

Dear Mr. Marron:

You have submitted the following question to this office for my opinion:

"In the absence of the appointment of a chief probation officer, may the Judge of the District Court of the Seventeenth Judicial District appoint a deputy probation officer for Phillips County and a deputy probation officer for Valley County, each county paying their own probation officer?"

Your second question is:

"Can the same person hold, and receive pay for, the office of deputy probation officer and deputy sheriff of Valley County?"

In answering your first question it is necessary to analyze Chapter 116, Laws of 1947, which amended Section 21, Chapter 227, Laws of 1943, although the amendment does not affect your inquiry, as such amendment affected salaries.

It should be noted the first sentence of the first paragraph of Section 1 of Chapter 116, Laws of 1947, provides in part:

"In every judicial district of the State of Montana the judge thereof having jurisdiction of juvenile matters shall appoint one discreet person of good moral character, who shall be known as the chief probation officer of such district."

It is further noted that the last sentence of the first paragraph of Section 1 of said Chapter 116, Laws of 1947, provides:

"In the absence of such appointment of chief probation officer, it shall be the duty of the sheriff of the county to perform all the duties of the chief probation officer in this act enumerated without additional compensation, as directed by the court."

We must take this law as the legislature has given it to us, without adding thereto or subtracting therefrom.

The foregoing answers your first question, and from what has been said above the conditions of your second question will not arise.

Opinion No. 54

**Chief Probation Officer—Sheriff,
Duty of—Compensation.**

Held: Unless the Judge appoints a chief probation officer for his judicial district, whether his district comprises **ONLY ONE COUNTY** or more than one county, all of the duties of such chief probation officer under the act devolve upon the sheriff in his county, by operation of this law, and this makes it the duty of such sheriff to perform all the duties of such chief probation officer without additional compensation. This part of the act is mandatory. These duties devolving upon the sheriff are to be performed as directed by the Court.

August 7, 1947

Mr. Thomas R. Marron
County Attorney
Valley County
Glasgow, Montana

It is, therefore, my opinion that, unless the Judge appoints a chief probation officer for his judicial district, whether his district comprises **only one county** or more than one county, all of the duties of such chief probation officer under the act devolve upon the sheriff in his county, by operation of this law, and this makes it the duty of such sheriff to perform all the duties of such chief probation officer without additional compensation. This part of the act is mandatory. These duties devolving upon the sheriff are to be performed as directed by the Court.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General