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**SFA****BILL ANALYSIS**

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Senate Bill 1323 (Substitute S-3 as passed by the Senate)  
Sponsor: Senator Loren Bennett  
Committee: Families, Mental Health and Human Services

Date Completed: 8-13-02

### **RATIONALE**

The Public Health Code requires that a fetal death be reported to the State Registrar within five days after delivery, on a form and in a manner prescribed by the Registrar. ("Fetal death" refers to the death of a fetus that has completed at least 20 weeks of gestation or weighs at least 400 grams.) Although these reports may be used for purposes of medical and health statistics and research, the code prohibits the inclusion of fetal death forms in the permanent official records of the State's system of vital statistics. In addition, no birth certificate is issued in the case of a fetal death, because there is no live birth, and no death certificate is issued, because the death is prenatal. As a result, parents who lose an unborn child at that stage of fetal development do not receive any official document of the fetal death, although they often will name the child and might have a funeral or other memorial service. It has been suggested that a certificate of stillbirth be made available to parents and that fetal death reports be designated as permanent vital records that are included in the State's system of vital statistics. (Please see **BACKGROUND** for more information on the system of vital statistics.)

### **CONTENT**

**The bill would amend the Public Health Code to end certain restrictions pertaining to the disclosure of information included in fetal death reports effective June 1, 2003, and, instead, require that fetal death reports filed on or after that date be included in the State's vital records system. With information provided in a fetal death report, the Michigan Department of Community Health (MDCH) would have to create a certificate of stillbirth. The bill**

**also specifies that vital records and information in them would not be subject to the Freedom of Information Act.**

The Code prohibits the reporting form for a fetal death from containing the name of the parents of the fetus, common identifiers such as Social Security or driver's license numbers, or other information that would make it possible to identify the parents; prohibits a State agency from comparing data in an information system file with data in another computer system that would result in identifying a woman or father involved in a fetal death; and prohibits the maintenance of statistical information that may reveal the identity of the parents involved in a fetal death. Under the bill, those provisions would not apply after June 1, 2003.

The Code also provides that fetal death reports are statistical reports to be used only for medical and health purposes. The reports may not be incorporated into the permanent official records of the system of vital statistics. The MDCH is prohibited from disclosing the reports to any person outside the Department in any manner that would permit the identification of the parents. Under the bill, those provisions would apply only to reports filed before June 1, 2003.

Fetal death reports filed on or after June 1, 2003, would be permanent vital records documents and would have to be incorporated into the State's system of vital statistics. Access to a fetal death report or information contained in it would be the same as access to a live birth record under the Code.

With information provided to the MDCH in a fetal death record, the Department would have to create a certificate of stillbirth, which

would have to conform as nearly as possible to recognized national standardized forms and include at least all of the following information:

- The name of the fetus, if it were named by the parent or parents.
- The number of weeks of gestation completed.
- The date of delivery and weight at the time of delivery.
- The name of the parent or parents.
- The name of the health facility in which the fetus was delivered or the name of the health professional in attendance, if delivery were outside of a health facility.

MCL 333.2803 et al.

### **BACKGROUND**

Under the Code, "system of vital statistics" means the collection, certification, compilation, amendment, coordination, and preservation of vital records, including the tabulation, analysis, and publication of vital statistics. "Vital statistics" means data derived from vital records and related reports. "Vital record" means a certificate or registration of birth, death, marriage, or divorce; an acknowledgment of parentage; or related data. The State Registrar is an official appointed by the MDCH Director, and is the custodian of the system of vital statistics.

The Code regulates the availability of vital records in the system of vital statistics. A certified copy of a live birth record, for instance, must be issued, upon written request and payment of a fee, to one of the following:

- The individual who is the subject of the record.
- A parent named in the birth record.
- An heir, a legal representative, or a legal guardian of the individual who is the subject of the live birth record.
- A court of competent jurisdiction.

If a live birth record is 110 or more years old, a certified copy of the record must be issued to any person who applies for the record.

In addition, the Code allows the MDCH to furnish copies or data from the system of vital statistics to the Federal agency responsible for

national vital statistics, if that agency shares in the cost of collecting, processing, and transmitting the data, and if the data are not used for other than statistical purposes unless authorized by the State Registrar. The MDCH also may furnish copies or data from the system of vital statistics to Federal, State, local, and other public or private agencies for statistical or administrative purposes and to local health agencies for health planning and program activities.

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

Coping with the loss of an unborn child must be a very difficult challenge for any parent. At a time when they were preparing for the birth of a child, suddenly the parents must deal with grief instead. Apparently, many parents who experience this kind of loss find some comfort in going through the same motions as they would had the baby been born alive. They may name the child, have a funeral, and even mark the burial plot. Doing so can help with the process of grieving and emotional healing. To promote that process, the Public Health Code should require that a certificate of stillbirth be made available to the parents just as a birth certificate is issued for a live birth. Having documentation of the stillbirth could help the family deal with their emotional trauma and would be a recognition on the part of the State of the existence of this deceased member of the family.

**Response:** It is unclear how the MDCH would create a certificate of stillbirth with information provided in a fetal death report, unless the State Registrar required fetal death reports to include identifying information that a certificate of stillbirth would have to contain (information that could not be collected until June 1, 2003). Also, it is not clear how the MDCH would make a certificate of stillbirth available to parents, as suggested above. The bill would provide for access to a fetal death report in the same manner as access to a live birth record under the Code, but the bill does not address access to or distribution of a certificate of stillbirth.

#### **Supporting Argument**

The Public Health Code provides that fetal

death reports are to be used only for medical and health purposes, but it also states that they may not be incorporated into the permanent official records of the system of vital statistics. Keeping those reports out of the system of vital statistics can hamper the quality of public health research relating to fetal death. By including the reports, therefore, the bill could help to improve this research, since the Code specifically allows the MDCH to furnish copies or data from the system to public or private agencies for statistical purposes. Ultimately, a better understanding of the frequency, causes, and circumstances of fetal death could increase the likelihood that other parents would experience a healthy pregnancy and the live birth of their babies.

Legislative Analyst: Patrick Affholter

#### **FISCAL IMPACT**

Other than costs associated with developing and printing the new certificate of stillbirth, this bill should result in no additional costs to State or local government.

Fiscal Analyst: Dana Patterson

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.