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CS/CS/HB 101

2017 Legislature

1  
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  
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; authorizing certain health care practitioners  
9 and 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, that the  
18 certificate of nonviable birth is a public record, and  
19 that certain information is exempt from disclosure;  
20 requiring the request for a certificate of nonviable  
21 birth to be on a form prescribed by the department and  
22 to include certain information; providing requirements  
23 for the certificate of nonviable birth; authorizing a  
24 parent to request a certificate of nonviable birth  
25 regardless of the date on which the nonviable birth

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26 |       occurred; designating the refusal to issue a  
 27 |       certificate of nonviable birth to certain persons as  
 28 |       final agency action that is not subject to  
 29 |       administrative review; prohibiting the use of  
 30 |       certificates of nonviable birth to calculate live  
 31 |       birth statistics; prohibiting specified provisions  
 32 |       from being used in certain civil actions; authorizing  
 33 |       the department to adopt rules; amending s. 382.0255,  
 34 |       F.S.; authorizing the department to collect fees for  
 35 |       processing and filing a new certificate of nonviable  
 36 |       birth; providing an effective date.

37 |

38 | Be It Enacted by the Legislature of the State of Florida:

39 |

40 |       Section 1. This act may be cited as the "Grieving Families  
 41 | Act."

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

46 |       382.002 Definitions.—As used in this chapter, the term:

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

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51 Section 3. Paragraph (b) of subsection (2) of section  
52 382.008, Florida Statutes, is amended, and subsection (7) is  
53 added to that section, to read:

54 382.008 Death, ~~and~~ fetal death, and nonviable birth  
55 registration.—

56 (2)

57 (b) The State Registrar may receive electronically a  
58 certificate of death, ~~or~~ fetal death, or nonviable birth which  
59 is required to be filed with the registrar under this chapter  
60 through facsimile or other electronic transfer for the purpose  
61 of filing the certificate. The receipt of a certificate of  
62 death, ~~or~~ fetal death, or nonviable birth by electronic transfer  
63 constitutes delivery to the State Registrar as required by law.

64 (7) Upon the request of a parent of a nonviable birth, a  
65 health care practitioner licensed pursuant to chapter 464 or  
66 chapter 467 who attends or diagnoses a nonviable birth, or a  
67 health care facility licensed pursuant to chapter 383 or chapter  
68 395 at which a nonviable birth occurs, shall electronically file  
69 a registration of nonviable birth on the department electronic  
70 death registration system or on a form prescribed by the  
71 department with the department or local registrar of the  
72 district in which the nonviable birth occurred within 30 days  
73 after receipt of such request. The certificate of nonviable  
74 birth shall be registered with the department if it has been  
75 completed and filed in accordance with this chapter or adopted

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76 | rules.

77 | Section 4. Subsection (9) of section 382.0085, Florida  
78 | Statutes, is amended to read:

79 | 382.0085 Stillbirth registration.—

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

84 | Section 5. Section 382.0086, Florida Statutes, is created  
85 | to read:

86 | 382.0086 Certificate of nonviable birth.—

87 | (1) For any nonviable birth in this state, the department  
88 | shall issue a certificate of nonviable birth within 60 days upon  
89 | the request of a parent named on the registration of nonviable  
90 | birth.

91 | (2) The person or entity authorized to register a  
92 | nonviable birth under this chapter shall advise a parent of a  
93 | nonviable birth:

94 | (a) That the parent may request the preparation of a  
95 | certificate of nonviable birth.

96 | (b) That the parent may obtain a certificate of nonviable  
97 | birth by contacting the Office of Vital Statistics.

98 | (c) How the parent may contact the Office of Vital  
99 | Statistics to request a certificate of nonviable birth.

100 | (d) That a copy of the original certificate of nonviable

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101 birth is available as a public record.

102 (e) That a copy of the original certificate of nonviable  
103 birth will not include the parentage, the marital status of the  
104 parent, the cause of death of the fetus, or any medical  
105 information.

106 (3) The request for a certificate of nonviable birth must  
107 be on a form prescribed by the department by rule and include  
108 the date of the nonviable birth and the county in which the  
109 nonviable birth occurred.

110 (4) The certificate of nonviable birth must contain:

111 (a) The date of the nonviable birth.

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

113 (c) The name of the fetus, as provided on the registration  
114 of nonviable birth pursuant to s. 382.008. If a name does not  
115 appear on the original or amended registration of nonviable  
116 birth and the requesting parent does not wish to provide a name,  
117 the Office of Vital Statistics shall fill in the certificate of  
118 nonviable birth with the name "baby boy" or "baby girl" and the  
119 last name of the parent as provided in s. 382.013(3). If the sex  
120 of the child is unknown, the Office of Vital Statistics shall  
121 fill in the certificate of nonviable birth with the name "baby"  
122 and the last name of the parent as provided in s. 382.013(3).

123 (d) The following statement which must appear on the front  
124 of the certificate: "This certificate is not proof of a live  
125 birth."

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126       (5) A certificate of nonviable birth shall be a public  
 127 record. The Office of Vital Statistics must inform any parent  
 128 who requests a certificate of nonviable birth that:

129       (a) A copy of the original certificate of nonviable birth  
 130 is available as a public record; and

131       (b) The parentage, the marital status of the parent, the  
 132 cause of death of the fetus, and any medical information will  
 133 not be included in the public record.

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

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

141       (8) The Office of Vital Statistics may not use a  
 142 certificate of nonviable birth to calculate live birth  
 143 statistics.

144       (9) This section or s. 382.002(14) may not be used to  
 145 establish, bring, or support a civil cause of action seeking  
 146 damages against any person or entity for bodily injury, personal  
 147 injury, or wrongful death for a nonviable birth.

148       (10) The department shall prescribe by rules adopted  
 149 pursuant to ss. 120.536(1) and 120.54 the form, content, and  
 150 process for the certificate of nonviable birth.

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

153           382.0255 Fees.—

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

155           (k) Not less than \$3 or more than \$5 for processing and  
156 filing a new certificate of nonviable birth pursuant to s.  
157 382.0086.

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