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CS/HB 103

2017 Legislature

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 2 An act relating to public records; amending s.
 3 382.008, F.S.; providing procedures for the
 4 registration of a nonviable birth; requiring nonviable
 5 birth certificates to contain information required for
 6 legal, social, and health research purposes; directing
 7 the Department of Health to authorize the issuance of
 8 certain records; providing that certain information
 9 included in nonviable birth certificates is
 10 confidential and exempt from public records
 11 requirements; providing for future legislative review
 12 and repeal of the exemption; providing a statement of
 13 public necessity; providing a contingent effective
 14 date.

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

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

20 382.008 Death, ~~and fetal death,~~ and nonviable birth
 21 registration.—

22 (7) (a) The original nonviable birth certificate shall
 23 contain all of the information required by the department for
 24 legal, social, and health research purposes. The department may
 25 issue a certified copy of an original nonviable birth

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26 | certificate which includes the confidential and exempt
 27 | information:

- 28 | 1. To the fetus' parent;
- 29 | 2. To any local, state, or federal agency for official
 30 | purposes upon approval by the department; or
- 31 | 3. Upon the order of any court of competent jurisdiction.

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

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

46 | (d) This subsection is subject to the Open Government
 47 | Review Act in accordance with s. 119.15, and shall stand
 48 | repealed on October 2, 2022, unless reviewed and saved from
 49 | repeal through reenactment by the Legislature.

50 | Section 2. The Legislature finds that it is a public

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

73 Section 3. This act shall take effect on the same date
74 that CS/CS/HB 101 or similar legislation takes effect, if such
75 legislation is adopted in the same legislative session or an

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76 | extension thereof and becomes a law. |