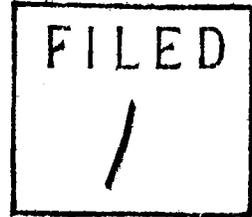


SHERIFFS IN COUNTIES
OF THE THIRD CLASS:

Shall collect all fees, both criminal and civil, and shall collect the amount as provided by existing fee statutes; the sheriff and county court may not enter into an agreement to pay the sheriff a flat 5¢ a mile for his mileage; sheriff shall bill the county court at the end of each month for feeding prisoners and for mileage.

July 10, 1946



Honorable George Adams
Prosecuting Attorney
Audrain County
Mexico, Missouri

Dear Sir:

This department is in receipt of your recent request, based on the following:

"Section 3 of House Bill 899 relates to salary and compensation of sheriffs in counties of the Third Class and requires the sheriff to charge and collect 'every fee both civil and criminal, including mileage accruing to his office by law, etc'.

"Does this mean that the sheriff shall continue to charge ten cents a mile on arrests and return of prisoners to his county as heretofore, which mileage shall be turned over to the county; or is the mileage referred to in Section 3 meant to be the officer's actual expenses covered in Section 5?

"If acceptable to the county court, would a straight five cents a mile charge as expenses for the sheriff's car be proper for the use of said car in serving warrants and other criminal process?

"I assume that the sheriff should, as the prosecuting attorney has, turn over to the county at the end of each month

every cent paid him as criminal fees and then by separate bill request reimbursement from the county for his various actual traveling expenses plus actual cost of feeding prisoners."

As to question No. 1, your attention is called to House Bill No. 899, Section 3, Missouri Revised Statutes Annotated, June, 1946 Pamphlet, Section 13547.303, page 461, which is as follows:

"It shall be the duty of the sheriff in counties of the third class to charge and collect in all instances every fee, both civil and criminal, including mileage, accruing to his office by law, except such criminal fees as are chargeable to the county, and such sheriff shall, at the end of each month, file with the county court a report of all fees charged and collected during said month, stating for what act said fees were charged and collected, together with the names of the persons paying or who are liable for same, which report shall be verified by the oath or affirmation of such sheriff. It shall be the duty of such sheriff upon the filing of said report to forthwith pay over to the county treasurer all fees arising in connection with the investigation, arrest, prosecution, custody, care, commitment and transportation of persons accused of or convicted of a criminal offense during the month * * * *"

You specifically ask about mileage. It will be noted this section provides the sheriff shall collect all fees including mileage accruing to his office by law.

The second question deals with the collection of fees or the amount of fees to be collected by the sheriff. The existing fee statutes have not been changed as yet, and since House Bill No. 899, Section 3, provides for fees accruing to his office by law, he will collect all fees now prescribed by statute. Directly answering your question, the sheriff will

collect ten cents per mile for the arrest and return of prisoners, turn same into the county and bill the county for his actual expense not to exceed five cents per mile. An agreement with the county to accept a flat five cents per mile for traveling expense would not be in conformity with House Bill No. 899, Section 5, Missouri Revised Statutes Annotated, June, 1946 Pamphlet, Section 13547.305, page 461, which is as follows:

"In addition to the salary provided in Section 1 of this act, the county court shall allow the sheriffs and their deputies, payable at the end of each month out of the county treasury, actual expenses for each mile travelled in serving warrants or any other criminal process not to exceed five cents per mile."

While it is clear that this expense will, in all probabilities, always amount to five cents per mile or more, an agreement for a flat five cents per mile would not be permissible.

House Bill No. 899, Section 3, Missouri Revised Statutes Annotated, June, 1946 Pamphlet, Section 13547.303, supra, provides that the sheriff shall turn over to the county all criminal fees collected by him.

House Bill No. 899, Section 4, Missouri Revised Statutes Annotated, June, 1946 Pamphlet, Section 13547.304, page 461, provides the method by which the sheriff shall be reimbursed for feeding prisoners, and is as follows:

"The sheriff shall have the custody and care of persons lodged in the county jail and shall furnish them with clean quarters and wholesome food. At the end of each month the sheriff shall submit to the county court a statement supported by his oath or affirmation of the actual cost incurred by him in the feeding of persons under his custody together with the names of the persons, the number of days each spent in the jail, and whether

or not the expenditure is properly charge-
able to the county or to the state under
the law. The county court shall audit
said statement and draw a warrant on the
county treasury for the amount of the
actual cost payable to the sheriff. * * *

House Bill No. 899, Section 5, Missouri Revised Statutes
Annotated, June, 1946 Pamphlet, Section 13547.305, supra,
provides for the sheriff's mileage. Both Sections 13547.304
and 13547.305 are self-explanatory.

Conclusion.

It is the opinion of this department that House Bill
No. 899 requires the sheriffs in counties of the third class
to collect all fees, both civil and criminal, and the amounts
of said fees will be the sum fixed by the existing fee stat-
utes; that an agreement between the sheriff and the County
Court, setting a flat five cents per mile for his mileage,
would not be his actual mileage as prescribed by said House
Bill No. 899, and would not be permissible; also that the
sheriff shall turn over to the county, at the end of each
month, all criminal fees collected by him and present his
claim to the County Court for mileage and the feeding of
prisoners.

Respectfully submitted,

W. BRADY DUNCAN
Assistant Attorney General

WBD:ml

APPROVED:

J. E. TAYLOR
Attorney General