

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 3028**

4 (By Delegates Perdue, Fleischauer, Marshall,  
5 Williams, Hatfield, Walters, Guthrie,  
6 Lawrence, Ellington and Pasdon)

7  
8 (Originating in the Committee on Health and Human Resources)

9 [February 9, 2010]

10  
11 A BILL to amend and reenact §48-25A-1, §48-25A-2 and §48-25A-3 of  
12 the Code of West Virginia, 1931, as amended, all relating to  
13 expanding the responsibilities of the Maternal Mortality  
14 Review Team to include infant mortality reviews; and renaming  
15 it the Infant and Maternal Mortality Review Team.

16 *Be it enacted by the Legislature of West Virginia:*

17 That §48-25A-1, §48-25A-2 and §48-25A-3 of the Code of West  
18 Virginia, 1931, as amended, be amended and reenacted, all to read  
19 as follows:

20 **ARTICLE 25A. INFANT AND MATERNAL MORTALITY REVIEW TEAM.**

21 **§48-25A-1. Legislative findings.**

22 The Legislature finds that there is a need for a process to  
23 study the causes of infant and maternal deaths. It has been found  
24 that comprehensive studies indicate that maternal mortalities are

1 more extensive than first appear on death certificates. The  
2 Legislature finds that more extensive studies would enable a more  
3 fully developed plan to avoid these deaths in the future.

4 The Legislature finds that more extensive studies of infant  
5 mortalities and maternal mortalities would enable a more developed  
6 plan to avoid these deaths in the future.

7 **§48-25A-2. Infant and Maternal Mortality Review Team.**

8 (a) The Maternal Mortality Review Team ~~is hereby~~ established  
9 under the Office of Maternal Child and Family Health is continued  
10 and renamed the Infant and Maternal Mortality Review Team. The  
11 Infant and Maternal Mortality Review Team is a multidisciplinary  
12 team created to review the deaths of all infant deaths and women  
13 who die during pregnancy, at the time of birth or within one year  
14 of the birth of a child.

15 (b) The Infant and Maternal Mortality Review Team is to  
16 consist of the following members, appointed by the Governor:

17 (1) The Director of the Office of Maternal Child and Family  
18 Health, who is to serve as the chairperson of the Infant and  
19 Maternal Mortality Review Team and is responsible for calling and  
20 coordinating all meetings;

21 (2) The Commissioner of the Bureau for Public Health or a  
22 designee;

23 (3) The Chief Medical Examiner in the Bureau ~~of~~ for Public  
24 Health or a designee;

25 (4) The Director of the Division of Vital Statistics or a

1 designee;

2 (5) Representation from each of the three medical schools in  
3 the state;

4 (6) The Director of Obstetrics, the Director of the Neonatal  
5 Intensive Care Unit and the Director of Pediatrics at each of the  
6 tertiary care hospitals in the state;

7 (7) One representative of the West Virginia State Medical  
8 Association;

9 (8) One representative of the West Virginia Nurses  
10 Association;

11 (9) One representative of the West Virginia Society of  
12 Osteopathic Medicine;

13 (10) One representative of West Virginia Academy of Family  
14 Physicians;

15 (11) One representative of the West Virginia Chapter of the  
16 American College of Nurse Midwives;

17 (12) One representative of the West Virginia Chapter of the  
18 American College of Obstetrics and Gynecology;

19 (13) One representative of the West Virginia Chapter of the  
20 American Academy of Pediatrics;

21 (14) The Director of the Child Fatality Review Team; and

22 (15) Any additional person that the chair of the team  
23 determines is needed on a particular case being considered.

24 (c) Each member ~~shall serve~~ serves for a term of five years.  
25 Of the members of the commission first appointed, one shall be

1 appointed for a term ending June 30, 2009, and one each for terms  
2 ending one, two, three and four years thereafter.

3 (d) Members of the Infant and Maternal Mortality Review Team  
4 shall, unless sooner removed, continue to serve until their  
5 respective terms expire and until their successors have been  
6 appointed and have qualified.

7 (e) An appointment of a physician, whether for a full term or  
8 to fill a vacancy, is to be made by the Governor from among three  
9 nominees selected by the West Virginia State Medical Association or  
10 the organization to be represented on the team. When an  
11 appointment is for a full term, the nomination is to be submitted  
12 to the Governor not later than eight months prior to the date on  
13 which the appointment is to become effective. In the case of an  
14 appointment to fill a vacancy, the nominations are to be submitted  
15 to the Governor within thirty days after the request for the  
16 nomination has been made by the Governor to the chairperson or  
17 president of the organization. When an association fails to submit  
18 to the Governor nominations for the appointment in accordance with  
19 the requirements of this section, the Governor may make the  
20 appointment without nominations.

21 (f) Each member of the Infant and Maternal Mortality Review  
22 Team shall serve without additional compensation and may not be  
23 reimbursed for any expenses incurred in the discharge of his or her  
24 duties under the provisions of this article.

25 **§48-25A-3. Responsibilities of the Infant and Maternal Mortality**

1                                   **Review Team.**

2           (a) The Bureau ~~of~~ for Public Health in consultation with the  
3 Infant and Maternal Mortality Review Team shall, pursuant to the  
4 provisions of article three, chapter twenty-nine-a, promulgate  
5 rules applicable to the following:

6           (1) The standard procedures for the establishment, formation  
7 and conduct of the Infant and Maternal Mortality Review Team; and

8           (2) The protocols for the review of infant and maternal  
9 mortalities.

10          (b) The Infant and Maternal Mortality Review Team shall:

11          (1) Review ~~all~~ deaths of all infants and of all women who die  
12 during pregnancy, at the time of birth or within one year of the  
13 birth of a child;

14          (2) Establish the trends, patterns and risk factors;

15          (3) Provide statistical analysis regarding the causes of  
16 infant and maternal fatalities in West Virginia; and

17          (4) Promote public awareness of the incidence and causes of  
18 infant and maternal fatalities, including recommendations for their  
19 reduction.

20          (c) The Infant and Maternal Mortality Review Team shall submit  
21 an annual report to the Governor and to the Legislature concerning  
22 its activities and the incidents of infant and maternal fatalities  
23 within the state. The report is due annually on December 1. The  
24 report is to include statistics setting forth the number of infant  
25 and maternal fatalities, identifiable trends in infant and maternal

1 fatalities in the state, including possible causes, if any, and  
2 recommendations to reduce the number of preventable infant and  
3 maternal fatalities in the state. The report is to also include  
4 the number of infant and mothers whose deaths have been determined  
5 to have been unexpected or unexplained.

6 (d) The Infant and Maternal Mortality Review Team, in the  
7 exercise of its duties as defined in this section, may not:

8 (1) Call witnesses or take testimony from individuals involved  
9 in the investigation of a an infant or maternal fatality;

10 (2) Contact a family member of the deceased infant or mother,  
11 except if a member of the team is involved in the investigation of  
12 the death and must contact a family member in the course of  
13 performing his or her duties outside of the team; or

14 (3) Enforce any public health standard or criminal law or  
15 otherwise participate in any legal proceeding, except if a member  
16 of the team is involved in the investigation of the death or  
17 resulting prosecution and must participate in a legal proceeding in  
18 the course of performing in his or her duties outside of the team.

19 (e) Proceedings, records and opinions of the Infant and  
20 Maternal Mortality Review Team are confidential, in accordance with  
21 section one, article seven, chapter forty-nine of this code, and  
22 are not subject to discovery, subpoena or introduction into  
23 evidence in any civil or criminal proceeding. Nothing in this  
24 subsection is to be construed to limit or restrict the right to  
25 discover or use in any civil or criminal proceeding anything that

1 is available from another source and entirely independent of the  
2 proceedings of the Infant and Maternal Mortality Review Team.

3 (f) Members of the Infant and Maternal Mortality Review Team  
4 may not be questioned in any civil or criminal proceeding regarding  
5 information presented in or opinions formed as a result of a  
6 meeting of the team. Nothing in this subsection ~~may be construed~~  
7 ~~to prevent~~ prevents a member of the Infant and Maternal Mortality  
8 Review Team from testifying to information obtained independently  
9 of the team or which is public information.

NOTE: The purpose of this bill is to expand responsibilities  
the Maternal Mortality Review Team to include reviewing infant  
mortalities.

Strike-throughs indicate language that would be stricken from  
the present law, and underscoring indicates new language that would  
be added.