

1 **H. B. 2351**

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3 (By Delegates Caputo (By Request) and Longstreth  
4 [Introduced January 12, 2011; referred to the  
5 Committee on Health and Human Resources then Finance.]  
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10 A BILL to amend and reenact §16-5-21 of the Code of West Virginia,  
11 1931, as amended, relating to providing for the issuance of a  
12 Certificate of Birth Resulting in Stillbirth by the State  
13 Registrar to parents of a stillborn who request the record to  
14 be prepared.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §16-5-21 of the Code of West Virginia, 1931, as amended,  
17 be amended and reenacted to read as follows:

18 **ARTICLE 5. VITAL STATISTICS.**

19 **§16-5-21. Reports of fetal death; record of birth resulting in**  
20 **stillbirth.**

21 (a) Each fetal death of 350 grams or more, and if weight is  
22 unknown, of twenty completed weeks of gestation or more, calculated  
23 from the date the last normal menstrual period began to the date of  
24 delivery, which occurs in this state, shall be reported within five

1 days after delivery to the section of vital statistics or as  
2 otherwise directed by the State Registrar.

3 (1) When a fetal death occurs, the person in charge of the  
4 institution or his or her designated representative shall prepare  
5 and file the report. In obtaining the information required by the  
6 report, all institutions shall use information gathering  
7 procedures, including worksheets, provided or approved by the State  
8 Registrar.

9 (2) When a fetal death occurs, the physician in attendance at  
10 or immediately after delivery shall prepare and file the report.

11 (3) When inquiry is required pursuant to article twelve,  
12 chapter sixty-one, or other applicable provisions of this code,  
13 the state Medical Examiner or designee or county medical examiner  
14 or county coroner shall investigate the cause of fetal death and  
15 shall prepare and file the report within five days. If after  
16 investigation, the state Medical Examiner or designee or county  
17 medical examiner or county coroner decline jurisdiction, the person  
18 declining jurisdiction may direct the local health officer to  
19 investigate the cause of fetal death and prepare and file the  
20 report.

21 (4) When a fetal death occurs in a moving conveyance and the  
22 fetus is first removed from the conveyance in this state, the place  
23 where the fetus was first removed from the conveyance will be  
24 considered the place of fetal death.

1 (b) When a fetus is found in this state and the place of death  
2 is unknown, the fetal death shall be recorded in this state, and  
3 the place where the fetus was found will be considered the place of  
4 fetal death.

5 (c) Record of birth resulting in stillbirth.

6 (1) Filing - A record of birth for each birth resulting in a  
7 stillbirth in this state, on or after July 1, 2011, for which a  
8 fetal death report is required under this section, shall be filed  
9 with the State Registrar within five days after the birth if the  
10 parent or parents of the stillbirth request to have a record of  
11 birth resulting in stillbirth prepared.

12 (2) Information to Parents -- The physician or other party  
13 responsible for filing a fetal death report under this section  
14 shall advise the parent or parents of a stillbirth:

15 (A) That they may request preparation of a record of birth  
16 resulting in stillbirth;

17 (B) That preparation of the record is optional; and

18 (C) How to obtain a certified copy of the record if one is  
19 requested and prepared.

20 (3) Preparation -- (A) Within five days after delivery of a  
21 stillbirth, the parent or parents of the stillbirth may prepare and  
22 file the record with the State Registrar, if the parent or parents  
23 of the stillbirth, after being advised as provided in subdivision  
24 (2), request to have a record of birth resulting in stillbirth

1 prepared.

2 (B) If the parent or parents of the stillbirth do not choose  
3 to provide a full name for the stillbirth, the parent or parents  
4 may choose to file only a last name.

5 (C) Either parent of the stillbirth or, if neither parent is  
6 available, another person with knowledge of the facts of the  
7 stillbirth shall attest to the accuracy of the personal data  
8 entered on the record in time to permit the filing of the record  
9 within five days after delivery.

10 (4) *Retroactive application* -- Notwithstanding subdivisions  
11 (1) thru (3), if a birth that occurred in this state at any time  
12 resulted in a stillbirth for which a fetal death report was  
13 required under this section, but a record of birth resulting in  
14 stillbirth was not prepared under subdivision (3), a parent of the  
15 stillbirth may submit to the State Registrar, on or after July 1,  
16 2011, a written request for preparation of a record of birth  
17 resulting in stillbirth and evidence of the facts of the stillbirth  
18 in the form and manner specified by the State Registrar. The State  
19 Registrar shall prepare and file the record of birth resulting in  
20 stillbirth within thirty days after receiving satisfactory evidence  
21 of the facts of the stillbirth.

22 (5) *Responsibilities of State Registrar* -- The State Registrar  
23 shall:

24 (A) Prescribe the form of and information to be included on a

1 record of birth resulting in stillbirth, which shall be as similar  
2 as possible to the form of and information included on a record of  
3 birth;

4 (B) Prescribe the form of and information to be provided by  
5 the parent of a stillbirth requesting a record of birth resulting  
6 in stillbirth under subdivisions (3) and (4) and make this form  
7 available on the Bureau for Public Health's web site;

8 (C) Issue a certified copy of a record of birth resulting in  
9 stillbirth to a parent of the stillbirth that is the subject of the  
10 record if:

11 (i) A record of birth resulting in stillbirth has been  
12 prepared and filed under subdivision (3) or (4); and

13 (ii) The parent requesting a certified copy of the record  
14 submits the request in writing; and

15 (D) Create and implement a process for entering, preparing,  
16 and handling stillbirth records in a similar manner to the  
17 processes for birth and fetal death records when feasible.

NOTE: The purpose of "Kirstin's bill" is to provide for the issuance by the State Registrar of a Certificate of Birth Resulting in Stillbirth to parents of a stillborn who request the record to be prepared.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.