

OPINION
45-26

August 13, 1945 (OPINION)

BIRTH CERTIFICATES

RE: Public Record - How Changed

Your letter of August 9 addressed to the Attorney General has been received and contents noted.

You state that you have a certain matter for consideration in your office as follows: You have a certain situation in your office in connection with a birth certificate in which the facts are as follows:

A child was born in April, 1929. The original birth certificate is registered in your files and is listed as a legitimate birth. You now have a request from the attorney of the mother and her present husband, whom you married eighteen months after the birth of the child, in which he asks to have the name of her present husband substituted as that of the father, and that this correction be made on the original birth record of the child. The letter was accompanied by an affidavit signed by the mother stating that the man who was her husband at the time of the birth of the child was not the natural father and that at that time she was in the process of obtaining a divorce, and that she married the real father shortly thereafter. You also have an affidavit signed by the second husband admitting paternity and requesting that the original birth record be corrected so that the present husband would appear as the father of the child.

You wrote the attorney advising him that you could not change the father's name on the original birth record without some good documentary evidence, such as a court decision regarding paternity of the child, or an affidavit from the man who is listed as the natural father on the original record denying paternity of the child. You further explained that since the mother married the present husband more than eighteen months after the birth of the child, and since the birth was listed as being legitimate-that is, as being born to her before she was divorced from the first husband-you could not now change the record upon the showing made.

We agree with you in the position you have taken in this matter. In order to have the records changed at this time, we believe that can be accomplished only through proper court proceedings. Public records cannot be changed indiscriminately, and having once been made, must so remain until changed through judicial procedure.

NELS G. JOHNSON

Attorney General