

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2082

SPONSOR: Senator Webster

SUBJECT: Disposition of Fetal Remains

DATE: March 29, 2003 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harkey</u>	<u>Wilson</u>	<u>HC</u>	<u>Favorable</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill may be cited as the “Stephanie Saboor Grieving Parents Act”. The bill requires a physician licensed under ch. 458 or ch. 459, F.S., a nurse licensed under ch. 464, F.S., a midwife licensed under ch. 467, F.S., a birth center licensed under ch. 383, F.S., or a hospital, ambulatory surgical center, or mobile surgical facility licensed under ch. 395, F.S., that has custody of fetal remains following a spontaneous fetal demise after a gestation period of less than 20 weeks to notify the mother of her option to arrange for the burial or cremation of the fetal remains.

The Department of Health must adopt rules for the development of forms to be used by the health care practitioner for notification and election, and the Agency for Health Care Administration (AHCA) must adopt rules for the development of forms to be used by the facilities. The forms must be provided to the mother by the health care practitioner or facility that has custody of the fetal remains following a spontaneous fetal demise.

The bill creates s. 383.33625, F.S.

II. Present Situation:

Florida law authorizes funeral directors to bury fetal remains of less than 20 weeks’ gestation if a legally authorized person, such as the parent, requests it. There is no requirement for health care facilities or health care practitioners to notify the parents of their option to bury such fetal remains.

For purposes of vital statistics, s. 382.002, F.S., defines a live birth as the full expulsion or extraction of a product of human conception from the mother, at whatever stage of pregnancy, after which such expulsion the fetus breathes, or shows any other sign of life such as beating of

the heart, pulsation of the umbilical cord or definite movement of voluntary muscles. It does not matter whether the umbilical cord or placenta is still attached or not. If the fetus dies afterwards, then both birth and death certificates are issued. "Fetal death" is defined as the death of a fetus prior to its expulsion or extraction at 20 or more weeks and after which expulsion or extraction there is no sign of life such as beating of the heart, pulsation of the umbilical cord or definite movement of voluntary muscles. Only in those cases is a fetal death certificate issued.

A death or fetal death certificate must be issued and registered before interment or other disposal of a dead body or fetus or any part of such body or fetus is permitted, as required in s. 382.008, F.S. The funeral director who first assumes custody of such body or fetus has to obtain a burial-transit permit prior to final disposition or removal of the body or fetus, under ss. 382.006-007, F.S.

While the law does not provide for the issuance of a fetal death certificate for a fetus that is less than 20 weeks gestational age, it does provide for the burial of a fetus of less than 20 weeks of gestational age. Under s. 470.0294, F.S., a legally authorized person, such as a parent, may authorize a funeral director to lawfully dispose of fetal remains in circumstances in which a fetal death certificate has not been issued.

There is currently no statutory law requiring hospitals to notify a biological parent of the right to claim or otherwise arrange for the burial, cremation or other disposition of fetal remains that are less than 20 gestational weeks old resulting from miscarriage or stillbirth. Hospitals usually have a policy that provides for sensitivity to each patient's circumstances, beliefs, and customs at a time of loss. However, a hospital's miscarriage policy might or might not include informing the parents of their option of burying the fetal remains. In situations where a funeral director has not been asked to dispose of fetal remains, hospitals are otherwise required to dispose of or remove fetal remains (as may be directed by the physician or the medical examiner) in a manner that does not pose a public hazard.

Licensed health care practitioners who might provide health care for a mother who lost a baby through miscarriage would include a physician licensed under ch. 458 or ch. 459, F.S., a nurse licensed under ch. 464, F.S., or a midwife licensed under ch. 467, F.S. Facilities that might have custody of fetal remains following a spontaneous fetal demise after a gestation period of less than 20 weeks include a birth center licensed under ch. 383, F.S., or a hospital, ambulatory surgical center, or mobile surgical facility licensed under ch. 395, F.S.

Stephanie Saboor is a Central Florida resident who lost her baby just after the 10th week of pregnancy. She was in Illinois at the time of the miscarriage and was able to place the fetal remains in a cemetery.

III. Effect of Proposed Changes:

This bill may be cited as the "Stephanie Saboor Grieving Parents Act". The bill creates s. 383.33625, F.S., to require a physician licensed under ch. 458 or ch. 459, F.S., a nurse licensed under ch. 464, F.S., or a midwife licensed under ch. 467, F.S., who has custody of fetal remains following a spontaneous fetal demise, i.e., a miscarriage, after a gestation period of less than 20 weeks must notify the mother of her option to arrange for the burial or cremation of the fetal

remains. Notification may also include other options, such as a ceremony, a certificate, or common burial of the fetal remains.

The Department of Health (DOH) must adopt rules for the development of forms to be used by the health care practitioner for notification and election. The forms must be provided to the mother by the health care practitioner.

A birth center licensed under ch. 383, F.S., or a hospital, ambulatory surgical center, or mobile surgical facility licensed under ch. 395, F.S., having custody of fetal remains following a spontaneous fetal demise after a gestation period of less than 20 weeks must notify the mother of her option to arrange for the burial or cremation of the fetal remains. Notification may also include other options, such as a ceremony, a certificate, or common burial of the fetal remains.

AHCA must adopt rules for the development of forms to be used by the facility for notifications and elections, and the hospital must provide the forms to the mother.

The effective date of the bill is upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Physicians, nurses, midwives, hospitals, ambulatory surgical centers, mobile surgical facilities, and birth centers would have to provide a form to every mother who lost a baby through spontaneous fetal demise at less than 20 weeks' gestational age.

C. Government Sector Impact:

AHCA must adopt rules for the development of the form to be used by health care facilities, and DOH must develop rules for the development of forms to be used by health care practitioners.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill requires that the mother be informed but not the father, while under s. 470.0294, F.S, a legally authorized person could authorize a funeral director to dispose of fetal remains when a fetal death certificate has not been issued, i.e., at less than 20 weeks' gestational age.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
