

JAN 23 2026

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## A BILL FOR AN ACT

RELATING TO VITAL STATISTICS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. The legislature finds that according to  
2 National Vital Statistic System data, Native Hawaiians and other  
3 Pacific Islanders have one of the highest rates of fetal death  
4 in the United States. Studies have shown that parents who  
5 experience a fetal death can experience lasting psychological  
6 trauma, with sixty to seventy per cent of grieving mothers  
7 reporting clinically significant depression one year after their  
8 baby's death. For some parents, these mental health struggles  
9 are lifelong. Furthermore, psychological trauma associated with  
10 fetal death has been shown to have societal effects such as  
11 reduced earnings from employment or an inability to return to  
12 paid employment.

13 The legislature further finds that the State lacks the  
14 comprehensive, reliable data needed to understand and address  
15 the causes behind the disparity in rates of fetal death among  
16 Native Hawaiians and Pacific Islanders. Amending existing law  
17 will address inconsistencies in reporting requirements, improve



1 clarity and feasibility of reporting, and improve the quality of  
2 fetal death data in Hawaii, which will in turn enable health  
3 care providers to implement interventions to prevent and  
4 decrease the rate of fetal death in the State's communities.

5 The legislature notes that existing law combines fetal  
6 death reporting requirements with general death reporting  
7 requirements, which creates ambiguity, operational burdens, and  
8 privacy concerns. Existing law also mandates submission of a  
9 report of fetal death to be submitted for every fetal death,  
10 including first-trimester miscarriages. This requirement is  
11 unrealistic, as these miscarriages can occur at home and will  
12 never result in a complete or accurate dataset. Amendments are  
13 therefore needed to align Hawaii's reporting requirements with  
14 the majority of the United States and federal Centers for  
15 Disease Control and Prevention recommendations by implementing a  
16 minimum gestational age threshold for fetal death reporting.  
17 Furthermore, making fetal death reporting optional in certain  
18 specific circumstances will decrease the administrative burden  
19 on the department of health and also support families who  
20 experience a fetal death and would like this report to assist in  
21 their healing process.



1       The legislature additionally finds that the current  
2 timeframe to report a fetal death is only three days. Extending  
3 this time frame is necessary so that health care providers have  
4 sufficient time to comprehensively determine the cause of a  
5 fetal death. This in turn will ensure that health care  
6 providers are able to ascertain what is driving the high rates  
7 of fetal death in the State. Amendments to existing law are  
8 also necessary to clarify when a permit is required to dispose  
9 of fetal remains, as this will improve consistency with fetal  
10 death reporting requirements and ensure required reports of  
11 fetal death are to the department of health upon disposition of  
12 fetal remains.

13       The legislature finds that improving the quality of fetal  
14 death data in Hawaii will ultimately enable targeted prevention  
15 and education efforts to reduce the State's fetal death rates  
16 and the societal impacts that result from families who  
17 experience this tragic loss.

18       Accordingly, the purpose of this Act is to amend the  
19 various requirements in the event of a fetal death, including  
20 registration of certain fetal deaths, filing and preparation of



1 a certificate of fetal death, and issuance of a permit for  
2 removal, burial, or other disposition

3 SECTION 2. Chapter 338, Hawaii Revised Statutes, is  
4 amended by adding five new sections to be appropriately  
5 designated and to read as follows:

6 **"S338-A Compulsory registration of certain fetal deaths.**

7 (a) A certificate of fetal death in the case of fetuses of  
8 twenty weeks gestation or more, calculated from the date the  
9 last normal menstrual period began to the date of delivery or  
10 best ultrasound measurement if last menstrual period is unknown,  
11 or, if gestational age is unknown, fetuses of at least three  
12 hundred fifty grams in weight, shall be filed with the  
13 department in Honolulu or with the local agent of the department  
14 in the district in which the fetal death occurred within  
15 fourteen days after the date of fetal death. In these  
16 instances, a certificate of fetal death shall be filed before  
17 interment or other disposition of the body.

18 (b) A certificate of fetal death shall not be required for  
19 a fetal death in the case of fetuses of less than twenty weeks  
20 gestation; fetuses less than three hundred fifty grams of  
21 weight, if gestational age is unknown; or fetuses from an



1    intentionally terminated pregnancy performed in accordance with  
2    section 453-16 or 457-8.7.

3    **S338-B   Filing and preparation of certificate of fetal**  
4    death.   (a)   The person in charge of the disposition of the body  
5    shall file with the department in Honolulu or with the local  
6    agent of the department in the district in which the fetal death  
7    occurred a certificate of fetal death within fourteen days after  
8    the date of fetal death; provided that neither the certificate  
9    nor its filing shall be required for a fetal death in the case  
10   of fetuses of less than twenty weeks gestation; fetuses less  
11   than three hundred fifty grams of weight, if gestational age is  
12   unknown; or fetuses from an intentionally terminated pregnancy  
13   performed in accordance with section 453-16 or 457-8.7.

14      (b)   In preparing a certificate of fetal death, the person  
15   in charge of the disposition of the body shall:

16        (1)   Obtain, and enter on the certificate, personal data  
17   and other information as required by the department  
18   pertaining to the deceased from the person best  
19   qualified to provide this information; and  
20        (2)   Present the certificate of fetal death to the  
21   physician, physician assistant, or advanced practice



1                   registered nurse, who shall certify the fetal death  
2                   and furnished medical data pertaining to the fetal  
3                   death.

4                   **S338-C   Certificate of fetal death for miscarriages less**  
5                   **than twenty weeks gestation or three hundred fifty grams.**   (a)

6                   The state registrar shall issue a certificate of fetal death to  
7                   a parent of a miscarriage if:

8                   (1)   The parent requests, on a form prescribed by the state  
9                   registrar, that the state registrar register and issue  
10                   a certificate of fetal death for the miscarriage; and

11                   (2)   The parent files with the state registrar:  
12                   (A)   A signed statement from a health care provider  
13                   confirming the miscarriage; or  
14                   (B)   An accurate copy of the parent's medical records  
15                   related to the miscarriage.

16                   (b)   As used in this section, "miscarriage" means a product  
17                   of human conception that:

18                   (1)   Is less than twenty weeks gestation, calculated from  
19                   the date on which the mother's last normal menstrual  
20                   period began to the date of delivery or early



1                   ultrasound, or if the gestational age is unknown, is  
2                   less than three hundred fifty grams in weight;  
3                   (2) Is not born alive; and  
4                   (3) Is not due to an intentional termination performed in  
5                   accordance with section 453-16 or 457-8.7.

6                   **S338-D Late determination of the cause of fetal death.**

7                   (a) If the cause of fetal death cannot be determined within  
8                   fourteen days, the certification of its cause may be filed after  
9                   the prescribed period, but the attending physician, physician  
10                   assistant, advanced practice registered nurse, or coroner's  
11                   physician shall notify in writing the local agent of the  
12                   department of the district in which the death occurred of the  
13                   reason for late filing, so that a permit for the disposition of  
14                   the body may be issued.

15                   (b) As used in this section, "late" means more than  
16                   fourteen days after the date of fetal death.

17                   **S338-E Permit for removal, burial, or other disposition of**  
18                   **body due to fetal death.** When a fetal death occurs, the body  
19                   shall not be disposed of or removed from the registration  
20                   district until a written permit has been issued by the local  
21                   agent of the department, except that if:



1        (1) The fetal death is less than twenty weeks of  
2        gestation, or if the gestational age is unknown, the  
3        fetal death is less than three hundred fifty grams in  
4        weight; or  
5        (2) The fetal death was due to an intentional termination  
6        performed in accordance with section 453-16 or 457-  
7        8.7,  
8        no permit shall be required."

9        SECTION 3. Section 338-1, Hawaii Revised Statutes, is  
10      amended by adding three new definitions to be appropriately  
11      inserted and to read as follows:

12      "Advanced practice registered nurse" means a person  
13      licensed pursuant to section 457-8.5.  
14      "Department" means the department of health.  
15      "Physician assistant" means a person licensed to practice  
16      medicine under the supervision of a physician or an osteopathic  
17      physician, as required by section 453-5.3."

18      SECTION 4. Section 338-2, Hawaii Revised Statutes, is  
19      amended to read as follows:



1       **"S338-2 Authority and duties of the department [of**  
2 ~~health]~~. The department [of health, herein referred to as the  
3 department,] shall:

4       (1) Establish a central bureau of public health statistics  
5               with suitable offices properly equipped for the safety  
6               and preservation of all its official records;

7       (2) Install a statewide system of public health  
8               statistics;

9       (3) ~~Make~~ Adopt and amend, after notice and hearing,  
10               necessary ~~regulations,~~ rules, give instructions and  
11               prescribe forms for collecting, transcribing,  
12               compiling, and preserving public health statistics;  
13               and

14       (4) Enforce this part and the ~~regulations made~~ rules  
15               adopted pursuant thereto."

16       SECTION 5. Section 338-8, Hawaii Revised Statutes, is  
17 amended to read as follows:

18       **"S338-8 Compulsory registration of deaths [and fetal**  
19 ~~deaths]~~. ~~[A]~~ Except as provided in section 338-A, a certificate  
20 ~~of every death [or fetal death]~~ shall be filed with the  
21 department ~~[of health]~~ in Honolulu or with the local agent of



1 the department [~~of health~~] in the district in which the death  
2 [~~or fetal death~~] occurred or a dead body was found within three  
3 days after the date of death [~~or fetal death occurred~~] or [~~the~~]  
4 date the dead body was found. In every instance, a certificate  
5 shall be filed [~~prior to~~] before interment or other disposition  
6 of the body."

7 SECTION 6. Section 338-9, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 **"§338-9 Filing and preparation of death [~~and fetal death~~]**  
10 **certificates.** (a) [~~The~~] Except as provided in section 338-B,  
11 the person in charge of the disposition of the body shall file  
12 with the department [~~of health~~] in Honolulu or with the local  
13 agent of the department [~~of health~~] in the district in which the  
14 death [~~or fetal death~~] occurred, or a dead body was found, a  
15 certificate of death [~~or fetal death~~] within three days after  
16 the [~~occurrence, except that reports of intentional terminations~~  
17 ~~of pregnancy performed in accordance with section 453-16 may be~~  
18 ~~deferred for up to one month.~~] date of death or date the dead  
19 body was found.



4 (1) Obtain, and enter on the certificate [the], personal  
5 data and other information as required by the  
6 department pertaining to the deceased [person required  
7 by the department] from the person best qualified to  
8 [supply them,] provide this information;

9 (2) Present the certificate of death to the physician,  
10 physician assistant, or advanced practice registered  
11 nurse last in attendance upon the deceased, or to the  
12 coroner's physician, who shall [thereupon] certify the  
13 cause of death to the physician's, physician  
14 assistant's, or advanced practice registered nurse's  
15 best knowledge and belief[, or present the certificate  
16 of fetal death to the physician, physician assistant,  
17 advanced practice registered nurse, midwife, or other  
18 person in attendance at the fetal death, who shall  
19 certify the fetal death and such medical data  
20 pertaining thereto as can be furnished; provided that  
21 fetal deaths of less than twenty-four weeks or



1                    ~~intentional terminations of pregnancy performed in~~  
2                    ~~accordance with section 453-16 may be certified by a~~  
3                    ~~nurse or other employee based upon the physician's~~  
4                    ~~records]; and~~

5                    (3) Notify immediately the appropriate local agent, if the  
6                    death occurred without medical attendance, or if the  
7                    physician, physician assistant, or advanced practice  
8                    registered nurse last in attendance fails to sign the  
9                    death certificate. In such event, the local agent  
10                  shall inform the local health officer[~~r~~] and refer the  
11                  case to the local health officer for immediate  
12                  investigation and certification of the cause of death  
13                  [~~prior to~~] before issuing a permit for burial, or  
14                  other disposition of the body. When the local health  
15                  officer is not a physician or when there is no [~~such~~]  
16                  local health officer, the local agent may complete the  
17                  certificate on the basis of information received from  
18                  relatives of the deceased or others having knowledge  
19                  of the facts.

20                  If the circumstances of the case suggest that the death [~~or~~  
21                  ~~fetal death~~] was caused by other than natural causes, the local



1 agent shall refer the case to the coroner for investigation and  
2 certification.

3 (c) A death certificate under this section may be filed by  
4 the next of kin and accepted by the local agent without meeting  
5 the requirements set forth [above] in this section when there  
6 has been a judicial finding and declaration by a court of record  
7 that a person is dead; provided that the certificate [is] shall  
8 be in a form approved by the department and [has] shall have  
9 been certified by the clerk of court."

10 SECTION 7. Section 338-10, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 **"S338-10 Late determination of the cause of death. [If]**  
13 (a) Except as provided in section 338-D, if the cause of death  
14 cannot be determined within three days, the certification of its  
15 cause may be filed after the prescribed period, but the  
16 attending physician, physician assistant, advanced practice  
17 registered nurse, or coroner's physician shall notify in writing  
18 the local agent of the department [of health] of the district in  
19 which the death occurred of the reason for late filing, [in  
20 order] so that a permit for the disposition of the body may be  
21 issued.



1           (b) As used in this section, "late" means more than three  
2 days after the date of death."

3           SECTION 8. Section 338-23, Hawaii Revised Statutes, is  
4 amended to read as follows:

5           **"§338-23 Permit for removal, burial, or other disposition**  
6 **of body.** [When] Except as provided in section 338-E, when a  
7 death [~~or fetal death~~] occurs or a dead body is found, the body  
8 shall not be disposed of or removed from the registration  
9 district until a written permit has been issued by the local  
10 agent of the department [~~of health, except that if the dead~~  
11 ~~fetus is less than twenty-four weeks of gestation, no permit~~  
12 ~~shall be required and~~], except that if the death occurred as a  
13 result of an accident or other casualty occurrence, the local  
14 agent of the department [~~of health~~] may orally authorize the  
15 dead [~~bodies~~] body to be removed from a registration district  
16 and airlifted or otherwise directly transported to the Honolulu  
17 registration district for the preparation and filing of the  
18 death [~~certificates~~] certificate and the issuance of a written  
19 [~~permits~~] permit for further disposition."

20           SECTION 9. Section 338-25, Hawaii Revised Statutes, is  
21 amended to read as follows:



1        **"§338-25 Prerequisite for permit.** No permit under section  
2        338-23 or 338-E shall be issued until a certificate of death or  
3        certificate of fetal death, as far as it can be completed under  
4        the circumstances of the case, has been filed and until all the  
5        ~~[regulations]~~ rules of the department ~~[of health]~~ in respect to  
6        the issuance of ~~[such]~~ the permit have been complied with."

7        SECTION 10. Sections 338-3, 338-4, 338-5, 338-6, 338-7,  
8        338-11, 338-11.5, 338-13, 338-14, 338-14.3, 338-14.5, 338-14.6,  
9        338-15, 338-16, 338-17.7, 338-18, 338-19, 338-20, 338-20.5, 338-  
10      21, 338-24, 338-25.5, 338-28, and 338-29.5, Hawaii Revised  
11      Statutes, are amended by substituting the term "department", or  
12      similar term, wherever the term "department of health", or  
13      similar term, appears, as the context requires.

14        SECTION 11. In codifying the new sections added by section  
15      2 of this Act, the revisor of statutes shall substitute  
16      appropriate section numbers for the letters used in designating  
17      the new sections in this Act.

18        SECTION 12. Statutory material to be repealed is bracketed  
19      and stricken. New statutory material is underscored.

20        SECTION 13. This Act shall take effect on July 1, 2026.

21



S.B. NO. 2856

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "JAS", is written over a horizontal line. The signature is fluid and cursive, with a large loop on the left and a smaller loop on the right.

# S.B. NO. 2856

**Report Title:**

Vital Statistics; Fetal Death; Certificate of Fetal Death; Registration; Filing and Preparation; Permits

**Description:**

Amends the various requirements in the event of a fetal death, including registration of certain fetal deaths, filing and preparation of a certificate of fetal death, and issuance of a permit for removal, burial, or other disposition.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

