



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – This bill will require that state, county, and municipal law enforcement agencies who are taking the lead in an investigation notify a decedent's next of kin, as further described below.

Empower Families – This bill requires law enforcement agencies to notify a decedent's next of kin when there is reason to believe the death is unknown to the next of kin, and that the death was the result of criminal activity, an accident, suicide, a suspicious or unusual circumstance, or use of a controlled substance.

#### B. EFFECT OF PROPOSED CHANGES:

Nieves Arambul and Robert Pardo both died from drug overdoses. In both instances, local officials apparently failed to notify next of kin of the deaths. In Arambul's case, strangers notified the 26-year old's parents that their son had died. A friend of Robert Pardo's notified Pardo's parents that their 23-year old had died.<sup>1</sup>

Under current law, when any person dies in this state of criminal violence; by accident; by suicide; suddenly, when in apparent good health; unattended by a practicing physician or other recognized practitioner; in any prison or penal institution; in police custody; in any suspicious or unusual circumstance; by criminal abortion; by poison; by disease constituting a threat to public health; or by disease, injury, or toxic agent resulting from employment; the medical examiner must ensure that the next of kin is notified that the medical examiner's office is investigating the death.<sup>2</sup> Law enforcement agencies have a duty to identify unidentified decedents, and must, in the case of a homicide, request that the victim's next of kin complete a victim notification card.<sup>3</sup> Law enforcement officers assigned to and investigating a death also have a duty to "immediately establish and maintain liaison with the medical examiner during the investigation into the cause of death."<sup>4</sup> The Florida Association of Medical Examiners' *Practice Guidelines for Florida Medical Examiners* states that medical examiner personnel responding to a scene should "assist law enforcement, as needed, in informing family members that an investigation of the death and examination of the body will be conducted by the medical examiner, what reports might be available to them, when the body will be released, and what support agencies are available." At this time, there is no statutory requirement that law enforcement notify next of kin when a death occurs.

A survey of 14 of Florida's 24 medical examiner districts revealed that currently, local law enforcement agencies notify next of kin of a death. Each medical examiner district surveyed expressed that they routinely cooperate with local law enforcement agencies to identify decedents and investigate deaths.

Additionally, representatives from the Florida Network of Victim Witness Services, Inc., the Florida Sheriff's Association, and the Florida Police Chief's Association state that although procedures for notification may vary, local law enforcement agencies currently notify next of kin when there has been a death.

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<sup>1</sup> [http://www.sptimes.com/2004/06/22/State/2\\_mothers\\_push\\_for\\_la.shtml](http://www.sptimes.com/2004/06/22/State/2_mothers_push_for_la.shtml)

<sup>2</sup> Rule 11G-2.001(5)(e), F.A.C.

<sup>3</sup> Sections 406.145 and 960.001, F.S.

<sup>4</sup> Section 406.14, F.S.

## Effect of the Bill

This bill requires that a state, county, or municipal law enforcement agency in the jurisdiction where a death occurred or a body is found that is taking the lead in the investigation must, after preliminary determination of the cause of death, contact the decedent's next of kin:

- when there is verifiable documentation of a decedent's identity,
- when there is reason to believe that a decedent death is unknown to the next of kin, and
- where a decedent's death is the result of criminal activity; an accident; suicide; a suspicious or unusual circumstance; or use of a controlled substance or poison.

The responsible law enforcement agency must document in writing their attempts to notify the next of kin and must include such a requirement in their internal procedures. The responsible law enforcement agency must make prompt, in-person notification in a manner that would not cause discomfort to the person(s) being notified and, if victim advocate and chaplain services are available, inform the next of kin on how they may use such services. This bill requires that notification be made only after approval of a supervisor or homicide detective designated by the law enforcement agency. When proper notification is not made, this bill makes law enforcement agencies responsible for disciplining employees and requires agencies to provide a written explanation to the next of kin that includes a statement of the disciplinary action taken against the officer. This bill provides that law enforcement agencies may establish next of kin notification procedures.

This bill also provides that if the decedent's next of kin is not within the jurisdiction where the death occurred or body is found, the law enforcement agency responsible for making notification must send notice of the death to the agency with jurisdiction where the next of kin is located and request that such agency:

- immediately contact the next of kin,
- provide information regarding any available victim advocate and chaplain services, and
- inform the requesting agency in writing as to how and when the notification was made.

The requesting agency must follow up with a telephone call within 24 hours if they have not heard from the agency with jurisdiction.

## C. SECTION DIRECTORY:

**Section 1.** This act is cited as the "Pardo-Arambul Act."

**Section 2.** Creates s. 960.046, F.S., requiring state, county, and municipal law enforcement agencies who are taking the lead in an investigation to notify a decedent's next of kin; requiring prompt, in-person notification; requiring agencies to document notification attempts in writing; requiring a written explanation to the next of kin if proper notification is not made; requiring agencies to forward death notices to law enforcement agencies in jurisdictions where the next of kin is located; requiring agencies to provide available victim advocate and chaplain services information to next of kin.

**Section 3.** This act takes effect July 1, 2006.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

2. Expenditures:  
Indeterminate - See fiscal comments.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:  
None.
2. Expenditures:  
Indeterminate - See fiscal comments.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

Although local law enforcement agencies currently notify next of kin, agencies vary as to how notification is made (e.g. some agencies allow victim advocates to make notification rather than officers). This bill would require that a law enforcement officer make in-person notification and document all notification attempts in writing. This bill also requires that law enforcement provide a written explanation to the next of kin when proper notification was not made. There are no data available to estimate the number of death notifications made by local law enforcement agencies each year, whether such notifications are being made by law enforcement officers or other personnel, or whether agency policy require notification attempts to be made in writing. Thus, data to calculate the cost of this bill are unavailable. However, this bill would have a fiscal impact on law enforcement agencies that currently allow individuals other than law enforcement officers to notify next of kin. Additionally, this bill would have a fiscal impact on law enforcement agencies that currently do not require documentation of their notification attempts.

### **III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Although local law enforcement agencies currently notify next of kin, agencies vary as to how notification is made (e.g. some agencies allow victim advocates to make notification rather than officers). This bill would require that a law enforcement officer make in-person notification and document all notification attempts in writing. This bill also requires that law enforcement provide a written explanation to the next of kin when proper notification was not made. The provisions of this bill require counties and cities to take actions that may require the expenditure of funds (e.g. hiring officers to fulfill the in-person notification and written documentation obligations). There are no data available to estimate the number of death notifications made by local law enforcement agencies each year. Thus, data to calculate the cost of this bill are unavailable. However, it is possible that the fiscal impact of this bill could be significant.<sup>5</sup> If the bill is determined to have a significant fiscal impact, the act may not be binding upon local governments unless the legislature finds that it fulfills an important state interest and the bill passes by 2/3 vote of each house.

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<sup>5</sup> For purposes of legislative application of Article VII, Section 18, the term "significant" means an amount greater than the average statewide population for the applicable fiscal year times ten cents. In 2004, the Office of Economic and Demographic Research reported that the estimate of Florida's population was 17,516,732. This number, multiplied by \$0.10, equals \$1,751,673.20.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**