



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Honorable W. A. Davis  
State Registrar  
Texas State Board of Health  
Austin 2, Texas

Dear Sir:

Opinion No. 0-6384  
Re: Name of illegitimate child  
born in stillbirth.

We have your letter as follows:

"The question frequently arises as to the surname of an illegitimate, as is shown in a quotation from Mr. Bernhagen, Registrar of births and deaths in Beaumont, Texas:

"A child was born here in Beaumont, the birth happening to be a stillbirth. The mother of the child was a widow, her husband having died more than a year ago. The Infirmary, at which the birth occurred, listed the birth as illegitimate but they were undecided as to what name to give the infant -- whether the child's surname should be the mother's maiden surname or her widowed husband's name."

"It is not my intention to argue the case, but the birth record calls, in item 2, for the full name of the child; item 8, for the full name of the father; and in item 14, the full maiden name of the mother.

"In the case mentioned by Mr. Bernhagen, since the records show that the father is dead, the child is illegitimate and the certificate will be so written. The widow carries the name of her former husband. According to a previous opinion issued by

Honorable W. A. Davis, page 2

your department, the child takes the surname of its mother, but in such cases as this, to place the father's surname as the surname of the child would violate Paragraph 25, Rule 44a, Article 4477, V.T.S. in that the surname of the child, in this case, would be at least some information by which the father might be identified.

"Please advise me what the surname should be in such cases as that described above."

Rule 39a of Article 4477, Revised Civil Statutes, provides in part as follows:

"That a stillborn child shall be registered as a birth and also as a death, and separate certificates of both the birth and the death shall be filed with the local registrar, in the usual form and manner, the certificate of birth to contain in place of the name of the child, the word 'still-birth'; provided, that a certificate of birth and a certificate of death shall not be required for a child that has not advanced to the fifth month of uterogestation. . . ."

We think this plain language of the statute disposes of your question, and that it is unnecessary to give the child any name at all.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By   
Elbert Hooper  
Assistant

EH: db



