

Updated October 28, 2019

ISDH Guidance for Implementation of Fetal Disposition Requirements from House Enrolled Act (HEA) 1337

Dear Partners:

As a result of a recent U.S. Supreme Court decision, an injunction preventing the enforcement of certain provisions of HEA 1337-2016 was lifted September 3, 2019 and these provisions are now enforceable. This law updates the requirements for the disposition of miscarried remains/aborted remains (“fetal remains”) in Indiana. The ISDH Consumer Services and Health Care Regulation Commission provides the following guidance:

As of September 3, 2019:

- The only legal methods of disposition of miscarried remains/aborted remains (“fetal remains”) for healthcare facilities and providers subject to infectious waste laws are burial or cremation, including simultaneous cremation.
- Fetal remains cannot be disposed of as infectious waste.
- Within 10 days of the miscarriage or abortion, providers must arrange for the burial/cremation of the fetal remains with a crematorium or funeral home or preserve the remains for burial/cremation.
- A Burial Transit Permit and Disposition for Fetal Remains form are to be used when a provider transfers the fetal remains to a crematorium or funeral home for final disposition. A certificate of stillbirth for fetal remains under 20 weeks gestation is not required for local health departments to issue a Burial Transit Permit.
- Only one Burial Transit Permit and Disposition for Fetal Remains form is required for each transport of fetal remains for simultaneous cremation.
- Providers can transport fetal remains to another healthcare facility to preserve fetal remains at that facility without a Burial Transit Permit.

Some portions of previous fetal remains disposition laws remain unchanged:

- Parents and pregnant women may choose to use either the healthcare facility’s method of final disposition or choose a location that is different than the healthcare facility for final disposition.
- Parents or the pregnant woman are responsible for any costs if they choose a location other than what the healthcare facility uses.
- Healthcare facilities are required to inform the pregnant woman or parents of their right to determine final disposition of fetal remains and to document that decision in the woman’s medical record.
- Certificates of stillbirth are still required for non-live births 20 weeks of gestation or later.