

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 301 Medical Examiners
SPONSOR(S): Health Quality Subcommittee; Spano and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	12 Y, 0 N, As CS	McElroy	O'Callaghan
2) Local & Federal Affairs Committee		Kelly	Rojas
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Section 382.011, F.S., requires any case in which a death or fetal death resulted from the causes or conditions listed in s. 406.011, F.S., to be referred to the district medical examiner for the determination of the cause of death. The bill corrects a citation in s. 382.011, F.S., to clarify that only deaths and fetal deaths involving circumstances set forth in subsection (1) of s. 406.11, F.S., are required to be referred to the district medical examiner for the determination of the cause of death. The remaining provisions in s. 406.11, F.S., are not related to causes or conditions of death upon which a medical examiner can make a determination.

Section 406.06, F.S., entitles a medical examiner to compensation, and a reasonable salary and fees as established by a board of county commissioners. A number of counties and district medical examiners have interpreted this provision as authorizing a medical examiner to collect a fee for a determination of cause of death performed pursuant to s. 406.11(1)(c), F.S. The bill amends s. 406.06, F.S., to prohibit district medical examiners and counties from charging a member of the public or any person licensed under ch. 497, F.S. (a funeral home or crematorium), a fee for any determination of death performed pursuant to s. 406.11, F.S.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of October 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Medical Examiners Act

The Medical Examiners Act (Act), ch. 406, F.S., establishes minimum and uniform requirements for statewide medical examiner services. The Act created the Medical Examiners Commission (Commission) which is composed of seven persons appointed by the Governor, the Attorney General and the State Surgeon General. The Commission is responsible for establishing, by rule, minimum and uniform standards of excellence, performance of duties, and maintenance of records requirements for medical examiners.¹ The Commission is additionally responsible for the creation of medical examiner districts throughout the state.² There are currently 24 medical examiner districts.³

Determination of Cause of Death

Each district medical examiner is responsible for conducting investigations, examinations and autopsies and reporting vital statistics to the Department of Health for their district. Section 382.011, F.S. currently requires that any case of death or fetal death due to causes or conditions listed in s. 406.11, F.S., be referred to the district medical examiner for investigation and determination of the cause of death.

Section 406.11, F.S., requires a medical examiner to determine the cause of a death when a person dies under certain circumstances or a body is transported or disposed of in a certain manner. Specifically, s. 406.11(1)(a), F.S., requires the medical examiner to determine the cause of death when any person dies in the 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.

Section 406.11(1)(b), F.S., requires a medical examiner to perform a determination of the cause of death when a dead body is brought into the state without proper medical certification. Finally, pursuant to s. 406.11(1)(c), F.S., a medical examiner must perform a determination of the cause of death when a body is to be cremated, dissected, or buried at sea.

Under s. 406.11(1) F.S., the district medical examiner is authorized to perform any such examinations, investigations, and autopsies as he or she deems necessary to determine the cause of death. The complexity of the determination of the cause of death, however, can differ greatly depending on whether the investigation is required pursuant to s. 406.11(1)(a), F.S., or s. 406.11(1)(c), F.S.

¹ Section 406.04, F.S.

² Section 406.05, F.S.

³ A map of the medical examiner districts in Florida is *available at* <http://myfloridamedicalexaminer.com/>.

A determination pursuant to s. 406.11(1)(a), F.S., requires a comprehensive review to determine the cause of a death that occurred under unusual circumstances. Physical inspection of the decedent's remains is typically required. As such, a district medical examiner usually performs autopsies or other necessary physical examinations. A district medical examiner also typically requests and reviews any pertinent documentation related to the person's death.

When a death occurs under ordinary circumstances, the district medical examiner does not perform an autopsy or investigation. The disposition of the remains occurs and no further issues arise. On occasion, issues arise after disposition, which raise the question of whether a death actually occurred under ordinary circumstances. In these situations, the body is exhumed and the district medical examiner performs a determination of cause of death. This examination cannot occur if the body has been cremated, dissected, or buried at sea. Thus, s. 406.11(1)(c), F.S., requires the medical examiner to make a determination of cause of death in situations where there is an irretrievable disposal of the remains.

Determinations of the cause of death performed pursuant to s. 406.11(1)(c), F.S., are generally administrative in nature and less comprehensive than determinations under s. 406.11(1)(a), F.S. The process begins with the funeral home or crematorium completing the death certificate and forwarding it to the decedent's attending or primary physician for signature.⁴ Once the funeral home or crematorium receives the signed death certificate, it forwards it to the district medical examiner for review. Unless the medical examiner identifies an issue on the face of the death certificate, he or she grants approval and the funeral home or crematorium may proceed with the disposal of the remains. The medical examiner may conduct a more thorough investigation if he or she identifies an issue on the face of the death certificate. For example, if a secondary cause of death is a fractured hip, the medical examiner may request additional information to ensure that it was not related to abuse or neglect. Even in that situation, the investigation is generally less comprehensive than the investigation performed under s. 406.11(1)(a), F.S.

Prior to 2012, the approval process for a death certificate was a slow and arduous paper process. It required the manual entry and the transmittal of information through numerous offices within county and state departments. However, in 2012, Florida's Department of Health automated the process through the Electronic Death Registration System. The electronic transmittal of the information has made the approval process more efficient by reducing reporting time and allows for more timely issuances of death certificates.

Medical Examiner Fees

Pursuant to s. 406.06(3), F.S., district medical examiners and associate medical examiners are entitled to compensation. As such, the board of county commissioners set reasonable salary and fees. This provision has been interpreted by some counties and district medical examiners as allowing a fee for performing determinations of deaths pursuant to s. 406.11, F.S. Specifically, 19 of the 24 medical examiner districts currently charge a fee for the determination of the cause of death when a body is to be cremated, dissected, or buried at sea.⁵ This fee is charged to the direct disposal establishment⁶ licensed under ch. 497, F.S. (i.e. a funeral home or crematorium), who then passes the expense on to the members of the public. These fees range from no charge in 24 counties to \$63 per approval in Miami-Dade County. The estimated revenue from these fees in 2012 was approximately \$3.93 million.⁷

Effect of Proposed Changes

⁴ Section 382.008, F.S.

⁵ These are determinations made pursuant to s. 406.11(1)(c), F.S.

⁶ "Direct disposal establishment" means a facility licensed under ch. 497, F.S., where a direct disposer practices direct disposition.

"Final disposition" means the final disposal of a dead human body. See s. 497.005(25) and (32), F.S.

⁷ Florida Department of Law Enforcement 2014 Legislative Bill Analysis for HB 301, dated January 29, 2014 (on file with the Florida House of Representatives Health Quality Subcommittee).

HB 301 would correct a citation in s. 382.011, F.S., to clarify that only deaths and fetal deaths involving circumstances set forth in subsection (1) of s. 406.11, F.S., are required to be referred to the district medical examiner for the determination of the cause of death. The remaining provisions in s. 406.11, F.S., are not related to causes or conditions of death upon which a medical examiner can make a determination. Instead, the remaining provisions include:

- grant medical examiners discretion to perform autopsies and other laboratory examinations necessary to determine the cause of death;
- require the Commission to adopt rules to require a medical examiner to notify the decedent's next of kin of a medical examiner investigation;
- prohibit a medical examiner from retaining or furnishing a body part of the deceased for research or other purposes without approval by the next of kin; and
- provide rulemaking authority for the Commission.

HB 301 would also prohibit district medical examiners and counties from charging a member of the public, or any person licensed under ch. 497, F.S. (a funeral home or crematorium), a fee for any determination of death performed pursuant to s. 406.11, F.S. HB 301 does not limit counties in their ability to raise revenues in the aggregate.

The bill provides an effective date of October 1, 2014.

B. SECTION DIRECTORY:

Section 1: Amends s. 382.011, F.S., relating to medical examiner determination of cause of death.

Section 2: Amends s. 406.06, F.S., relating to district medical examiners, associates, and suspension of medical examiners.

Section 3: Provides an effective date of October 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Currently 19 of the 24 medical examiner districts, which represents 42 counties, charge fees for any determination of the cause of death performed pursuant to s. 406.11(1)(c), F.S. The fees vary from district to district. The estimated revenue from these fees in 2012 was approximately \$3.93 million.⁸ The bill prohibits the collection of these fees.

2. Expenditures:

Indeterminate. The actual cost to the counties is unclear as there is a broad discrepancy in the fees currently charged (fees range from no charge to \$63 per approval), and there does not seem to be a correlation between the fees charged to services being provided by the medical examiner.

⁸ *Id.*

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Because the bill prohibits medical examiners and counties from charging fees, it is likely that the private sector will achieve some cost-savings.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 5, 2014, the Health Quality Subcommittee adopted an amendment to HB 301 and reported the bill favorably as a committee substitute. The amendment:

- Clarifies that medical examiners and counties are prohibited from charging a member of the public or any person licensed under ch. 497, F.S., a fee for any determination of death performed pursuant to s. 406.11, F.S.
- Changes the effective date from July 1, 2014, to October 1, 2014.

The analysis is drafted to the committee substitute as passed by the Health Quality Subcommittee.