

COMMITTEE SUBSTITUTE

FOR

H. B. 3028

(BY DELEGATES PERDUE, FLEISCHAUER, MARSHALL,
WILLIAMS, HATFIELD, WALTERS, GUTHRIE,
LAWRENCE, ELLINGTON AND PASDON)

(Originating in the Committee on Health and Human Resources)
[February 9, 2010]

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 25A. INFANT AND MATERNAL MORTALITY REVIEW TEAM.

§48-25A-1. Legislative findings.

1 The Legislature finds that there is a need for a process to
2 study the causes of infant and maternal deaths. It has been
3 found that comprehensive studies indicate that maternal
4 mortalities are more extensive than first appear on death
5 certificates. ~~The Legislature finds that more extensive studies~~
6 ~~would enable a more fully developed plan to avoid these~~
7 ~~deaths in the future.~~

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

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

1 (a) The Maternal Mortality Review Team ~~is hereby~~
2 established under the Office of Maternal Child and Family

3 Health is continued and renamed the Infant and Maternal
4 Mortality Review Team. The Infant and Maternal Mortality
5 Review Team is a multidisciplinary team created to review
6 the deaths of all infant deaths and women who die during
7 pregnancy, at the time of birth or within one year of the birth
8 of a child.

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

12 (1) The Director of the Office of Maternal Child and
13 Family Health, who is to serve as the chairperson of the
14 Infant and Maternal Mortality Review Team and is
15 responsible for calling and coordinating all meetings;

16 (2) The Commissioner of the Bureau for Public Health or
17 a designee;

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

20 (4) The Director of the Division of Vital Statistics or a
21 designee;

22 (5) Representation from each of the three medical schools
23 in the state;

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

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

29 (8) One representative of the West Virginia Nurses
30 Association;

31 (9) One representative of the West Virginia Society of
32 Osteopathic Medicine;

33 (10) One representative of West Virginia Academy of
34 Family Physicians;

35 (11) One representative of the West Virginia Chapter of
36 the American College of Nurse Midwives;

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

39 (13) One representative of the West Virginia Chapter of
40 the American Academy of Pediatrics;

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

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

44 (c) Each member ~~shall serve~~ serves for a term of five
45 years. Of the members of the commission first appointed, one
46 shall be appointed for a term ending June 30, 2009, and one
47 each for terms ending one, two, three and four years
48 thereafter.

49 (d) Members of the Infant and Maternal Mortality
50 Review Team shall, unless sooner removed, continue to
51 serve until their respective terms expire and until their
52 successors have been appointed and have qualified.

53 (e) An appointment of a physician, whether for a full
54 term or to fill a vacancy, is to be made by the Governor from
55 among three nominees selected by the West Virginia State
56 Medical Association or the organization to be represented on
57 the team. When an appointment is for a full term, the
58 nomination is to be submitted to the Governor not later than
59 eight months prior to the date on which the appointment is to

60 become effective. In the case of an appointment to fill a
61 vacancy, the nominations are to be submitted to the Governor
62 within thirty days after the request for the nomination has
63 been made by the Governor to the chairperson or president of
64 the organization. When an association fails to submit to the
65 Governor nominations for the appointment in accordance
66 with the requirements of this section, the Governor may
67 make the appointment without nominations.

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

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

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

5 (1) The standard procedures for the establishment,
6 formation and conduct of the Infant and Maternal Mortality
7 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
11 shall:

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

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

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

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

21 (c) The Infant and Maternal Mortality Review Team shall
22 submit an annual report to the Governor and to the
23 Legislature concerning its activities and the incidents of

24 infant and maternal fatalities within the state. The report is
25 due annually on December 1. The report is to include
26 statistics setting forth the number of infant and maternal
27 fatalities, identifiable trends in infant and maternal fatalities
28 in the state, including possible causes, if any, and
29 recommendations to reduce the number of preventable infant
30 and maternal fatalities in the state. The report is to also
31 include the number of infant and mothers whose deaths have
32 been determined to have been unexpected or unexplained.

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

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

38 (2) Contact a family member of the deceased infant or
39 mother, except if a member of the team is involved in the
40 investigation of the death and must contact a family member
41 in the course of performing his or her duties outside of the
42 team; or

43 (3) Enforce any public health standard or criminal law or
44 otherwise participate in any legal proceeding, except if a
45 member of the team is involved in the investigation of the
46 death or resulting prosecution and must participate in a legal
47 proceeding in the course of performing in his or her duties
48 outside of the team.

49 (e) Proceedings, records and opinions of the Infant and
50 Maternal Mortality Review Team are confidential, in
51 accordance with section one, article seven, chapter forty-nine
52 of this code, and are not subject to discovery, subpoena or
53 introduction into evidence in any civil or criminal
54 proceeding. Nothing in this subsection is to be construed to
55 limit or restrict the right to discover or use in any civil or
56 criminal proceeding anything that is available from another
57 source and entirely independent of the proceedings of the
58 Infant and Maternal Mortality Review Team.

59 (f) Members of the Infant and Maternal Mortality Review
60 Team may not be questioned in any civil or criminal
61 proceeding regarding information presented in or opinions

62 formed as a result of a meeting of the team. Nothing in this
63 subsection ~~may be construed to prevent~~ prevents a member
64 of the Infant and Maternal Mortality Review Team from
65 testifying to information obtained independently of the team
66 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.