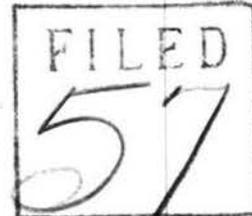


COUNTY SHERIFFS: Discretionary powers of selecting jail
under Section 8545, R. S. Mo. 1929,
where county has no jail.

January 24, 1940

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



Dear Sir:

We are in receipt of your letter of January 22d, wherein you request an opinion on the construction of Section 8545, R. S. Mo. 1929, and ask the following questions:

"(1) Do you know of any law that gives the circuit judge authority to designate any jail the sheriff might use?

"(2) Does this law mean the nearest jail or the farthest jail?"

Section 8545, R. S. Mo. 1929, 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

January 24, 1940

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."

It is the opinion of this Department that when a prisoner is committed to the sheriff of any county, that if the sheriff in his discretion feels that the jail in his county is insufficient, or if some hazard has occurred wherein the jail has been destroyed, or where the county has no jail, then it is incumbent upon the sheriff, in the purview of the aforesaid section, to select a sufficient jail, in his discretion, in another county. And it is our view of this statute that the matter is discretionary with the sheriff in each and every instance where a prisoner is committed to him for safe keeping.

In conclusion, it is our opinion that Section 8545, supra, gives the sheriff discretionary powers in selecting a jail in another county in instances where he concludes that the jail is insufficient in the county in which he is sheriff or the failure of the county to maintain a jail, so long as he does not unreasonably abuse the discretion.

And in answer to your second question, "Does this law mean the nearest jail or the farthest jail?" it is our opinion that the word "nearest," as used in the section, means the nearest sufficient jail in the discretion of the sheriff.

Very truly yours,

APPROVED:

B. RICHARDS CREECH
Assistant Attorney-General

W. J. BURKE
(Acting) Attorney-General

BRC:EG