

## HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

<b>BILL #:</b>	CS/HB 243	<b>FINAL HOUSE FLOOR ACTION:</b>	
<b>SPONSOR(S):</b>	Health Quality Subcommittee; Roberson, K. and others	115 Y's	0 N's
<b>COMPANION BILLS:</b>	CS/CS/SB 640	<b>GOVERNOR'S ACTION:</b>	Approved

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### SUMMARY ANALYSIS

CS/HB 243 passed the House on April 9, 2015, and subsequently passed the Senate on April 23, 2015.

The Department of Health (DOH) uses the Electronic Death Registration System (EDRS) to implement certain duties under ch. 382, F.S., the Vital Statistics Act (Act). The bill updates the Act to include EDRS processes, and authorize DOH to perform certain tasks related to death registration and final disposition of deceased persons. Specifically, the bill:

- Authorizes a funeral director to generate a burial-transit permit through EDRS or produce a permit manually and removes certain application processes for a paper permit;
- Requires a subregistrar to produce and maintain a paper death certificate or burial-transit permit;
- Removes the requirement that a person in charge of the premises where a final disposition takes place submit a burial-transit permit to the local registrar;
- Removes the requirement that a local registrar keep a burial-transit permit on file for 3 years;
- Authorizes the use of the EDRS to electronically register a death or fetal death certificate;
- Allows a burial-transit permit on file to satisfy certain record keeping requirements;
- Requires a funeral director, who buries a dead body in a cemetery where no one is in charge to keep the burial-transit permit on file for 3 years instead of filing it with the local registrar;
- Requires the use of the EDRS for electronic notification of deaths to the Social Security Administration; and
- Removes a provision that allows alias information to be reported on the back of a paper death certificate.

The bill also makes additional changes related to death certificate registrations and final dispositions by:

- Requiring the person who files a death certificate to obtain personal information about the decedent from a legally authorized person, as such person is defined under current law.
- Including entombment in the definition of final disposition; and
- Defining burial-transit permit.

The bill provides DOH with rulemaking authority.

The bill has a minimal positive fiscal impact on DOH and no fiscal impact on local government.

The bill was approved by the Governor on June 10, 2015, ch. 2015-105, L.O.F., and will become effective on July 1, 2015.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Current Situation

##### Bureau of Vital Statistics

The Florida Vital Statistics Act<sup>1</sup> authorizes the Department of Health (DOH) to establish the Bureau of Vital Statistics (Bureau), which is responsible for the uniform and efficient registration, compilation, storage, and preservation of all vital records in Florida.<sup>2</sup> Vital records are certificates or reports of birth, death, fetal death, marriage, dissolution of marriage, or name change. The Bureau must:<sup>3</sup>

- Uniformly enforce the law throughout the state.
- Establish registration districts throughout the state, which districts may be consolidated or subdivided to facilitate registration.
- Appoint a local registrar of vital statistics for each registration district in the state.
- Procure the complete registration of all vital records in each registration district and in the Bureau.
- Investigate cases of irregularity or violation of law and, when necessary, report cases of violations to the state attorney in the registration district in which the violation occurs.
- Approve all forms used in registering, recording, certifying, and preserving vital records.
- Prepare and publish an annual report of vital statistics.
- Appoint one or more suitable persons to act as subregistrars, who are authorized to receive death certificates and fetal death certificates and to issue burial-transit permits.
- Accept, use, and produce all records, reports, and documents necessary in paper or electronic form, and adopt and enforce all rules necessary for the acceptance, use, production, issuance, recording, maintenance, and processing of such records, reports, and documents.
- By rule require that forms, documents, and information submitted to DOH in the creation or amendment of a vital record be under oath.

The Bureau is under the direction of a state registrar to ensure uniform and efficient compilation and storage of all vital records in the state. Each county has a local registrar of vital statistics and multiple deputy registrars at the local county health department (CHD). Subregistrars are located in funeral homes or medical examiner offices and are appointed as an extension of the local registrar to ensure compliance with the processes in ch. 382, F.S.<sup>4</sup>

##### Registration of Deaths

##### *Death Certificates*

Section 382.008, F.S., sets forth the requirements for certificates of death. A certificate of death must be filed with the Bureau within 5 days of the death and prior to final disposition. Final disposition means the burial, interment, cremation, removal from the state, or other authorized disposition of a dead body.<sup>5</sup>

The registration of the death certificate is the responsibility of the funeral director or direct disposer<sup>6</sup> who first assumes custody of a decedent. In the absence of a funeral director, the physician or other person in attendance at or after the death must file the death or fetal death certificate. The person

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<sup>1</sup> Chapter 382, F.S.

<sup>2</sup> Section 382.003, F.S.

<sup>3</sup> *Id.*

<sup>4</sup> Florida Dep't of Health, Bureau of Vital Statistics, *Vital Registration Handbook 2014*, available at <http://www.floridahealth.gov/certificates/certificates/documents/HB2015Revision.pdf>. (last accessed April 27, 2015).

<sup>5</sup> Section 382.002(8), F.S.

<sup>6</sup> "Funeral director" is a licensed funeral director or direct disposer licensed pursuant to ch. 497, F.S., or other person who first assumes custody of or effects the final disposition of a dead body. Section 382.002(9), F.S.

completing the death certificate must obtain the decedent's personal data from "next of kin." The physician must, within 72 hours after a death, certify the cause of death and make the certification available to the funeral director. The medical certification is completed by the physician in charge of the decedent's care for the illness or condition which resulted in death, the physician in attendance at the time of death or immediately before or after such death,<sup>7</sup> or the medical examiner if a cause of death determination is required.<sup>8</sup> Once medical certification is complete, the certificate is submitted to the Bureau via the Electronic Death Registration System (EDRS), or local registrar. Local registrars are currently authorized by law to issue extensions for death certificate registrations.<sup>9</sup>

### *Electronic Death Registration System*

As of September 2012, the Bureau uses the EDRS to register deaths in Florida. Almost all death certificates are registered using the EDRS. In 2014, death certificates filed through the EDRS accounted for 99.6 percent of the total 187,856 certificates filed.<sup>10</sup> The EDRS allows funeral directors and physicians to complete and certify death certificates online through a secure internet site. Funeral directors electronically enter the demographic information on the decedent, send that information to the certifying physician in electronic format if they are an online user, or via facsimile, and once medical certification is complete, the funeral director or physician electronically certifies the death certificate to the Bureau.<sup>11</sup> Before the EDRS, the process of registering and recording a death was a laborious paper process, requiring travel to and from physicians' offices and the local CHD. Death certificates had to pass through multiple units within the county and state offices.<sup>12</sup>

The EDRS is synched with Social Security Administration (SSA) databases for verification of social security information of decedents. When a death occurs, the SSA is notified electronically through the EDRS. Prior to the implementation of the EDRS, a funeral director or person in charge of completing the death certificate submitted forms to the local Social Security Office for reporting purposes.

### *Paper Death Registration*

Although almost all deaths are registered electronically, paper filing processes are used during EDRS technical problems, for fetal deaths, and by funeral homes that are not connected to the EDRS.<sup>13</sup> Prior to implementation of the EDRS, local registrars oversaw the paper death registration process in each county. Currently, local registrars still receive and submit paper death certificates to the Bureau.

### Final Disposition

A burial-transit permit (permit) is required to ensure compliance with death registration rules and guidelines and to grant permission for final disposition. A permit is generated from the EDRS, or manually produced by local registrars or subregistrars. The funeral director or direct disposer, or whoever first assumes custody of a body, is responsible for completion of the permit.<sup>14</sup> The funeral director or direct disposer must have the permit in his or her possession before final disposition of the decedent is authorized, and the permit must accompany the body to the place of final disposition. If the body is transported outside the state, the permit is required to accompany the body to its destination.<sup>15</sup>

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<sup>7</sup> Section 382.008, F.S.

<sup>8</sup> Section 382.011, F.S.

<sup>9</sup> Section 382.008(4), F.S.

<sup>10</sup> The EDRS is not used for fetal deaths and only 20 funeral homes in Florida do not have EDRS access, requiring the use of the manual, paper death certificate process. Email correspondence with Florida Dep't of Health State Deputy Registrar Ken Jones on January 29, 2015 (on file with committee staff).

<sup>11</sup> *Supra* fn. 4, ch. 4.

<sup>12</sup> Florida Dep't of Health, *Electronic Death Registration*, available at <http://www.floridahealth.gov/certificates/certificates/EDRS/index.html> (last accessed April 27, 2015).

<sup>13</sup> See *supra* note 10.

<sup>14</sup> *Supra* fn. 4, ch. 6.

<sup>15</sup> Section 382.006(3), F.S.

Section 382.007, F.S., requires a copy of the permit to be filed with the local registrar in the county that the cemetery is located within 10 days of final disposition.

The direct disposer must keep a record of all bodies disposed. In the event that a decedent is buried by a funeral director in a cemetery with no person in charge, he or she must enter the date of final disposition and note on the permit that no person in charge was present.

## **Effect of Proposed Changes**

The bill updates ch. 382, F.S., the Vital Statistics Act (Act), to reflect the use of the EDRS to complete and submit death certificates, generate burial-transit permits, and report deaths.

### **Death Certificates**

The bill authorizes in s. 382.008(1), F.S., the use of the EDRS to electronically register a death or fetal death certificate. It also allows DOH, instead of the local registrar, to grant funeral directors an extension of time to register such certificates if certain conditions are met, and requires funeral directors to file such certificates with DOH instead of the local registrar.

The bill also removes a provision from s. 382.008(1)(a), F.S., that allows alias information to be reported on the back of a paper death certificate.

Currently, the person responsible for completing a death certificate must acquire personal data from the “next of kin” of the decedent. The bill replaces “next of kin” with “legally authorized person,” as defined in the Funeral, Cemetery, and Consumer Services Act.<sup>16</sup> By this change, the person completing a death certificate may acquire personal information from any of the following persons:

- The decedent, if directions are provided on a will;
- The person designated by the decedent on the United States Department of Defense Record of Emergency Data, if the decedent died while in military service;
- The surviving spouse; unless the spouse has been arrested for committing an act of violence against the decedent;
- The son or daughter who is 18 or older;
- A parent;
- A brother or sister who is 18 or older;
- A grandparent; or
- Any person in the next degree of kinship.

### **Burial-Transit Permit**

The bill updates the Act to reflect the use of electronic burial-transit permits (permits). Specifically, the bill:

- Requires a funeral director to provide an electronic or manually produced permit to the person in charge of final disposition and removes certain application processes for a paper permit in s. 382.006(1), F.S.;
- Removes the requirement that a person in charge of the premises where a final disposition takes place submit a permit to the local registrar in s. 382.007, F.S.;
- Removes the requirement that a local registrar keep a permit on file for 3 years in s. 382.006(6), F.S.;
- Allows a permit on file to satisfy certain record keeping requirements for premises where a final disposition takes place in s. 382.007, F.S.;
- Requires a funeral director who buries a dead body in a cemetery where no one is in charge to keep the permit on file for 3 years instead of filing it with the local registrar in s. 382.007, F.S.;

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<sup>16</sup> Section 497.005, F.S.

- Requires a subregistrar to produce and maintain a paper death certificate or permit in s. 382.003(9), F.S., and s. 382.006(6), F.S.; and
- Defines “burial-transit permit” in s. 382.002, F.S., and adds “entombment” to the definition of final disposition in s. 382.002(9), F.S.

### Notification of Deaths

The bill requires in s. 382.0135, F.S., the Social Security Administration to be notified electronically of deaths through the EDRS.

The bill also makes conforming changes and corrects a cross-reference.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

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

#### **1. Revenues:**

None.

#### **2. Expenditures:**

To the extent funeral establishments will file electronic death certificates, there will be nominal cost-savings for CHDs associated with no longer printing and storing paper permits.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

### **D. FISCAL COMMENTS:**

None.