STATE OF NEW YORK

3173

2025-2026 Regular Sessions

IN SENATE

January 24, 2025

Introduced by Sen. HINCHEY -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to reporting pregnancy losses and clarifying which agencies are responsible for such reports; and providing for the repeal of certain provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The title heading of title 5 of article 41 of the public health law, as amended by chapter 436 of the laws of 1967, is amended to read as follows:

[~~REGISTRATION OF FETAL DEATHS~~] **REPORTING OF PREGNANCY LOSS**

§ 2. Section 4160 of the public health law, as amended by chapter 436 of the laws of 1967, subdivision 2 as amended and subdivisions 4 and 5 as added by chapter 809 of the laws of 1987 and subdivision 3 as amended by chapter 552 of the laws of 2011, is amended to read as follows:

§ 4160. [~~Fetal deaths; registration~~] **Pregnancy loss; reporting**. 1. [~~Fetal death~~] **Pregnancy loss** is defined as [~~death prior to the complete expulsion or extraction from its mother of a product of conception; the death is indicated by the fact that after such separation, the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles~~] **the loss of a pregnancy at any gestation, as confirmed by a health care provider licensed pursuant to title eight of the education law and acting within such health care provider's scope of practice, including spontaneous miscarriage, still birth, or any termination of pregnancy which is consistent with the requirements of article twenty-five-a of this chapter**.

2. **A pregnancy loss caused by spontaneous miscarriage or still birth shall be registered within seventy-two hours of the pregnancy loss by**

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

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electronically filing directly with the department of health, a report of such loss.

3. A [~~fetal death~~] pregnancy loss due to an induced termination of pregnancy shall be registered within seventy-two hours [~~after expulsion of such fetus~~] of such pregnancy loss if the individual experiencing the pregnancy loss requests such registration to facilitate disposition of the products of conception in accordance with section forty-one hundred sixty-two of this title, by filing directly with the [~~commissioner~~] department of health, a [~~certificate~~] report of such [~~death~~] loss. [~~In addition, a~~] Such report [~~of fetal death~~] shall be [~~reported~~] limited to the [~~registrar in the district in which the fetal death occurred~~] information strictly necessary to facilitate disposition.

[~~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.~~

~~4. Local registrars of each district in which fetal death certificates were filed prior to the effective date of this subdivision shall dispose of such certificates in the manner prescribed by the commissioner.~~

~~5.~~] 4. Notwithstanding any other provision of this chapter, the disclosure of information filed pursuant to this section shall be limited to the [~~mother~~] individual who experienced the pregnancy loss, [~~her~~] such individual's lawful representative and to authorized personnel of the department. Nothing in this section shall prohibit disclosure of deidentified information in compliance with federal reporting requirements.

§ 3. Subdivision 3 of section 4160 of the public health law, as amended by section two of this act, is amended to read as follows:

3. A pregnancy loss due to an induced termination of pregnancy shall be registered within seventy-two hours of such pregnancy loss if the individual experiencing the pregnancy loss requests such registration to facilitate disposition of the products of conception in accordance with section forty-one hundred sixty-two of this title, by electronically filing directly with the department of health, a report of such loss. Such report shall be limited to the information strictly necessary to facilitate disposition.

§ 4. Section 4160-a of the public health law, as added by chapter 552 of the laws of 2011, is amended to read as follows:

§ 4160-a. Certificate of still birth. 1. The department, or in the city of New York, the [~~board~~] New York city department of health and mental hygiene, shall establish a certificate of still birth. [~~The registrar with whom a fetal death certificate is filed~~] The department, or in the city of New York, the New York city department of health and mental hygiene, 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 who experienced the still birth. If both parents are deceased at the time of the [~~stillbirth~~] still birth, the [~~registrar~~] department, or in the city of New York, the New York city department of health and mental hygiene shall issue the certificate to, and upon the request of, the lawful estate representative, 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~~] New York

city department of health and mental hygiene, and shall be on a form established by the department or [~~city of~~] New York [~~board~~] city department of health and mental hygiene 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. The department, or in the city of New York, the New York city department of health and mental hygiene, shall provide for the submission of such form through electronic means.

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,~~] The provider attending the still birth or such provider's designee shall inform the parents 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 lawful estate representative, sibling, parent or parents of the [~~birth~~] parent or parents.

4. The person who prepares a request for 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~~] or, in the city of New York, personnel of the New York city department of health and mental hygiene.

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~~] pregnancy loss certificate was issued.

9. The [~~registrar~~] department, or in the city of New York, the New York city department of health and mental hygiene 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.~~]

§ 5. Section 4161 of the public health law, as amended by chapter 436 of the laws of 1967, the section heading and subdivisions 2 and 3 as amended by chapter 153 of the laws of 2011, subdivisions 1 and 4 as amended by chapter 352 of the laws of 2013, is amended to read as follows:

§ 4161. [~~Fetal death~~] Pregnancy loss certificates; form and content; [~~physicians, nurse practitioners, midwives, and hospital administrators~~] Health care professionals and hospital administrators.

1. The certificate of [~~fetal death~~] pregnancy loss and the report of [~~fetal death~~] pregnancy loss shall contain such information and be in

such form as the commissioner may prescribe; provided however that commencing on or after the implementation date under section forty-one hundred forty-eight of this article, information and signatures required by this subdivision shall be obtained and made in accordance with section forty-one hundred forty-eight of this article, except that unless requested by the [~~woman~~] **individual who experienced the pregnancy loss** neither the certificate nor the report of [~~fetal death~~] **pregnancy loss** shall contain the name of the [~~woman~~] **individual**, [~~her~~] **such individual's** social security number or any other information**, alone or in combination,** which would permit [~~her~~] **such individual** to be identified except as provided in this subdivision. The report shall state that a certificate of [~~fetal death~~] **pregnancy loss** was filed with the commissioner and the date of such filing. [~~The commissioner shall develop a unique, confidential identifier to be used on the certificate of fetal death to be used in connection with the exercise of the commissioner's authority to monitor the quality of care provided by any individual or entity licensed to perform an abortion in this state and to permit coordination of data concerning the medical history of the woman for purposes of conducting surveillance scientific studies and research pursuant to the provisions of paragraph (j) of subdivision one of section two hundred six of this chapter.~~]

2. In each case where a [~~physician or nurse practitioner~~] **health care provider licensed pursuant to title eight of the education law and acting within the scope of such health care provider's practice** was in attendance at or after a [~~fetal death~~] **pregnancy loss**, it is the duty of such [~~physician or nurse practitioner~~] **health care provider** to certify [~~to~~] the [~~birth and to the cause of death on the fetal death~~] **pregnancy loss** certificate. [~~Where a nurse-midwife was in attendance at a fetal death it is the duty of such nurse-midwife to certify to the birth but, he or she shall not certify to the cause of death on the fetal death certificate.~~]

3. [~~Fetal deaths~~] **Pregnancy losses** occurring without the attendance of a [~~physician or nurse practitioner~~] **health care provider** as provided in subdivision two of this section shall be treated as [~~deaths~~] **occurring** without medical attendance, as provided in this article.

4. When a [~~fetal death~~] **pregnancy loss** occurs in a hospital, except in those cases where certificates are issued by coroners or medical examiners, the person in charge of such hospital or [~~his or her~~] **such person's** designated representative shall **ensure that the certificate is** promptly [~~present the certificate to the physician or nurse practitioner in attendance, or a physician or nurse practitioner acting in his or her behalf, who shall promptly certify to the facts of birth and of fetal death, provide the medical information required by the certificate, sign the medical certificate of birth and death, and thereupon return such certificate to such person, so that the seventy-two hour registration time limit prescribed in section four thousand one hundred sixty of this title can be met; provided, however that commencing on or after the implementation date under section forty-one hundred forty-eight of this article, information and signatures required by this subdivision shall be obtained and made in accordance with section forty-one hundred forty-eight of this article~~] **prepared in accordance with the provisions of this article and regulations as promulgated by the commissioner of health**.

§ 6. Section 4163 of the public health law, as added by chapter 589 of the laws of 1991, is amended to read as follows:

§ 4163. Penalties. Any person who shall release information which might disclose the identity of the [~~woman~~] **pregnant person** in connection with a certificate of [~~fetal death~~] **pregnancy loss** or report of [~~fetal death~~] **pregnancy loss** in violation of the provisions of this title shall be subject to a civil penalty not to exceed five thousand dollars for each such release. Such penalty may be recovered in the same manner as the penalty provided in section twelve of this chapter.

§ 7. Section 4162 of the public health law, as amended by chapter 809 of the laws of 1987, is amended to read as follows:

§ 4162. [~~Fetal deaths~~] **Products of conception**; burial and removal; permits. 1. [~~A~~] **Upon request a** permit shall be [~~required~~] **issued** for the removal, transportation, burial or other disposition of [~~remains resulting from a fetal death, other than fetal tissue, hydatidiform mole or other evidence of pregnancy recovered by curettage or operative procedures or other products of conception of under twenty weeks uterogestation~~] **products of conception**.

2. Such permit shall be issued by the local registrar of the district in which the [~~fetal death~~] **pregnancy loss** occurred upon [~~presentation~~] **request** by the funeral director [~~of a report of fetal death~~] **seeking to take possession of the products of conception**, on the form prescribed by the commissioner. The issuance of such permit shall be subject to the provisions of title IV of this article.

§ 8. This act shall take effect immediately; provided, however that the amendments to subdivision 2 of section 4160 of the public health law made by section two of this act shall expire and be deemed repealed September 30, 2026, when upon the provisions of section three of this act shall take effect.