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HOUSE BILL NO. 40

INTRODUCED BY A. REGIER

BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO FETAL, INFANT, CHILD, AND MATERNAL MORTALITY REVIEW TEAMS; ALLOWING FOR CREATION OF ~~A STATE REVIEW TEAM~~ TEAMS; ESTABLISHING REQUIREMENTS FOR MEMBERSHIP OF ~~A STATE REVIEW TEAM~~ TEAMS; PROVIDING FOR SHARING OF INFORMATION; PROVIDING CONFIDENTIALITY; AMENDING SECTIONS 44-5-303, 50-19-402, 50-19-403, AND 50-19-404, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. State fetal, infant, child, and maternal mortality review ~~team-team~~ -- membership. (1) The director of the department of public health and human services may establish a state ~~fetal, infant, child, and~~ maternal mortality, child mortality, fetal and infant mortality, infant mortality, or fetal mortality review team. The director shall designate a representative of the department to lead ~~the each~~ review team.

(2) The designated department representative shall select the members and manage the work of ~~the a~~ review team established pursuant to subsection (1).

(3) (a) ~~The Each~~ review team must be multidisciplinary and consist of at least five individuals who have agreed to serve on the team.

(b) At least one member must be an obstetrician, a physician who is board-certified in family medicine, an advanced practice registered nurse, or a physician assistant whose duties and delegation agreement includes obstetrical care.

(c) Other members may be selected based on established best practices for review teams by population.

1 (4) The designated department representative and the review ~~team~~teams shall develop a plan  
2 that includes, at a minimum, operating polices that cover the collection, use, and destruction of information  
3 obtained pursuant to 44-5-303(4) or 50-19-402(2).  
4

5 **Section 2.** Section 44-5-303, MCA, is amended to read:

6 **"44-5-303. Dissemination of confidential criminal justice information -- procedure for**  
7 **dissemination through court -- notice and objection to disclosure.** (1) Except as provided in subsections  
8 (2) through (4), dissemination of confidential criminal justice information is restricted to criminal justice  
9 agencies, to those authorized by law to receive it, and to those authorized to receive it by a district court upon a  
10 written finding that the demands of individual privacy do not clearly exceed the merits of public disclosure.  
11 Permissible dissemination of confidential criminal justice information under this subsection includes receiving  
12 investigative information from and sharing investigative information with a chief of a governmental fire agency  
13 organized under Title 7, chapter 33, or fire marshal concerning the criminal investigation of a fire.

14 (2) If the prosecutor determines that dissemination of confidential criminal justice information would  
15 not jeopardize a pending investigation or other criminal proceeding, the information may be disseminated to a  
16 victim of the offense by the prosecutor or by the investigating law enforcement agency after consultation with  
17 the prosecutor.

18 (3) Unless otherwise ordered by a court, a person or criminal justice agency that accepts  
19 confidential criminal justice information assumes equal responsibility for the security of the information with the  
20 originating agency. Whenever confidential criminal justice information is disseminated, it must be designated as  
21 confidential.

22 (4) The county attorney or the county attorney's designee is authorized to receive confidential  
23 criminal justice information for the purpose of cooperating with a local or state ~~fetal, infant, child, and maternal~~  
24 mortality review ~~teams~~ team. The county attorney or the county attorney's designee may, in that person's  
25 discretion, disclose information determined necessary to the goals of the review team. The review team and the  
26 county attorney or the designee shall maintain the confidentiality of the information.

27 (5) (a) If a prosecutor receives a written request for release of confidential criminal justice  
28 information relating to a criminal investigation that has been terminated by declination of prosecution or relating

1 to a criminal prosecution that has been completed by entry of judgment, dismissal, or acquittal, or if the  
2 disclosure may be in the public interest, the prosecutor may file a declaratory judgment action with the district  
3 court pursuant to the provisions of the Uniform Declaratory Judgments Act, Title 27, chapter 8, for release of  
4 the information. The prosecutor shall:

5 (i) file the action in the name of the city or county that the prosecutor represents and describe the  
6 city's or county's interest;

7 (ii) list as defendants anyone known to the prosecutor who has requested the confidential criminal  
8 justice information;

9 (iii) no later than the time of the filing of the declaratory judgment action:

10 (A) make reasonable efforts to provide notice to a victim of the alleged offense and any person  
11 with a protected privacy interest in information contained in the confidential criminal justice information and any  
12 other individual who would be affected by release of the information of the request for release of confidential  
13 criminal justice information and the filing of the declaratory judgment action; and

14 (B) provide notice that the person may file an objection to disclosure with the district court if the  
15 person believes a privacy interest that they possess exceeds the merits of public disclosure;

16 (iv) request that the prosecutor be allowed to deposit the investigative file and any edited version of  
17 the file with the court pursuant to the provisions of Title 27, chapter 8; and

18 (v) request the court to:

19 (A) no sooner than 30 calendar days following the filing of the declaratory judgment action to  
20 ensure an opportunity for a person seeking to protect a privacy interest, conduct an in camera review of the  
21 confidential criminal justice information to determine whether the demands of individual privacy do not clearly  
22 exceed the merits of public disclosure; and

23 (B) order the release to the requesting party defendant of whatever portion of the investigative  
24 information or edited version of the information the court determines appropriate.

25 (b) In making an order authorizing the release of information under subsection (5)(a), the court  
26 shall make a written finding that the demands of individual privacy do not clearly exceed the merits of public  
27 disclosure and authorize, upon payment of reasonable reproduction costs, the release of appropriate portions  
28 of the edited or complete confidential criminal justice information to persons who request the information.

**Amendment - 1st Reading-white - Requested by: Amy Regier - (H) Human Services**

68th Legislature

Drafter: Milly Allen, 406-444-9280

HB0040.001.002

1 (c) In an action filed for the court-ordered release of confidential criminal justice information under  
2 subsection (5)(a), the parties shall bear their respective costs and attorney fees.

3 (6) The procedures set forth in subsection (5) are not an exclusive remedy. A person or  
4 organization may file any action for dissemination of information that the person or organization considers  
5 appropriate and permissible."  
6

7 **Section 3.** Section 50-19-402, MCA, is amended to read:

8 **"50-19-402. Statement of policy -- access to information.** (1) The prevention of fetal, infant, child,  
9 and maternal deaths is both the policy of the state of Montana and a community responsibility. Many  
10 community professionals have expertise that can be used to promote the health, safety, and welfare of fetuses,  
11 infants, children, and ~~postnatal~~ postpartum women. The use of these professionals in reviewing fetal, infant,  
12 child, and maternal deaths can lead to a greater understanding of the causes of death and the methods of  
13 preventing deaths. It is the intent of the legislature to:

14 (a) encourage local communities to establish voluntary multidisciplinary fetal, infant, child, and  
15 maternal mortality review teams to study the incidence and causes of fetal, infant, child, and maternal deaths  
16 and to make recommendations for community or statewide change, if appropriate, that may help prevent future  
17 deaths; and

18 (b) allow the state, through the department of public health and human services, to establish a  
19 multidisciplinary review team ~~or teams~~ for the same purposes.

20 (2) (a) A health care provider may disclose information about a patient without the patient's  
21 authorization or without the authorization of the representative of a patient who is deceased upon request of a  
22 ~~local fetal, infant, child, and maternal~~ mortality review team. ~~The~~ A review team may request and may receive  
23 information from:

24 (i) a county attorney as provided in 44-5-303(4);

25 (ii) a tribal attorney; and

26 (iii) a health care provider as permitted in:

27 (A) Title 50, chapter 16, part 5 or 8; or

28 (B) applicable federal law.

**Amendment - 1st Reading-white - Requested by: Amy Regier - (H) Human Services**

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- 1 (b) The A review team shall maintain the confidentiality of the information received.
- 2 (3) (a) The local A fetal, infant, child, and maternal mortality review team may:
- 3 (i) perform an ~~indepth~~ in-depth analysis of fetal, infant, and child deaths;
- 4 (ii) perform an ~~indepth~~ in-depth analysis of maternal deaths that occur within a year of ~~the time a~~
- 5 ~~woman gave birth~~ delivery;
- 6 (iii) compile statistics of fetal, infant, child, and maternal mortality and, for a local review team,
- 7 communicate the statistics to the department of public health and human services for inclusion in statistical
- 8 reports;
- 9 (iv) analyze the preventable causes of fetal, infant, child, and maternal deaths, including child
- 10 abuse and neglect and postpartum complications; and
- 11 (v) recommend measures to prevent future fetal, infant, child, and maternal deaths.
- 12 (b) The analysis authorized under this subsection (3) may include a review of records available by
- 13 law.
- 14 (4) To the extent possible, state and local review teams shall cooperate, share information, and
- 15 avoid duplication of efforts.
- 16 ~~(4)(5)~~ A local fetal, infant, child, and maternal mortality review team may not review deaths under this
- 17 section if:
- 18 (a) the deaths involve fetuses, infants, children, or women who are Indians;
- 19 (b) the deaths occur within the boundaries of an Indian reservation; and
- 20 (c) the tribal government opposes the review."

21

22 **Section 4.** Section 50-19-403, MCA, is amended to read:

23 **"50-19-403. Local fetal, infant, child, and maternal mortality review team.** (1) A local fetal, infant,

24 child, and maternal mortality review team must be approved by the department of public health and human

25 services. Approval may be given if:

- 26 (a) the county health department, a tribal health department if the tribal government agrees, or
- 27 both are represented on the team and the plan provided for in subsection (1)(e) includes the roles of the county
- 28 health department, tribal health department, or both;

1 located within the county; and

2 (s) representatives of the following:

3 (i) local emergency medical services;

4 (ii) a local hospital;

5 (iii) a local hospital medical records department;

6 (iv) a local governmental fire agency organized under Title 7, chapter 33; and

7 (v) the local registrar.

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

10

11 **Section 5.** Section 50-19-404, MCA, is amended to read:

12 **"50-19-404. Records -- confidentiality.** (1) Material and information obtained by a local ~~fetal, infant,~~  
13 ~~child, and maternal-state or local~~ mortality review team are not subject to disclosure under the public records  
14 law. Material and information obtained by a review team are not subject to subpoena and may not be  
15 introduced into evidence in a civil or criminal action.

16 (2) Review team meetings and proceedings are confidential and are exempt from the provisions of  
17 Title 2, chapter 3. "

18

19 **NEW SECTION. Section 6. Codification instruction.** [Section 1] is intended to be codified as an  
20 integral part of Title 50, chapter 19, part 4, and the provisions of Title 50, chapter 19, part 4, apply to [section 1].

21

22 **NEW SECTION. Section 7. Effective date.** [This act] is effective on passage and approval.

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