~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 1, 2019

**S. 21**

Introduced by Senators Hutto, Shealy and Jackson

S. Printed 5/1/19--H.

Read the first time January 30, 2019.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 21) to amend Section 63‑17‑70, Code of Laws of South Carolina, 1976, relating to court orders determining that a putative father is the legal father, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by adding an appropriately numbered SECTION to read:

/ SECTION . Section 44‑1‑310 of the 1976 Code amended to read:

Section 44‑1‑310. (A) The Department of Health and Environmental Control shall establish a Maternal Morbidity and Mortality Review Committee to review maternal deaths and to develop strategies for the prevention of maternal deaths. The committee must be multidisciplinary and composed of members deemed appropriate by the department. The committee also may review severe maternal morbidity. The department may contract with an external organization to assist in collecting, analyzing, and disseminating maternal mortality information, organizing and convening meetings of the committee, and performing other tasks as may be incident to these activities, including providing the necessary data, information, and resources to ensure successful completion of the ongoing review required by this section.

(B) The State Registrar shall provide the following necessary data from death certificates of women who died within a year of pregnancy to the department staff for review to assist in identifying maternal death information:

(1) name;

(2) date and time of death;

(3) state and county of residence;

(4) date of birth;

(5) marital status;

(6) citizenship status;

(7) United States armed forces veteran status;

(8) educational background;

(9) race and ethnicity;

(10) date and time of injury;

(11) place of injury;

(12) location where injury occurred;

(13) place of death (facility name and/or address);

(14) manner of death;

(15) whether an autopsy was performed and findings available as to the cause of death;

(16) whether tobacco contributed to death;

(17) primary and contributing causes of death.

(C) The State Registrar shall provide the following necessary data from birth certificates or fetal death reports linked to the woman for whom data from the death certificate was provided pursuant to subsection (B), where available, to department staff for review to assist in identifying maternal death information:

(1) medical record number;

(2) date of delivery;

(3) location of event;

(4) name of mother;

(5) mother’s date of birth;

(6) mother’s race and ethnicity;

(7) mother’s pregnancy history;

(8) mother’s height and weight;

(9) date of last normal menstrual period;

(10) date of first prenatal visit;

(11) number of prenatal visits;

(12) plurality;

(13) use of WIC during pregnancy;

(14) delivery payment method;

(15) cigarette smoking before and during pregnancy;

(16) risk factors during pregnancy;

(17) infections present or treated during pregnancy;

(18) onset of labor;

(19) obstetric procedures;

(20) characteristics of labor and delivery;

(21) maternal morbidity.

(D) The department must not disclose any information that would identify the mother or baby with anyone outside the department, including the committee. Identifying information includes, but may not be limited to, names, addresses more specific than the county of residence, medical record numbers, and dates and times of birth or death.

(E) The department, or its representatives, on behalf of the committee, shall:

(1) extract necessary data elements from death certificates and birth certificates or fetal death reports, as applicable, and provide de‑identified information to the committee for its review and consideration;

(2) review and abstract medical records and other relevant data;

(3) contact family members and other affected or involved persons to collect additional data.

(F) The committee shall:

(1) ~~identify maternal death cases, as defined as a death within one year of pregnancy with a direct or indirect causation related to the pregnancy or postpartum period~~ review information and records provided by the department;

(2) ~~review medical records and other relevant data~~ determine whether maternal death cases reviewed are pregnancy related, as defined as a death within one year of the pregnancy with a direct or indirect causation related to the pregnancy or postpartum period;

(3) ~~contact family members and other affected or involved persons to collect additional data;~~

~~(4)~~ consult with relevant experts to evaluate the records and data;

~~(5)~~(4) make determinations regarding the preventability of maternal deaths;

~~(6)~~(5) develop recommendations for the prevention of maternal deaths; and

~~(7)~~(6) disseminate findings and recommendations pursuant to subsection ~~(F)~~(J).

~~(C)~~(G)(1) Health care providers and pharmacies licensed pursuant to Title 40 shall provide reasonable access to the department and its representatives, on behalf of the committee, to all relevant medical records associated with a case under review by the committee.

(2) A health care provider, health care facility, or pharmacy providing access to medical records pursuant to this subsection are not liable for civil damages or subject to criminal or disciplinary action for good faith efforts in providing the records.

(3) Coroners and law enforcement shall provide reasonable access to the department and its representatives, on behalf of the committee, to all relevant records associated with a case under review by the committee.

~~(D)~~(H)(1) Information, records, reports, statements, notes, memoranda, or other data collected pursuant to this section are not admissible as evidence in any action of any kind in any court or before another tribunal, board, agency, or person. The information, records, reports, statements, notes, memoranda, or other data must not be exhibited nor their contents disclosed, in whole or in part, by an officer or a representative of the department or another person, except as necessary for the purpose of furthering the review of the committee of the case to which they relate. A person participating in a review may not disclose the information obtained except in strict conformity with the review project.

(2) All information, records of interviews, written reports, statements, notes, memoranda, or other data obtained by the department, the committee, and other persons, agencies, or organizations authorized by the department pursuant to this section are confidential.

~~(E)~~(I)(1) All proceedings and activities of the committee, opinions of members of the committee formed as a result of the proceedings and activities, and records obtained, created, or maintained pursuant to this section, including records of interviews, written reports, and statements procured by the department or another person, agency, or organization acting jointly or under contract with the department in connection with the requirements of this section, are confidential and are not subject to the provisions of Chapter 4, Title 30 relating to open meetings or public records, or subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding. However, this section must not be construed to limit or restrict the right to discover or use in any civil or criminal proceeding anything that is available from another source and entirely independent of the committee’s proceedings.

(2) Members of the committee must not be questioned in a civil or criminal proceeding regarding the information presented in or opinions formed as a result of a meeting or communication of the committee. However, this section must not be construed to prevent a member of the committee from testifying to information obtained independently of the committee or which is public information.

~~(F)~~(J) Reports of aggregated nonindividually identifiable data for the previous calendar year must be compiled and disseminated by March first of the following year in an effort to further study the causes and problems associated with maternal deaths. Reports must be distributed to the General Assembly, the Director of the Department of Health and Environmental Control, health care providers and facilities, key governmental agencies, and others necessary to reduce the maternal death rate.

~~(G)~~(K) Members shall serve without compensation, and are ineligible for the usual mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions.

(L) The department shall apply for and use any available federal or private monies to help fund the costs associated with implementing the provisions of this section.” /

Renumber sections to conform.

Amend title to conform.

PETER M. MCCOY, JR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 8, 2019**

**State Expenditure**

This bill amends the requirements of family court orders determining that a putative father is the natural father of a child by ordering that the birth certificate be amended to include the father’s name. Upon entry of a court order or administrative determination specifying that the putative father is the legal father of a child, the clerk of court shall send a report to the registrar of the Division of Vital Statistics at the Department of Health and Environmental Control (DHEC) showing the information necessary to amend a birth certificate. Further, the bill stipulates that orders modifying, vacating, or amending paternity orders are to be handled in the same manner. The bill also clarifies language surrounding the amendment of birth certificates to state that if the surname of a child is not decreed by the court, the surname must not be changed.

**Department of Social Services.** The Department of Social Services (DSS) processes approximately 14,000 paternity orders and administrative determinations each year. Currently, after receiving a family court order or administrative determination, individuals who desire an amended birth certificate consult with the Department of Health and Environmental Control. The department indicates that the provisions of the bill do not materially or fiscally alter the processes or operations of its programs. As such, the bill will not impact the general fund, other funds, or federal funds for the department.

**Department of Health and Environmental Control.** The bill requires DHEC to issue a new birth certificate upon receipt of a court order or administrative determination that the putative father is the legal father of a child. In order to accommodate the increased volume of birth certificates requiring amendment, DHEC anticipates the need to hire 4 new program assistants to process reports, issue certified copies of vital events, and provide timely consultation to customers. DHEC indicates additional recurring expenditures of $242,606 for salary and fringe and $24,153 for office space, supplies, and contractual employee costs. Non-recurring expenditures associated with the addition of 4 program assistants total $2,188 for computer equipment. Therefore, this bill will increase other fund expenditures by $268,947 in FY 2019-20, and $266,759 each year thereafter.

**Judicial Department.** The bill amends the requirements of family court orders to include a new provision in certain paternity orders, and adds the requirement that a clerk of court must send a report to the Registrar of the Division of Vital Records containing information necessary in order to amend a birth certificate. The department indicates that the additional provision will not result in increased expenditures for family court judges. As such, there is no expenditure impact on the general fund, other funds, or federal funds for the department.

**State Revenue**

Currently, when DHEC receives an application for an amended birth certificate, the individual remits a fee of $27 to the Division of Vital Statistics. This fee includes a $12 search fee and a $15 amendment fee. This bill requires courts to send paternity orders and administrative determinations directly to DHEC. Court orders and administrative determinations sent directly to DHEC by the courts or the Department of Social Services are not subject to the $27 fee. DSS and DHEC report that an average of 14,000 paternity orders and administrative determinations will be sent directly to the Division of Vital Statistics. As in past years, DHEC and DSS expect that approximately 3,500 of the 14,000 court orders and administrative decisions will result in the distribution of an amended birth certificate.

DHEC specifies that if an individual wishes to receive a copy of the new birth certificate after amendment by court order, DHEC would assess a $12 search fee. Based on historical data of paternity orders, DHEC may experience a reduction in revenue of $52,500 (3,500 x $15) in amendment fees under the provisions of this bill. Revenue generated by search fees can be used to offset the expenditures associated with the addition of new FTEs.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 63‑17‑70, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO COURT ORDERS DETERMINING THAT A PUTATIVE FATHER IS THE LEGAL FATHER, SO AS TO REQUIRE THAT THE CHILD’S BIRTH CERTIFICATE BE AMENDED; AND TO AMEND SECTION 44‑63‑163, RELATING TO BIRTH CERTIFICATES PREPARED AFTER A PATERNITY DETERMINATION, SO AS TO MAKE CONFORMING CHANGES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 63‑17‑70 of the 1976 Code is amended to read:

“Section 63‑17‑70. (A)(1) Upon a finding that the putative father is the natural father of the child, the court must issue an order designating the putative father as the natural father and ordering that the birth certificate be amended to include the name of the father.

(2) The order ~~also shall~~ must:

(a) set forth the social security numbers, or the alien identification numbers assigned to resident aliens who do not have social security numbers, of both parents~~. The order shall~~;

(b) establish a duty of support and provide for child support payments in amounts and at a frequency to be determined by the court~~. The order also shall~~; and

(c) provide for other relief which has been properly prayed for in the pleadings and which is considered reasonable and just by the court.

(B) Upon a finding that the putative father is not the father of the child, the court shall issue an order which sets forth this finding.

(C) Upon entry of a court order or an administrative determination that the putative father is the legal father pursuant to subsection (A), the clerk of court shall send a report to the Registrar of the Division of Vital Statistics of the Department of Health and Environmental Control showing such information as may be required on an amended certificate of birth to be furnished by the Division of Vital Statistics of the Department of Health and Environmental Control.”

SECTION 2. Section 44‑63‑163 of the 1976 Code is amended to read:

“Section 44-63-163. Upon entry of a court order or an administrative determination that the putative father is the legal father pursuant to Section 63‑17‑70 (A), the clerk of court shall send a report to the Registrar of the Division of Vital Statistics of the Department of Health and Environmental Control showing such information as may be required on an amended certificate of birth to be furnished by the Division of Vital Statistics of the Department of Health and Environmental Control. A new certificate must be prepared for a child born in this State to reflect the name of the father determined by the court or an administrative agency of competent jurisdiction upon receipt of a certified copy of a court or administrative determination of paternity pursuant to Section 63‑17‑10. Orders modifying, vacating, or amending paternity orders must be handled by the clerk of court and State Registrar in the same manner. If the surname of the child is not decreed by the court, ~~the request for the certificate must specify the surname to be placed~~ the surname must not be changed on the certificate. When an amended certificate is prepared, the original certificate and certified copy of the court order must be placed in a sealed file not to be subject to inspection except by order of the family court.”

SECTION 3. This act takes effect upon approval by the Governor.

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