

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 439 CS Certificate of Birth Resulting in Stillbirth  
**SPONSOR(S):** Planas and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 746

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care Regulation Committee	9 Y, 0 N, w/CS	Bell	Mitchell
2) Governmental Operations Committee			
3) Health Care Appropriations Committee			
4) Health & Families Council			
5) _____			

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### SUMMARY ANALYSIS

HB 439 w/ CS creates a new section of law to allow parents of a stillborn to obtain a "Certificate of Birth Resulting in Stillbirth." Stillbirth can be devastating to a woman and her family. Making available a Certificate of Birth Resulting in Stillbirth has been shown to help some families with the grieving and healing process. The funeral director, physician or other personnel filling out the fetal death Certificate will alert parents of a stillborn of the availability of a Certificate of Birth Resulting in Stillbirth.

Stillbirths occur in nearly 1 out of every 200 pregnancies. Estimates range from 25,000 to 39,000 stillbirths annually in the U.S. It is difficult to estimate an accurate count because national and state rates for "infant mortality" do not include stillborns. In the last 10 years there has been a nationwide movement to increase the awareness of stillbirths and increase research.

The approximate fiscal impact of the bill in the first year is an expenditure of \$4,097. There is a positive fiscal impact of \$900 projected in year two.

The bill provides an effective date of July 1, 2006.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide Limited Government** – The bill creates a “Certificate of Birth Resulting in Stillbirth” available through the Office of Vital Statistics within the Department of Health. The approximate fiscal impact of the bill in first year is an expenditure of \$4,097. There is a positive fiscal impact of \$900 projected in year two.

**Empower Families** – Stillbirth can be devastating to a woman and her family. Making available a Certificate of Birth Resulting in Stillbirth has been shown to help some families with the grieving and healing process.

#### B. EFFECT OF PROPOSED CHANGES:

HB 439 w/ CS creates s. 382.0085, F.S., to establish a “Certificate of Birth Resulting in Stillbirth” available from the State Office of Vital Statistics. The bill amends s. 382.002, F.S., to define “Certificate of Birth Resulting in Stillbirth” as a certificate issued to record the birth of a stillborn child, and “stillbirth” as an unintended, intrauterine death after gestational age of not less than 20 completed weeks. A “Certificate of Birth Resulting in Stillbirth” is created in the Office of Vital Statistics.

#### How to Obtain a Certificate of Birth Resulting in Stillbirth

The bill specifies that the person<sup>1</sup> required to file a fetal death Certificate will advise the parent of a stillborn child that they have the option to obtain a “Certificate of Birth Resulting in Stillbirth.” Parents are also to be advised where they can obtain the Certificate and how to contact the Office of Vital Statistics. To order a Certificate of Birth Resulting in Stillbirth a parent may provide the following information to the Office of Vital Statistics:

- a name for the stillborn child,
- date of the event, and
- the county in which the event occurred.

The name provided on the Certificate of Birth Resulting in Stillbirth must match the name provided on the Certificate of Fetal Death. If there is no name provided on the Certificate of Fetal Death, the Office of Vital Statistics will fill in the first name as “baby boy” or “baby girl” and the last name as the last name of the parent. Parents may request a Certificate of Birth Resulting in Stillbirth regardless of the date on which the Certificate of Fetal Death was issued. The Certificate may only be issued to the parents of a stillborn child.<sup>2</sup>

The bill specifies that a Certificate of Birth Resulting in Stillbirth is a public record. The Office of Vital Statistics shall inform any patient that requests a Certificate of Birth Resulting in Stillbirth that the document is an official public record.

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<sup>1</sup> The funeral director, physician, or other personnel are responsible for filling out the fetal death certificate.

<sup>2</sup> Under the proposed legislation a refusal by the Office of Vital Statistics to issue a certificate to a person who is not entitled to a certificate of birth resulting in stillbirth constitutes a final agency action and is not subject to review under Chapter 120, F.S.

## Certificate of Birth Resulting in Stillbirth Requirements

The Certificate of Birth Resulting in Stillbirth must include the state file number of the corresponding Certificate of Fetal Death. The bill also requires that the Certificate must contain the statement "This Certificate is not proof of live birth" and subsequently, the Office of Vital Statistics may not use the Certificate of Birth Resulting in Stillbirth to calculate live births.

The bill directs the Department of Health (DOH) to prescribe by rule the form and content of a Certificate of Birth Resulting in Stillbirth.

HB 439 w/ CS amends s. 382.0255, F.S., to allow the Office of Vital Statistics to charge a fee for a Certificate of Birth Resulting in Stillbirth.

The bill provides an effective date of July 1, 2006.

### CURRENT SITUATION

#### Office of Vital Statistics

Currently the Office of Vital Statistics does not issue Certificates of Birth Resulting in Stillbirth. Under s. 382.008, F.S., the Office recognizes stillbirths as fetal deaths and issues Certificates of Fetal Death. A fetal death is defined as:

*"death prior to the complete expulsion and extraction of a product of human conception from its mother if the 20<sup>th</sup> 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 the beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles."*

The Certificate of Fetal Death must be filed within 5 days after the death and prior to final disposition. Most often the funeral director fills out the Fetal Death Certificate.<sup>3</sup> In the absence of a funeral director, the physician or other person in attendance shall file a Death or Fetal Death Certificate. Under the proposed legislation this person would be responsible for informing the parents of the stillborn child that a Certificate of Birth Resulting in Stillbirth is available to them through the Office of Vital Statistics.

The Office of Vital Statistics collects statewide data on live births, deaths, fetal deaths, marriages, divorces, and name changes. Under the proposed legislation stillborns would still be classified as a fetal death, but the parents would have the option of requesting a "Certificate of Birth Resulting in Stillbirth."

### BACKGROUND

#### Stillbirth

When fetal death occurs after 20 weeks of pregnancy, it is referred to as stillbirth. Over the last 20 years, stillbirths have declined by nearly 50 percent. This is largely due to better treatment of certain conditions, such as maternal high blood pressure and diabetes, which can increase the risk of stillbirth. Rh disease,<sup>4</sup> which until 1960s was an important cause of stillbirth, can now usually be prevented.

However, stillbirths still occur in nearly 1 out of every 200 pregnancies.<sup>5</sup> Estimates range from 25,000 to 39,000 stillbirths annually in the U.S. It is difficult to estimate an accurate count because national and

<sup>3</sup> 382.008, F.S. and 64V-1.007, F.A.C.

<sup>4</sup> Rh disease is the incompatibility between the blood of the mother and baby. It is treated by giving an Rh-negative woman an injection of immune globulin at 28 weeks of pregnancy, and again after the birth of an Rh-positive baby.

<sup>5</sup> National Institute of Health, Stillbirth Facts, <http://nichd.nih.gov/womenshealth/miscarriage.cfm>

state rates for “infant mortality” do not include stillborns. In the last 10 years there has been a national movement to increase the awareness of stillbirths and increase research. To support more research The National Institute of Child Health and Human Development (NICHD) created the initiative, *Research on the Scope and Causes of Stillbirth in the United States*. The NICHD project developed a network of research sites whose sole purpose is to understand stillbirth.

Up to half of all stillbirths occur in pregnancies that seem problem-free. While 14 percent of fetal deaths occur during labor and delivery, 86 percent occur before labor begins. The pregnant woman may suspect something is wrong if the baby suddenly stops moving around and kicking. The most common causes of stillbirth include: placental problems, birth defects, growth restrictions, and infections. Still in more than one-third of cases the cause of stillbirth cannot be determined.

### Stillbirth Policy Trends

Currently there is a national movement to recognize the birth of stillborn children. Thirteen states have passed legislation that creates a “Certificate of Birth Resulting in Stillbirth.” Another nine states passed laws to create a “Certificate of Stillbirth.” Stillborn awareness advocates prefer the former Certificate because it recognizes that a birth has taken place.<sup>6</sup>

#### C. SECTION DIRECTORY:

**Section 1.** Amends s. 382.002, F.S., to provide definitions for “Certificate of Birth Resulting in Stillbirth” and “stillbirth.”

**Section 2.** Creates s. 382.0085, F.S., to provide for stillbirth registration.

**Section 3.** Amends s. 382.0255, F.S., to allow the Department of Health to charge a fee for a Certificate of Birth Resulting in Stillbirth.

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

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

<u>Estimated Revenue</u>	<u>1st Year</u>	<u>2nd Year</u>
	\$603	\$900
For 2005, vital statistics issued 67 fetal death certifications statewide.		
<b>Total Estimated Revenue</b>	<b>\$603</b>	<b>\$900</b>

##### 2. Expenditures:

<u>Estimated Expenditures</u>	<u>1st Year</u>	<u>2nd Year</u>
		(Annualized/Recurr.)
<b>Salaries Expense</b>	0	0
Forms design/printing cost	\$ 1,200	0

<sup>6</sup> Missing Angels Foundation, legislation state chart, <http://www.missfoundation.org>.

Computer system modifications	\$ 3,500	0
<b>Total Estimated Expenditures</b>	<b>\$ 4,700</b>	<b>0</b>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

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. Parents of stillborn children must pay this nominal fee to obtain a Certificate.<sup>7</sup>

D. FISCAL COMMENTS:

According to the Department of Health, there will be a minimal fiscal impact associated with the development of the certification, applications and modifications to Office of Vital Statistics computer system. The bill authorizes the department to charge a fee for the certifications which should over time offset the costs the department will encounter. Currently less than 1800 fetal deaths are filed annually. In 2005, there were 67 requests for certifications of fetal deaths.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Health has the necessary rulemaking authority to carry out the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

### 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 development of the form and content of the Certificate of Birth Resulting in Stillbirth by rule.

<sup>7</sup> The Department of Health may charge \$3-\$5 for the retrieval of records and \$3-\$5 to photocopy records. Additional fees of \$1-\$2, up to a maximum total of \$50, are charged for additional calendar years of records searched or retrieved.

**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 analysis is drafted to the committee substitute.