

HOUSE BILL No. 2108

By Committee on Federal and State Affairs

1-21

1 AN ACT concerning the department of health and environment; relating to
2 the study and investigation of maternal deaths in the state of Kansas;
3 amending K.S.A. 65-177 and repealing the existing section.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 65-177 is hereby amended to read as follows: 65-
7 177. (a) *As used in K.S.A. 65-177 through 65-179, and amendments*
8 *thereto:*

9 (1) ~~"Data," as used in K.S.A. 65-177 through 65-179, and~~
10 ~~amendments thereto,~~ includes all facts, information, records of interviews,
11 written reports, statements, notes or memoranda secured in connection
12 with an authorized medical research study.

13 (2) "Maternal death" means the death of any woman from any cause
14 while pregnant or within one calendar year of the end of any pregnancy,
15 regardless of the duration of the pregnancy or the site of the end of the
16 pregnancy.

17 (3) "Performance indicator" means the statistical or quantitative
18 value that expresses the result of a performance objective.

19 (4) "Performance measure" means a narrative statement that
20 describes a specific maternal and child health need or requirement that,
21 when successfully addressed, will lead to or will assist in leading to a
22 specific health outcome within a community or jurisdiction and generally
23 within a specified time frame.

24 (5) "Performance objective" means a statement of intention:

25 (A) That clearly describes what is to be achieved, when it is to be
26 achieved, the extent of the achievement and the target populations; and

27 (B) with which actual achievement and results can be measured and
28 compared.

29 (b) (1) The secretary of health and environment shall have access to
30 all law enforcement investigative information regarding a maternal death
31 in Kansas, any autopsy records and coroner's investigative records relating
32 to the death, any medical records of the mother and any records of the
33 Kansas department for children and families or any other state social
34 service agency that has provided services to the mother.

35 (2) (A) The secretary may apply to the district court for the issuance
36 of, and the district court may issue, a subpoena to compel the production

1 of any books, records or papers relevant to the cause of any maternal death
2 being investigated by the secretary. Any books, records or papers received
3 by the secretary pursuant to the subpoena shall be confidential and
4 privileged information and not subject to disclosure.

5 (B) The provisions of this paragraph providing for confidentiality of
6 records shall expire on July 1, ~~2023~~ 2026, unless the legislature acts to
7 reenact such provisions. The legislature shall review the provisions of this
8 paragraph pursuant to K.S.A. 45-229, and amendments thereto, prior to
9 July 1, ~~2023~~ 2026.

10 (c) The secretary of health and environment shall:

11 (1) Identify maternal death cases;

12 (2) review medical records and other relevant data;

13 (3) contact family members and other affected or involved persons to
14 collect additional relevant data;

15 (4) consult with relevant experts to evaluate the records and data
16 collected;

17 (5) *utilize a social determinants of health review form that includes a*
18 *section on racial inequities in healthcare, including racial discrimination*
19 *and other factors related to racism;*

20 (6) make determinations regarding the preventability of maternal
21 deaths;

22 ~~(6)~~(7) develop recommendations and actionable strategies to prevent
23 maternal deaths; ~~and~~

24 ~~(7)~~(8) disseminate findings and recommendations to the legislature,
25 healthcare providers, healthcare facilities and the general public;

26 (9) *work with healthcare providers and healthcare facilities to*
27 *promote the continuity of maternal healthcare for women during and after*
28 *pregnancy;*

29 (10) *help healthcare providers and healthcare facilities develop and*
30 *implement performance measures that are based on the performance*
31 *measures prioritized by the secretary in accordance with the maternal and*
32 *child health services block grant, 42 U.S.C. § 701 et seq.;*

33 (11) *strengthen the ability of local health officers to generate and*
34 *compile maternal healthcare performance indicators; and*

35 (12) *establish an external community review committee that shall:*

36 (A) *Include stakeholders of color;*

37 (B) *have access to publicly available disaggregated raw data,*
38 *including maternal interviews and clinical notes; and*

39 (C) *externally review Black maternal death cases.*

40 (d) (1) Healthcare providers licensed pursuant to chapters 65 and 74
41 of the Kansas Statutes Annotated, and amendments thereto, medical care
42 facilities licensed pursuant to article 4 of chapter 65 of the Kansas Statutes
43 Annotated, and amendments thereto, maternity centers licensed pursuant

1 to article 5 of chapter 65 of the Kansas Statutes Annotated, and
2 amendments thereto, and pharmacies licensed pursuant to article 16 of
3 chapter 65 of the Kansas Statutes Annotated, and amendments thereto,
4 shall provide reasonable access to all relevant medical records associated
5 with a maternal death case under review by the secretary.

6 (2) A healthcare provider, medical care facility, maternity center or
7 pharmacy providing access to medical records pursuant to this section
8 shall not be held liable for civil damages or be subject to criminal or
9 disciplinary administrative action for good faith efforts to provide such
10 records.

11 (e) (1) Information, records, reports, statements, notes, memoranda or
12 other data collected pursuant to this section shall be privileged and
13 confidential and shall not be admissible as evidence in any action of any
14 kind in any court or before another tribunal, board, agency or person. Such
15 information, records, reports, statements, notes, memoranda or other data
16 shall not be exhibited nor their contents disclosed in any way, in whole or
17 in part, by any officer or representative of the department of health and
18 environment or any other person, except as may be necessary for the
19 purpose of furthering the investigation of the case to which they relate. No
20 person participating in such investigation shall disclose, in any manner, the
21 information so obtained.

22 (2) The provisions of this subsection providing for confidentiality of
23 records shall expire on July 1, ~~2023~~ 2026, unless the legislature acts to
24 reenact such provisions. The legislature shall review the provisions of this
25 subsection pursuant to K.S.A. 45-229, and amendments thereto, prior to
26 July 1, ~~2023~~ 2026.

27 (f) (1) All proceedings and activities of the secretary or
28 representatives of the secretary under this section, opinions of the secretary
29 or representatives of the secretary formed as a result of such proceedings
30 and activities and records obtained, created or maintained pursuant to this
31 section, including records of interviews, written reports and statements
32 procured by the secretary or any other person, agency or organization
33 acting jointly or under contract with the department of health and
34 environment in connection with the requirements of this section, shall be
35 confidential and not subject to the provisions of the open records act or the
36 open meetings act or subject to subpoena, discovery or introduction into
37 evidence in any civil or criminal proceeding. Nothing in this section shall
38 be construed to limit or otherwise restrict the right to discover or use in
39 any civil or criminal proceeding any document or record that is available
40 and entirely independent of proceedings and activities of the secretary or
41 representatives of the secretary under this section.

42 (2) The secretary or representatives of the secretary shall not be
43 questioned in any civil or criminal proceeding regarding the information

1 presented in or opinions formed as a result of an investigation. Nothing in
2 this section shall be construed to prevent the secretary or representatives of
3 the secretary from testifying to information obtained independently of this
4 section or that is public information.

5 (3) The provisions of this subsection providing for confidentiality of
6 records shall expire on July 1, ~~2023~~ 2026, unless the legislature acts to
7 reenact such provisions. The legislature shall review the provisions of this
8 subsection pursuant to K.S.A. 45-229, and amendments thereto, prior to
9 July 1, ~~2023~~ 2026.

10 (g) Reports of aggregate non-individually identifiable data *and non-*
11 *individually identifiable data that is disaggregated by race* shall be
12 compiled on a routine basis for distribution in an effort to further study the
13 causes and problems associated with maternal deaths. Reports shall be
14 distributed to healthcare providers and medical care facilities and other
15 persons necessary to reduce the maternal death rate.

16 (h) The secretary of health and environment shall receive data
17 secured in connection with medical research studies conducted for the
18 purpose of reducing morbidity or mortality from maternal, perinatal and
19 anesthetic causes. Such studies may be conducted by the secretary of
20 health and environment and staff or with other qualified persons, agencies
21 or organizations. If such studies are conducted with any funding not
22 provided by the state of Kansas, then the source of such funding shall be
23 clearly identified in such study. Where authorization to conduct such a
24 study is granted by the secretary of health and environment, all data
25 voluntarily made available to the secretary of health and environment in
26 connection with such study shall be treated as confidential and shall be
27 used solely for purposes of medical research. Research files and opinions
28 expressed upon the evidence found in such research shall not be
29 admissible as evidence in any action in any court or before any other
30 tribunal, except that statistics or tables resulting from such data shall be
31 admissible and may be received as evidence. This section shall not affect
32 the right of any patient or such patient's guardians, representatives or heirs
33 to require hospitals, physicians, sanatoriums, rest homes, nursing homes or
34 other persons or agencies to furnish such patient's hospital record to such
35 patient's representatives upon written authorization, or the admissibility in
36 evidence thereof.

37 (i) No employee of the secretary of health and environment shall
38 interview any patient named in any such report, nor any relative of any
39 such patient, unless otherwise provided in K.S.A. 65-2422d, and
40 amendments thereto. Nothing in this section shall prohibit the publication
41 by the secretary of health and environment or a duly authorized
42 cooperating person, agency or organization, of final reports or statistical
43 compilations derived from morbidity or mortality studies, which reports or

1 compilations do not identify individuals, associations, corporations or
2 institutions which were the subjects of such studies, or reveal sources of
3 information.

4 Sec. 2. K.S.A. 65-177 is hereby repealed.

5 Sec. 3. This act shall take effect and be in force from and after its
6 publication in the statute book.