Fiscal Note & Local Impact Statement

127 th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **Sub. S.B. 175 (LSC 127 1026-9)** DATE: **May 21, 2008**

STATUS: **In House Health** SPONSOR: **Sen. Coughlin**

LOCAL IMPACT STATEMENT REQUIRED: **No — Minimal cost**

CONTENTS: **To enact the Grieving Parents Act, regarding fetal death certificates for, and burials of, the product of human conception that suffers a fetal death**

State Fiscal Highlights

STATE FUND	FY 2009 and FUTURE YEARS
Fee Supported Programs (Fund 470) – Department of Health	
Revenues	Potential gain dependent upon the number of fetal death certificates issued
Expenditures	Potential increase dependent upon the number of fetal death certificates issued
Cemeteries Fund (Fund 4H9) – Department of Commerce	
Revenues	Potential minimal gain
Expenditures	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2009 is July 1, 2008 – June 30, 2009.

- ***Department of Health*.** The bill requires that, on the application of either parent, a fetal death certificate be issued for the product of human conception that suffers a fetal death occurring prior to the 20th week of gestation. As a result, there could be an increase in administrative costs to the Department of Health relating to more requests for certificates. The cost would be dependent upon the number of fetal death certificates requested for fetal deaths occurring prior to 20 weeks of gestation. However, there would be a charge for the fetal death certificate that would likely offset most, if not all, administrative costs.

- ***Department of Commerce*.** The bill provides that the product of a fetal death, for which a burial permit has been issued is to be interred, on the request of either parent, in a township cemetery, municipal cemetery, or cemetery of a cemetery company or association. This provision could increase the number of burial permits issued for fetal deaths occurring prior to 20 weeks of gestation. The Department of Commerce receives $2.50 of each $3.00 burial permit issued. As a result, the Department could realize a gain in revenues. The Department anticipates that this gain will be minimal.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008 and FUTURE YEARS
Townships and Municipalities	
Revenues	Potential gain
Expenditures	Potential increase
Local Boards of Health	
Revenues	Potential gain
Expenditures	Potential increase likely offset by revenue gain
Government-owned Hospitals	
Revenues	- 0 -
Expenditures	Potential increase
County Probate Courts	
Revenues	- 0 -
Expenditures	Potential increase

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- ***Townships and municipalities*.** The bill provides that the product of a fetal death, for which a burial permit has been issued is to be interred, on the request of either parent, in a township cemetery, municipal cemetery, or cemetery of a cemetery company or association. This could increase administrative and possibly maintenance costs to township and municipality cemeteries. However, it is possible that this provision could increase the number of cemetery plots purchased. It is also possible that municipal or township cemetery operators would charge for a second right of interment if the product of fetal death was buried in a single grave that contains or will contain the remains of a parent, sibling, or grandparent, which could result in a gain in revenue. The amount would be dependent upon the number of additional plots purchased or the fees generated from the second right of internment as a result of the bill.

- ***Townships and municipalities*.** The bill provides that a board of township trustees or a legislative authority of a municipal corporation may adopt rules and provide for the enforcement of ordinances, for the burial, reinterment, or disinterment of the product of a fetal death in the cemetery or public burial ground under control of that authority. This could minimally increase administrative costs for these entities if they decide to adopt rules regarding this.

- ***Townships and municipalities*.** If two surviving parents are indicated on the burial documents for the product of a fetal death and only one parent has given consent, prior to disinterment or re-interment, the cemetery, municipal corporation, or cemetery company is required to give notice by registered mail to the parent who did not give consent. There could be increased administrative and mailing costs relating to this provision. Any increase would be dependent upon the number of instances that occurred.

- ***Local boards of health*.** The bill provides that either parent may be issued a fetal death certificate for a fetal death occurring prior to the 20th week of gestation. As a result of this, local boards of health could see an increase in the number of fetal death certificates and burial permits requested. According to the Association of Ohio Health Commissioners, the boards would charge a fee for the certificate and permit, which would offset any increases in administrative costs associated with the bill.

- ***Government-owned hospitals*.** The bill provides that if any woman presents herself at a hospital or a physician's office as a result of a fetal death, the hospital or physician is to provide the woman with certain information, such as a written statement that confirms the woman was pregnant and suffered a miscarriage

that resulted in a fetal death, as well as notice of the right to apply for a fetal death certificate and the procedures for disposing of the product of a fetal death. According to the Ohio Hospital Association, this could increase costs to government-owned hospitals. The increase is expected to be minimal.

- ***County probate courts*.** If there is a timely objection from a parent who did not consent to disinterment or re-interment, the disinterment or re-interment is subject to current law governing disinterment or re-interment of human remains, which could involve a probate court hearing and decision. It is expected that the number of occurrences would be small; thus, costs would be minimal.

Detailed Fiscal Analysis

Burial permit and fetal death certificates

Under the bill, "fetal death" is redefined to mean death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy which is not the purposeful termination of a pregnancy and which after such expulsion or extraction 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. The bill requires, on the application by either parent, that a fetal death certificate be issued for the product of human conception that suffers a fetal death occurring prior to the 20th week of gestation. A copy of a statement that confirms that the woman was pregnant and suffered a miscarriage that resulted in a fetal death is required to receive the certificate. The bill requires the local registrar of vital statistics of the registration district in which the product of human conception suffers a fetal death prior to 20 weeks of gestation to issue a burial permit if either parent files a fetal death certificate with the registrar.

The bill also provides that the product of a fetal death, for which a burial permit has been issued is to be interred, on the request of the mother and in compliance with public burial ground or cemetery's ordinances, in a township cemetery, municipal cemetery, or cemetery of a cemetery company or association by one of the following: (1) in a single grave within the cemetery that contains, or will contain, the remains of a parent, sibling, or grandparent, or (2) in another location of the cemetery, on a temporary or permanent basis. The bill further provides that a board of township trustees, in the case of a township cemetery, a legislative authority of a municipal corporation, in the case of a public burial ground or cemetery, or a cemetery company or association may pass and provide for the enforcement of ordinances, for the burial, reinterment, or disinterment of the product of a fetal death in the cemetery or public burial ground under control of that authority.

Additionally, the bill specifies that disinterment or re-interment of the product of a fetal death is not subject to current law governing disinterment and re-interment if one or both surviving parents provide written consent and the parent or parents comply with rules. If two surviving parents are indicated on the burial documents for the product of a fetal death and only one parent has given consent, prior to disinterment or re-interment, the cemetery, municipal corporation, or cemetery company is required to give notice by registered mail to the parent who did not give consent. The parent who did not give consent is permitted to object to the disinterment or re-interment. If there is timely objection from the parent who did not consent,

the disinterment or re-interment is subject to current law governing disinterment or re-interment of human remains, which could involve a probate court hearing and decision.

Fiscal effects

State

According to the Department of Health's web site, the definition of a "stillborn" is an infant who suffered a fetal death, showing no signs of life after delivery. The Ohio Revised Code, section 3705.23, authorizes the Department to issue one Certificate of Stillbirth to the parents that request it, free of charge. A fetal death certificate is required for the registration of any stillborn infant of at least 20 weeks of gestation. The bill requires, on the application of either parent, that a fetal death certificate be issued for the product of human conception that suffers a fetal death occurring prior to the 20th week of gestation. As a result of the provision, it is possible that there would be more requests for fetal death certificates. Therefore, administrative costs could increase for the Department. The cost would be dependent upon the number of fetal death certificates requested for fetal deaths occurring prior to 20 weeks of gestation. However, there would be a charge for the fetal death certificate that would likely offset most, if not all, administrative costs.

The Department of Commerce receives $2.50 of every $3.00 burial permit. The Department could realize an increase in revenues as a result of the bill. Any increase would be dependent upon the number of additional burial permits requested for fetal deaths occurring prior to 20 weeks of gestation. The Department anticipates this gain to be minimal. According to a Department of Health spokesperson, it is believed that some burial permits are currently granted to fetal deaths occurring prior to the 20th week of gestation.

Local

As a result of the bill, local boards of health could see an increase in the number of fetal death certificates and burial permits requested for those fetal deaths occurring prior to 20 weeks of gestation. According to the Association of Ohio Health Commissioners, the boards would charge a fee for the certificate and permit, which would offset any increases in administrative costs associated with the bill.

Townships and municipalities who own or operate cemeteries could be impacted by the bill. It is possible that there could be increased administrative and possibly maintenance duties associated with the provision that provides that the product of a fetal death, for which a burial permit has been issued is to be interred, on the request of the mother and in compliance with public burial ground or cemetery's ordinances, in a township cemetery, municipal cemetery, or cemetery of a cemetery company or association by one of the following: (1) in a single grave within the cemetery that contains, or will contain, the remains of a parent, sibling, or grandparent, or (2) in another location of the cemetery, on a temporary or permanent basis. It is possible that this provision could increase the number of cemetery plots purchased. It is also possible that municipal or township cemetery operators would charge for a second right of interment. Many operators charge for a second right for interring additional remains in the same grave. This could cause a gain in revenue. The amount would be dependent upon the number of additional plots purchased or the fees generated from the second right of interment as a result of the bill. However, according to a Department of Health spokesperson, it is believed that some

burial permits are currently granted to fetal deaths occurring prior to the 20th week of gestation. It is also possible that townships and municipalities would incur costs due to the requirement that notice by registered mail is given to the parent who did not give consent to disinterment or re-interment. Any increase would be dependent upon the number of instances that occurred.

Additionally, probate courts could incur costs if there is timely objection from the parent who did not consent to the disinterment or re-interment. It is possible that a court hearing would be necessary. It is expected that the number of cases in which this occurred would be small. Thus, costs would be minimal.

Notification

The bill provides that if any woman presents herself at a hospital or a physician's office as a result of a fetal death prior to 20 weeks of gestation, the hospital or physician is to provide the woman with the following information: (1) a written statement, not longer than one page in length, that confirms that the woman was pregnant and that she subsequently suffered a miscarriage that resulted in a fetal death, (2) notice of the right of the woman to apply for a fetal death certificate, and (3) the hospital or physician's procedures for disposing of the product of a fetal death. The bill provides that a hospital or hospital employee or physician may present the notice of the right to apply for a fetal death certificate and the hospital's procedures for disposing of the product of a fetal death through oral or written means. The hospital or hospital employee or physician is required to document that all of the information has been provided to the woman with a note in her medical record and place in the record a copy of the statement that confirms the pregnancy and miscarriage. The bill provides that a hospital or hospital employee or physician is immune from civil or criminal liability or professional disciplinary action with regard to any action taken in good faith compliance with this requirement. According to the Ohio Hospital Association, this could increase costs to government-owned hospitals. The increase is expected to be minimal.

Emergency medical personnel requirement

Current law does not explicitly require emergency medical service personnel to take any specific action with regard to the remains of a miscarriage or fetal death that occurs during emergency transportation. The bill requires that the emergency medical service personnel dispose of the product of a fetal death in the manner set forth for the disposal of fetal remains in the "Emergency Medical Technician-Basic: National Standard Curriculum." According to a document provided by a representative from the Department of Public Safety, emergency medical services personnel currently follow the National Standard Curriculum. Thus, there will be no additional costs relating to this provision.

Requirements for certain fetal deaths

Current law provides certain reporting and certification requirements for the fetal death of a product of conception of at least 20 weeks of gestation. The bill does not change these provisions, but clarifies that the reporting and certification is only required for a fetal death of a product of conception that is at least 20 weeks of gestation. Thus, these clarifications have no fiscal effect.

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