

LETTER OPINION
93-L-165

May 27, 1993

Mr. Robert Freed
Assistant State's Attorney
Stutsman County Courthouse
511 Second Avenue SE
Jamestown, ND 58401

Dear Mr. Freed:

Thank you for your May 6, 1993, letter asking whether the legal description of property to which the filing of a death certificate under North Dakota Century Code (N.D.C.C.) ? 47-19-06 applies must be physically attached by way of a separate document or whether the legal description can simply be typed directly on the back of the death certificate itself.

N.D.C.C. ? 47-19-06 provides for the recording of a certified copy of a death certificate with the county register of deeds in cases where a joint tenancy or an estate, title, interest, or lien upon real property is ended due to the death of the joint tenant or the person upon whose life the estate, title, interest or lien was limited. It further provides that the "legal description of any property to which the recording of the death certificate relates must be attached to the death certificate." You question whether typing the legal description on the back of the death certificate meets the statutory requirement that it be attached to the death certificate and whether typing the legal description directly onto the death certificates vitiates the document as a certified copy.

The term "attach" has been defined as "to annex; to bind, fasten, or tie; to connect with; to add; to make fast or join." 7 C.J.S. Attach p. 204 (1980). The term has further been said to mean "to add or affix such as a signature or codicil." Websters New World Dictionary, 89 (2d coll. ed. 1980). Given the above it is my opinion that simply typing the legal description of the relevant property on the back of the death certificate sufficiently meets the requirement that it be "attached" to the death certificate. It is my further opinion that typing a legal description of property on the back of a certified death certificate does not vitiate its character as a certified copy. The added description would in no way be meant to become part of the death certificate itself. See generally 4 Am.Jur.2d. Alteration of Instruments, ?? 5 and 60 (1962).

Sincerely,

Heidi Heitkamp

ATTORNEY GENERAL

tca/vkk