

VITAL STATISTICS:
HOUSE BILL NO. 65:

Only information from records of clerks
and recorders may be required by State
Registrar.

September 23, 1948



Mr. Max E. Hall, President
Circuit Clerk's and Recorder's
Association of Missouri
Mt. Vernon, Missouri

Dear Mr. Hall:

This is in reply to your request for an opinion, which we
will restate for the purpose of brevity:

Must the circuit clerks and recorders furnish
all the information contained on the forms
provided by the State Registrar when comply-
ing with Sections 34-37 of House Bill No. 65
recently passed by the 64th General Assembly?

The real question involved in your request for an opinion is
whether or not the circuit clerks and recorders must obtain informa-
tion beyond that which is shown by their records.

Section 34 of House Bill No. 65 reads, in part, as follows:

" * * * Every officer who issues a marriage
license shall forward to the state registrar
on or before the 15th day of each calendar
month a list of the certificates of marriage
which were filed with him during the preced-
ing calendar month on forms to be furnished
by the state registrar."

The above section requires recorders to furnish the State
Registrar a list of the certificates of marriage which were filed
with him during the preceding month. The forms which have been
furnished by the State Registrar contain spaces for entries of
certain information which an applicant for a marriage license is
not required to give in order to obtain the license. We think
that, in order to obtain a proper interpretation of this new sec-
tion, recourse must be had to the language of the marriage stat-
utes. It is a settled rule for construction of statutes that all
acts in pari materia should be construed together.

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Section 3365, R. S. Mo. 1939, provides, in part, as follows:

"The recorders of the several counties of this state, and the recorder of the city of St. Louis, shall, when applied to by any person legally entitled to a marriage license, issue the same, which may be in the following form: * * *"

(Thereafter follows a form of marriage license which may be issued by the recorder.)

It will be noted that the form furnished by the State Registrar asks for data which is not on the marriage license itself, such as color or race, date of birth, place of birth and previous marital status. Section 3365, supra, does not require that the exact age of the marriage parties be entered upon the license, but it is sufficient to merely state that the party is over the age, twenty-one if a male and eighteen if a female. If under this age, consent of the parent or guardian is made necessary by the terms of Section 3370, R.S.Mo. 1939.

Section 3361, R. S. Mo. 1939, prohibits certain marriages, and Section 3364, Mo. R.S.A., as amended, provides that certain health reports must be obtained before a marriage license may lawfully be issued.

If a male and female should apply to the recorder for a marriage license, and having shown that they meet the requirements so as to be legally entitled to the same, it becomes the recorder's duty to issue the license. His wilfull neglect or failure to issue the license would make him subject to prosecution for a misdemeanor under the provisions of Section 3367, R. S. Mo. 1939. We think that it would be no defense for a recorder to refuse to issue a license on the grounds that the persons applying refuse to give certain of the information contained in the State Registrar's form. In these premises, it is our opinion that the information to be furnished the State Registrar may be limited to that shown on the records of the recorder.

However, we also see no objection to the co-operation of the recorders with the State Registrar in making the information available, if it is possible to obtain it, at the time of the issuance of the license. One of the evident purposes of House Bill No. 65 is to provide a central agency to which persons seeking information concerning marriages and the like may apply and be directed to the county and official from whom they may obtain the desired information. The office of Vital Statistics is performing a great public service and should have the co-operation of public officials insofar as they are able.

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We are also of the opinion that the information to be furnished the State Registrar concerning divorces and annulments of marriage may be obtained from the records, decrees and pleadings in the case, and that it is not necessary for the clerk to go to other sources for the information. The furnishing of certain information is not a requirement to be met before a decree of divorce may be obtained, and in some instances the clerk might not be able to obtain the information at all. Here again, it would depend to a large extent upon the co-operation of the parties to the divorce proceedings. We are reluctant at this time, in the very beginning of this vast undertaking of the collection of vital statistics, to say that the Legislature intended that the clerks and recorders should obtain information from sources outside their official records and transmit the same to the State Registrar.

Section 16 of House Bill No. 65 provides generally that the forms of certificates shall include as a minimum the items required by the respective standard certificates as recommended by the National Office of Vital Statistics. It is our view that the correct interpretation of this section is that it applies to such matters as births, deaths, stillbirths, etc., and was not intended to be read in connection with Sections 34-37.

We have been informed that the circuit clerks and recorders, almost without exception, are co-operating very well with the State Registrar in the matter of furnishing the information which the office seeks. As above stated, we see no reason why this co-operation may not be continued in the public interest where it is possible to do so.

CONCLUSION

Therefore, it is the opinion of this department that the only information which may be required by the State Registrar of Vital Statistics, by virtue of Sections 34 to 37 of House Bill No. 65, is that which may be obtained from the official records of the clerks and recorders.

Respectfully submitted,

JOHN R. BATY
Assistant Attorney General

APPROVED:

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J. E. TAYLOR
Attorney General