

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government—The bill creates a “certificate of birth resulting in stillbirth.” The certificate of birth resulting in stillbirth is optional and is in addition to the certificate of fetal death. The bill increases the rulemaking authority of the Department of Health.

Empower Families—The bill creates a “certificate of birth resulting in stillbirth.” The certificate of birth resulting in stillbirth is optional and is in addition to the certificate of fetal death.

B. EFFECT OF PROPOSED CHANGES:

Vital Records: Births, Deaths, and Fetal Deaths

The Florida Vital Statistics Act¹ authorizes the Department of Health to establish an Office of Vital Statistics, which is responsible for the uniform and efficient registration, compilation, storage, and preservation of all vital records² in Florida, including births and fetal deaths.³ It also permits the Department of Health to appoint a state registrar of vital statistics for each registration district in the state.⁴

Section 382.031, Florida Statutes, sets forth the requirements for certificates of births for live births.⁵ Section 382.008, Florida Statutes, sets forth the requirements for certificates of death and fetal death.⁶ This bill amends these sections to authorize the state registrar to receive certificates of birth, death, and fetal death through facsimile or other electronic means. The electronic receipt is permitted for all required birth, death, and fetal death filings and constitutes the required delivery.

Vital Records: Stillbirths

There currently is no separate definition, category, or certificate for a stillbirth,⁷ which is “an unintended, intrauterine fetal death after a gestational age of not less than 20 completed weeks.”⁸ This bill creates a definition of stillbirth⁹ and creates section 382.0085, Florida Statutes, to provide for a “stillbirth registration.”

The bill requires the Department of Health to issue a certificate of birth resulting in stillbirth within 60 days after the request of a parent named on a fetal death certificate and allows a parent to request a certificate of birth resulting in stillbirth regardless of the date on which the certificate of fetal death was issued. The bill provides that the certificate of birth resulting in stillbirth is a public record.

¹ Fla. Stat. § 382.001 (2005) (provides that chapter 382, Florida Statutes, is the Florida Vital Statistics Act).

² Fla. Stat. § 382.002(13) (2005) (vital records include certificates or reports of birth, death, fetal death, marriage, dissolution of marriage (divorce), and name changes).

³ Fla. Stat. § 382.003 (2005).

⁴ *Id.*

⁵ Fla. Stat. § 382.002(9) (2005) (“the complete expulsion or extraction of a product of human conception from its mother, irrespective of the duration of pregnancy, which, after such expulsion, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, and definite movement of the voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached”).

⁶ Fla. Stat. § 382.002(5) (2005) (“death prior to the complete expulsion or extraction of a product of human conception from its mother if the 20th week of gestation has been reached and the death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles”).

⁷ Stillbirths are recorded as fetal deaths. In 2004, there were 1,701 fetal deaths of 20 or more weeks gestation (stillbirths). Fla. Dept. of Health, *Florida Vital Statistics Annual Report*, Table F-1 (2004), available at <http://www.flpublichealth.com/VSBOOK/VSBOOK.aspx?CEID=570 &Year=2004> (last visited Mar. 6, 2006).

⁸ Fla. HB 439 CS (2005).

⁹ The bill creates a new definition in section 382.002(14), Florida Statutes.

Information to the Parents

The bill directs the person who is required to file a fetal death certificate to advise the parent of a stillborn child:

- That the parent may request the preparation of a certificate of birth resulting in stillbirth in addition to the fetal death certificate.
- That the parent may obtain a certificate of birth resulting in stillbirth by contacting the Office of Vital Statistics.
- How the parent may contact the Office of Vital Statistics to request a certificate of birth resulting in stillbirth.
- That a copy of the original certificate of birth resulting in stillbirth is a document that is available as a public record when held by an agency as defined under section 119.011(2), Florida Statutes.

The bill also requires the Office of Vital Statistics to make the public records disclosure to the parents.

Requesting a Certificate of Birth Resulting in Stillbirth

The bill provides that the request for a certificate of birth resulting in stillbirth must be on a form designated by the department. The request must include the date of the stillbirth and the county in which the stillbirth occurred. In addition, the state file number from the fetal death report must normally be provided.

Requirements for the Certificate of Birth Resulting in Stillbirth

The bill requires the certificate of birth resulting in stillbirth to contain the date of the stillbirth, the name of the county in which the stillbirth occurred, the name of the stillborn child, the state file number of the corresponding certificate of fetal death, and a notification.¹⁰ The name of the stillborn child must be the same as that provided on the original or amended certificate of the fetal death report.¹¹ If there is no name on the original or amended fetal death certificate and the requesting parent does not wish to provide a name, the bill requires the Office of Vital Statistics to fill in the certificate of birth resulting in stillbirth with the name “baby boy” or “baby girl” and the last name of the parents.¹²

Limitations on the Certificate of Birth Resulting in Stillbirth

The bill prohibits the Office of Vital Statistics from using a certificate of birth resulting in stillbirth to calculate live birth statistics. The bill also prohibits the stillbirth registration provisions, or the definition of stillbirth, from being used to “establish, bring, or support a civil cause of action seeking damages against any person or entity for bodily injury, personal injury, or wrongful death for a stillbirth.”

Related Administrative Authority

The bill authorizes the Department of Health to adopt rules regarding the form, content, and process for the certificate of birth resulting in stillbirth. The bill also provides that it is final agency action, which is not subject to review under chapter 120, Florida Statutes, for the Office of Vital Statistics to refuse to issue a certificate to a person who is not a parent named on the fetal death certificate and who is not entitled to a certificate of birth resulting in stillbirth.

The bill authorizes the Department of Health to charge a fee of not less than \$3 or more than \$5 for processing and filing a new certificate of birth resulting in stillbirth.

¹⁰ The certificate of birth resulting in stillbirth must contain the following statement: “This certificate is not proof of live birth.”

¹¹ Fla. Stat. § 382.008 (2005).

¹² Fla. Stat. § 382.013 (2005) (provides for the naming of a child).

Stillbirth Legislation in Other States

Thirteen other states have passed legislation which provides a certificate that includes the words "Certificate of Birth" in the title to the parents of stillborn children: Arizona (2001), Indiana (2002), Louisiana (2003), Maryland (2003), Massachusetts (2002), Minnesota (2005), Missouri (2004), New Jersey (2004), South Carolina (2004), Texas (2005), Utah (2002), Virginia (2003), and Wisconsin (2004).¹³

C. SECTION DIRECTORY:

Section 1. Amends section 382.002, Florida Statutes, providing definitions.

Section 2. Amends section 382.008, Florida Statutes, authorizing the electronic receipt of death or fetal death certificates.

Section 3. Creates section 382.0085, Florida Statutes, providing for stillbirth registration, a certificate of birth resulting in stillbirth, and related requirements.

Section 4. Amends section 382.013, Florida Statutes, authorizing the electronic receipt of birth certificates.

Section 3. Amends section 382.0255, Florida Statutes, specifying a fee.

Section 4. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

If the Department of Health sets a \$3 fee, the estimated revenue would be \$201 in year one, and \$300 in year two. If the fee is set at \$5, the estimated revenue would be \$335 in year one, and \$500 in year two.

2. Expenditures:

The Department of Health estimates a \$4,700 first-year, nonrecurring fiscal impact on state government: \$1,200 for form design/printing costs and \$3,500 for computer system modifications.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to create, modify, amend, or eliminate revenues of local governments.

2. Expenditures:

This bill does not appear to create, modify, amend, or eliminate expenditures of local governments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The Office of Vital Statistics is authorized to charge a fee for a certificate of birth resulting in stillbirth.

D. FISCAL COMMENTS:

None.

¹³ MISS Foundation, Legislative Reference Site, at <http://www.missingangelsbill.org/stchart.html> (last visited Mar. 6, 2006)

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not appear to reduce the percentage of state tax shared with counties or municipalities. This bill does not appear reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Department of Health to adopt rules regarding the form, content, and process for the certificate of birth resulting in stillbirth.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On February 22, 2006 the Health Care Regulation Committee adopted three amendments:

- Amendment 1—Specified that a Certificate of Birth Resulting in Stillbirth is a public record.
- Amendment 2—Removed a time constraint on the Department of Health's development of the form and content of the Certificate of Birth Resulting in Stillbirth by rule.
- Amendment 3—Requires the Office of Vital Statistics to inform any patient that requests a Certificate of Birth Resulting in Stillbirth that the document is an official public record.

The Health Care Regulation Committee reported the bill favorably with committee substitute. The analysis is drafted to the committee substitute.

On March 8, 2006, the Governmental Operations Committee adopted two amendments:

- Amendment 1—Revised and reorganized provisions related to stillbirth registration.
 - Specifically authorizes parents of a stillborn child to receive a certificate of birth resulting in stillbirth.
 - Continues to require certain notifications to parents by the person who files the fetal death certificate.
 - Sets forth requirements for the request of a certificate of birth resulting in stillbirth.
 - Details required elements of the certificate of birth resulting in stillbirth.
 - Provides that the certificate of birth resulting in stillbirth is a public record and continues to require notification by the Office of Vital Statistics.
 - Revises the applicable rulemaking authority of the Department of Health.
- Amendment 2—Expands the scope of the bill to permit the electronic receipt of certificates of birth, death, or fetal death.

The Governmental Operations Committee reported the bill favorably with committee substitute.

The analysis is drafted to the committee substitute.

On March 20, 2006, the Health Care Appropriations Committee adopted a technical amendment that changed all references of local registrar to state registrar. The committee reported the bill favorably with committee substitute. The analysis is drafted to the committee substitute.