

TRAINING SCHOOLS: Juvenile court loses jurisdiction of child when child is committed to, and received by, State Board of Training Schools. Jurisdiction revested in the committing court only upon application of State Board of Training School for order relieving it of custody.

JUVENILE COURT:

JUVENILE CODE:

April 20, 1959



Mr. W. E. Sears  
Director  
Board of Training Schools  
Capitol Building  
Jefferson City, Missouri

Dear Mr. Sears:

This is in response to your request for opinion dated March 16, 1959, which reads as follows:

"The State Board of Training Schools at its official March meeting requested I solicit advice from your office concerning a problem which I will relate and at the same time indicate some of the various statutes that have either direct or indirect bearing upon the total problem.

"The narrative of the problem is as follows:

"On or about the first of the year two boys, within the state of Missouri, made arrangements with two girls, also residents of this state, whereby the four in a stolen car spent a period of time in adjoining states and during this journey no doubt committed several additional burglaries, including a cabin in one of the southern counties in this state. As would be expected, the girls were rather promiscuous in their behavior with these two boys since it was their belief they were married in an adjoining state but such fact has not been verified by official record. Accordingly, there were indications of possible pregnancy at the time the two

Mr. W. E. Sears

girls were committed by the juvenile court to the State Training School in Chillicothe, Missouri.

"Following our usual procedure, the girls were given an entrance physical examination and after sufficient time, it was determined one of the girls was pregnant. In as much as this girl required care and attention which the state school was not equipped to provide, Section 219.220 RSMo Volume I was utilized in asking that the girl be returned to the original court for proper disposition.

"The court, acting in accordance with the request on one of the girls, indicated by his court order that both girls, the pregnant one and the one that was not pregnant, who were committed for identical reasons to the training school, should be released. A court order was prepared in that direction.

"In as much as the Training School Board had not requested release of the nonpregnant girl, the Board at its last official meeting, again considered the following statutes in relation to their responsibility to the total training school program and considered Section 219.020, 219.140 and 219.250. In the latter section, the Board has for years established a policy that boys and girls committed to its care, must by their actions, behavior and attitude, earn their own eligibility for release from the training school to return to community living under supervision. The appropriate Classification Committee of the training school is delegated the authority to determine when a child is eligible for parole or placement consideration. In so doing care has been taken to treat all boys and girls alike so there might be uniform practice in dealing with children committed to the Board's attention. In this instance, the Board reviewed Sections 211.191, 211.251, 211.261 and 211.041 of the Missouri Revised Statutes, Cumulative Supplement 1957. In the latter section, the Board is of the opinion, unless directed otherwise, that the

Mr. W. E. Sears

committing court loses jurisdiction of a child when said child is committed to and received by the State Board of Training Schools unless Section 219.220 RSMo, Volume I, is utilized.

"The Training School Board, in light of the numerous statutes referred to and their desire to act in accordance with these and other statutes which have a bearing upon children committed to the Board's care, desire advice as to whether the non-pregnant girl should be released on the basis of the existing court order that is coupled with the pregnant girl. The Board has a policy that has been used most infrequently to the effect that if the original court outlines in a court order valid reasons for the release of a child, on the basis of the appearance of new evidence not considered at the original hearing, or other like situations, the child may be returned to the original court for further consideration. There is a question, however, in the case at hand as to whether the release of the non-pregnant girl should be effected since she was originally committed for reformation because of offenses committed. We are, as would be expected, concerned with the total responsibility the Board of Training Schools may or may not have in its dealing with children committed to its care and do not want to disturb the existing regulations pertaining to a child earning their eligibility for release from the institution through their own efforts and proper behavior and conduct.

"Your assistance in advising the State Board of Training Schools in this particular matter relating to the Board's jurisdiction will be greatly appreciated."

The following sections of the statutes are pertinent to your inquiry:

Mr. W. E. Sears

Section 211.041, RSMo, Cum. Supp. 1957.  
"When jurisdiction over the person of a child has been acquired by the juvenile court under the provisions of this chapter in proceedings coming within the applicable provisions of section 211.031, the jurisdiction of the child may be retained for the purpose of this chapter until he has attained the age of twenty-one years, except in cases where he is committed to and received by the state board of training schools."

Section 211.191, RSMo, Cum. Supp. 1957.  
"Nothing in this chapter shall be construed to repeal any part of the law relating to the state training school for girls or the state training school for boys; and in all commitments to either of these institutions the law in reference to them shall govern."

Section 211.251, RSMo, Cum. Supp. 1957.  
"1. A decree of the juvenile court made under the provisions of section 211.181 may be modified at any time on the court's own motion.

"2. The parent, guardian, legal custodian, spouse, relative or next friend of a child committed to the custody of an institution or agency may, at any time, petition the court for a modification of the order of custody. The court may deny the petition without hearing or may, in its discretion, conduct a hearing upon the issues raised and may make any orders relative to the issues as it deems proper.

"3. The authority of the juvenile court to modify a decree is subject to the provisions of chapter 219, RSMo."

Section 219.220, RSMo 1949.

"The board may, at any time, if it finds that any child committed to it is in need

Mr. W. E. Sears

of care or treatment other than that which it is equipped to provide, apply to the court which committed such child for an order relieving it of custody of such child. Upon the making of such order the court shall be vested with full power to make such disposition of the child as is authorized by law."

From a reading of Chapters 211 and 219 of the statutes, and particularly those portions set out above, it is apparent that the juvenile court loses jurisdiction of a child when a child is committed to, and received by, the State Board of Training Schools. After a child has been committed to, and received by, the State Board of Training Schools, the only instance in which the law makes provision for revesting jurisdiction in the juvenile court is when application is made by the State Board of Training Schools under Section 219.220, supra.

Since the Board did not make application to the committing court for an order relieving it of custody of the nonpregnant girl, the court had no jurisdiction over such girl. Consequently, the Board should not release her on the basis of the court's order.

#### CONCLUSION

It is the opinion of this office that the juvenile court loses jurisdiction over a child when such child is committed to, and received by, the State Board of Training Schools and that the committing court may be revested with jurisdiction only upon application by the State Board of Training Schools for an order relieving it of custody of such child under Section 219.220, RSMo 1949.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John W. English.

Yours very truly,

JOHN M. DALTON  
Attorney General

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