

CHAPTER 123
FORMERLY
SENATE BILL NO. 3

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO VITAL STATISTICS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 3101, Title 16 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows and renumbering accordingly:

§ 3101. Definitions.

As used in this chapter:

(1) "Dead body" means a lifeless human body or such parts of such human body from the condition of which it reasonably may be concluded that death recently occurred.

(4) "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 and which does not result in a live birth. This definition excludes management of prolonged retention of products of conception following fetal death.

(6) "Live birth" ~~is defined as~~ means the complete expulsion or extraction from its mother of a product of conception ~~(irrespective of the duration of pregnancy) which, after such separation,~~ human conception, irrespective of the duration of pregnancy, which after expulsion or extraction breathes or shows any other evidence of life such as beating of the heart, pulsations of the umbilical cord or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached. Heartbeats are to be distinguished from transient cardiac contractions; respirations are to be distinguished from fleeting respiratory efforts or gasps.

(9) "Stillbirth" means any complete expulsion or extraction from its mother of a product of human conception the weight of which is in excess of 350 grams, or in the absence of weight, of 20 completed weeks gestation or more, resulting in other than a live birth and which is not an induced termination of pregnancy.

Section 2. Amend § 3110, Title 16 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 3110. Disclosure of records.

(h) The State Registrar of Vital Statistics shall create a ~~stillbirth~~ certificate of birth resulting in stillbirth and shall issue such certificates as provided for in § 3121A of this title, ~~which shall be issued upon request to a parent (or authorized representative thereof) who is authorized to receive a certificate of fetal death under subsection (b) of this section.~~

Section 3. Amend Subchapter II, Chapter 31, Title 16 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 3121A. Certificate of Birth Resulting in Stillbirth.

(a) The State Registrar of Vital Statistics shall issue a certificate of birth resulting in stillbirth upon the request of and payment of a fee by either parent of the stillborn child or any other individual with a direct interest in such record under § 3110 of this title.

(b) The certificate of birth resulting in stillbirth must contain all of the following:

(1) The date of the stillbirth.

(2) The place in which the stillbirth occurred. If the place of stillbirth is unknown, a certificate of birth resulting in stillbirth must record the location where such stillborn child was found as the place of stillbirth. If stillbirth occurs in a moving conveyance, the certificate of birth resulting in stillbirth must record the location where the stillborn child was first removed from such conveyance as the place of stillbirth.

(3) Upon the request of and payment of a fee by a parent of the stillborn child or other individual with a direct interest in such record under § 3110 of this title, the State Registrar of Vital Statistics shall reissue a stillbirth certificate filed with the State Registrar before [the effective date of this Act] as a certificate of birth resulting in stillbirth.

Section 4. Amend § 3123, Title 16 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 3123. Registration of Death.

(a) A certificate of death for each death which occurs in this State shall be filed with the Office of Vital Statistics, or as otherwise directed by the State Registrar, within 3 days after ~~death~~ death, or as soon as possible after a death under subsections (e) and (f) of this section, and prior to final disposition of the dead body, and shall be registered if it has been completed and filed in accordance with this section.

(1) If the place of death is unknown but the dead body is found in this State, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it may be determined by approximation.

(2) When death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in this State, the death shall be registered in this State and the place where it is first removed shall be considered the place of death. When a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in this State, the death shall be registered in this State but the certificate shall show the actual place of death insofar as can be determined.

(b) The funeral director who assumes custody of the dead body shall file the certificate of death with the Office of Vital Statistics unless an official death investigation is required. The funeral director shall obtain the personal data from the next-of-kin or best qualified person or source available and send that data to ~~shall obtain the medical certification from~~ the attending physician or ~~Medical Examiner~~ medical examiner for certification.

(c) When no official death investigation is required, the ~~The~~ medical certification shall be completed, signed and returned to the funeral director within 48 hours after ~~death~~ death, or as soon as possible after a death under subsections (e) and (f) of this section, by the attending ~~physician~~ physician; or a registered nurse or an

~~advanced practice registered nurse (APRN) acting in accordance with § 1902(y) of Title 24. except when an official death investigation is required by the Division of Forensic Science.~~ In the absence of the attending ~~physician~~ physician, the certificate may be completed and signed by the attending physician's designated physician or the chief medical officer of the institution in which death occurred ~~provided if~~ provided if such individual has knowledge about the medical history of the case.

(d) When an official death investigation is required pursuant to § 4706(a) of Title 29, the ~~Medical Examiner~~ medical examiner shall ~~assume custody of the dead body,~~ determine the manner and cause of death and shall complete and sign the ~~medical certification~~ certificate of death and shall file the certificate of death with the Office of Vital Statistics.

(e) If the cause of death cannot be determined within 48 hours after death, the attending physician or medical examiner shall file with the Office of Vital Statistics a pending certificate of death and a toxicology study shall be performed. If a cause of death cannot be determined after the toxicology study is performed, the remains and all reports ~~and/or~~ or studies shall be turned over to the Division of Forensic Science for review. When the cause of death is determined a revised ~~certification~~ certificate of death shall be issued and presented to the funeral director or the funeral director's agent, who in turn shall file the certificate with the Office of Vital Statistics.

(f) When a death is presumed to have occurred within this State but the body cannot be located, a ~~death~~ certificate of death may be prepared by the State Registrar upon receipt of a court order which shall include the finding of facts required to complete the ~~death~~ certificate of death. Such a ~~death~~ certificate of death shall be marked "By Court Order" and shall show on its face the date of registration and shall identify the court and the date of decree.

(g) One of the following individuals shall pronounce a death:

(1) The attending physician.

(2) The medical examiner.

(3) A registered nurse or an advanced practice registered nurse (APRN) acting in accordance with § 1902(y) of Title 24.

(4) The medical control physician under § 1760(b) of Title 24.

Section 5. Amend § 3124, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3124. Registration of spontaneous fetal death.

Each spontaneous fetal death of 350 grams or more, or in the absence of weight, of 20 completed week's gestation or more, calculated from the date the last normal menstrual period began to the date of delivery, which occurs in this State shall be reported within 3 days after delivery to the Office of Vital Statistics by filing a report of fetal death ~~certificate~~. Induced terminations of pregnancy shall not be reported as spontaneous fetal deaths. The report of fetal death is the official record of birth and death for the fetal death.

(1) When a fetal death occurs in an institution, ~~the person in charge of the institution or a designated representative shall prepare and file a Certificate of Fetal Death.~~ and the death is attended by a physician or

advanced practice registered nurse – certified nurse midwife (APRN-CNM), the report of fetal death shall be prepared by a hospital clerk or head of admissions and shall be filed with the Office of Vital Statistics, or as otherwise directed by the State Registrar, within 3 days after delivery or as soon as possible thereafter but prior to final disposition of the dead body.

(2) When a fetal death occurs outside an institution, only a physician may sign a report of fetal death. The physician shall file the report of fetal death with the Office of Vital Statistics, or as otherwise directed by the State Registrar, within 3 days after delivery or as soon as possible thereafter but prior to final disposition of the dead body. ~~the physician in attendance at or immediately after delivery shall prepare and file a Certificate of Fetal Death. No person other than a physician may sign a Certificate of Fetal Death.~~

(3) When a fetal death occurs without medical attendance at or shortly after the delivery, ~~or when a fetal death occurs~~ in a moving conveyance and the fetus is first removed from the conveyance in this ~~State~~ State, ~~or when a fetal death occurs in this State and~~ the place of fetal death is unknown, ~~an investigation by the~~ Division of Forensic Science shall ~~be conducted~~ conduct an investigation to determine the cause and manner of the fetal death and the medical examiner shall file the report of fetal death.

Section 4. This Act takes effect 6 months after its enactment into law.

Section 5. This Act shall be known as “Lorenzo’s Law”.

Approved August 9, 2017