

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 118** Session of
2021

INTRODUCED BY RYAN, RAPP, HAMM, DIAMOND, COOK, GROVE, ECKER,
STAATS, KAUFFMAN, ROWE, GLEIM, IRVIN, COX, MOUL, SANKEY,
B. MILLER, MERCURI, GILLEN, ARMANINI, BOROWICZ, ROAE, FEE,
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MARSHALL, SCHMITT, ROTHMAN, FLOOD, GREGORY, JONES, GREINER,
BONNER, WARNER, LEWIS DELROSSO, METCALFE, MALONEY, MUSTELLO,
WENTLING, SCHLEGEL CULVER, SILVIS AND E. NELSON,
JANUARY 11, 2021

SENATOR BROOKS, HEALTH AND HUMAN SERVICES, IN SENATE, AS
AMENDED, DECEMBER 14, 2021

AN ACT

1 Providing for the final disposition of fetal remains; and
2 imposing penalties.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Final
7 Disposition of Fetal Remains Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Department." The Department of Health of the Commonwealth.

13 "Fetal death." The expulsion or extraction from its mother

1 of a product of conception which shows no evidence of life after
2 the expulsion or extraction.

3 "Fetal remains." The fetus expelled or extracted in the case
4 of a fetal death.

5 "Health care facility." A facility licensed under Chapter 8
6 of the act of July 19, 1979 (P.L.130, No.48), known as the
7 Health Care Facilities Act.

8 "Person in charge of interment." A person who places or
9 causes to be placed fetal remains in a grave, vault or other
10 receptacle or otherwise disposes the fetal remains.

11 "Unborn child." An individual organism of the species homo
12 sapiens from fertilization until expulsion or extraction from
13 its mother.

14 Section 3. Requirements for the final disposition of fetal
15 remains.

16 (a) Costs.--Upon the fetal death of an unborn child, if a
17 parent of the unborn child selects a location for the final
18 disposition of the fetal remains other than a location that is
19 usual and customary for a health care facility, the parent shall
20 be responsible for the costs relating to the final disposition
21 of the fetal remains.

22 (b) Duties of health care facilities.--Except as provided
23 under subsection (a), a health care facility that possesses
24 fetal remains shall have the following duties:

25 (1) Provide for the final disposition of the fetal
26 remains in accordance with the burial and transit permit
27 requirements under 28 Pa. Code Ch. 1 (relating to
28 administration of vital records).

29 (2) Cremate or inter the fetal remains.

30 (c) Identification requirements.--The following shall apply:

1 (1) Upon the fetal death of an unborn child, a person in
2 charge of interment shall not be required to designate a name
3 for the unborn child on the burial or transit permit under 28
4 Pa. Code Ch. 1, and the space for the name on the burial or
5 transit permit may remain blank.

6 (2) In accordance with Article VIII of the act of June
7 29, 1953 (P.L.304, No.66), known as the Vital Statistics Law
8 of 1953, information relating to the fetal death of an unborn
9 child that may identify a parent of the unborn child shall
10 remain confidential and shall not be subject to public
11 disclosure.

12 (d) Simultaneous cremation.--If the fetal remains of an
13 unborn child are not claimed by a parent of the unborn child, a
14 person in charge of interment may cremate the fetal remains by
15 simultaneous cremation.

16 (e) Certificate of birth.--Upon the fetal death of an unborn
17 child, the department shall not be required to issue a
18 certificate of birth resulting in stillbirth under section 207
19 of the Vital Statistics Law of 1953 to a parent of the unborn
20 child.

21 Section 4. Penalties.

22 A person who violates the provisions of this act shall be
23 subject to the penalties imposed under Article IX of the act of
24 June 29, 1953 (P.L.304, No.66), known as the Vital Statistics
25 Law of 1953.

26 Section 5. Construction.

27 Nothing in this act shall be construed to amend the
28 definition of "fetal death" in section 105(4) of the act of June
29 29, 1953 (P.L.304, No.66), known as the Vital Statistics Law of
30 1953, ~~or~~ to require the issuance of a death certificate for an <--

1 unborn child OR TO REQUIRE THE CREMATION OR INTERMENT OF FETAL <--
2 REMAINS unless affirmatively requested by the parent or next of
3 kin of the unborn child.
4 Section 6. Effective date.
5 This act shall take effect in 60 days.