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FISCAL IMPACT REPORT

ORIGINAL DATE 03/11/13
LAST UPDATED 03/14/13 **HB** CS/658/HJCS

SPONSOR HJC
Public Peace, Health, Safety & Welfare –

SHORT TITLE Registration of Certain Fetal Deaths **SB** _____

ANALYST Esquibel

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		
	\$0.3	\$1.0		General Fund, Daycare Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Indeterminate	Indeterminate	Indeterminate	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 305/SPACS, Registration of Certain Fetal Deaths

SOURCES OF INFORMATION

LFC Files

Response Received From

Department of Health (DOH)

SUMMARY

Synopsis of Bill

The House Judiciary Committee substitute to the House Consumer and Public Affairs Committee substitute for House Bill 658 (HB 658) proposes to amend the Vital Statistics Act to register fetal deaths; change the reporting requirements from 500 grams to 20 weeks or 350 grams or greater if the gestational age is unknown; produce a “Certificate of Still Birth” which would allow families the option of requesting this certificate or the Report of Fetal Death; allow for the creation of delayed certificates of stillbirth; and collect fees. A certified copy of the “Report of Spontaneous Fetal Death” or “Certificate of Still Birth” would have a fee of \$5.00.

FISCAL IMPLICATIONS

The bill would allow for a \$5.00 fee to conduct a search and issue a “Report of Spontaneous Fetal Death” or “Certificate of Still Birth.” Revenue from the collection of these fees would go to the general fund. According to Bureau of Vital Records statistics, between 80 and 100 reports of spontaneous fetal death are provided to the bureau each year, but with the adoption of this bill the number of certificates and reports is projected to increase. In 2012, three Certificates of Stillbirth (provided by regulation) were issued. In FY14, the provisions of the bill would be in effect for half the year so the revenue generated through issuance of reports or certificates would be approximately $100 \times \$5 / 2 = \250 . For FY15, the estimates are for a full year and expect more issuance of reports and certificates, so $200 \times \$5 = \$1,000$.

The Department of Health (DOH) indicates the financial burden of enabling the electronic issuance system to generate all the possible combinations of the woman’s selections for the reports and certificates may be considerable.

SIGNIFICANT ISSUES

The DOH recently modified its regulations (NMAC 7.2.2) to create a certificate of stillbirth from reports of spontaneous fetal death and to allow for: 1) the name of the fetus on the certificate; 2) the name of the parents on the certificate; 3) no charge to the parent for the Report of Fetal Death; 4) a certificate of stillbirth for stillbirth events that occurred from January 2004 forward if a report of spontaneous fetal death was filed with the DOH; and 5) the integrity of vital records such that records could not be altered or used for other purposes, i.e. to be used as evidence of a birth. The regulation provides the certificate of stillbirth only to the parent or parents listed on the corresponding report of spontaneous fetal death. This is consistent with laws of other states. There would be no rights or benefits conferred by this certificate.

The DOH indicates Section 2, paragraph I, would allow medical records or an affidavit by the woman’s health care provider to substantiate the facts of the spontaneous fetal death. Currently, the Bureau of Vital Records does not rely solely on affidavits. Existing rules allow supplemental information to be provided by the mother when applying for a retroactive certificate if the data held by the bureau is incomplete; in this case, the state registrar has discretion to accept the documentation and to issue a certificate or not (7.2.2.18H NMAC). The bill, however, does not allow for such discretion by the state registrar.

ADMINISTRATIVE IMPLICATIONS

The DOH’s Bureau of Vital Records plans to implement a fetal death module in the E-Vitals system to begin with fetal deaths occurring on or after January 1, 2014. Beginning with 2012, the Report of Fetal Death was modified to be consistent with the U.S. 2008 Standard Report of Fetal Death. The changes specified in the bill could be included with this implementation. Training of staff in institutions would be necessary to inform women delivering stillbirths that they may request a certificate of still birth and individuals who complete the report will also need to be trained. It would be necessary to develop a patient and facility worksheet so that the information on the certificate is complete; procedures for verifying and correcting the certificate; and procedures for creating a delayed certificate of still birth.

TECHNICAL ISSUES

The DOH indicates HB 658 may conflict with the DOH rules and regulations (NMAC 7.2.2.18E) which allow the parents to access the certificate of stillbirth, not a family member whom the woman designates.

Section 2, page 4, item “I,” the filing of a delayed registration could be open to fraud because there may or may not be any medical authority to complete registration.

Page 7, line 23 includes the date of birth of the mother on the certificate of still birth which is not consistent with other vital records certificates such as a certificate of live birth which only includes the mother’s place of birth.

The Department of health indicates the bill conflicts with statutory and regulatory language NMSA 24-14-22 and NMAC § 7.2.2 that specifies only a person designated as a “parent” can report and be on the certificate of spontaneous fetal death. There is a conflict between HB 658 and current New Mexico law. HB 658 recognizes the rights “of the woman who delivered,” but does not acknowledge the rights of the “parents.” This bill conflicts with statutory and regulatory language in NMSA 24-14-22 and NMAC § 7.2.2, which specifies that a person designated as a “parent” can report and be on the certificate of spontaneous fetal death. There is no language referring “to the woman who delivered” in current law. There may be circumstances, such as gestational surrogacy where the woman who delivers a live or still birth may not be the legal “parent.”

HB 658 also includes more specific information as to the contents of the certificate of birth resulting in still birth than do the administrative rules. The current rule (7.2.2.18C NMAC) makes clear that the registrar shall prescribe the form of a certificate of still birth and such form shall be distinct from the form for a certificate of live birth. HB 658 requires that the state registrar shall establish a certificate of still birth and in addition, allows for the woman to pick and choose from certain data elements. Currently, a standard format is used to provide consistency and uniformity, as well as document security.

The DOH indicates the proposed bill allows for the name of the woman who delivered under circumstances in which a spontaneous fetal death occurred and, “if the woman requests it, the name of a father or second parent” who she designates to be entered on the report of spontaneous fetal death in accordance with 24-14-13 NMSA 1978. This statute addresses parentage from the perspective of the woman’s marital status, and provisions for entering the father’s name when registering a birth. This revision, however, would allow a “second parent,” presumably to include anyone being entered as the second parent on the spontaneous fetal death report, but 24-14-13 NMSA 1978 does not address this.

ALTERNATIVES

Certificates of stillbirth have already been established by the DOH administrative rule 7.2.2 NMAC.

RAE/svb:blm