

OFFICERS - Probation officer is a county officer, and as such is entitled to receive a copy of the Revised Statutes under the provisions of Section 693, R. S. Mo. 1929.

January 9, 1935.



Honorable James S. Rooney
Prosecuting Attorney
Clay County
Liberty, Missouri

Dear Sir:

This is to acknowledge receipt of your letter dated December 28, 1934 requesting an opinion, which reads as follows:

"Our Circuit Clerk has a number of Revised Statutes for 1929 which are to be by him distributed in accordance with Section 693 of said statutes. Mr. J. Bert Smith, who is our Probation Officer in this county, has made his application to the clerk for a set of the statutes. The clerk called me and stated that he did not know whether Mr. Smith was entitled to these copies or not and asked me for my opinion.

"I told him that in my opinion he was entitled to the statutes basing it on the fact that in Section 693 I find the statement that he is to distribute these 'to each county officer'. I find the statement in 314 Missouri, at page 144, that the Probation Officer is a county and a public officer and that in determining his salary the statute relative to county officers apply. I cited the clerk this case, but he did not want to deliver the statute until he had an opinion from you."

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We assume from your letter that Mr. J. Bert Smith is the duly appointed Probation Officer of your county and has not been superseded by a Superintendent of Public Welfare, under the provisions of Section 14182, R. S. Mo. 1929.

Section 693, R. S. Mo. 1929, provides in part as follows:

"There shall be printed sixteen thousand copies of each volume of the Revised Statutes, which shall be received by the secretary of state, and by him held and disposed of as follows: *** To the clerks of the district and circuit courts of the United States, for the districts of Missouri, for the use of such courts, each two copies. To the clerks of the circuit court of the city of St. Louis, one thousand copies; to the clerk of the circuit court of Jackson county, five hundred copies, and to each of the circuit clerks of other counties in this state, not less than thirty-five nor more than one hundred and twenty-five copies (for which they shall give receipts), to be disposed of and distributed by said clerk as follows: To each county officer and justice of the peace, one copy, to be by him turned over to his successor in office; the remaining copies to be sold as hereinafter provided."

Section 14171, R. S. Mo. 1929 reads:

"The circuit judge shall designate or appoint an officer of the county or some other person to serve as probation officer under the direction of the court in cases arising under this article. The court may also designate or appoint one or more persons to act as deputy probation officers."

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In *Hasting v. Jasper County*, 314 Mo., l.c. 148, 149, 150, the court, in passing upon the question of whether or not a probation officer was a county officer, said:

"We have held that the words 'county officers' in their most general sense apply to officers whose territorial jurisdiction is co-extensive with the county for which they are elected or appointed. (State ex rel. Buchanan County v. Imel, 242 Mo. 293, l.c. 300)

"In 15 Corpus Juris, page 481, the following language is used: 'Where the duties of an office created by law are to be wholly performed within the limits of a county and for the people of that county, the salary to be paid by the disbursing officer of the county from the funds of the county, the office is a county office, and the person lawfully filling such office is necessarily a county officer.'

"The act, Chapter 21, Article VI, Revised Statutes 1919, providing for probation officers, provides for the care, custody and maintenance of the dependent and delinquent children, defines such children, gives to the circuit court of the counties, when sitting as a juvenile court, jurisdiction to determine whether or not a child is delinquent or dependent and to commit such children to a detention home or to the custody of some reputable person, and establishes the office of probation officer in every county whose duty it is to take charge of children found to be de-

linquent in the county for which he acts, make such investigations of children reported to be delinquent in such court, to be present in the juvenile court to represent the interest of any child when charges are preferred against such child, to furnish such information and be of such assistance to the juvenile court as the court might require and to file informations in said court. He is 'vested with all the power and authority of sheriffs to make arrests and perform other duties incident to their offices.' His duties are wholly performed within the limits of the county, his jurisdiction is co-extensive with the county for which he is appointed, he is appointed by the circuit court of the county sitting as a juvenile court and receives his salary monthly out of the funds of the county for which he is appointed.

"Our conclusion, from the foregoing, is that probation officers are public officers whose duties are created by law, are to be wholly performed within the limits of a county and for the benefit of the people of that county and whose salaries are paid by the county courts from the funds of such counties, and appellant is therefore a county officer, (Reed v. Hammond, 123 Pac. 346; Nicholl v. Koster, 108 Pac. 302) as these words are used in Section 11016, Revised Statutes 1919, and is correct in his contention that his salary is \$100 per month."

Honorable James S. Rooney

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We are, therefore, of the opinion that a probation officer is a county officer and is entitled to receive a copy of the Revised Statutes, under the provisions of Section 693, R. S. Mo. 1929.

Respectfully submitted,

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APPROVED:

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JLH:PE