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Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission:	Tennessee Department of Health Policy Planning And Assessment
Division:	Division of Vital Records
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1200-07-01	Vital Records
Rule Number	Rule Title
1200-07-01-.07	Disposition of Reports of Fetal Death and Induced Termination of Pregnancy
1200-07-01-.13	Fees for Copies and Searches
1200-07-01-.15	Certificates of Birth Resulting in Stillbirth

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Tennessee Department of Health
Policy Planning and Assessment
Division of Vital Records

Chapter 1200-07-01
Vital Records

Rule 1200-07-01-.07 Disposition of Reports of Fetal Death and Induced Termination of Pregnancy is amended by changing the title of the rule to Reports of Fetal Death and Induced Termination of Pregnancy and by deleting paragraph (2) in its entirety and substituting it instead with the following language, and deleting paragraph (4) in its entirety and renumbering paragraph (5) as new paragraph (4), so that as amended, the new title and paragraph (2) will read:

1200-07-01-.07 Reports of Fetal Death and Induced Termination of Pregnancy

- (2) A report of fetal death shall be submitted for each fetal death of a fetus weighing three hundred fifty (350) grams or more or for each fetal death of twenty (20) completed weeks gestation or more. The State Registrar shall not maintain any report of fetal death for a fetus weighing less than three hundred fifty (350) grams or, if weight is not reported, that shows less than twenty (20) completed weeks of gestation.

Rule 1200-07-01-.07 Disposition of Reports of Fetal Death and Induced Termination of Pregnancy is amended by deleting newly renumbered paragraph (4) in its entirety and substituting instead the following language, so that as amended, the newly renumbered paragraph (4) will read:

- (4) Except as noted in 1200-07-01-.07(3), reports of fetal death are not copied, issued, or otherwise released, except for statistical or research purposes approved by the State Registrar.

Authority: T.C.A. § 68-3-504.

Rule 1200-07-01-.13 Fees for Copies and Searches is amended by adding new subparagraphs (u), (v), (w) and (x) to paragraph (3), so that, as amended, the new subparagraphs (u), (v), (w) and (x) of paragraph (3) will read:

- (u) For preparing and filing a certificate of birth resulting in stillbirth \$15.00
- (v) For amending a certificate of birth resulting in stillbirth \$15.00
- (w) For a 3 year search of the files of certificates of birth resulting in stillbirth and issuance of a copy 15.00
- (x) For each additional copy of the same certificate of birth resulting in stillbirth issued at the same time \$5.00

Authority: T.C.A. § 68-3-514.

New Rule

1200-07-01-.15 Certificates of Birth Resulting in Stillbirth

- (1) "Stillbirth" means an unintended, intrauterine fetal death after a gestational age of not less than twenty (20) completed weeks or with a weight of three hundred fifty (350) grams or more.

- (2) The state registrar shall prepare a certificate of birth resulting in stillbirth when the following conditions are met:
- (a) A parent named in the report of fetal death (stillbirth) has submitted a request for a certificate of birth resulting in stillbirth; and
 - (b) The stillborn had attained a weight of three hundred fifty (350) grams or more or a gestational age of at least twenty (20) completed weeks.
 - (c) In the case of a stillbirth which occurred on or before July 1, 2010, or in the case in which no report of fetal death (stillbirth) is available, evidence that the stillborn met the gestational weight and/or age requirements set forth in (b) above may be proved by the notarized statement of the physician in attendance, birthing institution, nurse-midwife or other knowledgeable informant.
 - (d) The request for the certificate of birth resulting in stillbirth shall be made on the form provided by the department, which shall include
 1. The date of the stillbirth;
 2. The county in which the stillbirth occurred;
 3. The state file number of the report of fetal death (stillbirth), if known;
 4. The sex of the stillborn, if known;
 5. The name if any, selected by the requesting parent;
 6. The name of the mother who delivered the stillborn;
 7. The name of the father of the stillborn;
 8. In the case of a stillbirth to an unmarried mother, the father may submit the request upon submission of a voluntary acknowledgment of paternity; or a finding of parentage by a court.
- (3) In any case in which no given name is provided to the registrar on the report of fetal death (stillbirth), or the requestor does not provide a name to the registrar, the first name shall be left blank on the certificate, and the last name of the parent or parents shall be entered as provided in T.C.A. §68-3-301 et seq.
- (4) A certificate of birth resulting in stillbirth may be amended upon the request of the original requestor(s).
- (5) A certificate of birth resulting in stillbirth shall not be proof of a live birth for any purpose, nor shall it be used by the Department to calculate live birth statistics. Each certificate of birth resulting in stillbirth shall state "this certificate is not proof of live birth."

Authority: T.C.A. §§ 68-3-102, 68-3-514.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
NA					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Health, Division of Vital Records on 09/07/2010, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 7/16/10

Rulemaking Hearing(s) Conducted on: (add more dates). 09/07/10

Date: 9/16/10

Signature: Mary Kennedy

Name of Officer: Mary Kennedy

Deputy General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 9/16/10

Notary Public Signature: Theodora P. Wilkins

My commission expires on: 11/27/11



All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.

Attorney General and Reporter

11-8-10

Date

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Filed with the Department of State on: 11/10/10

Effective on: 2/8/11

Tre Hargett

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

No comments were received at the public hearing. Outside of the hearing, the Department received a comment requesting that the word "gender" in 1200-07-01.15 (2)(d)(4) be changed to "sex." The department has adopted this modification.

Regulatory Flexibility Addendum

Pursuant to T.C.A. § 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

This rule affects individuals. No economic impact on small business is anticipated.

Impact on Local Governments

Pursuant to T.C.A. 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

(Insert statement here)

This rule affects individuals. No impact on local government is projected.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The general assembly added to the duties of the division of Vital Records the preparation and issuance of certificates of birth resulting in stillbirth. These rules implement that law by doing away with the issuance of reports of fetal death, setting forth how a report of birth resulting in stillbirth will be generated, issued and amended, and setting the fees attendant thereto.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Public Chapter 778, effective July 1, 2010 and amending T.C.A. Title 68, Chapter 3, which creates the "certificate of birth resulting in stillbirth" and sets the conditions for its issuance.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

This rule affects individuals and families who have experienced a stillbirth. They urge adoption of the rule.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

No Attorney General opinions or reported cases have been identified which directly relate to this rule.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The fiscal impact of these rules is minimal.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Teresa Hendricks, Director of Vital Records and Mary Kennedy, Deputy General Counsel.

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Teresa Hendricks, Director of Vital Records and Mary Kennedy, Deputy General Counsel

- (H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Teresa Hendricks, Acting Registrar, Office of Vital Records, Central Services Building, 1st Floor, 421 5th Avenue North Nashville, Tennessee 37243, (615) 532-2600, Teresa.Hendricks@tn.gov
Mary Kennedy, Deputy General Counsel, 220 Athens Way, Suite 210, Nashville TN 37243; 615-253-4878, Mary.Kennedy@tn.gov

- (I)** Any additional information relevant to the rule proposed for continuation that the committee requests.

**RULES
OF
TENNESSEE DEPARTMENT OF HEALTH
POLICY PLANNING AND ASSESSMENT
DIVISION OF VITAL RECORDS**

**CHAPTER 1200-7-1
VITAL RECORDS**

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1200-7-1-.01 DUTIES OF STATE REGISTRAR.

- (1) Forms. All forms, certificates, and reports used in the system of vital records are the property of the Department of Public Health and shall be surrendered to the State Registrar of Vital Records hereinafter referred to as "State Registrar" upon demand. The forms prescribed and distributed by the State Registrar for reporting vital events shall be used only for official purposes. No forms shall be used in the reporting of vital events or making copies thereof except those furnished or approved by the State Registrar.
- (2) Requirements for Preparation of Certificates. All certificates and records relating to vital events must be prepared on a typewriter with a black ribbon. All signatures required shall be entered in black, unfading ink. Unless otherwise directed by the State Registrar, no certificate shall be complete and correct and acceptable for registration:
 - (a) That does not have the certifier's name typed or printed legibly under his signature;
 - (b) That does not supply all items of information called for thereon or satisfactorily account for their omission;
 - (c) That contains alterations or erasures;
 - (d) That does not contain handwritten signatures as required;
 - (e) That is marked "copy" or "duplicate,"
 - (f) That is a carbon copy;
 - (g) That is prepared on an improper form;
 - (h) That contains improper or inconsistent data;
 - (i) That contains an indefinite cause of death which denotes only symptoms of disease or conditions resulting from disease;

(Rule 1200-7-1-.05, continued)

Authority: T.C.A. §§4-5-202, 68-3-103, and 68-3-502. **Administrative History:** Original rule filed June 7, 1974. Repeal and new rule filed January 18, 1978; effective February 17, 1978. Amendment filed August 12, 1999; effective October 26, 1999.

1200-7-1-.06 DELAYED REGISTRATION OF DEATH.

- (1) The registration of a death after the time prescribed by statute and regulations shall be registered on the standard certificate of death form in the manner prescribed below:
 - (a) If the attending physician or medical examiner at the time of death and the attending funeral director or person who acted as such are available to complete and sign the certificate of death, it may be completed without additional evidence and filed with the State Registrar. However, for those certificates filed one year or more after the date of death, the physician or medical examiner and the funeral director or person who acted as such must state in accompanying affidavits that the information on the certificate is based on records kept in their files.
 - (b) In the absence of the attending physician or medical examiner, and the funeral director or person who acted as such, the certificate may be filed by the next of kin of the deceased and shall be accompanied by:
 1. An affidavit of the person filing the certificate swearing to the accuracy of the information on the certificate;
 2. Two documents which identify the deceased and his date and place of death.
- (2) In all cases, the State Registrar may require additional documentary evidence to prove the facts of death.
- (3) A summary statement of the evidence submitted in support of the delayed registration shall be endorsed on the certificate.

Authority: T.C.A. §§53-404 and 53-444. **Administrative History:** Original rule filed June 7, 1974. Repeal and new rule filed January 18, 1978; effective February 17, 1978.

~~1200-07-01-.07 DISPOSITION OF REPORTS OF FETAL DEATH AND INDUCED TERMINATION OF PREGNANCY.~~

Reports of Fetal Death and Induced Termination of Pregnancy

- (1) Reports of induced termination of pregnancy are statistical reports only and are not to be incorporated into the official records of the Division of Vital Records. The reports are to be forwarded directly to the Department of Health within ten (10) days after the procedure by the person in charge of the institution in which the procedure was performed or by the physician in attendance, if the induced termination did not occur in an institution. The State Registrar is authorized to dispose of such reports when all statistical processing of the reports has been accomplished. However, the State Registrar may establish an electronic file of such records, so that they will be available for future statistical and research projects; provided, however, such file shall not be made a part of the official records and the reports shall not be made available for the issuance of certified copies. Such file shall be retained for as long as the State Registrar deems necessary and it shall then be destroyed consistent with laws and rules pertaining to record retention.
- ~~(2) A report of fetal death shall be submitted for each fetal death of a fetus weighing five hundred (500) grams or more, or, in the absence of weight, for each fetal death of twenty-two (22) completed weeks gestation or more. The State Registrar shall not maintain any report of fetal~~

(Rule 1200-7-1-.07, continued)

~~death for a fetus weighing less than five hundred (500) grams or, if weight is not reported, that shows less than twenty-two (22) completed weeks of gestation.~~

(2) A report of fetal death shall be submitted for each fetal death of a fetus weighing three hundred fifty (350) grams or more or for each fetal death of twenty (20) completed weeks gestation or more. The State Registrar shall not maintain any report of fetal death for a fetus weighing less than three hundred fifty (350) grams or, if weight is not reported, that shows less than twenty (20) completed weeks of gestation.

(3) The report of fetal death is to be submitted within ten (10) days after delivery to the State Registrar by the person in charge of the institution in which the fetus was delivered; or by the physician in attendance, if the fetal death did not occur in an institution; or by the appropriate medical examiner, if the fetal death occurred without medical attendance.

~~(4) Certified copies of a report of fetal death may be issued only to the parent(s) named on the report and only if the length of gestation as shown on the report is twenty-four (24) weeks or more. Certified copies will not show medical information related to pregnancy history and delivery.~~

~~(5) Except as noted in 1200-7-1-.07(4), reports of fetal death are not copied, issued, or otherwise released, except for statistical or research purposes approved by the State Registrar.~~

(4) Except as noted in 1200-7-1-.07(3), reports of fetal death are not copied, issued, or otherwise released, except for statistical or research purposes approved by the State Registrar.

Authority: ~~Chapter 778 of the Public Acts of 2010. T.C.A. § 68-3-504.~~

T.C.A. §§4-5-202, 68-3-103, 68-3-504, and 68-3-505. **Administrative History:** Original rule filed June 7, 1974. Repeal and new rule filed January 18, 1978; effective February 17, 1978. Amendment filed May 17, 1979; effective July 2, 1979. Amendment filed August 6, 2002; effective October 20, 2002.

1200-7-1-.08 AUTHORIZATION FOR FINAL DISPOSITION.

(1) Removal of Body.

(a) Before removing a dead body or fetus from the place of death, the funeral director or person acting as such shall:

1. Obtain assurance from the attending physician that death is from natural causes and that the physician will assume responsibility for certifying to the cause of death or fetal death and receive permission to remove the body from the place of death; or
2. Notify the medical examiner if the case comes within his jurisdiction and receive authorization from him to remove the body;

(b) The funeral director or person acting as such shall secure and file a death certificate with the local registrar within five (5) days.

(2) Disinterment Permits.

(a) A disinterment permit shall be issued by the State Registrar or Local Registrar upon receipt of a written affidavit signed by the next of kin and the person who is in charge of the disinterment or upon receipt of an order of a court of competent jurisdiction directing such disinterment.

(Rule 1200-7-1-.13, continued)

- requested record, even if the record is not found and no information from it can be provided:\$15.00
- (o) Additional handling charge for non-routine, expedited service and all special delivery mail that requires special attention:\$5.00
- (p) Up to three free copies of the death certificate of a veteran of the United States Armed Services may be provided. The person requesting such copy must be related to the deceased within two (2) degrees of collateral or lineal kinship. (q)For a birth, marriage, or divorce record copy, certified or uncertified, issued to another government agency:.....\$12.00
- (q) For a birth, marriage, or divorce record copy, certified or uncertified, issued to another government agency:\$15.00
- (r) For a death record copy, certified or uncertified, issued to another government agency:.....\$7.00
- (s) For a certified birth abstract, issued to another government agency:.....\$8.00
- (t) For a permit to cremate a dead body:\$25.00
- (u) For preparing and filing a certificate of birth resulting in stillbirth \$15.00
- (v) For amending a certificate of birth resulting in stillbirth \$15.00
- (w) For a 3 year search of the files of certificates of birth resulting in stilbirth and issuance of a copy 15.00
- (x) For each additional copy of the same certificate of birth resulting in stillbirth issued at the same time \$5.00

Authority: Chapter 778 of the Public Acts of 2010. T.C.A. §, 68-3-514. T.C.A. §§4-5-202, 4-5-203, 4-5-404, 24-7-118, 68-3-103, 68-3-205, 68-3-206 and 68-3-207. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed January 18, 1978; effective February 17, 1978. Amendment filed May 17, 1979; effective July 2, 1979. Amendment filed July 1, 1982; effective August 2, 1982. Amendment filed July 3, 1984; effective August 1, 1984. Amendment filed May 29, 1987; effective July 13, 1987. Amendment filed February 19, 1988; effective April 4, 1988. Amendment filed October 27, 1988; effective December 11, 1988. Amendment filed June 30, 1994; effective September 13, 1994. Amendment filed August 12, 1999; effective October 26, 1999. Amendment filed August 6, 2002; effective October 20, 2002. Amendment filed August 20, 2008; effective November 3, 2008.

1200-7-1-.14 PERSONS REQUIRED TO KEEP RECORDS AND FILE REPORTS.

- (1) Each funeral director shall keep a record containing, as a minimum, the following information about each dead body or fetus he handles:
- (a) The date, place, and time of receipt;
- (b) The date, place, and manner of disposition;
- (c) If the dead body or fetus is delivered to another funeral director, the date of such delivery and the name and address of the funeral director to whom delivered;
- (d) The items required by the certificate of death in use when the event occurs for those events for which he is required to file the certificate.

(Rule 1200-7-1-.14, continued)

- (2) Each funeral director shall file a report with the Local Registrar by the third day of each month of each body and fetus for which he has been responsible during the preceding month. The report shall be on a form provided by the State Registrar and shall contain:
 - (a) full name of deceased
 - (b) date of death
 - (c) place of death
 - (d) name and address of funeral director
 - (c) name and address of physician last in attendance
- (3) All superintendents, managers, administrators or other persons in charge of hospitals, public or private nursing homes, or clinics, or other institutions, including penal institutions to which persons resort for treatment of disease, injury or childbirth or are committed by process of law shall report each birth, death, or fetal death occurring to the inmates of their institutions to the Local Registrar by the third day of the month after the event occurred. The report shall be made on a form furnished by the State Registrar and shall include all of the statistical information required by the State Registrar.

Authority: T.C.A. §§53-404 and 53-444. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed January 17, 1978; effective February 17, 1978.

1200-07-01-.15 Certificates of Birth Resulting in Stillbirth

- (1) "Stillbirth" means an unintended, intrauterine fetal death after a gestational age of not less than twenty (20) completed weeks or with a weight of three hundred fifty (350) grams or more.
- (2) The state registrar shall prepare a certificate of birth resulting in stillbirth when the following conditions are met:
 - (a) A parent named in the report of fetal death (stillbirth) has submitted a request for a certificate of birth resulting in stillbirth; and
 - (b) The stillborn had attained a weight of three hundred fifty (350) grams or more or a gestational age of at least twenty (20) completed weeks.
 - (c) In the case of a stillbirth which occurred on or before July 1, 2010, or in the case in which no report of fetal death (stillbirth) is available, evidence that the stillborn met the gestational weight and/or age requirements set forth in (b) above may be proved by the notarized statement of the physician in attendance, birthing institution, nurse-midwife or other knowledgeable informant.
 - (d) The request for the certificate of birth resulting in stillbirth shall be made on the form provided by the department, which shall include
 1. The date of the stillbirth;
 2. The county in which the stillbirth occurred;

(Rule 1200-7-1-.14, continued)

3. The state file number of the report of fetal death (stillbirth), if known;
 4. The sex of the stillborn, if known;
 5. The name if any, selected by the requesting parent;
 6. The name of the mother who delivered the stillborn;
 7. The name of the father of the stillborn;
 8. In the case of a stillbirth to an unmarried mother, the father may submit the request upon submission of a voluntary acknowledgment of paternity; or a finding of parentage by a court.
- (3) In any case in which no given name is provided to the registrar, on thereport of fetal death (stillbirth), or the requestor does not provide a name to the registrar, the first name shall be left blank on the certificate, and the last name of the parent or parents shall be entered as provided in T.C.A §68-3-301 et seq.
- (4) A certificate of birth resulting in stillbirth may be amended upon the request of the original requestor(s).
- (5) A certificate of birth resulting in stillbirth shall not be proof of a live birth for any purpose, nor shall it be used by the Department to caculate live birth statistics. Each certificate of birth resulting in stillbirth shall state "this certificate is not proof of live birth."

Authority: Chapter 778 of the Public Acts of 2010. T.C.A. §§ 68-3-102, 68-3-514.