Attorney General's Office:**

1944 Op. Att'y Gen. No. 44-7006 was overruled by  
1997 Op. Att'y Gen. No. 97-012.

7006

JUVENILE COURT OR JUVENILE DEPARTMENT OF PROBATE COURT — BOARD OF COUNTY COMMISSIONERS — DUTY TO APPROPRIATE SUFFICIENT MONEYS FOR PAYMENT OF ADMINISTRATIVE EXPENSES — MAY INCLUDE REASONABLE EXPENSES OF JUDGE AND PROBATION OFFICERS IN ATTENDANCE AT CONFERENCES WHERE JUVENILE AND WELFARE PROBLEMS ARE DISCUSSED — NECESSITY FOR SUCH ATTENDANCE MUST BE DETERMINED — SECTION 1639-57 G. C.

SYLLABUS:

Under authority of Section 1639-57 of the General Code, it is the duty of the board of county commissioners to appropriate for the payment of administrative expenses of the juvenile court or the juvenile department of the probate court sufficient moneys to meet its administrative expenses, including the reasonable expenses of the judge and probation officers in attending conferences at which juvenile and welfare problems are discussed. However, before such moneys may be expended for such expenses, the board of county commissioners must find the necessity for such attendance and approve the expenditure of the moneys so appropriated for such purpose.

Columbus, Ohio, June 28, 1944

Hon. Joel S. Rhinefort, Prosecuting Attorney  
Toledo, Ohio

Dear Sir:

Your request for my opinion reads:

**“The Board of County Commissioners of Lucas County has requested that I secure your opinion with reference to the following matter:**

There has been submitted to the Board a request by the Judge of the Juvenile Court of Lucas County and several of its probation officers, for payment of reasonable expenses of the Judge and the probation officers in attending meetings of the national Council of Juvenile Court Judges and the National Probation Association at Cleveland, Ohio, last May, at which meetings the Judge stated juvenile welfare problems were discussed. In his request the Judge of the Juvenile Court wrote that he was making this request by virtue of the provisions of Section 1639-57, General Code.

The Board has in mind your Opinion No. 6980, dated May 2, 1944, in which you ruled that the Department of Public Welfare was not authorized to issue invitations to annual meetings and to thereby authorize counties to pay the expenses of attending officers. The correspondence quoted in Opinion 6890 mentions Section 1639-57, General Code, but the opinion fails to suggest what application this section might have.

The question the Board desires to have answered is whether the request for appropriations made by the Judge and the probation officers may be honored under Section 1639-57, General Code, in spite of Opinion No. 6890.”

Opinion No. 6890, rendered by me under date of May 2, 1944, in response to a request received from the Department of Public Welfare considers only the powers and duties of the Department of Public Welfare concerning the questions raised in the inquiry. It has been the constant policy of this office in rendering opinions to state officials to refrain from expressing opinions as to the duties and powers of county officials since the county prosecutor is the legal adviser to such officials. For such reason, in such Opinion No. 6890, I expressed no opinion concerning the rights or duties of boards of county commissioners under authority of Section 1639-57, even though such statute was mentioned in

the inclosure accompanying the request. You will observe, however, that in the request for an opinion the Department of Public Welfare did not ask my opinion concerning the meaning of such section.

Section 1639-57, General Code, referred to in your inquiry, 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, including reasonable expenses of the judge and probation officers in attending conferences at which juvenile or welfare problems are discussed, 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., General Code, and for necessary orthopedic, surgical and medical treatment, and special care as may be ordered by the court, for any neglected, dependent or delinquent children, as herein provided. All disbursements from such appropriations shall be upon specifically itemized vouchers, certified to by the judge of the court. The court shall not be responsible for any expense resulting from the commitment of children to any home, welfare board, or other institution, association or agency, unless such expense has been authorized by the court at the time of commitment.”

The duties imposed upon boards of county commissioners by such Section 1639-57 was before the court in *State, ex rel. Clarke, Probate Judge v. Board of County Commissioners of Lawrence County*, 141 O. S. 16. In that case the court had before it the question as to whether or not it was the duty of the board of county commissioners to annually appropriate moneys for the payment of the traveling expenses of the regularly appointed probation officer appointed by the probate court having juvenile jurisdiction. The court held in the syllabus of that case as follows:

“Under Section 1639-57, General Code, it is the duty of county commissioners to appropriate annually a sum of money sufficient to meet all the administrative expenses of the Juvenile Court in their county, inclusive of the salary and traveling expenses of a regularly appointed probation officer, and an action in mandamus will lie to compel the performance of such duty.”

You will observe that Section 1639-57, General Code, does not

purport to authorize the payment of traveling expenses of the probate judge or juvenile judge or probation officers in attending conferences at which juvenile and welfare problems are discussed. Such section only purports to require the appropriation of moneys sufficient to pay for such expenses. Section 2989-1 of the General Code, enacted by the same General Assembly, placed the following limitation upon the payment of traveling expenses of a county official. Such section reads:

“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.”

In view of the foregoing statutory provisions and judicial decision it would appear that it is the duty of the board of county commissioners to appropriate sufficient moneys annually for the administrative expenses of the juvenile court or juvenile department of the probate court, including reasonable expenses of the judge and probation officers in attending conferences at which juvenile and welfare problems are discussed. However, before moneys may be expended by the juvenile court or probate court exercising juvenile jurisdiction, it is necessary that the juvenile judge or probate judge exercising such jurisdiction shall first have made in writing to the board of county commissioners an application showing the necessity of his attendance at such meeting and the probable cost to the county. If a majority of the board of county commissioners approve such application for allowance, then the expenses may be paid from moneys which have been appropriated to the juvenile or probate court exercising juvenile jurisdiction as provided in Section 1639-57, General Code.

Specifically answering your inquiry, it is my opinion that under authority of Section 1639-57 of the General Code, it is the duty of the board of county commissioners to appropriate for the payment of administrative expenses of the juvenile court or the juvenile department of the probate court sufficient moneys to meet its administrative ex-

penses, including the reasonable expenses of the judge and probation officers in attending conferences at which juvenile and welfare problems are discussed. However, before such moneys may be expended for such expenses, the board of county commissioners must find the necessity for such attendance and approve the expenditure of the moneys so appropriated for such purpose.

Respectfully,

THOMAS J. HERBERT

Attorney General