

**As Reported by the Senate Medicaid, Health and Human Services
Committee**

**130th General Assembly
Regular Session
2013-2014**

Sub. H. B. No. 95

Representative Hill

**Cosponsors: Representatives Huffman, Adams, J., Buchy, Beck, Becker,
Blair, Boose, Brown, Conditt, Derickson, Gonzales, Hood, Ruhl, Sprague,
Stebelton, Terhar, Milkovich, Wachtmann, Antonio, Bishoff, Carney,
Adams, R., Amstutz, Anielski, Baker, Barborak, Barnes, Blessing, Brenner,
Burkley, Butler, Celebrezze, Cera, Curtin, Damschroder, DeVitis, Dovilla,
Driehaus, Fedor, Foley, Green, Grossman, Hackett, Hagan, C., Hall, Hayes,
Heard, Henne, Hottinger, Landis, Lynch, Mallory, McClain, O'Brien, Patmon,
Patterson, Phillips, Pillich, Ramos, Reece, Retherford, Rogers, Rosenberger,
Scherer, Schuring, Sears, Slaby, Smith, Stautberg, Stinziano, Sykes,
Thompson, Winburn, Young Speaker Batchelder
Senators Jordan, Gardner, Jones, Tavares**

A B I L L

To amend sections 3701.46, 3705.01, 3705.09, 3705.15, 1
3705.20, and 3705.23 of the Revised Code regarding 2
the issuance of certificates recognizing stillborn 3
infants and the provision by certified 4
nurse-midwives of information for birth 5
certificates. 6

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

Section 1. That sections 3701.46, 3705.01, 3705.09, 3705.15, 7
3705.20, and 3705.23 of the Revised Code be amended to read as 8

follows:

9

Sec. 3701.46. In reporting every birth and fetal death,
physicians, certified nurse-midwives, and others required to make
the reports shall state on the birth or fetal death certificate,
as the case may be, whether approved tests for syphilis and
gonorrhoea have been made in an approved laboratory upon specimens
taken from the woman who bore the child for which the certificate
is filed, and the approximate date when the specimens were taken.
If the tests were not made, the physician, certified
nurse-midwife, or other person shall state the reasons why the
tests were not made. In no event shall the results of the tests be
stated on the birth or fetal death certificate.

10
11
12
13
14
15
16
17
18
19
20

Sec. 3705.01. As used in this chapter:

21

(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.

22
23
24
25
26
27

(B)(1) "Fetal death" means 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.

28
29
30
31
32
33

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

34
35

(C) "Dead body" means a human body or part of a human body
from the condition of which it reasonably may be concluded that

36
37

death recently occurred.	38
(D) "Physician" means a person licensed pursuant to Chapter 4731. of the Revised Code to practice medicine or surgery or osteopathic medicine and surgery.	39 40 41
(E) "Attending physician" means the physician in charge of the patient's care for the illness or condition that resulted in death.	42 43 44
(F) "Institution" means any establishment, public or private, that provides medical, surgical, or diagnostic care or treatment, or domiciliary care, to two or more unrelated individuals, or to persons committed by law.	45 46 47 48
(G) "Funeral director" has the meaning given in section 4717.01 of the Revised Code.	49 50
(H) "State registrar" means the head of the office of vital statistics in the department of health.	51 52
(I) "Medical certification" means completion of the medical certification portion of the certificate of death or fetal death as to the cause of death or fetal death.	53 54 55
(J) "Final disposition" means the interment, cremation, removal from the state, donation, or other authorized disposition of a dead body or a fetal death.	56 57 58
(K) "Interment" means the final disposition of the remains of a dead body by burial or entombment.	59 60
(L) "Cremation" means the reduction to ashes of a dead body.	61
(M) "Donation" means gift of a dead body to a research institution or medical school.	62 63
(N) "System of vital statistics" means the registration, collection, preservation, amendment, and certification of vital records, the collection of other reports required by this chapter, and activities related thereto.	64 65 66 67

(O) "Vital records" means certificates or reports of birth, 68
death, fetal death, marriage, divorce, dissolution of marriage, 69
annulment, and data related thereto and other documents maintained 70
as required by statute. 71

(P) "File" means the presentation of vital records for 72
registration by the office of vital statistics. 73

(Q) "Registration" means the acceptance by the office of 74
vital statistics and the incorporation of vital records into its 75
official records. 76

(R) "Birth record" means a birth certificate that has been 77
registered with the office of vital statistics; or, if registered 78
prior to March 16, 1989, with the division of vital statistics; 79
or, if registered prior to the establishment of the division of 80
vital statistics, with the department of health or a local 81
registrar. 82

(S) "Certification of birth" means a document issued by the 83
director of health or state registrar or a local registrar under 84
division (B) of section 3705.23 of the Revised Code. 85

(T) "Certified nurse-midwife" has the same meaning as in 86
section 4723.01 of the Revised Code. 87

Sec. 3705.09. (A) A birth certificate for each live birth in 88
this state shall be filed in the registration district in which it 89
occurs within ten days after such birth and shall be registered if 90
it has been completed and filed in accordance with this section. 91

(B) When a birth occurs in or en route to an institution, the 92
person in charge of the institution or a designated representative 93
shall obtain the personal data, prepare the certificate, secure 94
the signatures required, and file the certificate within ten days 95
with the local registrar of vital statistics. The physician or 96
certified nurse-midwife in attendance shall provide the medical 97

information required by the certificate and certify to the facts 98
of birth within seventy-two hours after the birth. 99

(C) When a birth occurs outside an institution, the birth 100
certificate shall be prepared and filed by one of the following in 101
the indicated order of priority: 102

(1) The physician or certified nurse-midwife in attendance at 103
or immediately after the birth; 104

(2) Any other person in attendance at or immediately after 105
the birth; 106

(3) The father; 107

(4) The mother; 108

(5) The person in charge of the premises where the birth 109
occurred. 110

(D) Either of the parents of the child or other informant 111
shall attest to the accuracy of the personal data entered on the 112
birth certificate in time to permit the filing of the certificate 113
within the ten days prescribed in this section. 114

(E) When a birth occurs in a moving conveyance within the 115
United States and the child is first removed from the conveyance 116
in this state, the birth shall be registered in this state and the 117
place where it is first removed shall be considered the place of 118
birth. When a birth occurs on a moving conveyance while in 119
international waters or air space or in a foreign country or its 120
air space and the child is first removed from the conveyance in 121
this state, the birth shall be registered in this state but the 122
record shall show the actual place of birth insofar as can be 123
determined. 124

(F)(1) If the mother of a child was married at the time of 125
either conception or birth or between conception and birth, the 126
child shall be registered in the surname designated by the mother, 127

and the name of the husband shall be entered on the certificate as 128
the father of the child. The presumption of paternity shall be in 129
accordance with section 3111.03 of the Revised Code. 130

(2) If the mother was not married at the time of conception 131
or birth or between conception and birth, the child shall be 132
registered by the surname designated by the mother. The name of 133
the father of such child shall also be inserted on the birth 134
certificate if both the mother and the father sign an 135
acknowledgement of paternity affidavit before the birth record has 136
been sent to the local registrar. If the father is not named on 137
the birth certificate pursuant to division (F)(1) or (2) of this 138
section, no other information about the father shall be entered on 139
the record. 140

(G) When a man is presumed, found, or declared to be the 141
father of a child, according to section 2105.26, sections 3111.01 142
to 3111.18, former section 3111.21, or sections 3111.38 to 3111.54 143
of the Revised Code, or the father has acknowledged the child as 144
his child in an acknowledgment of paternity, and the 145
acknowledgment has become final pursuant to section 2151.232, 146
3111.25, or 3111.821 of the Revised Code, and documentary evidence 147
of such fact is submitted to the department of health in such form 148
as the director may require, a new birth record shall be issued by 149
the department which shall have the same overall appearance as the 150
record which would have been issued under this section if a 151
marriage had occurred before the birth of such child. Where 152
handwriting is required to effect such appearance, the department 153
shall supply it. Upon the issuance of such new birth record, the 154
original birth record shall cease to be a public record. Except as 155
provided in division (C) of section 3705.091 of the Revised Code, 156
the original record and any documentary evidence supporting the 157
new registration of birth shall be placed in an envelope which 158
shall be sealed by the department and shall not be open to 159

inspection or copy unless so ordered by a court of competent jurisdiction. 160
161

The department shall then promptly forward a copy of the new birth record to the local registrar of vital statistics of the district in which the birth occurred, and such local registrar shall file a copy of such new birth record along with and in the same manner as the other copies of birth records in such local registrar's possession. All copies of the original birth record in the possession of the local registrar or the probate court, as well as any and all index references to it, shall be destroyed. Such new birth record, as well as any certified or exact copy of it, when properly authenticated by a duly authorized person shall be prima-facie evidence in all courts and places of the facts stated in it. 162
163
164
165
166
167
168
169
170
171
172
173

(H) When a woman who is a legal resident of this state has given birth to a child in a foreign country that does not have a system of registration of vital statistics, a birth record may be filed in the office of vital statistics on evidence satisfactory to the director of health. 174
175
176
177
178

(I) Every birth certificate filed under this section on or after July 1, 1990, shall be accompanied by all social security numbers that have been issued to the parents of the child, unless the division of child support in the department of job and family services, acting in accordance with regulations prescribed under the "Family Support Act of 1988," 102 Stat. 2353, 42 U.S.C.A. 405, as amended, finds good cause for not requiring that the numbers be furnished with the certificate. The parents' social security numbers shall not be recorded on the certificate. The local registrar of vital statistics shall transmit the social security numbers to the state office of vital statistics in accordance with section 3705.07 of the Revised Code. No social security number obtained under this division shall be used for any purpose other 179
180
181
182
183
184
185
186
187
188
189
190
191

than child support enforcement. 192

Sec. 3705.15. Whoever claims to have been born in this state, 193
and whose registration of birth is not recorded, or has been lost 194
or destroyed, or has not been properly and accurately recorded, 195
may file an application for registration of birth or correction of 196
the birth record in the probate court of the county of the 197
person's birth or residence or the county in which the person's 198
mother resided at the time of the person's birth. If the person is 199
a minor the application shall be signed by either parent or the 200
person's guardian. 201

(A) An application to correct a birth record shall set forth 202
all of the available facts required on a birth record and the 203
reasons for making the application, and shall be verified by the 204
applicant. Upon the filing of the application the court may fix a 205
date for a hearing, which shall not be less than seven days after 206
the filing date. The court may require one publication of notice 207
of the hearing in a newspaper of general circulation in the county 208
at least seven days prior to the date of the hearing. The 209
application shall be supported by the affidavit of the physician 210
or certified nurse-midwife in attendance. If an affidavit is not 211
available, the application shall be supported by the affidavits of 212
at least two persons having knowledge of the facts stated in the 213
application, by documentary evidence, or by other evidence the 214
court deems sufficient. 215

The probate judge, if satisfied that the facts are as stated, 216
shall make an order correcting the birth record, except that in 217
the case of an application to correct the date of birth, the judge 218
shall make the order only if any date shown as the date the 219
attending physician or certified nurse-midwife signed the birth 220
record or the date the local registrar filed the record is 221
consistent with the corrected date of birth. If supported by 222

sufficient evidence, the judge may include in an order correcting 223
the date of birth an order correcting the date the attending 224
physician or certified nurse-midwife signed the birth record or 225
the date the local registrar filed the record. 226

(B) An application of a person whose registration of birth is 227
not recorded, or has been lost or destroyed, must comply with 228
division (A) of this section. Upon the filing of the application 229
the court may fix a date for a hearing, which shall ~~not~~ be not 230
less than seven days after the filing date. The court may require 231
one publication of notice of the hearing in a newspaper of general 232
circulation in the county at least seven days prior to the date of 233
the hearing. The probate judge, or a special master commissioner, 234
shall personally examine the applicant in open court and shall 235
take sworn testimony on the application which shall include the 236
testimony of at least two credible witnesses, or clear and 237
convincing documentary evidence. The probate court may conduct any 238
necessary investigation, and shall permit the applicant and all 239
witnesses presented to be cross-examined by any interested person, 240
or by the prosecuting attorney of the county. When a witness or 241
the applicant is unable to appear in open court, the court may 242
authorize the taking of the witness's or applicant's deposition. 243
The court may cause a complete record to be taken of the hearing, 244
shall file it with the other papers in the case, and may order the 245
transcript of the testimony to be filed and made a matter of 246
record in the court. Upon being satisfied that notice of the 247
hearing on the application has been given by publication, if 248
required, and that the claim of the applicant is true, the court 249
shall make a finding upon all the facts required on a birth 250
record, and shall order the registration of the birth of the 251
applicant. The court shall forthwith transmit to the director of 252
health a certified summary of its finding and order, on a form 253
prescribed by the director, who shall file it in the records of 254
the central division of vital statistics. 255

(C) The director may forward a copy of the summary for the registration of a birth in the director's office to the appropriate local registrar of vital statistics.

A certified copy of the birth record corrected or registered by court order as provided in this section shall have the same legal effect for all purposes as an original birth record.

The application, affidavits, findings, and orders of the court, together with a transcript of the testimony if ordered by the court, for the correction of a birth record or for the registration of a birth, shall be recorded in a book kept for that purpose and shall be properly indexed. The book shall become a part of the records of the probate court.

(D)(1) Except as provided in division (D)(2) of this section, whenever a correction is ordered in a birth record under division (A) of this section, the court ordering the correction shall forthwith forward to the department of health a certified copy of the order containing such information as will enable the department to prepare a new birth record. Thereupon, the department shall record a new birth record using the correct information supplied by the court and the new birth record shall have the same overall appearance as the original record which would have been issued under this chapter. Where handwriting is required to effect that appearance, the department shall supply it. Upon the preparation and filing of the new birth record, the original birth record and index references shall cease to be a public record. The original record and all other information pertaining to it shall be placed in an envelope which shall be sealed by the department, and its contents shall not be open to inspection or copy unless so ordered by the probate court of the county that ordered the correction.

The department shall promptly forward a copy of the new birth record to the local registrar of vital statistics of the district

in which the birth occurred and the local registrar shall file a 288
copy of the new birth record along with and in the same manner as 289
the other copies of birth records in the local registrar's 290
possession. All copies of the original birth record, as well as 291
any and all other papers, documents, and index references 292
pertaining to it, in the possession of the local registrar shall 293
be destroyed. The probate court shall retain permanently in the 294
file of its proceedings such information as will enable the court 295
to identify both the original birth record and the new birth 296
record. 297

The new birth record, as well as any certified copies of it 298
when properly authenticated by a duly authorized person, shall be 299
prima-facie evidence in all courts and places of the facts therein 300
stated. 301

(2) If the correction ordered in the birth record under 302
division (A) of this section involves a change in the date of 303
birth of the applicant and the department of health determines 304
that the corrected date of birth is inconsistent with the date 305
shown as the date the attending physician or certified 306
nurse-midwife signed the birth record or the date the local 307
registrar filed the record, the department shall request that the 308
court reconsider the order and, if appropriate, make a new order 309
in which the dates are consistent. If the court does not make a 310
new order within a reasonable time, instead of issuing a new birth 311
record, the department shall file and record the court's order in 312
the same manner as other birth records and make a cross-reference 313
on the original and on the corrected record. 314

(E) The probate court shall assess costs of registering a 315
birth or correcting a birth record under this section against the 316
person who makes application for the registration or correction. 317

Sec. 3705.20. (A) The fetal death of the product of human 318

conception of at least twenty weeks of gestation shall be 319
registered on a fetal death certificate. 320

On application of either parent, the fetal death of the 321
product of human conception prior to twenty weeks of gestation 322
shall be registered on a fetal death certificate, except that the 323
fetal death certificate shall not list the cause of death. 324

The parent shall include with the application a copy of the 325
statement required by division (B)(1) of section 3727.16 or 326
division (B)(1) of section 4731.82 of the Revised Code. If the 327
father submits the application, he shall also include with it a 328
signed and notarized document from the mother attesting that she 329
voluntarily provided the father with a copy of the statement. 330

A fetal death certificate for the product of human conception 331
prior to twenty weeks gestation is not proof of a live birth for 332
purposes of federal, state, and local taxes. 333

(B) The product of human conception of at least twenty weeks 334
of gestation that suffers a fetal death ~~of at least twenty weeks~~ 335
~~of gestation~~ occurring in Ohio shall not be interred, deposited in 336
a vault or tomb, cremated, or otherwise disposed of by a funeral 337
director or other person until a fetal death certificate or 338
provisional death certificate has been filed with and a burial 339
permit is issued by the local registrar of vital statistics of the 340
registration district in which the fetal death occurs, or the body 341
is found. 342

A burial permit for the product of human conception that 343
suffers a fetal death prior to twenty weeks of gestation shall be 344
issued by the local registrar of vital statistics of the 345
registration district in which the fetal death occurs if either 346
parent files a fetal death certificate with that registrar. 347

(C)(1) The department of health and the local registrar shall 348
keep a separate record and index record of fetal death 349

certificates. 350

(2) The personal or statistical information on the fetal 351
death certificate shall be obtained by the funeral director or 352
other person in charge of interment or cremation from the best 353
qualified persons or sources available. 354

(D) When a burial permit is issued under division (B) of this 355
section for the product of human conception of at least twenty 356
weeks of gestation that suffers a fetal death, the local registrar 357
shall inform the parent or parents listed on the fetal death 358
certificate or provisional death certificate of the option of 359
applying for a certificate that is issued under division (B)(3) of 360
section 3705.23 of the Revised Code. 361

Sec. 3705.23. (A)(1) Except as otherwise provided in this 362
section, the director of health, the state registrar, or a local 363
registrar, on receipt of a signed application and the fee 364
specified in section 3705.24 of the Revised Code, shall issue a 365
certified copy of a vital record, or of a part of a vital record, 366
in the director's or registrar's custody to any applicant, unless 367
the vital record has ceased to be a public record pursuant to 368
section 3705.09, 3705.11, 3705.12, or 3705.15 of the Revised Code. 369
The certified copy shall show the date the vital record was 370
registered by the local registrar. 371

(2) A certified copy of a vital record may be made by a 372
mechanical, electronic, or other reproduction process. It shall be 373
certified as a true copy by the director, state registrar, or 374
local registrar who has custody of the record and shall include 375
the date of issuance, the name of the issuing officer, the 376
signature of the officer or an authorized facsimile of the 377
signature, and the seal of the issuing office. 378

(3) A certified copy of a vital record or of any part of a 379
vital record, issued in accordance with this section, shall be 380

considered for all purposes the same as the original and shall be 381
prima-facie evidence of the facts stated in it in all courts and 382
places. 383

(4)(a) Information contained in the "information for medical 384
and health use only" section of a birth record shall not be 385
included as part of a certified copy of the birth record unless 386
the information specifically is requested by the individual to 387
whose birth the record attests, either of the individual's parents 388
or the individual's guardian, a lineal descendant, or an official 389
of the federal or state government or of a political subdivision 390
of the state charged by law with detecting or prosecuting crime. 391

(b) Except as provided in division (A)(4)(a) of this section, 392
neither the office of vital statistics nor a local registrar shall 393
disclose information contained in the "information for medical and 394
health use only" section of a birth record unless a court, for 395
good cause shown, orders disclosure of the information or the 396
state registrar specifically authorizes release of the information 397
for statistical or research purposes under conditions the state 398
registrar, subject to the approval of the director of health, 399
shall establish by rule. 400

(B)(1) Unless the applicant specifically requests a certified 401
copy, the director, the state registrar, or a local registrar, on 402
receipt of a signed application for a birth record and the fee 403
specified in section 3705.24 of the Revised Code, may issue a 404
certification of birth, and the certification of birth shall 405
contain at least the name, sex, date of birth, registration date, 406
and place of birth of the person to whose birth the record attests 407
and shall attest that the person's birth has been registered. A 408
certification of birth shall be prima-facie evidence of the facts 409
stated in it in all courts and places. 410

(2) The director or ~~the~~ state registrar, on ~~the~~ receipt of a 411
signed application for an heirloom certification of birth and the 412

fee specified in section 3705.24 of the Revised Code, may issue an heirloom certification of birth. The director shall prescribe by rule guidelines for the form of an heirloom certification of birth, and the guidelines shall require the heirloom certification of birth to contain at least the name, sex, date of birth, registration date, and place of birth of the person to whose birth the record attests and to attest that the person's birth has been registered. An heirloom certification of birth shall be prima-facie evidence of the facts stated in it in all courts and places.

(3)(a) The director or ~~the~~ state registrar, on ~~the~~ receipt of an application signed by either parent, shall issue a certificate ~~recognizing that recognizes~~ the delivery of a stillborn infant. ~~The director shall prescribe guidelines by rule for the form of the certificate. The guidelines shall require that the certificate contain at least the name, sex, date of delivery, and place of delivery.~~ The director or ~~the~~ state registrar shall not charge ~~ne~~ a fee for the certificate. ~~A~~ The certificate ~~recognizing the delivery of a stillborn infant~~ is not proof of a live birth for purposes of federal, state, and local taxes.

The certificate shall contain the infant's name and sex, the date of delivery, and the place of delivery. The certificate shall not contain the word "stillborn" or "stillbirth" or any other words having the same or a similar meaning. The director may prescribe by rule any other standards regarding the form of the certificate.

(b) If, prior to the effective date of this amendment, a parent obtained a certificate that contains the word "stillborn" or "stillbirth" or any other words having the same or a similar meaning, the parent may submit to the director or state registrar a written request for issuance of a certificate that meets the conditions specified in division (B)(3)(a) of this section. On

receipt of the request, the director or state registrar shall 445
issue the certificate. 446

(C) On evidence that a birth certificate was registered 447
through misrepresentation or fraud, the state registrar may 448
withhold the issuance of a certified copy of the birth record or a 449
certification of birth until a court makes a determination that no 450
misrepresentation or fraud occurred. 451

Section 2. That existing sections 3701.46, 3705.01, 3705.09, 452
3705.15, 3705.20, and 3705.23 of the Revised Code are hereby 453
repealed. 454