



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**PRICE DANIEL**  
ATTORNEY GENERAL

May 26, 1948

Hon. Geo. W. Cox, M. D.,  
State Health Officer  
Department of Health  
Austin, Texas

Attn.: Hon. W. D. Carroll

Opinion No. V-589

Re: The necessity for the State Registrar of Vital Statistics to collect the statutory fee of fifty cents for certified copies of birth and death certificates requested for official use by a State Agency.

Dear Sir:

Your letter and request for an opinion dated May 4, 1948, is as follows:

"Rules 51a and 54a of Article 4477, R.C.S. include the statutory provisions governing the issuance of certified copies of birth and death records by the State Registrar of Vital Statistics.

"We have pending at this time a request made by another state department for a certified copy of a death certificate.

"Is the State Registrar required to collect the statutory fee of fifty cents for a certified copy when such copy is requested by an agency of the state government and is for an official use other than those exceptions to the fee mentioned in Rule 54a?"

Rule 54a of Article 4477, V. C. S., provides, in part, as follows:

"That the State Registrar shall, upon request, supply to any properly qualified applicant a certified copy of the

record of any birth or death registered under provisions of this Act, for the making and certification of which he shall be entitled to a fee of fifty cents (50¢), to be paid by the applicant . . . and provided further, that the State Registrar shall, upon request of any parent or guardian, supply, without fee, a certificate limited to a statement as to the date of birth of any child when the same shall be necessary for admission to school, or for the purpose of securing employment; and provided further, that the United States Census Bureau may obtain, without expense to the State, transcripts or certified copies of birth and deaths without payment of the fees herein prescribed; . . . and provided that the State Registrar shall issue free of cost to any veteran, his widow, orphan, or other descendants a photostatic copy of any record not otherwise prohibited by law when such record is to be used in the settlement of a claim against the Government; and provided that the State Registrar may issue, upon court order, without fee, a certified copy of the birth certificate in cases relating to child labor, and the public schools."  
(Underscoring ours throughout)

The pertinent parts of Rule 51a, Art. 4477, V. C. S., provide as follows:

" . . . Within seven (7) days after the (birth) certificate has been accepted and ordered filed by the probate court, the clerk of that court shall forward the certificate to the State Bureau of Vital Statistics with an order from the court to the State Registrar that the certificate be accepted. The State Registrar is authorized to accept the certificate when verified in the above manner and shall issue certified copies of such records as provided for in Section 21 (Rule 54a of Art. 4477, V. C. S.) of this Act. Certified copies of said birth or death certificate shall be issued by either the county clerk or the State Registrar and fee .

for said certified copy shall be fifty cents (50¢)."

Rule 54a clearly states that the State Registrar shall issue a birth or death certificate to any qualified applicant provided such applicant pays to the State Registrar a fee of fifty cents. Said rule further provides that the State Registrar must issue birth or death certificates to certain persons and to the United States Census Bureau without charge.

39 Tex. Jur., Sec. 101, p. 191 says:

"The fact that an Act contains one or more exceptions discloses an intention on the part of the Legislature that there shall be no other exception and that the Act should apply in all cases not excepted."

The Supreme Court of Texas in Federal Crude Oil Company v. Yount-Lee Oil Co., 52 S.W.(2d) 56, stated:

"It is a familiar rule of statutory interpretation that an 'exception makes plain the intent that the statute shall apply in all cases not excepted.' Sutherland on Statutory Construction (2d Ed.) Sec. 494, p. 923; 25 R. C. L. 983; First Texas State Insurance Co. v. Smalley, 111 Tex. 68, 228 S.W. 550."

The latest expression by our Supreme Court on the rule of law involved herein is found in the case of North Common School District et al v. Live Oak County Board of School Trustees et al, 199 S.W.(2d) 764. This case construed an Act of the Legislature validating all independent school districts which had theretofore been enlarged by the County Board of School Trustees after the proper elections, except those districts the validity of which was in litigation at the time of the passage of the Act. The court said:

"Moreover the fact that the Act contained one exception - where the validity of the district was in litigation at the time of the passage of the Act - would seem to mark the limit of the exclusions

and to impel any implications that there shall be any other exceptions."

Under the general rules of statutory construction as above set out, we are of the opinion that the Legislature intended that the State Registrar must collect the statutory fee of fifty cents for certified copies of birth and death certificates from all State Agencies and all persons other than those specifically exempt from the payment of such fee under the statute in question. Since your letter concerns a State Agency that is not specifically exempt under Rule 54a, it follows that you must collect the statutory fee of fifty cents from such State Agency.

SUMMARY

The State Registrar is required to collect a fee of fifty cents for all certified copies of birth and death certificates from all persons or agencies requesting same, except those persons or agencies specifically exempt from the payment of such fee under the provisions of Rule 54a of Article 4477, V. C. S.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By *Clinton Foshee*  
Clinton Foshee  
Assistant

CF:mw

APPROVED:

*Price Daniel*  
ATTORNEY GENERAL