

SENATE BILL No. 1563

November 3, 2010, Introduced by Senators KAHN, CROUSEY, HUNTER, GLEASON, BARCIA, OLSHOVE and BASHAM and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 2803, 2804, 2834, and 2848 (MCL 333.2803, 333.2804, 333.2834, and 333.2848), sections 2803, 2834, and 2848 as amended by 2002 PA 562 and section 2804 as amended by 1990 PA 149, and by adding sections 2836 and 2854.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2803. (1) **"ABORTION" MEANS THAT TERM AS DEFINED IN**
2 **SECTION 17015.**

3 (2) ~~(1)~~-"Dead body" means a human body or fetus, or a part of
4 a dead human body or fetus, in a condition from which it may
5 reasonably be concluded that death has occurred.

6 (3) ~~(2)~~-"Fetal death" means the death of a fetus ~~which~~ **THAT**
7 has completed at least 20 weeks of gestation or weighs at least 400

1 grams. **FETAL DEATH INCLUDES A STILLBIRTH.** The definition shall
2 conform in all other respects as closely as possible to the
3 definition recommended by the federal agency responsible for vital
4 statistics.

5 (4) **"FETAL REMAINS" MEANS A DEAD FETUS OR PART OF A DEAD FETUS**
6 **THAT HAS COMPLETED AT LEAST 8 WEEKS OF GESTATION OR HAS REACHED THE**
7 **STAGE OF DEVELOPMENT THAT, UPON VISUAL INSPECTION OF THE FETUS OR**
8 **PART OF THE FETUS, THE HEAD, TORSO, OR EXTREMITIES APPEAR TO BE**
9 **SUPPORTED BY SKELETAL OR CARTILAGINOUS STRUCTURES. FETAL REMAINS DO**
10 **NOT INCLUDE THE UMBILICAL CORD OR PLACENTA.**

11 (5) ~~(3)~~ "File" means to present a certificate, report, or
12 other record to the local registrar provided for in this part for
13 registration by the state registrar.

14 (6) ~~(4)~~ "Final disposition" means the burial, cremation, or
15 other disposition of a dead ~~human~~ body or ~~fetus~~ **FETAL REMAINS.**

16 Sec. 2804. (1) "Institution" means a public or private
17 establishment ~~which~~ **THAT** provides inpatient medical, surgical, or
18 diagnostic care or treatment or nursing, custodial, or domiciliary
19 care to 2 or more unrelated individuals, including an establishment
20 to which individuals are committed by law.

21 (2) "Law enforcement agency" means a police agency of a city,
22 village, or township; a sheriff's department; the department of
23 state police; and any other governmental law enforcement agency.

24 (3) "Live birth" means a term defined by departmental rule
25 ~~which~~ **THAT** shall conform as closely as possible to the definition
26 of live birth recommended by the federal agency responsible for
27 vital statistics.

1 (4) "Local registrar" means the county clerk or the clerk's
2 deputy, or in the case of a city having a population of 40,000 or
3 more, the city clerk or city department designated by the governing
4 body of the city; or a registrar appointed pursuant to section
5 2814. Population shall be determined according to the latest
6 federal decennial census.

7 (5) **"MEDICAL WASTE" MEANS THAT TERM AS DEFINED IN SECTION**
8 **13805.**

9 (6) **"MISCARRIAGE" MEANS THE SPONTANEOUS EXPULSION OF A**
10 **NONVIABLE FETUS BEFORE THE TWENTIETH WEEK OF GESTATION.**

11 (7) ~~(5)~~—"Registration" means the acceptance by the state
12 registrar and the incorporation of certificates provided for in
13 this part into the official vital records.

14 Sec. 2834. (1) A fetal death occurring in this state ~~as~~
15 ~~defined by section 2803,~~ shall be reported to the state registrar
16 within 5 days after delivery. The state registrar shall prescribe
17 the form and manner for reporting fetal deaths.

18 (2) The reporting form shall not contain the name of the
19 biological parents, common identifiers such as social security or
20 drivers license numbers or other information identifiers that would
21 make it possible to identify in any manner or in any circumstances
22 the biological parents of the fetus. A state agency shall not
23 compare data in an information system file with data in another
24 computer system which would result in identifying in any way a
25 woman or father involved in a fetal death. Statistical information
26 which may reveal the identity of the biological parents involved in
27 a fetal death shall not be maintained. This subsection does not

1 apply after June 1, 2003.

2 (3) If a dead fetus is delivered in an institution, the
3 individual in charge of the institution or his or her authorized
4 representative shall prepare and file the report **AND MAKE**
5 **ARRANGEMENTS FOR THE FINAL DISPOSITION OF THE DEAD FETUS IN**
6 **ACCORDANCE WITH SECTION 2848 TAKING INTO ACCOUNT THE EXPRESSED**
7 **WISHES OF THE PARENTS, OR PARENT IN CASE OF AN UNMARRIED MOTHER, AS**
8 **LONG AS THOSE WISHES DO NOT CONFLICT WITH ANY STATE OR FEDERAL LAW,**
9 **RULE, OR REGULATION.**

10 (4) If a dead fetus is delivered outside an institution, the
11 physician in attendance shall prepare and file the report **AND**
12 **INFORM THE PARENTS, OR PARENT IN CASE OF AN UNMARRIED MOTHER, THAT**
13 **STATE LAW REQUIRES THAT AUTHORIZATION BE OBTAINED BEFORE THE FINAL**
14 **DISPOSITION OF A DEAD FETUS RESULTING FROM A STILLBIRTH AND THAT**
15 **THE PARENTS OR PARENT HAS A RIGHT TO DETERMINE THE FINAL**
16 **DISPOSITION OF THE DEAD FETUS.**

17 (5) If a fetal death occurs without medical attendance at or
18 after the delivery or if inquiry is required by the medical
19 examiner, the attendant, mother, or other person having knowledge
20 of the fetal death shall notify the medical examiner who shall
21 investigate the cause and prepare and file the report.

22 (6) The reports required under this section and filed before
23 June 1, 2003 are confidential statistical reports to be used only
24 for medical and health purposes and shall not be incorporated into
25 the permanent official records of the system of vital statistics. A
26 schedule for the disposition of these reports shall be provided for
27 by the department. The department or any employee of the department

1 shall not disclose to any person outside the department the reports
2 or the contents of the reports required by this section and filed
3 before June 1, 2003 in any manner or fashion so as to permit the
4 person or entity to whom the report is disclosed to identify in any
5 way the biological parents.

6 (7) The reports required under this section and filed on or
7 after June 1, 2003 are permanent vital records documents and shall
8 be incorporated into the system of vital statistics. ~~as described~~
9 ~~in section 2805.~~ Access to a fetal death report or information
10 contained on a fetal death report shall be the same as to a live
11 birth record in accordance with sections 2882, 2883, and 2888.

12 (8) With information provided to the department under
13 subsection (7), the department shall create a certificate of
14 stillbirth which shall conform as nearly as possible to recognized
15 national standardized forms and shall include, but not be limited
16 to, the following information:

17 (a) The name of the fetus, if it was given a name by the
18 parent or parents.

19 (b) The number of weeks of gestation completed.

20 (c) The date of delivery and weight at the time of delivery.

21 (d) The name of the parent or parents.

22 (e) The name of the health facility in which the fetus was
23 delivered or the name of the health professional in attendance if
24 the delivery was outside a health facility.

25 **(9) IF A MISCARRIAGE OCCURS OUTSIDE AN INSTITUTION AND A**
26 **HEALTH PROFESSIONAL IS PRESENT OR IS IMMEDIATELY AWARE OF THE**
27 **MISCARRIAGE, THEN THE HEALTH PROFESSIONAL SHALL INFORM THE PARENTS,**

1 OR PARENT IN THE CASE OF AN UNMARRIED MOTHER, THAT STATE LAW
2 REQUIRES THAT AUTHORIZATION BE OBTAINED BEFORE THE FINAL
3 DISPOSITION OF ANY FETAL REMAINS RESULTING FROM A MISCARRIAGE AND
4 THAT THE PARENTS OR PARENT HAS A RIGHT TO DETERMINE THE FINAL
5 DISPOSITION OF THE FETAL REMAINS.

6 SEC. 2836. (1) UNLESS THE MOTHER HAS PROVIDED WRITTEN CONSENT
7 FOR RESEARCH ON THE FETAL REMAINS IN ACCORDANCE WITH SECTION 2688,
8 A PHYSICIAN WHO PERFORMS AN ABORTION SHALL ARRANGE FOR THE FINAL
9 DISPOSITION OF THE FETAL REMAINS RESULTING FROM THE ABORTION. IF
10 THE FETAL REMAINS ARE DISPOSED OF BY CREMATION, THE FETAL REMAINS
11 SHALL BE INCINERATED SEPARATELY FROM ANY OTHER MEDICAL WASTE.
12 HOWEVER, THIS SUBSECTION DOES NOT PROHIBIT THE CREMATION OF FETAL
13 REMAINS WITH OTHER FETAL REMAINS RESULTING FROM AN ABORTION.

14 (2) THIS SECTION DOES NOT REQUIRE A PHYSICIAN TO DISCUSS THE
15 FINAL DISPOSITION OF THE FETAL REMAINS WITH THE MOTHER PRIOR TO
16 PERFORMING THE ABORTION, NOR DOES IT REQUIRE A PHYSICIAN TO OBTAIN
17 AUTHORIZATION FROM THE MOTHER FOR THE FINAL DISPOSITION OF THE
18 FETAL REMAINS UPON COMPLETION OF THE ABORTION.

19 Sec. 2848. (1) Except as provided in sections 2844 and 2845, a
20 funeral director or person acting as a funeral director, who first
21 assumes custody of a dead body, not later than 72 hours after death
22 or the finding of a dead body and before final disposition of the
23 body, shall obtain authorization for the final disposition. The
24 authorization for final disposition of a dead body shall be issued
25 on a form prescribed by the state registrar and signed by the local
26 registrar or the state registrar.

27 (2) ~~Before~~ UNLESS WRITTEN CONSENT FOR RESEARCH HAS BEEN

1 **OBTAINED IN ACCORDANCE WITH SECTION 2688, BEFORE** final disposition
2 of a dead fetus, irrespective of the duration of pregnancy, **OR**
3 **BEFORE FINAL DISPOSITION OF FETAL REMAINS RESULTING FROM A**
4 **MISCARRIAGE,** the funeral director or person assuming responsibility
5 for the final disposition of the fetus **OR FETAL REMAINS** shall
6 obtain from the parents, or parent in case of an unmarried mother,
7 an authorization for final disposition on a form prescribed and
8 furnished or approved by the state registrar. The authorization may
9 allow final disposition to be by a funeral director, the individual
10 in charge of the institution where the fetus was delivered **OR WHERE**
11 **THE FETAL REMAINS WERE MISCARRIED,** or an institution or agency
12 authorized to accept donated bodies, ~~or~~ fetuses, **OR FETAL REMAINS**
13 under this ~~code~~-**ACT.** After final disposition, the funeral director,
14 the individual in charge of the institution, or other person making
15 the final disposition shall retain the permit for not less than 7
16 years. **NOTHING IN THIS SECTION AS AMENDED BY THE AMENDATORY ACT**
17 **THAT ADDED SECTION 2836 REQUIRES A RELIGIOUS SERVICE OR CEREMONY AS**
18 **PART OF THE FINAL DISPOSITION OF FETAL REMAINS.**

19 (3) If final disposition is by cremation, the medical examiner
20 of the county in which death occurred shall sign the authorization
21 for final disposition.

22 (4) A body may be moved from the place of death to be prepared
23 for final disposition with the consent of the physician or county
24 medical examiner who certifies the cause of death.

25 (5) A permit for disposition issued under the law of another
26 state that accompanies a dead body or dead fetus brought into this
27 state is authorization for final disposition of the dead body or

1 dead fetus in this state.

2 SEC. 2854. (1) A PERSON WHO VIOLATES THIS PART BY FAILING TO
3 OBTAIN THE PROPER AUTHORIZATION FOR FINAL DISPOSITION AS PROVIDED
4 UNDER SECTION 2848 OR TO PROPERLY DISPOSE OF FETAL REMAINS AS
5 PROVIDED UNDER SECTIONS 2836 AND 2848 IS RESPONSIBLE FOR A STATE
6 CIVIL INFRACTION AS PROVIDED UNDER CHAPTER 88 OF THE REVISED
7 JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.8801 TO 600.8835, AND
8 MAY BE ORDERED TO PAY A CIVIL FINE OF NOT MORE THAN \$1,000.00 PER
9 VIOLATION.

10 (2) A PERSON WHO SUFFERS INJURY OR DAMAGES AS A RESULT OF A
11 PERSON VIOLATING THIS PART AS DESCRIBED UNDER SUBSECTION (1) MAY
12 BRING A CIVIL CAUSE OF ACTION AGAINST THAT PERSON TO SECURE ACTUAL
13 DAMAGES, INCLUDING DAMAGES FOR EMOTIONAL DISTRESS, OR OTHER
14 APPROPRIATE RELIEF.