



Laura Schneider

Bill Analysis
Legislative Service Commission

Sub. S.B. 175
127th General Assembly
(As Reported by H. Health)

Sens. Coughlin, Clancy, Carey, Schuler, Buehrer, Jacobson, Goodman, Schuring, Gardner, Amstutz, Cates, Faber, Harris, Niehaus, Schaffer, Austria, J. Otterman, Jones, Goodwin, Huffman, Uecker, Wachtmann

BILL SUMMARY

FETAL DEATHS

- Provides that on the request of the mother the product of a fetal death is to be interred in a family member's grave or in another location of the cemetery, including a separate burial ground for infants, on a temporary or permanent basis.
- Provides procedures for disinterment or re-interment when one or both parents consent to disinterment or re-interment of the product of a fetal death.
- Provides that, with certain documentation, either parent may be granted a fetal death certificate and burial permit for the product of human conception that suffers a fetal death prior to 20 weeks of gestation.
- Requires a hospital or physician to notify a woman of the right to a fetal death certificate and the hospital or physician's procedures for disposing of the product of a fetal death and provide the woman with a written statement confirming that she miscarried.
- Requires emergency medical service personnel to dispose of the product of a fetal death in the manner set forth in a national standard curriculum.
- Names the bill the "Grieving Parents Act."

INSPECTION OF RECORDS

- Authorizes the State Medical Board to inspect dangerous drug records for the purpose of enforcing the law governing physician assistants.

CONTENT AND OPERATION

FETAL DEATHS

Background

(R.C. 3705.01 and 3705.20)

Current law establishes requirements for death certificates and burial permits for fetal deaths and birth certificates for stillborn infants. As defined in current law, "fetal death" is "death prior to the complete expulsion or extraction from its mother of a product of human conception of at least 20 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." The definition of "stillborn" is tied to the definition of fetal death and likewise refers only to the product of human conception of at least 20 weeks of gestation.¹ Current law requires that a fetal death certificate be issued by the local registrar of vital statistics of the registration district in which the fetal death occurs prior to a burial permit being issued.²

Current law does not authorize death certificates and burial permits for fetal deaths occurring prior to the twentieth week of gestation.³

Fetal death certificates and burial permits under the bill

(R.C. 3705.01, 3705.20, and 3705.29)

The bill 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 bill, "fetal death" is re-defined to mean "death prior to the complete expulsion or extraction from its mother of a product of human conception,

¹ Revised Code 3705.01.

² R.C. 3705.20.

³ Current rules of the Department of Health permit a "stillbirth certificate" that recognizes fetal death at any length of gestation to be issued by the Director of Health or state registrar (Ohio Administrative Rule 3701-5-01(X)).

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 bill re-defines "stillborn" to refer only to an infant suffering a fetal death of at least 20 weeks of gestation.

The bill requires that 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 bill does not specify where or how the parent is to file an application for the fetal death certificate. 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 bill provides 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.

Under current law a fetal death certificate is a prerequisite for issuance of a burial permit. The bill 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.

Requirements for certain fetal deaths

(R.C. 3705.16, 3705.20, and 3705.29; R.C. 313.12, not in the bill)

Current law provides certain reporting and certification requirements for the fetal death of a product of conception of at least 20 weeks of gestation. Under current law unchanged by the bill, no fetal death (defined as of at least 20 weeks gestation) is to be interred, deposited in a vault or tomb, cremated, or otherwise disposed of by a funeral director or other person until a fetal death certificate or provisional death certificate is filed with and a burial permit issued by the local registrar of vital statistics of the registration district in which the fetal death occurs. Current law requires that any death or fetal death that occurs suddenly, under any circumstances other than natural, or in a suspicious manner is to undergo certain certification and reporting requirements.

The bill does not change these provisions, but clarifies that the reporting and certification is only required for a fetal death of a product of conception that is of at least 20 weeks of gestation.

Burial requirements

(R.C. 517.071, 517.072, 759.49, 759.491, 1721.071, and 1721.072)

The bill 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.

Current law establishes a procedure for approval of disinterment of burial remains.⁴ The bill provides that, if one or both surviving parents gives written consent, the disinterment or re-interment of the product of a fetal death is not subject to these procedures for disinterment and requires the cemetery to re-inter or disinter the remains. However, if two surviving parents are listed on the burial documents and only one parent has consented to the re-interment or disinterment, the cemetery must promptly notify the parent who did not consent by registered mail to the parent's last known address. The notice must contain a statement that the re-interment or disinterment will occur if the cemetery does not receive written objection within 30 days from the date the notice is sent.

The parent may object to the re-interment or disinterment by giving notice by registered mail not later than 30 days after the cemetery's notice is sent. If the cemetery receives a timely objection, the re-interment or disinterment is subject to probate court action under current law (see footnote 4).⁵

The bill further provides that a board of township trustees, in the case of a township cemetery, a legislative authority of a municipal corporation, in the case of a public burial ground or cemetery, or a cemetery company or association may

⁴ R.C. 517.23 and 517.24 permit disinterment on application of the surviving spouse or order of a probate court; however, if the decedent perished by means of a contagious or infectious disease, the board of health of the general health district or city health district must approve of the disinterment.

⁵ The bill applies the provisions on burial, re-interment, and disinterment on the remains of any fetal death, not just those under 20 weeks of gestation. Therefore, under the bill, all fetal deaths may be exempt from the re-interment and disinterment provisions of current law if a mother provides written consent.

adopt or prescribe rules, or pass and provide for the enforcement of ordinances, for the burial, re-interment, or disinterment of the product of a fetal death in the cemetery or public burial ground under control of that authority.

Notice requirements

(R.C. 3727.16 and 4731.82)

The bill provides that if a woman presents herself at a hospital or to a physician⁶ 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.

The bill provides that a hospital or hospital employee or physician may present the required information under (2) and (3) above, through oral or written means. The hospital, employee, or physician must document that all of the information has been provided to the woman with a note in her medical record and place in the record a copy of the statement that she miscarried.

The bill 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.

Emergency medical personnel requirement

(R.C. 4765.57)

Current law does not explicitly require emergency medical service personnel⁷ to take any specific action with regard to the remains of a miscarriage

⁶ "Physician" is defined by the bill as an individual holding a certificate to practice medicine and surgery or osteopathic medicine and surgery pursuant to the law governing the State Medical Board (Revised Code Chapter 4731.).

⁷ "Emergency medical service personnel" is defined in current law as first responders, emergency medical service technicians-basic, emergency medical service technicians-intermediate, emergency medical service technicians-paramedic, and persons who provide medical direction to such persons.

or fetal death that occurs during emergency transportation. The bill requires that 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."⁸

"The Grieving Parents Act"

(Section 3)

The act is to be known as "The Grieving Parents Act."

INSPECTION OF RECORDS

Inspection of dangerous drug records

(R.C. 3719.13)

Current law authorizes the State Medical Board in its enforcement of laws regulating physicians to inspect prescriptions, orders, and records required by the pure food and drug law and stocks of dangerous drugs and controlled substances. The bill authorizes the Board to also inspect such records and stocks in enforcing laws regulating physician assistants.

HISTORY

ACTION	DATE
Introduced	05-23-07
Reported, S. Health, Human Services & Aging	10-11-07
Passed Senate (28-5)	10-23-07
Reported, H. Health	05-22-08

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⁸ The "Emergency Medical Technician-Basic: National Standard Curriculum" is published by the United States National Highway Safety Administration and is the national standard curriculum for emergency medical technicians. The current standard regarding fetal remains is to take fetal tissues to the hospital.