

## Legal Requirements When a Child Dies

*The information in this memo is not legal advice, and it is not a substitute for legal advice; it is intended for general informational purposes only. The information in this memo is based on the laws of the State of Texas, and it cannot be relied on to provide accurate information for any other jurisdiction. The information in this memo is based on Chapter 193 of the Texas Health and Safety Code, Chapter 264 of the Texas Family Code, Chapter 49 of the Texas Code of Criminal Procedure, and Title 25, Chapter 181 of the Texas Administrative Code. If you have questions concerning any of the information covered in this memo, please consult an attorney.*

### Unborn Infants: Gestational Age 0-19 Weeks

When a loss occurs of an unborn baby who weighs less than 350 grams (about .8 pounds) or whose gestational age is less than 20 weeks old, no reporting is required in the State of Texas.

### Unborn Infants: Gestational Age 20-40 Weeks

When a loss occurs of an unborn baby who weighs 350 grams (about .8 pounds) or more, or whose gestational age is 20 weeks or older, the law considers this to be a fetal death, or a stillbirth. The State of Texas requires that this death be reported to the Health Department, and a "Fetal Death Certificate" be issued.

#### When the Loss Occurs in the Hospital

Each hospital may have their own policy to specifically handle these matters, but state laws require the hospital to report the loss.

#### When the Loss Occurs Outside of the Hospital

When a loss of an unborn infant occurs outside the hospital, the person responsible for the remains of the baby has a duty to notify authorities of the death. Therefore, in the case of losses of unborn infants 20 weeks or greater outside of the hospital, call 9-1-1.

### Infants and Children Ages 0-6 Years

#### When the Loss Occurs in the Hospital

When the loss occurs at the hospital and is attended by a physician, it is not necessary to notify law enforcement authorities if the death is from medical causes that can be determined by the doctor. However, if the doctor cannot determine the medical cause, law enforcement authorities and the justice of the peace must be notified.

#### When the Loss Occurs Outside of the Hospital

If the loss occurs outside of the presence of a physician, is an "unexpected" loss (as defined by the law), or if the loss is suspected to be the result of abuse or neglect, the justice of the peace and law enforcement authorities must be notified.

If the loss is an unexpected loss or suspected to be the result of abuse or neglect, the law requires that the justice of the peace order an autopsy.

When the justice of the peace must be notified of a death, the law prohibits anyone from disturbing the body until the justice of the peace has conducted an investigation. If the justice of the peace orders an autopsy, there are further requirements for preparation of the body and to prevent it from being disturbed.