



STATE OF KANSAS

Office of the Attorney General

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July 19, 1976

Curt T. Schneider,

Attorney General

ATTORNEY GENERAL OPINION NO. 76-223

Mr. Cary Lee Standiferd
Meriden City Attorney
2014 North Topeka Avenue
Topeka, Kansas 66608

RE: Cities -- Police -- Eligibility

SYNOPSIS: Under K.S.A. 1975 Supp. 74-5608, a person who is not certified pursuant to subparagraph (a) of this provision is eligible to serve as a police or law enforcement officer for a Kansas city for not more than twelve months, and at that time, the office is vacated by operation of law unless the officer has during that twelve-month period obtained the necessary certificate. A city may not extend the twelve-month period fixed by statute by successive annual appointments or otherwise.

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Dear Mr. Standiferd:

You inquire concerning the application of certification requirements to the chief of police of the city of Meriden.

K.S.A. 1975 Supp. 74-5608(a) states thus:

"On and after July 1, 1973, no person shall receive a permanent appointment as a police officer or law enforcement officer, unless he has been awarded a certificate attesting to his satisfactory completion of a basic course of not less than one hundred sixty (160) hours of accredited instruction at the training center, or has been awarded a certificate attesting to

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his satisfactory completion of a training program which has been certified in accordance with the provisions of K.S.A. 74-5604 as amended."

However, under subparagraph (b) of this section, any person who does not hold such a certificate and who is elected or appointed as a law enforcement or police officer "shall be elected or appointed to his position on a temporary basis" and within one year of this temporary election or appointment, must become certified or forfeit the office or position.

The obvious purpose of the act is to require mandatory professional training of all full-time, salaried law enforcement and police officers of the state, and of counties and cities. Persons without the necessary training are permitted to receive only temporary appointments as police or law enforcement officers. The act does not define a "temporary appointment" as one of any prescribed maximum period of time, as, e.g., an appointment of not exceeding twelve, eighteen, twenty-four or thirty-six months. A "temporary appointment" may be made for any length of time the appointing authority chooses. However, any person who lacks the necessary certificate may not serve more than one year in that appointment, for by operation of law, the office or position is forfeited at that time, whatever the duration of the temporary appointment. The city has no authority to extend this twelve-month period by the device of successive appointments. Whether the city chooses to make successive appointments of thirty days or twelve months each, and to characterize the successive appointments as temporary, provisional, interim, or otherwise, the individual so appointed may not serve in that position as a police or law enforcement officer more than one year without becoming certified as provided in K.S.A. 1975 Supp. 74-5608(a), for by operation of law, the office is forfeited and vacated at the end of one year. Having been appointed to the office of police chief, and having served therein for more than one year without becoming certified, Mr. Rodecap is not eligible for a further appointment.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:ksn