

3111--A

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I N   S E N A T E

February 8, 2011

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Introduced by Sens. LARKIN, LANZA, ADAMS, AVELLA, CARLUCCI, DeFRANCISCO, FARLEY, GOLDEN, GRIFFO, JOHNSON, KENNEDY, LIBOUS, MAZIARZ, O'MARA, PARKER, RANZENHOFER, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the public health law, in relation to establishing a certificate of still birth

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivision 3 of section 4160 of the public health law, as  
2 amended by chapter 436 of the laws of 1967, is amended to read as  
3 follows:  
4     3. For the purposes of this article, a fetal death shall be considered  
5 as a birth and as a death except that, for a fetal death, separate birth  
6 and death certificates shall not be required to be prepared and  
7 recorded, EXCEPT AS PROVIDED IN SECTION FORTY-ONE HUNDRED SIXTY-A OF  
8 THIS TITLE.  
9     S 2. The public health law is amended by adding a new section 4160-a  
10 to read as follows:  
11     S 4160-A. CERTIFICATE OF STILL BIRTH. 1. THE DEPARTMENT SHALL ESTAB-  
12 LISH A CERTIFICATE OF STILL BIRTH. THE REGISTRAR WITH WHOM A FETAL DEATH  
13 CERTIFICATE IS FILED SHALL ISSUE A CERTIFICATE OF STILL BIRTH TO THE  
14 PARENT OR PARENTS NAMED ON A FETAL DEATH CERTIFICATE ISSUED IN THE CASE  
15 OF A STILLBIRTH, UPON THE REQUEST OF SUCH PARENT OR PARENTS. IF BOTH  
16 PARENTS ARE DECEASED AT THE TIME OF THE STILLBIRTH, THE REGISTRAR SHALL  
17 ISSUE THE CERTIFICATE TO, AND UPON THE REQUEST OF, THE SIBLING, PARENT,  
18 OR PARENTS OF THE BIRTH PARENTS.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 2. A CERTIFICATE ISSUED PURSUANT TO THIS SECTION SHALL INCLUDE SUCH  
2 APPROPRIATE INFORMATION AS SHALL BE DETERMINED BY THE DEPARTMENT AND  
3 SHALL BE ON A FORM ESTABLISHED BY THE DEPARTMENT WHICH IS SIMILAR, AS  
4 APPLICABLE, TO THE FORM OF A CERTIFICATE PRESCRIBED BY SECTION FORTY-ONE  
5 HUNDRED THIRTY OF THIS ARTICLE RELATING TO A LIVE BIRTH.

6 3. A PERSON WHO PREPARES A FETAL DEATH CERTIFICATE PURSUANT TO SECTION  
7 FORTY-ONE HUNDRED SIXTY OF THIS TITLE, OR THEIR DESIGNEE, SHALL INFORM,  
8 IN WRITING, THE PARENT OR PARENTS OF A STILLBORN FETUS OF THE RIGHT TO  
9 RECEIVE A CERTIFICATE OF STILL BIRTH. PROVIDED, HOWEVER THAT IF BOTH  
10 PARENTS ARE DECEASED AT THE TIME OF SUCH STILLBIRTH, THEN THE PERSON  
11 SHALL SO INFORM THE SIBLING, PARENT OR PARENTS OF THE BIRTH PARENT OR  
12 PARENTS.

13 4. THE PERSON WHO PREPARES A CERTIFICATE PURSUANT TO THIS SECTION  
14 SHALL INCLUDE THEREON THE NAME GIVEN TO THE STILLBORN FETUS BY THE  
15 PARENTS, IF THE PARENT OR PARENTS WISH TO INCLUDE SUCH NAME ON SUCH  
16 CERTIFICATE.

17 5. A CERTIFICATE ISSUED PURSUANT TO THIS SECTION SHALL NOT CONSTITUTE  
18 PROOF OF A LIVE BIRTH. FURTHERMORE, SUCH CERTIFICATE SHALL NOT BE USED  
19 TO CALCULATE LIVE BIRTH STATISTICS.

20 6. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE PARENT OR  
21 PARENTS MAY ELECT TO HAVE THE DISCLOSURE OF AND ACCESS TO THE INFORMA-  
22 TION INCLUDED ON SUCH CERTIFICATE LIMITED TO THE PARENTS NAMED ON THE  
23 CERTIFICATE, THEIR LAWFUL REPRESENTATIVES, TO AUTHORIZED PERSONNEL OF  
24 THE DEPARTMENT, AND TO THE REGISTRAR.

25 7. FOR THE PURPOSES OF THIS SECTION, THE TERM "STILLBIRTH" SHALL MEAN  
26 THE UNINTENDED INTRAUTERINE DEATH OF A FETUS THAT OCCURS AFTER THE CLIN-  
27 ICAL ESTIMATE OF THE TWENTIETH WEEK OF GESTATION.

28 8. A CERTIFICATE OF STILL BIRTH MAY BE REQUESTED AND ISSUED REGARDLESS  
29 OF THE DATE ON WHICH THE FETAL DEATH CERTIFICATE WAS ISSUED.

30 9. THE REGISTRAR MAY CHARGE A FEE FOR THE ISSUANCE OF A CERTIFICATE  
31 UNDER THIS SECTION EQUAL TO THE FEE AUTHORIZED BY LAW FOR THE CERTIF-  
32 ICATION OF A BIRTH OR DEATH.

33 10. THIS SECTION SHALL APPLY TO THE CITY OF NEW YORK, NOTWITHSTANDING  
34 SECTION FORTY-ONE HUNDRED FOUR OF THIS ARTICLE. FOR THE PURPOSES OF THIS  
35 SECTION, IN RELATION TO THE CITY OF NEW YORK, THE TERM "REGISTRAR" SHALL  
36 MEAN THE OFFICIAL OF THE CITY OF NEW YORK WITH WHOM FETAL DEATH CERTIF-  
37 ICATES ARE FILED.

38 S 3. This act shall take effect on the one hundred eightieth day after  
39 it shall have become a law, and shall apply to instances of stillbirth  
40 regardless of whether they occurred before or after the effective date  
41 of this act.