

Opinion No. 42-4061

April 6, 1942

BY: EDWARD P. CHASE, Attorney General

TO: Mr. J. F. Shields District Court Clerk Silver City New Mexico

{*176} We acknowledge receipt of your letter of March 30, 1942, wherein you have requested an opinion of this office as to whether or not the district court clerks should keep separate record books for wills, letters of guardianship, bonds, etc.

Chapter 104, New Mexico Session Laws of 1941, provides that the district courts shall have current jurisdiction with the probate courts. No provision is made by this chapter, however, as to what probate records must be kept by the district court clerk, nor is the manner in which these records must be kept prescribed. However, Section 34-339, New Mexico Statutes Annotated, 1929 Compilation, provides:

"The clerks of the district courts shall keep, for each county, a judgment docket, a civil docket, a criminal docket, and a record or journal of the proceedings of the court. In counties where the amount of business makes it desirable or convenient to do so, they may keep two records or journals, one for criminal, and the other for civil business. No other books or records shall be required. * * *"

In view of the foregoing, it is my opinion that when a probate matter is filed originally in the district court, this matter should be treated in every respect the same as any other civil case.

I am also of the opinion that no separate record book need be kept for wills, letters or guardianship or bonds, etc.

Trusting that the foregoing sufficiently answers your inquiry, I am,

By GEO. H. HUNKER, Jr.

Asst. Atty. General