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**SENATE BILL 5072**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senators Short and Kuderer

Prefiled 01/05/21.

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

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

5 NEW SECTION. **Sec. 1.** (1) The legislature recognizes that a  
6 principal duty of governments is to promote and protect the health  
7 and safety of their residents. In addition to providing essential  
8 health and safety functions through fire and law enforcement  
9 agencies, local governments support public health and safety in the  
10 collection and maintenance of vital statistics through a single  
11 comprehensive vital records system that is operated and maintained by  
12 the department of health, and through the issuance of official  
13 certifications associated with births and deaths.

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

17 (3) In recognition of the foregoing, the legislature intends to  
18 create a new process allowing any person who gives birth to a  
19 stillborn fetus to request and receive a certification of birth  
20 resulting in stillbirth from the applicable state or local registrar.

1 (4) The legislature furthermore recognizes that a woman's rights  
2 to reproductive freedom and equal protection under the law are rights  
3 protected through Washington's statutes, judicial decisions, and the  
4 state and federal Constitutions. Nothing in this legislation shall  
5 alter a woman's rights to reproductive freedom and equal protection  
6 under the law.

7 **Sec. 2.** RCW 70.58A.530 and 2019 c 148 s 21 are each amended to  
8 read as follows:

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

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

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

21 (a) The date of registration; and

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

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

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

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

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

37 (5) The state registrar may issue an heirloom certification of  
38 birth to a qualified applicant consistent with subsection (4) of this

1 section. The heirloom certification of birth must contain the state  
2 seal and be signed by the governor.

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

7 (a) Be marked as delayed; and

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

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

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

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

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

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

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

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

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

37 (10) The state or local registrar may issue a short form  
38 certification of death that does not display information relating to  
39 cause and manner of death to a qualified applicant. In addition to

1 the qualified applicants listed in subsection (9) of this section, a  
2 qualified applicant for a short form certification of death includes:

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

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

9 (11) ~~((For))~~ The state or local registrar may issue reports of  
10 fetal death either as a certification of a fetal death or as a  
11 certification of birth resulting in a stillbirth, or both.

12 (12) When issuing a certification of fetal death, the state or  
13 local registrar may release the certification only to:

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

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

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

21 (13) When issuing a certification of birth resulting in  
22 stillbirth, the state or local registrar may release the  
23 certification only to the individual who gave birth listed on the  
24 fetal death record.

25 (a) A certification of birth resulting in stillbirth must comply  
26 with the format requirements prescribed by the state registrar and be  
27 in a format similar to a certification of birth.

28 (b) The certification of birth resulting in stillbirth must  
29 contain a title at the top of the certification that reads: "This  
30 certificate of birth resulting in stillbirth is not proof of a live  
31 birth and is not an identity document."

32 (c) Nothing in this subsection (13):

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

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

39 (iii) Except for the right to request a certification of birth  
40 resulting in stillbirth, may constitute the basis of any new right,

1 privilege, or entitlement, or abrogate any existing right, privilege,  
2 or entitlement.

3 ((~~12~~)) (14) The state or local registrar shall review the  
4 identity documentation and evidence of eligibility to determine if  
5 the person requesting the certification is a qualified applicant  
6 under this section. The state or local registrar may verify the  
7 identity documents and evidence of eligibility to determine the  
8 acceptability and authenticity of identity documentation and evidence  
9 of eligibility.

10 ((~~13~~)) (15) The state or local registrar may not issue a  
11 certification of birth or fetal death, including a certification of  
12 birth resulting in stillbirth, that includes information from the  
13 confidential section of ((~~the birth or fetal death~~)) record, except  
14 as provided in subsection ((~~14~~)) (16) of this section.

15 ((~~14~~)) (16) The state registrar may release information  
16 contained in the confidential section of the birth record only to the  
17 following persons:

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

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

27 ((~~15~~)) (17) A person requesting a certification of marriage,  
28 dissolution of marriage, or dissolution of domestic partnership  
29 currently held by the department must submit an application and the  
30 applicable fee established in RCW 70.58A.560 to the state registrar.

31 ((~~16~~)) (18) The state registrar may mark deceased on a birth  
32 certification when that birth record is matched to a death record  
33 under RCW 70.58A.060.

34 ((~~17~~)) (19) The state or local registrar must issue an  
35 informational copy from the central vital records system to anyone.  
36 Informational copies must contain only the information allowed by  
37 rule. Informational copies of death records must not display  
38 information related to cause and manner of death.

1       (~~(18)~~) (20) A person requesting an informational copy must  
2 submit an application and the applicable fee established in RCW  
3 70.58A.560 to the state or local registrar.

4       (~~(19)~~) (21) If no record is identified as matching the  
5 information provided in the application, the state or local registrar  
6 shall issue a document indicating that a search of the vital records  
7 system was made and no matching record was identified.

8       (~~(20)~~) (22) All government agencies or courts to whom  
9 certifications or informational copies are issued must pay the  
10 applicable fee for certifications established in RCW 70.58A.560.

11       (~~(21)~~) (23) The state or local registrar must comply with the  
12 requirements of this chapter when issuing a certification or  
13 informational copy of a vital life event.

14       (~~(22)~~) (24) The department may issue, through electronic means  
15 and processes determined by the department, verifications of  
16 information contained on birth or death records filed with the  
17 department when a verification is requested by a government agency,  
18 insurance company, hospital, or any other organization in the conduct  
19 of its official duties for fraud prevention and good governance  
20 purposes as determined by the department. The department shall charge  
21 a fee for a search under this subsection.

22       (~~(23)~~) (25) For the purposes of this section(~~(7-a)~~):

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

26       (b) "Stillbirth" means the same as fetal death as defined in RCW  
27 70.58A.010.

28       NEW SECTION. Sec. 3. Section 2 of this act takes effect October  
29 1, 2022.

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