

VITAL STATISTICS ACT AMENDMENTS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Thomas V. Hatch

House Sponsor: Brad L. Dee

LONG TITLE

General Description:

This bill amends provisions of the Utah Vital Statistics Act relating to certificates of death.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ replaces the term "funeral director" with the term "funeral service director";
- ▶ removes the authority of a "person acting as the funeral director" to engage in certain conduct under the Utah Vital Statistics Act;
- ▶ describes the persons who have the authority and responsibility to fulfill certain duties relating to the signing and filing of a certificate of death, and the gathering, recording, and provision of information;
- ▶ provides that it is a class B misdemeanor for a person who is not a funeral service director employed by a licensed funeral establishment to intentionally sign the portion of a certificate of death that is required to be signed by a funeral service director; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **26-2-2**, as last amended by Chapter 150, Laws of Utah 2005

32 **26-2-13**, as last amended by Chapter 202, Laws of Utah 1995

33 **26-2-16**, as last amended by Chapter 86, Laws of Utah 2000

34 **26-2-17**, as last amended by Chapter 202, Laws of Utah 1995

35 **26-2-18**, as last amended by Chapter 49, Laws of Utah 2003

36 **26-2-22**, as last amended by Chapter 255, Laws of Utah 2001



38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **26-2-2** is amended to read:

40 **26-2-2. Definitions.**

41 As used in this chapter:

42 (1) "Custodial funeral service director" means a funeral service director who:

43 (a) is employed by a licensed funeral establishment; and

44 (b) has custody of a dead body.

45 ~~[(1)]~~ (2) "Dead body" or "decedent" means a human body or parts of the human body
46 from the condition of which it reasonably may be concluded that death occurred.

47 ~~[(2)]~~ (3) "Dead fetus" means a product of human conception:

48 (a) of 20 weeks' gestation or more, calculated from the date the last normal menstrual
49 period began to the date of delivery; and

50 (b) that was not born alive.

51 ~~[(3)]~~ (4) "Declarant father" means a male who claims to be the genetic father of a child,
52 and, along with the biological mother, signs a voluntary declaration of paternity to establish the
53 child's paternity.

54 ~~[(4)]~~ (5) "File" means the submission of a completed certificate or other similar
55 document, record, or report as provided under this chapter for registration by the state registrar
56 or a local registrar.

57 ~~[(5)]~~ (6) "Funeral service director" ~~[or "person acting as the funeral director" means the~~
58 ~~person who takes possession of a dead body or dead fetus, prepares the dead body or dead~~

59 fetus and arranges for its final disposition, and includes:] is as defined in Section 58-9-102.

60 [~~(a)~~ a licensed funeral director;]

61 [~~(b)~~ a representative of a hospital which is making final disposition; or]

62 [~~(c)~~ another person assuming responsibility for the final disposition of the remains.]

63 [~~(6)~~ (7) "Health care facility" [~~has the same definition~~] is as defined in Section
64 26-21-2.

65 (8) "Licensed funeral establishment" means a funeral establishment, as defined in
66 Section 58-9-102, that is licensed under Title 58, Chapter 9, Funeral Services Licensing Act.

67 [~~(7)~~ (9) "Live birth" means the birth of a child who shows evidence of life after it is
68 entirely outside of the mother.

69 [~~(8)~~ (10) "Local registrar" means a person appointed under Subsection 26-2-3(2)(b).

70 [~~(9)~~ (11) "Physician" means a person licensed to practice as a physician or osteopath
71 in this state under Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah
72 Osteopathic Medical Practice Act.

73 [~~(10)~~ (12) "Presumed father" means the father of a child conceived or born during a
74 marriage as defined in Section 30-1-17.2.

75 [~~(11)~~ (13) "Registration" or "register" means acceptance by the local or state registrar
76 of a certificate and incorporation of it into the permanent records of the state.

77 [~~(12)~~ (14) "State registrar" means the state registrar of vital records appointed under
78 Subsection 26-2-3(1)(e).

79 [~~(13)~~ (15) "Vital records" means registered certificates or reports of birth, death, fetal
80 death, marriage, divorce, dissolution of marriage, or annulment, amendments to any of these
81 registered certificates or reports, and other similar documents.

82 [~~(14)~~ (16) "Vital statistics" means the data derived from registered certificates and
83 reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce,
84 dissolution of marriage, or annulment.

85 Section 2. Section **26-2-13** is amended to read:

86 **26-2-13. Certificate of death -- Execution and registration requirements.**

87 (1) (a) A certificate of death for each death which occurs in this state shall be filed with
88 the local registrar of the district in which the death occurs, or as otherwise directed by the state
89 registrar, within five days after death and prior to the decedent's interment, any other disposal,

90 or removal from the registration district where the death occurred. [~~The~~]

91 (b) A certificate of death shall be registered if it is completed and filed in accordance
92 with this chapter.

93 (2) (a) If the place of death is unknown but the dead body is found in this state, the
94 certificate of death shall be completed and filed in accordance with this section.

95 (b) The place where the dead body is found shall be shown as the place of death.

96 (c) If the date of death is unknown, [~~it~~] the date shall be determined by approximation.

97 (3) (a) When death occurs in a moving conveyance in the United States and the
98 decedent is first removed from the conveyance in this state[;]:

99 (i) the certificate of death shall be filed with:

100 (A) the local registrar of the district where the decedent is removed[;]; or [~~with~~]

101 (B) a person designated by the state registrar[~~-The~~]; and

102 (ii) the place where the decedent is removed shall be considered the place of death.

103 (b) When a death occurs on a moving conveyance outside the United States and the
104 decedent is first removed from the conveyance in this state[;]:

105 (i) the certificate of death shall be filed with:

106 (A) the local registrar of the district where the decedent is removed[;]; or [~~with~~]

107 (B) a person designated by the state registrar[~~-but~~]; and

108 (ii) the certificate of death shall show the actual place of death to the extent it can be
109 determined.

110 (4) (a) The custodial funeral service director [~~or person acting as the funeral director,~~
111 ~~who first assumes custody of the decedent~~] shall [~~file~~] sign the certificate of death. [~~He shall~~]

112 (b) The custodial funeral service director or an agent of the custodial funeral service
113 director shall:

114 (i) file the certificate of death prior to any disposition of a dead body or fetus; and

115 (ii) obtain the decedent's personal data from the next of kin or the best qualified person
116 or source available.

117 (5) (a) The medical section of the certificate of death shall be completed, signed, and
118 returned to the funeral service director within 72 hours after death by the physician who was in
119 charge of the decedent's care for the illness or condition which resulted in death, except when
120 inquiry is required by Title 26, Chapter 4, Utah Medical Examiner Act.

121 (b) In the absence of the physician or with the physician's approval, the certificate of
122 death may be completed and signed by an associate physician, the chief medical officer of the
123 institution in which death occurred, or a physician who performed an autopsy upon the
124 decedent, provided the person has access to the medical history of the case, views the decedent
125 at or after death, and death is not due to causes required to be investigated by the medical
126 examiner.

127 (6) When death occurs more than 30 days after the decedent was last treated by a
128 physician, the case shall be referred to the medical examiner for investigation to determine and
129 certify the cause, date, and place of death.

130 (7) When inquiry is required by Title 26, Chapter 4, Utah Medical Examiner Act, the
131 medical examiner shall make an investigation and complete and sign the medical section of the
132 certificate of death within 72 hours after taking charge of the case.

133 (8) If the cause of death cannot be determined within 72 hours after death[;]:

134 (a) the medical section of the certificate of death shall be completed as provided by
135 department rule[~~The~~];

136 (b) the attending physician or medical examiner shall give the funeral service director
137 notice of the reason for the delay[;]; and

138 (c) final disposition of the decedent may not be made until authorized by the attending
139 physician or medical examiner.

140 (9) (a) When a death is presumed to have occurred within this state but the dead body
141 cannot be located, a [~~death~~] certificate of death may be prepared by the state registrar upon
142 receipt of an order of a Utah district court.

143 (b) The order described in Subsection (9)(a) shall include a finding of fact stating the
144 name of the decedent, the date of death, and the place of death. [~~The death~~]

145 (c) A certificate of death prepared under Subsection (9)(a) shall:

146 (i) show the date of registration; and

147 (ii) identify the court and date of the order.

148 Section 3. Section **26-2-16** is amended to read:

149 **26-2-16. Certificate of death -- Duties of a custodial funeral service director or**
150 **agent -- Medical certification -- Records of funeral service director -- Information filed**
151 **with local registrar -- Unlawful signing of certificate of death.**

152 (1) The custodial funeral service director [~~or person acting as funeral director~~] shall
153 [~~file a~~] sign the certificate of death prior to any disposition of a dead body or dead fetus.
154 [~~Personal~~]

155 (2) The custodial funeral service director or an agent of the custodial funeral service
156 director shall:

157 (a) obtain personal and statistical information [~~shall be obtained~~] regarding the
158 decedent from the available persons best qualified to provide [~~it. The names and addresses of~~
159 ~~persons providing the information shall be included. The funeral director or person acting as~~
160 ~~funeral director shall~~] the information:

161 (b) present the certificate of death to the attending physician, if any, or to the medical
162 examiner who shall certify the cause of death and other information required on the certificate[
163 ~~The funeral director, or person acting as funeral director, shall:~~] of death:

164 [~~(a)~~] (c) provide the address of the custodial funeral service director [~~or person acting~~
165 ~~as funeral director~~];

166 [~~(b)~~] (d) certify the date and place of burial; and

167 [~~(c)~~] (e) file the certificate of death with the state or local registrar.

168 [~~(2)~~] (3) A funeral service director, embalmer, or other person who removes from the
169 place of death or transports or is in charge of final disposal of a dead body or dead fetus, shall
170 keep a record identifying the dead body or dead fetus, and containing information pertaining to
171 receipt, removal, and delivery of the dead body or dead fetus as prescribed by department rule.

172 [~~(3)~~] (4) (a) Not later than the tenth day of each month, every licensed funeral
173 [~~director~~] service establishment shall send to the local registrar and the department a list of the
174 information required in Subsection [~~(2)~~] (3) for each casket furnished and for funerals
175 performed when no casket was furnished, during the preceding month.

176 (b) The [~~lists~~] list described in Subsection (4)(a) shall be in the form prescribed by the
177 state registrar.

178 (5) Any person who intentionally signs the portion of a certificate of death that is
179 required to be signed by a funeral service director under Subsection (1) is guilty of a class B
180 misdemeanor, unless the person:

181 (a) is a funeral service director; and

182 (b) is employed by a licensed funeral establishment.

183 Section 4. Section **26-2-17** is amended to read:

184 **26-2-17. Certificate of death -- Registration prerequisite to interment --**
185 **Burial-transit permits -- Procedure where body donated under anatomical gift law --**
186 **Permit for disinterment.**

187 (1) A dead body or dead fetus may not be interred or otherwise disposed of or removed
188 from the registration district in which death or fetal death occurred or the remains are found
189 until a [~~death~~] certificate of death is registered.

190 (2) For deaths or fetal deaths which occur in this state, no burial-transit permit is
191 required for final disposition of the remains if:

192 (a) disposition occurs in the state and is performed by a [~~licensed~~] funeral service
193 director; or

194 (b) the disposition takes place with authorization of the next of kin and in a general
195 acute hospital, as defined in Section 26-21-2, that is licensed by the department, or in a
196 pathology laboratory operated under contract with a general acute hospital licensed by the
197 department.

198 (3) A burial-transit permit shall be issued by the local registrar of the district where the
199 certificate of death or fetal death is registered:

200 (a) for dead bodies or fetuses to be transported out of the state for final disposition; or

201 (b) when disposition is made by a person other than a [~~licensed~~] funeral service
202 director.

203 (4) A burial-transit permit issued under the law of another state which accompanies a
204 dead body or dead fetus brought into this state is authority for final disposition of the dead
205 body or dead fetus in this state.

206 (5) When a dead body or dead fetus or any part of the dead body or dead fetus has been
207 donated under the Utah Anatomical Gift Act or similar laws of another state and the
208 preservation of the gift requires the immediate transportation of the dead body, dead fetus, or
209 any part of the body or fetus outside of the registration district in which death occurs or the
210 remains are found, or into this state from another state, the dead body or dead fetus or any part
211 of the body or fetus may be transported and the burial-transit permit required by this section
212 obtained within a reasonable time after transportation.

213 (6) A permit for disinterment and reinterment is required prior to disinterment of a

214 dead body or dead fetus, except as otherwise provided by statute or department rule.

215 Section 5. Section **26-2-18** is amended to read:

216 **26-2-18. Interments -- Duties of sexton or person in charge -- Record of**
217 **interments -- Information filed with local registrar.**

218 (1) (a) A sexton or person in charge of any premises in which interments are made may
219 not inter or permit the interment of any dead body or dead fetus unless the interment is made by
220 a funeral service director [~~licensed under Title 58, Chapter 9, Funeral Services Licensing Act,~~]
221 or by a person holding a burial-transit permit.

222 (b) The right and duty to control the disposition of a deceased person shall be governed
223 by Sections 58-9-601 through 58-9-604.

224 (2) (a) The sexton or the person in charge of any premises where interments are made
225 shall keep a record of all interments made in the premises under his charge, stating the name of
226 the decedent, place of death, date of burial, and name and address of the funeral service
227 director or other person making the interment. [~~This~~]

228 (b) The record described in this Subsection (2) shall be open to public inspection.

229 (c) A city or county clerk may, at the clerk's option, maintain the interment records
230 described in this Subsection (2) on behalf of the sexton or person in charge of any premises in
231 which interments are made.

232 (3) (a) Not later than the tenth day of each month, the sexton, person in charge of the
233 premises, or city or county clerk who maintains the interment records shall send to the local
234 registrar and the department a list of all interments made in the premises during the preceding
235 month.

236 (b) The list described in Subsection (3)(a) shall be in the form prescribed by the state
237 registrar.

238 Section 6. Section **26-2-22** is amended to read:

239 **26-2-22. Inspection of vital records.**

240 (1) (a) The vital records shall be open to inspection, but only in compliance with the
241 provisions of this chapter, department rules, and Section 78-30-18.

242 (b) It is unlawful for any state or local officer or employee to disclose data contained in
243 vital records contrary to this chapter or department rule.

244 [~~(b)~~] (c) A custodian of vital records may permit inspection of a vital record or issue a

245 certified copy of a record or a part of [it] a record when the custodian is satisfied that the
246 applicant has demonstrated a direct, tangible, and legitimate interest.

247 (2) A direct, tangible, and legitimate interest in a vital record is present only if:

248 (a) the request is from the subject, a member of the subject's immediate family, the
249 guardian of the subject, or a designated legal representative;

250 (b) the request involves a personal or property right of the subject of the record;

251 (c) the request is for official purposes of a state, local, or federal governmental agency;

252 (d) the request is for a statistical or medical research program and prior consent has
253 been obtained from the state registrar; or

254 (e) the request is a certified copy of an order of a court of record specifying the record
255 to be examined or copied.

256 (3) For purposes of Subsection (2):

257 (a) "immediate family member" means a spouse, child, parent, sibling, grandparent, or
258 grandchild;

259 (b) a designated legal representative means an attorney, physician, funeral service
260 director, genealogist, or other agent of the subject or the subject's immediate family who has
261 been delegated the authority to access vital records;

262 (c) except as provided in Title 78, Chapter 30, Adoption, a parent, or the immediate
263 family member of a parent, who does not have legal or physical custody of or visitation or
264 parent-time rights for a child because of the termination of parental rights pursuant to Title 78,
265 Chapter 3a, Juvenile Courts, or by virtue of consenting to or relinquishing a child for adoption
266 pursuant to Title 78, Chapter 30, Adoption, may not be considered as having a direct, tangible,
267 and legitimate interest; and

268 (d) a commercial firm or agency requesting names, addresses, or similar information
269 may not be considered as having a direct, tangible, and legitimate interest.

270 (4) Upon payment of a fee established in accordance with Section 63-38-3.2, the
271 following records shall be available to the public:

272 (a) except as provided in Subsection 26-2-10(4)(b), a birth record, excluding
273 confidential information collected for medical and health use, if 100 years or more have passed
274 since the date of birth;

275 (b) a death record if 50 years or more have passed since the date of death; and

276 (c) a vital record not subject to Subsection (4)(a) or (b) if 75 years or more have passed
277 since the date of the event upon which the record is based.

Legislative Review Note
as of 1-23-06 3:06 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel