

SHERIFFS IN
THIRD CLASS
COUNTIES:

Sheriff who has been appointed to serve as probation officer in a county of the third class shall be allowed and paid by the county the necessary expenses incurred in delivering girls to the State Industrial Home at Chillicothe, Missouri, and return and the necessary expenses paid on account of said girls.

December 16, 1949

Mr. Charles E. Ginn
Prosecuting Attorney
Lawrence County
Mt. Vernon, Missouri



Dear Sir:

I.

We have the following request for an official opinion from you, which request reads as follows:

"I would like your opinion as to the fees allowed to the Sheriff for taking girls from this county committed to the Girls school at Chillicothe by commitment of the juvenile court.

"Our sheriff recently transported two girls so committed to the Industrial Home at Chillicothe, and he employed a woman attendant to assist him. He made the trip in his own automobile and completed the round trip in one day. What would be his fees for such trip? Under what Sections of law do you determine the same?"

Section 9004, as amended by Laws of Missouri, 1947, Volume 2, page 320, provides as follows:

"In all cases in which children are committed to the board of training schools, the juvenile officer shall deliver the children to the institution designated by the board, and shall be allowed the necessary expenses incurred in such delivery for himself and the child and in returning therefrom, to be paid by the county."

In your letter requesting the opinion you did not state that the sheriff had been appointed or designated by the juvenile division of the circuit court of your county to act as the juvenile officer for the commitment of the girls from your county to the

Mr. Charles E. Ginn

State Industrial Home for Girls at Chillicothe, Missouri. We assume that he was so appointed or designated by the court and therefore when acting as the juvenile officer for delivering the girls to said institution he would be entitled to his necessary expenses incurred in such delivery for himself and the girls and in returning therefrom.

Section 9708, R. S. Mo. 1939, provides as follows:

"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."

Section 9711.2 Mo. R.S.A. 1939, Laws of Missouri, 1945, page 630, Section 1, provides as follows:

"The probation officer in counties of the third class shall receive such salary as the circuit court may with the approval of the county court prescribe, not exceeding \$1,000 per annum in counties of 20,000 or more inhabitants and not exceeding \$300 in counties of less than 20,000 inhabitants. Deputy probation officers in counties of the third class shall receive such salaries as may be prescribed by the circuit court with the approval of the county court, not exceeding \$500 per annum in counties of 20,000 or more inhabitants and not exceeding \$200 per annum in counties of less than 20,000 inhabitants."

We do not know whether the sheriff of your county has been appointed the probation officer of your county by the circuit court under the authority of the quoted sections. We believe, however, that the Legislature used the words juvenile officer in Section 9004 in 1947 to mean the same as probation officer in Sections 9708 and 9711.2, cited above, because in 1945 the Legislature in enacting laws relating to juvenile courts in second class counties stated as follows:

"In all counties of the second class, the probation officers and deputy probation officers and deputy probation officers, mentioned in this act, shall be known as

Mr. Charles E. Ginn

juvenile officers and deputy juvenile officers, respectively, and every reference to the former shall include the latter. The juvenile and deputy juvenile officers shall have all the powers and duties of, and be subject to all statutes applicable to probation and deputy probation officers." Laws of Missouri, 1945, page 633.

The duties of a juvenile officer are the same as the duties of a probation officer in this state, and that is another reason why we believe that there is no real difference between a juvenile officer and a probation officer.

Section 9004, R. S. Mo. 1939, before its amendment in 1947, provided in part as follows:

"* * *Sheriff, marshall or other person charged with the delivery of any person to the Missouri Training School for Boys shall be allowed the necessary traveling expenses of himself and such person, and a per diem of \$2.00 for time actually occupied in taking such person to said Missouri Training School for Boys and in returning therefrom * * *"

There is no provision in the present amended section 9004 for the sheriff to act in delivering children to the proper institution for children committed by the juvenile court. The commitment must be carried out by the juvenile officer or probation officer appointed under the statute relating to the class of county in which said officer shall act. In your county the appointment would be made under the authority created by the Legislature in Sections 9708 and 9711.2, cited above, or the county court may appoint a county superintendent of public welfare instead of a probation officer by and with the approval of the juvenile court in accordance with Section 9719, Mo. R.S.A. 1939, as reenacted by Laws Mo. 1943, page 351 and Laws of Missouri, 1945, page 629. If a county superintendent of public welfare is appointed then he would act as the juvenile officer. The juvenile officer or probation officer is paid a salary as fixed by the circuit court in accordance with the limits fixed by the Legislature and he cannot charge any fees or per diem for his time or services in transporting children to the institution under the control of the State Board of Training Schools.

Said Section 9708, quoted above, provides for the appointment of one or more persons to act as deputy probation officers and they are paid a salary according to the order of the circuit

Mr. Charles E. Ginn

court with the approval of the county court within the limit set by the Legislature. If the woman attendant which the sheriff employed to assist him in transporting the girls to the State Industrial Home at Chillicothe, Missouri, had not been appointed by the circuit court to act as a deputy probation officer then she would not be entitled to any compensation or traveling expenses.

If she had been appointed deputy probation officer and the order of the juvenile court provided for her to assist the juvenile officer in the delivery of the girls to the State Industrial Home then she would receive her necessary expenses incurred in carrying out the delivery.

CONCLUSION

It is the conclusion of this department that when a sheriff of a third class county has been appointed to serve as a probation officer of that county and acts as the juvenile officer under Section 9004 as amended by Laws of Missouri, 1947, Volume 2, page 320, he shall be allowed and paid by the county the necessary expenses incurred in delivering girls to the State Industrial Home at Chillicothe, Missouri and return including any necessary expenses on account of the girls for meals, lodging and similar expenses.

Respectfully submitted,

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Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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