
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 Statistics System data, Native Hawaiians and
3 other Pacific Islanders have one of the highest rates of fetal
4 death in the United States. Studies have shown that parents who
5 experience a fetal death can endure 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 submitted to the department of health upon
12 disposition of 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 experienced by families who endure this
17 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 **"§338-A Compulsory registration of certain fetal deaths.**

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

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



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

3 **§338-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 involving
10 fetuses of less than twenty weeks' gestation; fetuses weighing
11 less than three hundred fifty grams, 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, advanced practice



1 registered nurse, or coroner's physician, who shall
2 certify the fetal death and furnished medical data
3 pertaining to the fetal death.

4 **§338-C Documentation of fetal death for miscarriages less**
5 **than twenty weeks' gestation or three hundred fifty grams.** (a)

6 The attending physician, physician assistant, advanced practice
7 registered nurse, or coroner's physician who certified the fetal
8 death due to miscarriage shall, upon request of the birthing
9 parent, issue documentation of fetal death to a birthing parent
10 who experienced a miscarriage that includes:

11 (1) A signed statement from the attending physician,
12 physician assistant, advanced practice registered
13 nurse, or coroner's physician confirming the
14 miscarriage; or

15 (2) An accurate copy of the birthing parent's medical
16 records related to the miscarriage.

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

19 (1) Is less than twenty weeks' gestation, calculated from
20 the date the last normal menstrual period began to the
21 date of delivery or, if available, based on early



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

7 (c) Documentation of fetal death for a miscarriage issued
8 pursuant to this section shall not be prima facie evidence of
9 the facts stated in the documentation and shall have no valid
10 legal standing as a bona fide government record.

11 **§338-D Late determination of the cause of fetal death.**

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

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



1 §338-E Permit for removal, burial, or other disposition of
2 body due to fetal death. When a fetal death occurs, the body
3 shall not be disposed of or removed from the registration
4 district until a written permit has been issued by the local
5 agent of the department; provided that if:

6 (1) The fetal death occurred at less than twenty weeks of
7 gestation, or, if the gestational age is unknown, the
8 fetal death remains weigh less than three hundred
9 fifty grams; or

10 (2) The fetal death resulted from an intentional
11 termination of pregnancy performed in accordance with
12 section 453-16 or 457-8.7,
13 no permit shall be required."

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

17 "Advanced practice registered nurse" means a person
18 licensed pursuant to section 457-8.5.

19 "Department" means the department of health.

20 "Physician assistant" means a person licensed pursuant to
21 section 453-5.3."



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

3 "~~§338-2 Authority and duties of the department [of~~
4 ~~health]~~. The department [~~of health, herein referred to as the~~
5 ~~department,~~] shall:

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

9 (2) Install a statewide system of public health
10 statistics;

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

16 (4) Enforce this part and the [~~regulations made~~] rules
17 adopted pursuant thereto."

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

20 "~~§338-8 Compulsory registration of deaths [and fetal~~
21 ~~deaths]~~. [~~A~~] Except as provided in section 338-A, a certificate



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

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

11 "**§338-9 Filing and preparation of death [~~and fetal death~~]**
12 **certificates.** (a) [~~The~~] Except as provided in section 338-B,
13 the person in charge of the disposition of the body shall file
14 with the department [~~of health~~] in Honolulu or with the local
15 agent of the department [~~of health~~] in the district in which the
16 death [~~or fetal death~~] occurred[~~7~~] or [~~a~~] the dead body was
17 found, a certificate of death [~~or fetal death~~] within three days
18 after the [~~occurrence, except that reports of intentional~~
19 ~~terminations of pregnancy performed in accordance with section~~
20 ~~453-16 may be deferred for up to one month.~~] date of death or
21 date the dead body was found.



1 (b) In preparing a certificate of death [~~or fetal death~~]
2 under this section, the person in charge of the disposition of
3 the body shall:

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
15 nurse's, or coroner's physician's best knowledge and
16 belief [~~, or present the certificate of fetal death to~~
17 ~~the physician, physician assistant, advanced practice~~
18 ~~registered nurse, midwife, or other person in~~
19 ~~attendance at the fetal death, who shall certify the~~
20 ~~fetal death and such medical data pertaining thereto~~
21 ~~as can be furnished; provided that fetal deaths of~~



1 ~~less than twenty-four weeks or intentional~~
2 ~~terminations of pregnancy performed in accordance with~~
3 ~~section 453-16 may be certified by a nurse or other~~
4 ~~employee based upon the physician's 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 "**§338-10 Late determination of the cause of death.** [~~¶~~]
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~~]; provided
16 that the attending physician, physician assistant, advanced
17 practice registered nurse, or coroner's physician shall notify,
18 in writing, the local agent of the department [~~of health~~] of the
19 district in which the death occurred of the reason for the late
20 filing, [~~in order~~] so that a permit for the disposition of the
21 body may be 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~~]; provided that if the death
13 occurred as a result of an accident or other casualty
14 occurrence, the local agent of the department [~~of health~~] may
15 orally authorize the dead [~~bodies~~] body to be removed from a
16 registration district and airlifted or otherwise directly
17 transported to the Honolulu registration district for the
18 preparation and filing of the death [~~certificates~~] certificate
19 and the issuance of a written [~~permits~~] permit for further
20 disposition."



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

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

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

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



1 SECTION 12. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 13. This Act shall take effect upon its approval.



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. (SD1)

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