

SHERIFFS:
PEACE AND POLICE OFFICERS:
HEALTH OFFICERS:

Who may make application for commitment for temporary confinement and take persons into custody and transfer to hospital under Secs. 202.800 and 202.803, RSMo Cum. Supp. 1955.



October 8, 1957

Honorable C. Frank Reeves
Prosecuting Attorney
Mississippi County
Charleston, Missouri

Dear Sir:

This will acknowledge receipt of your request to construe Sections 202.800 and 202.803, RSMo Cum. Supp. 1955, and render an official opinion as to whose duty it is to make an application for temporary commitment to a hospital as provided therein.

Section 202.800, supra, reads:

"1. Any individual may be admitted for temporary confinement to a hospital upon:

"(1) Written application to the hospital by any health or police officer or any other person stating his belief that the individual is likely to cause injury to himself or others if not immediately restrained, and the grounds for such belief; and

"(2) A certification by at least one licensed physician that he has examined the individual and is of the opinion that the individual is mentally ill and, because of his illness, is likely to injure himself or others if not immediately restrained.

"2. An individual with respect to whom such a certificate has been issued may not be admitted on the basis thereof at any time after the expiration of three days after the date of examination.

Honorable C. Frank Reeves

"3. Such a certificate, upon indorsement for such purpose by a judge of any court of record of the county in which the individual is present, shall authorize any health or police officer to take the individual into custody and transport him to a hospital as designated in the application." (Underscoring ours.)

Section 202.803, supra, reads:

"1. Any health or police officer may take an individual into custody, apply to a hospital for his admission and transport him thereto for temporary confinement if such officer has reason to believe that;

"(1) The individual is mentally ill and, because of his illness is likely to injure himself or others if allowed to be at liberty pending examination and certification by a licensed physician;
or

"(2) The individual, who has been certified under section 202.800 as likely to injure himself or others, cannot be allowed to remain at liberty pending the indorsement of the certificate as provided in that section.

"2. The application for admission shall state the circumstances under which the individual was taken into custody and the reason for the officer's belief."
(Underscoring ours.)

It is apparent that the General Assembly in enacting Section 202.800, supra, relative to who may make applications for temporary commitment to hospitals, purposely made it very broad in order to find someone available for that purpose. In some counties and certain localities it is relatively easy to find some one to perform this function under the statute as a police or health officer, however, in others this may be more difficult and it might involve quite a problem, hence it will be seen that the Legislature, after providing any health or police officer may make such application, also provided that any other person may do so.

Honorable C. Frank Reeves

The latter statute quoted provides who may make application for confinement of any individual who might injure himself or someone else if allowed to be at liberty, take him into custody and transport him to the hospital. This is not so broad as the former statute and does not vest such authority in any other person.

By use of the words "or any other person" in Section 202.800, supra, the Legislature must have intended that any individual could likewise make an application for temporary confinement.

A basic rule of statutory construction is first to seek the lawmakers' intention, and, if possible, effectuate that intention. *Laclede Gas Company vs. City of St. Louis*, 253 S.W. 2d. 832, 363 Mo. 842.

You inquire as to whether or not the sheriff is a police officer as referred to in the foregoing statute. We believe the Legislature in passing such statute was attempting not to limit the scope of authority, but had in mind that by using police officer it would include persons having statutory authority that dealt with keeping the peace or enforcing the laws.

Under Section 57.110, RSMo 1949, sheriffs are conservators of peace within their respective counties. Furthermore, police officers are peace officers.

In view of the foregoing, we believe that the General Assembly, in passing the foregoing statutes, fully intended that a sheriff should be included in the reference to "police officer." However, it is well to remember that while the foregoing statute vests authority in the sheriff to act thereunder, he has certain discretion in the matter such as to determine if any person should be so temporarily confined.

CONCLUSION

Therefore, it is the opinion of this Department that a sheriff is a police officer as referred to in Sections 202.800 and 202.803, Cum. Supp. 1955. However, the sheriff exercises discretion in determining who comes within the provisions of the foregoing statutes.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. Aubrey R. Hammett, Jr.

Yours very truly,

ARH:mw

John M. Dalton
Attorney General