WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2011

COMMITTEE SUBSTITUTE
FOR
House Bill No. 3028

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

Passed March 12, 2011

In Effect Ninety Days From Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 3028

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

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

AN ACT 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 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.

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


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

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

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

   (2) The Commissioner of the Bureau for Public Health or a designee;
(3) The Chief Medical Examiner in the Bureau for Public Health or a designee;

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

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

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

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

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

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

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

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

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

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

(14) The Director of the Child Fatality Review Team; and
(15) Any additional person that the chair of the team determines is needed on a particular case being considered.

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

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

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

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

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

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

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

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

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

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

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

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

(c) The Infant and Maternal Mortality Review Team shall submit an annual report to the Governor and to the Legislature concerning its activities and the incidents of infant and maternal fatalities within the state. The report is due annually on December 1. The report is to include
statistics setting forth the number of infant and maternal fatalities, identifiable trends in infant and maternal fatalities in the state, including possible causes, if any, and recommendations to reduce the number of preventable infant and maternal fatalities in the state. The report is to also include the number of infant and mothers whose deaths have been determined to have been unexpected or unexplained.

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

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

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

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

(e) Proceedings, records and opinions of the Infant and Maternal Mortality Review Team are confidential, in accordance with section one, article seven, chapter forty-nine of this code, and are not subject to discovery, subpoena or introduction into evidence in any civil or criminal proceeding. Nothing in this subsection is to be construed to limit or restrict the right to discover or use in any civil or criminal proceeding anything that is available from another source and entirely independent of the proceedings of the Infant and Maternal Mortality Review Team.
(f) Members of the Infant and Maternal Mortality Review Team may not be questioned in any civil or criminal proceeding regarding information presented in or opinions formed as a result of a meeting of the team. Nothing in this subsection prevents a member of the Infant and Maternal Mortality Review Team from testifying to information obtained independently of the team or which is public information.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

Acting President of the Senate

The within approved this the 37th day of April, 2011.

Governor
PRESENTED TO THE GOVERNOR

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