

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 3028**

5 (By Delegates Perdue, Fleischauer, Marshall,

6 Williams, Hatfield, Walters, Guthrie,

7 Lawrence, Ellington and Pasdon)

8 [Passed March 12, 2011; in effect ninety days from passage.]

9

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

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

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

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

20 **§48-25A-1. Legislative findings.**

21 The Legislature finds that there is a need for a process to
22 study the causes of infant and maternal deaths. It has been found
23 that comprehensive studies indicate that maternal mortalities are
24 more extensive than first appear on death certificates.

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

4 **§48-25A-2. Infant and Maternal Mortality Review Team.**

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

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

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

18 (2) The Commissioner of the Bureau for Public Health or a
19 designee;

20 (3) The Chief Medical Examiner in the Bureau for Public Health
21 or a designee;

22 (4) The Director of the Division of Vital Statistics or a
23 designee;

24 (5) Representation from each of the three medical schools in
25 the state;

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

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

6 (8) One representative of the West Virginia Nurses
7 Association;

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

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

12 (11) One representative of the West Virginia Chapter of the
13 American College of Nurse Midwives;

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

16 (13) One representative of the West Virginia Chapter of the
17 American Academy of Pediatrics;

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

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

21 (c) Each member serves for a term of five years. Of the
22 members of the commission first appointed, one shall be appointed
23 for a term ending June 30, 2009, and one each for terms ending one,
24 two, three and four years thereafter.

25 (d) Members of the Infant and Maternal Mortality Review Team

1 shall, unless sooner removed, continue to serve until their
2 respective terms expire and until their successors have been
3 appointed and have qualified.

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

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

22 **§48-25A-3. Responsibilities of the Infant and Maternal Mortality**
23 **Review Team.**

24 (a) The Bureau for Public Health in consultation with the
25 Infant and Maternal Mortality Review Team shall, pursuant to the

1 provisions of article three, chapter twenty-nine-a, promulgate
2 rules applicable to the following:

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

5 (2) The protocols for the review of infant and maternal
6 mortalities.

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

8 (1) Review deaths of all infants and of all women who die
9 during pregnancy, at the time of birth or within one year of the
10 birth of a child;

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

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

14 (4) Promote public awareness of the incidence and causes of
15 infant and maternal fatalities, including recommendations for their
16 reduction.

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

1 the number of infant and mothers whose deaths have been determined
2 to have been unexpected or unexplained.

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

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

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

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

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

25 (f) Members of the Infant and Maternal Mortality Review Team

1 may not be questioned in any civil or criminal proceeding regarding
2 information presented in or opinions formed as a result of a
3 meeting of the team. Nothing in this subsection prevents a member
4 of the Infant and Maternal Mortality Review Team from testifying to
5 information obtained independently of the team or which is public
6 information.