

CHAPTER 2017-38

Committee Substitute for Committee Substitute for House Bill No. 101

An act relating to certificates of nonviable birth; creating the “Grieving Families Act”; amending s. 382.002, F.S.; providing a definition; amending 382.008, F.S.; authorizing the State Registrar of the Office of Vital Statistics of the Department of Health to electronically receive a certificate of nonviable birth; authorizing certain health care practitioners and health care facilities to electronically file a registration of nonviable birth within a specified timeframe; amending s. 382.0085, F.S.; conforming a cross-reference; creating s. 382.0086, F.S.; requiring the Department of Health to issue a certificate of nonviable birth within a specified timeframe upon the request of a parent; requiring the person registering the nonviable birth to advise the parent that a certificate of nonviable birth is available, that the certificate of nonviable birth is a public record, and that certain information is exempt from disclosure; requiring the request for a certificate of nonviable birth to be on a form prescribed by the department and to include certain information; providing requirements for the certificate of nonviable birth; authorizing a parent to request a certificate of nonviable birth regardless of the date on which the nonviable birth occurred; designating the refusal to issue a certificate of nonviable birth to certain persons as final agency action that is not subject to administrative review; prohibiting the use of certificates of nonviable birth to calculate live birth statistics; prohibiting specified provisions from being used in certain civil actions; authorizing the department to adopt rules; amending s. 382.0255, F.S.; authorizing the department to collect fees for processing and filing a new certificate of nonviable birth; providing an effective date.

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

Section 1. This act may be cited as the “Grieving Families Act.”

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

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

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

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

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

(2)

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

(7) Upon the request of a parent of a nonviable birth, a health care practitioner licensed pursuant to chapter 464 or chapter 467 who attends or diagnoses a nonviable birth, or a health care facility licensed pursuant to chapter 383 or chapter 395 at which a nonviable birth occurs, shall electronically file a registration of nonviable birth 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 nonviable birth occurred within 30 days after receipt of such request. The certificate of nonviable birth shall be registered with the department if it has been completed and filed in accordance with this chapter or adopted rules.

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

382.0085 Stillbirth registration.—

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

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

382.0086 Certificate of nonviable birth.—

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

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

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

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

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

(d) That a copy of the original certificate of nonviable birth is available as a public record.

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

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

(4) The certificate of nonviable birth must contain:

(a) The date of the nonviable birth.

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

(c) The name of the fetus, as provided on the registration of nonviable birth pursuant to s. 382.008. If a name does not appear on the original or amended registration of nonviable birth and the requesting parent does not wish to provide a name, the Office of Vital Statistics shall fill in the certificate of nonviable birth with the name “baby boy” or “baby girl” and the last name of the parent as provided in s. 382.013(3). If the sex of the child is unknown, the Office of Vital Statistics shall fill in the certificate of nonviable birth with the name “baby” and the last name of the parent as provided in s. 382.013(3).

(d) The following statement which must appear on the front of the certificate: “This certificate is not proof of a live birth.”

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

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

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

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

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

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

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

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

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

382.0255 Fees.—

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

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

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

Approved by the Governor May 31, 2017.

Filed in Office Secretary of State May 31, 2017.