



Ninety-Eighth Legislature - First Session - 2003
Committee Statement
LB 95

Hearing Date: January 23, 2003
Committee On: Health and Human Services

Introducer(s): (Maxwell)
Title: Change provisions relating to remains of dead unborn children

Roll Call Vote – Final Committee Action:

- Advanced to General File
 - X Advanced to General File with Amendments
 - Indefinitely Postponed
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Vote Results:

7	Yes	Senator Jensen, Byars, Cunningham, Maxwell, Erdman, Johnson and Stuthman
	No	
	Present, not voting	
	Absent	

Proponents:

Senator Maxwell
Shannon Saltzman
Michelle Saltzman

Representing:

Introducer
Self
Self

Opponents:

Timothy Butz
Roger Keetle

Representing:

ACLU
Nebraska Hospital Association

Neutral:

Representing:

Summary of purpose and/or changes: The bill adds new provisions to section 71-1339 relating to the disposition of remains of a dead unborn child. The bill provides the following order of persons vested with the right to control the disposition of such remains, subject to section 23-1824 and other applicable laws:

1. a surviving parent of the unborn child,
 2. an adult brother or sister of the unborn child,
 3. an adult person in the next degree of kindred to the unborn child in the order in which such person are entitled to succeed to the estate of such child,
 4. the State Anatomical Board, and
 5. the county board of the county in which the death occurred.
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The bill requires that the person or persons named above be informed upon delivery of the dead unborn child of their right to control the disposition of the child's remains. Disposition of the remains may be made by a hospital or by the physician of the child's mother, with due respect for the unborn child and in accordance with law, when requested by the person or persons vested with the right to control the disposition of the remains of the unborn child or within seven days when no decision has been made by such person or persons.

The bill permits the hospital or physician to perform any legally required tests on the remains of the dead unborn child before releasing such remains. Dead unborn child is defined as "an individual member of the species *Homo sapiens*, at any stage of development in utero."

Explanation of amendments, if any: The committee amendment (AM 576) replaces the bill as introduced. It strikes provisions in section 71-605 relating to hospital disposition of a "stillborn infant," and inserts a new section in Chapter 71, article 20 relating to disposition of a "child born dead" at a hospital. The amendment requires every hospital licensed in the state to maintain a written policy for the disposition of the remains of a child born dead at such hospital. The parent of a child born dead has the right to dispose of the remains of the child, except that disposition may be made by the hospital if the parent does not give such direction to the hospital within fourteen days after delivery of the remains. The policy and the disposition must comply with all applicable provisions of state and federal law. Upon delivery of the remains, the hospital must inform the parent of their right to dispose of the remains and must give the parent a copy of their policy with respect to disposition of the remains of a child born dead. Child born is defined in the committee amendment as "a child at any stage of gestation (a) who has died in utero and (b) whose identifiable remains have been removed from the uterus of the mother." The committee amendment does not apply to the performance of elective abortions.

Senator Jim Jensen, Chairperson