

Fetal Deaths, Grieving Parents Statement

The Ohio Legislative Services Commission reports that historically, Ohio law established requirements for death certificates and burial permits for fetal deaths. The law defined “fetal death” as a “death prior to the complete expulsion or extraction from its mother of a product of human conception of at least twenty weeks of gestation, which after such expulsion or extraction does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.” A fetal death certificate must be issued by a local registrar of vital statistics prior to a burial permit being issued. However, historically, Ohio law did not authorize death certificates and burial permits for fetal deaths occurring prior to the twentieth week of gestation.

Ohio Substitute Senate Bill Number 175, which became law in 2008, generally permits a death certificate and burial permit to be issued for the product of human conception, irrespective of the duration of pregnancy. Under the Act, “fetal death” is re-defined as “death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which after such expulsion or extraction does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.”

The Act requires a fetal death certificate be issued for the product of human conception that suffers a fetal death prior to 20 weeks of gestation, on application by either parent. The parent must include with the application a copy of a statement from the hospital or physician that confirms that the woman suffered a miscarriage that resulted in a fetal death (see “Notice requirements” below). If the father submits the application, he must include a signed and notarized document from the mother attesting that she voluntarily provided the father with a copy of the statement. The Act does not specify where or how the parent is to file an application for the fetal death certificate.

The Act provides that a burial permit for the product of human conception that suffers a fetal death prior to 20 weeks of gestation is to be issued by the local registrar of vital statistics of the registration district in which the fetal death occurs if a parent files a fetal death certificate with the registrar.

The Act provides that the product of a fetal death for which a burial permit has been issued is to be interred, on the request of the mother, in a township cemetery, municipal cemetery, or cemetery of a cemetery company or association by one of the following:

- (1) In a single grave within the cemetery that contains, or will contain, the remains of a parent, sibling, or grandparent;
- (2) In another location of the cemetery, including a separate burial ground for infants, on a temporary or permanent basis.

The legislation provides that if a woman presents herself at a hospital or to a physician as a result of a fetal death prior to 20 weeks of gestation that is not the purposeful termination of her pregnancy (abortion), the hospital or physician is to provide the woman with the following information:

- (1) A written statement, not longer than one page, that confirms that the woman was pregnant and suffered a miscarriage that resulted in a fetal death;
- (2) Notice of the right of the woman to apply for a fetal death certificate;
- (3) A short, general description of the hospital or physician's procedure for disposing of the remains of the product of a fetal death.

A hospital or hospital employee or a physician may present the information listed in (2) and (3) above through oral or written means.

The Act provides that a hospital or hospital employee or physician is immune from civil or criminal liability or professional disciplinary action with regard to any action taken in good faith compliance with the notice requirement.

The legislation also requires emergency medical service personnel dispose of the product of a fetal death in the manner set forth for the disposal of fetal remains in the “Emergency Medical Technician-Basic: National Standard Curriculum.”

The Act directs that a fetal death certificate for the product of human conception prior to 20 weeks of gestation is not to list the cause of death and is not proof of a live birth for tax purposes.

Submitted as:

Ohio

Substitute Senate Bill Number 175

Status: Enacted into law in 2008.