A bill to be entitled
An act relating to childbirth; amending s. 382.008, F.S.; requiring a certificate for fetal death to include certain information if the death occurred in association with a planned out-of-hospital birth; amending s. 382.013, F.S.; requiring a certificate of live birth to list the intended place of birth; requiring the certificate to list certain information if the mother or newborn was transferred to a hospital, an intensive care unit, or a similar facility during certain times; amending s. 456.0495, F.S.; requiring certain health care practitioners to submit adverse incident reports to the Department of Health within a specified timeframe under certain circumstances; requiring the department to investigate adverse incident reports involving unlicensed individuals and take appropriate action; creating a peer review panel within the department; providing for the membership, meetings, and duties of the panel; requiring the panel to submit annual reports to the department, the Board of Medicine, The Board of Osteopathic Medicine, the Board of Nursing, and the Council of Licensed Midwifery by a specified date; requiring the department to collect and analyze certain data relating to adverse incidents in planned
out-of-hospital births; requiring the department to submit annual reports on its findings and recommendations to the Governor and the Legislature by a specified date and publish the report on its website; creating s. 456.0496, F.S.; providing requirements for health care practitioners providing out-of-hospital births; requiring a patient informed consent form to include certain information; providing for violations and penalties; providing grounds for disciplinary action; amending s. 456.072, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Paragraph (d) is added to subsection (1) of section 382.008, Florida Statutes, to read:

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

(1) A certificate for each death and fetal death which occurs in this state shall be filed electronically on the department electronic death registration system or on a form prescribed by the department with the department or local registrar of the district in which the death occurred within 5 days after such death and prior to final disposition, and shall
be registered by the department if it has been completed and
filed in accordance with this chapter or adopted rules. The
certificate shall include the decedent's social security number,
if available. In addition, each certificate of death or fetal
death:

(d) If the fetal death occurred in association with a
planned out-of-hospital birth, including a fetal death that
occurs out-of-hospital or during a transfer or admission to a
hospital, an intensive care unit, or a similar facility, shall
include the name, title, and professional license number of each
physician, certified nurse midwife, or midwife who treated the
mother or fetus during the pregnancy, labor, or delivery, or
immediately thereafter. If an individual who treated the mother
or fetus is not appropriately licensed in this state but
represented himself or herself as such, the certificate of fetal
death must also include the name of the unlicensed individual
and any title or professional license number the individual used
to represent himself or herself as appropriately licensed in
this state, with a clear notation that the individual is not
appropriately licensed as such.

Section 2. Subsection (6) is added to section 382.013,
Florida Statutes, to read:

382.013 Birth registration.—A certificate for each live
birth that occurs in this state shall be filed within 5 days
after such birth with the local registrar of the district in
which the birth occurred and shall be registered by the local registrar if the certificate has been completed and filed in accordance with this chapter and adopted rules. The information regarding registered births shall be used for comparison with information in the state case registry, as defined in chapter 61.

(6) INTENDED PLACE OF BIRTH.—A certificate of live birth must include the intended place of birth. If the mother or newborn was transferred to a hospital, an intensive care unit, or a similar facility at any point during labor or delivery, or within 72 hours of delivery, the certificate must also include the name and address of the transferring location and the name, title, and professional license number of each physician, certified nurse midwife, or midwife who treated the mother or newborn during the pregnancy, labor, or delivery, or immediately thereafter. If an individual who treated the mother or fetus prior to such transfer is not appropriately licensed in this state but represented himself or herself as such, the certificate of live birth must also include the name of the unlicensed individual and any title or professional license number the individual used to represent himself or herself as appropriately licensed in this state, with a clear notation that the individual is not appropriately licensed as such.

Section 3. Section 456.0495, Florida Statutes, is amended to read:
456.0495 Reporting adverse incidents occurring in planned
101 out-of-hospital births.—
102 (1) For purposes of this section, the term "adverse
103 incident" means an event over which a physician licensed under
104 chapter 458 or chapter 459, a nurse midwife certified under part
105 I of chapter 464, or a midwife licensed under chapter 467 could
106 exercise control and which is associated with an attempted or
107 completed planned out-of-hospital birth, and results in one or
108 more of the following injuries or conditions:
109   (a) A maternal death that occurs during delivery or within
110  42 days after delivery;
111   (b) The transfer of a maternal patient to a hospital
112  intensive care unit;
113   (c) A maternal patient experiencing hemorrhagic shock or
114  requiring a transfusion of more than 4 units of blood or blood
115  products;
116   (d) A fetal or newborn death, including a stillbirth,
117  associated with an obstetrical delivery;
118   (e) A transfer of a newborn to a neonatal intensive care
119  unit due to a traumatic physical or neurological birth injury,
120  including any degree of a brachial plexus injury;
121   (f) A transfer of a newborn to a neonatal intensive care
122  unit within the first 72 hours after birth if the newborn
123  remains in such unit for more than 72 hours;
124   (g) Any transfer of a maternal patient or newborn from an
out-of-hospital birth setting to a hospital during the prenatal, intrapartal, or postpartal periods, as those periods are defined in s. 467.003, that results in fetal or maternal morbidity or mortality; or

(h) Any other injury as determined by department rule.

(2) Beginning July 1, 2018, a physician licensed under chapter 458 or chapter 459, a nurse midwife certified under part I of chapter 464, or a midwife licensed under chapter 467 who performs an attempted or completed planned out-of-hospital birth must report an adverse incident, along with a medical summary of events, to the department within 15 days after the adverse incident occurs. A health care practitioner required to report adverse incidents under this section who is aware of an adverse incident related to an out-of-hospital birth attempted or completed by an individual who was not appropriately licensed in this state but who represented himself or herself as licensed must report such adverse incident, including all related information of which the health care practitioner has knowledge, to the department within 15 days after becoming aware of such adverse incident.

(3) The department shall review each incident report and determine whether the incident involves conduct by a health care practitioner which is subject to disciplinary action under s. 456.073. Disciplinary action, if any, must be taken by the appropriate regulatory board or by the department if no such
board exists. If the department receives an adverse incident report involving conduct by an unlicensed individual, the department shall investigate the individual for unlicensed activity and take appropriate action under s. 456.065.

(4) A review panel is created within the department, in consultation with the Board of Medicine, the Board of Osteopathic Medicine, the Board of Nursing, and the Council of Licensed Midwifery, to review reported adverse incidents involving a planned out-of-hospital birth.

(a) The panel shall be composed of one obstetrical medical physician, one obstetrical osteopathic physician, one certified nurse midwife, one paramedic, and one midwife, each of whom shall have experience in out-of-hospital births and be appointed by the applicable board or council. The State Surgeon General or his or her designee shall serve as the chair and a nonvoting member of the panel. The panel shall meet quarterly and as often as necessary to perform its duties under this subsection and may conduct its meetings using any method of telecommunication. Panel members shall serve without compensation but may receive reimbursement for per diem and travel expenses as provided in s. 112.061.

(b) Based on its review of reported adverse incidents under this subsection, the panel shall collaborate with experts in data collection and public health to identify any patterns or trends linking certain adverse incidents to any licensed health
care practitioner performing planned out-of-hospital births, identify causes for such patterns or trends, and make recommendations for changes to address causes for adverse incidents identified in the panel's review.

(c) By July 1 of each year, the panel shall report its collaborative findings and recommendations to the department, the Board of Medicine, the Board of Osteopathic Medicine, the Board of Nursing, and the Council of Licensed Midwifery.

(5)(a) Using data collected from adverse incident reports submitted under this section, from certificates of live birth and certificates of fetal death filed with its Office of Vital Statistics, and from information submitted by licensed midwives to the Council of Licensed Midwifery, the department or its designee shall, at a minimum:

1. Analyze data relating to the frequency and nature of adverse incidents in planned out-of-hospital births;

2. Identify the rate of adverse incidents by the type of adverse incident and the attending health care practitioners or unlicensed individuals;

3. Identify any patterns or trends linking types of adverse incidents to attending health care practitioners or unlicensed individuals, and study causes for such patterns or trends;

4. Compare the findings to any comparable research and data associated with out-of-hospital births available from other
states; and

  5. Make recommendations for policy changes that may reduce the rate of adverse incidents in planned out-of-hospital births in this state.

  (b) By July 1 of each year, the department shall submit a report of its findings and any recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report shall also be published on the department's website. All information in the report shall be deidentified.

  (6)(4) The department shall adopt rules to implement this section and shall develop a form to be used for the reporting of adverse incidents.

Section 4. Section 456.0496, Florida Statutes, is created to read:

456.0496 Out-of-hospital births; continuing education requirements; responsibilities; violations and penalties; ground for discipline; penalties; enforcement.—

  (1)(a) CONTINUING EDUCATION REQUIREMENTS.—A licensed health care practitioner who provides out-of-hospital births shall biennially satisfy the following continuing education hours, as a condition for renewal of a license:

  1. Three hours of instruction on the risk of complications during pregnancy, labor, and delivery.

  2. Four hours of instruction on ethics and collaborative
care, including informed consent, patient confidentiality, patient relationships, transportation from a home or birth center to a hospital, and malpractice and negligence.

(b) The department shall by rule prescribe continuing education requirements as a condition for renewal of a license. The criteria for continuing education programs shall be approved by the department. Any individual, institution, organization, or agency that is approved by the department to provide continuing education programs to a licensed health care practitioner providing out-of-hospital births for the purpose of license renewal must demonstrate that such programs comply with the following criteria:

1. The programs have clinical relevance to practitioners providing out-of-hospital birth.

2. The programs are at least 1 clock hour in duration.

3. The programs have an organized structure with objectives and expected outcomes.

4. Each presenter, instructor, or facilitator of programs is a recognized professional, such as a physician, nurse, certified nurse midwife, psychologist, or licensed midwife.

(2) RESPONSIBILITIES OF A HEALTH CARE PRACTITIONER.—A licensed health care practitioner providing out-of-hospital births shall:

(a) Upon acceptance of a patient into care, advise the patient of the clinical outcomes of births in low-risk patients
during an out-of-hospital birth and any increased risks associated with an individual having a vaginal birth after cesarean section, breech birth, or multiple gestation pregnancy. The licensed health care practitioner providing out-of-hospital births shall further advise, but may not require, the patient to consult an obstetrician for more information related to such clinical outcomes and increased risks.

(b) Prepare a written plan of action with the family to ensure continuity of medical care throughout labor and delivery and to provide for immediate medical care if an emergency arises. The family should have specific plans for medical care throughout the prenatal, intrapartal, and postpartal periods.

(c) Instruct the patient and family regarding the preparation of the home and ensure availability of equipment and supplies needed for delivery and infant care, if a home birth is planned.

(d) Instruct the patient in personal hygiene and sanitary measures as they relate to pregnancy and nutrition as it relates to prenatal care.

(e) Maintain equipment and supplies required for providing care during the intrapartum and immediate postpartum in an out-of-hospital setting.

(f) Upon initial contact with the patient during the intrapartal period, measure and record the vitals of the mother and fetus to serve as a baseline during labor and delivery.
(g) Transfer care of the patient to a hospital with obstetrical services in accordance with the written emergency plan if any of the following occur during labor or delivery or immediately thereafter:

1. An unexpected nonvertex presentation of the fetus;
2. Indication that the mother's uterus has ruptured;
3. Evidence of severe and persistent fetal or maternal distress;
4. Pregnancy-induced hypertension;
5. An umbilical cord prolapse;
6. Active infectious disease process; or
7. Any other severe emergent condition.

(3) INFORMED CONSENT.—The department shall develop a uniform patient informed consent form to be used by the licensed health care practitioner providing out-of-hospital births to inform the patient of the health care practitioner's qualifications and the nature and risk of the procedures to be used by the health care practitioner and to obtain the patient's consent for the provision of out-of-hospital birth services. The form must be signed by the patient and the health care practitioner providing out-of-hospital births, and a copy must be provided to the patient. The form shall include, at a minimum, all of the following:

(a) A statement advising the patient of the clinical outcomes of births in low-risk patients during an out-of-
hospital birth and any increased risks associated with having a
vaginal birth after cesarean section, breech birth, or multiple
gestation pregnancy.

(b) A detailed statement advising the patient of hospital
admitting privileges and the requirements to obtain and maintain
such privileges.

(c) Disclosure of each hospital and specific department,
if any, where the health care practitioner providing out-of-
hospital births has been granted admitting privileges, including
the scope and duration of the admitting privileges, the current
contact information for the specific hospital or department that
has granted the health care practitioner admitting privileges,
and a copy of documentation from the specific hospital or department
providing proof of such admitting privileges. A health care
practitioner providing out-of-hospital births who does not have
admitting privileges at any hospital must explicitly state that
fact on the form.

(4) VIOLATIONS AND PENALTIES.—

(a) A person who knowingly conceals or fraudulently
misrepresents information or a requirement relating to the
practice of out-of-hospital birth commits a felony of the third
degree, punishable as provided in s. 775.082, s. 775.083, or s.
775.084.

(b) The fraudulent misrepresentation of a requirement
relating to the practice of out-of-hospital birth is grounds for
(5) GROUNDS FOR DISCIPLINE; PENALTIES; ENFORCEMENT.—If the ground for disciplinary action is the first-time violation of a practice act for unprofessional conduct, as used in ss. 464.018(1)(h), 467.203(1)(g), 467.203(1)(f), 468.365(1)(f), and 478.52(1)(f), and no actual harm to the patient occurred, the board or department, as applicable, shall issue a citation in accordance with s. 456.077 and assess a penalty as determined by rule of the board or department.

Section 5. Paragraph (b) of subsection (3) of section 456.072, Florida Statutes, is amended to read:

456.072 Grounds for discipline; penalties; enforcement.—

(3)

(b) Notwithstanding subsection (2), if the ground for disciplinary action is the first-time violation of a practice act for unprofessional conduct, as used in ss. 464.018(1)(h), 467.203(1)(g), 467.203(1)(f), 468.365(1)(f), and 478.52(1)(f), and no actual harm to the patient occurred, the board or department, as applicable, shall issue a citation in accordance with s. 456.077 and assess a penalty as determined by rule of the board or department.

Section 6. This act shall take effect July 1, 2020.