



July 10, 1961

Honorable Bill Davenport  
Prosecuting Attorney  
Christian County  
Ozark, Missouri

Dear Mr. Davenport:

We are in receipt of your letter stating that the Probate Judge has asked you to request an opinion relative to hospitalization in a private hospital for persons where a petition has been filed alleging mental illness, but during the period before the hearing and judgment of the Probate Court declaring such person to be mentally ill.

Our impression from reading your letter is that this is a hypothetical question. Therefore we are answering by way of an advisory letter instead of a formal opinion.

The following provisions of the Revised Statutes of Missouri, 1959, appear to be applicable to the question here presented:

Section 205.580.

"Poor persons shall be relieved, maintained and supported by the county of which they are inhabitants."

Section 205.590.

"Aged, infirm, lame, blind or sick persons, who are unable to support themselves, and when there are no other persons required by law and able to maintain them, shall be deemed poor persons."

The above sections provide that the county court shall provide for the relief, maintenance and support of poor or

July 10, 1961

indigent persons. Section 475.085 provides that the costs of an inquiry into the competency of an indigent person shall be paid by the county. In addition Section 475.355 employs this language, ". . . the judge may cause the person to be apprehended and may employ any person to confine him in some suitable place until the earliest reasonable date on which a hearing may be had on the information in the probate court and judgment thereon." The next subsection of the law provides that the expense therefor shall be paid out of county funds if the individual is found to be indigent.

The Supreme Court of Missouri in *Cox v. Osage County*, 15 S.W. 765, in discussing earlier versions of our present indigent insane statutes, said:

" . . . there can be, it would seem, no question, not only that it was the duty and within the power of the probate court to make the order in this case for the restraint, support, and safe-keeping of Molliter, to make the allowance to the plaintiff for the expenses thereof, and certify the same to the county court, but that it was the duty of the county court-- there being no question that the expense was incurred, that the allowance was reasonable, that the lunatic had no estate, and there was no person bound for his support--to order the same to be paid out of the county treasury."

With our present emergency admission procedures it may well be that the factual question raised here will seldom occur. However, if the proper authorities take the allegedly insane indigent person into custody, the county would appear to be responsible for the expenses of confinement and inquiry into his competency. This would include, among other things, necessary medical care and hospitalization where ordered by the proper authority.

Very truly yours,

THOMAS F. EAGLETON  
Attorney General

---

Clyde Burch  
Assistant Attorney General