

# HOUSE BILL No. 4119

January 20, 2011, Introduced by Rep. Potvin and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending sections 2803, 2804, 2834, 2848, and 13807 (MCL  
333.2803, 333.2804, 333.2834, 333.2848, and 333.13807), sections  
2803, 2834, and 2848 as amended by 2002 PA 562, section 2804 as  
amended by 1990 PA 149, and section 13807 as added by 1990 PA 21,  
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.

1           (3) ~~(2)~~—"Fetal death" means the death of a fetus ~~which~~ **THAT**  
2 has completed at least 20 weeks of gestation or weighs at least 400  
3 grams. **FETAL DEATH INCLUDES A STILLBIRTH.** The definition shall  
4 conform in all other respects as closely as possible to the  
5 definition recommended by the federal agency responsible for vital  
6 statistics.

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

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

16           (6) ~~(4)~~—"Final disposition" means the burial, cremation, or  
17 other **LEGAL** disposition of a dead ~~human~~ body or ~~fetus~~ **FETAL**  
18 **REMAINS.**

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

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

27           (3) "Live birth" means a term defined by departmental rule

1 ~~which~~**THAT** shall conform as closely as possible to the definition  
2 of live birth recommended by the federal agency responsible for  
3 vital statistics.

4 (4) "Local registrar" means the county clerk or the clerk's  
5 deputy, or in the case of a city having a population of 40,000 or  
6 more, the city clerk or city department designated by the governing  
7 body of the city; or a registrar appointed pursuant to section  
8 2814. Population shall be determined according to the latest  
9 federal decennial census.

10 (5) **"MEDICAL WASTE" MEANS THAT TERM AS DEFINED IN SECTION**  
11 **13805.**

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

14 (7) ~~(5)~~"Registration" means the acceptance by the state  
15 registrar and the incorporation of certificates provided for in  
16 this part into the official vital records.

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

21 (2) The reporting form shall not contain the name of the  
22 biological parents, common identifiers such as social security or  
23 drivers license numbers or other information identifiers that would  
24 make it possible to identify in any manner or in any circumstances  
25 the biological parents of the fetus. A state agency shall not  
26 compare data in an information system file with data in another  
27 computer system ~~which~~**THAT** would result in identifying in any way a

1 woman or father involved in a fetal death. Statistical information  
2 ~~which~~**THAT** may reveal the identity of the biological parents  
3 involved in a fetal death shall not be maintained. This subsection  
4 does not apply after June 1, 2003.

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

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

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

25 (6) The reports required under this section and filed before  
26 June 1, 2003 are confidential statistical reports to be used only  
27 for medical and health purposes and shall not be incorporated into

1 the permanent official records of the system of vital statistics. A  
2 schedule for the disposition of these reports shall be provided for  
3 by the department. The department or any employee of the department  
4 shall not disclose to any person outside the department the reports  
5 or the contents of the reports required by this section and filed  
6 before June 1, 2003 in any manner or fashion so as to permit the  
7 person or entity to whom the report is disclosed to identify in any  
8 way the biological parents.

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

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

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

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

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

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

25 (e) The name of the health facility in which the fetus was  
26 delivered or the name of the health professional in attendance if  
27 the delivery was outside a health facility.

1           (9) IF A MISCARRIAGE OCCURS OUTSIDE AN INSTITUTION AND A  
2 HEALTH PROFESSIONAL IS PRESENT OR IS IMMEDIATELY AWARE OF THE  
3 MISCARRIAGE, THEN THE HEALTH PROFESSIONAL SHALL INFORM THE PARENTS,  
4 OR PARENT IN THE CASE OF AN UNMARRIED MOTHER, THAT STATE LAW  
5 REQUIRES THAT AUTHORIZATION BE OBTAINED BEFORE THE FINAL  
6 DISPOSITION OF ANY FETAL REMAINS RESULTING FROM A MISCARRIAGE AND  
7 THAT THE PARENTS OR PARENT HAS A RIGHT TO DETERMINE THE FINAL  
8 DISPOSITION OF THE FETAL REMAINS.

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

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

22           (3) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY  
23 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 3 YEARS OR A FINE OF  
24 NOT MORE THAN \$5,000.00, OR BOTH.

25           Sec. 2848. (1) Except as provided in sections 2844 and 2845, a  
26 funeral director or person acting as a funeral director, who first  
27 assumes custody of a dead body, not later than 72 hours after death

1 or the finding of a dead body and before final disposition of the  
2 body, shall obtain authorization for the final disposition. The  
3 authorization for final disposition of a dead body shall be issued  
4 on a form prescribed by the state registrar and signed by the local  
5 registrar or the state registrar.

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

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

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

4 (5) A permit for disposition issued under the law of another  
5 state that accompanies a dead body or dead fetus brought into this  
6 state is authorization for final disposition of the dead body or  
7 dead fetus in this state.

8 **SEC. 2854. (1) A PERSON WHO VIOLATES THIS PART BY FAILING TO**  
9 **OBTAIN THE PROPER AUTHORIZATION FOR FINAL DISPOSITION AS PROVIDED**  
10 **UNDER SECTION 2848 IS RESPONSIBLE FOR A STATE CIVIL INFRACTION AS**  
11 **PROVIDED UNDER CHAPTER 88 OF THE REVISED JUDICATURE ACT OF 1961,**  
12 **1961 PA 236, MCL 600.8801 TO 600.8835, AND MAY BE ORDERED TO PAY A**  
13 **CIVIL FINE OF NOT MORE THAN \$1,000.00 PER VIOLATION.**

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

19 Sec. 13807. (1) "Pathogen" means a microorganism that produces  
20 disease.

21 (2) "Pathological waste" means human organs, tissues, body  
22 parts other than teeth, products of conception, and fluids removed  
23 by trauma or during surgery or autopsy or other medical procedure,  
24 and not fixed in formaldehyde.

25 (3) "Point of generation" means the point at which medical  
26 waste leaves the producing facility site.

27 (4) "Producing facility" means a facility that generates,



1 stores, decontaminates, or incinerates medical waste.

2 (5) "PRODUCTS OF CONCEPTION" MEANS ANY TISSUES OR FLUIDS,  
3 PLACENTA, UMBILICAL CORD, OR OTHER UTERINE CONTENTS RESULTING FROM  
4 A PREGNANCY. PRODUCTS OF CONCEPTION DO NOT INCLUDE A FETUS OR FETAL  
5 BODY PARTS.

6 (6) ~~(5)~~—"Release" means any spilling, leaking, pumping,  
7 pouring, emitting, emptying, discharging, injecting, escaping,  
8 leaching, dumping, or disposing of medical waste into the  
9 environment in violation of this part.

10 (7) ~~(6)~~—"Response activity" means an activity necessary to  
11 protect the public health, safety, welfare, and the environment,  
12 and includes, but is not limited to, evaluation, cleanup, removal,  
13 containment, isolation, treatment, monitoring, maintenance,  
14 replacement of water supplies, and temporary relocation of people.

15 (8) ~~(7)~~—"Sharps" means needles, syringes, scalpels, and  
16 intravenous tubing with needles attached.

17 (9) ~~(8)~~—"Storage" means the containment of medical waste in a  
18 manner that does not constitute disposal of the medical waste.

19 (10) ~~(9)~~—"Transport" means the movement of medical waste from  
20 the point of generation to any intermediate point and finally to  
21 the point of treatment or disposal. Transport does not include the  
22 movement of medical waste from a health facility or agency to  
23 another health facility or agency for the purposes of testing and  
24 research.

25 Enacting section 1. This amendatory act takes effect July 1,  
26 2011.

27 Enacting section 2. This amendatory act does not take effect

- 1 unless Senate Bill No. \_\_\_\_\_ or House Bill No. 4120 (request no.
- 2 00409'11 a) of the 96th Legislature is enacted into law.