

LAWS OF DELAWARE
VOLUME 83
CHAPTER 364
151st GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 340
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO CHILD AND MATERNAL MORTALITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 301, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 301. Definitions.

As used in this ~~subchapter~~ chapter:

(5) “Maternal death” means the death of a ~~woman while pregnant or within 42 days of termination of pregnancy, irrespective of the duration and site of the pregnancy, from any cause related to or aggravated by the pregnancy or its management but not from accidental or incidental causes.~~ person during pregnancy or within a year from the end of pregnancy. “Maternal death” includes pregnancy-related death and pregnancy-associated death.

Section 2. Amend Subchapter II, Chapter 3, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

Subchapter II. Maternal and Child Death Review Commission

§ 320. Declaration of legislative ~~intent~~; intent; definitions.

(a) The General Assembly hereby declares that the health and safety of the children and pregnant and postpartum women ~~women~~ persons of the State will be safeguarded if deaths of children under the age of 18 and stillbirths occurring after at least 20 weeks of gestation and maternal death are reviewed, in order to provide its findings or recommendations to alleviate those practices or conditions which impact the mortality of children and pregnant and postpartum persons. ~~women.~~ ~~This subchapter establishes the Child Death Review Commission.~~

(b) For the purposes of this ~~subchapter~~, subchapter:

(1) “Commission” means the Maternal and Child Death Review Commission.

(2) ~~Stillbirths occurring after at least 20 weeks of gestation do not include stillbirths which occur as a result of an elective medical procedure.~~ “Stillbirth” means as defined in § 3101 of Title 16.

§ 321. Organization and composition.

(a) The Maternal and Child Death Review Commission is hereby established.

(b) The following are members of the Commission: The State Attorney General, ~~the Secretary of the State Department of Health and Social Services~~, the Secretary of the ~~State~~ Department of Services to Children, Youth and Their Families, the person appointed as the ~~child advocate~~ Child Advocate pursuant to § 9003A of Title 29, ~~the Chair of the Child Protection Accountability Commission~~, the ~~State~~ Secretary of Education, the ~~State~~ Division of Forensic Sciences’ Chief Medical Examiner, the Director of the Division of Public Health, ~~the Chief Judge of the Family Court~~, the Director of the Division of Medicaid and Medical Assistance, the Director of the Division of Substance Abuse and Mental Health, and the Superintendent of the Delaware State Police, or the designee of any of the preceding persons. Additionally, the following shall be appointed by the Governor as members of the Commission:

(1) A representative of the Medical Society of Delaware specializing in each of pediatrics, neonatology, obstetrics, and perinatology.

(2) A representative of the Delaware Nurses Association.

(3) A ~~representative of the National Association of Social Workers.~~ licensed mental health professional.

(4) A representative of the Police Chiefs' Council of Delaware who is an active law-enforcement officer.

(5) A representative of the New Castle County Police Department.

(6) ~~Two child advocates~~ One maternal and one child advocate from statewide non-profit organizations.

(7) An individual who is a certified midwife or certified professional midwife.

A Chairperson of each regional child death review panel, each maternal death panel, and each Fetal and Infant Mortality Review Case Review Team established pursuant to subsections ~~(d) and (e)~~ (f) and (g) of this section shall also serve as members of the Commission. The term of members appointed by the Governor shall be 3 years and shall terminate upon the Governor's appointment of a new member to the Commission. In making appointments to the Commission, the Governor shall consider representation on the panel of Black, Indigenous, and other persons of color in the membership. The members of the Commission, regional panels, Case Review Teams, and Community Action Teams shall serve without compensation. The Commission shall be staffed, and its staff shall include an Executive Director. The Executive Director shall be hired and supervised by the executive committee of the Commission. The General Assembly may annually appropriate such sums as it may deem necessary for the payment of the salary of the Executive Director and the staff, and for the payment of actual expenses incurred by the Commission.

~~(b)~~ (c) The Commission shall, by affirmative vote of a majority of all members of the Commission, appoint a chairperson from its membership for a term of 1 year. The Commission shall meet at least semi-annually.

~~(e)~~ (d) (1) Meetings of the Commission, regional panels, Case Review Teams, and Community Action Teams are closed to the public.

(2) The Commission shall meet at least annually with the Child Protection Accountability Commission to jointly discuss any findings or recommendations released to the public from reviews conducted under § 932 of Title 16, and this meeting is open to the public.

(3) The Commission shall meet at least annually with the Delaware Perinatal Quality Collaborative at one of its two public meetings to jointly discuss any findings and recommendations released to the public from reviews conducted under § 323 of this title and this meeting is open to the public.

~~(d)~~ (e) The Commission shall by resolution passed by a majority of its members establish at least 1 but no more than 3 regional panels authorized to review child deaths. For good cause shown to the Commission, any panel may investigate and review any death or stillbirth entitled to review by the Commission. Members of the Commission shall appoint representatives to each regional panel such that the regional panel reflects the disciplines of the Commission. The members of such panel, together with any staff, contractors, or volunteers designated to assist the panel, are agents of the Commission under § 324 of this title. The Commission shall also appoint to each regional panel all of the following:

(1) A representative from each of the 3 police departments that investigate the majority of child deaths in the region covered by the panel.

(2) A citizen of the region interested in child death and stillbirth issues.

(e) (f) The Commission shall by resolution passed by a majority of its members establish Fetal and Infant Mortality Review Case Review Teams and Community Action Teams based on the National Fetal and Infant Mortality Review Program model.

(f) (g) Each regional panel and the Fetal and Infant Mortality Review Case Review Teams shall have the powers, duties, and authority of the Commission as delegated by the Commission. Each regional panel and Fetal and Infant Mortality Review Case Review Team shall, by affirmative vote of a majority of all members of that regional panel or team, appoint co-chairpersons from its membership for a term of 1 year.

(g) (h) The Commission shall by resolution passed by a majority of its members establish 1 regional panel authorized to review maternal deaths. The panel shall include a citizen interested in maternal mortality issues.

§ 322. Voting.

Except as expressly provided in this subchapter, an affirmative vote of 60% of all members of the Commission, any regional panel, Case Review Team or Community Action Team is required to adopt any findings or recommendations of the Commission or such regional panel or team.

§ 323. Powers and duties.

(a) The Commission shall have the power to investigate and review the facts and circumstances of all deaths of children under the age of 18 solely for the purposes provided in § 320 of this title, except deaths of abused or neglected children which are within the jurisdiction of the Child Protection Accountability Commission under subchapter III, Chapter 9 of Title 16, all stillbirths, and all maternal deaths which occur in Delaware. The Commission may review deaths of abused or neglected children, for good cause shown, as determined by the agreement of the Commission and the Child Protection Accountability Commission. The Commission may delegate tasks to its committees, workgroups, and panels as necessary to accomplish its duties. The Commission shall delay the review of deaths involving criminal investigations until the completion of the prosecution. For purposes of this subsection, “completion of the prosecution” means the decision to file no information or seek no indictment, conviction or adjudication, acquittal, dismissal of an information or indictment by a court, the conditional dismissal under a program established by Delaware law or court program, or the nolle prosequi of an information or indictment by the Attorney General.

(b) (1) The Commission shall make its findings or recommendations to the Governor and the General Assembly, at least annually, regarding those practices or conditions which impact the mortality of children and ~~mothers.~~ pregnant and postpartum persons.

(2) The Commission shall publicly post its findings and recommendations and invite and accept written public comment. The Commission shall hold a statewide meeting to present findings and recommendations and accept public comment.

(3) All summary information, findings, or recommendations shall include aggregated data by race and ethnicity and include recommendations on how to prevent maternal and infant death and how to reduce racial disparities.

(4) All summary information, findings, or recommendations released by the Commission under this subsection must comply with applicable state and federal confidentiality provisions, including those enumerated in §§ 324 of this title and 9017(e) of Title 29. Notwithstanding any provision of this subchapter to the contrary, a summary information, finding, or recommendation released by the Commission under this subsection may not specifically identify any individual or any nongovernmental agency, organization, or entity.

~~(b)~~(c) The Commission shall conduct child death reviews according to procedures promulgated by the Commission. The Commission shall conduct maternal death reviews which utilize a public health model and shall include information gathered through a clinical review and summary of medical and other subpoenaed records. The Commission may amend such procedures upon an affirmative vote of three-fourths of all members of the Commission.

(d) The Commission is a “public health authority” and a “health oversight agency,” and shall be recognized as such in the performance of its functions.

Approved July 25, 2022