

**Representative Bradley G. Last** proposes the following substitute bill:

**HEALTH PROFESSIONAL AUTHORITY -**

**DEATH AND DISABILITY**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Bradley G. Last**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends the Vital Statistics Act and the Motor Vehicle Act.

**Highlighted Provisions:**

This bill:

- ▶ amends definitions in the Vital Statistics Act;
- ▶ authorizes a nurse practitioner to state or certify cause of death, and complete and sign a death certificate;
- ▶ provides additional definitions in the Motor Vehicle Act; and
- ▶ allows a nurse practitioner to certify that a person has a disability, and will have the disability for a particular length of time, for purposes of obtaining a disability special group license plate, a temporary removable windshield placard, or a removable windshield placard from the Motor Vehicle Division.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**



26 AMENDS:

- 27 26-2-2, as last amended by Laws of Utah 2006, Chapter 56
- 28 26-2-13, as last amended by Laws of Utah 2007, Chapter 32
- 29 26-2-14, as last amended by Laws of Utah 1995, Chapter 202
- 30 26-2-16, as last amended by Laws of Utah 2006, Chapter 56
- 31 41-1a-420, as last amended by Laws of Utah 2005, Chapter 207

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

34 Section 1. Section 26-2-2 is amended to read:

35 **26-2-2. Definitions.**

36 As used in this chapter:

37 (1) "Advanced practice registered nurse" means a person licensed to practice as an  
38 advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse Practice Act.

39 ~~[(1)]~~ (2) "Custodial funeral service director" means a funeral service director who:

- 40 (a) is employed by a licensed funeral establishment; and
- 41 (b) has custody of a dead body.

42 ~~[(2)]~~ (3) "Dead body" or "decedent" means a human body or parts of the human body  
43 from the condition of which it reasonably may be concluded that death occurred.

44 ~~[(3)]~~ (4) "Dead fetus" means a product of human conception:

- 45 (a) of 20 weeks' gestation or more, calculated from the date the last normal menstrual  
46 period began to the date of delivery; and
- 47 (b) that was not born alive.

48 ~~[(4)]~~ (5) "Declarant father" means a male who claims to be the genetic father of a child,  
49 and, along with the biological mother, signs a voluntary declaration of paternity to establish the  
50 child's paternity.

51 ~~[(5)]~~ (6) "File" means the submission of a completed certificate or other similar  
52 document, record, or report as provided under this chapter for registration by the state registrar  
53 or a local registrar.

54 ~~[(6)]~~ (7) "Funeral service director" is as defined in Section 58-9-102.

55 ~~[(7)]~~ (8) "Health care facility" is as defined in Section 26-21-2.

56 (9) "Health care professional" means a physician or nurse practitioner.

57           ~~[(8)]~~ (10) "Licensed funeral establishment" means a funeral service establishment, as  
58 defined in Section 58-9-102, that is licensed under Title 58, Chapter 9, Funeral Services  
59 Licensing Act.

60           ~~[(9)]~~ (11) "Live birth" means the birth of a child who shows evidence of life after it is  
61 entirely outside of the mother.

62           ~~[(10)]~~ (12) "Local registrar" means a person appointed under Subsection 26-2-3(2)(b).

63           (13) "Nurse practitioner" means an advanced practice registered nurse specializing as a  
64 nurse practitioner.

65           ~~[(11)]~~ (14) "Physician" means a person licensed to practice as a physician or osteopath  
66 in this state under Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah  
67 Osteopathic Medical Practice Act.

68           ~~[(12)]~~ (15) "Presumed father" means the father of a child conceived or born during a  
69 marriage as defined in Section 30-1-17.2.

70           ~~[(13)]~~ (16) "Registration" or "register" means acceptance by the local or state registrar  
71 of a certificate and incorporation of it into the permanent records of the state.

72           ~~[(14)]~~ (17) "State registrar" means the state registrar of vital records appointed under  
73 Subsection 26-2-3(1)(e).

74           ~~[(15)]~~ (18) "Vital records" means registered certificates or reports of birth, death, fetal  
75 death, marriage, divorce, dissolution of marriage, or annulment, amendments to any of these  
76 registered certificates or reports, and other similar documents.

77           ~~[(16)]~~ (19) "Vital statistics" means the data derived from registered certificates and  
78 reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce,  
79 dissolution of marriage, or annulment.

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

81           **26-2-13. Certificate of death -- Execution and registration requirements.**

82           (1) (a) A certificate of death for each death which occurs in this state shall be filed with  
83 the local registrar of the district in which the death occurs, or as otherwise directed by the state  
84 registrar, within five days after death and prior to the decedent's interment, any other disposal,  
85 or removal from the registration district where the death occurred.

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

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

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

91 (c) If the date of death is unknown, the date shall be determined by approximation.

92 (3) (a) When death occurs in a moving conveyance in the United States and the  
93 decedent is first removed from the conveyance in this state:

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

95 (A) the local registrar of the district where the decedent is removed; or

96 (B) a person designated by the state registrar; and

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

98 (b) When a death occurs on a moving conveyance outside the United States and the  
99 decedent is first removed from the conveyance in this state:

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

101 (A) the local registrar of the district where the decedent is removed; or

102 (B) a person designated by the state registrar; and

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

105 (4) (a) The custodial funeral service director shall sign the certificate of death.

106 (b) The custodial funeral service director or an agent of the custodial funeral service  
107 director shall:

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

109 (ii) obtain the decedent's personal data from the next of kin or the best qualified person  
110 or source available including the decedent's Social Security number, if known; however, the  
111 certificate of death may not include the decedent's Social Security number.

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

117 (b) In the absence of the [~~physician~~] health care professional or with the [~~physician's~~]  
118 health care professional's approval, the certificate of death may be completed and signed by an

119 associate physician, the chief medical officer of the institution in which death occurred, or a  
120 physician who performed an autopsy upon the decedent, provided the person has access to the  
121 medical history of the case, views the decedent at or after death, and death is not due to causes  
122 required to be investigated by the medical examiner.

123 (6) When death occurs more than 30 days after the decedent was last treated by a  
124 ~~physician~~ health care professional, the case shall be referred to the medical examiner for  
125 investigation to determine and certify the cause, date, and place of death.

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

129 (8) If the cause of death cannot be determined within 72 hours after death:

130 (a) the medical section of the certificate of death shall be completed as provided by  
131 department rule;

132 (b) the attending ~~physician~~ health care professional or medical examiner shall give  
133 the funeral service director notice of the reason for the delay; and

134 (c) final disposition of the decedent may not be made until authorized by the attending  
135 ~~physician~~ health care professional or medical examiner.

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

139 (b) The order described in Subsection (9)(a) shall include a finding of fact stating the  
140 name of the decedent, the date of death, and the place of death.

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

142 (i) show the date of registration; and

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

144 Section 3. Section **26-2-14** is amended to read:

145 **26-2-14. Fetal death certificate -- Filing and registration requirements.**

146 (1) A fetal death certificate shall be filed for each fetal death which occurs in this state.

147 The certificate shall be filed within five days after delivery with the local registrar or as

148 otherwise directed by the state registrar. The certificate shall be registered if it is completed and

149 filed in accordance with this chapter.

150 (2) When a dead fetus is delivered in an institution, the institution administrator or his  
151 designated representative shall prepare and file the fetal death certificate. The attending  
152 [~~physician~~] health care professional shall state in the certificate the cause of death and sign the  
153 certificate.

154 (3) When a dead fetus is delivered outside an institution, the [~~physician~~] health care  
155 professional in attendance at or immediately after delivery shall complete, sign, and file the  
156 fetal death certificate.

157 (4) When a fetal death occurs without medical attendance at or immediately after the  
158 delivery or when inquiry is required by Title 26, Chapter 4, Utah Medical Examiner Act, the  
159 medical examiner shall investigate the cause of death and prepare and file the certificate of  
160 fetal death within five days after taking charge of the case.

161 (5) When a fetal death occurs in a moving conveyance and the dead fetus is first  
162 removed from the conveyance in this state or when a dead fetus is found in this state and the  
163 place of death is unknown, the death shall be registered in this state. The place where the dead  
164 fetus was first removed from the conveyance or found shall be considered the place of death.

165 (6) Final disposition of the dead fetus may not be made until the fetal death certificate  
166 has been registered.

167 Section 4. Section **26-2-16** is amended to read:

168 **26-2-16. Certificate of death -- Duties of a custodial funeral service director or**  
169 **agent -- Medical certification -- Records of funeral service director -- Information filed**  
170 **with local registrar -- Unlawful signing of certificate of death.**

171 (1) The custodial funeral service director shall sign the certificate of death prior to any  
172 disposition of a dead body or dead fetus.

173 (2) The custodial funeral service director or an agent of the custodial funeral service  
174 director shall:

175 (a) obtain personal and statistical information regarding the decedent from the  
176 available persons best qualified to provide the information;

177 (b) present the certificate of death to the attending physician[;] or nurse practitioner if  
178 any, or to the medical examiner who shall certify the cause of death and other information  
179 required on the certificate of death;

180 (c) provide the address of the custodial funeral service director;

181 (d) certify the date and place of burial; and

182 (e) file the certificate of death with the state or local registrar.

183 (3) A funeral service director, embalmer, or other person who removes from the place  
184 of death or transports or is in charge of final disposal of a dead body or dead fetus, shall keep a  
185 record identifying the dead body or dead fetus, and containing information pertaining to  
186 receipt, removal, and delivery of the dead body or dead fetus as prescribed by department rule.

187 (4) (a) Not later than the tenth day of each month, every licensed funeral service  
188 establishment shall send to the local registrar and the department a list of the information  
189 required in Subsection (3) for each casket furnished and for funerals performed when no casket  
190 was furnished, during the preceding month.

191 (b) The list described in Subsection (4)(a) shall be in the form prescribed by the state  
192 registrar.

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

196 (a) is a funeral service director; and

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

198 Section 5. Section **41-1a-420** is amended to read:

199 **41-1a-420. Definitions -- Disability special group license plates -- Application and**  
200 **qualifications -- Rulemaking.**

201 (1) As used in this section:

202 (a) "Advanced practice registered nurse" means a person licensed to practice as an  
203 advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse Practice Act.

204 (b) "Nurse practitioner" means an advanced practice registered nurse specializing as a  
205 nurse practitioner.

206 (c) "Physician" means a person licensed to practice as a physician or osteopath in this  
207 state under Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic  
208 Medical Practice Act.

209 [(+)] (2) The division shall issue a disability special group license plate, a temporary  
210 removable windshield placard, or a removable windshield placard to:

211 (a) a qualifying person with a disability; or

212 (b) the registered owner of a vehicle that an organization uses primarily for the  
213 transportation of persons with disabilities that limit or impair the ability to walk.

214 [~~(2)~~] (3) (a) The initial application of a person with a disability shall be accompanied  
215 by the certification of a [~~licensed~~] physician or nurse practitioner:

216 (i) that the applicant meets the definition of a person with a disability that limits or  
217 impairs the ability to walk, as defined in the federal Uniform System for Parking for Persons  
218 with Disabilities, 23 C.F.R. Ch. 11, Subch. B, Pt. 1235.2 (1991); and

219 (ii) [~~containing~~] specifying the period of time that the physician or nurse practitioner  
220 determines the applicant will have the disability, not to exceed six months in the case of a  
221 temporary disability.

222 (b) The division shall issue [~~a person with~~] a disability special group license plate or a  
223 removable windshield placard to a person with a permanent disability.

224 (c) The issuance of a person with a disability special group license plate does not  
225 preclude the issuance to the same applicant of a removable windshield placard.

226 (d) On request of an applicant with a disability special group license plate, temporary  
227 removable windshield placard, or a removable windshield placard, the division shall issue one  
228 additional placard.

229 (e) A disability special group license plate, temporary removable windshield placard,  
230 or removable windshield placard may be used to allow one motorcycle to share a parking space  
231 reserved for persons with a disability if:

232 (i) the person with a disability:

233 (A) is using a motorcycle; and

234 (B) displays on the motorcycle a disability special group license plate, temporary  
235 removable windshield placard, or a removable windshield placard;

236 (ii) the person who shares the parking space assists the person with a disability with the  
237 parking accommodation; and

238 (iii) the parking space is sufficient size to accommodate both motorcycles without  
239 interfering with other parking spaces or traffic movement.

240 [~~(3)~~] (4) (a) The temporary removable windshield placard or removable windshield  
241 placard shall be hung from the front windshield rearview mirror when the vehicle is parked in a  
242 parking space reserved for persons with disabilities so that it is visible from the front and rear



243 of the vehicle.

244 (b) If a motorcycle is being used, the temporary removable windshield placard or  
245 removable windshield placard shall be displayed in plain sight on or near the handle bars of the  
246 motorcycle.

247 [~~4~~] (5) The commission shall make rules in accordance with Title 63, Chapter 46a,  
248 Utah Administrative Rulemaking Act, to:

249 (a) establish qualifying criteria for persons to receive, renew, or surrender special group  
250 license plates, a temporary removable windshield placard, or a removable windshield placard in  
251 accordance with this section;

252 (b) establish the maximum number of numerals or characters for disability special  
253 group license plates; and

254 (c) require all temporary removable windshield placards and removable windshield  
255 placards to include:

256 (i) an identification number;

257 (ii) an expiration date not to exceed:

258 (A) six months for a temporary removable windshield placard; and

259 (B) two years for a removable windshield placard; and

260 (iii) the seal or other identifying mark of the division.