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MILWAUKEE'S APPROACH TO JUVENILE AND DOMESTIC RELATIONS CASES

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THE word "family" immediately calls up a mental picture of a group of individuals closely related by blood ties, living together in one home: eating their meals together, making plans together, interdependent upon each other for the necessities and comforts of daily life and, in particular, mutually influencing each other through all the intimate associations of shared responsibilities and pleasures. But when that unit ceases to rotate in the normal course around its axis and gets so far out of line that at some point it comes in contact with the law, what happens to the aspect of interdependence and mutual influence? In most instances that aspect disappears entirely and each individual is dealt with as though he had no connection whatsoever with the other members of the group, not to mention the added confusion caused by unrelated treatment given to different phases of one individual's conduct.

The United States Bureau of the Department of Labor has made a careful study, carried on over a period of nearly four years, of the legal methods used in each state for handling problems which arise out of the family relationship. The legal research was carried on by Bernard Flexner of the New York Bar and Reuben Oppenheimer of the Baltimore Bar working with Katharine F. Lenroot of the Children's Bureau. The results of this study were published under the title of "The Child, the Family and the Court"¹ together with a chart² which sets forth the statistics on which it is based. As that is the most complete and authentic study that has been made of judicial procedure in juvenile and domestic relations cases, it can well be used as a standard in discussing the situation in any given community; and this article will follow the same classification there used, dividing the whole problem into six general types of cases:³

1. Children's cases covered by juvenile court laws including delinquent, dependent and neglected children.
2. Offenses against children including contributing to delinquency and dependency and specified crimes against children.
3. Cases of desertion and non-support of children.
4. Cases of divorce and separate maintenance when children are involved.

¹ Children's Bureau Publication No. 193 (1933).

² Children's Bureau Chart No. 17 (1930).

³ Children's Bureau Publication No. 193, p. 5 (1933).

5. Proceedings for the establishment of paternity and the enforcement of support of children born out of wedlock.

6. Children's cases usually within the jurisdiction of probate courts, including adoption, guardianship of the person and commitment of mentally defective and insane children.

PRESENT SITUATION IN MILWAUKEE COUNTY

1. Children's cases covered by juvenile court laws including delinquent, dependent and neglected children.

All cases in this group, of children under eighteen (with concurrent jurisdiction over children between the ages of 16 and 18), are handled by the juvenile court under the Children's Code.⁴ It is a special court presided over by a judge selected once a year by all the judges of the courts of record in the County, from one of their number.⁵ The hearings are held in the Detention Home apart from any other court work and are informal, only persons interested in the case and the necessary officials being present. The Press is admitted but by rule of court pursuant to law, publication of the names and addresses of the children brought before the court is forbidden.⁶ In addition to the cases actually heard by the Juvenile Court in session, a great number of cases, in fact by far the greater number, are taken care of informally by the Juvenile Court Probation staff without the necessity of a court hearing.

2. Offenses against children, including contributing to delinquency and dependency and specified crimes against children.

Where the conduct of an adult (person over 18) is such as to fall within the definition of a misdemeanor, whether under city or county ordinance or state law, he is tried in the District or Police Court even though the misdemeanor was committed against or involved a minor under eighteen, and, in like manner, an adult accused of a felony is tried in the Municipal or general criminal Court. The only exception is that under the Children's Code an adult may be proceeded against in the Juvenile Court for contributing to the delinquency or dependency of a child found to be delinquent or dependent by the Juvenile Court.⁷ In such case, among other things, an order may be made for the support of the child and the money paid to the Clerk of the Juvenile Court.⁸

3. Cases of desertion and non-support of children.

Abandonment, which includes non-support and desertion, is a fel-

⁴ Sec. 48.01 (5) (a) Wis. Stats. (1933). The children's code was first passed as chapter 439 Wis. Laws of 1929.

⁵ Sec. 48.01 (2), Wis. Stats. (1931).

⁶ Sec. 48.01 (3), Wis. Stats. (1933).

⁷ Sec. 48.01 (5, c), 48.08, Wis. Stats. (1933).

⁸ Sec. 48.08, *supra*, note 7.

ony⁹ and the defendant is tried in the Municipal Court¹⁰ with a preliminary hearing, if he so desires, in District Court. The warrant is authorized by the District Attorney and the preliminary investigation is carried on, sometimes by a member of the District Attorney's staff and sometimes by the Domestic Relations Department of the Department of Outdoor Relief, (the County Relief agency). In many instances an attempt is made by the Domestic Relations Department of the Department of Outdoor Relief to enforce support without the necessity of court action and payments are made by the husband and father through the Department of Outdoor Relief. If a warrant is issued and the defendant convicted, he may be sentenced or he may be put on probation and ordered to make payments through the Probation Department of the Municipal Court.¹¹

4. Cases of Divorce and Separate maintenance where children are involved.

All divorce cases, and there are about 1500 divorce judgments a year in Milwaukee County, are tried in Circuit Court with the Divorce Counsel, a member of the District Attorney's staff,¹² making investigation to prevent collusion and appearing to represent the State in all default cases.¹³ There are eight branches of the Circuit Court and a contested case is assigned to any one of the eight branches. All default divorces, motions to set alimony and support money, and contempt motions to enforce such orders are heard in the calendar branch which is presided over by each of the eight judges in turn for a period of two months, except during July and August when the judges rotate every week. All payments of alimony and support money ordered by the Circuit Court are paid through the office of the Clerk of the Circuit Court. The alimony department has at all times about four thousand active alimony accounts.

When payments are in arrears, the wife may employ her own attorney to assist her in making collection, or, if she cannot afford to employ her own attorney, she may have free of charge the services of the Clerk of the Circuit Court and the Divorce Counsel who will take the necessary steps for her.¹⁴ As a matter of policy, abandonment warrants are not resorted to for the collection of alimony unless the defaulting ex-husband is outside the state and it is necessary to call into action the machinery for extradition.

Except for the investigation required of the divorce counsel which, due to the tremendous pressure of work, must of necessity be perfunc-

⁹ Sec. 351.30. Wis. Stats. (1933).

¹⁰ Sec. 351.31 Wis. Stats. (1933).

¹¹ Sec. 351.30 (4), Wis. Stats. (1933).

¹² Sec. 247.13, Wis. Stats. (1933).

¹³ Sec. 247.14, 247.15 Wis. Stats. (1933).

¹⁴ Sec. 247.29, Wis. Stats. (1933).

tory, there is no means of getting at the true cause of the marital rift. In a few cases where the custody of the minor children is seriously contested the matter is referred, by consent of the parties, to the Juvenile Court. One of the probation officers then gathers the necessary information and makes his report on home conditions to the Circuit Court. Because of the limited juvenile probation staff this service can be called upon only in extreme cases.

5. Proceedings for the establishment of paternity and the enforcement of support of children born out of wedlock.

Complaints in illegitimacy cases are made to a member of the District Attorney's staff.¹⁵ If he is satisfied that there is a prima facie case, the alleged father is called in or a summons or warrant issued by the Clerk of the Civil Court. In many instances a paternity agreement and financial settlement is arranged informally in the District Attorney's office and approved by Civil Court.¹⁶ If the case goes to trial, it is heard by any one of the seven branches of the Civil Court. All payments for the support of illegitimate children are made to the Superintendent of the Department of Outdoor Relief as trustee,¹⁷ and in case of non-payment, abandonment proceedings are instituted as set forth in Section 3 above.

6. Children's cases usually within the jurisdiction of probate courts, including adoption, guardianship of the person and commitment of mentally defective and insane children.

The cases in this class are under the jurisdiction of the County Court and are heard in either of the two branches although the preliminary steps may have been taken by the Juvenile Court. Under the Children's Code all proceedings in adoption matters are kept in a locked file¹⁸ and can be withdrawn only upon order of the court. The code also provides for investigation by the State Board of Control or some other agency of homes into which children are placed for adoption.¹⁹

In addition to the above classes of cases there are a number of lesser criminal offenses between members of a family which are more domestic than criminal in character because of the circumstances under which they arise, e.g., assault and battery, threatening to kill, vagrancy by reason of being a common drunk, where the complainant is a member of the accused's immediate family.

A great number of domestic complaints where no legal action is desired or is practicable are heard by the Domestic Relations Officer

¹⁵ Sec. 166.08, Wis. Stats. (1933).

¹⁶ Sec. 166.07, Wis. Stats. (1933).

¹⁷ Sec. 166.18, Wis. Stats. (1933).

¹⁸ Sec. 322.06, Wis. Stats. (1933).

¹⁹ Sec. 322.02, Wis. Stats. (1933).

on the District Attorney's staff and by the Domestic Relations Department of the Department of Outdoor Relief.

It will readily appear from the above exposition that legal procedure in cases arising out of the family situation is so spread around among the several courts and various departments of municipal government as to cause great confusion. As each separate court and department has its own records with no central clearing house of information, it is a tedious matter and often one of great difficulty to get a complete record of the domestic discord and the treatment thereof in any one family. It is perfectly possible for a mother to be tried as a common drunkard in the District Court, the father for abandonment in the Municipal Court, and the children brought into the Juvenile Court as delinquent, and for the Circuit Court to hear a divorce case arising out of the whole situation without ever learning of the other court proceedings and this through no fault of the attorneys or Divorce Counsel. The social situation leading up to the court proceedings is, in each instance, both cause and effect of all the others. Complete justice cannot be dispensed in any one of the cases because the court trying it is ignorant of the whole situation, or if it has knowledge of it, is powerless to act except in a restricted area.

EFFECT OF FAMILY COURT LAW

The so-called family court law²⁰ which will go into effect July 1, 1934 is designed to alleviate this situation to a great extent. It does not affect the jurisdiction of the several courts but it does provide, in addition to creating a ninth branch of the Circuit Court,²¹ for changes in administration to promote efficiency in handling domestic relations problems and for co-ordination between the courts and administrative departments.

The Juvenile Court is left as it now exists except that the judge must be selected from among the nine Circuit judges and shall preside in Juvenile Court for a term of at least two years instead of for one year only.²² This is in line with the recommendations of "The Child, the Family and the Court" which urges that no steps be taken to better the handling of general domestic relations problems which will in any way subvert the gains already made in dealing with the first class of cases referred to above.²³ It also recommends the extension of

²⁰ Ch. 428, Wis. Laws, 1933, as amended by c. 432, sec. 2, 3, and 4, Wis. Laws, 1933, and c. 9 Wis. Laws (Special Session), 1933.

²¹ Sec. 252.07 (1) (b), Wis. Stats. (1933).

²² Sec. 48.01 (2), Wis. Stats. (1933).

²³ Children's Bureau Publication No. 193, p. 50 (1933).

the term of the presiding judge to aid in the development of a specialized technique for the work.

The law further provides that one branch of the Circuit Court be designated for a term of not less than two years²⁴ to hear all cases arising under the laws relating to marriage, divorce, annulment and *habeas corpus* of persons under eighteen years of age.²⁵ As a divorce case involving a continuing order for alimony and support money and the custody of children is not over and done with upon the entry of judgment, it is advantageous to have one judge hear such matters over a continued period of time. He can keep the situation under better control and the parties, free from conflicting orders made by successive judges, will tend to carry out with a better spirit the orders that are made. Elasticity to take care of any imbalance of work among the nine branches and particularly between the domestic relations branch and the branch presided over by the judge selected to act as Juvenile Court judge is provided for, but keeping the control of these types of cases within the family court branches.²⁶

Further cooperation is provided for in the establishment of a department of domestic conciliation to assist the two branches of family court and to receive and dispose of all domestic relations complaints of any nature whatsoever.²⁷ This is simply a matter of good business administration. The County Board is empowered to gather into one department all the county employees dealing with domestic relations problems²⁸ This does not go to the question of patronage or who shall appoint the employees but it does go to the question of a central physical location of such employees and of a central, coordinated filing system. It is obvious that if all domestic relations complaints of any nature whatsoever were handled in one central office, then whatever court heard the specific case would have ready access to a complete history of what had taken place in that family up to the present time. The files may be kept private²⁹ except when required for court use and they will merely furnish to the judge in a few minutes what he might otherwise take an hour or more to elicit by the question and answer method. It also provides that where the judge determines additional information necessary such as a wage statement, which is now frequently presented to the court by the attorneys in the case, or, on a question of custody, he will have access to a greater force of Juvenile Court proba-

²⁴ Sec. 252.07 (3) (b), Wis. Stats. (1933).

²⁵ Sec. 252.07 (3) (c), Wis. Stats. (1933).

²⁶ See note 25.

²⁷ Sec. 252.07 (9) (a), Wis. Stats. (1933).

²⁸ Sec. 252.07 (11), Wis. Stats. (1933).

²⁹ Sec. 252.07 (9) (b), Wis. Stats. (1933).

³⁰ Sec. 252.07 (9) (d), Wis. Stats. (1933).

tion officers³⁰ do the type of work that they are now doing in the Circuit Court as described in Section 4 above.

Because of the great number of divorces tried every year, it is improbable that the court can have or would want detailed information on every case. The additional information is usually needed where the parties are unable to work out the solution of their difficulties by themselves or through their attorneys. If they have sufficient intelligence and poise to agree to disagree and can stipulate as to alimony and custody, doubtless no further information will be necessary other than that furnished by the Divorce Counsel. If at a later date they prove to the court and the public that they cannot manage by themselves, and it is necessary to enforce the provisions by a contempt motion then at that time, the court can obtain the information necessary to decide the motion.

There has been some speculation as to whether the new procedure, or rather extension of an old procedure already begun, will tend to induce attorneys to begin divorce actions in other counties. Probably not to any great extent in view of the fact that if a continuing order for alimony or support money is sought, it is not practicable to travel to any great distance from the place of residence. The Circuit Courts of Milwaukee County are reluctant to enforce alimony and support money orders made in other circuits and the beneficiary of such an order must then make repeated trips to the other county to enforce payments.

The movement towards co-ordinated and efficient handling of juvenile and domestic relations cases is spreading throughout the United States. It is not to be hoped that it will prove a panacea for all ills or that it will reduce the divorce rate in one generation, but it is to be expected that it will relieve to a great extent the "conflicts with reference to the children's care, education and guidance often incident to divorce or separation and frequently disastrous in their effects on the children."³¹

³¹ Children's Bureau Publication No. 193, p. 43 (1933).