



Texas Department of Health

David R. Smith, M.D.
Commissioner

1100 West 49th Street
Austin, Texas 78756-3199
(512) 458-7111

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RQ-738

SJS *(initials)*

~~file # ML 26849-94~~
~~ID # 26849~~

June 6, 1994

The Honorable Dan Morales
Attorney General of Texas
209 West 14th and Colorado Street
Austin, Texas 78711

RQ-00738-DM
ID # 29406

Re: Attorney General Opinion No. **DM-283**

Dear General Morales:

This is a request for a reconsideration of Attorney General Opinion No. DM-283 which holds on page nine that there is no exemption for birth, death, or fetal death records from either the security fee or the records management and preservation fee that may be collected by county clerks under certain circumstances. The position of the Texas Department of Health is that a county clerk, when acting as a local registrar, must nevertheless fulfill his or her statutory duties under Title 3 of the Health and Safety Code. A local registrar has a statutory duty to secure a complete record of each birth, death, and fetal death occurring in his or her jurisdiction, investigating those certificates that are incomplete, filing the records with the commissioner's court or county auditor by the 10th day of each month except in a few instances, and forwarding to the state registrar the original certificates or a report of no births or deaths on the 10th day of each month. In light of the foregoing, please answer the following questions:

Question No. One: Must the county clerk, when acting as a local registrar, fulfill his or her obligations under Title 3 of the Health and Safety Code whether or not the clerk collects the security and/or records management and preservation fees?

Question No. Two: If the answer to question number one is "no," can your office interpret the statutes to determine any mechanism whereby the state registrar can obtain the certificates without having either to divide registration districts to preclude county clerks from acting as local registrars or to consolidate them within the offices of a local health department?

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Question No. Three: If the answers to the above questions are "no," then from whom are the statutory fees to be collected?

Your consideration of this request will be appreciated. If you have any questions, please call Sarah Denton in the Department's Office of General Counsel, telephone number: 458-7236.

Sincerely,

A handwritten signature in cursive script that reads "David R. Smith". The signature is written in black ink and is positioned above the typed name and title.

David R. Smith, M.D.
Commissioner of Health

Enclosure