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Senate Bill 25 (Substitute S-2 as reported by the Committee of the Whole)
Senate Bill 54 (Substitute S-2 as reported by the Committee of the Whole)
Sponsor: Senator Rick Jones
Committee: Judiciary

CONTENT

Senate Bill 25 (S-2) would amend the Public Health Code to do the following:

- Provide that, if a dead fetus that had completed at least 20 weeks of gestation were delivered in an institution, the person in charge of the institution or his or her representative would have to arrange for the final disposition of the fetus in accordance with Section 2848 (a section that Senate Bill 54 (S-2) would amend).
- Provide that, if a physician became aware of a fetal death or miscarriage that had occurred outside of an institution, the physician would have to inform the parent or parents that State law requires parental authorization for the final disposition of the dead fetus or fetal remains.
- Require a fetal death report to be filed if a dead fetus had completed at least 20 weeks of gestation.

Except as otherwise specifically provided, Section 2848 (concerning the final disposition of a dead body or fetus) and the requirements described above would not apply to a miscarriage that occurred outside an institution.

Currently, "final disposition" means the burial, cremation, or other disposition of a dead body or fetus. Under the bill, "final disposition" would mean the burial, cremation, or interment of a dead body or fetal remains. "Fetal remains" would mean a dead fetus or part of a dead fetus that has completed at least 10 weeks of gestation or has reached the stage of development at which, upon visual inspection, the head, torso, or extremities appear to be supported by skeletal or cartilaginous structures. The term would not include the umbilical cord or placenta.

"Miscarriage" would mean the spontaneous expulsion of a nonviable fetus that has completed less than 20 weeks of gestation.

Senate Bill 54 (S-2) would amend the Public Health Code to do the following:

- Require all fetal remains resulting from abortions to be disposed of by means lawful for other dead bodies, including burial, cremation, or interment.
- Specify that, if fetal remains resulting from an abortion were disposed of by cremation, they would have to be incinerated separately from other medical waste, but could be cremated with products of conception or other fetal remains resulting from abortions.
- Specify that these provisions would not require a physician to discuss the final disposition of fetal remains with the mother before performing an abortion or obtain the mother's authorization for final disposition of fetal remains upon completion of an abortion.

- Require a funeral director, or another person responsible for the final disposition, to obtain authorization from the parents or parent before final disposition of fetal remains resulting from a miscarriage (as currently required for final disposition of a dead fetus).
- Require a funeral director, individual in charge of an institution, or another person making the final disposition of a dead fetus or fetal remains to take into account the express wishes of the parent or parents, as long as the wishes did not conflict with State or Federal law, rule, or regulation.
- Provide that a person who failed to dispose of fetal remains resulting from an abortion as required, or failed to obtain the proper authorization for final disposition of a dead body, would be responsible for a State civil infraction, and could be ordered to pay a maximum civil fine of \$1,000 per violation.

The bills are tie-barred and would take effect 90 days after their enactment.

MCL 333.2803 et al. (S.B. 25)
333. 2848 et al. (S.B. 54)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The legislation would require institutions where a dead fetus was delivered to make arrangements for disposition, and also would require physicians who were aware of a fetal death or miscarriage outside an institution to inform the parents that State law requires their authorization of disposition arrangements. Public hospitals and publicly affiliated physician offices would be affected by this legislation. The additional requirements would impose costs on those entities, thereby marginally increasing State and local government expenditures.

Fine revenue from a State civil infraction would benefit public libraries.

Date Completed: 10-19-11

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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.