

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 799
92ND GENERAL ASSEMBLY

Reported from the Committee on Judiciary April 29, 2004, with recommendation that the House Committee Substitute for Senate Committee Substitute for Senate Bill No. 799 Do Pass by Consent.

STEPHEN S. DAVIS, Chief Clerk

2727L.08C

AN ACT

To repeal sections 193.165 and 193.255, RSMo, and to enact in lieu thereof eight new sections relating to miscarriages and stillbirths.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 193.165 and 193.255, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 193.165, 193.255, 194.375, 194.378, 194.381, 194.384, 194.387, and 194.390, to read as follows:

193.165. 1. Each spontaneous fetal death of twenty completed weeks gestation or more, calculated from the date the last normal menstrual period began to the date of delivery, or a weight of three hundred fifty grams or more, which occurs in this state shall be reported within seven days after delivery to the local registrar or as otherwise directed by the state registrar.

2. When a dead fetus is delivered in an institution, the person in charge of the institution or his or her designated representative shall prepare and file the report.

3. When a dead fetus is delivered outside an institution, the physician in attendance at or immediately after delivery shall prepare and file the report.

4. When a spontaneous fetal death required to be reported by this section occurs without medical attendance at or immediately after the delivery or when inquiry is required by the medical examiner or coroner, the medical examiner or coroner shall investigate the cause of spontaneous fetal death and shall prepare and file the report within seven days.

5. When a spontaneous fetal death occurs in a moving conveyance and the fetus is first

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.

14 removed from the conveyance in this state or when a dead fetus is found in this state and the
15 place of the spontaneous fetal death is unknown, the spontaneous fetal death shall be reported
16 in this state. The place where the fetus was first removed from the conveyance or the dead fetus
17 was found shall be considered the place of the spontaneous fetal death.

18 6. [The spontaneous fetal death report required pursuant to this section is a statistical
19 report to be used only for medical and health purposes and shall not be incorporated into the
20 permanent official records of the system of vital statistics. A schedule for the disposition of
21 these reports may be provided by department rules.] Notwithstanding any provision of law to
22 the contrary, individuals with direct and tangible interest, as defined by the department of health
23 and senior services, may receive the spontaneous fetal death report.

24 **7. In the event of a spontaneous fetal death, regardless of whether such death**
25 **occurs before or after the effective date of this subsection, either parent, or if both parents**
26 **are deceased, a sibling of the stillborn child, shall have the right to file an application with**
27 **the state registrar and other custodian of vital records requesting a certificate of birth**
28 **resulting in stillbirth. The certificate shall be based upon the information available from**
29 **the spontaneous fetal death report filed pursuant to this section.**

193.255. 1. The state registrar and other custodians of vital records authorized by the
2 state registrar to issue certified copies of vital records upon receipt of application shall issue a
3 certified copy of any vital record in his custody or a part thereof to any applicant having a direct
4 and tangible interest in the vital record. Each copy issued shall show the date of registration, and
5 copies issued from records marked "Delayed" or "Amended" shall be similarly marked and show
6 the effective date. The documentary evidence used to establish a delayed certificate shall be
7 shown on all copies issued. All forms and procedures used in the issuance of certified copies of
8 vital records in the state shall be provided or approved by the state registrar.

9 2. A certified copy of a vital record or any part thereof, issued in accordance with
10 subsection 1 of this section, shall be considered for all purposes the same as the original and shall
11 be prima facie evidence of the facts stated therein, provided that the evidentiary value of a
12 certificate or record filed more than one year after the event, or a record which has been
13 amended, shall be determined by the judicial or administrative body or official before whom the
14 certificate is offered as evidence.

15 3. The federal agency responsible for national vital statistics may be furnished such
16 copies or data from the system of vital statistics as it may require for national statistics, provided
17 such federal agency share in the cost of collecting, processing, and transmitting such data, and
18 provided further that such data shall not be used for other than statistical purposes by the federal
19 agency unless so authorized by the state registrar.

20 4. Federal, state, local and other public or private agencies may, upon request, be

21 furnished copies or data of any other vital statistics not obtainable under subsection 1 of this
22 section for statistical or administrative purposes upon such terms or conditions as may be
23 prescribed by regulation, provided that such copies or data shall not be used for purposes other
24 than those for which they were requested unless so authorized by the state registrar.

25 5. The state registrar may, by agreement, transmit copies of records and other reports
26 required by sections 193.005 to 193.325 to offices of vital statistics outside this state when such
27 records or other reports relate to residents of those jurisdictions or persons born in those
28 jurisdictions. This agreement shall require that the copies be used for statistical and
29 administrative purposes only, and the agreement shall further provide for the retention and
30 disposition of such copies. Copies received by the department from offices of vital statistics in
31 other states shall be handled in the same manner as prescribed in this section.

32 6. No person shall prepare or issue any certificate which purports to be an original,
33 certified copy, or copy of a vital record except as authorized herein or by regulations adopted
34 hereunder.

35 **7. Upon application from either parent, or if both parents are deceased, the sibling**
36 **of the stillborn child, pursuant to subsection 7 of section 193.165, the state registrar or**
37 **other custodian of vital records shall issue to such applicant a certificate of birth resulting**
38 **in stillbirth. The certificate shall be based upon the information available from the**
39 **spontaneous fetal death report filed pursuant to section 193.165. Any certificate of birth**
40 **resulting in stillbirth issued shall conspicuously include, in no smaller than twelve-point**
41 **type, the statement "This is not proof of a live birth.". No certificate of birth resulting in**
42 **stillbirth shall be issued to any person other than a parent, or if both parents are deceased,**
43 **the sibling of the stillborn child who files an application pursuant to section 193.165. The**
44 **state registrar or other custodian of vital records is authorized to charge a minimal fee to**
45 **such applicant to cover the actual costs of providing the certificate pursuant to this section.**

46 8. Any parent, or if both parents are deceased, any sibling of the stillborn child may
47 file an application for a certificate of birth resulting in stillbirth for a birth that resulted
48 in stillbirth prior to August 28, 2004.

194.375. 1. Sections 194.375 to 194.390 shall be known and may be cited as the
2 "Disposition of Fetal Remains Act".

3 2. As used in sections 194.375 to 194.390, the following terms mean:

4 (1) "Final disposition", the burial, cremation, or other disposition of the remains
5 of a human fetus following a spontaneous fetal demise occurring after a gestation period
6 of less than twenty completed weeks;

7 (2) "Remains of a human fetus", the fetal remains or fetal products of conception
8 of a mother after a miscarriage, regardless of the gestational age or whether the remains

9 have been obtained by spontaneous or accidental means.

2 **194.378.** In every instance of fetal death, the mother has the right to determine the
3 final disposition of the remains of the fetus, regardless of the duration of the pregnancy.
4 The mother may choose any means of final disposition authorized by law or by the director
5 of the department of health and senior services.

2 **194.381. 1.** The final disposition of the remains of a human fetus may be by
3 cremation, interment by burial, incineration in an approved medical waste incinerator, or
4 other means authorized by the director of the department of health and senior services.
5 The disposition shall be in accordance with state law or administrative rules providing for
6 the disposition. If the remains are disposed of by incineration, the remains shall be
7 incinerated separately from other medical waste.

8 **2.** No religious service or ceremony is required as part of the final disposition of the
9 remains of a human fetus.

2 **194.384.** Every hospital, outpatient clinic, and any other health care facility licensed
3 to operate in this state shall adopt written standards for the final disposition of the remains
4 of a human fetus as provided in sections 194.375 to 194.390 for protection of a mother's
5 right pursuant to section 194.378 and for notice as required in section 194.387.

2 **194.387. 1.** Within twenty-four hours after a miscarriage occurs spontaneously or
3 accidentally at a hospital, outpatient clinic, or any other health care facility, the facility
4 shall disclose to the mother of the miscarried fetus, both orally and in writing, the mother's
5 right to determine the final disposition of the remains of the fetus. The facility's disclosure
6 shall include giving the mother a copy of the facility's written standards adopted pursuant
7 to section 194.384.

8 **2.** The facility shall make counseling concerning the death of the fetus available to
9 the mother. The facility may provide the counseling or refer the mother to another
provider of appropriate counseling services.

2 **194.390.** Nothing in sections 194.375 to 194.390 shall be construed to prohibit a
woman's ability to obtain a legal abortion.