

# SENATE BILL REPORT

## SB 6523

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As of January 28, 2020

**Title:** An act relating to the local government issuance of a certificate of birth resulting in stillbirth.

**Brief Description:** Concerning local government issuance of a certificate of birth resulting in stillbirth.

**Sponsors:** Senators Takko, Rivers, Walsh and Lovelett.

**Brief History:**

**Committee Activity:** Local Government: 1/28/20.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Allows a person who gives birth to a stillborn fetus to request and receive a certificate of birth resulting in stillbirth.</li></ul>
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### SENATE COMMITTEE ON LOCAL GOVERNMENT

**Staff:** Greg Vogel (786-7413)

**Background:** Vital Statistics. Washington's Department of Health (DOH) and the auditor's office of each county collects and stores reports of all vital statistics in the state. These vital statistics include births, deaths, marriages, marriage and domestic partnership dissolutions, marriage and domestic partnership annulments, and legal separations.

Stillbirths. A stillbirth is the death or loss of a baby before or during delivery. Both miscarriage and stillbirth describe pregnancy loss, but they differ according to when the loss occurs. In the United States, a miscarriage is usually defined as loss of a baby before the twentieth week of pregnancy, and a stillbirth is loss of a baby after 20 weeks of pregnancy.

Stillbirth is further classified as either early, later, or term as follows:

- an early stillbirth is a fetal death occurring between 20 and 27 completed weeks of pregnancy;
- a late stillbirth occurs between 28 and 36 completed pregnancy weeks; and
- a term stillbirth occurs between 37 or more completed pregnancy weeks.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Stillbirth affects about 1 in 100 pregnancies, and each year about 24,000 babies are stillborn in the United States.

In Washington, a complete report of fetal death must be filed with the county auditor where the death occurred. "Fetal death" means any product of conception that shows no evidence of life, such as breathing, beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles after complete expulsion or extraction from the individual who gave birth that is not an induced termination of pregnancy.

A certification of fetal death may be released by the county auditor or the state registrar to:

- a parent, parent's legal representative, an authorized representative, a sibling, or a grandparent;
- the funeral director or funeral establishment named on the fetal death record, within 12 months of the date of fetal death; or
- a government agency or court, if the certification will be used in the conduct of the agency's or court's official duties.

Historically, the birth of a stillborn child has not been recorded as an event, and only the death is recorded and memorialized via the issuance of a death certificate and the mandated final disposition of the body. In 2001, Arizona became the first state to pass a law to provide birth certificates for stillborn babies. The law requires the state registrar to establish a certificate of birth resulting in stillbirth for each fetal death occurring after a gestational period of at least 20 completed weeks, and the certificate to be offered to the parent or parents of a stillborn child. Over 30 other states have enacted legislation offering some variation of a birth certificate for a stillborn baby.

**Summary of Bill:** The state or local registrar of a county in which a stillbirth occurs may issue a certificate of birth resulting in a stillbirth solely upon request of the person who gave birth. The certificate of birth resulting in stillbirth is in addition to, and may not replace, a fetal death certificate. The issue date of the fetal death certificate may not delay or otherwise affect the issuance of a certificate of birth resulting in stillbirth.

For a certification of birth resulting in stillbirth, the state or local registrar may release the certification only to a parent listed on the fetal death record who is also the parent who gave birth.

A certification of birth resulting in stillbirth must comply with format requirements prescribed by the state registrar similar to the format of a certificate of birth. The certification of birth resulting in stillbirth must contain a title at the top of the certification that reads "certificate of birth resulting in stillbirth" and must contain a statement on the certification that reads, "this certificate of birth resulting in stillbirth is not proof of a live birth."

The certification of birth resulting in stillbirth must be clear that it is not an identity document.

The certification of birth resulting in stillbirth must include:

- the date of the stillbirth;
- the county in which the stillbirth occurred;
- the name, if any, and sex of the stillborn fetus;
- the time and place of the stillbirth, including the street address, and if applicable, the name of the hospital in which the stillbirth occurred;
- the fetus weight and length;
- the names, dates of birth, and states of birth of the parents; and
- the file number of the fetal death certificate.

The state or local registrar may not use the information on a certificate of birth resulting in stillbirth for any purpose other than to respond to a request for the certificate from the person who gave birth to the stillborn fetus.

A certification of birth resulting in stillbirth may not be used by the state or any agency or subdivision in calculating any vital record statistics.

Nothing under the provisions for a certificate of birth resulting in stillbirth:

- may be the basis for a civil cause of action seeking damages or criminal charges against any person or entity for bodily injury, personal injury, or wrongful death for a stillbirth;
- shall alter a woman's rights to reproductive freedom or equal protection under the law, or to alter or supersede any other provision of law; and
- except for the right to request a certificate of birth resulting in stillbirth, may constitute the basis of any new right, privilege, or entitlement, or abrogate any existing right, privilege, or entitlement.

"Induced termination of pregnancy" means the purposeful interruption of an intrauterine pregnancy with the intention other than to produce a live born infant or to remove a dead fetus which does not result in a live birth.

"Stillbirth" means any product of human conception that:

- shows no evidence of life, such as breathing, beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles after complete expulsion or extraction from the individual who gave birth;
- is not an induced termination of pregnancy; and
- has completed 20 or more weeks of gestation as calculated from the date the last menstrual period of the individual who gave birth began, to the date of expulsion or extraction; or weighs 350 grams or more, if weeks of gestation are not known.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill takes effect on January 1, 2021.

**Staff Summary of Public Testimony:** PRO: The certificate recognizes that a woman carried a child to term and recognizes that the child was born. There is a need for some formal acknowledgement that it happened. Parents can get the certificate in 40 states but Washington is not one of them. Stillbirth is shamed and stigmatized with a lack of acknowledgement of the trauma. We simply want acknowledgement that the event happened. To be told how you can commemorate the event is dehumanizing.

This legislation was looked at very carefully because of the implications for reproductive freedom. Legal Voice and its allies can get behind this legislation because it carefully crafted and does some good for those suffering loss.

**Persons Testifying:** PRO: Senator Dean Takko, Prime Sponsor; Carolyn Logue, BeliEve Foundation; Lisa Proehl, citizen; Randi Abrams-Caras, citizen; Terrell Hatzilias, citizen; Kim Clark, Legal Voice.

**Persons Signed In To Testify But Not Testifying:** No one.