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Opinion No. 07-04

Authority over the Juvenile Court System and its Employees

QUESTION

Who has authority over the juvenile court system and its employees?

OPINION

Depending on the circumstances, the Supreme Court, the juvenile judge, or the clerk of the court may have authority over the juvenile court and its employees.

ANALYSIS

The Tennessee Constitution vested the judicial power of the State in "one Supreme Court and in such Circuit, Chancery and other inferior Courts as the Legislature shall from time to time, ordain and establish[.]" Tenn. Const. art. VI, § 1. Acting under this constitutional prerogative, the Legislature created juvenile courts, which are "inferior courts" for purposes of the State constitution. *Shelby Co. Elec. Comm'n v. Turner*, 755 S.W.2d 774, 777 (Tenn. 1988). As courts of limited jurisdiction, the juvenile court's subject matter jurisdiction is defined by statute. *Stambaugh v. Price*, 532 S.W.2d 929, 932 (Tenn. 1976). Sections 37-1-103 and 37-1-104 govern the subject matter jurisdiction of the juvenile court. All juvenile courts in Tennessee "have all of the jurisdiction, authority, rights, powers and duties prescribed by the provisions of" Part 1, Chapter 1 of Title 37 of the Code. Tenn. Code Ann. § 37-1-101(c). In addition, under the juvenile court Restructure Act of 1982, "general sessions courts shall exercise juvenile court jurisdiction in all of the counties of this state, except in the counties or municipalities in which juvenile courts are, or may hereafter be, specially provided by law[.]" Tenn. Code Ann. § 37-1-203. Thus, depending on the county, the general sessions court may exercise juvenile court jurisdiction, as in Dyer County, for example. Tenn. Code Ann. § 16-2-506(29)(A). By contrast, in the Metropolitan Government of Nashville and Davidson County, a private act created that government body's juvenile court. 1953 Priv. Acts ch. 390.

Juvenile judges are authorized to promulgate rules and regulations "for the administration of the court." Tenn. Code Ann. § 37-1-212. We have previously concluded that a juvenile judge may promulgate rules and regulations "for the administration of the court" that direct the clerk of

the court "to prepare or draft court orders." Op. Tenn. Att'y Gen. No. 00-112 (June 20, 2000).

Under the Tennessee Constitution, "[c]lerks of the Inferior Courts holden in the respective Counties or Districts, shall be elected by the qualified voters thereof for the term of four years." Tenn. Const. art. VI, § 13. *See also* Tenn. Code Ann. § 18-4-101. Thus, juvenile court clerks, as clerks of inferior courts, must be duly elected by the qualified voters of their particular district. *Turner*, 755 S.W.2d at 777. Under Tennessee law, juvenile court clerks possess all powers and duties of other clerks of courts of record:

> Clerks of such special juvenile courts shall, under the supervision of the judge, keep all records of the court, and shall have all the duties, authorities, and obligations provided by law for clerks of other courts of record of this state, and shall give an appropriate surety bond for the faithful performance of their duties.

Tenn. Code Ann. § 37-1-211.[1]

Turning to the question of authority over the juvenile court's system and its employees, we note that the Legislature has divided functions according to their judicial or clerical nature. Who has authority over a juvenile court employee will depend on whether the person performs judicial or quasi-judicial functions, or whether the person performs clerical duties. By statute, juvenile judges may appoint youth services officers, probation officers and referees. Tenn. Code Ann. §§ 37-1-105 through -107. We conclude that a judge's officers described above would work under the authority of the juvenile judge who appoints them.[2] We also conclude that, insofar as the clerk's record-keeping functions are concerned, clerks operate under the supervisory authority of the juvenile judge. Tenn. Code Ann. § 37-1-211.

Juvenile court clerks, however, operate independently of juvenile judges in other respects. As noted above, the Tennessee Constitution requires that juvenile court clerks be duly elected. Tenn. Const. art. VI, § 13. Because juvenile court clerks possess all authorities of other clerks of court, Tenn. Code Ann. § 37-1-211, they may "appoint deputies with full power to transact all the business of such clerk." Tenn. Code Ann. § 18-1-108(a)(4). Each juvenile court must have a clerk "whose duty it is to attend the court and perform all the clerical functions thereof." Tenn. Code Ann. § 18-1-101. When a vacancy arises in the position of the clerk of the juvenile court, the deputy clerk may "hold the office" until a new election is held. Tenn. Code Ann. § 18-1-401. From this authority, we conclude that deputy clerks or any other person performing clerical functions in the

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[1]We note that, in *Turner*, the Supreme Court struck down portions of Tenn. Code Ann. § 37-1-211 that provided "for the filling of the office of clerk by appointment, other than the filling of a vacancy until the next general election." 755 S.W.2d at 777.

[2]Juvenile judges, however, do not operate without oversight. The Supreme Court possesses inherent supervisory authority over the juvenile courts, as inferior courts. Tenn. Code Ann. § 16-3-501. In addition, juvenile judges are bound by the Code of Judicial Conduct promulgated by the Supreme Court, Tenn. S. Ct. R. 10, and they are subject to the jurisdiction of the Court of the Judiciary for disciplinary purposes. Tenn. Code Ann. § 17-5-102(1).

juvenile court would work under the authority of the duly elected clerk.

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