

**OPINION
57-115**

August 23, 1957 (OPINION)

INSTITUTIONS

RE: State Hospital - Admission - Residence

Your request for an opinion, together with a copy of a proposed reciprocal agreement with the State of California in regard to nonresident mental patients, has been received.

Section 25-0209 of the 1943 Code provides that nonresidents may be admitted to the state hospital.

Section 25-0314 provides that a nonresident insane person may be admitted to the state hospital from the county where found, and the superintendent of the hospital shall notify the board of administration who in turn, with the superintendent of the hospital, shall arrange for transportation for such person to the place where he belongs.

Section 25-08091 of the 1953 Supplement authorizes the board of administration to enter into reciprocal agreement with other states for the mutual exchange return and transportation of insane, feeble-minded, and epileptic persons who are found in one state, but who have legal settlement in another. Such agreement shall contain no provision conflicting with any laws of this state. This section was amended by section 25-0207 of Chapter 196 of the 1957 laws and now reads as follows:

If a person who has no legal residence in this state or whose residence is unknown is found by a county mental health board to be a fit subject for custody and treatment in a hospital for the mentally ill, such person shall be sent to the state hospital at the expense of the county in the same manner and accompanied by the same documents as in the case of a resident of this state who is found to be mentally ill. The superintendent of the state hospital shall notify the board of administration which shall make inquiry immediately as to the residence of such person and the propriety of his retention in the state hospital. If the residence of said person is found to be in another state or foreign country, the board of administration or the superintendent shall arrange for the transportation of such person to the place where he belongs. No nonresident person shall be retained permanently in the state hospital as a patient at the expense of the state at large without the formal consent of the board of administration."

Since California has a flexible residence statute, we have substituted one year for two years provided for in the agreement. We did this because residence can be gained in this state by residing continuously in the state for one year, and we doubt whether you could extend that period by two years by a reciprocal agreement. In

all other respects, the agreement is in conformity with the laws of this state.

LESLIE R. BURGUM

Attorney General