

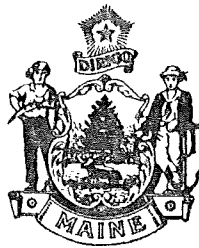
MAINE STATE LEGISLATURE

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STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

January 12, 1981

The Honorable Laurence L. Kiesman
House of Representatives
State House
Augusta, Maine 04333

Dear Representative Kiesman:

This will respond to your inquiry as to the extent to which deputy sheriffs are entitled to reimbursement for travel expenses incurred in serving civil process.

Your question is governed by 30 M.R.S.A. §1051(11) which provides as follows:

In addition to the fees so charged for service, travel shall be charged for each mile actually traveled at the same rate at which state employees are reimbursed under Title 5, section 8;

In our view, the language of the statute is plain and unambiguous. Deputy sheriffs may charge for "each mile actually traveled."

It has apparently been suggested that the law may limit travel reimbursement either to the distance between the officer's place of abode and the place of service or to the distance which would be equivalent to one round trip between these points. Given the clear wording of § 1051(11), we fail to see any arguments which would support such limited constructions of the statute.

Having concluded that deputies are entitled to reimbursement for each mile actually traveled, we should add one further observation. Although § 1051(11) does not expressly restrict reimbursement to travel which is reasonably necessary to effect the service of process,^{1/} we believe that a court might read such

1/ That is not the case when the deputy must make a "diligent search" for the person to be served because he or she cannot be located at the address given by the plaintiff. That situation is governed by 30 M.R.S.A. §1051(10) which explicitly limits reimbursement to "necessary travel".

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a limitation into the statute if confronted with a situation in which a deputy abused his right to reimbursement by making unnecessary trips. Accordingly, we believe deputies must use good judgment in serving process if they expect to receive full reimbursement for their mileage.

I hope this information is helpful. Please feel free to contact us if we can be of further service.

Sincerely,

Stephen L. Diamond

STEPHEN L. DIAMOND
Deputy Attorney General

SD:ks