

Legislative Analysis



FETAL DEATHS: FINAL DISPOSITION OF FETAL REMAINS

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House Bill 4760 (Substitute H-2)
Sponsor: Rep. Artina Tinsley Hardman
Committee: Health Policy
First Analysis (4-20-04)

BRIEF SUMMARY: The bill would require that parents be informed about alternatives for the final disposition of fetal remains when a fetal death occurs in an institution, and that the institution or servicing funeral director retain documentation that the parents received the required information.

FISCAL IMPACT: The bill has no impact on state or local costs.

THE APPARENT PROBLEM:

The Public Health Code requires fetal deaths to be reported to the Vital Records and Health Data Development Section of the Department of Community Health if the fetus completed at least 20 weeks of gestation or weighed at least 400 grams, but requires a permit for the final disposition of a dead fetus regardless of the gestational age or the weight. "Final disposition" refers to the burial, cremation, or other disposition of a dead human body or fetus. In order to obtain a permit for final disposition of a dead fetus, a funeral director or person who assumes responsibility for the fetus' final disposition must first obtain an authorization for final disposition from the parent or parents. This authorization may allow the final disposition to be by a funeral director, the individual in charge of the institution where the fetus was delivered (e.g., a hospital), or an institution or agency authorized under the code to accept donated bodies or fetuses.

In a time of grief, however, parents of a stillborn may not fully understand exactly what the authorization for final disposition means. For instance, authorizing the hospital to dispose of the fetal remains may result in those remains being mixed with medical wastes such as amputated limbs and organs removed in surgical procedures and incinerated. When this is done, there are no ashes to be given to the family for burial.

Reportedly, one such incident may have occurred in which the fetal remains were incinerated by a hospital. According to the story, the parents were making arrangements for a funeral and burial. It wasn't until the arrangements had been completed and the hospital contacted to make arrangements to retrieve their child's remains that the parents learned there was no body, no ashes, to be buried.

It is not known how often this scenario has occurred, but the story has prompted some to believe that the law should be more explicit in ensuring that when a fetal death occurs,

that parents be fully educated as to options regarding final disposition so that an informed choice can be made.

THE CONTENT OF THE BILL:

The bill would add a new section to the Public Health Code to require the individual in charge of an institution, or his or her representative or the attending physician, to provide certain information to parents pertaining to options for disposal of fetal remains when a fetal death occurred in that institution. The information could be in the form of a standardized written summary or brochure and would have to be written in nontechnical terms that an individual could understand.

The information would have to include the means available for final disposition of the fetal remains in accordance with Section 2848 (2) of the code (which, among other things, requires written parental authorization before final disposition). If the final disposition will not be supervised by a licensed funeral director, the information would have to include whether the parent or parents could obtain the remains. The bill would prohibit the person from the institution providing the information from recommending a specific funeral director to handle each funeral arrangement.

A form indicating that the parent or parents have received the required information would have to be signed by the parent or parents and be included in the medical record. The form would have to be initialed by the funeral director, the individual in charge of the institution, or the person responsible for the final disposition of the fetal remains and that person would also have to retain the signed form with the permit that authorizes final disposition as required by the code. (Under Section 2848, a funeral director or person acting as a funeral director who assumes custody of a dead body must obtain authorization for the final disposition on a form prescribed by the state registrar and signed by the local registrar or the state registrar.)

MCL 333.2848

ARGUMENTS:

For:

In the case of fetal deaths, parents are required to sign a form authorizing a funeral director or other person assuming responsibility for the fetal remains to dispose of the remains. However, they may not know exactly what they are authorizing to be done. The bill would require the hospital or other institution that delivered the fetus to provide parents with information regarding alternatives for disposal of the fetal remains. The parents must also be informed whether under some of the available choices, they would be able to obtain the remains. It is hoped that giving clear information to grieving parents would enable them to make informed choices and ensure that their wishes concerning the final disposition of the fetal remains were followed.

POSITIONS:

A representative of the Michigan Health and Hospital Association indicated a neutral position on the bill. (3-30-04)

A representative of the Michigan Funeral Directors Association indicated a neutral position on the bill. (3-30-04)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.