

A Bill for an Act Relating to Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that comprehensive multidisciplinary reviews of child deaths, as performed in the past by the Hawaii child death review system that was established by Act 369, Session Laws of Hawaii 1997, are needed to understand risk factors, prevent future child deaths, and keep children in the State of Hawaii safe and healthy. Child death reviews provide in-depth, accurate, and timely information to assist with the administration of child health and protection programs and provide appropriate data reporting to federal and state agencies.

However, the legislature finds that the system has been inactive since 2011 and, consequently, these important child death reviews are not currently being conducted in the State of Hawaii. The legislature notes that the child death review system is codified under chapter 321, part XXVII, Hawaii Revised Statutes, and is not mandatory.

Similarly, comprehensive multidisciplinary reviews of maternal deaths are needed to understand risk factors for and prevent the deaths of mothers during pregnancy, labor, and the year following the birth of a child. This information would benefit policymakers and facilitate the establishment and administration of relevant programs. However, the legislature finds that Hawaii does not currently conduct such reviews of maternal deaths.

The legislature additionally finds that comprehensive reviews of child and maternal deaths are a matter of ongoing concern. Because the program of reviews must be sustainable, the legislature recognizes the need to provide funding to conduct child and maternal death reviews not only in the current biennium, but in subsequent biennia as well.

The purpose of this Act is to ensure that the legislature receives appropriate information about child and maternal death reviews and to provide funding to the department of health to conduct child death reviews and to implement a program for the performance of maternal death reviews.

#### PART I

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to part XXVII to be appropriately designated and to read as follows:

**“§321- Child death reviews; reports.** (a) The director shall submit an annual written report to the legislature no later than twenty days prior to the convening of each regular session on the status of child death reviews conducted by the department pursuant to this part. The annual report shall cover the calendar year immediately prior to the year in which the report is due and shall describe the total number of child deaths in Hawaii and the causes of those deaths, the number of deaths of children in state custody and the causes of those deaths, any child death review activities conducted by the department, trends in child deaths, and recommendations for system changes, including any proposed legislation.

(b) Upon written request of the director, a state or county agency shall report deaths of children in the custody of the state or county agency to the department, including any information on the circumstances of the child's death deemed relevant by the director.

(c) The director shall submit a copy of any other child death review report published by the department, including findings and recommendations resulting from such a review, to the legislature upon the report's publication.”

SECTION 3. Section 321-343, Hawaii Revised Statutes, is amended to read as follows:

**“[§321-343] Access to information[-]; use of child death review information; protections.** (a) Upon written request of the director, all providers of [medical] health care, social services, and state and county agencies shall disclose to the department, and those individuals appointed by the director to participate in the review of child deaths, child death review information regarding the circumstances of a child's death so that the department may conduct a multidisciplinary and multiagency review of child deaths pursuant to section 321-31 and this part. All requested disclosures shall comply with state and federal privacy statutes and regulations, including the Health Insurance Portability and Accountability Act, and the department shall not request records of any internal hospital committee, peer review committee, or quality improvement review process. The department may enter into a memorandum of agreement with hospitals regarding requests for information to be used for child death reviews.

(b) To the extent that this section conflicts with other state confidentiality and disclosure laws, this section shall prevail.

(c) Except as otherwise provided in this part, all child death review information acquired by the department during its review of child deaths pursuant to this part is confidential and may only be disclosed as necessary to carry out the purposes of this part.

(d) No individual participating in the review of a child death shall be questioned in any civil or criminal proceeding regarding information presented in or opinions formed as a result of a multidisciplinary review. Nothing in this subsection shall be construed to prevent a person from testifying to information obtained independently of the department's request for child death review information or the multidisciplinary team's review of the child death, or which is public information, or where disclosure is required by a court of law.

(e) Child death review information held by the department as a result of child death reviews conducted under this part shall not be subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding, except that child death review information otherwise available from other sources shall not be immune from subpoena, discovery, or introduction into evidence through those sources solely because they were provided to the department as required by this part.”

SECTION 4. Section 321-345, Hawaii Revised Statutes, is repealed.

## PART II

SECTION 5. Chapter 324, Hawaii Revised Statutes, is amended by adding two new sections to part I to be appropriately designated and to read as follows:

**“§324-A Multidisciplinary and multiagency reviews.** The department of health may conduct multidisciplinary and multiagency reviews of maternal deaths to reduce the incidence of preventable maternal deaths.

**§324-B Maternal death review reports.** (a) The director of health shall submit an annual written report to the legislature no later than twenty days prior to the convening of each regular session on the status of reviews of maternal deaths conducted by the department. The annual report shall cover the calendar year immediately prior to the year in which the report is due and shall describe the total number of deaths of women while pregnant or within one year after a pregnancy in Hawaii, the causes of those deaths and whether the causes of death were pregnancy related, any maternal mortality review activities conducted by the department, trends in maternal deaths, and recommendations for system changes, including any proposed legislation.

(b) The director of health shall submit a copy of any other maternal death review report published by the department of health, detailing findings and recommendations resulting from such a review, to the legislature upon the report's publication."

SECTION 6. Section 324-1, Hawaii Revised Statutes, is amended to read as follows:

**“§324-1 [Sources] Requests for information; sources of information protected.** ~~[Any person, hospital, sanatorium, nursing or rest home, or other similar medical facility may]~~ (a) Upon written request from the director of health, all providers of health care, social services, and county and state agencies shall provide information, [interviews,] reports, statements, memoranda, death and birth records, or other data or material relating to the condition and treatment of any person to [the maternal and perinatal mortality study committee of the Hawaii Medical Association, any in-hospital staff committee, or] the department of health[;] or its designee, to be used in the course of any study for the purpose of reducing maternal morbidity or mortality.

(b) To the extent that this section conflicts with other state confidentiality and disclosure laws, this section shall prevail.

(c) The department of health may request information regarding the deceased that is stored in electronic format or in paper copies, or gathered through interviews, subject to certain restrictions, which include but are not limited to:

- (1) Social, medical, and legal histories;
- (2) Death and birth certificates;
- (3) Law enforcement investigative data;
- (4) Medical examiner or coroner investigative data;
- (5) Parole and probation information and records;
- (6) Information and records of social service agencies;
- (7) Educational records;
- (8) Medical records; and
- (9) Interviews with hospital employees that shall be subject to approval from hospital management.

Furthermore, all requested disclosures shall comply with state and federal privacy statutes and regulations, including the Health Insurance Portability and Accountability Act, and the department of health shall not request records of any hospital review committee, peer review committee, or quality improvement review process. The department may enter into a memorandum of agreement with hospitals regarding requests for information to be used for maternal mortality reviews.

No liability of any kind or character for damages or other relief shall arise or be enforced against any person or organization by reason of having provided the information or material, or by reason of having released or published

the findings, conclusions, and summaries of the research or study committees to advance medical research and medical education.

(d) Except as otherwise provided in this part, all maternal mortality review information acquired by the department during its review of maternal deaths pursuant to this part is confidential and shall only be disclosed as necessary to carry out the purposes of this part.

(e) No individual participating in the review of a maternal death shall be questioned in any civil or criminal proceeding regarding information presented in or opinions formed as a result of a panel meeting. Nothing in this subsection shall be construed to prevent a person from testifying to information obtained independently of the department's request for maternal mortality review information or the panel's review of the maternal death, or which is public information, or where disclosure is required by a court of law.

(f) Maternal mortality review information held by the department as a result of maternal mortality reviews conducted pursuant to this part shall not be subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding, except that maternal mortality review information otherwise available from other sources shall not be immune from subpoena, discovery, or introduction into evidence through those sources solely because they were provided to the department as required by this part."

SECTION 7. Section 324-2, Hawaii Revised Statutes, is amended to read as follows:

**"§324-2 Identification of persons studied; restriction.** The ~~[maternal and perinatal mortality study committee of the Hawaii Medical Association, the]~~ department of health, or its designee, or any in-hospital staff committee shall use or publish this material only for the purpose of advancing medical research, medical education, or education of the public in the interest of reducing morbidity or mortality. In all events, the identity, or any group of facts which tends to lead to the identity, of any person whose condition or treatment has been studied shall be confidential and shall not be revealed under any circumstances."

### PART III

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000 or so much thereof as may be necessary for the department of health to conduct child death reviews in accordance with chapter 321, part XXVII, Hawaii Revised Statutes, and to implement a program for the performance of maternal death reviews in accordance with part I of chapter 324, Hawaii Revised Statutes.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

### PART IV

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 10. This Act shall take effect on July 1, 2016.

(Approved July 5, 2016.)

#### Note

1. Edited pursuant to HRS §23G-16.5.