

PUBLIC RECORDS:
VETERANS:
STATE SERVICE OFFICER:

State Service Officer entitled to such public records as he needs in connection with his official duties without charge. Copies of such records may be requested by Assistant State Service Officer.

FILED
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May 24, 1954

Honorable Roy L. Carver
State Service Officer
P.O. Drawer 147
Jefferson City, Missouri

Dear Mr. Carver:

We render herewith our opinion, based upon your request of April 28, 1954, which request reads as follows:

"I am requesting an opinion on the procurement of documents by this Department when such documents are needed to complete claims through the Veterans Administration or other governmental agencies. Such documents as requested by this Department are necessary as proof to the agency concerned. Most of our documents are received from the Recorder of Deeds, Circuit Clerks and Probate Courts of the different counties and many are received from the Bureau of Vital Statistics of the State of Missouri, and all of these documents are furnished without cost when requested by this Department to complete a claim for a veteran. The authorization that we have for this is found in the Missouri Revised Statutes 1949, Volume 1, Chapter 42, Section 42.050. 'Service Officer shall have access to all the pertinent records of state of Missouri, etc.'

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"Also, an opinion on the request of such documents - should they be over

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the signature of the State Service Officer or can he authorize the Assistant State Service Officers to request such documents?"

The first question here, is: How many certified or authenticated copies of public records should the official custodian of such records furnish to the State Service Officer without charge?

The answer to this question depends upon a construction of Chapter 42, RSMo 1949, and particularly Section 42.050, RSMo 1949, which section reads as follows:

"The state service officer shall have access to all the pertinent records of the state of Missouri, its officers and departments, and all subdivisions of the state, as may be of assistance in accomplishing the purposes of this chapter, and upon the written request of the state service officer, the person or persons in charge of such record or records shall furnish to said state service officer, authenticated or certified copies of such record or records as may be designated by said state service officer, without charge."

You will notice that said section does not, nor does any other provision in the chapter, limit the number of certified or authenticated copies which are required to be furnished to the state service officer without charge. We believe that the number of authenticated or certified copies of a given record is within the discretion of the state service officer. Only he can determine how many such copies are required to accomplish the purposes of the chapter. We believe, therefore, that no person in charge of public records, coming within the terms of Section 42.050, supra, may limit the number of certified or authenticated copies of such records which he will furnish to the state service officer without charge.

Your next question is, whether the request for or designation of such records, copies of which are required, must be made by the state service officer personally, or whether assistant state service officers

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can make the request?

The appointment of assistant state service officers is authorized by Section 42.060, RSMo 1949. The designation of and request for certified copies of public records being a ministerial act, and not judicial or quasi-judicial, the state service officer may authorize his assistants to make such designation and request. Having so been authorized, the request and designation by an assistant state service officer is as effective as if made by the state service officer himself. The rule relating to delegation by an officer of authority to perform a ministerial act is thus stated in 43 Am. Jur., Public Officers, Section 460:

"* * * And while ministerial acts may be delegated by an officer or board to 'assistants' whose employment is authorized, they do not have the status of deputies to whom quasi-judicial functions may be delegated. * * *."

CONCLUSION

1) Under the provisions of Section 42.050, RSMo 1949, a person in charge of public records is required to furnish to the state service officer, without charge, as many authenticated or certified copies of a designated record as the state service officer, in his discretion, may designate and request.

2) An assistant state service officer, duly authorized by the state service officer to designate and request authenticated or certified copies of public records, may designate and request such copies, and such designation and request need not be made by the state service officer personally.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Don Kennedy.

Yours very truly,

JOHN M. DALTON
Attorney General

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