1	HOUSE BILL NO. 213
2	INTRODUCED BY B. MITCHELL, S. GUNDERSON, J. WINDY BOY, F. ANDERSON, S. KERNS, J.
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6	BUTTREY, L. JONES, D. LOGE, C. HINKLE, J. READ, R. FITZGERALD, M. HOPKINS, J. BERGSTROM, G.
7	PARRY, M. YAKAWICH, B. BROWN, J. FULLER, M. CUFFE, M. LANG, P. GREEN, G. KMETZ, T. FALK, J.
8	FITZPATRICK, C. SPRUNGER, J. ETCHART, R. MINER, W. RUSK, J. TREBAS, J. KASSMIER, B. PHALEN,
9	B. BEARD, L. DEMING, L. HELLEGAARD, T. SMITH, F. MANDEVILLE, Z. WIRTH
10	
11	A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A CERTIFICATE OF NONVIABLE BIRTH;
12	ESTABLISHING REQUIREMENTS FOR REQUESTING AND ISSUING A CERTIFICATE; PROVIDING
13	RULEMAKING AUTHORITY; PROVIDING A DEFINITION; AND AMENDING SECTIONS SECTION 50-15-101
14	AND 50-15-403, MCA."
15	
16	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
17	
18	NEW SECTION. Section 1. Certificate of nonviable birth requirements. (1) The department
19	shall establish a certificate of nonviable birth on a form adopted by the department and meeting the
20	requirements of subsection (4). On request by a parent, a certificate of nonviable birth must be filed in addition
21	to the fetal death certificate provided for in 50-15-403 and must be provided to the parent.
22	(2) In the instance of a nonviable birth, the person authorized to register a fetal death shall \underline{T} HE
23	DEPARTMENT SHALL MAKE AVAILABLE ON ITS WEBSITE INFORMATION TO advise a parent:
24	(a) of the manner in which a request for a certificate of nonviable birth may be made; <u>AND</u>
25	(b) that the parent must request the certificate within 2 weeks 60 DAYS of the nonviable birth; and
26	(c) (i) that the original certificate of nonviable birth is available as a public record; and
27	(ii) that the parentage, marital status of the parent, cause of death of the fetus, and any medical
28	information will not be included as a public record.



Amendment - 1st Reading-white - Requested by: Keith Regier - (S) Judiciary - 2023					
	h Legislatı	ure 2023	Drafter: Julianne Burkhardt, 406-444-4025 HB0	213.003.001	
	1	(3)	A request for a certificate of nonviable birth must:		
1	2	(a)	be made within 2 weeks <u>60 days</u> of the birth on a form prescribed by the departme	nt 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- 4	03 . If a	
	9 name	does no	et appear on the original or amended fetal death certificate and the requesting parent o	loes not	
1	0 wish	to provide	e a name, the department shall fill in the certificate with the name "baby boy", "baby g	irl", or, if the	
1	1 sex o	f the child	d is unknown, "baby" and the last name of the parent as provided in 50-15-221.		
1	2	(5)	The following statement must appear on the front of the certificate: "This certificate	is not proof	
1	3 of a li	ve birth".			
1	4	(6)	A certificate of nonviable birth is a public record, and a copy of the original certificat	e is	
1	5 avail a	able as a	public record. The parentage, marital status of the parent, cause of death of the fetus	, and any	
1	6 medi	cal inform	nation may not be included as part of the public record PRIVATE COMMEMORATIVE DOCUL	MENT AND IS	
1	7 <u>NOT A</u>	PUBLIC R	RECORD.		
1	8	(7)	It is a final agency action, not subject to review under the Montana Administrative P	rocedure	
1	9 Act, f	or the de	partment to refuse to issue a certificate of nonviable birth to a person who i s not a par	ent named	
2	0 on th	e fetal de	eath certificate HAS FAILED TO PROVIDE INFORMATION REQUIRED BY THE DEPARTMENT BY RU	JLE FOR	
2	1 <u>ISSUA</u>	NCE OF TH	HE CERTIFICATE.		
2	2	(8)	The department may not use a certificate of nonviable birth to calculate live birth sta	atistics.	
2	3	(9)	This section may not be used to establish, bring, or support:		
2	4	<u>(A)</u>	a civil cause of action seeking damages against any person or entity for bodily injur	y, personal	
2	5 injury	, or wrong	gful death for a nonviable birth <u>; OR</u>		
2	6	<u>(B)</u>	A CRIMINAL CAUSE OF ACTION AGAINST ANY PERSON OR ENTITY FOR A NONVIABLE BIRTH.		
2	7	(10)	The department shall adopt rules as to the form, content, and process for the certific	cate of	
2	8 nonvi	able birth	٦.		

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Sectio	on 2. Section 50-15-101, MCA, is amended to read:	
	5-101. Definitions. Unless the context requires otherwise, in parts 1 through 4 the following	
	"Advanced practice registered nurse" means an individual who has been certified as an	
	ctice registered nurse as provided in 37-8-202.	
	"Authorized representative" means a person:	
	designated by an individual, in a notarized written document, to have access to the individual's	
vital records;		
(b)	who has a general power of attorney for an individual; or	
(c)	appointed by a court to manage the personal or financial affairs of an individual.	
(3)	"Dead body" means a human body or parts of a human body from which it reasonably may be	
concluded that death occurred.		
(4)	"Department" means the department of public health and human services provided for in 2-15-	
2201.		
(5)	"Dissolution of marriage" means a marriage terminated pursuant to Title 40, chapter 4, part 1.	
(6)	"Fetal death" means death of the fetus prior to the complete expulsion or extraction from its	
mother as a p	roduct of conception, notwithstanding the duration of pregnancy. The death is indicated by the	
fact that after o	expulsion or extraction, the fetus 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. Heartbeats are	
distinguished f	from transient cardiac contractions. Respirations are distinguished from fleeting respiratory efforts	
or gasps.		
(7)	"Final disposition" means the burial, interment, cremation, removal from the state, or other	
authorized disposition of a dead body or fetus.		
(8)	"Invalid marriage" means a marriage decreed by a district court to be invalid for the reasons	
contained in 4	0-1-402.	
(9)	"Live birth" means the complete expulsion or extraction from the mother as a product of	
conception, no	otwithstanding the duration of pregnancy. The birth is indicated by the fact that after expulsion or	
	"50-15" definitions app (1) advanced prace (2) (a) vital records; (b) (c) (3) concluded that (4) 2201. (5) (6) mother as a pr fact that after a beating of the distinguished f or gasps. (7) authorized dist (8) contained in 40 (9)	



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

- 2023 68th Legislature 2023

Division

Drafter: Julianne Burkhardt, 406-444-4025

HB0213.003.001

	Legislative - 4 - Authorized Print Version – HB 213
28	Section 3. Section 50-15-403, MCA, is amended to read:
27	
26	induced termination of pregnancy, marriage, and dissolution of marriage and related reports."
25	(18)(19) "Vital statistics" means the data derived from certificates or reports of birth, death, fetal death,
24	dissolution of marriage and related reports.
23	(17)(18) "Vital records" means certificates or reports of birth, death, fetal death, marriage, and
22	activities, including the tabulation, analysis, publication, and dissemination of vital statistics.
21	certification of vital records. The term includes the collection of reports required by this chapter and related
20	(16)(17) "System of vital statistics" means the registration, collection, preservation, amendment, and
19	(b) The term does not include an abortion, as defined in 50-20-104.
18	(15)(16) (a) "Stillbirth" means a fetal death occurring after a minimum of 20 weeks of gestation.
17	generalizable knowledge.
16	(14)(15) "Research" means a systematic investigation designed primarily to develop or contribute to
15	into the official records of the department.
14	(13)(14) "Registration" means the process by which vital records are completed, filed, and incorporated
13	(12)(13) "Physician" means a person legally authorized to practice medicine in this state.
12	person who first assumes custody of a dead body or fetus.
11	disposes of the body or fetus and who is a funeral director, an employee acting for a funeral director, or a
10	dead body or the ashes after cremation to be placed in a grave, vault, urn, or other receptacle or otherwise
9	
8	provider.
7	is detected but prior to the 20th week of gestation of a pregnancy that has been verified by a health care
5 6	administering this chapter in the area set forth in the letter of appointment. (11) "Nonviable birth" means an unintentional, spontaneous fetal demise occurring after a heartbeat
4	(10) "Local registrar" means a person appointed by the department to act as its agent in
3	contractions. Respirations are distinguished from fleeting respiratory efforts or gasps.
2	umbilical cord, or definite movement of voluntary muscles. Heartbeats are distinguished from transient cardiac
1	extraction, the child breathes or shows any other evidence of life, such as beating of the heart, pulsation of the

68th Legislature 2023

HB0213.003.001

1	"50-15-403. Preparation and filing of death or fetal death certificate. (1) A person in charge of
2	disposition of a dead body or fetus that weighs at least 350 grams at death or, if the weight is unknown, has
3	reached 20 completed weeks of gestation at death shall obtain, from the persons best qualified to supply it,
4	personal data on the deceased, including the deceased's social security number, if any, or, in the case of a fetal
5	death, information on the parents that is required by the department from persons best qualified to supply the
6	data and enter it. The information must be entered on the death or fetal death certificate.
7	(2) The person in charge of disposition of the dead body or fetus shall present the death certificate
8	to the certifying physician, the certifying advanced practice registered nurse, or the coroner having jurisdiction
9	for medical certification of the cause of death. The medical certification must be completed by the physician, the
10	advanced practice registered nurse, or the coroner within the timeframe established by the department by rule.
11	The person in charge of disposition shall obtain the completed certification of the cause of death from the
12	physician, the advanced practice registered nurse, or the coroner and shall, within the time that the department
13	may prescribe by rule, file the death or fetal death certificate with the local registrar in the registration area
14	where the death occurred or, if the place of death is unknown, where the dead body was discovered.
15	(3) If a dead body is found in this state but the place of death is unknown, the place where the
16	body is found must be shown as the place of death on the death certificate. If the date of death is unknown,
17	then the approximate date must be entered on the certificate. If the date cannot be approximated, the date that
18	the body was found must be entered as the date of death, and the certificate must indicate that fact.
19	(4) When a death occurs in a moving vehicle, as defined in 45-2-101, in the United States and the
20	body is first removed from the vehicle in this state, the death must be registered in this state and the place
21	where the body is first removed is considered the place of death. When a death occurs in a moving vehicle
22	while in international air space or in a foreign country or its air space and the body is first removed from the
23	vehicle in this state, the death must be registered in this state, but the actual place of death, insofar as it can be
24	determined, must be entered on the death certificate."
25	
26	NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an
27	integral part of Title 50, chapter 15, part 2, and the provisions of Title 50, chapter 15, part 2, apply to [section 1].

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- 5 -

- END -