

CHAPTER 2017-39

Committee Substitute for House Bill No. 103

An act relating to public records; amending s. 382.008, F.S.; providing procedures for the registration of a nonviable birth; requiring nonviable birth certificates to contain information required for legal, social, and health research purposes; directing the Department of Health to authorize the issuance of certain records; providing that certain information included in nonviable birth certificates is confidential and exempt from public records requirements; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Subsection (7) is added to section 382.008, Florida Statutes, to read:

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

(7)(a) The original nonviable birth certificate shall contain all of the information required by the department for legal, social, and health research purposes. The department may issue a certified copy of an original nonviable birth certificate which includes the confidential and exempt information:

1. To the fetus’ parent;
2. To any local, state, or federal agency for official purposes upon approval by the department; or
3. Upon the order of any court of competent jurisdiction.

(b) All information relating to the cause of death and parentage of a nonviable fetus, the marital status of such fetus’ parent, and any medical information included in nonviable birth records held by a state agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, but may be released for health research purposes as approved by the department.

(c) The department shall authorize the issuance of a certified copy of all or part of an original nonviable birth certificate, excluding any information that is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, to any person requesting such copy, pursuant to paragraph (b), upon receipt of a request and payment of the fee prescribed in s. 382.0255.

(d) This subsection is subject to the Open Government Review Act in accordance with s. 119.15, and shall stand repealed on October 2, 2022,

unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that nonviable birth records held by a state agency which reveal the cause of death and parentage of a nonviable fetus, the marital status of such fetus' parent, and any medical information be held confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State Constitution to protect the privacy rights of a parent who experiences a nonviable birth. Medical information, including the cause of death of a nonviable fetus, and any medical information pertaining thereto, is sensitive and personal in nature and disclosure of such information may lead to an invasion of privacy of a parent experiencing a nonviable birth. Disclosure of information regarding the parentage of a nonviable fetus and the marital status of such fetus' parent may discourage an individual who would otherwise request a nonviable birth certificate from doing so due to real or perceived stigma regarding the nonviability of the fetus, the fetus' parentage, or the marital status of the fetus' parent. Currently, death and fetal death records make such information confidential and exempt from public disclosure. The Legislature finds that the same protections should be afforded to a parent who wishes to memorialize a nonviable birth with a nonviable birth certificate as part of his or her grieving process.

Section 3. This act shall take effect on the same date that CS/CS/HB 101 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Approved by the Governor May 31, 2017.

Filed in Office Secretary of State May 31, 2017.