



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Roy L. Hill
County Attorney
Runnels County
Ballinger, Texas

Dear Sir:

Opinion No. O-4068
Re: Fees for issuing delayed
birth certificates.

Your letter requesting the opinion of this department on the questions stated therein reads in part as follows:

"I am enclosing herewith, letter addressed to me from Mr. John B. Rayburn, County Clerk, which is self-explanatory. It seems under House Bill No. 624, the County Clerk is only authorized to collect, and charge as to that matter, the sum of \$1.50, as the total fee for services rendered therein, concerning the issuance of deferred, or delayed birth certificates. He has been charging the applicant a fee of \$2.00.

"It would seem to me, inasmuch as this is a special statute, calling for a new, or rather a special procedure, in the applying for and issuance of, delayed birth certificates, that the fees provided for therein, and the limitation thereon, in respect to allowed and collectable, would be governed by this particular law, and not by virtue of the general fees statute. What, therefore, would be your construction as to the fees to be collected?"

The letter of Mr. John B. Rayburn, County Clerk, referred to in your letter reads in part as follows:

"We are making a charge on Old Date or Delayed Birth Certificates of \$2.00, where the applicant desires a certified copy of the recorded certificate. Our fees are as follows:

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*Issuing Court Order by County Judge	50¢
Recording said Court Order, on Court Minutes	50¢
Recording the allowed certificate of Birth	50¢
Probate Court Costs	Total
	<u>\$1.50</u>
And for making a certified copy of Certificate	.50
Grand Total of	<u>\$2.00</u>

"Now we understand that we are only entitled to a fee of \$1.00 Probate Fees, and 50¢ for a certified copy of the recorded certificate, making a total allowed of \$1.50.

"This does not mention the recording of the Court Order issued by the County Judge.

"We would like to know if we are out of line in making the above listed charges of \$2.00."

The Texas statutes dealing with Vital Statistics are found as Rules 34a to 55a, inclusive, of Article 4477 of Vernon's Annotated Civil Statutes of Texas. Some of these rules have been amended by House Bill No. 821, House Bill No. 624, and House Bill No. 974, respectively, of the Acts of the Forty-seventh Legislature, Regular Session, 1941.

House Bill No. 974, supra, among other things, provides that any citizen of Texas wishing to file the record of any birth or death occurring in the State of Texas, not previously registered, may submit such record to the Probate Court in the county where such birth or death occurred, and further provides that any citizen of the State of Texas wishing to file the record of any birth or death occurring outside the State of Texas, not previously registered, may submit such record to the Probate Court in the county where he resides in compliance with the Act.

House Bill No. 624, supra, is an Act providing for uniform fees to be charged for the issuance of delayed birth and death certificates by the Probate Court, the Clerk thereof and the State Registrar, in the amount and manner as therein specified.

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House Bill No. 624, supra, expressly provides in part" . . . that when application is made, as provided in this paragraph, a fee of One Dollar (\$1) shall be collected by the Probate Court, Fifty (50) Cents of which shall be retained by the court, and Fifty (50) Cents of which shall be retained by the Clerk of the County Court for recording said birth or death certificate. Certified copies of said birth or death certificate shall be issued by either the County Clerk or the State Registrar and fee for said certified copy shall be Fifty (50) Cents. Such certified copies shall be prima facie evidence in all Courts and places of the facts stated thereon. No other charge shall be made for the issuance of such delayed certificates and certified copies thereof. The State Bureau of Vital Statistics shall furnish the forms upon which such records are filed, and no other form shall be used for that purpose . . ."

It will be noted that the above mentioned Act specifically provides the fees to be charged by the Probate Court and the County Clerk and State Registrar for the services mentioned therein and further provides no other charge shall be made for the issuance of such delayed certificate and certified copy thereof. Therefore, you are advised that when application is made, as provided in the above mentioned paragraph of the Act, a fee of \$1.00 shall be collected by the Probate Court, Fifty Cents of which shall be retained by the Clerk of the County Court for recording said birth or death certificate. The County Clerk or the State Registrar is authorized to receive and collect a fee of Fifty Cents for each certified copy issued by either of them.

Trusting that the foregoing fully answers your inquiry, we are

Yours very truly

APPROVED OCT 29, 1941

Grover Sellers /s/

FIRST ASSISTANT
ATTORNEY GENERAL

AW:LM

ATTORNEY GENERAL OF TEXAS

/s/

By

Ardell Williams
Assistant

APPROVED
OPINION
COMMITTEE
BY B.W.B.
CHAIRMAN