

SHERIFF FEES:

Sheriff not entitled to a fee for transporting prisoner when confined in jail in adjoining county because of insufficiency of local jail.

July 19, 1939



Honorable G. Logan Marr  
Prosecuting Attorney  
Morgan County  
Versailles, Missouri

Dear Sir:

We are in receipt of your letter of July 1, 1939, in which you request an opinion as to the right of a sheriff to charge a fee or mileage for bringing a prisoner confined in an adjoining county, because of the insufficiency of the local jail, back to the local county for the purpose of signing a recognizance. Section 8545 R. S. Mo. 1929 is the authority provided in the statute for using the jail of another county where the local jail is insufficient. It reads as follows:

"It shall be lawful for the sheriff of any county of this state, when there shall appear to be no jail, or where the jail of such county shall be insufficient, to commit any person, or persons in his custody, either on civil or criminal process, to the nearest jail of some other county; and it is hereby made the duty of the sheriff or keeper of the jail of said county to receive such person or persons, so committed as aforesaid, and him, her or them safely keep, subject to the order or orders of the judge of the court for the county from whence said prisoner was brought."

The following section 8546 provides that it shall be the duty of the sheriff of the county in which said jail is situated, to take or cause to be taken the person thus committed before the Circuit Court of the county appointed for the trial of such person. The following section 8547 again makes it the duty of the sheriff or keeper of the jail to bring the confined party before the court.

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From the above, it is apparent that your sheriff did not have a right to any fees for returning a prisoner to Morgan County to sign a bail bond and that he was not entitled to release the prisoner on recognizance, the prisoner being confined under the custody of the sheriff of the adjoining county.

We call your attention to the further fact that under section 11791, setting out the fees of sheriffs in cases where the prisoner is transported to another county, the court having jurisdiction of the offense must allow the fees of the sheriff and that therefore, he could not properly present such a bill in his monthly accounts to the county court.

Respectfully submitted,

ROBERT L. HYDER  
Assistant Attorney-General

APPROVED:

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COVELL R. HEWITT  
(Acting) Attorney-General

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