

**Opinion No. 37-1541**

February 24, 1937

**BY:** FRANK H. PATTON, Attorney General

**TO:** Miss Billy Tober State Registrar Bureau of Public Health Santa Fe, New Mexico

{\*55} Your letter inquiring whether the county clerk is required to have custody of the birth certificates made prior to 1907, and to issue certified copies, and, if not, who would have such authority, has been received.

The first legislation we are able to find on the subject was Chapter 91 of the Laws of 1907. This statute requires the county clerk to have custody of the birth and death certificates from April 21st, 1907, but it makes no provision whatever as to records which might have been made prior to that date.

We find no legislation providing for the keeping of records prior to that date, and nothing authorizing the filing with the clerks of such certificates made prior to that date. That being the case, it would seem that the clerk referred to by you is correct in her attitude that she has no authority to keep those records or to issue certified copies thereof.

However, Section 110-310 of the 1929 Compilation authorizes the State Department of Public Welfare to collect, compile and tabulate reports of marriages, births and deaths and to require any person having information with regard to the same to make such reports and submit such information as it is by regulation provided. This, I believe, is broad enough to permit the State Bureau of Public Welfare to have all of such certificates filed with that department, and that department in turn could issue certified copies thereof.

By: A. M. FERNANDEZ,

Asst. Atty. Gen.