

**H. B. 3028**

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

[Introduced February 7, 2011; referred to the  
Committee on Health and Human Resources then Finance.]

**FISCAL  
NOTE**

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.**

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

1 According to the April 2010 National Vital Statistics Report  
2 of the Centers for Disease Control, West Virginia now ranks as the  
3 state with the highest infant mortality in the country among white  
4 infants.

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

8 **§48-25A-2. Infant and Maternal Mortality Review Team.**

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

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

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

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

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

1 (4) The Director of the Division of Vital Statistics or a  
2 designee;

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

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

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

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

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

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

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

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

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

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

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

25 (c) Each member ~~shall serve~~ serves for a term of five years.

1 Of the members of the commission first appointed, one shall be  
2 appointed for a term ending June 30, 2009, and one each for terms  
3 ending one, two, three and four years thereafter.

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

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

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

1 **§48-25A-3. Responsibilities of the Infant and Maternal Mortality**

2 **Review Team.**

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

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

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

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

12 (1) Review ~~all~~ deaths of all infants and of all women who die  
13 during pregnancy, at the time of birth or within one year of the  
14 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 of  
19 infant and maternal fatalities, including recommendations for their  
20 reduction.

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

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

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

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

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

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

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

1 discover or use in any civil or criminal proceeding anything that  
2 is available from another source and entirely independent of the  
3 proceedings of the Infant and Maternal Mortality Review Team.

4 (f) Members of the Infant and Maternal Mortality Review Team  
5 may not be questioned in any civil or criminal proceeding regarding  
6 information presented in or opinions formed as a result of a  
7 meeting of the team. Nothing in this subsection ~~may be construed~~  
8 ~~to prevent~~ prevents a member of the Infant and Maternal Mortality  
9 Review Team from testifying to information obtained independently  
10 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.