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A COUNTY CORONER MAY USE A FACSIMILE SIGNATURE FOR ALL DOCUMENTS, REPORTS, WRITS AND CORRESPONDENCE EXCEPT A DEATH CERTIFICATE—§§3705.03, 3705.27, 313.09, 313.17, R.C.

SYLLABUS:

A county coroner may adopt or utilize a facsimile signature for all documents, reports, writs, and correspondence, other than death certificates, which he executes or signs pursuant to his duties under Chapter 313., Revised Code; but under Section 3705.03, Revised Code, a facsimile signature may not be used to sign a death certificate.

Columbus, Ohio, May 28, 1962

Hon. Paul R. Young, Prosecuting Attorney
Montgomery County, Dayton 2, Ohio

Dear Sir:

Your request for my opinion raises the following questions:

1. May the coroner affix his signature to death certificates and supplemental death certificates by using a rubber stamp facsimile of his signature?

2. May the coroner affix his signature to other correspondence and documents by using a rubber stamp facsimile signature?

Section 3705.01, Revised Code, provides for the establishment of a state system of registration of births, deaths and other vital statistics in the department of health and the primary registration districts; and further provides that the director of health shall be responsible for the administration of the division of vital statistics and that the public health council shall be empowered to adopt regulations to insure the accurate and complete registration of vital statistics.

Section 3705.02, Revised Code, requires the director of health to prescribe methods, forms and blanks for obtaining registration of births, deaths and other vital statistics.

Section 3705.03, Revised Code, provides in regard to such certificates:

> "All certificates, either of birth, stillbirth, or death, shall be printed legibly or typewritten, in unfading ink, and signed. A signature required on a birth, stillbirth, or death certificate shall be written by the person required to sign. *A facsimile signature shall not be used.*" (Emphasis added)

Section 3705.27, Revised Code, provides:

> "The personal and statistical particulars in the certificate of death or stillbirth shall be obtained by the funeral director or other person in charge of interment or cremation from the best qualified persons or sources available. The statement of facts relating to the disposition of the body and information relative to the armed services referred to in section 3705.26 of the Revised Code shall be signed by the funeral director. The funeral director shall then

present the certificate of death to the physician or coroner for certification of the cause of death. The medical certificate of death shall be made and signed by the physician who attended the deceased or by the coroner within forty-eight hours after death. If there is reason to believe that the death was caused by unlawful or suspicious means, the funeral director shall refer the case to the coroner who shall hold an inquest, as provided by section 313.17 of the Revised Code, and make the medical certificate of death or stillbirth required for a burial permit, except as otherwise authorized by regulation of the public health council."

Section 313.09, Revised Code, provides:

"The coroner shall keep a complete record of and shall fill in the cause of death on the death certificate, in all cases coming under his jurisdiction. All records shall be kept in the office of the coroner, but, if no such office is maintained, then such records shall be kept in the office of the clerk of the court of common pleas. Such records shall be properly indexed, and shall state the name, if known, of every deceased person as defined in section 313.11 of the Revised Code, the place where the body was found, date of death, cause of death, and all other available information. The report of the coroner and the detailed findings of the autopsy shall be attached to the report of each case. The coroner shall promptly deliver, to the prosecuting attorney of the county in which such death occurred, copies of all necessary records relating to every death in which, in the judgment of the coroner or prosecuting attorney, further investigation is advisable. The sheriff of the county, the police of the city, the constable of the township, or marshal of the village in which the death occurred may be requested to furnish more information or make further investigation when requested by the coroner or his deputy. The prosecuting attorney may obtain copies of records and such other information as is necessary from the office of the coroner. All records of the coroner are the property of the county."

Chapter 313., Revised Code, indicates that the coroner has jurisdiction in cases where an individual dies as a result of a criminal act, by violent means or other casualty, by suicide, or suddenly while in apparent health, or in any suspicious or unusual manner. The coroner upon assuming jurisdiction of the deceased must make and keep certain records as indicated in Section 313.09, Revised Code. Section 313.03, Revised Code, authorizes the coroner, to perform, under certain circumstances, an autopsy on the dead body, and Section 313.17, Revised Code, provides the powers to conduct investigations and subpoena witnesses. The records, reports, testimony and evidence compiled and kept in the

office of the coroner pursuant to Chapter 313., Revised Code, is distinct and apart from the death certificate. The jurisdiction conferred upon the coroner, and the facts and opinions formulated by the coroner by virtue of his office, necessitate that he be substituted for the attending physician in preparing the medical certificate which is a part of the death certificate. The legislature has clearly specified that the form of the death certificate should be prescribed by the director of health, that such certificate shall be filled out legibly by typewriter, or in unfading ink, that the signature shall be of the person required to sign, and that no facsimile signatures shall be used.

Thus it is apparent that the death certificate is not a record which is kept by the coroner, nor one which is subject to his exclusive jurisdiction. The legislature has created a system of preserving certain vital statistics and obtaining information concerning the population of this state. The coroner's only duty in this regard is in filling out the medical certificate or death certificate in place of the attending physician in cases which fall within his jurisdiction. The coroner as a matter of law must supply the facts and opinions requested by the director of health on the medical certificate and sign the document. Therefore, the legislature having specifically provided that a facsimile signature may not be used on a death certificate, the coroner has no authority to use such a signature but must personally sign each death certificate.

Coming now to your second question concerning the other correspondence, records and documents which the coroner must sign in performance of his duties, it appears that there is no statute which specifically authorizes or prevents the use of such facsimile signature.

I recently considered in my Informal Opinion No. 419, Informal Opinions of the Attorney General for 1962, issued on January 17, 1962, the question of whether a facsimile signature might be used by a political subdivision when issuing bonds. In that opinion I ruled that a facsimile signature may be used for that purpose. In support of my ruling, I stated:

"* * * * * * * * *

> "Although Ohio courts have not directly ruled on the issue, there is *dictum* in the case of *State ex rel., Drucker v. Reichle,* 52 Ohio Law Abs., 95, 96, 81 N.E., 2d, 735, which states that '* * * generally one may adopt as his signature any printed or stamped facsimile copy of his signature and by his conduct be bound thereby * * *.'

"The general proposition of law in support of this *dictum* in the *Drucker* case, *supra,* is stated in 80 Corpus Juris Secundum 1289, signatures section 7, as it is quoted in *State ex rel., Independent School District of Tulsa v. Williamson,* 352 P. (2d), 394:

" 'In the absence of a statute prescribing the method of affixing a signature, it may be affixed in many different ways and may be written by hand, and printed, stamped, typewritten, engraved, photographed, or cut from one instrument and attached to another, and a facsimile signature may be a genuine signature."

"The overwhelming weight of authority as it appears in other jurisdictions supports this view.

"In *Roberts v. Johnson,* 212, F. (2d), 673, 674, the court stated that:

" ' The law is well settled that a printed name upon an instrument with the intention that it should be the signature of the person is valid and has the same force and effect as though the name were written in the person's own hand writing.' "In *Hagen v. Gresby,* 34 N.D., 349, 159 N.W., 3, the court stated:

" '* * * When a person attaches his name or causes it to be attached to a writing by any of the known methods of impressing his name upon paper with the intention of signing it he is regarded as having "signed" in writing.'

"Other cases holding facsimile signatures valid are *Town Council of Lexington v. Union National Bank,* 75 Miss. 1, 22 So. 291; *Tabas v. Emergency Fleet Corp.,* 9 F. (2d), 648; *Planter v. Morris,* 19 Ala., App. 664; *Brown v. Butcher,* 6 Hill. (N.Y.) 443, Dec. 755; *Kadota Fig Ass'n. v. Case-Swane Co.,* 73 Cal. App. (2d), 815, 176 P. (2d), 523; *Walker v. Enrich,* 212 Ark. 598, 206 S.W. (2d), 739; *Felt v. Fredrick,* 206 P. (2d), 676.

"The general proposition of law relevant to the mode of affixing a signature to a memorandum in writing as it is required by the statute of frauds is stated in the *Restatement of the Law of Contracts,* Section 210, at page 287, as follows:

" 'The signature to a memorandum under the statute may be written or printed and need not be subscribed at the foot of the memorandum, but must be made or adopted with the declared or apparent intent of authenticating the memorandum as that of the signer.'

"Professor Williston, in commenting on this section states that 'The signature may be made in pencil, by rubber stamp, or by typewriter; or a printed signature already on the paper may

be adopted.' 2 *Williston on Contracts* 1685, Section 585, a satisfaction of a memorandum in writing.

"* * * * * * * * *"

I note that Section 313.20, Revised Code, authorizes the coroner to issue certain writs and Section 313.17, Revised Code, provides for certain quasi judicial proceedings to be conducted by the coroner. Section 313.17, Revised Code, provides in regard to such investigation:

> "* * * A report shall be made from the personal observation by the coroner or his deputy of the corpse, from the statements of relatives or other persons having any knowledge of the facts, and from such other sources of information as are available, or from the autopsy.'

I can find nothing in Chapter 313., Revised Code, which provides that the coroner must sign such writs, reports, or documents under his own hand. The general rule, in regard to the use of facsimile signatures in regard to judicial acts is stated in 30 A.L.R., 703 as follows:

> "* * * The courts seem to be generally in accord in holding that a printed or stamped signature of the judge or court officer issuing an order or writ is a sufficient authentication, fulfilling the requirement of a signature, where such signature has, in effect, been adopted by the issuing officer. * * *"

Accordingly, it is my opinion and you are advised that a county coroner may adopt or utilize a facsimile signature for all documents, reports, writs, and correspondence, other than death certificates, which he executes or signs pursuant to his duties under Chapter 313., Revised Code; but under Section 3705.03, Revised Code, a facsimile signature may not be used to sign a death certificate.

Respectfully,
MARK MCELROY
Attorney General