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STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

(501) 371-2007

OPINION NO. 86-24

February 3, 1986

Honorable Doug Wood
State Representative
201 West Broadway
P.O. Box 5606
North Little Rock, AR 72119

Dear Representative Wood:

This letter is written in response to your request for an opinion regarding the uniform advance fee for initiating a cause of action in probate court. Your specific question is:

Whether the increased fee provided in Act 351 of 1985 is included in the \$75.00 uniform advance fee found in Act 898 of 1983?

The Bureau of Vital Statistics, prior to 1983, was authorized to collect two dollars (\$2.00) from the clerks of the probate courts for issuing a new birth certificate following an adoption decree. See Ark. Stat. Ann. §82-512 & 513 (1983 Cum. Supp.). The Arkansas Legislature in 1983 adopted a uniform advance fee of seventy-five dollars (\$75.00) for initiating a cause of action in probate court and specifically provided that certain fees are to be included within the uniform fee. See Act 898 of 1983 (Compiled at Ark. Stat. Ann. §22-522 (1985 Cum. Supp.)).

Section 1 of Act 898 states, inter alia:

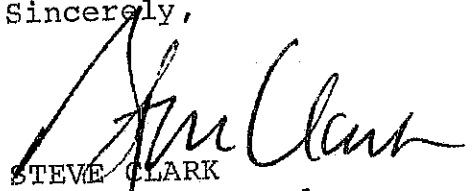
. . . the uniform advance fees prescribed herein shall include all extra fees now authorized by law including, but not limited to, those fees authorized for assessment for continuing legal education, county law library, court reporter, Justice Building, and Bureau of Vital Statistics - Domestic Relations, and such fees shall be paid out of the uniform advance fees provided herein and shall not be paid in addition to the uniform fees. (Emphasis added).

This Act clearly contemplates that all extra filing fees authorized by law at the time the Act was adopted shall be included within the seventy-five dollar (\$75.00) uniform fee.

Act 351 of 1985 creates a problem. This Act increased the cost of a new birth certificate from two dollars (\$2.00) to five dollars (\$5.00). The question is whether the increased cost of the birth certificate results in increasing the uniform fee or is included within the uniform fee. The Act states that all extra fees now authorized by law are included in uniform fee. At the time Act 898 was adopted, the maximum fee for a new birth certificate was two dollars (\$2.00). Act 351 of 1985 increased that fee to five dollars (\$5.00). It appears the uniform fee may be increased by three dollars (\$3.00) since three dollars (\$3.00) of the current birth certificate fee was not authorized by law at the time Act 898 was adopted and thus was not included in the uniform fee.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Randel K. Miller.

Sincerely,


STEVE CLARK
Attorney General

SC/RKM/ljm