

shall be secured prior to his being sent to another state; and (7) make provisions for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states."

In conclusion, we strongly recommend that the Compact administrator should utilize supplementary agreements to arrange for payment of necessary costs incidental to education in the public schools, as well as to foster home care, before agreeing to accept supervision of a delinquent juvenile probationer and/or parolee who may require public school education as a measure of rehabilitation. Such supplementary agreement should take into consideration the laws of the state wherein the delinquent juvenile has his legal settlement in ascertaining which administrative agency or political subdivision is liable for payment.

---

OFFICIAL OPINION NO. 9

January 18, 1962

Hon. Kenneth J. Brown, Jr.  
State Senator, Delaware County  
118 S. Mulberry Street  
Muncie, Indiana

Dear Senator Brown:

This is in reply to your letter of December 7, 1961 in which you request an Official Opinion upon the following question.

"I am now desirous of securing your official opinion establishing the authority and corresponding responsibility, or the lack thereof, in the Board of County Commissioners of Delaware County insofar as the appointment and employment generally of the matron of the Delaware County Children's Home is concerned."

Your letter also presents the following factual information relative to your question:

"Pursuant to the Acts of 1897, Chapter 40, Section 1, Page 44, Burns' Annotated Statutes, Sections 22-2601-22-2620 inclusive, the Board of County Commis-

## OPINION 9

sioners of Delaware County has established and maintains a Delaware County Children's Home. This children's home is located upon real estate owned by Delaware County and is maintained and operated by a budget established by the Delaware County Commissioners and approved by the Delaware County Council. Many of the children residing at the Delaware County Children's Home are wards of the Delaware County Department of Public Welfare under wardship granted by the Delaware Circuit Court."

In your request you asked for an Official Opinion establishing the authority and responsibility of the board of county commissioners with reference to the employment of a matron. It should be noted that my opinion can only interpret the authority previously established or created by the Legislature.

A position known as "matron" was first established by Acts of 1881 (Spec. Sess.), Ch. 81, as found in Burns' (1951 Repl.), Section 52-401 *et seq.* It appears that said act has never been amended, but exists today in its original form, although portions thereof not applicable to your question have been superseded by subsequent legislation.

Section 1 thereof, as found in Burns' (1951 Repl.), Section 52-401 reads as follows:

"The board of commissioners of each county in this state having pauper children of sound mind, between the ages hereinafter specified, who are inmates of the county asylum of such county, is hereby authorized, within one (1) year after the passage and taking effect of this act, *to select and appoint, as matron*, a woman of good moral character, sound judgment and suitable age, having experience in the care and training of children, who may be willing to accept the charge on the terms in this Act provided, and to put in her care and custody, at some convenient and suitable place within such county, separate from and not connected with the county asylum of such county, all pauper children of sound mind, between the ages of one (1) and sixteen (16) years, that may be, at the time, in, or who may

be, after that time, received into such county asylum.”  
(Our emphasis)

Additional provisions concerning appointment and removal of the matron will be found in Section 8 of said Act as found in Burns’ (1951 Repl.), Section 52-408, which section reads as follows:

“The board of commissioners, at the time that it appoints the matron under this act, shall select and appoint a committee of three [3] competent persons, residents of the county, noted for their charitable work and for the interest they take in all benevolent enterprises (two [2] of whom shall be women who have had experience in the raising of children), to visit and examine into the condition of the homes and the manner in which the children therein are kept and treated by the matron; and it shall be the duty of said committee to make such visits and examinations at least once in every three [3] months in each year, and to make report of their examination to the board; and this committee shall serve without compensation. *If any matron neglects or fails to discharge her duties under this act, the board of commissioners, upon being fully satisfied thereof, shall remove such matron and appoint another in her place.*” (Our emphasis)

In addition to the provisions concerning her appointment and removal, Acts of 1881 (Spec. Sess.), Ch. 81, *supra*, contains sections setting forth and describing the duties of the matron and the commissioners. Section 3 thereof as found in Burns’ (1951 Repl.), Section 52-403 places the duty upon her to provide the children committed to her care with the necessities of life, and education, including engagement in active labor suited to the age and strength of the child. Section 9 thereof, as found in Burns’ (1951 Repl.), Section 52-409 places upon the board of commissioners of each county having a matron, the expense of medical care, burial and necessary school books.

Section 6 of said Act, as found in Burns’ (1951 Repl.), Section 52-406, places the duty upon the matron to seek homes for the children under her care, and Section 7 as found in Burns’

## OPINION 9

(1951 Repl.), Section 52-407 points out further specific duties of the matron and the board of commissioners, including a provision that the matron keep a complete record of all children placed in her care.

As stated above, Acts of 1881 (Spec. Sess.), Ch. 81 remains in its original form and has never been amended. The General Assembly of 1897 enacted Chapter 40, relating to County Orphan Asylums and Associations, the same being Acts of 1897, Ch. 40 as found in Burns' (1951 Repl.), Section 22-2601 *et seq.* That act *grants the power to the county commissioners in each county to establish and maintain orphan asylums.* Although the act contains no section specifically authorizing the appointment of a matron, nevertheless it does use that specific title in Burns' Sections 22-2604 and 22-2613 and in a cross reference to Burns' 52-401 *et seq.*, given under Section 22-2601, *supra*. It therefore appears that when this latter act makes reference to the matron it is referring to the matron appointed pursuant to Burns' 52-401, *supra*.

Acts of 1897, Ch. 40, Sec. 3 as last amended by Acts of 1915, Ch. 175, Sec. 1, as found in Burns' (1950 Repl.), Section 22-2604 reads as follows:

“Before receiving any compensation for the care of such children, it shall be obligatory upon such association to file with the board of commissioners of the county where such child is a resident, an itemized bill or statement, sworn to by one (1) of the general officers *or the matron of such association* showing the name and age of each child for whose care compensation is required, the number of days of care it has received during the period included in the bill, and whether it has been committed to the association by the board of county commissioners, the board of children's guardians or the juvenile court as a dependent, neglected or delinquent child, or any such child whose legal custody they had prior to 1907. Said sworn statement shall also show that no child in the care of said association is retained under any terms or system of management which will operate to the financial profit of any person or of the association, or, under the operation of which, any officer or employee of such association might

profit by reducing the quantity or quality of the food, care or clothing supplied to such child. After such bill or statement is filed, the board of commissioners shall allow and pay to said association not more than forty cents (40¢) a day for each day said association has had the custody of such child, and for which it has not already been paid. Such board shall also allow a reasonable sum for the funeral expenses of such child. It shall be unlawful for such board to allow or pay any sum to any association as compensation for taking, keeping or caring for or securing homes for any such children, other than as in this section provided. All payments heretofore made at the compensation provided for in this act are hereby legalized. Nothing in this section, however, shall be so construed as to conflict with section 9 (§ 22-2610) of this act.” (Our emphasis)

Thus, it would appear that the position of the matron still exists under the Acts of 1897, Ch. 40, *supra*.

Since the latter act contains no provision relating to her appointment or discharge, the matron is still to be appointed and discharged under the provisions as found in Burns' Sections 52-401 and 52-408, *supra*. It is therefore my opinion that:

1. The board of county commissioners has the authority to appoint a matron of a home maintained and operated at county expense for the care and custody of children properly committed thereto.
2. If such matron neglects or fails to discharge her duties placed upon her by law, the board of county commissioners upon being fully satisfied thereof, is empowered to remove such matron and to appoint another in her place.