



# 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 Act<sup>1</sup> 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 records<sup>2</sup> in Florida, including births and fetal deaths.<sup>3</sup> It also permits the Department of Health to appoint a state registrar of vital statistics for each registration district in the state.<sup>4</sup>

Section 382.031, Florida Statutes, sets forth the requirements for certificates of births for live births.<sup>5</sup> Section 382.008, Florida Statutes, sets forth the requirements for certificates of death and fetal death.<sup>6</sup> 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,<sup>7</sup> which is “an unintended, intrauterine fetal death after a gestational age of not less than 20 completed weeks.”<sup>8</sup> This bill creates a definition of stillbirth<sup>9</sup> 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

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

<sup>2</sup> 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).

<sup>3</sup> Fla. Stat. § 382.003 (2005).

<sup>4</sup> *Id.*

<sup>5</sup> 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”).

<sup>6</sup> 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”).

<sup>7</sup> 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).

<sup>8</sup> Fla. HB 439 CS (2005).

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

certificate of birth resulting in stillbirth regardless of the date on which the certificate of fetal death was issued. 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.

The bill 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.”

The bill provides that the certificate of birth resulting in stillbirth is a public record.

### **How to Obtain a Certificate of Birth resulting in Stillbirth**

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; and
- 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.

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 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.<sup>10</sup> The name of the stillborn child must be the same as that provided on the original or amended certificate of the fetal death report.<sup>11</sup> 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.<sup>12</sup>

### **Administration 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.

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

<sup>11</sup> Fla. Stat. § 382.008 (2005).

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

## 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>13</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>14</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 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 the sole purpose of which 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. 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>15</sup>

#### 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 5.** - Amends section 382.0255, Florida Statutes, specifying a fee.

**Section 6.** - Provides an effective date of July 1, 2006.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

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<sup>13</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>14</sup> National Institute of Health, Stillbirth Facts, <http://nichd.nih.gov/womenshealth/miscarriage.cfm>

<sup>15</sup> Missing Angels Foundation, legislation state chart, <http://www.missfoundation.org>.

1. Revenues:

The bill authorizes the Department of Health to set a fee of \$3-\$5 for the certificate of birth resulting in stillbirth. If the fee is set at \$3, 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.

### 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 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.

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.

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.