CHAPTER 196

HEALTH AND ENVIRONMENT

HOUSE BILL 19-1122

BY REPRESENTATIVE(S) Buckner and Landgraf, Arndt, Bird, Buentello, Caraveo, Coleman, Cutter, Duran, Esgar, Exum, Froelich, Galindo, Gonzales-Gutierrez, Gray, Hansen, Herod, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, Kraft-Tharp, Liston, Lontine, McCluskie, Melton, Michaelson Jenet, Mullica, Ransom, Singer, Sirota, Snyder, Sullivan, Tipper, Titone, Valdez A., Valdez D., Weissman, Will, Wilson, Becker;
also SENATOR(S) Fields and Gardner, Bridges, Court, Ginal, Gonzales, Moreno, Pettersen, Priola, Story, Tate, Todd, Winter, Zenzinger, Garcia.

AN ACT

CONCERNING THE CREATION OF A MATERNAL MORTALITY REVIEW COMMITTEE IN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** article 52 to title 25 as follows:

ARTICLE 52
Maternal Mortality Prevention Act

25-52-101. Short title. THE SHORT TITLE OF THIS ARTICLE 52 IS THE "MATERNAL MORTALITY PREVENTION ACT".

25-52-102. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) COLORADO'S MATERNAL MORTALITY RATE NEARLY DOUBLED BETWEEN 2008 AND 2013;

(b) MATERNAL DEATHS AFFECT WOMEN STATEWIDE AND ARE MORE COMMON AMONG FAMILIES LIVING IN RURAL AREAS THAN IN URBAN CENTERS AND DISPROPORTIONATELY HIGH AMONG BLACK AND AFRICAN-AMERICAN WOMEN COMPARED TO WHITE WOMEN;

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(c) EIGHTY PERCENT OF MATERNAL DEATHS IN COLORADO ARE CONSIDERED PREVENTABLE;

(d) TO REVIEW DEATHS IN THE PREGNANT AND POSTPARTUM POPULATION REQUIRES A HOLISTIC VIEW OF THE CIRCUMSTANCES SURROUNDING A DEATH. NATIONAL RESEARCH INDICATES THAT HIGH BLOOD PRESSURE AND CARDIOVASCULAR DISEASE REMAIN TWO LEADING CAUSES OF MATERNAL DEATHS NATIONWIDE, WHILE IN COLORADO BEHAVIORAL HEALTH CONDITIONS AND SELF-HARM NOW ACCOUNT FOR THE LARGEST SHARE OF MATERNAL DEATHS.

(e) EVIDENCE-BASED PREVENTION STRATEGIES SUPPORT THE REVIEW OF MATERNAL DEATHS THROUGH STATE-BASED MATERNAL MORTALITY REVIEWS IN ORDER TO IDENTIFY THE SYSTEMATIC CHANGES NEEDED TO DECREASE MORTALITY AMONG THE PREGNANT AND POSTPARTUM POPULATION;

(f) THE DEPARTMENT HAS HAD AN ACTIVE AND DEDICATED COMMITTEE OF VOLUNTEER PROFESSIONALS REVIEWING MATERNAL DEATHS SINCE 1993; HOWEVER, THE CAPACITY OF THE COMMITTEE IS LIMITED BY A LACK OF PROTECTION, FUNDING, AND AUTHORITY;

(g) THERE IS A NEED TO ESTABLISH A COMMITTEE TO REVIEW DEATHS AMONG THE PREGNANT AND POSTPARTUM POPULATION AND TO RECOMMEND STRATEGIES TO PREVENT THESE DEATHS AND IMPROVE MATERNAL HEALTH OUTCOMES IN COLORADO;

(h) THE PREVENTION OF DEATHS AMONG THE PREGNANT AND POSTPARTUM POPULATION IS A COMMUNITY RESPONSIBILITY, AND PROFESSIONALS FROM A VARIETY OF DISCIPLINES HAVE EXPERTISE THAT CAN PROMOTE THE SAFETY AND WELL-BEING OF THE PREGNANT AND POSTPARTUM POPULATION;

(i) COMPREHENSIVE AND MULTIDISCIPLINARY REVIEWS OF MATERNAL DEATHS CAN LEAD TO A GREATER UNDERSTANDING OF THE CAUSES OF AND METHODS FOR PREVENTING THESE DEATHS AND IMPROVE OTHER MATERNAL HEALTH OUTCOMES INCLUDING MORBIDITY;

(j) THE PROTECTION OF THE HEALTH AND WELFARE OF THE PREGNANT AND POSTPARTUM POPULATION IN THIS STATE IS AN IMPORTANT GOAL OF THE CITIZENS OF THIS STATE, AND THE RATE OF DEATH AMONG THE PREGNANT AND POSTPARTUM POPULATION IS A SERIOUS PUBLIC HEALTH CONCERN THAT REQUIRES LEGISLATIVE ACTION;

(k) FORTY-ONE STATES AND THE DISTRICT OF COLUMBIA CURRENTLY HAVE STATUTORILY CREATED MATERNAL MORTALITY REVIEW COMMITTEES; AND

(l) THEREFORE, IT IS THE INTENT OF THE GENERAL ASSEMBLY TO ESTABLISH A MATERNAL MORTALITY REVIEW COMMITTEE WITHIN THE DEPARTMENT TO REVIEW MATERNAL DEATHS AND TO RECOMMEND STRATEGIES FOR THE PREVENTION OF MATERNAL MORTALITY.

25-52-103. Definitions. AS USED IN THIS ARTICLE 52, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "COMMITTEE" MEANS THE COLORADO MATERNAL MORTALITY REVIEW COMMITTEE CREATED IN SECTION 25-52-104.

(2) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

(3) "DESIGNATED STATE PERINATAL CARE QUALITY COLLABORATIVE" MEANS A STATEWIDE NONPROFIT NETWORK OF HEALTH CARE FACILITIES, CLINICIANS, AND PUBLIC HEALTH PROFESSIONALS WORKING TO IMPROVE THE QUALITY OF CARE FOR MOTHERS AND BABIES THROUGH CONTINUOUS QUALITY IMPROVEMENT.

(4) "HEALTH CARE PROVIDER" MEANS ANY PERSON LICENSED, REGISTERED, OR CERTIFIED BY THE STATE OF COLORADO TO DELIVER HEALTH CARE SERVICES, INCLUDING MENTAL AND BEHAVIORAL HEALTH CARE SERVICES AND MEDICAL MARIJUANA SERVICES.

(5) "MATERNAL DEATH" MEANS A DEATH THAT OCCURS DURING PREGNANCY OR UP TO ONE YEAR AFTER THE END OF A PREGNANCY.

(6) "MATERNAL MORTALITY" MEANS THE INCIDENCE OF MATERNAL DEATHS.

(7) (a) "MEDICAL RECORD" MEANS THE WRITTEN OR GRAPHIC DOCUMENTATION, SOUND RECORDING, OR COMPUTER RECORD PERTAINING TO HEALTH CARE SERVICES PERFORMED AT THE DIRECTION OF A HEALTH CARE PROVIDER ON BEHALF OF A PATIENT.

(b) "MEDICAL RECORD" INCLUDES:

(I) DIAGNOSTIC DOCUMENTATION SUCH AS X RAYS, ELECTROCARDIOGRAMS, ELECTROENCEPHALOGRAMS, AND OTHER TEST RESULTS;

(II) DATA ENTERED INTO THE ELECTRONIC PRESCRIPTION DRUG MONITORING PROGRAM UNDER SECTION 12-42.5-403;

(III) DATA ENTERED INTO THE NATIONAL VIOLENT DEATH REPORTING SYSTEM OR A SUCCESSOR SYSTEM; AND

(IV) AUTOPSY REPORTS.

(8) "PREGNANCY-RELATED DEATH" MEANS A DEATH CAUSED BY ISSUES RELATED TO, OR AGGRAVATED BY, A PREGNANCY OR TREATMENT OF THAT PREGNANCY.

25-52-104. Colorado maternal mortality review committee - creation - members - duties - report to the general assembly. (1) THE COLORADO MATERNAL MORTALITY REVIEW COMMITTEE IS HEREBY CREATED IN THE DEPARTMENT FOR THE PURPOSES OF:

(a) REVIEWING SPECIFIC CASES OF MATERNAL DEATH THAT OCCUR IN COLORADO;

(b) IDENTIFYING THE CAUSES OF MATERNAL MORTALITY; AND

(c) DEVELOPING RECOMMENDATIONS TO ADDRESS PREVENTABLE MATERNAL DEATHS, INCLUDING LEGISLATION, POLICIES, RULES, TRAINING, AND BEST PRACTICES THAT WILL SUPPORT THE HEALTH AND SAFETY OF THE PREGNANT AND POSTPARTUM POPULATION IN COLORADO AND PREVENT MATERNAL DEATHS.

(2) (a) BY OCTOBER 1, 2019, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL APPOINT AT LEAST ELEVEN MEMBERS TO SERVE ON THE COMMITTEE. THE TERM OF APPOINTMENT IS THREE YEARS; EXCEPT THAT THE TERM OF THE FIRST SIX MEMBERS APPOINTED IS TWO YEARS. MEMBERS MAY SERVE UP TO THREE TERMS. THE EXECUTIVE DIRECTOR MAY FILL ANY VACANCIES ON THE COMMITTEE.

(b) IN APPOINTING MEMBERS TO THE COMMITTEE, THE EXECUTIVE DIRECTOR SHALL:

(I) FOLLOW BEST PRACTICES AS OUTLINED BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION IN THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES;

(II) ENSURE THAT COMMITTEE MEMBERS REPRESENT DIVERSE COMMUNITIES AND A VARIETY OF CLINICAL, FORENSIC, AND PSYCHOSOCIAL SPECIALIZATIONS AND COMMUNITY PERSPECTIVES; AND

(III) MAKE AN EFFORT TO INCLUDE COMMITTEE MEMBERS WORKING IN AND REPRESENTING COMMUNITIES THAT ARE:

(A) DIVERSE WITH REGARD TO RACE, ETHNICITY, IMMIGRATION STATUS, ENGLISH PROFICIENCY, INCOME, WEALTH, AND GEOGRAPHIC REGION OF THE STATE, INCLUDING BOTH URBAN AND RURAL AREAS; AND

(B) AFFECTED BY HIGHER RATES OF MATERNAL MORTALITY AND BY A LACK OF ACCESS TO THE FULL SCOPE OF MATERNITY CARE HEALTH SERVICES.

(c) THE MEMBERS OF THE COMMITTEE WHO RESIDE MORE THAN FIFTY MILES FROM THE LOCATION OF A COMMITTEE HEARING ARE ENTITLED TO RECEIVE THE SAME PER DIEM COMPENSATION AND REIMBURSEMENT OF EXPENSES AS THOSE PROVIDED FOR MEMBERS OF BOARDS AND COMMISSIONS PURSUANT TO SECTION 24-34-102 (13), AND FOR EXPENSES INCURRED IN TRAVELING TO AND FROM THE MEETINGS OF THE COMMITTEE, INCLUDING ANY REQUIRED DEPENDENT OR ATTENDANT TRAVEL, FOOD, AND LODGING. MEMBERS OF THE COMMITTEE ARE ALSO ENTITLED TO REIMBURSEMENT FOR ANY EXPENSES NECESSARY TO SUPPORT THE MEMBERS' PARTICIPATION AT A COMMITTEE HEARING, INCLUDING ANY DEPENDENT OR ATTENDANT CARE.

(3) THE COMMITTEE MAY FORM SPECIAL AD HOC PANELS TO FURTHER INVESTIGATE CASES OF MATERNAL DEATH RESULTING FROM SPECIFIC CAUSES WHEN THE NEED ARISES.

(4) THE COMMITTEE SHALL:

(a) REVIEW EACH DEATH IN COLORADO THAT IS A MATERNAL DEATH;

(b) REVIEW MEDICAL RECORDS AND OTHER RELEVANT DATA RELATED TO EACH MATERNAL DEATH;

(c) TAKE STEPS TO IMPROVE THE QUALITY AND SCOPE OF DATA OBTAINED THROUGH INVESTIGATIONS AND REVIEW OF MATERNAL DEATHS;

(d) IDENTIFY THE CAUSES OF MATERNAL MORTALITY, INCLUDING ANY TRENDS AND PATTERNS ACROSS RACIAL, GEOGRAPHIC, AND OTHER GROUPS;

(e) DEVELOP RECOMMENDATIONS FOR THE PREVENTION OF MATERNAL MORTALITY AND DELIVER THE RECOMMENDATIONS TO THE DEPARTMENT;

(f) PERFORM ANY OTHER FUNCTIONS AS RESOURCES ALLOW TO ENHANCE THE CAPABILITY OF THE STATE TO REDUCE AND PREVENT MATERNAL MORTALITY; AND

(g) ADVISE THE DEPARTMENT IN THE DEPARTMENT'S WORK ON DECREASING MATERNAL MORTALITY.

(5) THE DEPARTMENT SHALL:

(a) COMPILE REPORTS OF AGGREGATED, NONINDIVIDUALLY IDENTIFIABLE DATA ON A ROUTINE BASIS FOR DISTRIBUTION IN AN EFFORT TO FURTHER STUDY THE CAUSES AND PROBLEMS ASSOCIATED WITH MATERNAL MORTALITY THAT MAY BE DISTRIBUTED TO POLICY MAKERS, HEALTH CARE PROVIDERS AND FACILITIES, BEHAVIORAL HEALTH PROVIDERS, PUBLIC HEALTH PROFESSIONALS, AND OTHERS NECESSARY TO REDUCE THE MATERNAL MORTALITY RATE;

(b) SERVE AS A LINK WITH MATERNAL MORTALITY REVIEW TEAMS THROUGHOUT THE COUNTRY AND PARTICIPATE IN REGIONAL OR NATIONAL MATERNAL MORTALITY REVIEW TEAM ACTIVITIES; AND

(c) REQUEST INPUT AND FEEDBACK FROM INTERESTED AND AFFECTED STAKEHOLDERS.

(6) (a) NO LATER THAN JULY 1, 2020, AND JULY 1 EVERY THREE YEARS THEREAFTER, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE HOUSE OF REPRESENTATIVES COMMITTEES ON PUBLIC HEALTH CARE AND HUMAN SERVICES AND HEALTH AND INSURANCE AND THE SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES, OR THEIR SUCCESSOR COMMITTEES. THE REPORT MUST INCLUDE:

(I) IN CONSULTATION WITH HEALTH EQUITY EXPERTS, RECOMMENDATIONS TO ACHIEVE EQUITY IN MATERNAL HEALTH OUTCOMES IN COLORADO;

(II) RECOMMENDATIONS TO REDUCE THE INCIDENCE OF PREVENTABLE MATERNAL MORTALITY AND RELATED MORBIDITY;

(III) A PRIORITIZATION OF A LIMITED NUMBER OF CAUSES OF MATERNAL MORTALITY THAT ARE IDENTIFIED AS HAVING THE GREATEST IMPACT ON THE PREGNANT AND POSTPARTUM POPULATION IN COLORADO AND AS MOST PREVENTABLE; AND

(IV) IN CONSULTATION WITH THE DESIGNATED STATE PERINATAL CARE QUALITY COLLABORATIVE, RECOMMENDATIONS FOR CLINICAL QUALITY IMPROVEMENT APPROACHES THAT COULD REDUCE THE INCIDENCE OF PREGNANCY-RELATED DEATHS OR MATERNAL MORTALITY OR MORBIDITY IN PRENATAL, PERINATAL, AND POSTNATAL CLINICAL SETTINGS AND RECOMMENDATIONS FOR HOW TO SPREAD BEST PRACTICES TO CLINICAL SETTINGS ACROSS THE STATE.

(b) THE DEPARTMENT SHALL POST THE REPORT PREPARED IN ACCORDANCE WITH THIS SUBSECTION (6) ON ITS WEBSITE.

(c) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORTING REQUIRED BY THIS SUBSECTION (6) CONTINUES INDEFINITELY.

25-52-105. Access to health records related to maternal mortalities. (1) (a) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE COMMITTEE MAY ACCESS MEDICAL RECORDS RELATED TO MATERNAL DEATHS UPON REQUEST AT ANY TIME UP TO SEVEN YEARS AFTER THE LAST TREATMENT OF A PATIENT.

(b) A HEALTH CARE PROVIDER OR A HEALTH CARE FACILITY LICENSED OR CERTIFIED PURSUANT TO ARTICLE 3 OF THIS TITLE 25 SHALL PROVIDE MEDICAL RECORDS TO THE DEPARTMENT CONCERNING EACH MATERNAL MORTALITY FOR ACCESS BY THE MEMBERS OF THE COMMITTEE.

(c) UPON REQUEST OF THE DEPARTMENT, A LAW ENFORCEMENT OFFICER SHALL PROVIDE A POLICE REPORT, AND A CORONER SHALL PROVIDE RECORDS OF THE CORONER AND MEDICAL EXAMINER INVESTIGATIONS, THAT INVOLVE A MATERNAL DEATH TO THE COMMITTEE.

(d) A HEALTH CARE PROVIDER, PHARMACIST, HEALTH CARE FACILITY, LAW ENFORCEMENT OFFICER, OR CORONER IS NOT CIVILLY OR CRIMINALLY LIABLE FOR THE RELEASE OF MEDICAL RECORDS WHEN MAKING A GOOD-FAITH EFFORT TO COMPLY WITH THIS SUBSECTION (1).

(2) (a) THE DISCUSSIONS IN COMMITTEE MEETINGS OR MEETINGS OF AN AD HOC PANEL FORMED PURSUANT TO SECTION 25-52-104 (3) CONCERNING DETAILS OF A MATERNAL DEATH THAT COULD IDENTIFY AN INDIVIDUAL INVOLVED ARE CONFIDENTIAL AND ARE NOT SUBJECT TO SECTION 24-6-402.

(b) THE COMMITTEE MEETING NOTES, STATEMENTS, MEDICAL RECORDS, REPORTS, COMMUNICATIONS, AND MEMORANDA OBTAINED BY THE COMMITTEE THAT CONTAIN INFORMATION THAT COULD IDENTIFY AN INDIVIDUAL INVOLVED IN A MATERNAL DEATH ARE CONFIDENTIAL AND ARE NOT SUBJECT TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24.

(c) MEMBERS OF THE COMMITTEE ARE NOT SUBJECT TO SUBPOENA IN ANY CIVIL, CRIMINAL, OR ADMINISTRATIVE PROCEEDING REGARDING THE INFORMATION PRESENTED IN OR OPINIONS FORMED AS A RESULT OF A MEETING OR COMMUNICATION OF THE COMMITTEE; EXCEPT THAT THIS SUBSECTION (2)(c) DOES NOT PREVENT A MEMBER OF THE COMMITTEE FROM TESTIFYING REGARDING INFORMATION OR OPINIONS OBTAINED INDEPENDENTLY OF THE COMMITTEE OR THAT ARE PUBLIC INFORMATION.

(d) NOTES, STATEMENTS, MEDICAL RECORDS, REPORTS, COMMUNICATIONS, AND MEMORANDA THAT ARE CONFIDENTIAL PURSUANT TO SUBSECTIONS (2)(a) AND (2)(b) OF THIS SECTION ARE NOT:

(I) SUBJECT TO SUBPOENA, DISCOVERY, OR INTRODUCTION INTO EVIDENCE IN ANY CIVIL, CRIMINAL, OR ADMINISTRATIVE PROCEEDING, UNLESS THE SUBPOENA IS DIRECTED TO A SOURCE THAT IS SEPARATE AND APART FROM THE COMMITTEE. NOTHING IN THIS SECTION LIMITS OR RESTRICTS THE RIGHT TO DISCOVER OR USE IN A CIVIL, CRIMINAL, OR ADMINISTRATIVE PROCEEDING NOTES, STATEMENTS, MEDICAL RECORDS, REPORTS, COMMUNICATIONS, OR MEMORANDA THAT ARE AVAILABLE FROM ANOTHER SOURCE SEPARATE AND APART FROM THE COMMITTEE AND THAT ARISE ENTIRELY INDEPENDENT OF THE COMMITTEE'S ACTIVITIES.

(II) ADMISSIBLE AS EVIDENCE IN ANY ACTION IN ANY COURT OR BEFORE ANY TRIBUNAL, BOARD, AGENCY, OR PERSON AND SHALL NOT BE EXHIBITED OR DISCLOSED IN ANY WAY BY ANY PERSON UNLESS THE INFORMATION WAS OBTAINED FROM ANOTHER SOURCE THAT IS SEPARATE AND APART FROM THE COMMITTEE, EXCEPT AS MAY BE NECESSARY TO FURTHER THE DUTIES OF THE COMMITTEE OR IN RESPONSE TO AN ALLEGED VIOLATION OF A CONFIDENTIALITY AGREEMENT PURSUANT TO SUBSECTION (2)(e) OF THIS SECTION.

(e) EACH COMMITTEE MEMBER SHALL SIGN A CONFIDENTIALITY AGREEMENT THAT REQUIRES THE MEMBER'S ADHERENCE TO SUBSECTIONS (2)(a) AND (2)(b) OF THIS SECTION. A MEMBER WHO KNOWINGLY VIOLATES THE CONFIDENTIALITY AGREEMENT COMMITS A CLASS 3 MISDEMEANOR AND SHALL BE PUNISHED IN ACCORDANCE WITH SECTION 18-1.3-501.

25-52-106. Duty to comply with state and federal laws relating to health information. THE COMMITTEE AND THE DEPARTMENT SHALL COMPLY WITH ALL APPLICABLE STATE AND FEDERAL LAWS AND RULES RELATING TO THE TRANSMISSION OF HEALTH INFORMATION.

25-52-107. Repeal. THIS ARTICLE 52 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2029. BEFORE THE REPEAL, THE FUNCTIONS OF THE COMMITTEE ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 2-3-1203.

SECTION 2. In Colorado Revised Statutes, 2-3-1203, **add** (20) as follows:

2-3-1203. Sunset review of advisory committees - legislative declaration - definition - repeal. (20) (a) THE FOLLOWING STATUTORY AUTHORIZATIONS FOR THE DESIGNATED ADVISORY COMMITTEES WILL REPEAL ON SEPTEMBER 1, 2029:

(II) THE MATERNAL MORTALITY REVIEW COMMITTEE CREATED IN ARTICLE 52 OF TITLE 25.

(b) THIS SUBSECTION (20) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2031.

SECTION 3. Appropriation. For the 2019-20 state fiscal year, $145,167 is appropriated to the department of public health and environment. This appropriation is from the general fund and is based on an assumption that the department will require an additional 1.6 FTE. To implement this act, the department may use this

appropriation for maternal and child health.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 16, 2019