

HABITUAL DRUNKARDS; Not confinable in state institutions  
under order of probate court.

June 1st, 1939.

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Hon. A. L. Luther,  
Prosecuting Attorney,  
Scotland County,  
Memphis, Misso ri.

Dear Sir:

This department is in receipt of your  
letter of May 29th, as follows:

"I would like to have an opinion  
in regard to whether or not under  
Section 509, Article 19, Chapter I,  
R.S. Missouri, 1929 if it is possible  
that this Section can be so construed  
that the Probate Court would have  
power to confine a habitual drunkard  
in the State Hospital at the expense  
of the County where the patient has  
no funds."

Section 509, R. S. Mo. 1929, reads as  
follows:

"All residents of this state, except  
those in the condition of senility,  
or suffering pain from incurable  
disease, who are or shall become  
habitual users of opium, cocaine, or  
of some salt or derivative of these  
drugs, to such an extent as to become  
what is commonly called or known as  
"dope fiends" or "addicts," shall be  
subject to involuntary confinement  
in the state hospitals for insane per-  
sons, under treatment by the medical

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staffs of such hospitals, for the cure of such habit, and for such period of time as shall be necessary to accomplish such cure. Persons so confined shall be entitled to be released when, and not before their appetite for such drug, or drugs, has been thoroughly eradicated, which cure shall, prima facie, depend upon the opinion of the hospital superintendent where the confinement occurs."

It is the opinion of this department that the probate court does not have the power under this section to confine habitual drunkards in any of the state institutions under any circumstances.

Section 508, R. S. Mo., 1929, provides that habitual drunkards may have guardians appointed, but distinguishes them from drug addicts.

It is our opinion, therefore, that habitual drunkards cannot be confined in state institutions under this, or any other, section of our laws, either at the cost of the county or with the costs to be paid from their estates.

Very truly yours,

APPROVED:

ROBERT L. HYDER  
Assistant Attorney General.

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J. E. TAYLOR  
(Acting) Attorney General.

RLH/rv