



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-1755/2
TJD:emw/kjf/amn

2017 SENATE BILL 424

October 2, 2017 - Introduced by Senators MOULTON, VUKMIR, TESTIN, STROEBEL, CRAIG, NASS, LEMAHIEU, KAPENGA and MARKLEIN, cosponsored by Representatives KLEEFISCH, BERNIER, JACQUE, ALLEN, BORN, BRANDTJEN, EDMING, GANNON, HORLACHER, HUTTON, KATZMA, KNODL, KREMER, KRUG, KULP, MACCO, MURPHY, NEYLON, OTT, QUINN, RIPP, ROHRKASTE, SANFELIPPO, SCHRAA, SKOWRONSKI, THIESFELDT, TITTL, TUSLER and WICHGERS. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT** *to renumber and amend* 69.145 (1); *to amend* 69.145 (2) (a), 69.145
2 (3), 69.18 (1) (a) (intro.), 69.18 (3) (f), 69.18 (4) (a) (intro.), 157.06 (9) (a) (intro.)
3 and 157.06 (25m) (a), (d) and (e); and *to create* 69.01 (24m), 69.01 (25t), 69.145
4 (1e), 69.145 (1k), 69.145 (1r) (d), 69.145 (5), 69.145 (6), 157.06 (9m) and 157.06
5 (14) (h) and (i) of the statutes; **relating to:** certificate of birth resulting in
6 stillbirth, disposition of remains after miscarriage or stillbirth, anatomical
7 gifts, and providing a penalty.

Analysis by the Legislative Reference Bureau

Generally, this bill requires a facility to arrange for final disposition of a stillbirth, requires notification of a parent of the stillbirth of the ability to obtain a certificate of birth resulting in stillbirth, and makes certain requirements for informed consent for an anatomical gift of a stillbirth. A stillbirth is defined in the bill for purposes of vital records and final disposition as the remains of an unborn child resulting from a miscarriage or human remains of a child not born alive.

Under current law, depending on the circumstances of the miscarriage, a hospital manager, a hospital's medical records manager, a funeral director, or another person authorized by a parent of a stillbirth must file a fetal death report if the death is a miscarriage at 20 weeks or more have elapsed between the mother's last normal menstrual period and delivery or the stillbirth weighs 350 grams or

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more. Current law requires the party responsible for filing the fetal death report to advise the parent or parents of a stillbirth for which a fetal death report is required of the option to request preparation of a certificate of birth resulting in stillbirth and how to obtain a certified copy of that certificate. If a certificate of birth resulting in stillbirth is requested, the party responsible for filing the fetal death report must prepare and file the certificate of birth resulting in stillbirth with the state registrar within 5 days of the delivery. The bill eliminates the minimum age or weight requirement for requesting a certificate of birth resulting in stillbirth. A hospital, birthing center, or other health care facility where the stillbirth occurred must inform the parent or parents of a stillbirth of any age or weight of the option to request a certificate of birth resulting in stillbirth and must prepare the certificate of birth resulting in stillbirth within 5 days of the delivery if requested. The certificate of birth resulting in stillbirth requirements in current law and in the bill do not apply to induced abortions. The bill does not change any requirements for the fetal death report.

Under the bill, the hospital, birthing center, or other health care facility in which a birth resulted in a stillbirth must also inform the parent or parents that he or she may request the unborn child's remains for final disposition or for an anatomical gift and must facilitate the final disposition of the stillbirth in accordance with the wishes of a parent of the stillbirth. If a parent of the stillbirth is not available or if an available parent of the stillbirth does not express wishes regarding final disposition of the stillbirth, the hospital, birthing center, or other health care facility at which the birth results in a stillbirth shall arrange for final disposition of the stillbirth. Final disposition, in current law and in the bill, means the disposition of a corpse or stillbirth by burial, interment, entombment, cremation, delivery to a university or school under certain circumstances, or delivery to a medical or dental school anatomy department. Under the bill, the notification and final disposition requirements do not apply to induced abortions. A hospital, birthing center, or other health care facility that violates the notification and filing of the certificate of birth resulting in stillbirth or final disposition requirements is subject to a forfeiture of not less than \$5,000 but not more than \$10,000.

This bill requires particular informed consent for an anatomical gift of a stillbirth. A parent or parents of a stillbirth may make an anatomical gift of the stillbirth's body or part if the parent or parents make certain declarations as described in the bill. The bill specifies that certain current law requirements relating to anatomical gifts also apply to anatomical gifts of stillbirths. The bill requires that anyone that receives public moneys from the state and receives fetal tissue as an anatomical gift record whether or not the tissue was the result of a stillbirth and the procurement organization.

The bill requires the Department of Health Services to study the feasibility of developing a fetal tissue and umbilical cord blood bank for use in research and experimentation and shall report its results to legislative standing committees with jurisdiction over health issues.

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The bill also incorporates stillbirth into certain current laws regarding final disposition such as the specification of who may move a corpse or stillbirth for final disposition.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 69.01 (24m) of the statutes is created to read:

2 69.01 (**24m**) “Stillbirth” means remains of an unborn child resulting from a
3 miscarriage or human remains of a child born under circumstances other than a live
4 birth.

5 **SECTION 2.** 69.01 (25t) of the statutes is created to read:

6 69.01 (**25t**) “Unborn child” has the meaning given in s. 939.75 (1)

7 **SECTION 3.** 69.145 (1) of the statutes is renumbered 69.145 (1r), and 69.145 (1r)
8 (intro.) and (a), as renumbered, are amended to read:

9 69.145 (**1r**) INFORMATION ABOUT PREPARATION. (intro.) If a birth that occurs in
10 this state on or after August 1, 2004, results in a stillbirth ~~for which a fetal death~~
11 ~~report is required under s. 69.18 (1) (e) 1., the party responsible for filing the fetal~~
12 ~~death report under s. 69.18 (1) (e) 1., the facility where the miscarriage or stillbirth~~
13 occurred shall advise the parent or parents of the stillbirth of all of the following:

14 (a) That they he or she may request preparation of a certificate of birth
15 resulting in stillbirth.

16 **SECTION 4.** 69.145 (1e) of the statutes is created to read:

17 69.145 (**1e**) DEFINITION. In this section, “facility” means a hospital, birthing
18 center, or other health care facility.

19 **SECTION 5.** 69.145 (1k) of the statutes is created to read:

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1 69.145 (1k) APPLICABILITY. For purposes of this section, a stillbirth results from
2 a spontaneous or accidental death of an unborn child. This section does not apply
3 to remains resulting from an induced abortion of an unborn child.

4 **SECTION 6.** 69.145 (1r) (d) of the statutes is created to read:

5 69.145 (1r) (d) That he or she may request the unborn child's remains for final
6 disposition or for an anatomical gift under s. 157.06.

7 **SECTION 7.** 69.145 (2) (a) of the statutes is amended to read:

8 69.145 (2) (a) If the parent or parents of the stillbirth, after being advised as
9 provided in sub. ~~(1)~~ (1r), wish to have a certificate of birth resulting in stillbirth
10 prepared, the party responsible for filing the fetal death report under s. 69.18 ~~(1) (e)~~
11 ~~1. facility that advised a parent under sub. (1r)~~ shall, within 5 days after delivery of
12 the stillbirth, prepare and file the certificate with the state registrar.

13 **SECTION 8.** 69.145 (3) of the statutes is amended to read:

14 69.145 (3) SPECIAL PREPARATION UNDER CERTAIN CIRCUMSTANCES.
15 Notwithstanding subs. ~~(1)~~ (1r) and (2), if a birth that occurred in this state at any
16 time resulted in a stillbirth ~~for which a fetal death report was required under s. 69.18~~
17 ~~(1) (e) 1.~~ but a certificate of birth resulting in stillbirth was not prepared under sub.
18 (2), a parent of the stillbirth may, on or after August 1, 2004, submit to the state
19 registrar a written request for preparation of a certificate of birth resulting in
20 stillbirth and evidence of the facts of the stillbirth that is satisfactory to the state
21 registrar. The state registrar shall prepare and file the certificate of birth resulting
22 in stillbirth within 30 days after receiving satisfactory evidence of the facts of the
23 stillbirth.

24 **SECTION 9.** 69.145 (5) of the statutes is created to read:

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1 69.145 (5) FINAL DISPOSITION OF A STILLBIRTH. A facility in which a birth results
2 in a stillbirth shall facilitate the final disposition of the stillbirth in accordance with
3 the wishes of a parent of the stillbirth. If a parent of the stillbirth is not available
4 or if an available parent of the stillbirth does not express wishes regarding final
5 disposition of the stillbirth, the facility shall arrange for final disposition of the
6 stillbirth. Requirements and procedures of s. 69.18 apply to final disposition of a
7 stillbirth under this subsection.

8 **SECTION 10.** 69.145 (6) of the statutes is created to read:

9 69.145 (6) PENALTY. Any facility at which a birth results in a stillbirth that
10 violates sub. (1r), (2), or (5) is subject to a forfeiture of not less than \$5,000 but not
11 more than \$10,000.

12 **SECTION 11.** 69.18 (1) (a) (intro.) of the statutes is amended to read:

13 69.18 (1) (a) (intro.) Any one of the following may move a corpse or a stillbirth
14 for the purpose of final disposition:

15 **SECTION 12.** 69.18 (3) (f) of the statutes is amended to read:

16 69.18 (3) (f) Every person in charge of a place in which interment or other
17 disposition of corpses occurs shall maintain a written record of every corpse or
18 stillbirth interred there. The record shall include the name of the decedent, the place
19 of death, the date of burial and the name and address of the funeral director or other
20 person in charge of the funeral.

21 **SECTION 13.** 69.18 (4) (a) (intro.) of the statutes is amended to read:

22 69.18 (4) (a) (intro.) Subject to s. 157.111, the coroner or medical examiner of
23 the county in which a decedent's corpse or stillbirth is interred shall issue an
24 authorization for disinterment and reinterment upon receipt of an order of a court
25 of competent jurisdiction or upon receipt of a written application for disinterment

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1 and reinterment signed by the person in charge of the disinterment and by any of the
2 following persons, in order of priority stated, when persons in prior classes are not
3 available at the time of application, and in the absence of actual notice of contrary
4 indications by the decedent or actual notice of opposition by a member of the same
5 or a prior class:

6 **SECTION 14.** 157.06 (9) (a) (intro.) of the statutes is amended to read:

7 157.06 (9) (a) (intro.) Except as provided in subs. (7) ~~and~~, (8), and (9m) and
8 subject to pars. (b) and (c), any member of the following classes of persons, in the
9 order of priority listed, who is reasonably available may, in the manner provided in
10 sub. (10), make an anatomical gift of the body or part of an individual who is near
11 death or has died:

12 **SECTION 15.** 157.06 (9m) of the statutes is created to read:

13 157.06 (9m) ANATOMICAL GIFT OF A STILLBIRTH. (a) In this subsection, "stillbirth"
14 has the meaning given in s. 69.01 (24m) but does not include remains resulting from
15 an induced abortion, as defined in s. 69.01 (13m), of an unborn child.

16 (b) Notwithstanding sub. (9), a parent or the parents of a stillbirth may make
17 an anatomical gift under this section of the stillbirth's body or part if the parent or
18 parents sign a written statement declaring all of the following:

19 1. The parent or parents make an anatomical gift for transplantation, therapy,
20 research, or education.

21 2. The parent or parents have been informed of any known medical risks to the
22 mother or risks to her privacy that may be associated with making an anatomical
23 gift.

24 3. The parent or parents have been informed of the final disposition process
25 under sub. (11) (g).

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1 **SECTION 16.** 157.06 (14) (h) and (i) of the statutes are created to read:

2 157.06 **(14)** (h) A person that receives public moneys from the state and that
3 accepts an anatomical gift of fetal tissue shall record whether or not the tissue was
4 the result of a stillbirth, as defined in sub. (9m) (a), and shall record the procurement
5 organization. The department of health services shall audit the records created
6 under this paragraph for compliance with this section.

7 (i) The department of health services shall study the feasibility of developing
8 a fetal tissue and umbilical cord blood bank for use in research and experimentation.
9 The department of health services shall submit a report of the results of the study
10 to the appropriate standing committees of the legislature with jurisdiction over
11 health issues under s. 13.172 (3).

12 **SECTION 17.** 157.06 (25m) (a), (d) and (e) of the statutes are amended to read:

13 157.06 **(25m)** (a) A hospital, organ procurement organization, tissue bank,
14 coroner, or medical examiner that provides a record of gift to a person who may make
15 an anatomical gift under sub. (4) ~~or~~, (9), or (9m) shall include in the record of gift the
16 following sentences: “I understand that donated bones or tissues, including skin,
17 may have numerous uses, including for reconstructive and cosmetic purposes, and
18 that multiple organizations, including nonprofit and for-profit organizations, may
19 recover, process, or distribute the donations. I further understand that I may, by this
20 record, limit the use of the bones or tissues, including skin, that are donated or types
21 of organizations that recover, process, or distribute the donation.”

22 (d) If a person who may make an anatomical gift under sub. (4) ~~or~~, (9), or (9m)
23 makes an anatomical gift under this subsection, the hospital, organ procurement
24 organization, tissue bank, coroner, or medical examiner that provides to the person

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1 a record of gift under par. (a) shall also provide the person with the telephone number
2 and address of the agency or organization that recovers the anatomical gift.

3 (e) The requester under par. (a) shall provide the person who may make an
4 anatomical gift under sub. (4) ~~or~~, (9), or (9m) with a copy of any record of gift executed
5 under the requirements of this subsection.

6 (END)