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DESPITE BABY'S GRAVE STATUS, LAW PREVENTS ORGAN DONATION

JIM HANER Herald Staff Writer

Except for her bulging eyes, little Theresa Ann Pearson looks like a normal newborn -- all fat cheeks and tiny groping hands. Machines next to her bed blip and beep to the steady beat of her heart. She kicks her chubby legs.

She probably will be dead in less than a week. She has no brain.

Today, a small army of lawyers will march into Circuit Court in Fort Lauderdale to battle over the fate of the tiny infant lying just a few blocks away in Broward General Medical Center. Born Saturday morning with no skull and nothing but a stub of brain to keep her heart and lungs working, she clings to life while her parents fight a law blocking them from giving her organs to other babies desperate to live.

Time is running out. For Theresa. For her family. And for 80 newborns nationwide who are waiting for that rarest of medical gifts, the healthy infant organs that doctors would have to take from Theresa before she dies.

"Every hour that they make us wait, she gets closer to death," said Theresa's father, Justin Pearson, a 30-year-old cement worker from Coral Springs. "How can they -- these lawyers and politicians -- put us in this situation? If they would just come out and see what we are going through, they'd change their minds. They'd change the law. They'd have to."

For Theresa's mother, Laura Campo, dealing with the loss of her baby has been compounded by the potential waste of other infant lives.

Somewhere in America, the doctors have told her, five other babies are struggling with defective organs that could be replaced by Theresa's healthy heart, kidneys, liver, lungs and eyes.

"She is perfect in every way, except for she doesn't have a brain," said Campo, a 30-year-old waitress and mother of three healthy children. "She is going to die. And because of this stupid law, five other babies are going to die with her."

The law, a 1988 Florida statute based on a model that was adopted throughout the nation, does not allow a person to be declared dead as long as any part of the brain is still functioning. Tangled in religious, political, medical and ethical issues, the definition has proven to be almost unassailable.

Only two legislatures -- in California and New Jersey -- have been willing to take up possible amendments, said Arthur Caplan, director of Biomedical Ethics at the University of Minnesota.

"The effort failed in both places," Caplan said. "It comes down to this: People are concerned about fudging the line between life and death. But that concern has turned into a trap for the parents of babies with this condition, and for all the babies who need their organs."

The condition is called anencephaly, a little-understood affliction that strikes about two out of every 1,000 fetuses. It stops the brain from forming beyond its stem -- a small stub at the top of the spine that controls basic functions such as heartbeat and breathing.

What is rare is for an infant afflicted with the disorder to be born alive. Eight out of 10 are stillborn, and only 400 to 500 a year survive for more than a few minutes, hours or days outside the womb.

"In this child's case, we could see immediately when she came out that she had no skull either," said Dr. Richard Beach, a neonatologist at Broward General. Pearson and Campo knew what was coming, having been warned four weeks earlier by an ultrasound test that something was wrong. They had already decided to put Theresa on life-support machines long enough for doctors to take her organs.

"There has never been any question but that this child was going to die, especially with her head open to bacterial infection the way it is," Beach said. But because her head was open, it stopped the donor process while doctors tried to determine whether Theresa's organs were healthy enough to transplant to another infant.

The delay proved fateful. When Theresa was taken off life support, she kept breathing on her own and the law took over.

"If they took her organs at that point, the law would have defined it as murder," said William Scherer, attorney for the hospital. "From that moment on, the law has controlled everything the hospital and its doctors can legally do with this child.

"Our position is one of empathy for the family -- extreme empathy. But this is not a statute that leaves any gray area for the doctor to make an interpretation. It establishes a black- and-white rule, an objective criterion that has to be satisfied before she can be declared dead and her organs can be taken."

So why not just wait for her to die on her own? Because, Beach said, Theresa's organs are dying with her.

"If we wait for her brain stem to give out on its own and shut down her organs -- which is going to happen in the next week or so -- there won't be any point in retrieving them," he said. "They'd be so damaged by then that they'd be worthless."

Caplan, the ethics expert, said that even if a doctor was willing to declare Theresa brain dead, the law requires proof.

"It's the ultimate Catch-22 in these kind of cases," he said, "for the simple reason that there is no brain to test. No thinking. No feeling. No brain waves. No nothing. The

law requires you to plug into something that isn't there, and then refuses to recognize the futility of it all."

Which forces the matter into court. On Wednesday, Fort Lauderdale lawyer William G. Campbell Jr. volunteered to take Theresa's case for free. Sitting in Campbell's office Wednesday night, Laura Campo cast her brown eyes blankly toward the floor.

"Our baby will be leaving soon. All we want is for her to be able to leave something behind."

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