S T A T E O F N E W Y O R K

3111--B

Cal. No. 279

2011-2012 Regular Sessions

I N S E N A T E

February 8, 2011

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 -- again 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:

Section 1. Subdivision 3 of section 4160 of the public health law, as amended by chapter 436 of the laws of 1967, is amended to read as follows:

3. For the purposes of this article, a fetal death shall be considered as a birth and as a death except that, for a fetal death, separate birth and death certificates shall not be required to be prepared and recorded, EXCEPT AS PROVIDED IN SECTION FORTY-ONE HUNDRED SIXTY-A OF THIS TITLE.

S 2. The public health law is amended by adding a new section 4160-a to read as follows:

S 4160-A. CERTIFICATE OF STILL BIRTH. 1. THE DEPARTMENT, OR IN THE CITY OF NEW YORK, THE BOARD OF HEALTH, SHALL ESTABLISH A CERTIFICATE OF STILL BIRTH. THE REGISTRAR WITH WHOM A FETAL DEATH CERTIFICATE IS FILED SHALL ISSUE A CERTIFICATE OF STILL BIRTH TO THE PARENT OR PARENTS NAMED ON A FETAL DEATH CERTIFICATE ISSUED IN THE CASE OF A STILLBIRTH, UPON THE REQUEST OF SUCH PARENT OR PARENTS. IF BOTH PARENTS ARE DECEASED AT THE TIME OF THE STILLBIRTH, THE REGISTRAR SHALL ISSUE THE CERTIFICATE

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

LBD02740-08-1

TO, AND UPON THE REQUEST OF, THE SIBLING, PARENT, OR PARENTS OF THE BIRTH PARENTS.

2. A CERTIFICATE ISSUED PURSUANT TO THIS SECTION SHALL INCLUDE SUCH APPROPRIATE INFORMATION AS SHALL BE DETERMINED BY THE DEPARTMENT OR IF THE STILLBIRTH OCCURRED IN THE CITY OF NEW YORK, BY THE BOARD OF HEALTH, AND SHALL BE ON A FORM ESTABLISHED BY THE DEPARTMENT OR CITY OF NEW YORK BOARD OF HEALTH WHICH IS SIMILAR, AS APPLICABLE, TO THE FORM OF A CERTIFICATE PRESCRIBED BY SECTION FORTY-ONE HUNDRED THIRTY OF THIS ARTICLE RELATING TO A LIVE BIRTH.

3. A PERSON WHO PREPARES A FETAL DEATH CERTIFICATE PURSUANT TO SECTION FORTY-ONE HUNDRED SIXTY OF THIS TITLE OR, IF THE STILLBIRTH OCCURRED IN THE CITY OF NEW YORK, PURSUANT TO THE NEW YORK CITY HEALTH CODE, OR THEIR DESIGNEE, SHALL INFORM, IN WRITING, THE PARENT OR PARENTS OF A STILLBORN FETUS OF THE RIGHT TO RECEIVE A CERTIFICATE OF STILL BIRTH. PROVIDED, HOWEVER THAT IF BOTH PARENTS ARE DECEASED AT THE TIME OF SUCH STILLBIRTH, THEN THE PERSON SHALL SO INFORM THE SIBLING, PARENT OR PARENTS OF THE BIRTH PARENT OR PARENTS.

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

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

6. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE PARENT OR PARENTS MAY ELECT TO HAVE THE DISCLOSURE OF AND ACCESS TO THE INFORMATION INCLUDED ON SUCH CERTIFICATE LIMITED TO THE PARENTS NAMED ON THE CERTIFICATE, THEIR LAWFUL REPRESENTATIVES, TO AUTHORIZED PERSONNEL OF THE DEPARTMENT, AND TO THE REGISTRAR.

7. FOR THE PURPOSES OF THIS SECTION, THE TERM "STILLBIRTH" SHALL MEAN THE UNINTENDED INTRAUTERINE DEATH OF A FETUS THAT OCCURS AFTER THE CLINICAL ESTIMATE OF THE TWENTIETH WEEK OF GESTATION.

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

9. THE REGISTRAR MAY CHARGE A FEE FOR THE ISSUANCE OF A CERTIFICATE UNDER THIS SECTION EQUAL TO THE FEE AUTHORIZED BY LAW FOR THE CERTIFICATION OF A BIRTH OR DEATH.

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

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