

As Passed by the Senate

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Sub. S. B. No. 175

Senator Coughlin

**Cosponsors: Senators Clancy, Carey, Schuler, Buehrer, Jacobson,
Goodman, Schuring, Gardner, Amstutz, Cates, Faber, Harris, Niehaus,
Schaffer, Austria**

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A B I L L

To amend sections 3705.01, 3705.16, 3705.20, and 1
3705.29 and to enact sections 517.071, 759.49, 2
1721.071, 3727.16, 4731.82, and 4765.57 of the 3
Revised Code to enact the Grieving Parents Act, 4
regarding fetal death certificates for, and 5
burials of, the product of human conception that 6
suffers a fetal death. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3705.01, 3705.16, 3705.20, and 8
3705.29 be amended and sections 517.071, 759.49, 1721.071, 9
3727.16, 4731.82, and 4765.57 of the Revised Code be enacted to 10
read as follows: 11

Sec. 517.071. (A) As used in this section, "fetal death" has 12
the same meaning as in section 3705.01 of the Revised Code. 13

(B) A board of township trustees may adopt rules for any 14
township cemetery over which it has control for the burial, 15
re-interment, or disinterment of the product of a fetal death. 16

(C) With regard to the product of a fetal death, on the request of the mother, a township cemetery shall inter the product of the fetal death in accordance with 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.

(D) If the mother provides written consent, re-interment or disinterment of the product of a fetal death buried in accordance with division (C)(2) of this section is not subject to section 517.23 or 517.24 of the Revised Code.

Sec. 759.49. (A) As used in this section, "fetal death" has the same meaning as in section 3705.01 of the Revised Code.

(B) The legislative authority of a municipal corporation owning a public burial ground or cemetery, whether within or without the municipal corporation, may pass and provide for the enforcement of ordinances for the burial, re-interment, or disinterment of the product of a fetal death in that public burial ground or cemetery.

(C) With regard to the product of a fetal death, on the request of the mother, a public burial ground or cemetery shall inter the product of the fetal death in accordance with one of the following:

(1) In a single grave within the public burial ground or cemetery that contains, or will contain, the remains of a parent, sibling, or grandparent;

(2) In another location of the public burial ground or cemetery, including a separate burial ground for infants, on a temporary or permanent basis.

(D) If the mother provides written consent, re-interment or disinterment of the product of a fetal death buried in accordance with division (C)(2) of this section is not subject to section 517.23 or 517.24 of the Revised Code. 47
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Sec. 1721.071. (A) As used in this section, "fetal death" has the same meaning as in section 3705.01 of the Revised Code. 51
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(B) A cemetery company or association may prescribe rules for the burial, re-interment, or disinterment of the product of a fetal death. 53
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(C) With regard to the product of a fetal death, on the request of the mother, a cemetery company or association shall inter the product of the fetal death in accordance with one of the following: 56
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(1) In a single grave within the cemetery that contains, or will contain, the remains of a parent, sibling, or grandparent; 60
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(2) In another location of the cemetery, including a separate burial ground for infants, on a temporary or permanent basis. 62
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(D) If the mother provides written consent, re-interment or disinterment of the product of a fetal death buried in accordance with division (C)(2) of this section is not subject to section 517.23 or 517.24 of the Revised Code. 64
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Sec. 3705.01. As used in this chapter: 68

(A) "Live birth" means the complete expulsion or extraction from its mother of a product of human conception that after such expulsion or extraction breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached. 69
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(B)(1) "Fetal death" means death prior to the complete 75

expulsion or extraction from its mother of a product of human 76
conception ~~of at least twenty weeks of gestation,~~, irrespective of 77
the duration of pregnancy which is not the purposeful termination 78
of a pregnancy as described in section 2919.11 of the Revised Code 79
and which after such expulsion or extraction does not breathe or 80
show any other evidence of life such as beating of the heart, 81
pulsation of the umbilical cord, or definite movement of voluntary 82
muscles. 83

(2) "Stillborn" means that an infant suffered a fetal death 84
of at least twenty weeks of gestation. 85

(C) "Dead body" means a human body or part of a human body 86
from the condition of which it reasonably may be concluded that 87
death recently occurred. 88

(D) "Physician" means a person licensed pursuant to Chapter 89
4731. of the Revised Code to practice medicine or surgery or 90
osteopathic medicine and surgery. 91

(E) "Attending physician" means the physician in charge of 92
the patient's care for the illness or condition that resulted in 93
death. 94

(F) "Institution" means any establishment, public or private, 95
that provides medical, surgical, or diagnostic care or treatment, 96
or domiciliary care, to two or more unrelated individuals, or to 97
persons committed by law. 98

(G) "Funeral director" has the meaning given in section 99
4717.01 of the Revised Code. 100

(H) "State registrar" means the head of the office of vital 101
statistics in the department of health. 102

(I) "Medical certification" means completion of the medical 103
certification portion of the certificate of death or fetal death 104
as to the cause of death or fetal death. 105

(J) "Final disposition" means the interment, cremation,	106
removal from the state, donation, or other authorized disposition	107
of a dead body or a fetal death.	108
(K) "Interment" means the final disposition of the remains of	109
a dead body by burial or entombment.	110
(L) "Cremation" means the reduction to ashes of a dead body.	111
(M) "Donation" means gift of a dead body to a research	112
institution or medical school.	113
(N) "System of vital statistics" means the registration,	114
collection, preservation, amendment, and certification of vital	115
records, the collection of other reports required by this chapter,	116
and activities related thereto.	117
(O) "Vital records" means certificates or reports of birth,	118
death, fetal death, marriage, divorce, dissolution of marriage,	119
annulment, and data related thereto and other documents maintained	120
as required by statute.	121
(P) "File" means the presentation of vital records for	122
registration by the office of vital statistics.	123
(Q) "Registration" means the acceptance by the office of	124
vital statistics and the incorporation of vital records into its	125
official records.	126
(R) "Birth record" means a birth certificate that has been	127
registered with the office of vital statistics; or, if registered	128
prior to the effective date of this section <u>March 16, 1989</u> , with	129
the division of vital statistics; or, if registered prior to the	130
establishment of the division of vital statistics, with the	131
department of health or a local registrar.	132
(S) "Certification of birth" means a document issued by the	133
director of health or state registrar or a local registrar under	134
division (B) of section 3705.23 of the Revised Code.	135

Sec. 3705.16. (A) For purposes of this section 136
notwithstanding section 3705.01 of the Revised Code, "fetal death" 137
does not include death of the product of human conception prior to 138
twenty weeks of gestation. 139

(B) Each death or fetal death that occurs in this state shall 140
be registered with the local registrar of vital statistics of the 141
district in which the death or fetal death occurred, by the 142
funeral director or other person in charge of the final 143
disposition of the remains. The personal and statistical 144
information in the death or fetal death certificate shall be 145
obtained from the best qualified persons or sources available, by 146
the funeral director or other person in charge of the final 147
disposition of the remains. The statement of facts relating to the 148
disposition of the body and information relative to the armed 149
services referred to in section 3705.19 of the Revised Code shall 150
be signed by the funeral director or other person in charge of the 151
final disposition of the remains. 152

~~(B)~~(C) The funeral director or other person in charge of the 153
final disposition of the remains shall present the death or fetal 154
death certificate to the attending physician of the decedent, the 155
coroner, or the medical examiner, as appropriate for certification 156
of the cause of death. If a death or fetal death occurs under any 157
circumstances mentioned in section 313.12 of the Revised Code, the 158
coroner in the county in which the death occurs, or a deputy 159
coroner, medical examiner, or deputy medical examiner serving in 160
an equivalent capacity, shall certify the cause of death unless 161
that death was reported to the coroner, deputy coroner, medical 162
examiner, or deputy medical examiner and that person, after a 163
preliminary examination, declined to assert jurisdiction with 164
respect to the death or fetal death. A physician other than the 165
coroner in the county in which a death or fetal death occurs, or a 166
deputy coroner, medical examiner, or deputy medical examiner 167

serving in an equivalent capacity, may certify only those deaths 168
that occur under natural circumstances. 169

The medical certificate of death shall be completed and 170
signed by the physician who attended the decedent or by the 171
coroner or medical examiner, as appropriate, within forty-eight 172
hours after the death or fetal death. A coroner or medical 173
examiner may satisfy the requirement of signing a medical 174
certificate showing the cause of death or fetal death as pending 175
either by stamping it with a stamp of the coroner's or medical 176
examiner's signature or by signing it in the coroner's or medical 177
examiner's own hand, but the coroner or medical examiner shall 178
sign any other medical certificate of death or supplementary 179
medical certification in the coroner's or medical examiner's own 180
hand. 181

~~(C)~~(D) Any death certificate registered pursuant to this 182
section shall contain the social security number of the decedent, 183
if available. A social security number obtained under this section 184
is a public record under section 149.43 of the Revised Code. 185
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Sec. 3705.20. A (A) The fetal death of the product of human 187
conception of at least twenty weeks of gestation shall be 188
registered on a fetal death certificate. **A** 189

The fetal death of the product of human conception prior to 190
twenty weeks of gestation shall be registered on a fetal death 191
certificate upon application by the mother. A fetal death 192
certificate for the product of human conception prior to twenty 193
weeks gestation is not proof of a live birth for purposes of 194
federal, state, and local taxes. 195

(B) The product of human conception that suffers a fetal 196
death ~~which occurs~~ of at least twenty weeks of gestation occurring 197
in Ohio shall not be interred, deposited in a vault or tomb, 198

cremated, or otherwise disposed of by a funeral director or other 199
person until a fetal death certificate or provisional death 200
certificate has been filed with and a burial permit is issued by 201
the local registrar of vital statistics of the registration 202
district in which the fetal death occurs, or the body is found. 203
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A burial permit for the product of human conception that 205
suffers a fetal death prior to twenty weeks of gestation shall be 206
issued by the local registrar of vital statistics of the 207
registration district in which the fetal death occurs if the 208
mother files a fetal death certificate with that registrar. 209

(C)(1) The department of health and the local registrar shall 210
keep a separate record and index record of fetal death 211
certificates. 212

(2) The personal or statistical information on the fetal 213
death certificate shall be obtained by the funeral director or 214
other person in charge of interment or cremation from the best 215
qualified persons or sources available. 216

Sec. 3705.29. (A) No person shall do any of the following: 217

(1) Purposely make any false statement in a certificate, 218
record, or report required by this chapter or in an application or 219
amendment of it, or purposely supply false information with the 220
intent that that information be used in the preparation of any 221
such report, record, or certificate, or amendment of it; 222

(2) Without lawful authority and with intent to deceive, 223
counterfeit, alter, amend, or mutilate any certificate, record, or 224
report required by this chapter or any certified copy of it; 225

(3) Purposely obtain, possess, use, sell, furnish, or attempt 226
to obtain, possess, use, sell, or furnish to another for the 227
purpose of deception any certificate, record, or report required 228

by this chapter or any certified copy of it, or any certificate, 229
record, or report that is counterfeit, altered, or amended or 230
false in whole or part; 231

(4) Purposely obtain, possess, use, sell, furnish, or attempt 232
to obtain, possess, use, sell, or furnish to another for the 233
purpose of deception any certificate, record, or report required 234
by this chapter, or any certified copy of it, that relates to the 235
birth of another person, whether living or dead; 236

(5) Without lawful authority, possess any certificate, 237
record, or report required by this chapter or any copy of such a 238
certificate, record, or report, knowing it to have been stolen or 239
otherwise unlawfully obtained. 240

(B) No person employed by the office of vital statistics or a 241
local registrar shall purposely furnish or possess a birth record 242
or certified copy of a birth record with intent that it be used 243
for deception. 244

(C) No person shall do any of the following: 245

(1) Purposely refuse to provide information required by this 246
chapter or rules adopted under it; 247

(2) Purposely transport out of this state or accept for 248
interment or other disposition a dead body without a permit 249
required by this chapter; 250

(3) Knowingly prepare, issue, sell, or give any record or 251
certificate that is alleged to be an original vital record or a 252
certified copy of a vital record if the person knows or has reason 253
to know that it is not an original vital record or a certified 254
copy of a vital record; 255

(4) Refuse to comply with the requirements of this chapter or 256
violate any of the provisions of this chapter. 257

(D) No officer or employee of the department of health shall 258

knowingly reveal or provide any information contained in an 259
adoption file maintained by the department under section 3705.12 260
of the Revised Code to any person, or knowingly reveal or provide 261
the contents of an adoption file to any person, unless authorized 262
to do so by section 3705.12 of the Revised Code. 263

(E) If a death, or a fetal death of at least twenty weeks of 264
gestation, occurs under any circumstances mentioned in section 265
313.12 of the Revised Code, the coroner of the county in which the 266
death or fetal death occurs, or a deputy coroner, medical 267
examiner, or deputy medical examiner serving in an equivalent 268
capacity, shall certify the cause of that death unless the death 269
was reported to the coroner, deputy coroner, medical examiner, or 270
deputy medical examiner and that person, after a preliminary 271
examination, declined to assert jurisdiction with respect to the 272
death or fetal death. 273

(F) No physician other than the coroner in the county in 274
which a death, or a fetal death of at least twenty weeks of 275
gestation, occurs, or a deputy coroner, medical examiner, or 276
deputy medical examiner serving in an equivalent capacity, may 277
certify any death or fetal death that occurs under any 278
circumstances other than natural. 279

(G) If a death, or a fetal death of at least twenty weeks of 280
gestation, occurs under any circumstances mentioned in section 281
313.12 of the Revised Code, no person shall knowingly present a 282
death or fetal death certificate for the purpose of obtaining 283
certification of the cause of death to any physician other than 284
the coroner in the county in which the death or fetal death 285
occurred, or to a deputy coroner, medical examiner, or deputy 286
medical examiner serving in an equivalent capacity, unless that 287
death or fetal death was reported to the coroner, deputy coroner, 288
medical examiner, or deputy medical examiner and that person, 289
after a preliminary examination, declined to assert jurisdiction 290

with respect to the death or fetal death. 291

(H) No person, with intent to defraud or knowing that the 292
person is facilitating a fraud, shall do either of the following: 293

(1) Certify a cause of death in violation of the prohibition 294
of division (E) or (F) of this section; 295

(2) Obtain or attempt to obtain a certification of the cause 296
of a death or fetal death in violation of the prohibition of 297
division (G) of this section. 298

Sec. 3727.16. (A) As used in this section, "fetal death" has 299
the same meaning as in section 3705.01 of the Revised Code, except 300
that it does not include the product of human conception of at 301
least twenty weeks of gestation. 302

(B) If a woman presents herself at a hospital as a result of 303
a fetal death, the hospital shall provide the woman with the 304
following information: 305

(1) The right of the woman to apply for a fetal death 306
certificate pursuant to section 3705.20 of the Revised Code; 307

(2) The hospital's procedures for disposing of the product of 308
a fetal death. 309

A hospital or hospital employee may present the information 310
required by this division through oral or written means and 311
document that the information has been provided with a note in the 312
mother's medical record. 313

(C) A hospital or hospital employee is immune from civil or 314
criminal liability or professional disciplinary action with regard 315
to any action taken in good faith compliance with this section. 316

Sec. 4731.82. (A) As used in this section: 317

"Fetal death" has the same meaning as in section 3705.01 of 318

the Revised Code, except that it does not include the product of 319
human conception of at least twenty weeks of gestation. 320

"Physician" means an individual holding a certificate to 321
practice medicine and surgery or osteopathic medicine and surgery 322
pursuant to this chapter. 323

(B) If a woman presents herself to a physician as a result of 324
a fetal death, the physician shall provide the woman with the 325
following information: 326

(1) The right of the woman to apply for a fetal death 327
certificate pursuant to section 3705.20 of the Revised Code; 328

(2) The physician's procedures for disposing of the product 329
of a fetal death. 330

A physician may present the information required by this 331
division through oral or written means and document that the 332
information has been provided with a note in the mother's medical 333
record. 334

(C) A physician is immune from civil or criminal liability or 335
professional disciplinary action with regard to any action taken 336
in good faith compliance with this section. 337

Sec. 4765.57. (A) As used in this section, "fetal death" has 338
the same meaning as in section 3705.01 of the Revised Code. 339

(B) Emergency medical service personnel shall dispose of the 340
product of a fetal death in the manner set forth for the 341
disposition of fetal remains in the "emergency medical 342
technician-basic: national standard curriculum." 343

Section 2. That existing sections 3705.01, 3705.16, 3705.20, 344
and 3705.29 of the Revised Code are hereby repealed. 345

Section 3. This act shall be known as "The Grieving Parents 346
Act." 347