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June 16, 1981

ATTORNEY GENERAL OPINION NO. 81-133

Mr. Curtis E. Campbell
Gray County Attorney
222 S. Main
Cimarron, Kansas 67835

Re: Kansas Probate Code -- Care and Treatment for
Mentally Ill Persons -- Change of Venue -- Court Costs

Synopsis: K.S.A. 1980 Supp. 59-2922 establishes court costs of twenty-five dollars (\$25) for services of the district court to be paid by the initiating county to the transferee county upon change of venue in applications for determination of mentally ill persons. Such fee is inclusive and does not authorize additional court costs in excess of such sum to be paid for services of the transferee court. Such sum is not, however, inclusive of all court costs which may be charged to the initiating county. Statutes cited herein: K.S.A. 43-171, K.S.A. 1980 Supp. 59-2922, 59-2934, K.S.A. 60-243, 60-2001, 60-2003.

* * *

Dear Mr. Campbell:

You have requested our opinion regarding the transfer of venue in proceedings under the Act for Obtaining Treatment for a Mentally Ill Person involving a patient in a treatment facility. Specifically, you have asked us to interpret the following portion of K.S.A. 1980 Supp. 59-2922 (b) (3): "The district court of the county in which is located such treatment facility shall charge for its services in each case, as court costs, twenty-five dollars (\$25) in addition to all other costs charged."

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Your interpretation of the above-quoted portion of the statute, as stated in your letter, is that (subsequent to a change of venue) the county wherein the treatment facility is located could charge your county only \$25 in court costs for services of the district court. However, your county has been charged \$42.50 in court costs in just such a situation. (We note that items constituting "court costs" are not specifically delineated in the bill submitted to you.)

We are guided by the "cardinal rule" of statutory construction that the intent of the legislature is to govern when such intent can be discerned from the statute. Southeast Kansas Landowners Ass'n v. Kansas Turnpike Authority, 224 Kan. 357 (1978). The language of K.S.A. 1980 Supp. 59-2922(b)(3) appears clear and unambiguous and limits transferee district courts to a charge of \$25 and no more for its services. Such services are included within the broader term "court costs," and are not inclusive of all court costs incidental to legal proceedings. Other court costs may include, for example, jurors' fees, K.S.A. 43-171; witness fees, fees for depositions and transcripts, attorneys fees, K.S.A. 60-2001(d), K.S.A. 60-2003, K.S.A. 1980 Supp. 59-2934; or interpreter's fees, K.S.A. 60-243(e). These costs are not charged for services provided by the district court.

In regard to your question we also have reviewed the legislative history of K.S.A. 59-2922. When the first forerunner of this statute was passed (L. 1965, ch. 348, §22), it provided for a similar transfer of court costs, but set no specific limit. The 1967 Legislature amended the statute and set a specific limit of \$10. L. 1967, ch. 318, § 1. The 1977 Legislature also amended the statute, but the only change was to raise the specific limit from \$10 to \$25. L. 1977, ch. 201, § 1.

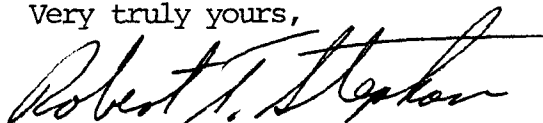
Thus, the legislative history of this statute clearly indicates the legislature's desire to limit the amount of court costs which may be charged for the services of the district court from which venue is transferred. Moreover, there is nothing in the evolution of this statute to indicate that said limitation is not intended to have uniform, statewide application.

Therefore, in order to give life to this provision and fulfill the intent of the legislature, it is our opinion that the limitation of \$25 prescribed by K.S.A. 1980 Supp. 59-2922(b)(3) is a uniform statutory limit on all fees to be charged for services of the transferee court. This does not,

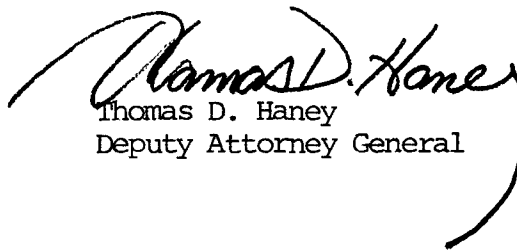
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however, in our opinion, prohibit the charge back of other related costs, including court costs for matters not categorized as "services" of the district court.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Thomas D. Haney
Deputy Attorney General

RTS:TDH:may