

1 HOUSE BILL NO. 28

2 INTRODUCED BY L. BANGERTER

3 BY REQUEST OF THE CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE FETAL, INFANT, AND CHILD MORTALITY
6 PREVENTION ACT TO ALLOW FOR REVIEW OF MATERNAL MORTALITY; ESTABLISHING MEMBERSHIP
7 REQUIREMENTS FOR TEAMS REVIEWING MATERNAL DEATHS; REVISING CONFIDENTIALITY
8 REQUIREMENTS; AND AMENDING SECTIONS 50-16-522, 50-16-804, 50-16-805, 50-19-401, 50-19-402,
9 50-19-403, AND 50-19-404, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 **Section 1.** Section 50-16-522, MCA, is amended to read:

14 **"50-16-522. Representative of deceased patient.** ~~A~~ Except as provided in 50-19-402, a personal
15 representative of a deceased patient may exercise all of the deceased patient's rights under this part. If there is
16 no personal representative or upon discharge of the personal representative, a deceased patient's rights under
17 this part may be exercised by the surviving spouse, a parent, an adult child, an adult sibling, or any other person
18 who is authorized by law to act for the deceased patient."

19
20 **Section 2.** Section 50-16-804, MCA, is amended to read:

21 **"50-16-804. Representative of deceased patient's estate.** ~~A~~ Except as provided in 50-19-402, a
22 personal representative of a deceased patient's estate may exercise all of the deceased patient's rights under
23 this part. If there is no personal representative or upon discharge of the personal representative, a deceased
24 patient's rights under this part may be exercised by the surviving spouse, a parent, an adult child, an adult sibling,
25 or any other person who is authorized by law to act for the deceased person."

26
27 **Section 3.** Section 50-16-805, MCA, is amended to read:

28 **"50-16-805. Disclosure of information for ~~workers' compensation and occupational disease~~**
29 **~~claims and law enforcement purposes allowed for certain purposes.~~** (1) To the extent provided in 39-71-604
30 and 50-16-527, a signed claim for workers' compensation or occupational disease benefits authorizes disclosure

1 to the workers' compensation insurer, as defined in 39-71-116, by the health care provider.

2 (2) A health care provider may disclose health care information about an individual for law enforcement
3 purposes if the disclosure is to:

4 (a) federal, state, or local law enforcement authorities to the extent required by law; or

5 (b) a law enforcement officer about the general physical condition of a patient being treated in a health
6 care facility if the patient was injured by the possible criminal act of another.

7 (3) A health care provider may disclose health care information to a fetal, infant, child, and maternal
8 mortality review team for the purposes of 50-19-402."

9

10 **Section 4.** Section 50-19-401, MCA, is amended to read:

11 "**50-19-401. Short title.** This part may be cited as the "Fetal, Infant, ~~and Child,~~ and Maternal Mortality
12 Prevention Act"."

13

14 **Section 5.** Section 50-19-402, MCA, is amended to read:

15 "**50-19-402. Statement of policy -- access to information.** (1) The prevention of fetal, infant, ~~and child,~~
16 and maternal deaths is both the policy of the state of Montana and a community responsibility. Many community
17 professionals have expertise that can be used to promote the health, safety, and welfare of fetuses, infants, ~~and~~
18 children, and postnatal women. The use of these professionals in reviewing fetal, infant, ~~and child,~~ and maternal
19 deaths can lead to a greater understanding of the causes of death and the methods of preventing deaths. It is
20 the intent of the legislature to encourage local communities to establish voluntary multidisciplinary fetal, infant,
21 ~~and child,~~ and maternal mortality review teams to study the incidence and causes of fetal, infant, ~~and child,~~ and
22 maternal deaths and to make recommendations for community or statewide change, if appropriate, that may help
23 prevent future deaths.

24 (2) (a) A health care provider may disclose information about a patient without the patient's authorization
25 or without the authorization of the representative of a patient who is deceased upon request of a local fetal, infant,
26 ~~and child,~~ and maternal mortality review team. The review team may request and may receive information from:

27 (i) a county attorney as provided in 44-5-303(4), ~~from;~~

28 (ii) a tribal attorney, ~~and from;~~ and

29 (iii) a health care provider as permitted in;

30 (A) Title 50, chapter 16, part 5; or 8; or

1 (B) applicable federal law.

2 (b) The review team shall maintain the confidentiality of the information received.

3 (3) (a) The local fetal, infant, ~~and child,~~ and maternal mortality review team may:

4 ~~(a)(i)~~ (i) perform an indepth analysis of fetal, infant, and child deaths, ~~including a review of records available~~
5 ~~by law;~~

6 (ii) perform an indepth analysis of maternal deaths that occur within a year of the time a woman gave
7 birth;

8 ~~(b)(iii)~~ (iii) compile statistics of fetal, infant, ~~and child,~~ and maternal mortality and communicate the statistics
9 to the department of public health and human services for inclusion in statistical reports;

10 ~~(e)(iv)~~ (iv) analyze the preventable causes of fetal, infant, ~~and child,~~ and maternal deaths, including child
11 abuse and neglect and postpartum complications; and

12 ~~(d)(v)~~ (v) recommend measures to prevent future fetal, infant, ~~and child,~~ and maternal deaths.

13 (b) The analysis authorized under this subsection (3) may include a review of records available by law.

14 (4) A local fetal, infant, ~~and child,~~ and maternal mortality review team may not review deaths ~~of~~ under
15 this section if:

16 (a) the deaths involve fetuses, infants, or children, or women who are Indians and which deaths;

17 (b) the deaths occur within the boundaries of an Indian reservation with a; and

18 (c) the tribal government that opposes the review."

19

20 **Section 6.** Section 50-19-403, MCA, is amended to read:

21 **"50-19-403. Local fetal, infant, ~~and child,~~ and maternal mortality review team.** (1) A local fetal, infant,
22 ~~and child,~~ and maternal mortality review team must be approved by the department of public health and human
23 services. Approval may be given if:

24 (a) the county health department, a tribal health department; if the tribal government agrees, or both are
25 represented on the team and the plan provided for in subsection ~~(4)(d)~~ (1)(e) includes the roles of the county
26 health department, tribal health department, or both;

27 (b) a lead person has been designated for the purposes of management of the review team;

28 (c) at least five of the individuals listed in subsection (2) have agreed to serve on the review team; ~~and~~

29 (d) a team reviewing a maternal death includes at least one obstetrician or one family practice physician;

30 and

1 ~~(d)~~(e) ~~a plan has been developed by the team~~ has developed a plan that includes, at a minimum,
2 operating policies of the review team covering collection and destruction of information obtained pursuant to
3 44-5-303(4) or 50-19-402(2).

4 (2) If a local fetal, infant, ~~and child,~~ and maternal mortality review team is established, the team must be
5 multidisciplinary and may include only:

6 (a) the county attorney or a designee;

7 (b) a law enforcement officer;

8 (c) the medical examiner or coroner for the jurisdiction;

9 (d) a physician;

10 (e) a school district representative;

11 (f) a representative of the local health department;

12 (g) a representative from a tribal health department, appointed by the tribal government;

13 (h) a representative from a neighboring county or tribal government if there is an agreement to review
14 deaths for that county or tribe;

15 (i) a representative of the department of public health and human services;

16 (j) a forensic pathologist;

17 (k) a pediatrician;

18 (l) a family practice physician;

19 (m) an obstetrician;

20 (n) a nurse practitioner;

21 (o) a public health nurse;

22 (p) a mental health professional;

23 (q) a local trauma coordinator;

24 (r) a representative of the bureau of Indian affairs or the Indian health service, or both, who is located
25 within the county; and

26 (s) representatives of the following:

27 (i) local emergency medical services;

28 (ii) a local hospital;

29 (iii) a local hospital medical records department;

30 (iv) a local governmental fire agency organized under Title 7, chapter 33; and

1 (v) the local registrar.

2 (3) The designated lead person for the team shall submit membership lists to the department of public
3 health and human services annually."

4

5 **Section 7.** Section 50-19-404, MCA, is amended to read:

6 **"50-19-404. Records -- confidentiality.** Material and information obtained by a local fetal, infant, ~~and~~
7 child, ~~and maternal~~ mortality review team are not subject to disclosure under the public records law. Material and
8 information obtained by a ~~local fetal, infant, and child mortality~~ review team are not subject to subpoena."

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10 NEW SECTION. **Section 8. Notification to tribal governments.** The secretary of state shall send a
11 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
12 Chippewa tribe.

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