

By Senator Bean

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1                   A bill to be entitled  
2           An act relating to certificates of nonviable birth;  
3           creating the "Grieving Families Act"; amending s.  
4           382.002, F.S.; providing a definition; amending s.  
5           382.008, F.S.; authorizing the State Registrar of the  
6           Office of Vital Statistics of the Department of Health  
7           to electronically receive a certificate of nonviable  
8           birth; requiring certain health care practitioners and  
9           health care facilities to electronically file a  
10          registration of nonviable birth within a specified  
11          timeframe; amending s. 382.0085, F.S.; conforming a  
12          cross-reference; creating s. 382.0086, F.S.; requiring  
13          the Department of Health to issue a certificate of  
14          nonviable birth within a specified timeframe upon the  
15          request of a parent; requiring the person registering  
16          the nonviable birth to advise the parent that a  
17          certificate of nonviable birth is available and that  
18          the certificate of nonviable birth is a public record;  
19          requiring the request for a certificate of nonviable  
20          birth to be on a form prescribed by the department and  
21          to include certain information; providing requirements  
22          for the certificate of nonviable birth; authorizing a  
23          parent to request a certificate of nonviable birth  
24          regardless of the date on which the nonviable birth  
25          occurred; designating the refusal to issue a  
26          certificate of nonviable birth to certain persons as  
27          final agency action that is not subject to  
28          administrative review; prohibiting the use of  
29          certificates of nonviable birth to calculate live  
30          birth statistics; prohibiting specified provisions  
31          from being used in certain civil actions; authorizing  
32          the department to adopt rules; amending s. 382.0255,

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33 F.S.; authorizing the department to collect fees for  
34 processing and filing a new certificate of nonviable  
35 birth; providing an effective date.  
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37 Be It Enacted by the Legislature of the State of Florida:  
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39 Section 1. This act may be cited as the "Grieving Families  
40 Act."

41 Section 2. Subsections (14) through (18) of section  
42 382.002, Florida Statutes, are renumbered as subsections (15)  
43 through (19), respectively, and a new subsection (14) is added  
44 to that section, to read:

45 382.002 Definitions.—As used in this chapter, the term:

46 (14) "Nonviable birth" means an unintentional, spontaneous  
47 fetal demise occurring after the completion of the 9th week of  
48 gestation but prior to the 20th week of gestation of a pregnancy  
49 that has been verified by a health care practitioner.

50 Section 3. Section 382.008, Florida Statutes, is amended to  
51 read:

52 382.008 Death, and fetal death, and nonviable birth  
53 registration.—

54 (1) A certificate for each death and fetal death which  
55 occurs in this state shall be filed electronically on the  
56 department electronic death registration system or on a form  
57 prescribed by the department with the department or local  
58 registrar of the district in which the death occurred within 5  
59 days after such death and prior to final disposition, and shall  
60 be registered by the department if it has been completed and  
61 filed in accordance with this chapter or adopted rules. The

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62 certificate shall include the decedent's social security number,  
63 if available. In addition, each certificate of death or fetal  
64 death:

65 (a) If requested by the informant, shall include aliases or  
66 "also known as" (AKA) names of a decedent in addition to the  
67 decedent's name of record. Aliases shall be entered on the face  
68 of the death certificate in the space provided for name if there  
69 is sufficient space;

70 (b) If the place of death is unknown, shall be registered  
71 in the registration district in which the dead body or fetus is  
72 found within 5 days after such occurrence; and

73 (c) If death occurs in a moving conveyance, shall be  
74 registered in the registration district in which the dead body  
75 was first removed from such conveyance.

76 (2) (a) The funeral director who first assumes custody of a  
77 dead body or fetus shall file the certificate of death or fetal  
78 death. In the absence of the funeral director, the physician or  
79 other person in attendance at or after the death or the district  
80 medical examiner of the county in which the death occurred or  
81 the body was found shall file the certificate of death or fetal  
82 death. The person who files the certificate shall obtain  
83 personal data from a legally authorized person as described in  
84 s. 497.005 or the best qualified person or source available. The  
85 medical certification of cause of death shall be furnished to  
86 the funeral director, either in person or via certified mail or  
87 electronic transfer, by the physician or medical examiner  
88 responsible for furnishing such information. For fetal deaths,  
89 the physician, midwife, or hospital administrator shall provide  
90 any medical or health information to the funeral director within

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91 72 hours after expulsion or extraction.

92 (b) The State Registrar may receive electronically a  
93 certificate of death, ~~or fetal death,~~ or nonviable birth which  
94 is required to be filed with the registrar under this chapter  
95 through facsimile or other electronic transfer for the purpose  
96 of filing the certificate. The receipt of a certificate of  
97 death, ~~or fetal death,~~ or nonviable birth by electronic transfer  
98 constitutes delivery to the State Registrar as required by law.

99 (3) Within 72 hours after receipt of a death or fetal death  
100 certificate from the funeral director, the medical certification  
101 of cause of death shall be completed and made available to the  
102 funeral director by the decedent's primary or attending  
103 physician or, if s. 382.011 applies, the district medical  
104 examiner of the county in which the death occurred or the body  
105 was found. The primary or attending physician or medical  
106 examiner shall certify over his or her signature the cause of  
107 death to the best of his or her knowledge and belief. As used in  
108 this section, the term "primary or attending physician" means a  
109 physician who treated the decedent through examination, medical  
110 advice, or medication during the 12 months preceding the date of  
111 death.

112 (a) The department may grant the funeral director an  
113 extension of time upon a good and sufficient showing of any of  
114 the following conditions:

115 1. An autopsy is pending.

116 2. Toxicology, laboratory, or other diagnostic reports have  
117 not been completed.

118 3. The identity of the decedent is unknown and further  
119 investigation or identification is required.

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120 (b) If the decedent's primary or attending physician or  
121 district medical examiner of the county in which the death  
122 occurred or the body was found indicates that he or she will  
123 sign and complete the medical certification of cause of death  
124 but will not be available until after the 5-day registration  
125 deadline, the local registrar may grant an extension of 5 days.  
126 If a further extension is required, the funeral director must  
127 provide written justification to the registrar.

128 (4) If the department or local registrar grants an  
129 extension of time to provide the medical certification of cause  
130 of death, the funeral director shall file a temporary  
131 certificate of death or fetal death which shall contain all  
132 available information, including the fact that the cause of  
133 death is pending. The decedent's primary or attending physician  
134 or the district medical examiner of the county in which the  
135 death occurred or the body was found shall provide an estimated  
136 date for completion of the permanent certificate.

137 (5) A permanent certificate of death or fetal death,  
138 containing the cause of death and any other information that was  
139 previously unavailable, shall be registered as a replacement for  
140 the temporary certificate. The permanent certificate may also  
141 include corrected information if the items being corrected are  
142 noted on the back of the certificate and dated and signed by the  
143 funeral director, physician, or district medical examiner of the  
144 county in which the death occurred or the body was found, as  
145 appropriate.

146 (6) The original certificate of death or fetal death shall  
147 contain all the information required by the department for  
148 legal, social, and health research purposes. All information

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149 relating to cause of death in all death and fetal death records  
150 and the parentage, marital status, and medical information  
151 included in all fetal death records of this state are  
152 confidential and exempt from the provisions of s. 119.07(1),  
153 except for health research purposes as approved by the  
154 department; nor may copies of the same be issued except as  
155 provided in s. 382.025.

156 (7) Upon the request of a parent who experiences a  
157 nonviable birth, a health care practitioner licensed pursuant to  
158 chapter 464 or chapter 467 who attends or diagnoses a nonviable  
159 birth, or a health care facility licensed pursuant to chapter  
160 383 or chapter 395 at which a nonviable birth occurs, shall  
161 electronically file a registration of nonviable birth on the  
162 department electronic death registration system or on a form  
163 prescribed by the department with the department or local  
164 registrar of the district in which the nonviable birth occurred  
165 within 30 days after receipt of such request and shall be  
166 registered with the department if it has been completed and  
167 filed in accordance with this chapter or adopted rules.

168 Section 4. Subsection (9) of section 382.0085, Florida  
169 Statutes, is amended to read:

170 382.0085 Stillbirth registration.—

171 (9) This section or s. 382.002(17) ~~382.002(16)~~ may not be  
172 used to establish, bring, or support a civil cause of action  
173 seeking damages against any person or entity for bodily injury,  
174 personal injury, or wrongful death for a stillbirth.

175 Section 5. Section 382.0086, Florida Statutes, is created  
176 to read:

177 382.0086 Certificate of nonviable birth.—

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178 (1) For any nonviable birth occurring in this state, the  
179 department shall issue a certificate of nonviable birth within  
180 60 days upon the request of a parent named on the registration  
181 of nonviable birth.

182 (2) The person who is required to register a nonviable  
183 birth under this chapter shall advise a parent who experiences a  
184 nonviable birth:

185 (a) That the parent may request the preparation of a  
186 certificate of nonviable birth.

187 (b) That the parent may obtain a certificate of nonviable  
188 birth by contacting the Office of Vital Statistics.

189 (c) How the parent may contact the Office of Vital  
190 Statistics to request a certificate of nonviable birth.

191 (d) That a copy of the original certificate of nonviable  
192 birth is available as a public record when held by an agency as  
193 defined in s. 119.011(2).

194 (3) The request for a certificate of nonviable birth must  
195 be on a form prescribed by department rule and include the date  
196 of the nonviable birth and the county in which the nonviable  
197 birth occurred.

198 (4) The certificate of nonviable birth must contain all of  
199 the following:

200 (a) The date of the nonviable birth.

201 (b) The county in which the nonviable birth occurred.

202 (c) The name of the fetus, as provided on the registration  
203 of nonviable birth pursuant to s. 382.008. If a name does not  
204 appear on the original or amended registration of nonviable  
205 birth and the requesting parent does not wish to provide a name,  
206 the Office of Vital Statistics shall fill in the certificate of

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207 nonviable birth with the name "baby boy" or "baby girl" and the  
208 last name of the parents as provided in s. 382.013(3). If the  
209 sex of the child is unknown, the Office of Vital Statistics  
210 shall fill in the certificate of nonviable birth with the name  
211 "baby" and the last name of the parents as provided in s.  
212 382.013(3).

213 (d) The following statement, which must appear on the front  
214 of the certificate: "This certificate is not proof of a live  
215 birth."

216 (5) A certificate of nonviable birth shall be a public  
217 record when held by an agency as defined in s. 119.011(2). The  
218 Office of Vital Statistics must inform any parent who requests a  
219 certificate of nonviable birth that a copy of the original  
220 certificate of nonviable birth is available as a public record.

221 (6) A parent may request that the Office of Vital  
222 Statistics issue a certificate of nonviable birth regardless of  
223 the date on which the nonviable birth occurred.

224 (7) It is final agency action, not subject to review under  
225 chapter 120, for the Office of Vital Statistics to refuse to  
226 issue a certificate of nonviable birth to a person who is not a  
227 parent named on the nonviable birth registration.

228 (8) The Office of Vital Statistics may not use a  
229 certificate of nonviable birth in the calculation of live birth  
230 statistics.

231 (9) This section or s. 382.002(14) may not be used as a  
232 basis to establish, bring, or support a civil cause of action  
233 seeking damages against any person or entity for bodily injury,  
234 personal injury, or wrongful death for a nonviable birth.

235 (10) The department shall prescribe by rule the form,



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236 content, and process for issuance of a certificate of nonviable  
237 birth.

238 Section 6. Paragraph (k) is added to subsection (1) of  
239 section 382.0255, Florida Statutes, to read:

240 382.0255 Fees.—

241 (1) The department is entitled to fees, as follows:

242 (k) Not less than \$3 or more than \$5 for processing and  
243 filing a new certificate of nonviable birth pursuant to s.  
244 382.0086.

245 Section 7. This act shall take effect July 1, 2017.