

**OPINION
60-147**

August 16, 1960 (OPINION)

MARRIAGE

RE: Application for License - Recording

This is in reply to your letter of August 12, 1960, concerning the above matter. You state that for many years the marriage record book in Barnes County has had the application for marriage license, together with the marriage license and certificate of marriage, all on one page. You further point out that section 14-0322 of the North Dakota Revised Code of 1943 provides that marriage licenses and certificates of marriage shall be recorded. This section does not mention the applications for marriage licenses.

You ask whether or not it is necessary to record the application for marriage license. Section 14-0322 of the North Dakota Revised Code of 1943 provides:

RECORD TO BE KEPT BY COUNTY COURT. The county judge shall keep a marriage record book in which we shall keep a correct copy of all marriage licenses issued by him. When a license is returned with the certificate of the person performing the marriage ceremony properly filled out and signed, he also shall record the certificate immediately following the record of the license. For each license and the record herein required, the county judge shall be entitled to a fee of one dollar to be paid by the party applying for the license."

We also note that section 14-0324 of the North Dakota Revised Code of 1943 provides in part that: "The books of record of marriage licenses issued and certificates returned which are kept by the county judge of any county . . . shall be received as evidence in all courts,. . . ."

The apparent intent of the statutes concerning the marriage record book is to require that only the licenses and certificates of marriage be recorded in the marriage record book. It is our opinion, therefore, that the applications for marriage licenses need not be recorded in the marriage record book.

However, section 14-0317 of the 1957 Supplement to the North Dakota Revised Code of 1943 provides in part: "The county judge shall retain on file in his office all papers and records pertaining to all marriage licenses." Therefore, while the applications for marriage licenses need not be recorded in the marriage record book provided for in section 14-0322, such applications, along with all other papers and records pertaining to all marriage licenses, must be kept on file in the office of the county judge as provided in section 14-0322.

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