



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable A. M. Harrison
County Attorney
Lamar County
Paris, Texas

Attention: Honorable J. M. Braswell, Assistant County Attorney

Dear Sir:

Opinion No. 0-5103

Re: What is "a court of competent jurisdiction" to order the issuance of a certified copy of the birth record of an illegitimate child when such child is no longer a minor

You have requested the opinion of this department on the above question, referring to paragraph No. 25 of Rule 47a, Article 4477, Vernon's Revised Civil Statutes, which provides as follows:

"And provided that the name of the father or any information by which he might be identified, shall not be written into the birth or death certificate of any illegitimate child, and provided further, that any statement the father of an illegitimate child wishes to make as to its parentage, may, when placed in the form of an affidavit, be attached to the original birth record. Neither the State Registrar nor any local registrar shall issue a certified copy of any birth or death certificate wherein a child or an adult is stated to be illegitimate, unless such certified copy is ordered by a Court of competent jurisdiction."

Your question arises from the fact that neither the Constitution nor the statutes of this State grant to any court

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specific jurisdiction to order the issuance of a certified copy of the birth record of an illegitimate child.

Section 8 of Article 5 of the Constitution of Texas, in addition to conferring upon the district court jurisdiction in the particular kinds of cases therein named, further provides that said district court "shall have general original jurisdiction over all causes of action whatever for which a remedy or jurisdiction is not provided by law or this Constitution." This constitutional provision has been carried forward into our statutes. Article 1909, V. R. C. S.

Chief Justice Hemphill, in speaking of the jurisdiction of the district court, said:

"The only inquiry to be made at the institution of a suit is whether the facts of the case are such as to entitle a party to a judgment in his favor in either law or equity; and if he have rights cognizable by either, such relief will be adjudged by the court as the nature of the case demands." 4 Texas 109, 114.

It is therefore our opinion that the district courts have jurisdiction, upon proper petition, to order the issuance of a certified copy of the birth record of an illegitimate child after such child is no longer a minor.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

W. R. Allen

W. R. Allen
Assistant

WRA:db

A. J. C.

APPROVED FEB 1945
Charles C. Mann

