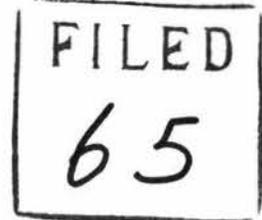


VITAL STATISTICS:
PUBLIC HEALTH AND WELFARE:

Section 24(2) of Uniform Vital Statistics Act is violated by issuing different types of certificates for legitimate and illegitimate births.

June 18, 1948

Mr. Elwood C. Musselman
Director of Vital Statistics
Division of Health
Jefferson City, Missouri



Dear Mr. Musselman:

This is in reply to your request for an opinion, which reads as follows:

"When a request for a certified copy of a birth certificate is received in the Bureau of Vital Statistics, the procedure is to issue Exhibit A if the birth is registered as legitimate. If the birth is registered as illegitimate, Exhibit B is issued. For governmental agencies requiring information on births, such as the Army, Navy, or Veterans' Administration, it is customary to use Exhibit C.

"Among school teachers, personnel officers, and other individuals to whom a number of birth certificates are presented it has become apparent why one individual has a certain type of certification and the majority has another type.

"Paragraph (2), Section 24, of House Bill Number 65, which was recently enacted by the Legislature and signed by the Governor provides:

'Disclosure of illegitimacy of birth or of information from which it can be ascertained, may be made only upon information is necessary for the determination of personal or property rights and then only for such purposes;

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"Does the present procedure of issuing a different type of certification for illegitimate births from that issued for legitimate births comply with the intent of the above paragraph?"

House Bill No. 65 was passed by the 64th General Assembly and will become effective on the 18th day of July, 1948. The act is known as the "Uniform Vital Statistics Act," and is very nearly the same as that adopted by the National Conference of Commissioners on Uniform State Laws and approved by the American Bar Association.

According to your letter of request, you are at the present time issuing two types of birth certificates; one for births registered as legitimate and the other for births registered as illegitimate. The legitimate birth certificate carries the name and certain information concerning the father and mother, while the illegitimate birth certificate is silent on these facts. Subsection (2) of Section 24 of House Bill No. 65 provides as follows:

"Disclosure of illegitimacy of birth or of information from which it can be ascertained, may be made only upon order of a court in a case where such information is necessary for the determination of personal or property rights and then only for such purpose; or upon the request of the individual whose birth registration is involved, when such information is necessary to the establishment of any claim against the Federal Government." (Underscoring ours.)

The problem with which we are confronted resolves itself into a question of whether or not the above-quoted provision will be violated by continuing to issue two separate types of birth certificates. We leave aside the question of a violation of the language above, "Disclosure of illegitimacy of birth," because that is not involved at this time. We are concerned with whether or not a fair construction of this section would make the present procedure violative of the language, supra, "Or of information from which it can be ascertained," In the case of State ex rel. Kenney, et al., v. Missouri Workmen's Compensation Commission, 40 S.W. (2d) 503, the court said, l.c. 504:

"The fundamental rule in the construction of the statutes is to ascertain and give effect to the purposes of the Legislature (Consolidated School Dists. v. Hackmann, 302 Mo. 558, 258 S. W. 1011), and a statute must be liberally construed in the light of its underlying

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reasons, keeping in mind the furtherance of the purpose sought thereby (St. Louis & S. F. R. Co. v. Public Serv. Comm. of State of Missouri, 254 U. S. 535, 41 S. Ct. 192, 65 L. Ed. 389)."

In the case of Memmel v. Thomas, 181 S.W. (2d) 168, the court stated, l.c. 169:

"To get at the true meaning of language employed in a statute, we must look at the whole purpose of the act, the law as it was before the enactment, and the change in the law intended to be made.' Pembroke v. Houston, 180 Mo. 627, loc. cit. 636, 79 S.W. 470, 471; Young v. Hudson, 99 Mo. 102, 12 S.W. 632. We should also consider the results of the construction suggested, it being presumed that the Legislature intended a reasonable construction which will permit of beneficial results. Darlington Lumber Co. v. Missouri Pacific R. Co., 216 Mo. 658, loc. cit. 672, 116 S.W. 530."

In the past it has been possible for certain persons such as you mentioned in your letter, namely, school teachers, personnel officers, etc., to whom a number of birth certificates are presented, to become aware of the fact that the birth of certain individuals is on file in the Vital Statistics office as legitimate and others are on file as illegitimate. Thus, in a roundabout method, disclosure is made of information from which illegitimacy can be ascertained.

Webster's New International Dictionary (Seventh Edition) defines the term "information" as follows:

"2. That which is received or obtained through information; specif.: a Knowledge communicated by others or obtained by personal study and investigation; intelligence; knowledge derived from reading, observation, or instruction."

Our Supreme Court, in considering a case wherein the question arose as to whether or not certain information acquired by surgeons and physicians was privilege, stated:

" * * * Information acquired by a physician from inspection, examination or observation of the person of the patient, after he has

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submitted himself to such examination, may as appropriately be said to be acquired from the patient as if the same information had been orally communicated by the patient." (Gartside v. Connecticut Mutual Life Insurance Company, 76 Mo. 446, 451.)

In the above opinion the court quoted from the case of Briggs v. Briggs, 20 Mich. 34, as follows, l.c. 451:

" * * * We do not understand the information here referred to, to be confined to communications made by the patient to the physician, but regard it as protecting with the veil of privilege whatever, in order to enable the physician to prescribe, was disclosed to any of his senses, and which in any way was brought to his knowledge for that purpose."

Thus, from the above, it can be seen that the disclosure of information may be had in many different ways than by mere actual and direct disclosure.

We believe that the above-quoted section of House Bill No. 65 was designed to prevent the dissemination of information concerning the illegitimacy of birth, except where an individual's personal or property rights are involved, and in these circumstances special provision is made in Section 24 of House Bill No. 65.

CONCLUSION

In the premises, it is the opinion of this department that the present procedure of issuing a different type of certificate for a birth registered as legitimate than for a birth registered as illegitimate will be in violation of Section 24(2) of House Bill No. 65 when it becomes effective.

Respectfully submitted,

JOHN R. BATY
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General