



**Sub. S.B. 175**

127th General Assembly  
(As Passed by the General Assembly)

**Sens. Coughlin, Clancy, Carey, Schuler, Buehrer, Jacobson, Goodman, Schuring, Gardner, Amstutz, Cates, Faber, Harris, Niehaus, Schaffer, Austria**

**Reps. J. Otterman, Jones, Goodwin, Huffman, Uecker, Wachtmann, Adams, Aslanides, Bacon, Batchelder, Blessing, Brinkman, Coley, Collier, Combs, Dolan, Domenick, Driehaus, Evans, Fessler, Flowers, Gibbs, J. Hagan, Hite, Hottinger, Hughes, Mandel, J. McGregor, Mecklenborg, Oelslager, Raussen, Reinhard, Schindel, Schlichter, Schneider, Setzer, White, Zehringer**

**Effective date: September 12, 2008**

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**ACT 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 a public burial ground or 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 act the "Grieving Parents Act."

## INSPECTION OF RECORDS

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

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## CONTENT AND OPERATION

### FETAL DEATHS

#### *Fetal death certificates and burial permits*

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

The Revised Code establishes requirements for death certificates and burial permits for fetal deaths. Prior 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 the local registrar of vital statistics prior to a burial permit being issued.<sup>1</sup>

Prior law did not authorize death certificates and burial permits for fetal deaths occurring prior to the twentieth week of gestation.<sup>2</sup>

The act 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."

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<sup>1</sup> R.C. 3705.20.

<sup>2</sup> 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 Code 3701-5-01(X)).

The act 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 act 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 act 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.

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.

### **Burial requirements**

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

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.

Continuing law establishes a procedure for approval of disinterment of burial remains.<sup>3</sup> The act 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. If two surviving parents are listed on the burial documents and only one parent has consented to the re-interment or disinterment,

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<sup>3</sup> 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.

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 3).<sup>4</sup>

The act 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 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 act provides that if a woman presents herself at a hospital or to a physician<sup>5</sup> 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 hospital, employee,

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<sup>4</sup> The act applies the provisions on burial, re-interment, and disinterment on the remains of any fetal death, not just those less than 20 weeks of gestation. Therefore, under the act, all fetal deaths may be exempt from statutory re-interment and disinterment provisions if a mother provides written consent.

<sup>5</sup> "Physician" means 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.).

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 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.

**Emergency medical personnel requirement**

(R.C. 4765.57)

The act requires that emergency medical service personnel<sup>6</sup> 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."<sup>7</sup>

**"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)

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

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<sup>6</sup> Emergency medical service personnel are 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.

<sup>7</sup> 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.

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## 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
Passed House (89-6)	05-28-08
Senate concurred in House amendments (26-6)	05-28-08

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