

SENATE BILL REPORT

SB 6523

As Reported by Senate Committee On:
Local Government, February 4, 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. [**Revised for 1st Substitute:** Concerning the 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, 2/04/20 [DPS, w/oRec].

Brief Summary of First Substitute Bill

- Allows a person who gives birth to a stillborn fetus to request and receive a certificate of birth resulting in stillbirth.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: That Substitute Senate Bill No. 6523 be substituted therefor, and the substitute bill do pass.

Signed by Senators Takko, Chair; Salomon, Vice Chair; Short, Ranking Member; Lovelett.

Minority Report: That it be referred without recommendation.

Signed by Senator Honeyford.

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.

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.

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.

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 (First Substitute): The state or local registrar may issue reports of fetal death either as a certification of a fetal death or as a certification of birth resulting in a stillbirth, or both. When issuing a certification of birth resulting in stillbirth, the state or local registrar may release the certification only to the individual who gave birth listed on the fetal death record. A certification of birth resulting in stillbirth must comply with the format requirements prescribed by the state registrar and be in a format similar to a certification of birth.

The certification of birth resulting in stillbirth must contain a title at the top of the certification that reads: "This certificate of birth resulting in stillbirth is not proof of a live birth and is not an identity document."

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.

"Stillbirth" is defined the same as fetal death.

EFFECT OF CHANGES MADE BY LOCAL GOVERNMENT COMMITTEE (First Substitute):

- Amends the title to an act relating to government issuance of a certificate of birth resulting in stillbirth.
- Authorizes the state or local registrar to issue reports of fetal death either as a certification of a fetal death or as a certification of birth resulting in a still birth, or both.
- Removes specific certification requirements relating to time, date, location, name, sex, weight, length, parental information, and file number.
- Amends the definition of stillbirth to mean the same as a fetal death.

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 on Original Bill: *The committee recommended a different version of the bill than what was heard.* 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.