

1976 S.C. Op. Atty. Gen. 187 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4357, 1976 WL 22976

Office of the Attorney General

State of South Carolina

Opinion No. 4357

May 28, 1976

***1 SECTION 12 OF THE SOUTH CAROLINA RULES AND REGULATIONS GOVERNING VITAL STATISTICS, PROMULGATED PURSUANT TO S.C. CODE SECTION 32-1102, AUTHORIZES THE STATE REGISTRAR OF VITAL STATISTICS TO PRESERVE ORIGINAL RECORDS BY TYPEWRITTEN, PHOTOGRAPHIC, OR OTHER MEANS OF REPRODUCTION; THIS INCLUDES THE TRACING OVER OF ORIGINAL DOCUMENTS. WHEN CERTIFIED BY THE STATE REGISTRAR, SUCH REPRODUCTIONS SHALL BE ACCEPTED AS THE ORIGINAL RECORD.**

TO: Doris Byars
Assistant State Registrar
Division of Vital Records
South Carolina Department of Health and Environmental Control

QUESTIONS PRESENTED:

Whether, under Section 12 of the Rules and Regulations Governing Vital Statistics promulgated pursuant to S.C. Code Section 32-1102, the State Registrar of Vital Statistics is authorized to preserve original records by typewritten, photographic, or other means including the tracing over of original records, and whether the State Registrar is authorized to issue certified photocopies of preserved original records.

STATUTES AND REGULATIONS INVOLVED:

S. C. Code, Sections 26-101, 26-103, 32-1102; The Rules and Regulations Governing Vital Statistics in South Carolina, Section 12.

DISCUSSION OF ISSUES:

Pursuant to the rule-making power contained in South Carolina Code Section 32-1102, the Department of Health and Environmental Control has promulgated the Rules and Regulations Governing Vital Statistics in South Carolina. Section 12 of these regulations, as set out below, authorizes the State Registrar to take measures deemed necessary to preserve deteriorated documents.

Section 12—Preservation of Records:

To preserve original documents, the State Registrar of vital statistics is authorized to prepare typewritten, photographic or other reproductions of original records and files in this office. Such reproductions when certified by him shall be accepted as the original record.

In light of this provisions, the State Registrar of Vital Statistics has the authority to use any means necessary to preserve deteriorated documents. This could include the tracing over of an original record. Section 12 also authorizes the State Registrar to certify a transcript of a badly deteriorated record as an accurate reproduction of the facts contained in the

old record. This transcript would then stand in the place of the original record, and could be microfilmed and certified as are other original records. Implicit in this provision of the vital statistics regulations is the requirement that these deteriorated original records will not be destroyed, but will be kept by the Division of Vital Records.

Section 12 is consistent with S. C. Code Sections 26–101 and 26–103, governing the admission into evidence of certified photocopies.

CONCLUSION:

Section 12 of the South Carolina Rules and Regulations Governing Vital Statistics, promulgated pursuant to S. C. Code Section 32–1102, authorizes the State Registrar of Vital Statistics to preserve original records by typewritten, photographic, or other means of reproduction; this includes the tracing over of original documents. When certified by the State Registrar, such reproductions shall be accepted as the original record.

***2** Randolph R. Mahan
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