

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 749

SENATORS MARONEY, STOLLINGS, TAKUBO, PREZIOSO,

ROMANO, AND PLYMALE, *original sponsors*

[Passed March 5, 2020; in effect 90 days from passage]

1 AN ACT to amend and reenact §61-12A-2 and §61-12A-4 of the Code of West Virginia, 1931, as
2 amended; and to amend said code by adding thereto a new section, designated §61-12A-
3 5, all relating to requiring the Bureau for Public Health to submit its maternal mortality data
4 to the Centers for Disease Control and Prevention for data aggregation; permitting peer
5 review report to be made to birth hospital; requiring Infant and Mortality Review Panel to
6 annually analyze factors impacting maternal and infant mortality and prepare report; and
7 requiring the Bureau for Public Health to perform multi-year analysis to recommend
8 system change to reduce maternal and infant deaths.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12A. FATALITY AND MORTALITY REVIEW TEAM.

§61-12A-2. Responsibilities of the Fatality and Mortality Review Team and advisory panels.

1 (a) The Fatality and Mortality Review Team shall establish the following advisory panels
2 to carry out the purposes of this article, including:

3 (1) An unintentional pharmaceutical drug overdose fatality review panel to examine,
4 analyze, and review deaths resulting from unintentional prescription or pharmaceutical drug
5 overdose;

6 (2) A child fatality review panel to examine, analyze, and review deaths of children under
7 the age of 18 years;

8 (3) A domestic violence fatality review panel to examine, analyze, and review deaths
9 resulting from suspected domestic violence; and

10 (4) An infant and maternal mortality review panel to examine, analyze, and review the
11 deaths of infants and women who die during pregnancy, at the time of birth, or within one year of
12 the birth of a child.

13 (b) The members of the Fatality and Mortality Review Team shall serve as members of
14 each of the advisory panels established pursuant to this article.

15 (c) The Commissioner of the Bureau for Public Health, in consultation with the Fatality and
16 Mortality Review Team, shall propose rules for legislative approval in accordance with §29A-3-1
17 *et seq.* of this code that the advisory panels shall follow. Those rules shall include, at a minimum:

18 (1) The representatives that shall be included on each advisory panel;

19 (2) The responsibilities of each of the advisory panels, including but not limited to, each
20 advisory panel's responsibility to:

21 (A) Review and analyze all deaths as required by this article;

22 (B) Ascertain and document the trends, patterns, and risk factors; and

23 (C) Provide statistical information and analysis regarding the causes of certain fatalities;

24 (3) The standard procedures for the conduct of the advisory panels;

25 (4) The processes and protocols for the review and analysis of fatalities and mortalities of
26 those who were not suffering from mortal diseases shortly before death;

27 (5) The processes and protocols to ensure confidentiality of records obtained by the
28 advisory panel;

29 (6) That the advisory panels must submit a report to the Fatality and Mortality Review
30 Team annually, the date the annual report must be submitted, and the contents of the annual
31 report;

32 (7) That the advisory panel may include any additional persons with expertise or
33 knowledge in a particular field that it determines are needed in the review and consideration of a
34 particular case as a result of a death in §61-12A-1(a) of this code;

35 (8) That the advisory panel may provide training for state agencies and local
36 multidisciplinary teams on the matters examined, reviewed, and analyzed by the advisory panel;

37 (9) The advisory panel's responsibility to promote public awareness on the matters
38 examined, reviewed, and analyzed by the advisory panel;

39 (10) Actions the advisory panel may not take or engage in, including:

40 (A) Call witnesses or take testimony from individuals involved in the investigation of a
41 fatality;

42 (B) Contact a family member of the deceased;

43 (C) Enforce any public health standard or criminal law or otherwise participate in any legal
44 proceeding; or

45 (D) Otherwise take any action which, in the determination of a prosecuting attorney or his
46 or her assistants, impairs the ability of the prosecuting attorney, his or her assistants or any law-
47 enforcement officer to perform his or her statutory duties; and

48 (11) Other rules as may be deemed necessary to effectuate the purposes of this article.

49 (d) The Fatality and Mortality Review Team shall submit an annual report to the Governor
50 and to the Legislative Oversight Commission on Health and Human Resources Accountability
51 concerning its activities within the state and the activities of the advisory panels. The report is due
52 annually on December 1. The report is to include statistical information concerning cases
53 reviewed during the year, trends and patterns concerning these cases and the team's
54 recommendations to reduce the number of fatalities and mortalities that occur in the state.

55 (e) The Fatality and Mortality Review Team may provide reporting to birth facilities to
56 inform internal peer review activities. Such information shall be deemed confidential and shall be
57 used only for peer review purposes.

§61-12A-4. Confidentiality.

1 (a) Proceedings, records, and opinions of the Fatality and Mortality Review Team and the
2 advisory panels established by the team pursuant to this article are confidential and are not
3 subject to discovery, subpoena, or introduction into evidence in any civil or criminal proceeding.
4 This section does not limit or restrict the right to discover or use in any civil or criminal proceeding
5 anything that is available from another credible source and entirely independent of the
6 proceedings of the team or advisory panels.

7 (b) Members of the Fatality and Mortality Review Team and members of the advisory
8 panels established by the team may not be questioned in any civil or criminal proceeding
9 regarding information presented in or opinions formed as a result of a meeting of the team. This
10 subsection does not prevent a member of the team or an advisory panel from testifying to
11 information obtained independently of the team or advisory panel which is public information.

12 (c) Proceedings, records, and opinions of the Fatality and Mortality Review Team and the
13 advisory panels established by the team are exempt from disclosure under the Freedom of
14 Information Act as provided in chapter 29B of this code.

15 (d) Notwithstanding any other provisions to the contrary, the Fatality and Mortality Review
16 Team may prepare a data compilation to be shared, on an annual basis or more often as needed,
17 with the Centers for Disease Control and Prevention to study maternal mortality in an effort to
18 reduce mortality rates. No individually identifiable records may be produced.

§61-12A-5. Required reporting and analysis.

1 (a) The infant and mortality review panel shall annually analyze data to identify themes,
2 underlying risk factors, and gaps in care, to understand factors related to deaths during
3 pregnancy, delivery, and the postpartum period. This analysis is required to follow the Centers for
4 Disease Control and Prevention's best practices for maternal mortality review and infant mortality
5 review, and include health care and clinical factors as well as social determinants of health. Using
6 data gathered, the panel may provide recommendations and develop strategies to prevent
7 problems that arise during the prenatal and postpartum period.

8 (b) The following variables should be routinely analyzed to describe pregnancy-associated
9 deaths:

- 10 (1) Age at death;
- 11 (2) Race and ethnicity;
- 12 (3) Education;
- 13 (4) Insurance status;

14 (5) Marital status;

15 (6) County type (urban or rural) of maternal residence;

16 (7) Timing of death in relation to pregnancy; and

17 (8) Causes of death.

18 (c) Reports of aggregated nonindividually identifiable data shall be compiled on a routine
19 basis for distribution in an effort to further study the causes and problems associated with maternal
20 and infant deaths.

21 (d) Reports shall be distributed to the Commission on Legislative Oversight Commission
22 on Health and Human Resources Accountability, a member of the infant and maternal mortality
23 review panel, health care providers, key government agencies, and others as identified to reduce
24 the maternal and infant mortality rate.

25 (e) The Bureau for Public Health, working in conjunction with the infant and mortality
26 review panel, shall perform a multiyear detailed analysis, utilizing data from vital records, the
27 infant and mortality review panel, and other sources as necessary and, in partnership with other
28 providers, including the perinatal collaborative, make recommendations for systems change to
29 reduce maternal and infant mortality. Such report shall be made available to the Legislative
30 Oversight Commission on Health and Human Resources Accountability by December 31, 2020.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2020.

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Governor