

OPINION 46

OFFICIAL OPINION NO. 46

September 22, 1961

Mr. Arthur Campbell, Commissioner
Department of Correction
804 State Office Building
Indianapolis 4, Indiana

Dear Mr. Campbell:

This will acknowledge receipt of your request for an Official Opinion as contained in your letter dated September 12, 1961, which reads as follows:

“An inquiry has been received by this Department regarding the interpretation of Ind. Ann. Stat. Sec. 9-3215 (Supp. 1960). This Section pertains to Hearing and Judgment in Juvenile Proceedings.

“The Statute reads, in part, as follows:

“The court may conduct the hearing in an informal manner, and may adjourn the hearing from time to time. The names of the child or children, their parents, guardian or custodian, and the nature of the offense shall be a public record, if the court, in its discretion, shall so order and direct; and public admittance or participation in the chambers of the trial court shall be within the discretion of the trial judge * * *.’

“The Statute is specific in stating that ‘the names of the child * * * or children, their parents or guardian, and the nature of the offense shall be made public.’ No specific authority appears, however, to make the judgment or disposition public.

“Our question, therefore, is this:

“May the judgment in a juvenile hearing be made a matter of public record?”

It has long been the legislative and judicial policy of this state to zealously protect juveniles from undue publicity and embarrassment arising from offenses committed by them.

Such policy is evidenced by various Indiana statutes including the following:

Acts of 1945, Ch. 347, Sec. 13, as found in Burns' (1956 Repl.), Section 9-3113, reading:

"All hearings concerning such children as affected by this Act shall be held in chambers or the juvenile court room. The judge of such court shall designate a certain time for the hearings of such cases and is hereby empowered to exclude from the court room at such hearings any and all persons that in his opinion are not necessary for the hearing of the case. A probation officer shall be present at each hearing in the interest of the child."

The following section in said Act, namely Sec. 14, as found in Burns' (1956 Repl.), Section 9-3114, concerns juvenile court records and restricts their disclosures to the public in the following language:

"The court shall maintain records of all cases brought before it. Such records shall be open only by order of the court to persons having a legitimate interest. The court shall devise and cause to be printed such forms or records and such other papers as may be required. All expenses incurred in complying with the provisions of this Act shall be a county charge."

Acts of 1945, Ch. 356, Sec. 15, as amended by Acts of 1957, Ch. 356, Sec. 2, as found in Burns' (1961 Supp.), Section 9-3215, provides for the manner in which juvenile cases are to be heard and how adjudicated. Such act reads, in part, as follows:

"The court may conduct the hearing in an informal manner, and may adjourn the hearing from time to time. The names of the child or children, their parents, guardian or custodian, and the nature of the offense shall be a public record, if the court, in its discretion, shall so order and direct; and public admittance or participation in the chambers of the trial court shall be within the discretion of the trial judge. The trial court, in its discretion, may order and direct that any

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such child fifteen [15] years of age or older be fingerprinted and photographed for identification purposes and such fingerprint records and photographs, when so ordered by the court, shall be filed and kept by the appropriate sheriff's departments or police departments in files and records separate and apart from those pertaining to adult criminals. All cases for the determination of a petition requesting that a person be determined to be a delinquent or dependent or neglected child shall be heard separately and apart from the trial of cases against adults, and the court shall hear and determine such cases without a jury: Provided, however, The official court reporter shall be present in court and take down in shorthand the oral evidence given in all cases and note all rulings of the judge in respect to said cause.

* * *

“No adjudication upon the status of any child in the jurisdiction of the court shall operate to impose any of the civil disabilities ordinarily imposed by conviction, nor shall any child be deemed a criminal by reason of such adjudication, nor shall such adjudication be deemed a conviction, nor shall any child be charged with or convicted of a crime in any court, except as provided in section 14 [§ 9-3214] and section 23 [§ 9-3223] of this act. The disposition of a child or any evidence given in the court shall not be admissible as evidence against the child in any case or proceeding in any other court, nor shall such disposition or evidence operate to disqualify a child in any future civil service examination, appointment or application.”

In the case of *Harris et ux. v. Souder*, As Superintendent of Indiana Boys School *et al.* (1954), 233 Ind. 287, 119 N. E. (2d) 8, the Court discusses the matter of disclosure of juvenile court records in the following language:

“A matter of statutory public policy is disclosed by the certificate of the clerk to the effect that the records certified were from the criminal order book. Proceedings against juveniles should not be in the civil or

criminal order books, which are public records open to the inspection of the public. It has been the practice in this state for circuit courts to have separate juvenile minute books and separate juvenile order books. Section 9-3114, Burns' 1942 Replacement (Supp.), provides, 'Such records shall be open only by order of the court to persons having a legitimate interest.' Section 9-3215, Burns' 1942 Replacement (Supp.), requires only such persons be admitted at the hearing as have a direct interest in the case, and prohibits the use of the evidence given in any case or proceeding in any other court. The fact that the record was made in an improper order book, however, does not affect the jurisdiction of the court. * * *"

An analysis of the above-quoted statutes, when read together, and by giving due consideration to the Indiana Supreme Court case referred to herein, leads me to the conclusion, and it is my opinion, that adjudications rendered in juvenile court hearings *may* be made a matter of public record, but only in those cases where such court so orders and directs.

OFFICIAL OPINION NO. 47

September 25, 1961

Mr. T. Michael Smith, Administrator
Inheritance Tax Division
106 State Office Building
Indianapolis 4, Indiana

Dear Mr. Smith:

This is in response to your request for an Official Opinion concerning the time at which "interest begins to accrue" pursuant to the Acts of 1931, Ch. 75, Sec. 38, as found in Burns' (1953 Repl.), Section 7-2438.

Although this is a part of the Indiana Inheritance Tax Law, being the Acts of 1931, Ch. 75, as found in Burns' (1953 Repl.), Section 7-2401 *et seq.*, it should be noted in the beginning that this section is not to be confused with Section 13 of