

Opinion No. 21.**County Clerk and Recorder—Fees—
Birth Certificates—Death Cer-
tificates—Certified Copies.**

HELD: That county clerks and recorders, upon issuing a certified copy of a birth certificate or death certificate, shall receive a fee of fifteen (15c) cents for each folio, plus a fee of fifty (50c) cents for affixing the seal to said certificate.

May 15, 1953.

Robert T. Pantzer
County Attorney
Park County
Livingston, Montana

Dear Mr. Pantzer:

You have submitted the following question to my office for an official opinion:

“What fees should be charged by the county clerk and recorder for certified copies of birth and death certificates?”

In your letter you have informed me that there is a difference in the charge in various counties. Some counties have been charging a fee of twenty-five (25c) cents under the provisions of Chapter 52, Laws of 1941, while others are charging a fee of fifteen (15c) cents for each folio, in addition to fifty (50c) cents for certification, pursuant to the provisions of Section 25-231, R. C. M., 1947, which is a general statute enumerating the fees which a county clerk shall charge and collect.

Chapter 52, Laws of 1941, provided:

“Section 2524. Certification of Information on Birth or Death Certificates. Every county clerk, on demand, is required to issue a certificate, with seal affixed, certifying to the information contained in any certificate of birth or death of record in his office. The information shall be inserted on a form compiled and prescribed by the state board of health and said form shall be of general use throughout the state and shall be issued by county clerks in lieu of cer-

tified copies of the original instrument. The county clerk may charge a fee of not to exceed twenty-five (25c) cents for each such certificate issued.”

However, in 1943, the legislature enacted comprehensive laws relative to all vital statistics, Chapter 44, Laws of 1943. This act specifically repealed Chapter 52, Laws of 1941, supra. Therefore, there is no existing authority for the clerks of the various counties to charge a fee of twenty-five (25c) cents for each copy of a birth or death certificate.

Section 69-531, R. C. M., 1947, provides that the local registrars are to transmit original certificates to the State Registrar of Vital Statistics and also to send a copy to the County Clerk and Recorder who is to file the same.

The Act does not contain any specific direction as to the fee which the county clerk is to charge for certified copies. It is, therefore, necessary to examine the general provisions of the law, since, in the absence of a specific provision, the general provisions will control.

Section 25-231, R. C. M., 1947, enumerates the fees which a county clerk is to charge and collect, for the use of his respective county. Therein it is stated:

“ . . . For a copy of any record or paper, for each folio, fifteen (15c) cents and for each certification with seal affixed, fifty (50c) cents; provided, that in all cases where copies of any record or paper are to be certified by the county clerk and such copy is furnished to said clerk for certification, said clerk shall not make a charge nor receive a fee for the comparison of such copy, other than the fee of fifty (50c) cents for his certificate and seal. . . .”

It is therefore my opinion that county clerks and recorders, upon issuing a certified copy of a birth certificate or death certificate, shall receive a fee of fifteen (15c) for each folio, plus a fee of fifty (50c) cents for affixing the seal to said certificate.