

**Opinion No. 45-4730**

June 5, 1945

**BY:** C. C. McCNLOH, Attorney General

**TO:** George G. Chandler Lt. Co., FD, O/C, Legal Branch Office of the Fiscal Director  
Office of Dependency Benefits 213 Washington Street Newark 2, New Jersey

In re: SPFNL 201 Sturgeon, Robert LeRoy, (20 May 45) ASN 35440916, X-4287815.

**OPINION**

{\*81} I have your letter of May 29, 1945, wherein you request an opinion of this office concerning the legality of the marriages performed in this state where both parties are represented by proxy, where neither party is a resident of New Mexico, where there is no evidence that either party ever intends to become a resident of New Mexico, and where neither party was present in the State of New Mexico at the time of the ceremony. This office does not ordinarily give opinions to other than state officials. However, in view of the fact that this type of marriage has been apparently contemplated or performed in this state, it is considered that the matter is of sufficient general importance to issue an official opinion.

This office has previously held in Opinion No. 4283 given to the Adjutant General of New Mexico on May 11, 1943, that a proxy marriage is valid when one party was in the state and took part in the ceremony and the other party was absent. However, there has always been considerable doubt concerning the validity of a marriage when neither party was present in the state under the circumstances that you set forth in your question. By referring to the above referred to opinion, it is noted that no cases have considered the question which you raise wherein neither party is present in the place where the marriage is performed.

In view of the foregoing, this office is unable to give an opinion that a double proxy marriage would be valid under the laws of the State of New Mexico under the circumstances which you enumerate in your question.

By HARY L. BIGBEE,

Asst. Atty. General