

REGISTRATION OF BIRTHS: It is the opinion of this department that children born in a foreign country to residents of Missouri who are in a foreign country in the armed services or in employment may upon return to Missouri have made in their behalf application for registration and the issuance of birth certificates by the Department of Vital Statistics of the Division of Health of Missouri, and may be so registered and may receive such certificates.

August 6, 1959



H. M. Hardwicke, M. D.
Deputy Director
Division of Health
State Office Building
Jefferson City, Missouri

Dear Doctor Hardwicke:

Your recent request for an official opinion reads:

"May we have an opinion concerning the legal right of the Bureau of Vital Statistics of the Division of Health to register children born overseas to Missouri parents.

"Up to the present time children born to parents who are either in the Armed Services or employed in foreign countries have been refused birth registration and certification in this state. Federal laws and regulations appear to be nebulous, overlapping and sometimes difficult for interpretation. The United States Attorney has given an opinion to the United States Public Health Service that a federal certificate of United States citizenship only may be obtained in these cases. No standard birth certificate is available from the federal government.

"During the recent session of the Legislature, House Bill 384 was enacted and signed into law by the Governor on June 2, 1959. This law provides for the registration and birth certification of children of foreign parentage adopted by Missouri parents. This law requires only a standard procedure of adoption before a Missouri court.

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"Children born of Missouri parentage overseas have in the past been refused birth certificates. This refusal is apparently based on regulations. Missouri law appears to be silent on this subject except to provide against double registration, that is, registration in this and another state. Federal regulations as found in Army Regulations 608-68 read as follows: 'The parents may, upon return to the United States, again record the birth of the child with the proper officials of their state in accordance with the local laws, if such action is permissible under the laws of their state of domicile.' Should this office implement a procedure for the registration and certification of children when a properly executed certificate of citizenship is presented to us?

"Should this office make and issue a regular birth certificate upon the affidavit of the parents provided the birth records of such parents are on file in this office and provided certification of citizenship is presented to this office?

"It would appear if a procedure of this nature is not permissible, a record of the birth of children born overseas to Missouri parents will not be recorded anywhere in the United States."

You direct our attention to House Bill 384 enacted by the Seventieth General Assembly which became effective June 2, 1959. That bill applies only to adopted and not to natural born children of Missouri residents and so is not applicable in the situation which you set forth.

Subsequent to writing the opinion request above, you have informed us orally that the situation which you have in mind is one in which Missouri residents and citizens go to a foreign country in government service, either civil or military, reside there for a time, during which time there is born to them a child or children; that subsequently they return and resume their residency in Missouri and apply to the Bureau of Vital Statistics of this state for a birth registration for their child or children born abroad. We assume that the children about whom you inquire are minors.

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We believe that the Missouri Bureau of Vital Statistics may grant a birth certificate to such children as are here under consideration.

Section 193.200, RSMo 1949, reads:

"A person born in this state, or a resident of Missouri born outside of this state whose birth is not recorded in any other state, may file, or amend a certificate after the time herein prescribed, upon submitting such proof as shall be required by the division, or by any court."

It will be noted that the above section holds that a resident of Missouri, which the infants in the instant case are by virtue of the residence of their parents, born outside of this state, whose births are not recorded in any other state, may receive birth certificates upon the submission of such proof as shall be required by the Division of Health.

At this point we take note of an opinion rendered by this department on October 31, 1949, to Ben W. Oliver, Representative. In this opinion we construed Section 193.200, supra, which at that time was Section 20 of House Bill No. 207. We gave particular attention to the meaning of the words "recorded in any other state . . ." In that opinion, a copy of which is enclosed, we stated (Page 2):

"We take the term 'state' to mean the states of the United States and territories and possessions of the United States where recordation is carried on. We believe that a reasonable interpretation to be given the phraseology 'recorded in any other state' would include any county or municipal office where such birth may be recorded. In the event a copy of such record would be available to the person interested it would certainly be of more evidentiary value than one filed in the Bureau of Vital Statistics of Missouri under the provisions of House Bill No. 207."

We may say here that we see no basis for restricting the application of 193.200, supra, to a person born in some other state of this country, or territory or possession. We believe that the language of the section is sufficiently inclusive to

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include a person born in a foreign country. We believe, therefore, that children born in a foreign country of persons who are Missouri residents who return to Missouri, become residents of Missouri by virtue of the residency of their parents and therefore come within the purview of Section 193.200, supra, and may apply for birth certificates on the basis of the authority of the above section.

CONCLUSION

It is the opinion of this department that children born in a foreign country to residents of Missouri who are in a foreign country in the armed services or in government employment may, upon return to Missouri, have made in their behalf application for registration and the issuance of birth certificates by the Department of Vital Statistics of the Division of Health of Missouri, and may be so registered and may receive such certificates.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Hugh P. Williamson.

Yours very truly,

John M. Dalton
Attorney General

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Enclosure