

Committee Substitute for Senate Bill No. 746

An act relating to certificates of birth and death; creating “Katherine’s Law”; amending s. 382.002, F.S.; providing definitions; amending s. 382.008, F.S.; authorizing the State Registrar of the Office of Vital Statistics of the Department of Health to receive electronically the certificate of death or fetal death which is required to be filed with the local registrar; creating s. 382.0085, F.S.; requiring the Department of Health to issue a certificate of birth resulting in stillbirth upon request of specified parent; requiring that the person required to file the fetal death certificate advise a parent of a stillborn child about the availability of a certificate of birth resulting in stillbirth; requiring that the person required to file the fetal death certificate inform a parent of a stillborn child that copies of the birth certificate resulting in stillbirth may be available as a public record; requiring the use of a form prescribed by the Department of Health and the provision of specified information to request a certificate of birth resulting in stillbirth; providing requirements for the certificate of birth resulting in stillbirth; designating the certificate of birth resulting in stillbirth as a public record; authorizing a parent to request a certificate of birth resulting in stillbirth without regard to the date on which the certificate of fetal death was issued; designating the refusal to issue a certificate of birth resulting in stillbirth to certain persons as final agency action that is not subject to administrative review; prohibiting the use of certificates of birth resulting in stillbirth to calculate live birth statistics; prohibiting provisions from being used in certain civil actions; authorizing rulemaking by the Department of Health for the certificate of birth resulting in stillbirth; amending s. 382.013, F.S.; authorizing the State Registrar of the Office of Vital Statistics of the Department of Health to receive electronically the birth certificate for each live birth that is required to be filed with the local registrar; amending s. 382.0255, F.S.; authorizing the Department of Health to collect fees for a certificate of birth resulting in stillbirth; providing an effective date.

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

Section 1. Short title.—This act may be cited as “Katherine’s Law.”

Section 2. Section 382.002, Florida Statutes, is amended to read:

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

(1) “Certificate of birth resulting in stillbirth” means a certificate issued to record and memorialize the birth of a stillborn child.

~~(2)~~(4) “Certification” or “certified” means a document containing all or a part of the exact information contained on the original vital record, and which, when issued by the State Registrar, has the full force and effect of the original vital record.

~~(3)~~(2) “Dead body” means a human body or such parts of a human body from the condition of which it reasonably may be concluded that death recently occurred.

~~(4)~~(3) “Department” means the Department of Health.

~~(5)~~(4) “Dissolution of marriage” includes an annulment of marriage.

~~(6)~~(5) “Fetal death” means death prior to the complete expulsion or extraction of a product of human conception from its mother if the 20th week of gestation has been reached and the death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

~~(7)~~(6) “Final disposition” means the burial, interment, cremation, removal from the state, or other authorized disposition of a dead body or a fetus as described in subsection ~~(6)~~ (5). In the case of cremation, dispersion of ashes or cremation residue is considered to occur after final disposition; the cremation itself is considered final disposition.

~~(8)~~(7) “Funeral director” means a licensed funeral director or direct disposer licensed pursuant to chapter 497 or other person who first assumes custody of or effects the final disposition of a dead body or a fetus as described in subsection ~~(6)~~ (5).

~~(9)~~(8) “Legal age” means a person who is not a minor, or a minor who has had the disability of nonage removed as provided under chapter 743.

~~(10)~~(9) “Live birth” means the complete expulsion or extraction of a product of human conception from its mother, irrespective of the duration of pregnancy, which, after such expulsion, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, and definite movement of the voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

~~(11)~~(10) “Medical examiner” means a person appointed pursuant to chapter 406.

~~(12)~~(11) “Physician” means a person authorized to practice medicine, osteopathic medicine, or chiropractic medicine pursuant to chapter 458, chapter 459, or chapter 460.

~~(13)~~(12) “Registrant” means the child entered on a birth certificate, the deceased entered on a death certificate, and the husband or wife entered on a marriage or dissolution of marriage record.

~~(14)~~ “Stillbirth” means an unintended, intrauterine fetal death after a gestational age of not less than 20 completed weeks.

~~(15)~~(13) “Vital records” or “records” means certificates or reports of birth, death, fetal death, marriage, dissolution of marriage, name change filed pursuant to s. 68.07, and data related thereto.

(16)(14) “Vital statistics” means a system of registration, collection, preservation, amendment, and certification of vital records, the collection of other reports required by this act, and activities related thereto, including the tabulation, analysis, and publication of data obtained from vital records.

Section 3. Subsection (2) of section 382.008, Florida Statutes, is amended to read:

382.008 Death and fetal death registration.—

(2)(a) The funeral director who first assumes custody of a dead body or fetus shall file the certificate of death or fetal death. In the absence of the funeral director, the physician or other person in attendance at or after the death shall file the certificate of death or fetal death. The person who files the certificate shall obtain personal data from the next of kin or the best qualified person or source available. The medical certification of cause of death shall be furnished to the funeral director, either in person or via certified mail, by the physician or medical examiner responsible for furnishing such information. For fetal deaths, the physician, midwife, or hospital administrator shall provide any medical or health information to the funeral director within 72 hours after expulsion or extraction.

(b) The State Registrar may receive electronically a certificate of death or fetal death 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 by electronic transfer constitutes delivery to the State Registrar as required by law.

Section 4. Section 382.0085, Florida Statutes, is created to read:

382.0085 Stillbirth registration.—

(1) For any stillborn child in this state, the department shall, within 60 days, issue a certificate of birth resulting in stillbirth upon the request of a parent named on a fetal death certificate.

(2) The person who is required to file a fetal death certificate under this chapter shall advise the parent of a stillborn child:

(a) That the parent may request the preparation of a certificate of birth resulting in stillbirth in addition to the fetal death certificate;

(b) That the parent may obtain a certificate of birth resulting in stillbirth by contacting the Office of Vital Statistics;

(c) How the parent may contact the Office of Vital Statistics to request a certificate of birth resulting in stillbirth; and

(d) That a copy of the original certificate of birth resulting in stillbirth is a document that is available as a public record when held by an agency as defined under s. 119.011(2).

(3) The request for a certificate of birth resulting in stillbirth must be on a form prescribed by the department by rule and include the date of the stillbirth and the county in which the stillbirth occurred. The request shall normally include the state file number of the fetal death report pursuant to s. 382.008.

(4) The certificate of birth resulting in stillbirth must contain:

(a) The date of the stillbirth.

(b) The county in which the stillbirth occurred.

(c) The name of the stillborn child as provided on the original or amended certificate of the fetal death report pursuant to s. 382.008. If a name does not appear on the original or amended fetal death certificate and the requesting parent does not wish to provide a name, the Office of Vital Statistics shall fill in the certificate of birth resulting in stillbirth with the name “baby boy” or “baby girl” and the last name of the parents as provided in s. 382.013(3).

(d) The state file number of the corresponding certificate of fetal death.

(e) The following statement: “This certificate is not proof of live birth.”

(5) A certificate of birth resulting in stillbirth shall be a public record when held by an agency as defined under s. 119.011(2). The Office of Vital Statistics must inform any parent who requests a certificate of birth resulting in stillbirth that a copy of the document is available as a public record.

(6) A parent may request that the Office of Vital Statistics issue a certificate of birth resulting in stillbirth regardless of the date on which the certificate of fetal death was issued.

(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 to a person who is not a parent named on the fetal death certificate and who is not entitled to a certificate of birth resulting in stillbirth.

(8) The Office of Vital Statistics may not use a certificate of birth resulting in stillbirth 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 stillbirth.

(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 birth resulting in stillbirth.

Section 5. Paragraph (h) is added to subsection (1) of 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.

(1) FILING.—

(h) The State Registrar may receive electronically a birth certificate for each live 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 birth certificate. The receipt of a birth certificate by electronic transfer constitutes delivery to the State Registrar as required by law.

Section 6. Paragraph (j) 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:

(j) Not less than \$3 or more than \$5 for processing and filing a new certificate of birth resulting in stillbirth pursuant to s. 382.0085.

Section 7. This act shall take effect July 1, 2006.

Approved by the Governor June 9, 2006.

Filed in Office Secretary of State June 9, 2006.