

Opinion No. 61-58

July 12, 1961

BY: OPINION OF EARL E. HARTLEY, Attorney General Norman S Thayer, Assistant Attorney General

TO: Mr. Patrick F. Hanagan, District Attorney, Fifth Judicial District, Chaves County Court House, Roswell, New Mexico

QUESTION

QUESTION

May a county clerk release information of places and dates of births and deaths from the index to those records, if no information is released directly from the records?

CONCLUSION

No.

OPINION

ANALYSIS

Your question is controlled by the vital Statistics Act, Chapter 44, Laws of 1961, which repealed the prior law relating to birth and death records, being sections 12-4-1 through 12-4-22, N.M.S.A., 1953 Compilation.

Section 25 of the Act makes it unlawful for any person to permit inspection of or to disclose information contained in vital statistics records, or to copy or issue a copy of all or part of any record, except as authorized by law. The State Department of Public Health is authorized to disclose the data contained in vital statistics records for research purposes.

Under Section 26 of the Act, the only person authorized by law to issue copies of birth and death records is the state registrar of vital statistics. He may issue certified copies of any certificate or record in his custody to anyone demonstrating a tangible and proper interest. He may furnish data or copies of records to federal, state, local and other public or private agencies for statistical purposes. Section 26 then goes on to prohibit any person from issuing originals or copies of birth and death records except as authorized by the Act or regulations adopted thereunder.

In our opinion, the present law invests only the state registrar of vital statistics and the state department of public health with power to disclose or release all or any part of a birth or death record. County clerks may not do so.

Our conclusion is supported by the fact that, under sections 8 and 13 of the Act, birth and death certificates are no longer filed with the county clerks, but are received by the sub-registrars and transmitted directly to the state registrar. For births and deaths occurring after the effective date of the Act, county clerks will not even have a record.

Our conclusion is not altered by the fact that the county clerks would release information only from the index to birth and death records. The act prohibits the disclosure of vital statistics records. Under Section 2 of the Act, "vital statistics" includes all records of live birth, death, still birth, and related data. An index that conplaces and dates of births and deaths comes within the definition of "vital statistics". Such information may only be released by the state registrar and the state department of public health.

In conclusion, county clerks may not disclose any information about births and deaths, whether by reference to the records themselves, to an index of the records, or any other source.