

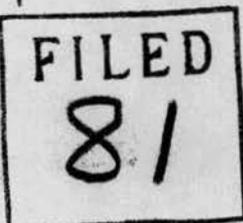
**ELEEMOSYNARY INSTITUTIONS:**  
**STATE SANITARIUM:**

The county of residence of a poor person in this state is the county from which such a poor person may be sent to the state sanitarium.

March 20, 1951

Honorable Gordon C. Shaffer, Jr.  
Assistant Prosecuting Attorney  
Buchanan County  
St. Joseph, Missouri

3-21-51



Dear Sir:

Your letter of February 28, 1951, is further acknowledged. You have asked the Attorney General the following question:

"A man by the name of Elmer L. Smith was sentenced to serve ten years on November 13, 1946 by Judge Bridgeman (now deceased) in the Circuit Court of Andrew County. It appears that Smith's residence was in Buchanan County, Missouri.

"Mr. Francis J. Holley, the State Probation and Parole Officer in St. Joseph, received a letter from the State Board of Probation and Parole requesting that the Buchanan County Court issue an order for the admittance of Elmer L. Smith to the State Hospital at Mt. Vernon. It seems that Elmer Smith has developed a tubercular condition of such severity that the State Prison Physician has recommended Smith's transfer to the hospital in Mt. Vernon.

"Since this man was sentenced in Andrew County would you please inform this office whether or not the proper court order should be given by the County Court of Andrew County or by the County Court of Buchanan County."

It is understood from your statement in the above quoted letter that: one, prior to the sentence by the court in Andrew County, Elmer L. Smith was a resident of Buchanan County; two, that he had been a resident of Buchanan County for more than one year; three, that Smith is a poor person.

Honorable Gordon C. Shaffer, Jr.

Statutory provisions for the admission to the State Sanitarium at Mt. Vernon, Missouri, are quoted, in part as follows:

Section 199.030, RSMo 1949, (Section 9382, R.S. Mo. 1939), which due to its length is quoted, in part:

"\* \* \* no person shall be admitted who has not been a citizen of this state for at least one year preceding the date of application. Each person desiring free treatment at said sanatorium shall apply under oath to the county court in which he or she may reside, \* \* \* If the county court shall find that the applicant is a suitable case for admission as a free patient to the sanatorium, then the county shall cause an order to be issued for the admission of the applicant and shall immediately transmit a certified copy of such order to the superintendent of the institution. Such county orders shall upon receipt by the superintendent be entered in a record book, and the superintendent, so far as practicable, shall admit such applicants as their names appear on the record book; provided, however, that admissions from the various counties, in case there is a waiting list, shall be prorated according to the population of the counties."

In regard to the support of such a free patient, Section 199.040, RSMo 1949, provides as follows:

"The division of health shall fix the sum due for the care and treatment of free patients at a rate not to exceed seven dollars and fifty cents per month for each patient. Such sum shall be collected from the several counties as provided by law."

Sections 31.030, 31.040, and 31.050, RSMo 1949, provide a system for the collection of the money due from those responsible for the support of patients, and more specifically in regard thereto, Section 31.050, RSMo 1949, provides:

"It shall not be lawful for the superintendent \* \* \* to receive any person as a patient until the sum or sums required by law to be paid by any county \* \* \* for the support of such patient has been paid to the department of revenue as provided by law. \* \* \*"

Honorable Gordon C. Shaffer, Jr.

In regard to the responsibility of the county of residence attention is called to the somewhat general provision of our statutes regarding poor persons. Section 205.580, RSMo 1949, (9590, R.S. Mo. 1939) provides:

"County to support poor. - Poor persons shall be relieved, maintained and supported by the county of which they are inhabitants."

The responsibility of the counties of this state for their residents has been decided on many occasions by the courts in matters concerning the insane poor and in regard to that, it has been said:

In *Walton v. Christian County*, 235 Mo. 385, 1.c. 389:  
" \* \* \* The liability of the counties of the state imposed by statute in cases like the present is conditioned upon the residence and insolvency of the criminal at the time of the conviction and his subsequent insanity while in the penitentiary. \* \* \*"

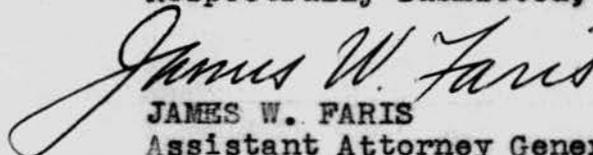
In *State v. Smith*, 96 S.W. 2d, 40, 1.c. 41, the court said:  
"(2) We are of the opinion that it is the duty of a county to support the poor who are within its boundaries. \* \* \*"

In accordance with the statutes and the opinions of the courts construing and interpreting them, it is the duty of the county of residence to support a poor person. No statute or court decision has been found divesting the counties of this burden. No statute or court decision has been found which fixes the responsibility of support upon the place, county, or city, where a sentence may have been pronounced, or upon the state when a convict in the penitentiary develops tuberculosis.

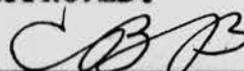
#### CONCLUSION

It is, therefore, the opinion of this department that an application to be admitted as a free patient should be made to the county court of the county in which the applicant is a resident. If he has been sentenced to the penitentiary, then such application should be made to the county in which the applicant was a resident at the time of the imposition of the sentence.

Respectfully submitted,

  
JAMES W. FARIS  
Assistant Attorney General

APPROVED:

  
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J. E. TAYLOR  
Attorney General

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