

SENATE BILL NO. 449
INTRODUCED BY COONEY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE FETAL, INFANT, AND CHILD MORTALITY PREVENTION ACT; ALLOWING COUNTIES AND TRIBAL GOVERNMENTS TO COOPERATE TO ALLOW TEAMS TO REVIEW ALL FETAL, INFANT, AND CHILD DEATHS; REVISING CONFIDENTIALITY AND DISCLOSURE PROVISIONS RELATED TO FETAL, INFANT, AND CHILD MORTALITY REVIEW TEAMS; AND AMENDING SECTIONS 50-19-402, 50-19-403, 50-19-404, 50-19-405, AND 50-19-406, MCA."

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

Section 1. Section 50-19-402, MCA, is amended to read:

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

(2) A health care provider may disclose information about a patient without the patient's authorization or without the authorization of the representative of a patient who is deceased upon request of a local fetal, infant, and child mortality review team. The review team may request and may receive information from a county attorney as provided in 44-5-303(4), from a tribal attorney, and from a health care provider as provided in 50-16-525 after the review team has considered whether the disclosure of the information by the provider satisfies the criteria provided in 50-16-529(6). The review team shall maintain the confidentiality of the information received.

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

(a) perform an in-depth analysis of fetal, infant, and child deaths, including a review of records available by law;

~~(a)~~(b) compile statistics of fetal, infant, and child mortality and communicate the statistics to the

department of public health and human services for inclusion in statistical reports;

~~(b)(c)~~ analyze the preventable causes of fetal, infant, and child deaths, including child abuse and neglect;
and

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

(4) A LOCAL FETAL, INFANT, AND CHILD MORTALITY REVIEW TEAM MAY NOT REVIEW DEATHS OF FETUSES, INFANTS, OR CHILDREN WHO ARE INDIANS AND WHICH DEATHS OCCUR WITHIN THE BOUNDARIES OF AN INDIAN RESERVATION WITH A TRIBAL GOVERNMENT THAT OPPOSES THE REVIEW."

Section 2. Section 50-19-403, MCA, is amended to read:

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

(a) ~~the county health department, a tribal health department, as determined by~~ IF the tribal government AGREES, or both; are represented on the team and the plan provided for in subsection (1)(d) includes the roles of the county health department, tribal health department, or both;

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

~~(b)(c)~~ at least five of the individuals listed in subsection (2) have agreed to serve on the review team; and
~~(c)(d) the five individuals have developed~~ a plan has been developed by the team that includes, at a minimum, operating policies of the review team covering collection and destruction of information obtained pursuant to 44-5-303(4) or 50-19-402(2).

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

- (a) the county attorney or a designee;
- (b) a law enforcement officer;
- (c) the medical examiner or coroner for the jurisdiction;
- (d) a physician;
- (e) a school district representative;
- (f) a representative of the local health department;
- (g) a representative from a tribal health department, appointed by the tribal government;
- (h) a representative from a neighboring county or tribal government, if there is an agreement to review

deaths for that county or tribe;

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

~~(h)~~(j) a forensic pathologist;

~~(i)~~(k) a pediatrician;

~~(j)~~(l) a family practice physician;

~~(k)~~(m) an obstetrician;

~~(l)~~(n) a nurse practitioner;

~~(m)~~(o) a public health nurse;

~~(n)~~(p) a mental health professional;

~~(o)~~(q) a local trauma coordinator;

~~(p) a representative, appointed by the tribal government, of an Indian reservation that is located in whole or in part within the boundaries of the county;~~

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

~~(r)~~(s) representatives of the following:

(i) local emergency medical services;

(ii) a local hospital;

(iii) a local hospital medical records department;

(iv) a local fire department; and

(v) the local registrar.

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

Section 3. Section 50-19-404, MCA, is amended to read:

"50-19-404. Records -- confidentiality. Material and information obtained by a local fetal, infant, and child mortality review team are not subject to disclosure under the public records law. Material and information obtained by a local fetal, infant, and child mortality review team are not subject to subpoena ~~unless the material and information are reviewed by a district court judge and ordered to be provided to the person seeking access."~~

Section 4. Section 50-19-405, MCA, is amended to read:

"50-19-405. Unauthorized disclosure by review team member -- civil penalty. A person aggrieved

by the use of information obtained pursuant to 50-19-402(2) for a purpose not authorized by 50-19-402(3) or by a disclosure of that information in violation of 50-19-402(2) ~~by a member of a local fetal, infant, and child mortality review team~~ may bring a civil action in the district court of the county of the person's residence for damages, costs, and fees as provided in 50-16-553(6) through (8)."

Section 5. Section 50-19-406, MCA, is amended to read:

"50-19-406. Unauthorized disclosure ~~by review team member~~ -- misdemeanor. ~~A member of a local fetal, infant, and child mortality review team~~ A person who knowingly uses information obtained pursuant to 50-19-402(2) for a purpose not authorized by 50-19-402(3) or who discloses that information in violation of 50-19-402(2) is guilty of a misdemeanor and upon conviction is punishable as provided in 50-16-551."

NEW SECTION. **Section 6. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

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