

the hours during which the office shall be open to the public, the clerk may fix the hour of 4:30 p.m. as the deadline for the presenting of instruments for recordation.

Your question is answered in the affirmative.

Section 43.27, F. S., (adopted by Ch. 72-238, Laws of Florida), provides that:

The clerks of the courts of the several counties may establish the hours during which the office of clerk may be open to the public. The hours should conform as nearly as possible to the customary weekday hours of business prevailing in the county. The clerk may prescribe that his office be open such additional hours as public needs require.

I understand that the employees of your recording department need at least one-half hour at the end of each day to close out the cash register, complete the official notations in the record books, and balance the day's receipts. It is your thought that, by requiring instruments to be presented for record by 4:30 p.m. each day, these duties could be performed during the regular work day rather than on overtime. I understand that, in case of an emergency, an instrument will be recorded after 4:30 p.m., as it now is after 5:00 p.m., upon request.

It seems to me that the authority to fix the hour beyond which the office is not open for the purpose of the recordation of instruments is within the fair intendment of §43.27, *supra*. The real estate brokers and others who regularly present instruments for recordation could adjust to a 4:30 p.m. deadline as well as to a 5:00 p.m. one; and, as noted above, in a special case the instrument could be recorded after the 4:30 p.m. deadline.

073-340—September 13, 1973

ADULT RIGHTS LAW

ABILITY TO BECOME NOTARY PUBLIC

To: *Dwight L. Geiger, Martin County Court Judge, Stuart*

Prepared by: *Jan Dunn, Assistant Attorney General*

QUESTION:

May a person eighteen years of age or older become a notary public?

SUMMARY:

Under the provisions of Ch. 73-21, Laws of Florida, a person eighteen years of age or older may become a notary public.

Your question is answered in the affirmative.

Section 117.01 (1), F. S., provides that:

(1) The governor may appoint as many notaries public as to him shall deem necessary, each of whom shall be at least twenty-one years of age, a citizen of the United States, and a permanent resident of the state for one year.

Section 2 of Ch. 73-21, Laws of Florida [§743.07 (1), F. S.], provides that:

The disability of nonage is hereby removed for all persons in this state who are 18 years of age or older and they shall enjoy and suffer the rights, privileges and obligations of all persons 21 years of age or older except as otherwise excluded by the Constitution of the State of Florida immediately preceding the effective date of this act.

Further, §4, Ch. 73-21, *supra*, states that "[a]ny law inconsistent herewith is hereby repealed to the extent of such inconsistency."

Thus, inasmuch as the Adult Rights Law gives to persons eighteen years of age or older all the rights held by persons twenty-one years of age, anyone eighteen years of age or older may become a notary public under §117.01 (1), F. S.

073-341—September 13, 1973

ANTINEPOTISM LAW

STATE ATTORNEY'S EXECUTIVE ASSISTANT WITH HIRING AND FIRING POWERS IS PUBLIC OFFICIAL

To: Glen Darty, State Attorney, Bartow

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

QUESTION:

Is a state attorney's executive assistant who has the responsibility, among other things, of employing and terminating the employment of personnel for the office of the state attorney throughout the judicial circuit a "public official" within the purview of the Antinepotism Law, §116.111, F. S.?

SUMMARY:

Assuming that the state attorney may lawfully delegate his appointing power to an executive assistant, the Antinepotism Law, §116.111, F. S., would prohibit the executive assistant from appointing or employing a relative to a position within the judicial circuit.

Your question is answered in the affirmative.

Section 116.111 (2) (a), F. S., prohibits a "public official" from appointing or employing a relative "in or to a position in the agency in which he is serving or over which he exercises jurisdiction or control. . . ." The statute, in §116.111(1)(b), defines "public official" to mean

. . . an officer . . . or employee of an agency in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ . . . individuals . . . (Emphasis supplied.)

The job classification of the employee in question includes this paragraph:

The responsibilities include interviewing and employing personnel, evaluating the performance of personnel and the termination of employment of any personnel found not to be competent and proficient in their various job functions.

It seems clear, therefore, that your executive assistant has the employing power within the purview of §116.111, *supra*; and assuming that the authority vested in the state attorney by §27.25(1), F. S., to "employ and establish in such number as he shall determine assistant state attorneys" and other personnel may lawfully be delegated to an executive assistant (as to which no opinion is expressed), it necessarily follows that your executive assistant may not employ a relative in carrying out his duties and responsibilities in this respect.