



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Hon. E. F. Jennings
County Auditor
Hardin County
Kountze, Texas

Dear Sir:

Opinion No. 0-1963
Re: It is mandatory that justice
of the peace serve as local
registrars under the Vital
Statistics Law.

This will acknowledge receipt of your letter
of February 9, 1940, in which you submit for an opinion
of this department the question:

"Please render this office your opin-
ion on whether or not it is mandatory under
Article 4477 R.C.S. that a Justice of Peace
serve as local registrar."

Rule 38a of the Texas Sanitary Code, now known
as Section 3 of Article 4477, Revised Civil Statutes of
Texas, 1925, provides:

"Each Justice of the Peace Precinct and
each incorporated town of 2,500 or more popu-
lation, according to the United States Census,
shall constitute a Primary Registration Dis-
trict, provided the State Board of Health may
combine two or more Registration Districts,
or may divide a Primary Registration District
into two or more parts, so as to facilitate
registration, and in cities of 2,500 or more,
according to the last United States Census
Report, where births and deaths are registered
in accordance with a City Ordinance not in
conflict with this Act, the City Clerk shall
be the Local Registrar of Births and Deaths.

"It is hereby declared to be the duty of

Hon. E. P. Jennings, Page 2

the Justice of the Peace in the Justice of the Peace Precinct, and the City Clerk or City Secretary in the city of 2,500 or more population, to secure a complete record of each birth and death that occurs within their respective jurisdictions, and is required by this Act."

The first paragraph of Rule 55a or Section 23 of the same Article provides:

"That each local registrar is hereby charged with the strict and thorough enforcement of the provisions of this Act (Rules 34a-55a; P. C., Art. 781a) in his registration district, under the supervision and direction of the state registrar. And he shall make an immediate report to the state registrar of any violation of this law coming to his knowledge, by observation or upon complaint of any person, or otherwise."

Article 781a of the Penal Code provides penalties for violations of the Vital Statistics Law. It provides in part:

"....or (e) being a local registrar, deputy registrar, or subregistrar, shall fail, neglect, or refuse to perform his duty as required by this Act and by the instructions, and direction of the state registrar thereunder, shall be deemed guilty of a misdemeanor and upon conviction thereof shall for the first offense be fined not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00), and for each subsequent offense not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), or be imprisoned in the county jail not more than sixty days, or be both fined and imprisoned."

It is clearly seen from the above quoted article that it is mandatory for a justice of the peace to execute the duties imposed by the Vital Statistics Law the same as

Hon. E. P. Jennings, Page 3

it is his duty to execute all other laws with which he is charged.

We think it proper to here point out that the State Board of Health is given the right and authority to combine two or more registration districts under the above quoted Rule 36a, which, if done by the Board would relieve one of the local registrars from his duties. This, however, is a matter resting solely within the discretion of the Board and in the absence of the exercise of such discretion a justice of the peace is required to serve.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Lloyd Armstrong

Lloyd Armstrong
Assistant

APPROVED FEB 21, 1940

LA:AW

[Signature]
FIRST ASSISTANT
ATTORNEY GENERAL

