



## MEMORANDUM

**TO:** The Pennsylvania House Health Committee

**FROM:** Elizabeth Randol, Legislative Director, ACLU of Pennsylvania

**DATE:** May 21, 2021

**RE: OPPOSITION TO HOUSE BILL 118 P.N. 86 (RYAN)**

### Bill Summary

**Definition:** [HB 118](#) (PN 86) categorizes a miscarriage as a death, regardless of the length of the pregnancy, and therefore requires the health facility to file a death certificate, obtain a burial permit, and to provide ritual burial or cremation.

**Mandates:** Hospitals or clinics must arrange for ritual disposal (via burial or cremation) of all medical tissue from a miscarriage or abortion, no matter how early in the pregnancy.

**Certificates:** Requires a death certificate be issued for all medical tissue.

**Penalties:** A healthcare facility that violates this act will be fined between \$50 and \$300 or a person charged with fulfilling these duties may be imprisoned in county jail for up to thirty days.

**On behalf of over 100,000 members and supporters of the ACLU of Pennsylvania, I respectfully urge you to oppose House Bill 118.**

**HB 118 is unnecessary:** Under current law, there is also nothing that prevents a woman from having ritual burial for a miscarriage that is less than 16 weeks. [HB 118](#) appears to make this provision required.

**HB 118 is redundant:** Current law already requires the procedures outlined in HB 118 for pregnancies that end after 16 weeks. Clinics currently handle embryonic or fetal tissue in accordance with state law, to ensure that it is safe and appropriate. Pennsylvania already regulates: [fetal death and Department of Health requirements following abortion, miscarriage, or stillbirth](#); [examination and disposal of tissue following an abortion](#); and [medical disposal requirements](#).

**HB 118 dangerously expands the definition of a fetus:** HB 118 expands the definition of “fetal remains,” which now includes all medical tissue from the moment conception – not just fetal tissue, but also embryonic tissue and tissue containing a fertilized ovum or blastocyst. Creating new statutory definitions that redefine terms like “fetus” or “person” are pernicious but common tactics used to undermine women’s constitutional right to abortion.

**HB 118 violates women’s privacy:** By mandating death certificates, HB 118 compromises patient privacy by effectively creating a state-run database of miscarriages and abortion. Under current state law, miscarriages prior to 16 weeks are documented in a woman’s health record and are confidential under both federal and state laws. These records are never released without the woman’s permission. By requiring a death certificate for ALL miscarriages, family members could have immediate access to the record and it would later become part of the public record, compromising a woman’s privacy and safety. Miscarriage is a common experience and difficult enough without this unnecessary political interference and surveillance.

**HB 118 imposes undue burdens:** If a woman does not choose this process, she will be responsible for potentially significant fees to opt out of this legal requirement. Medical facilities will be required to find ways to carry out expensive burials and cremations as well as places to accept the material. Legislation like HB 118 frequently creates difficult, vague, conflicting, and sometimes impossible, new regulations for clinics to comply with that are often intended to block women’s access to abortion.

**For these reasons, we urge you to oppose House Bill 118.**