



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

PRICE DANIEL  
ATTORNEY GENERAL

January 28, 1952

Hon. R. V. Rayford  
County Auditor  
Rusk County  
Henderson, Texas

Opinion No. V-1396

Re: Authority of the County  
Clerk to issue a certified  
copy of the record of an il-  
legitimate birth to the per-  
son whose birth is so re-  
corded or to that person's  
mother without a court order.

Dear Mr. Rayford:

Your request for an opinion contains the following ques-  
tions:

1. May a county clerk issue a certified copy of the record of an illegitimate birth to the person whose birth is so recorded, without a court order?
2. May the county clerk issue a certified copy of the record of an illegitimate birth to the mother of the person whose birth is so recorded, without a court order?

This office held, in Attorney General's Opinion O-1386 (1939):

"It is our opinion that the county clerk has the authority under Article 3930, R.C.S. 1925, to issue certified copies of vital statistics records on file in his office, including the authority to issue certified copies of delayed births and death certificates and that the provisions of Rule 34-a to 55-a, Art. 4477, V.A.C.S., do not in any way limit or abrogate this authority."

Prior to its amendment by the 49th Legislature, Article 4477, V.C.S., Rule 47-a, Sec. 25, provided in part:

". . . Neither the State registrar nor local regis-  
trar shall issue a certified copy of a birth or death

certificate wherein a child or an adult is stated to be illegitimate unless such certified copy is ordered by a court of competent jurisdiction."

Section 25, Rule 47-a, Art. 4477, V.C.S., was amended by House Bill 415, Acts 49th Leg., R.S. 1945, ch. 354, p. 618, which provided in part:

". . . Neither the State registrar nor any local registrar shall issue a certified copy of any birth or death certificate wherein a child or an adult is stated to be illegitimate, unless such certified copy is ordered by the county court in the county in which said child was born or died, or by a court of competent jurisdiction, or by said illegitimate person or by the guardian or legal representative thereof."

The title to House Bill 415 states:

"An Act to amend Section 3 of Chapter 4, Acts of the First Called Session, Forty-first Legislature, 1929, (subdivision 25 of Rule 47a of Article 4477, Vernon's Annotated Civil Statutes) so as to give a Court of competent jurisdiction any the county court in the county where the birth or death occurred authority to order the County Clerk and the State Registrar to issue a certified copy of any birth or death certificate wherein a child or adult is stated to be illegitimate, and authorizing the County Clerk to deliver, at the request of said illegitimate person or of their guardian or legal representative, a certified copy of such certificate; and declaring an emergency."

This office held in Attorney General's Opinion O-6751 (1945) that House Bill 415 was defective insofar as same by its title attempts to give the county clerk authority under circumstances therein set out, to issue such birth or death certificates, for the reason that no mention of the county clerk is made in the body of the Bill. This office further held that it was unnecessary that any authority be given the county clerk to issue certified copies of any records contained in his office, the county clerk having had such authority under general law since the creation of his office. Therefore,

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House Bill 415 did not confer power on the county clerk to issue certified copies of the records contained in his office nor did it restrict him in any way from doing so.

The 52nd Legislature amended sub-division 25 of Rule 47-a of Article 4477, V.C.S., by the enactment of House Bill 244. (H.B. 244, Acts 52nd Leg., R.S. 1951, ch. 223, p. 355.) House Bill 244 provides in part:

"An Act to amend Sections 14 and 18 of Senate Bill No. 46, Chapter 41, page 116, Acts of the Fortieth Legislature, First Called Session, as amended by Acts 1929, Forty-first Legislature, First Called Session, page 7, Chapter 4, Section 3; Acts 1935, Forty-fourth Legislature, page 441, Chapter 179, Section 1; Acts 1937, Forty-fifth Legislature, page 1289, Chapter 480, Section 1; Acts 1939, Forty-sixth Legislature, page 346, Sections 1 and 2, Acts 1941, Forty-seventh Legislature, page 850, Chapter 525, Section 1; Acts 1941, Forty-seventh Legislature, page 933, Chapter 564, Section 1; Acts 1943, Forty-eighth Legislature, page 112, Chapter 83, Section 1; Acts 1945, Forty-ninth Legislature, page 618, Chapter 354, Section 1; so as to provide for a standard certificate of birth; the filing of a supplementary birth certificate based on legitimation, paternity determination, and adoption; requirements for delayed registration of births and deaths; a penalty for the making of a false affidavit in support of a delayed registration of a birth or death; repealing provision requiring that itemized lists of certified copies issued by the county clerks be forwarded monthly to the State Bureau of Vital Statistics; repealing provision as to content of birth certificates; and declaring an emergency.

"Be it enacted by the Legislature of the State of Texas; . . . Section 14 . . . Neither the State registrar, county clerk, or any local registrar shall issue a certified copy of any birth or death certificate for any child or death certificate for any child or an adult stated to be illegitimate, unless such certified

copy is ordered issued by the county court of the county in which said child was born or died, or by a court of competent jurisdiction, or by said illegitimate person or the guardian or legal representative thereof." [Emphasis added.]

An amendment to a statute must be limited to the purpose or subject stated in its title or caption, and as to any subject or matter included in the body but not mentioned in the caption, the amendment is void. Art. III, Sec. 35, Const. of Texas; Arnold v. Leonard, 114 Tex. 535, 273 S.W. 799 (1925). Under the above authority, it is our opinion that House Bill 244 is invalid and unconstitutional as to that portion which is not stated in its title. Therefore, House Bill 244 does not restrict the power of a county clerk to issue certified copies of the records contained in his office. We agree with you that the county clerk may issue certified copies of the record of an illegitimate birth to the illegitimate person or to that person's mother without a court order.

SUMMARY

A county clerk may issue certified copies of the record of an illegitimate birth to the child or the mother without being ordered to do so by a court of competent jurisdiction. Art. 3930, V.C.S.

APPROVED:

J. C. Davis, Jr.  
County Affairs Division

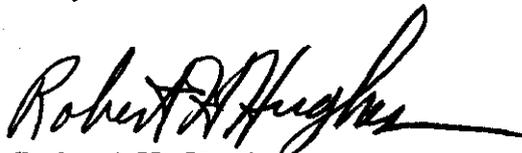
E. Jacobson  
Reviewing Assistant

Charles D. Mathews  
First Assistant

RHH:mh:mf

Yours very truly,

PRICE DANIEL  
Attorney General

By   
Robert H. Hughes  
Assistant