# SUMMARY AND ANALYSIS OF THE JUVENILE LAWS IN VIRGINIA

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Summary and analysis of the juvenile laws in Virginia by James Hoge Ricks

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JAMES HOGE RICKS

# SUMMARY AND ANALYSIS OF THE JUVENILE LAWS IN VIRGINIA

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# IMPORTANT!

The State Board of Charities and Corrections calls the attention of the judges, police justices and justices of the peace to the following decision of the Attorney General, and a resolution of the State Board of Charities and Corrections:

## 1. CONCERNING JUVENILES RELEASED FROM CUSTODY WHO HAVE BEEN PREVIOUSLY COMMITTED.

June 6, 1918.

Mr. J. T. Mastin,
Sect. State Board of Charities and Corrections,
Richmond, Va.

My Dear Sir:

I acknowledge receipt of your letter of June 6, 1918, in which you state that a certain police justice committed to the Virginia Home and Industrial School for Girls a young girl 16 years of age, the commitment being in due form, signed by the said police justice, and that the same was forwarded to the Virginia Home and Industrial School for Girls. You state also that an agent of the School went to the jail of that city on June 1, 1918, and found that the young girl had been released that morning and given to her mother who had moved from that city to a neighboring city. You state that the release and delivery of the girl was by order of the aforesaid justice of the peace.

You desire to know whether or not this justice had the authority to release the girl.

Chapter 350, of the Acts of the Assembly, 1914, found on page 696 of the said acts, deals with the question you have in mind, and in section 8 of the said act, as far as is necessary to be referred to here, reads in part as follows:

> " . . . If sufficient to justify a conviction or to send the child on to a grand jury or to require the giving of security for good behavior, then the court is empowered to act under the provisions of this statute as to the disposition of said child; provided that the child shall have the same right of appeal from any order entered by such court or police justice or justice of the peace as is provided by law or an appeal from any judgment of conviction entered by any such court. In case of any such appeal the court to which such appeal is taken, or in case of such child being sent on to a grand jury, the court to which the child is so sent shall, after the trial is had in conformity with the requirements of law, have, if the child is held guilty of crime, the power to act under the provisions of this statute as to the disposition of the child."

It will be seen from this part of section 8 that a justice has no authority to even grant a new trial, and it is certain that he has no right, after committing a child to the Virginia Home and Industrial School for Girls, to release her from custody. The act provides for an appeal to the proper court having jurisdiction in said city for this class of cases, and if there is no appeal taken, there is nothing left for the police justice to do in the matter.

In view of the facts in this case, as related in your letter, and the law bearing on the question, I am of the opinion that the police justice acted without authority in releasing the girl referred to and delivering her into the custody of her mother.

Very truly yours,

JOHN R. SAUNDERS,
*Attorney General.*

## II. CONCERNING COMMITMENT OF JUVENILES TO CITY OR COUNTY FARMS.

WHEREAS, an act of the General Assembly approved March 14, 1918, provides that when any city farm in this Commonwealth has provided separate quarters for the housing and detention of juveniles and when such farm shall make provision for working and at all times keeping separate and distinct juveniles from adult prisoners, the several courts and police justices of the State, with the consent and approval of the secretary of the State Board of Charities and Corrections of this State and with the consent of the said farm board, may, in their discretion, commit the said juvenile to any such farm for an indeterminate period not to exceed one year to be dealt with in such manner and required to do such work as will promote the best interest of said juvenile and the Commonwealth; and

WHEREAS, the commitment of juveniles to jail for misdemeanor is discountenanced inasmuch as the law declares that unless the ends of justice demands otherwise children should not be committed to jail, workhouse or police station; and

WHEREAS, the city farm is established for misdemeanants in lieu of the jail; and

WHEREAS, juvenile and adult offenders should not, in the opinion of this Board, be incarcerated in the same institution; and

WHEREAS, the providing of separate quarters on city farms for the reception of juvenile offenders means nothing more than the multiplication of juvenile reformatories; and

WHEREAS, the Board of Charities does not believe it wise to multiply juvenile reformatories:

THEREFORE, BE IT RESOLVED, That the State Board of Charities and Corrections hereby expresses the opinion that the secretary of the Board should not consent to the commitment of children under eighteen years of age to city farms by the judges and justices of the Commonwealth.

Resolution adopted by the State Board of Charities and Corrections, June 7, 1918.

# Summary and Analysis of the Juvenile Laws in Virginia

The juvenile court is a unique institution. It is, indeed, a **court**, but it is different from its parent, the criminal court, in several material respects. The most important and most striking difference is in **its point of view**. Under the criminal law system of Virginia, and indeed of most of the States, the sole question at issue in a trial is—**Is the accused guilty of the offense charged?** All evidence not directly pertinent to this issue is rigidly excluded. Once this question is answered in the affirmative, the inexorable law takes its course, and to the offender is meted out that punishment which is deemed commensurate with his crime. Under this system scant consideration is given to the age of the offender—none if he is over the age of fourteen years. The question in the case of a child, as in that of an adult, is—**Is he guilty? If so, what penalty must he pay?** There is no thought of the prisoner's welfare. If he is sentenced to the jail or the penitentiary, or even though he is committed to the reformatory, it is not because in one or the other of these institutions he will receive education, training and discipline fitting him for the duties of citizenship (the reformatory is the only institution that even attempts to do this). That sentence is the penalty which the State imposes upon him for having violated one of its laws. The controlling motive of the criminal law system is punishment, retribution, revenge!

The controlling purpose of the "juvenile court system" is this—**To make of every child coming before it a self-supporting, self-respecting, law-abiding citizen.** It deals with the offending juvenile just as a fond parent deals with his erring child. **It looks at the child and his welfare—not at the offense and retribution to be exacted therefor.** That is what we mean by the **new point of view.**

Of course the question must still be asked—Is the accused guilty of the offense charged? However, should this be answered in the affirmative, the question then becomes—**Not, what penalty must he pay—what must we do to him?** But rather—What training does he need—what can we do **for** him? What supervision, education, training, or even punishment will best serve to break the bad habits that he is forming and to develop him into a good citizen? To accomplish this end it is necessary to ascertain the primary causes of the child's delinquency—**Why did he commit this offense?** And then, if possible, remove those causes. It may be that the child is physically or mentally deficient and that the defect can be remedied by medical treatment or an operation. It may be that his home surroundings are vicious and bad, and that a good home, with its helpful training, is what he needs, or possibly the child has been associating with companions who have "put him up" to commit the offense. All these outside influences and many others

are among the causes of juvenile delinquency. Remove the cause, and "Give the Kid a Chance," under proper influences and supervision.

The laws herewith presented have been enacted by the General Assembly of Virginia for the purpose of putting into effect in this State the principles of the new system. The following is a working analysis of those laws:

### The Detention Home.

One of the most flagrant injuries done the child under the old system. was the practice of confining him in a jail or station-house while awaiting trial, or even at times to serve the sentence which has been pronounced upon him. Here he was thrown with adult prisoners, among whom there were generally hardened criminals, and instead of being removed from evil influences he was actually placed in the worst sort of environment—in a veritable school of crime.

To remedy this ancient abuse the Virginia law expressly provides that—

> "No court or justice, unless the offense is aggravated, or the ends of justice demand otherwise, shall sentence or commit a child under eighteen years of age, charged with or proven to have been guilty of any crime to a jail, workhouse or police station, or send such a child on to the grand jury, nor sentence such a child to the penitentiary" * * * Section 2, chapter 350, Acts of the Assembly, 1914.

And to further emphasize the controlling motive of the statute, section 14, idem, thus states the rule which shall guide the court in dealing with the erring child, namely:

> "This act shall be construed liberally as to its objects and powers, to the end that its purpose may be carried out, to-wit: that the care, custody and discipline of the child may approximate as nearly as may be that which should be by its parents, and protect the child, where possible, from the stigma of the jail and the contaminating influences of associating with criminals."

To comply with this requirement of the law it is necessary that cities, towns and counties shall provide places of detention, other than the station-house or the jail for their juvenile offenders. Various methods have been tried in the many States and cities where juvenile courts now exist, and a brief review of these several methods will be here given.

The ideal arrangement, of course, is for the city or the county to own and operate its detention home—to rent or own a building and equip it for this purpose. This plan, however, is not practicable except in the larger cities or the closely populated counties, or where a city and one or more counties co-operate in the maintenance of a single home. Probably the next best plan is for the city or county to rent a portion of a building which is already equipped and used for a similar

purpose, and use the floor or rooms thus provided for detention quarters. In this event the municipal or other local authorities would still have to arrange for management and maintenance of the home. A third method, which has been tried very successfully in some localities, is that of boarding the juvenile wards of the court in institutions (conducted for the care of children) or in selected family homes. This is probably the most practicable method for small cities, towns and country communities. As institutions which are in a position to render this service are not to be found in every community, chief reliance will have to be placed in the "family home." The homes chosen for this purpose should be carefully selected, and the person contracted with should fully understand the nature and importance of that which he (or she) is undertaking to do. No child should be placed, even temporarily, in anything but a good home—a home where the influences will be moral and uplifting, and where the child will be firmly but kindly treated. In the home or homes thus selected one or two rooms may well be fitted up as strong rooms, for boys or girls who are very incorrigible and unruly.

Whatever the arrangement made for the detention of the juvenile offender, let this ever be the guiding purpose—"**That the care, custody and discipline of the child may approximate as nearly as may be that which should be by its parents.**"

**The Investigation.**

After providing a proper place of detention the next step which the court should take, if it would deal intelligently with the child before it, is to ascertain the causes of the child's delinquency. A boy breaks into a store. Did he do this in a "spirit of play"?—often that is the sole motive back of such a deed. Or had he a bad home and was he driven to steal through want? Or had he associated with older boys or men who had put the idea into his head? Or had he frequented moving pictures or read dime novels, and from such a source gotten the idea? Many juvenile offenses can be directly traced to one of these sources. Many other factors could be enumerated among the "causes" of juvenile delinquency, but these are sufficient to illustrate the point, that the important thing is—not what did the child do? but, **why did he do it?**

Section 5 of chapter 350, supra, provides, "That for the purpose of aiding the court in a proper disposition of the cases and matters arising under this act, the judge or justice may * * * appoint one or more **suitable persons** probation officers for the court, **whose duty it shall be to make** such **investigation of cases involving children** under eighteen years of age as the court may direct, to be present in court in order to **represent the interests of the child when the case is heard, to furnish the court such information and assistance as it may require, and to take charge of any such child before and after the trial** as may be directed by the court, and to perform such other duties as the court may confer upon him."

In order that the investigation of a child's previous history and the surounding circumstances of a case may be of value to the court, it is absolutely essential that a **"suitable person"** shall be chosen for this important work. "The most effective probation officers are those who are able to establish close, natural relationships with the children and families with whom they deal. No general rule can be laid down as to what kind or type of persons have this qualification. Even as between volunteer and paid officers, it is a **question** rather of **personality, training, and experience** than of mere fact of compensation" * * * "As a general proposition, the function of probation is such a delicate and continuous service that only persons who give their whole time to it can be expected to influence effectually the lives of the children committed to their care. It is just as necessary to have paid probation officers giving their whole time as it is to have paid employees in institutions caring for children, or paid teachers in the schools."*

In many localities, however, it will be necessary to rely either upon police officers and constables or upon "volunteer" probation officers (persons who work without compensation). The regular police officer or constable will seldom make a successful probation officer for juveniles, because it is almost impossible for him to approach the case with the proper perspective. It has so long been his duty to search for evidence against the accused and to ignore all other facts and circumstances, that it is hard for him to enter into the investigation with an unbiased mind. If, however, a careful selection is made there may be found among the "force" one or more men who will handle this work reasonably well.

In every community there can probably be found persons who will volunteer their services for probation work, but "the use of volunteer officers presents a difficult problem. Difficulties are met at once in enforcing the responsibility of such officers to the court and in control over them by the court in the handling of children. Some volunteer officers are easy to hold to their responsibilities—especially such persons as school principals, school teachers, visiting teachers, public officials, policemen, firemen, charity organization workers, settlement head or a boy's club leader, many of whom are highly qualified for the work. Most frequently, however, the volunteer officer is not trained to deal with children, and can be held to definite responsibility only by incessant oversight." (Juvenile Courts and Probation, p. 118.)

As a general proposition it may be said that it is always better to have at least one paid probation officer, who definitely recognizes the investigation of cases and supervision of "probationers" as a part of his work, and who can be held to definite responsibility. If the work is not sufficient to require the entire time of any one person, then it would be a good plan to secure the services of such a person as a Y. M. C. A. Boy's Secretary, or a broad-minded school teacher to give a part of his time to probation work, placing a definite responsibility upon him to see that it is done. As a last resort, capable persons who can and

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*See "Juvenile Courts and Probation," by Bernard Flexner and Roger N. Baldwin, published by the Century Company, N. Y., 1914.

will volunteer their services may be appointed probation officers, but care should be used to select only those who are really qualified for the work.

The scope of this article is too limited to give at length the details of an investigation and what it should cover. Suffice it to say that this investigation should cover some, and if possible, all of the following points:

1. The child's home and neighborhood—What are the influences?
2. Habits and associations of the child.
3. Church and club affiliations.
4. The mental and physical conditions of the child.
5. His special interests and abilities.
6. His school record.
7. His employment record.

"Every investigation should cover at least an interview with the child, and a visit to his home, including an interview with his parents or guardians. In many cases, it is helpful to talk with present or former neighbors, and especially the family physician. In all cases except those of very little children, the school record should be secured direct from the school."—Juvenile Courts and Probation, p. 37.

Of course trivial cases, such as throwing rocks in the streets, violations of city ordinances, etc., will require little or no investigation—an interview with the child and his parents will be sufficient; but every case of any importance should be given a careful and thorough investigation.

**The Tribunal.**

Chapter 57, Acts of 1914, provides, "in cities containing 50,000 inhabitants or more, for the election of a special justice of the peace, to be known as the justice of the Juvenile and Domestic Relations Court." This court, as its name implies, will, wherever established, have general jurisdiction of all cases and matters affecting delinquent and dependent children, adults charged with contributory delinquency, and parents or husbands charged with neglect of children or wife.

It is not necessary, however, that such a court shall be established in order for the principles of the Juvenile Court system to be put into practice. Every court of record of general criminal jurisdiction, every police justice or justice of the peace, before whom children are brought under the terms of chapter 350, supra, and similar statutes, can, and indeed they are expressly required to deal with the child in the manner prescribed in that act. **It matters not before what tribunal the child is brought. The important thing is that the presiding judge or justice shall apply the spirit and carry out the purpose of the "Juvenile Court Idea."** Let him look, not so much at the offense committed as at the life that is at stake, and let him act with an eye single to the child's welfare and his ultimate redemption and restoration to society.