

Opinion No. 25-3798

February 12, 1925

BY: JOHN W. ARMSTRONG, Attorney General

TO: Requested by: Hon. R. G. Bryant, Santa Fe, New Mexico.

The Act Providing Salary of \$ 750.00 as Juvenile Court Judge payable to District Judges in Addition to the Latter's Regular Salary is Constitutional.

OPINION

Your inquiry follows:

"I will ask you to please give me an opinion as to the constitutionality of the latter part of Section 2, Chapter 87 of the Laws of 1921."

"The judicial power of the state shall be vested in the senate when sitting as a court of impeachment, a supreme court, district courts, probate courts, justices of the peace, and such courts inferior to the district courts as may be established by law from time to time in any county or municipality of the state, including juvenile courts." Sec. 1, Art. 6, St. Const.

It may be assumed from reading the foregoing that it was not contemplated District Judges should likewise be required to sit as Juvenile Courts. If the legislature imposed the duties of both the Probate Court and that of Justice of the peace on the District Judge, it could not be said the Constitution contemplated such a course. In performing the office of District Judge and that of Juvenile Judge, therefore, we conclude the incumbent is performing the duties of two offices and may be paid a salary for each.

There is no legal objection to such a person holding more than one office and receiving pay for each provided he properly performs the duties of each and such duties are not incompatible. I have examined the different Acts relating to the Juvenile Court and find nothing to indicate incompatibility between that office and that of the District Court. Even cases appealed from the Juvenile Court do not go to the District Court but immediately to the Supreme Court.

There appears to be no duty imposed on District Judges by the Constitution to justify the additional duties imposed on them by statute relating to Juvenile Courts without additional pay.

We think Sec. 2, Chap. 87, S. L. 1921 is constitutional. We have examined the authorities you cited and believe they support this view.