

967.

INSANE PERSON—COMMITTED TO STATE HOSPITAL BY PROBATE COURT OF COUNTY IN WHICH HE TEMPORARILY RESIDES—COURT FEES AND CLOTHING PAID BY COUNTY IN WHICH HE HAS LEGAL RESIDENCE—PROCEDURE.

SYLLABUS:

1. *When a commitment to a state hospital is made, by authority of Section 1950-1, General Code, necessary clothing should be furnished the insane person, in accordance with Section 1962, General Code, the same as though the commitment were being made by authority of other statutes, and when such clothing is furnished the cost thereof should be charged against the county where the insane person committed has a legal residence.*

2. *When a commitment is made to a state hospital by authority of Section 1950-1, General Code, the fees of the Probate Court making such commitment, and the other expenses incident to such commitment, including the cost of furnishing clothing, in accordance with Section 1962, General Code, should be paid in the first instance from the county treasury of the county from which the commitment is made, upon the certificate of the probate judge, and the same should be charged to the county where the person committed has a legal residence. Collection thereof should be made by the fiscal officer of the county from whose treasury such fees and expenses are paid.*

COLUMBUS, OHIO, October 2, 1929.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—This will acknowledge receipt of your request for my opinion, which reads as follows:

“You are respectfully requested to furnish this department your written opinion upon the following:

Section 1950-1, enacted by the 88th General Assembly, in Amended Senate Bill No. 156 reads as follows:

‘Any insane person having a legal residence in the State of Ohio, but who may be temporarily residing or detained in a county other than that of his legal residence may be legally committed to a state hospital by the probate judge of the county in which such person is temporarily residing or detained. The department of public welfare shall at once be notified of such commitment, and, through its secretary, or other officer, shall immediately notify the probate judge of the county in which such person has a legal residence, of such commitment. The regular probate court fees incident to commitment and the expenses of clothing and incidentals furnished such patient in a state hospital to which he or she has been committed, shall be charged against the county of his or her legal residence. The department of public welfare may at its discretion direct the transfer of such patient to another state hospital.’

Section 1962, General Code, which was not amended in this act, provides:

‘If not otherwise furnished, the probate judge shall supply each patient sent to a hospital for the insane with proper clothing, which shall be paid for on his certificate and the order of the county auditor from the county treasury. * * *’

Question 1: If in a commitment, such as referred to in Section 1950-1, G. C., clothing is necessary under Section 1962, General Code, will the county of residence be also required to pay that as well as the probate court fees?

Question 2: What is the procedure by which the probate judge gets his fees in a case of this kind? Shall he render a bill direct to the patient's residence county, or shall he include the fee with other lunacy fees from say, Franklin County, and then render a bill to the county of residence to reimburse Franklin County?"

Prior to the enactment of Section 1950-1, General Code, there was no provision made by statute for the commitment of an insane person temporarily residing in the county to a state hospital by the Probate Court of the county where he was temporarily residing or detained, and the charging back to the county of his legal residence of the fees and expenses incident to such commitment, and while the language of the statute is not clear with reference to the expense of furnishing the clothing to be furnished in accordance with Section 1962, General Code, it apparently was the intention of the Legislature in enacting the statute, that no part of the cost of the commitment and the maintenance of the patient in the state hospital should be borne by the county from which the actual commitment was made.

No reason could be assigned for requiring a county wherein an insane person was temporarily residing or detained to pay any portion of the cost of committing or maintaining the person in a state hospital, if he had a legal residence in some other county to which such cost might or should be charged. In my opinion, the language of the statute "expense of clothing and incidentals furnished such patient in a state hospital to which he or she has been committed" should be construed to mean not only the clothing and incidentals furnished after he reaches the hospital, but also that which it is necessary for him to have when he enters the hospital.

No special provisions were made by the Legislature, upon the enactment of Section 1950-1, General Code, for the procedure in making such commitments as are authorized by the statute. The procedure therefore to be followed in making such commitments is the same as that provided for when commitments of insane persons who have a legal residence in the county are made to a state hospital. The only difference is that, upon making the commitment in the regular way, a liability is created against the county of residence of the insane person for the cost and expense of the commitment.

Section 1981, General Code, sets forth a schedule of costs and expenses to be paid when proceedings in lunacy are had, and Section 1982, General Code, provides, as follows:

"The fees and expenses enumerated in the preceding section, together with all costs in the probate court, shall be paid from the county treasury upon the certificates of the probate judge."

Section 1962, General Code, provides in part, as follows:

"If not otherwise furnished, the probate judge shall supply each patient sent to a hospital for the insane with proper clothing, which shall be paid for on his certificate and the order of the county auditor from the county treasury.
* * * The superintendent will not be bound to receive the patient without such clothing."

I am therefore of the opinion, in specific answer to your questions:

First, when a commitment to a state hospital is made, by authority of Section 1950-1, General Code, necessary clothing should be furnished the insane person in accordance with Section 1962, General Code, the same as though the commitment were

being made by authority of other statutes, and when such clothing is furnished the cost thereof should be charged against the county where the insane person committed has a legal residence.

Second, when a commitment is made to a state hospital by authority of Section 1950-1, General Code, the fees of the Probate Court making such commitment, and the other expenses incident to such commitment, including the cost of furnishing clothing in accordance with Section 1962, General Code, should be paid in the first instance from the county treasury of the county from which the commitment is made, upon the certificate of the probate judge and the same should be charged to the county where the person committed has a legal residence. Collection thereof should be made by the fiscal officer of the county from whose treasury such fees and expenses are paid.

Respectfully,

GILBERT BETTMAN,
Attorney General.

968.

CONSERVATION COUNCIL—PROCEDURE NECESSARY FOR CONSERVATION DIVISION TO FUNCTION.

SYLLABUS:

Discussion of steps necessary to the functioning of the Conservation Council and the Division of Conservation.

COLUMBUS, OHIO, October 2, 1929.

HON. CHARLES H. LEWIS, *Chairman, Conservation Council, Columbus, Ohio.*

DEAR SIR:—This acknowledges receipt of your communication, as follows:

“This is to advise you that on Monday, September 23, 1929, Messrs. N. E. Shaw, I. S. Myers, Walter F. Kirk, Charles Lay, A. F. Moon, Charles H. Lewis and Edmund Secrest, all of whom Governor Myers Y. Cooper has appointed as members of the Conservation Council under amended Senate Bill No. 131, passed at the last session of the General Assembly of Ohio, met in the office of Governor Cooper, took the oath of office, and organized by electing Mr. Charles H. Lewis as Chairman, and Mr. N. E. Shaw, as temporary Secretary.

Mr. Joseph E. Pfeuger, who was also appointed a member of the State Conservation Council by Governor Cooper, was not present at the meeting.

Pursuant to said act of the General Assembly, said Council also unanimously adopted a resolution recommending to the Director of Agriculture the appointment of Mr. John W. Thompson as Conservation Commissioner.

Thereupon, a motion was adopted that the Attorney General of Ohio be requested to advise the Council as to the manner in which it is required by the law to proceed further with the exercise of its functions and powers.

Will you, therefore, kindly advise the Council as to its powers and duties and as to the manner in which it is required by law to proceed further in the performance of its functions and duties?”

Your inquiry is so general in its terms that it would be impossible, within the confines of an opinion, to cover all of its phases. I gather, however, what you have