

## **Opinion No. 72-05**

January 20, 1972

**BY:** OPINION OF DAVID L. NORVELL, Attorney General Leila Andrews, Assistant Attorney General

**TO:** Honorable Morris Stagner, District Attorney, Ninth Judicial District, County Courthouse, Clovis, New Mexico

### **QUESTIONS**

#### QUESTIONS

County clerks are required by Sections 15-39-8 to 9 to maintain records of all newspapers published in the counties. May the county clerk microfilm as a substitute for the original newspaper and, if so, what procedures should be followed?

#### CONCLUSION

See analysis.

### **OPINION**

#### {\*8} ANALYSIS

Sections 15-39-8 through 11, N.M.S.A., 1953 Comp. require each county clerk, under penalty of law, to receive and preserve every copy of the newspaper or newspapers printed and published in their respective counties. However, Section 15-39-9, provides that upon approval of the county commissioners the county clerk may make indefinite loans of the files of newspapers "not in current demand" to libraries of state educational institutions or to public libraries situated within the county.

Section 71-4-7, N.M.S.A., 1953 Comp. authorizes any public officer of the State to cause any or all records, papers or documents kept by him to be microfilmed. And Section 71-4-8 states that such microfilms shall be deemed to be an original record for all purposes, including introduction in evidence in all courts, or administrative agencies. However, Sections 71-4-6, through 11, N.M.S.A., 1953 Comp. have been interpreted as not being applicable to county officers. See Opinion of the Attorney General 60-181, dated September 30, 1960.

The Public Records Act (Section 71-6-1 to 71-6-17, N.M.S.A., 1953 Comp.) has other provisions, however, that could aid the county clerks with the difficult problem of preserving the newspapers. Under Section 71-6-15, any county, municipality, district or political subdivision may transfer records to the State Records Administrator after

microfilming the records, provided the methods prescribed by Sections 9, 10 and 11 of the Public Records Act are followed.

I suggest these procedures be followed to enable the county clerk to microfilm the original newspapers she is required to maintain under Sections 15-39-8 through 11. See Opinion of the {\*9} Attorney General No. 61-36, dated May 3, 1961.