

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.)

Prepared By: Health Care Committee

BILL: SB 746

INTRODUCER: Senator Wise, Haridopolos, and others

SUBJECT: Certificate of Birth Resulting in Stillbirth

DATE: February 6, 2006

REVISED: 02/15/06

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Munroe</u>	<u>Wilson</u>	<u>HE</u>	<u>Fav/ 2 amendments</u>
2.	<u></u>	<u></u>	<u>JU</u>	<u></u>
3.	<u></u>	<u></u>	<u>HA</u>	<u></u>
4.	<u></u>	<u></u>	<u></u>	<u></u>
5.	<u></u>	<u></u>	<u></u>	<u></u>
6.	<u></u>	<u></u>	<u></u>	<u></u>

I. Summary:

The bill provides requirements for the issuance of a “certificate of birth resulting in stillbirth” and requires the Department of Health (DOH or department) to adopt rules to administer these requirements. The person who is required to file a fetal death certificate under the Florida Vital Statistics Act must advise the parent of a stillborn child of the availability of a certificate of birth resulting in stillbirth and how to request and obtain such a certificate by contacting the Office of Vital Statistics within DOH. The bill requires specified information on the certificate of birth resulting in stillbirth to correspond to the information on the corresponding fetal death certificate.

By September 1, 2006, DOH must prescribe by rule the form and content of a certificate of birth resulting in stillbirth. The Office of Vital Statistics may not use a certificate of birth resulting in stillbirth to calculate live birth statistics. A certificate of birth resulting in stillbirth may not be issued to any person other than a parent listed on the fetal death certificate. A refusal by the Office of Vital Statistics to issue a certificate of birth resulting in stillbirth to a person who is not listed as a parent on the fetal death certificate constitutes final agency action and is not subject to review under the Administrative Procedure Act. A certificate of birth resulting in stillbirth must contain the statement “This certificate is not proof of a live birth.” The department is authorized to collect a fee for a certificate of birth resulting in stillbirth.

The bill amends sections 382.002 and 382.0255, Florida Statutes.

The bill creates section 382.0085, Florida Statutes.

II. Present Situation:

Chapter 382 is the Florida Vital Statistics Act. Section 382.002, F.S., defines “fetal death” to mean 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. “Live birth” is defined to mean 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. “Registrant” means the child entered on the birth certificate, the deceased entered on a death certificate, and the husband or wife entered on a marriage or dissolution of marriage record.

A certificate for each birth that occurs in Florida must be filed within 5 days after the birth with the local registrar of the district in which the birth occurred. A certificate for each death and fetal death that occurs in Florida must be filed within 5 days after such death and prior to final disposition of the dead body or fetus. The funeral director who first assumes custody of a dead body or fetus must file the certificate of death or fetal death. In the absence of the funeral director, the physician or other person in attendance at or after the death must file the certificate of death or fetal death. The original certificate of death or fetal death must contain all the information required by DOH for legal, social, and health research purposes. All information relating to the cause of death in all death and fetal death records and the parentage, marital status, and medical information included in all fetal death records of this state are confidential and exempt from the Public Records Law.¹

A procedure for filing a certificate of birth is provided in chapter 382, F.S., and rules adopted by DOH. Certified copies of the original birth certificate or a new or amended certificate are confidential and exempt from the Public Records Law and may only be issued to specified persons including the registrant, if of legal age, and the registrant’s parent or guardian or other legal representative.² Except for birth records over 100 years old, which are not under seal pursuant to a court order, all birth records of this state, are confidential and exempt under the Public Records Law. To protect the integrity of vital records and prevent the fraudulent use of the birth certificates of deceased persons, DOH must match birth and death certificates and post the fact of death to the appropriate birth certificate. Except for a commemorative birth certificate, any certification of a birth certificate of a deceased registrant must be marked “deceased.” In the case of a commemorative birth certificate, such indication of death must be made on the back of the certificate. The Department of Health may issue, upon request and payment of an additional fee, a commemorative birth certificate representing that the birth of the person named thereon is recorded in the office of the registrar. The commemorative certificate issued must be in a form consistent with the need to protect the integrity of vital records but must be suitable for display. The commemorative certificate may bear the state seal and be signed by the Governor.

¹ See s. 382.008(6), F.S.

² See s. 382.025(1), F.S.

Pursuant to s. 382.0255, F.S., DOH may collect fees for certified copies of vital statistic records. For certification of vital statistic records, DOH may charge a fee which may be no less than \$3 or more than \$5 for the first calendar year of records searched or retrieved and a computer certification of the record, a photocopy or birth card, if a computer certification is not available, or if the records are not located, a statement to that effect. An additional fee may be charged of no less \$3 or more than \$5 if a photocopy is requested in place of or in addition to a computer certification. Additional fees of not less than \$1 or more than \$2, up to a maximum total of \$50, may be charged for additional calendar years of records searched or retrieved.

The department may collect \$25 to issue a commemorative certificate of birth or marriage and any fees in excess of expenses must be available for use by the Regional Perinatal Intensive Care Centers Program to prevent child abuse and neglect. Funds derived from the issuance of commemorative marriage certificates must be available for use by the Improved Pregnancy Outcome Program.

III. Effect of Proposed Changes:

Section 1. Amends s. 382.002, F.S., relating to definitions under the Florida Vital Statistics Act, to define “certificate of birth resulting in stillbirth” to mean a certificate issued to record the birth of a stillborn child. “Stillbirth” is defined to mean an unintended, intrauterine fetal death after a gestational age of not less than 20 completed weeks.

Section 2. Creates s. 382.0085, F.S., to provide procedures and requirements for stillbirth registration. The section requires the person who is required to file a fetal death certificate under the Florida Vital Statistics Act to advise the parent of a stillborn child of the availability of a certificate of birth resulting in stillbirth and how to request and obtain such a certificate by contacting the Office of Vital Statistics within DOH.

To order a certificate of birth resulting in stillbirth, a parent may provide a name for the stillborn child, the date of the event, and the county in which the event occurred. If a name does not appear on the fetal death certificate or the requesting parent does not provide a name, the Office of Vital Statistics must fill in the certificate of birth resulting in stillbirth with the name “baby boy” or “baby girl” and the last name of the parent. The Office of Vital Statistics may charge a fee for the certificate of birth resulting in stillbirth pursuant to s. 382.0255, F.S.

The section outlines requirements to ensure that specified information on the certificate of birth resulting in stillbirth corresponds to the information on the fetal death certificate. The name of the stillborn child on the certificate or added by amendment thereto, must be same name as placed on the original or amended fetal death certificate. The certificate of birth resulting in stillbirth must include the state file number of the corresponding fetal death certificate.

By September 1, 2006, DOH must prescribe by rule the form and content of a certificate of birth resulting in stillbirth. The Office of Vital Statistics may not use a certificate of birth resulting in stillbirth to calculate live birth statistics. A parent may request that a certificate of birth resulting in stillbirth be issued regardless of the date on which the fetal death certificate was issued.

A certificate of birth resulting in stillbirth may not be issued to any person other than a parent listed on the fetal death certificate. A refusal by the Office of Vital Statistics to issue a certificate of birth resulting in stillbirth to a person who is not listed as a parent on the fetal death certificate constitutes final agency action and is not subject to review under the Administrative Procedure Act. A certificate of birth resulting in stillbirth must contain the statement “This certificate is not proof of a live birth.” The department must adopt rules to administer this section.

Section 3. Amends s. 382.0255, F.S., to modify an existing fee schedule for specified records, to authorize DOH to collect a fee for a certificate of birth resulting in stillbirth.

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

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 Art. VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The bill creates requirements for DOH to issue a certificate of birth resulting in stillbirth and it is unclear, for purposes of the Public Records Law, whether the document is a death record or a birth record. If the “certificate of birth resulting in stillbirth” is a *birth record* then the entire record is confidential and exempt under s. 382.025(1), F.S. If the “certificate of birth resulting in stillbirth” is a *death record* then the entire record is available with information that is confidential and exempt redacted from it under s. 382.008(6), F.S.

C. Trust Funds Restrictions:

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

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

A person requesting a certificate of birth resulting in stillbirth must pay an unspecified fee for the certificate. For certification and records searches for a certificate of birth resulting in stillbirth, the bill authorizes DOH to charge a fee which may be no less than \$3 or more than \$5 for the first calendar year of records searched or retrieved and a computer certification of the record, a photocopy or birth card, if a computer certification is not available, or if the records are not located, a statement to that effect. An additional fee may be charged of no less \$3 or more than \$5 if a photocopy is requested in place of or in addition to a computer certification. Additional fees of not less than \$1 or more than \$2, up to a maximum total of \$50, may be charged for additional calendar years of records searched or retrieved.

In addition, a person requesting a certificate birth resulting in stillbirth, if applicable, may pay fees for a records search or retrieval and a computer certification of the record, a photocopy or birth card. If a computer certification is not available, or if the records are not located, the person requesting a certificate of birth resulting in stillbirth may pay fees for a statement to that effect.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to DOH, its costs should be offset over time. There are currently less than 1,800 fetal death certificates filed annually.³ In 2005, there were only 67 requests for certified fetal death records.⁴ The department indicates it will incur total expenditures of \$4,700 for Fiscal Year 2006-07 and anticipates revenue based on the assessment of a \$9 (current fee charged for a requested certification of a fetal death record) to be \$603 for FY 2006-07 and \$900 for FY 2007-08.

To administer the bill, DOH indicates that there will be a fiscal impact associated with the development of the certification, application, and modifications to its computer system for vital statistics.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

³ Source: Department of Health.

⁴ Source: Department of Health.

VIII. Summary of Amendments:

Barcode 044512 by Health Care:

Requires the person who is required to file a fetal death certificate to inform the parent that copies of a certificate of birth resulting in stillbirth are available as a public record. (WITH TITLE AMENDMENT)

Barcode 841512 by Health Care:

Clarifies that the certificate of birth resulting in stillbirth is a public record and requires the Office of Vital Statistics to inform the parent of a stillborn child who requests the certificate that copies of the certificate of birth resulting in stillbirth are available as a public record. (WITH TITLE AMENDMENT)

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