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THE JUVENILE COURT ACT†

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Juvenile court legislation generally recognizes the necessity of treating child law violators in a manner different from adult offenders. Our present laws (Articles 9 and 10, Chapter 56, Revised Statutes of Missouri, 1939) make such a distinction in classifying children as delinquent and neglected rather than as felons or criminals. This basic difference in treatment, of course, stems from the desire of society to aid, encourage and educate children to the end of accomplishing their reformation rather than to hold them strictly accountable for their acts and to mete out vengeful punishment against them.¹

Our present juvenile court laws are contained in two articles of the statutes, one dealing with juveniles in counties of over 50,000 inhabitants and the other with juveniles in smaller counties.² Since the two laws were enacted at different times,³ many of the provisions in both are identical in effect and represent duplications. Thus the first job involved in the preparation of the proposed act was one of revision, having for its object the elimination of duplications and preparing one law which would meet the needs of all communities.

The proposed act, however, goes further than simply revising the old laws. The definitions of "neglected" and "delinquent" child in our present laws⁴ have been entirely omitted. In their place a definition of the jurisdiction of the juvenile court has been made to include all children under 18 years of age who may have come within the old classes of neglected and delinquent children. The objective of this change is to treat all children

†House Bill No. 122. The references to sections herein unless otherwise indicated are to those contained in the proposed act.

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1. State *ex rel* Cave v. Tincher, 258 Mo. 1, 12, 166 S.W. 1028 (1914); In State *ex rel* Mataka v. Buckner, 300 Mo. 359, 254 S.W. 179 (1923), our supreme court stated that the objective of our juvenile court law is "not trial and punishment for crime, but the protection and support of neglected children and the reformation of delinquent children . . . The power exerted by the state *parens patriae* is asserted in its right to supply proper custody and care in lieu of that of which neglected and delinquent children are deprived."

2. Mo. REV. STAT. (1939), Art. 9, 10.

3. Art. 9, Mo. Laws 1911, p. 177; Art. 10, Mo. Laws 1917, p. 196.

4. Mo. REV. STAT. (1939), §§ 9673, 9698.

who come before the juvenile court alike and to avoid stigmatizing some of them with a court record of delinquency.

As under the present law, the circuit court continues as the juvenile court in the proposed act. Its jurisdiction over children *living* within the county who are neglected or delinquent, who are to be adopted or whose paternity is to be determined⁵ is exclusive except that the juvenile court of another county may have jurisdiction of a child if he or his parents are found in such county.⁶ The juvenile court is also given concurrent jurisdiction with the probate court in the appointment of guardians of the person of minors and mentally defective minors.⁷ Moreover, if a child has once come within the jurisdiction of the juvenile court, that court may, in its discretion, exercise its jurisdiction over him or over any subsequent offense by him committed until he attains the age of twenty-one years.⁸ Thus the court of one county may take jurisdiction of such a child, even though he may be charged with having violated a law in another county. These provisions have been taken largely from a standard act recommended by the National Probation Association, and are modeled, to some extent at least, on laws in effect in California, Indiana, New Jersey and the District of Columbia.

Another major change from the present law is to be found in the fact that the juvenile judge, under the proposed act, is divested of the power to order a child under 16 years of age tried under the general criminal law. If the child is under sixteen he must be tried by the juvenile court, irrespective of the heinousness of the crime of which he is accused. The court does have such discretion, however, with respect to child offenders who are sixteen or over, and they may, in the court's discretion, be tried under the general criminal laws.

After the juvenile court has acquired jurisdiction over a child it is given broad general powers to order such care, treatment or discipline for him as may be deemed appropriate. It may place the child on probation in his own home or in the custody of a relative or it may commit him to any public institution or to any agency authorized by law to care for children. All such commitments are for indeterminate periods and until the child reaches twenty-one years of age. It may even send the child to some

5. H.R. 122, § 9675.

6. *Id.* § 9677.

7. *Id.* § 9676.

8. *Id.* § 9679.

organization in another state if arrangements are made to care for it.⁹ It may order the parents or the county to provide needed medical, surgical or hospital care,¹⁰ and may require the parents to provide support and education¹¹ for the child and enforce such orders by execution.

Moreover the juvenile court is given power to terminate all rights of a parent or parents over a child if the court finds such parents unfit to have the control or custody thereof or if they are found to have abandoned the child.¹² This provision is new in this state and its inclusion in the bill was recommended in part, at least, to accomplish objectives connected with adoptions. Through this proceeding, the court will be placed in a position of determining the fitness or unfitness of the parents on the basis of their situation alone, and will not be tempted to compare the financial or other conditions of proposed adoptive parents with those of the natural parents in determining what disposition should be made of the child.

The procedure under the proposed act is also changed somewhat. Whereas under our present laws, in each case a petition must be filed in court alleging a child to be neglected or delinquent, the proposed act requires that no petition be filed without the approval of the judge, who is required to make a preliminary investigation of the child before a court record is made. This investigation is to be made by a probation or juvenile officer, and in the larger counties the determination as to whether a petition is to be filed may be delegated to the probation officer.¹³ In this manner, the stigma incident to prosecutions, is intended to be confined to those cases where the child is really delinquent or neglected. All records of the juvenile court are required to be kept confidential¹⁴ and the general public is to be excluded from hearings in juvenile courts. Hearings are to be summary and without a jury. The hearing may in the discretion of the court, proceed in the absence of the child.¹⁵

The proposed act provides for the appointment of probation or "juvenile" officers on a merit basis and machinery is set up for determining qualifications of such officers. In counties which cannot afford the salaries of such officers, the bill authorizes contiguous counties to join in providing

9. *Id.* § 9687.

10. *Id.* § 9697.

11. *Id.* § 9690.

12. *Id.* § 9691.

13. *Id.* § 9681.

14. *Id.* § 9698.

15. *Id.* § 9684.

an officer for the several counties, and it also authorizes the judge to appoint an employee of the state Division of Welfare to act as a juvenile officer in any county where there is none. These officers and employees are required to make the investigations required by the act, and to supervise children placed on probation, and to perform such other duties as are assigned them by the judge.

Throughout the bill, a conscious effort has been made to avoid the use of terminology which is suggestive of criminal procedure or punishment for crime. This, of course, is in line with the thinking that children are to be treated rather than punished for their infractions of society's rules.

The provisions of the present law requiring segregated detention of children from adult offenders, modification of the judgment of the court from time to time, and prohibition of the use of juvenile court records in subsequent prosecutions are retained in the proposed act.

The proposed act represents the labor of a sub-committee of the Children's Code Commission which was headed by Mr. A. G. Eberle, former dean of St. Louis University Law School, and every provision thereof was thoroughly studied before its incorporation in the bill. While a few of the provisions may be somewhat controversial, the bill as a whole has met general approbation of students of the problems incident to judicial treatment of juveniles, and is regarded by them as a distinct advance over our present method of dealing with children.