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HOUSE BILL NO. 213

INTRODUCED BY B. MITCHELL, S. GUNDERSON, J. WINDY BOY, F. ANDERSON, S. KERNS, J. SCHILLINGER, C. KNUDSEN, S. GIST, G. NIKOLAKAKOS, K. ZOLNIKOV, D. FERN, S. ESSMANN, P. FIELDER, L. REKSTEN, T. MOORE, M. BERTOGLIO, L. BREWSTER, R. KNUDSEN, G. FRAZER, J. HINKLE, N. NICOL, M. BINKLEY, B. LER, A. REGIER, K. SEEKINS-CROWE, F. NAVE, R. MARSHALL, E. BUTTREY, L. JONES, D. LOGE, C. HINKLE, J. READ, R. FITZGERALD, M. HOPKINS, J. BERGSTROM, G. PARRY, M. YAKAWICH, B. BROWN, J. FULLER, M. CUFFE, M. LANG, P. GREEN, G. KMETZ, T. FALK, J. FITZPATRICK, C. SPRUNGER, J. ETCHART, R. MINER, W. RUSK, J. TREBAS, J. KASSMIER, B. PHALEN, B. BEARD, L. DEMING, L. HELLEGAARD, T. SMITH, F. MANDEVILLE, Z. WIRTH

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A CERTIFICATE OF NONVIABLE BIRTH; ESTABLISHING REQUIREMENTS FOR REQUESTING AND ISSUING A CERTIFICATE; PROVIDING RULEMAKING AUTHORITY; PROVIDING A DEFINITION; AND AMENDING SECTIONS SECTION 50-15-101 AND 50-15-403, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Certificate of nonviable birth -- requirements. (1) The department shall establish a certificate of nonviable birth on a form adopted by the department and meeting the requirements of subsection (4). On request by a parent, a certificate of nonviable birth must be filed ~~in addition to the fetal death certificate provided for in 50-15-403~~ and must be provided to the parent.

(2) ~~In the instance of a nonviable birth, the person authorized to register a fetal death shall~~ THE DEPARTMENT SHALL MAKE AVAILABLE ON ITS WEBSITE INFORMATION TO advise a parent:

- (a) of the manner in which a request for a certificate of nonviable birth may be made; AND
- (b) that the parent must request the certificate within ~~2 weeks~~ 60 DAYS of the nonviable birth; ~~and~~
- (c) ~~(i) that the original certificate of nonviable birth is available as a public record; and~~
 - ~~(ii) that the parentage, marital status of the parent, cause of death of the fetus, and any medical information will not be included as a public record.~~

Amendment - 1st Reading-white - Requested by: Keith Regier - (S) Judiciary

- 2023

68th Legislature 2023

Drafter: Julianne Burkhardt, 406-444-4025

HB0213.003.001

- 1 (3) A request for a certificate of nonviable birth must:
- 2 (a) be made within ~~2 weeks~~ 60 days of the birth on a form prescribed by the department by rule;
- 3 and
- 4 (b) include the date of the nonviable birth and the county in which the birth occurred.
- 5 (4) The certificate of nonviable birth prepared by the department must contain:
- 6 (a) the date of the nonviable birth;
- 7 (b) the county in which the birth occurred;
- 8 (c) the name of the fetus, ~~as provided on the fetal death certificate pursuant to 50-15-403. If a~~
- 9 ~~name does not appear on the original or amended fetal death certificate and the requesting parent does not~~
- 10 ~~wish to provide a name, the department shall fill in the certificate with the name "baby boy", "baby girl", or, if the~~
- 11 ~~sex of the child is unknown, "baby" and the last name of the parent as provided in 50-15-221.~~
- 12 (5) The following statement must appear on the front of the certificate: "This certificate is not proof
- 13 of a live birth".
- 14 (6) A certificate of nonviable birth is a ~~public record, and a copy of the original certificate is~~
- 15 ~~available as a public record. The parentage, marital status of the parent, cause of death of the fetus, and any~~
- 16 ~~medical information may not be included as part of the public record~~ PRIVATE COMMEMORATIVE DOCUMENT AND IS
- 17 NOT A PUBLIC RECORD.
- 18 (7) It is a final agency action, not subject to review under the Montana Administrative Procedure
- 19 Act, for the department to refuse to issue a certificate of nonviable birth to a person who ~~is not a parent named~~
- 20 ~~on the fetal death certificate~~ HAS FAILED TO PROVIDE INFORMATION REQUIRED BY THE DEPARTMENT BY RULE FOR
- 21 ISSUANCE OF THE CERTIFICATE.
- 22 (8) The department may not use a certificate of nonviable birth to calculate live birth statistics.
- 23 (9) This section may not be used to establish, bring, or support:
- 24 (A) a civil cause of action seeking damages against any person or entity for bodily injury, personal
- 25 injury, or wrongful death for a nonviable birth; OR
- 26 (B) A CRIMINAL CAUSE OF ACTION AGAINST ANY PERSON OR ENTITY FOR A NONVIABLE BIRTH.
- 27 (10) The department shall adopt rules as to the form, content, and process for the certificate of
- 28 nonviable birth.