

such minor and must be accompanied by certain data as provided for in said Act.

It is my opinion that pursuant to the above Act, it would be necessary that the boys would require a work certificate.

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OFFICIAL OPINION NO. 32

July 12, 1955

Mr. R. R. Wickersham  
State Examiner  
State Board of Accounts  
304 State House  
Indianapolis, Indiana

Dear Mr. Wickersham:

Your letter has been received requesting an Official Opinion on the following questions:

"1. Does the Marion County Welfare Department have to buy clothing for dependent children under the contract as made by the County Commissioners, or can the Welfare Department disregard the County Commissioners' contract and buy without a contract?

"2. Can the County Auditor pay the welfare claims for clothing for dependent children without the signatures of the County Commissioners?"

It is my understanding that these questions are limited to cases of dependent children made wards of the Marion County Welfare Department by the Marion County Juvenile Court and not living in a county-supported institution.

The authority of the Marion County Juvenile Court to make dependent children wards of the Marion County Department of Public Welfare is found in the Acts of 1945, Ch. 356, Sec. 15, as found in Burns' Indiana Statutes (1942 Repl., 1953 Supp.), Section 9-3215, which provides, in part, as follows:

\* \* \*

"If the court shall find that the child comes within the provisions of this act, it may by order duly entered, proceed as follows:

\* \* \*

## OPINION 32

“(3) The court may make such child a ward of the court, a ward of the department of public welfare of the county, or a ward of any licensed child placing agency in the state willing to receive such wardship;” (Our emphasis)

The authority of the Marion County Juvenile Court to make an order authorizing the expenditure of public funds for the care and maintenance of such child is found in the Acts of 1953, Ch. 57, Sec. 1, as found in Burns' Indiana Statutes (1942 Repl., 1953 Supp.), Section 9-3219, which provides, in part, as follows:

*“When found by the court to be advisable, compensation shall be allowed for the care of any child made a ward by order of the court or for any child coming within the provisions of this act [§§ 9-3201—9-3225] and placed by order of the court with any custodial agency or institution, or family home, or for any child on furlough or release from a state institution, even though wardship may be retained by the trustees of said institution, and where the expense for the care and maintenance of such child is not otherwise provided by law, shall not exceed the sum of two dollars [\$2.00] per day for any child, except that by order of the court in any individual case, an increased amount may be paid for those children having unusual needs and requiring special care, or an additional allowance may be made for unusual expense in connection with the care of such child when such expenses are not included in the ordinary care, and support of such child, or to meet the immediate needs of a child when first made a public charge that can not be paid from the per diem allowance at the time; Provided, that the court shall not make any allowances for any child for the purpose of providing education beyond an accredited high school education:  
\* \* \* Whenever deemed necessary or beneficial to the welfare of the child, the county department of public welfare may establish an account for the benefit of the child, to which may be credited the amount of per diem or any part thereof awarded to such child as may not be necessary for its immediate needs. Payment shall be made to designated persons for food, clothing, shelter*

*and other necessities of such child as furnished and any balance of the award remaining may be kept to the credit of the account of the child for a period not exceeding six [6] months, to be used for the benefit of the child as the need arises, provided that necessary records are kept of the payments made for such child. Provided further that whenever the county board of public welfare of any county finds that the maximum per diem as herein established is insufficient, the county director of public welfare for and on behalf of the county department of public welfare, may petition the court to increase the maximum per diem and the court after due consideration of said petition, may enter an order increasing the maximum per diem for said county and such order of the court duly entered, shall establish and authorize such increased maximum per diem subject to the terms of said court order or any modification thereof. \* \* \** (Our emphasis)

In view of these statutory provisions, it is my opinion that when the Juvenile Court of Marion County finds that a child is a dependent child and places wardship of such child in the Marion County Department of Public Welfare and also enters an order for the support and maintenance of such child from the county welfare fund, that the Marion County Department of Public Welfare may pay for food, clothing, shelter and other necessities furnished such child (to the extent of the order made) without regard to any contract made for the purchase of clothing by the Marion County Commissioners.

With regard to question number two your attention is directed to Acts of 1897, Ch. 123, Sec. 3 (1948 Repl.), Section 26-809, which provides as follows:

*“It shall be unlawful for any board of commissioners of any county in this state or for any member thereof, to make any allowance or to allow any claim against such county, or order the issue of any county order or warrant for the payment of any sum of money, except at a regular or special session of said board, and it shall be unlawful for any county auditor to draw or to issue to any person any warrant or county order for the payment of any claim against such county except the same*

## OPINION 33

*has been ordered and allowed by the board of commissioners of the county while in regular or special session, or by a court of competent jurisdiction; that nothing herein shall affect the issuing of warrants relating to the management of the common or congressional school fund or insanity inquests.*" (Our emphasis)

In view of this provision, it is my opinion that when the Marion County Juvenile Court enters an order authorizing the expenditure of public funds for the support and maintenance of a dependent child made a ward of the Marion County Department of Public Welfare that the County Auditor of Marion County would be authorized to pay the welfare claims for the care of such child including the purchase of clothing, without the signatures of the Marion County Commissioners.

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### OFFICIAL OPINION NO. 33

July 20, 1955

Mr. Harry E. Wells  
Insurance Commissioner  
240 State House  
Indianapolis, Indiana

Dear Mr. Wells:

I have your recent letter which reads as follows:

"Sec. 39-1818-1820, inclusive, of Burns' Indiana Statutes, 1952 Replacement, sets out the provisions that insurance policies may be purchased by municipal corporations providing that such policies contain a provision that the carrier will not set up as a defense the immunity of municipal corporations insured in the event of a claim under the policy.

"In the case of Hummer vs. School City of Hartford City (112 N. E. (2d) 891) Judge Achor stated:

"Generally speaking, school officers acting within the scope of their duty are only responsible individually for the injuries resulting from corrupt motives and not from mistake of law or judgment."