

Senator Curtis S. Bramble proposes the following substitute bill:

DISPOSITION OF FETAL REMAINS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill enacts provisions relating to the disposition of fetal remains.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a health care facility having possession of an aborted fetus or miscarried fetus to provide for the final disposition of the fetal remains;
- ▶ requires a health care facility to provide certain information to a woman regarding the disposition of an aborted fetus or miscarried fetus;
- ▶ requires a health care provider to notify a woman regarding the right to determine the final disposition of the remains of the aborted fetus before performing an abortion;
- ▶ requires a health care facility to allow a woman who has a medication-induced abortion to return the aborted fetus to the health care facility for disposition;
- ▶ requires a health care facility to maintain records that demonstrate compliance with the provisions of this bill;
- ▶ amends the Funeral Services Licensing Act to allow for the disposition of certain fetal remains; and



26 ▶ makes technical and conforming changes.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **26-2-2**, as last amended by Laws of Utah 2018, Chapters 49 and 153

34 **26-2-17**, as last amended by Laws of Utah 2007, Chapter 60

35 **26-2-18**, as last amended by Laws of Utah 2006, Chapter 56

36 **58-9-607**, as enacted by Laws of Utah 2008, Chapter 353

37 **76-7-305**, as last amended by Laws of Utah 2019, Chapters 124 and 189

38 ENACTS:

39 **26-21-33**, Utah Code Annotated 1953

40 **26-21-34**, Utah Code Annotated 1953

41 **58-9-619**, Utah Code Annotated 1953



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

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

45 **26-2-2. Definitions.**

46 As used in this chapter:

47 (1) "Adoption document" means an adoption-related document filed with the office, a
48 petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted
49 in support of a supplementary birth certificate.

50 (2) "Custodial funeral service director" means a funeral service director who:

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

52 (b) has custody of a dead body.

53 (3) "Dead body" or "decedent" means a human body or parts of the human body from
54 the condition of which it reasonably may be concluded that death occurred.

55 (4) "Dead fetus" means a product of human conception, other than those circumstances
56 described in Subsection **76-7-301**(1):

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

59 (b) that was not born alive.

60 (5) "Declarant father" means a male who claims to be the genetic father of a child, and,
61 along with the biological mother, signs a voluntary declaration of paternity to establish the
62 child's paternity.

63 (6) "Dispositioner" means:

64 (a) a person designated in a written instrument, under Subsection 58-9-602(1), as
65 having the right and duty to control the disposition of the decedent, if the person voluntarily
66 acts as the dispositioner; or

67 (b) the next of kin of the decedent, if:

68 (i) (A) a person has not been designated as described in Subsection (6)(a); or

69 (B) the person described in Subsection (6)(a) is unable or unwilling to exercise the
70 right and duty described in Subsection (6)(a); and

71 (ii) the next of kin voluntarily acts as the dispositioner.

72 (7) "Fetal remains" means:

73 (a) an aborted fetus as that term is defined in Section 26-21-33; or

74 (b) a miscarried fetus as that term is defined in Section 26-21-34.

75 [~~7~~] (8) "File" means the submission of a completed certificate or other similar
76 document, record, or report as provided under this chapter for registration by the state registrar
77 or a local registrar.

78 [~~8~~] (9) "Funeral service director" means the same as that term is defined in Section
79 58-9-102.

80 [~~9~~] (10) "Health care facility" means the same as that term is defined in Section
81 26-21-2.

82 [~~10~~] (11) "Health care professional" means a physician, physician assistant, or nurse
83 practitioner.

84 [~~11~~] (12) "Licensed funeral establishment" means:

85 (a) if located in Utah, a funeral service establishment, as that term is defined in Section
86 58-9-102, that is licensed under Title 58, Chapter 9, Funeral Services Licensing Act; or

87 (b) if located in a state, district, or territory of the United States other than Utah, a

88 funeral service establishment that complies with the licensing laws of the jurisdiction where the
89 establishment is located.

90 ~~[(12)]~~ (13) "Live birth" means the birth of a child who shows evidence of life after the
91 child is entirely outside of the mother.

92 ~~[(13)]~~ (14) "Local registrar" means a person appointed under Subsection 26-2-3(3)(b).

93 ~~[(14)]~~ (15) "Nurse practitioner" means an individual who:

94 (a) is licensed to practice as an advanced practice registered nurse under Title 58,
95 Chapter 31b, Nurse Practice Act; and

96 (b) has completed an education program regarding the completion of a certificate of
97 death developed by the department by administrative rule made in accordance with Title 63G,
98 Chapter 3, Utah Administrative Rulemaking Act.

99 ~~[(15)]~~ (16) "Office" means the Office of Vital Records and Statistics within the
100 Department of Health, operating under Title 26, Chapter 2, Utah Vital Statistics Act.

101 ~~[(16)]~~ (17) "Physician" means a person licensed to practice as a physician or osteopath
102 in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68,
103 Utah Osteopathic Medical Practice Act.

104 ~~[(17)]~~ (18) "Physician assistant" means an individual who:

105 (a) is licensed to practice as a physician assistant under Title 58, Chapter 70a, Utah
106 Physician Assistant Act; and

107 (b) has completed an education program regarding the completion of a certificate of
108 death developed by the department by administrative rule made in accordance with Title 63G,
109 Chapter 3, Utah Administrative Rulemaking Act.

110 ~~[(18)]~~ (19) "Presumed father" means the father of a child conceived or born during a
111 marriage as defined in Section 30-1-17.2.

112 ~~[(19)]~~ (20) "Registration" or "register" means acceptance by the local or state registrar
113 of a certificate and incorporation of the certificate into the permanent records of the state.

114 ~~[(20)]~~ (21) "State registrar" means the state registrar of vital records appointed under
115 Subsection 26-2-3(2)(e).

116 ~~[(21)]~~ (22) "Vital records" means:

117 (a) registered certificates or reports of birth, death, fetal death, marriage, divorce,
118 dissolution of marriage, or annulment;

119 (b) amendments to any of the registered certificates or reports described in Subsection
120 [~~(21)~~] (22)(a);

121 (c) an adoption document; and

122 (d) other similar documents.

123 [~~(22)~~] (23) "Vital statistics" means the data derived from registered certificates and
124 reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce,
125 dissolution of marriage, or annulment.

126 Section 2. Section 26-2-17 is amended to read:

127 **26-2-17. Certificate of death -- Registration prerequisite to interment --**

128 **Burial-transit permits -- Procedure where body donated under anatomical gift law --**

129 **Permit for disinterment.**

130 (1) (a) A dead body or dead fetus may not be interred or otherwise disposed of or
131 removed from the registration district in which death or fetal death occurred or the remains are
132 found until a certificate of death is registered.

133 (b) Subsection (1)(a) does not apply to fetal remains for a fetus that is less than 20
134 weeks in gestational age.

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

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

138 [~~(b)~~] (ii) the disposition takes place with authorization of the next of kin and in:

139 (A) a general acute hospital[;] as that term is defined in Section 26-21-2, that is
140 licensed by the department[;]; or

141 (B) in a pathology laboratory operated under contract with a general acute hospital
142 licensed by the department.

143 (b) For an abortion or miscarriage that occurs at a health care facility, no burial-transit
144 permit is required for final disposition of the fetal remains if:

145 (i) disposition occurs in the state and is performed by a funeral service director; or

146 (ii) the disposition takes place:

147 (A) with authorization of the parent of a miscarried fetus or the pregnant woman for an
148 aborted fetus; and

149 (B) in a general acute hospital as that term is defined in Section 26-21-2, or a pathology

150 laboratory operated under contract with a general acute hospital.

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

153 ~~[(a)]~~ (i) for ~~[dead bodies or fetuses]~~ a dead body or a dead fetus to be transported out of
154 the state for final disposition; or

155 ~~[(b)]~~ (ii) when disposition of the dead body or dead fetus is made by a person other
156 than a funeral service director.

157 (b) For fetal remains that are less than 20 weeks in gestational age, a burial-transit
158 permit shall be issued by the local registrar of the district where the health care facility that is in
159 possession of the fetal remains is located:

160 (i) for the fetal remains to be transported out of the state for final disposition; or

161 (ii) when disposition of the fetal remains is made by a person other than a funeral
162 service director.

163 (c) A local registrar issuing a burial-transit permit issued under Subsection (3)(b):

164 (i) may not require an individual to designate a name for the fetal remains; and

165 (ii) may leave the space for a name on the burial-transit permit blank; and

166 (d) shall redact from any public records maintained under this chapter any information:

167 (i) that is submitted under Subsection (3)(b); and

168 (ii) that may be used to identify the parent or pregnant woman.

169 (4) A burial-transit permit issued under the law of another state which accompanies a
170 dead body ~~[or]~~, dead fetus, or fetal remains brought into this state is authority for final
171 disposition of the dead body ~~[or]~~, dead fetus, or fetal remains in this state.

172 (5) When a dead body or dead fetus or any part of the dead body or dead fetus has been
173 donated under the Revised Uniform Anatomical Gift Act or similar laws of another state and
174 the preservation of the gift requires the immediate transportation of the dead body, dead fetus,
175 or any part of the body or fetus outside of the registration district in which death occurs or the
176 remains are found, or into this state from another state, the dead body or dead fetus or any part
177 of the body or fetus may be transported and the burial-transit permit required by this section
178 obtained within a reasonable time after transportation.

179 (6) A permit for disinterment and reinterment is required prior to disinterment of a
180 dead body ~~[or]~~, dead fetus, or fetal remains, except as otherwise provided by statute or

181 department rule.

182 Section 3. Section **26-2-18** is amended to read:

183 **26-2-18. Interments -- Duties of sexton or person in charge -- Record of**
184 **interments -- Information filed with local registrar.**

185 (1) (a) A sexton or person in charge of any premises in which interments are made may
186 not inter or permit the interment of any dead body [~~or~~], dead fetus, or fetal remains unless the
187 interment is made by a funeral service director or by a person holding a burial-transit permit.

188 (b) The right and duty to control the disposition of a deceased person shall be governed
189 by Sections [58-9-601](#) through [58-9-604](#).

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

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

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

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

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

204 Section 4. Section **26-21-33** is enacted to read:

205 **26-21-33. Treatment of aborted remains.**

206 (1) As used in this section, "aborted fetus" means a product of human conception,
207 regardless of gestational age, that has died from an abortion as that term is defined in Section
208 [76-7-301](#).

209 (2) (a) A health care facility having possession of an aborted fetus shall provide for the
210 final disposition of the aborted fetus through:

211 (i) cremation as that term is defined in Section [58-9-102](#); or

212 (ii) interment.
213 (b) Within 120 business days after the day on which an abortion is performed, a health
214 care facility possessing an aborted fetus shall:
215 (i) conduct the final disposition of the aborted fetus in accordance with this section; or
216 (ii) ensure that the aborted fetus is preserved until final disposition.
217 (3) Before performing an abortion, a health care facility shall:
218 (a) provide the pregnant woman with the information described in Subsection
219 76-7-305(2)(d)(ix); and
220 (b) document the pregnant woman's decision under Subsection (4)(b) in the pregnant
221 woman's medical record.
222 (4) A pregnant woman who has an abortion:
223 (a) except as provided in Subsection (6), has the right to control the final disposition of
224 the aborted fetus;
225 (b) shall inform the health care facility of the pregnant woman's decision for final
226 disposition of the aborted fetus:
227 (i) in writing; and
228 (ii) on a form approved by the department;
229 (c) is responsible for the costs related to the final disposition of the aborted fetus at the
230 chosen location if the pregnant woman chooses a method or location for the final disposition of
231 the aborted fetus that is different from the method or location that is usual and customary for
232 the health care facility; and
233 (d) for a medication-induced abortion, shall be permitted to return the aborted fetus to
234 the health care facility in a sealed container for disposition by the health care facility in
235 accordance with this section.
236 (5) The form described in Subsection (4)(b)(ii) shall include the following information:
237 "You have the right to decide what you would like to do with the aborted fetus. You
238 may decide for the provider to be responsible for disposition of the fetus. If you are having a
239 medication-induced abortion, you also have the right to bring the aborted fetus back to this
240 provider for disposition after the fetus is expelled. The provider may dispose of the aborted
241 fetus by burial or cremation. You can ask the provider if you want to know the specific method
242 for disposition."

243 (6) If the pregnant woman is a minor, the health care facility shall obtain parental
244 consent for the disposition of the aborted fetus unless the minor is granted a court order under
245 Subsection 76-7-304(1)(b).

246 (7) (a) A health care facility may not include fetal remains with other biological,
247 infectious, or pathological waste.

248 (b) Notwithstanding Subsection 58-9-610(4), an aborted fetus may be cremated by
249 simultaneous cremation.

250 (c) Fetal tissue that is submitted to a pathologist for the purpose of conducting an
251 examination of the fetal tissue is not subject to the requirements of this section.

252 (d) (i) A health care facility is responsible for maintaining a record to demonstrate to
253 the department that the health care facility has complied with the provisions of this section.

254 (ii) The records described in Subsection (7)(e)(i) shall be:

255 (A) maintained for at least two years; and

256 (B) made available to the department for inspection upon request by the department.

257 Section 5. Section **26-21-34** is enacted to read:

258 **26-21-34. Treatment of miscarried remains.**

259 (1) As used in this section, "miscarried fetus" means a product of human conception,
260 regardless of gestational age, that has died from a spontaneous or accidental death before
261 expulsion or extraction from the mother, regardless of the duration of the pregnancy.

262 (2) (a) A health care facility having possession of a miscarried fetus shall provide for
263 the final disposition of the miscarried fetus through:

264 (i) cremation as that term is defined in Section 58-9-102; or

265 (ii) interment.

266 (b) Within 120 business days after the day on which a miscarriage occurs, a health care
267 facility possessing miscarried remains shall:

268 (i) conduct the final disposition of the miscarried remains in accordance with this
269 section; or

270 (ii) ensure that the miscarried remains are preserved until final disposition.

271 (3) No more than 24 hours after a woman has her miscarried fetus expelled or extracted
272 in a health care facility, the health care facility shall provide information to the parent or
273 parents of the miscarried fetus, both orally and in writing, regarding:

274 (a) the parents' right to determine the final disposition of the miscarried fetus;
275 (b) the available options for disposition of the miscarried fetus; and
276 (c) counseling that may be available concerning the death of the miscarried fetus.
277 (4) The parents of a miscarried fetus:
278 (a) have the right to control the final disposition of the miscarried fetus;
279 (b) shall inform the health care facility of the parents' decision for final disposition of
280 the miscarried fetus:
281 (i) in writing; and
282 (ii) on a form approved by the department; and
283 (c) are responsible for the costs related to the final disposition of the miscarried fetus at
284 the chosen location if the parents choose a method or location for the final disposition of the
285 miscarried fetus that is different from the method or location that is usual and customary for the
286 health care facility.
287 (5) The form described in Subsection (4)(b)(ii) shall include the following information:
288 "You have the right to decide what you would like to do with the miscarried fetus. You
289 may decide for the provider to be responsible for disposition of the fetus. The provider may
290 dispose of the miscarried fetus by burial or cremation. You can ask the provider if you want to
291 know the specific method for disposition."
292 (6) (a) A health care facility may not include miscarried fetus with other biological,
293 infectious, or pathological waste.
294 (b) Notwithstanding Subsection 58-9-610(4), a miscarried fetus may be cremated by
295 simultaneous cremation.
296 (c) Fetal tissue that is submitted to a pathologist for the purpose of conducting an
297 examination of the fetal tissue is not subject to the requirements of this section.
298 (d) (i) A health care facility is responsible for maintaining a record to demonstrate to
299 the department that the health care facility has complied with the provisions of this section.
300 (ii) The records described in Subsection (6)(e)(i) shall be:
301 (A) maintained for at least two years; and
302 (B) made available to the department for inspection upon request by the department.
303 Section 6. Section 58-9-607 is amended to read:
304 **58-9-607. Authorization to cremate -- Penalties for removal of items from human**

305 **remains.**

306 (1) Except as otherwise provided in this section and Section [58-9-619](#), a funeral service
307 establishment may not cremate human remains until it has received:

308 (a) a cremation authorization form signed by an authorizing agent;

309 (b) a completed and executed burial transit permit or similar document, as provided by
310 state law, indicating that human remains are to be cremated; and

311 (c) any other documentation required by the state, county, or municipality.

312 (2) (a) The cremation authorization form shall contain, at a minimum, the following
313 information:

314 (i) the identity of the human remains and the time and date of death, including a signed
315 declaration of visual identification of the deceased or refusal to visually identify the deceased;

316 (ii) the name of the funeral director and funeral service establishment that obtained the
317 cremation authorization;

318 (iii) notification as to whether the death occurred from a disease declared by the
319 department of health to be infectious, contagious, communicable, or dangerous to the public
320 health;

321 (iv) the name of the authorizing agent and the relationship between the authorizing
322 agent and the decedent;

323 (v) a representation that the authorizing agent has the right to authorize the cremation
324 of the decedent and that the authorizing agent is not aware of any living person with a superior
325 or equal priority right to that of the authorizing agent, except that if there is another living
326 person with a superior or equal priority right, the form shall contain a representation that the
327 authorizing agent has:

328 (A) made reasonable efforts to contact that person;

329 (B) been unable to do so; and

330 (C) no reason to believe that the person would object to the cremation of the decedent;

331 (vi) authorization for the funeral service establishment to cremate the human remains;

332 (vii) a representation that the human remains do not contain a pacemaker or other
333 material or implant that may be potentially hazardous or cause damage to the cremation
334 chamber or the person performing the cremation;

335 (viii) the name of the person authorized to receive the cremated remains from the

336 funeral service establishment;

337 (ix) the manner in which the final disposition of the cremated remains is to take place,
338 if known;

339 (x) a listing of each item of value to be delivered to the funeral service establishment
340 along with the human remains, and instructions as to how each item should be handled;

341 (xi) the signature of the authorizing agent, attesting to the accuracy of all
342 representations contained on the authorization form;

343 (xii) if the cremation authorization form is being executed on a preneed basis, the form
344 shall contain the disclosure required for preneed programs under this chapter; and

345 (xiii) except for a preneed cremation authorization, the signature of the funeral director
346 of the funeral service establishment that obtained the cremation authorization.

347 (b) (i) The individual [~~referred to~~] described in Subsection (2)(a)(xiii) shall execute the
348 funeral authorization form as a witness and is not responsible for any of the representations
349 made by the authorizing agent.

350 (ii) The funeral director or the funeral service establishment shall warrant to the
351 crematory that the human remains delivered to the funeral service establishment have been
352 positively identified as the decedent listed on the cremation authorization form by the
353 authorizing agent or a designated representative of the authorizing agent.

354 (iii) The authorizing agent or the agent's designee may make the identification referred
355 to in Subsection (2)(b)(ii) in person or by photograph.

356 (3) (a) [~~A~~] Except as provided in Section 58-9-619, a funeral service establishment
357 may not accept unidentified human remains for cremation.

358 (b) If a funeral service establishment takes custody of a cremation container subsequent
359 to the human remains being placed within the container, it can rely on the identification made
360 before the remains were placed in the container.

361 (c) The funeral service establishment shall place appropriate identification on the
362 exterior of the cremation container based on the prior identification.

363 (4) (a) A person who removes or possesses dental gold or silver, jewelry, or mementos
364 from human remains:

365 (i) with purpose to deprive another over control of the property is guilty of an offense
366 and subject to the punishments provided in Section 76-6-412;

367 (ii) with purpose to exercise unauthorized control and with intent to temporarily
368 deprive another of control over the property is guilty of an offense and subject to the
369 punishments provided in Section 76-6-404.5; and

370 (iii) under circumstances not amounting to Subsection (4)(a)(i) or (ii) and without
371 specific written permission of the individual who has the right to control those remains is guilty
372 of a class B misdemeanor.

373 (b) The fact that residue or any unavoidable dental gold or dental silver or other
374 precious metals remain in a cremation chamber or other equipment or a container used in a
375 prior cremation is not a violation of Subsection (4)(a).

376 Section 7. Section 58-9-619 is enacted to read:

377 **58-9-619. Exception for disposition of fetal remains.**

378 (1) As used in this section, "fetal remains" means the same as that term is defined in
379 Section 26-2-2.

380 (2) Notwithstanding any other provision in this part, a funeral service establishment:

381 (a) is exempt from any requirement to name the miscarried fetus or the aborted fetus:

382 (i) for the purpose of identifying the fetal remains; or

383 (ii) for any record keeping requirements under this chapter; and

384 (b) is not required to obtain a death certificate or fetal death certificate for the
385 cremation or disposition of fetal remains that are less than 20 weeks in gestational age.

386 Section 8. Section 76-7-305 is amended to read:

387 **76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory**
388 **-- Exceptions.**

389 (1) A person may not perform an abortion, unless, before performing the abortion, the
390 physician who will perform the abortion obtains from the woman on whom the abortion is to
391 be performed a voluntary and informed written consent that is consistent with:

392 (a) Section 8.08 of the American Medical Association's Code of Medical Ethics,
393 Current Opinions; and

394 (b) the provisions of this section.

395 (2) Except as provided in Subsection (8), consent to an abortion is voluntary and
396 informed only if, at least 72 hours before the abortion:

397 (a) a staff member of an abortion clinic or hospital, physician, registered nurse, nurse

398 practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or
399 physician's assistant presents the information module to the pregnant woman;

400 (b) the pregnant woman views the entire information module and presents evidence to
401 the individual described in Subsection (2)(a) that the pregnant woman viewed the entire
402 information module;

403 (c) after receiving the evidence described in Subsection (2)(b), the individual described
404 in Subsection (2)(a):

405 (i) documents that the pregnant woman viewed the entire information module;

406 (ii) gives the pregnant woman, upon her request, a copy of the documentation
407 described in Subsection (2)(c)(i); and

408 (iii) provides a copy of the statement described in Subsection (2)(c)(i) to the physician
409 who is to perform the abortion, upon request of that physician or the pregnant woman;

410 (d) after the pregnant woman views the entire information module, the physician who
411 is to perform the abortion, the referring physician, a physician, a registered nurse, nurse
412 practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or
413 physician's assistant, in a face-to-face consultation in any location in the state, orally informs
414 the woman of:

415 (i) the nature of the proposed abortion procedure;

416 (ii) specifically how the procedure described in Subsection (2)(d)(i) will affect the
417 fetus;

418 (iii) the risks and alternatives to the abortion procedure or treatment;

419 (iv) the options and consequences of aborting a medication-induced abortion, if the
420 proposed abortion procedure is a medication-induced abortion;

421 (v) the probable gestational age and a description of the development of the unborn
422 child at the time the abortion would be performed;

423 (vi) the medical risks associated with carrying her child to term;

424 (vii) the right to view an ultrasound of the unborn child, at no expense to the pregnant
425 woman, upon her request; [~~and~~]

426 (viii) when the result of a prenatal screening or diagnostic test indicates that the unborn
427 child has or may have Down syndrome, the Department of Health website containing the
428 information described in Section [26-10-14](#), including the information on the informational

429 support sheet; and

430 (ix) the pregnant woman's right to:

431 (A) determine the final disposition of the remains of the aborted fetus;

432 (B) receive information about options for disposition of the aborted fetus, including the

433 method of disposition that is usual and customary for the health care facility; and

434 (C) return the aborted fetus to the health care facility for disposition under Subsection

435 26-21-33(4)(d); and

436 (e) after the pregnant woman views the entire information module, a staff member of

437 the abortion clinic or hospital provides to the pregnant woman:

438 (i) on a document that the pregnant woman may take home:

439 (A) the address for the department's website described in Section 76-7-305.5; and

440 (B) a statement that the woman may request, from a staff member of the abortion clinic

441 or hospital where the woman viewed the information module, a printed copy of the material on

442 the department's website; and

443 (ii) a printed copy of the material on the department's website described in Section

444 76-7-305.5, if requested by the pregnant woman.

445 (3) Before performing an abortion, the physician who is to perform the abortion shall:

446 (a) in a face-to-face consultation, provide the information described in Subsection

447 (2)(d), unless the attending physician or referring physician is the individual who provided the

448 information required under Subsection (2)(d); and

449 (b) (i) obtain from the pregnant woman a written certification that the information

450 required to be provided under Subsection (2) and this Subsection (3) was provided in

451 accordance with the requirements of Subsection (2) and this Subsection (3); and

452 (ii) obtain a copy of the statement described in Subsection (2)(c)(i).

453 (4) When a serious medical emergency compels the performance of an abortion, the

454 physician shall inform the woman prior to the abortion, if possible, of the medical indications

455 supporting the physician's judgment that an abortion is necessary.

456 (5) If an ultrasound is performed on a woman before an abortion is performed, the

457 individual who performs the ultrasound, or another qualified individual, shall:

458 (a) inform the woman that the ultrasound images will be simultaneously displayed in a

459 manner to permit her to:

- 460 (i) view the images, if she chooses to view the images; or
461 (ii) not view the images, if she chooses not to view the images;
462 (b) simultaneously display the ultrasound images in order to permit the woman to:
463 (i) view the images, if she chooses to view the images; or
464 (ii) not view the images, if she chooses not to view the images;
465 (c) inform the woman that, if she desires, the person performing the ultrasound, or
466 another qualified person shall provide a detailed description of the ultrasound images,
467 including:
468 (i) the dimensions of the unborn child;
469 (ii) the presence of cardiac activity in the unborn child, if present and viewable; and
470 (iii) the presence of external body parts or internal organs, if present and viewable; and
471 (d) provide the detailed description described in Subsection (5)(c), if the woman
472 requests it.
473 (6) The information described in Subsections (2), (3), and (5) is not required to be
474 provided to a pregnant woman under this section if the abortion is performed for a reason
475 described in:
476 (a) Subsection 76-7-302(3)(b)(i), if the treating physician and one other physician
477 concur, in writing, that the abortion is necessary to avert:
478 (i) the death of the woman on whom the abortion is performed; or
479 (ii) a serious risk of substantial and irreversible impairment of a major bodily function
480 of the woman on whom the abortion is performed; or
481 (b) Subsection 76-7-302(3)(b)(ii).
482 (7) In addition to the criminal penalties described in this part, a physician who violates
483 the provisions of this section:
484 (a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102;
485 and
486 (b) shall be subject to:
487 (i) suspension or revocation of the physician's license for the practice of medicine and
488 surgery in accordance with Section 58-67-401 or 58-68-401; and
489 (ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.
490 (8) A physician is not guilty of violating this section for failure to furnish any of the

491 information described in Subsection (2) or (3), or for failing to comply with Subsection (5), if:

492 (a) the physician can demonstrate by a preponderance of the evidence that the
493 physician reasonably believed that furnishing the information would have resulted in a severely
494 adverse effect on the physical or mental health of the pregnant woman;

495 (b) in the physician's professional judgment, the abortion was necessary to avert:

496 (i) the death of the woman on whom the abortion is performed; or

497 (ii) a serious risk of substantial and irreversible impairment of a major bodily function
498 of the woman on whom the abortion is performed;

499 (c) the pregnancy was the result of rape or rape of a child, as defined in Sections
500 [76-5-402](#) and [76-5-402.1](#);

501 (d) the pregnancy was the result of incest, as defined in Subsection [76-5-406\(2\)\(j\)](#) and
502 Section [76-7-102](#); or

503 (e) at the time of the abortion, the pregnant woman was 14 years of age or younger.

504 (9) A physician who complies with the provisions of this section and Section
505 [76-7-304.5](#) may not be held civilly liable to the physician's patient for failure to obtain
506 informed consent under Section [78B-3-406](#).

507 (10) (a) The department shall provide an ultrasound, in accordance with the provisions
508 of Subsection (5)(b), at no expense to the pregnant woman.

509 (b) A local health department shall refer a pregnant woman who requests an ultrasound
510 described in Subsection (10)(a) to the department.

511 (11) A physician is not guilty of violating this section if:

512 (a) the information described in Subsection (2) is provided less than 72 hours before
513 the physician performs the abortion; and

514 (b) in the physician's professional judgment, the abortion was necessary in a case
515 where:

516 (i) a ruptured membrane, documented by the attending or referring physician, will
517 cause a serious infection; or

518 (ii) a serious infection, documented by the attending or referring physician, will cause a
519 ruptured membrane.

520