H-3469.3

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 2764**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 66th Legislature 2020 Regular Session**

**By** Representatives Walen, Springer, Hudgins, and Valdez

AN ACT Relating to the local government issuance of a certificate of birth resulting in stillbirth; amending RCW 70.58A.530; creating a new section; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) The legislature recognizes that a principal duty of state and local governments is to promote and protect the health and safety of their residents. In addition to providing essential health and safety functions through fire and law enforcement agencies, local governments, through county boards of health, combined city and county health departments, and health districts, support public health and safety through the collection and maintenance of vital statistics, and through the issuance of official certificates associated with births and deaths.

(2) The legislature further recognizes that the ability to obtain a certificate of birth resulting in stillbirth may provide comfort to some who have experienced the trauma of a stillbirth.

(3) In recognition of the forgoing, the legislature intends to create a new process allowing any person who gives birth to a stillborn fetus to request and receive a certificate of birth resulting in stillbirth from the applicable local government.

(4) The legislature furthermore reaffirms a woman's rights to reproductive freedom and equal protection under the law, rights which are protected through Washington's statutes, judicial decisions, and the state and federal Constitution. Nothing in this legislation shall alter a woman's rights to reproductive freedom and equal protection under the law.

**Sec.**  RCW 70.58A.530 and 2019 c 148 s 21 are each amended to read as follows:

(1)(a) A certification issued in accordance with this section is considered for all purposes the same as the original vital record and is prima facie evidence of the facts stated therein.

(b) An informational copy is not considered the same as the original vital record and does not serve as prima facie evidence of the facts stated therein.

(2) The state and local registrar shall issue all certifications registered in the vital records system from the state's central vital records system database upon submission by a qualified applicant of all required information and documentation required either by this chapter or by rule, or both, and shall ensure that all certifications include:

(a) The date of registration; and

(b) Security features that deter altering, counterfeiting, or simulation without ready detection as required under this chapter.

(3) A person requesting a certification of birth, death, ((~~or~~)) fetal death, or birth resulting in stillbirth must submit an application, identity documentation, evidence of eligibility, and the applicable fee established in RCW 70.58A.560 to the state or local registrar.

(4) For a certification of birth, the state or local registrar may release the certification only to:

(a) The subject of the record or the subject of the record's spouse or domestic partner, child, parent, stepparent, stepchild, sibling, grandparent, great grandparent, grandchild, legal guardian, legal representative, or authorized representative; or

(b) A government agency or court, if the certification will be used in the conduct of the agency's or court's official duties.

(5) The state registrar may issue an heirloom certification of birth to a qualified applicant consistent with subsection (4) of this section. The heirloom certification of birth must contain the state seal and be signed by the governor.

(6) The state registrar may issue a certification of a birth record registered as delayed under RCW 70.58A.120 or 70.58A.130 to a qualified applicant consistent with subsection (4) of this section. The certification must:

(a) Be marked as delayed; and

(b) Include a description of the evidence or court order number used to establish the delayed record.

(7) The state registrar may issue a certification of a birth record for a person adopted under chapter 26.33 RCW and registered under RCW 70.58A.400 to a qualified applicant consistent with subsection (4) of this section. The certification:

(a) Must not include reference to the adoption of the child; and

(b) For children born outside of the state, must be issued consistent with the certification standards of this section, unless the court orders otherwise.

(8) When providing a birth certification to a qualified applicant under this chapter, the state or local registrar shall include information prepared by the department setting forth the advisability of a security freeze under RCW 19.182.230 and the process for acquiring a security freeze.

(9) For a certification of death, the state or local registrar may release the certification only to:

(a) The decedent's spouse or domestic partner, child, parent, stepparent, stepchild, sibling, grandparent, great grandparent, grandchild, legal guardian immediately prior to death, legal representative, authorized representative, or next of kin as specified in RCW 11.28.120;

(b) A funeral director, the funeral establishment licensed pursuant to chapter 18.39 RCW, or the person having the right to control the disposition of the human remains under RCW 68.50.160 named on the death record, within twelve months of the date of death; or

(c) A government agency or court, if the certification will be used in the conduct of the agency's or court's official duties.

(10) The state or local registrar may issue a short form certification of death that does not display information relating to cause and manner of death to a qualified applicant. In addition to the qualified applicants listed in subsection (9) of this section, a qualified applicant for a short form certification of death includes:

(a) A title insurer or title insurance agent handling a transaction involving real property in which the decedent held some right, title, or interest; or

(b) A person that demonstrates that the certified copy is necessary for a determination related to the death or the protection of a personal or property right related to the death.

(11) For a certification of fetal death, the state or local registrar may release the certification only to:

(a) A parent, a parent's legal representative, an authorized representative, a sibling, or a grandparent;

(b) The funeral director or funeral establishment licensed pursuant to chapter 18.39 RCW and named on the fetal death record, within twelve months of the date of fetal death; or

(c) A government agency or court, if the certification will be used in the conduct of the agency's or court's official duties.

(12)(a) The state or local registrar of the county in which a stillbirth occurs may issue a certificate of birth resulting in stillbirth solely upon request of the person who gave birth.

(b) The certificate of birth resulting in stillbirth is in addition to, and may not replace, a fetal death certificate.

(c) The issue date of the fetal death certificate may not delay or otherwise affect the issuance of a certificate of birth resulting in stillbirth.

(d) For a certification of birth resulting in stillbirth, the state or local registrar may release the certification only to a parent listed on the fetal death record who is also the parent who gave birth.

(e) A certification of birth resulting in stillbirth must comply with format requirements prescribed by the state registrar similar to the format of a certificate of birth.

(f) The certification of birth resulting in stillbirth must contain a title at the top of the certification that reads, "certificate of birth resulting in stillbirth" and must contain a statement on the certification that reads, "this certificate of birth resulting in stillbirth is not proof of a live birth."

(i) The certification of birth resulting in stillbirth must be clear that it is not an identity document.

(ii) The certification of birth resulting in stillbirth must include:

(A) The date of the stillbirth;

(B) The county in which the stillbirth occurred;

(C) The name, if any, and sex of the stillborn fetus;

(D) The time and place of the stillbirth, including the street address, and if applicable, the name of the hospital in which the stillbirth occurred;

(E) The fetus weight and length;

(F) The names, dates of birth, and states of birth of the parents; and

(G) The file number of the fetal death certificate.

(g) The state or local registrar may not use the information on a certificate of birth resulting in stillbirth for any purpose other than to respond to a request for the certificate from the person who gave birth to the stillborn fetus.

(h) A certification of birth resulting in stillbirth shall not be used by the state or any agency or subdivision thereof in calculating any vital record statistics.

(13) The state or local registrar shall review the identity documentation and evidence of eligibility to determine if the person requesting the certification is a qualified applicant under this section. The state or local registrar may verify the identity documents and evidence of eligibility to determine the acceptability and authenticity of identity documentation and evidence of eligibility.

((~~(13)~~)) (14) The state or local registrar may not issue a certification of birth or fetal death, including a certification of birth resulting in stillbirth, that includes information from the confidential section of ((~~the birth or fetal death~~)) record, except as provided in subsection ((~~(14)~~)) (15) of this section.

((~~(14)~~)) (15) The state registrar may release information contained in the confidential section of the birth record only to the following persons:

(a) The individual who is the subject of the birth record, upon confirmation of documentation and evidence of identity of the requestor in a manner approved by the state board of health and the department. The state registrar must limit the confidential information provided to the individual who is the subject of the birth record's information, and may not include the parent's confidential information; or

(b) A member of the public, upon order of a court of competent jurisdiction.

((~~(15)~~)) (16) A person requesting a certification of marriage, dissolution of marriage, or dissolution of domestic partnership currently held by the department must submit an application and the applicable fee established in RCW 70.58A.560 to the state registrar.

((~~(16)~~)) (17) The state registrar may mark deceased on a birth certification when that birth record is matched to a death record under RCW 70.58A.060.

((~~(17)~~)) (18) The state or local registrar must issue an informational copy from the central vital records system to anyone. Informational copies must contain only the information allowed by rule. Informational copies of death records must not display information related to cause and manner of death.

((~~(18)~~)) (19) A person requesting an informational copy must submit an application and the applicable fee established in RCW 70.58A.560 to the state or local registrar.

((~~(19)~~)) (20) If no record is identified as matching the information provided in the application, the state or local registrar shall issue a document indicating that a search of the vital records system was made and no matching record was identified.

((~~(20)~~)) (21) All government agencies or courts to whom certifications or informational copies are issued must pay the applicable fee for certifications established in RCW 70.58A.560.

((~~(21)~~)) (22) The state or local registrar must comply with the requirements of this chapter when issuing a certification or informational copy of a vital life event.

((~~(22)~~)) (23) The department may issue, through electronic means and processes determined by the department, verifications of information contained on birth or death records filed with the department when a verification is requested by a government agency, insurance company, hospital, or any other organization in the conduct of its official duties for fraud prevention and good governance purposes as determined by the department. The department shall charge a fee for a search under this subsection.

((~~(23)~~)) (24) Nothing in this section:

(a) May be the basis for a civil cause of action seeking damages or criminal charges against any person or entity for bodily injury, personal injury, or wrongful death for a stillbirth;

(b) Shall alter a woman's rights to reproductive freedom or equal protection under the law, or to alter or supersede any other provision of law; and

(c) Except for the right to request a certificate of birth resulting in stillbirth, may constitute the basis of any new right, privilege, or entitlement, or abrogate any existing right, privilege, or entitlement.

(25) For the purposes of this section((~~, a~~)):

(a) "Induced termination of pregnancy" means the purposeful interruption of an intrauterine pregnancy with the intention other than to produce a live born infant or to remove a dead fetus and which does not result in a live birth.

(b) "((~~qualified~~)) Qualified applicant" means a person who is eligible to receive a certification of a vital record based on the standards established by this chapter and department rule.

(c) "Stillbirth" means any product of human conception that:

(i) Shows no evidence of life, such as breathing, beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles after complete expulsion or extraction from the individual who gave birth;

(ii) Is not an induced termination of pregnancy; and

(iii) Has completed twenty or more weeks of gestation as calculated from the date the last menstrual period of the individual who gave birth began, to the date of expulsion or extraction; or weighs three hundred fifty grams or more, if weeks of gestation are not known.

NEW SECTION. **Sec.**  Section 2 of this act takes effect January 1, 2021.

**--- END ---**