

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 1136

## 92ND GENERAL ASSEMBLY

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Reported from the Committee on Aging, Families, Mental and Public Health, April 14, 2004, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

4044S.07C

TERRY L. SPIELER, Secretary.

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### 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.

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*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Section A. Sections 193.165 and 193.255, RSMo, are repealed and eight new  
2 sections enacted in lieu thereof, to be known as sections 193.165, 193.255, 194.375,  
3 194.378, 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  
2 or more, calculated from the date the last normal menstrual period began to the date of  
3 delivery, or a weight of three hundred fifty grams or more, which occurs in this state  
4 shall be reported within seven days after delivery to the local registrar or as otherwise  
5 directed by the state registrar.

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

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

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

15 5. When a spontaneous fetal death occurs in a moving conveyance and the fetus  
16 is first removed from the conveyance in this state or when a dead fetus is found in this

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17 state and the place of the spontaneous fetal death is unknown, the spontaneous fetal  
18 death shall be reported in this state. The place where the fetus was first removed from  
19 the conveyance or the dead fetus was found shall be considered the place of the  
20 spontaneous fetal death.

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

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

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

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

16 3. The federal agency responsible for national vital statistics may be furnished  
17 such copies or data from the system of vital statistics as it may require for national  
18 statistics, provided such federal agency share in the cost of collecting, processing, and

19 transmitting such data, and provided further that such data shall not be used for other  
20 than statistical purposes by the federal agency unless so authorized by the state  
21 registrar.

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

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

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

39 **7. Upon application from either parent, or if both parents are deceased,**  
40 **the sibling of the stillborn child, pursuant to subsection 7 of section 193.165,**  
41 **the state registrar or other custodians of vital records shall issue to such**  
42 **applicant a certificate of birth resulting in stillbirth. The certificate shall be**  
43 **based upon the information available from the spontaneous fetal death report**  
44 **filed pursuant to section 193.165. Any certificate of birth resulting in**  
45 **stillbirth issued shall conspicuously include, in no smaller than 12-point type,**  
46 **the statement "This is not proof of a live birth." No certificate of birth**  
47 **resulting in stillbirth shall be issued to any person other than a parent, or if**  
48 **both parents are deceased, the sibling of the stillborn child who files an**  
49 **application pursuant to section 193.165. The state registrar or other**  
50 **custodians of vital records is authorized to charge a minimal fee to such**  
51 **applicant to cover the actual costs of providing the certificate pursuant to**  
52 **this section.**

53 8. Any parent, or if both parents are deceased, any sibling of the  
54 stillborn child may file an application for a certificate of birth resulting in

55 stillbirth for a birth that resulted in stillbirth prior to August 28, 2004.

194.375. 1. Sections 194.375 to 194.390 shall be known and may be cited  
2 as the "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  
5 remains of a human fetus following a spontaneous fetal demise occurring  
6 after a gestation period of less than twenty completed weeks;

7 (2) "Remains of a human fetus", the fetal remains or fetal products of  
8 conception of a mother after a miscarriage, regardless of the gestational age  
9 or whether the remains have been obtained by spontaneous or accidental  
10 means.

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

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

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

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

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

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

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

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