

Further, §4, Ch. 73-21, *supra*, states that "[a]ny law inconsistent herewith is hereby repealed to the extent of such inconsistency."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