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House BILL NO. 333
INTRODUCED BY *Jeff McGehee* *James DENNY*
Thomas Kottel

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE POLICY OF THE STATE TO PREVENT FETAL, INFANT, AND CHILD DEATHS; ENCOURAGING FETAL, INFANT, AND CHILD MORTALITY REVIEW THROUGH THE CREATION OF VOLUNTARY FETAL, INFANT, AND CHILD MORTALITY REVIEW TEAMS; PROVIDING ACCESS TO INFORMATION NECESSARY TO THE WORK OF FETAL, INFANT, AND CHILD MORTALITY REVIEW TEAMS; AMENDING SECTIONS 44-5-303, 50-16-525, AND 50-19-323, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Short title. [Sections 1 through 4] may be cited as the "Fetal, Infant, and Child Mortality Prevention Act".

NEW SECTION. Section 2. Statement of policy -- access to information. (1) The prevention of fetal, infant, and child deaths is both the policy of the state of Montana and a community responsibility. Many community professionals have expertise that can be used to promote the health, safety, and welfare of fetuses, infants, and children. The use of these professionals in reviewing fetal, infant, and child deaths can lead to a greater understanding of the causes of death and the methods of preventing deaths. It is the intent of the legislature to encourage local communities to establish voluntary multidisciplinary fetal, infant, and child mortality review teams to study the incidence and causes of fetal, infant, and child deaths.

(2) A health care provider may disclose information about a patient without the patient's authorization upon request of a designated member of a local fetal, infant, and child mortality review team. The designated member may request and may receive information from a county attorney as provided in 44-5-303(4) and from a health care provider as provided in 50-16-525. The review team shall maintain the confidentiality of the information received.

- (3) The local fetal, infant, and child mortality review team may:
 - (a) compile statistics of fetal, infant, and child mortality;
 - (b) analyze the preventable causes of fetal, infant, and child deaths, including child abuse and



1 neglect; and

2 (c) recommend measures to prevent future fetal, infant, and child deaths.

3

4 **NEW SECTION. Section 3. Local fetal, infant, and child mortality review team.** If a local fetal,
5 infant, and child mortality review team is established, the team must be multidisciplinary and may include:

6 (1) the county attorney or a designee;

7 (2) a law enforcement officer;

8 (3) the medical examiner or coroner for the jurisdiction;

9 (4) a physician;

10 (5) a school district representative;

11 (6) a representative of the local health department;

12 (7) a representative of the department of public health and human services;

13 (8) a forensic pathologist;

14 (9) a pediatrician;

15 (10) a family practice physician;

16 (11) an obstetrician;

17 (12) a nurse practitioner;

18 (13) a public health nurse;

19 (14) a mental health professional;

20 (15) a local trauma coordinator; and

21 (16) representatives of the following:

22 (a) local emergency medical services;

23 (b) a local hospital;

24 (c) a local hospital medical records department;

25 (d) a local fire department; and

26 (e) any other entity that the team considers appropriate.

27

28 **NEW SECTION. Section 4. Records -- confidentiality.** Material and information obtained by a local
29 fetal, infant, and child mortality review team are not subject to disclosure under the public records law.
30 Material and information obtained by a local fetal, infant, and child mortality review team are not subject

1 to subpoena unless the material and information are reviewed by a district court judge and ordered to be
2 provided to the person seeking access.

3

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

5 **"44-5-303. Dissemination of confidential criminal justice information.** (1) Except as provided in
6 ~~subsection~~ subsections (2) through (4), dissemination of confidential criminal justice information is restricted
7 to criminal justice agencies, to those authorized by law to receive it, and to those authorized to receive it
8 by a district court upon a written finding that the demands of individual privacy do not clearly exceed the
9 merits of public disclosure.

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

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

18 (4) The county attorney or the county attorney's designee is authorized to receive confidential
19 criminal justice information for the purpose of cooperating with local fetal, infant, and child mortality review
20 teams. The county attorney or the county attorney's designee may, in that person's discretion, disclose
21 information determined necessary to the goals of the review team. The review team and the county
22 attorney or the designee shall maintain the confidentiality of the information."

23

24 **Section 6.** Section 50-16-525, MCA, is amended to read:

25 **"50-16-525. Disclosure by health care provider.** (1) Except as authorized in 50-16-529, and
26 50-16-530, and [section 2] or as otherwise specifically provided by law or the Montana Rules of Civil
27 Procedure, a health care provider, an individual who assists a health care provider in the delivery of health
28 care, or an agent or employee of a health care provider may not disclose health care information about a
29 patient to any other person without the patient's written authorization. A disclosure made under a patient's
30 written authorization must conform to the authorization.

1 (2) A health care provider shall maintain, in conjunction with a patient's recorded health care
2 information, a record of each person who has received or examined, in whole or in part, the recorded health
3 care information during the preceding 3 years, except for a person who has examined the recorded health
4 care information under 50-16-529(1) or (2). The record of disclosure must include the name, address, and
5 institutional affiliation, if any, of each person receiving or examining the recorded health care information,
6 the date of the receipt or examination, and to the extent practicable a description of the information
7 disclosed."

8

9 **Section 7.** Section 50-19-323, MCA, is amended to read:

10 **"50-19-323. Coordination of programs.** The department shall coordinate services under the MIAMI
11 project with other services and programs in the state including:

12 (1) the early and periodic screening, diagnosis, and treatment services program under Title XIX of
13 the federal Social Security Act;

14 (2) the Montana medicaid program established in 53-6-101; ~~and~~

15 (3) programs administered with funds under the federal Maternal and Child Health Services Block
16 Grant Act, Public Law 97-35, as may be amended; and

17 (4) the services of fetal, infant, and child mortality teams as provided in [sections 1 through 4]."

18

19 NEW SECTION. **Section 8. Codification instruction.** [Sections 1 through 4] are intended to be
20 codified as an integral part of Title 50, chapter 19, and the provisions of Title 50, chapter 19, apply to
21 [sections 1 through 4].

22

23 NEW SECTION. **Section 9. Effective date.** [This act] is effective on passage and approval.

24

--END--

1 HOUSE BILL NO. 333

2 INTRODUCED BY SOFT, MCGEE, GRIMES, DENNY, R. JOHNSON, KOTTEL

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE POLICY OF THE STATE TO PREVENT
5 FETAL, INFANT, AND CHILD DEATHS; ENCOURAGING FETAL, INFANT, AND CHILD MORTALITY REVIEW
6 THROUGH THE CREATION OF VOLUNTARY FETAL, INFANT, AND CHILD MORTALITY REVIEW TEAMS;
7 PROVIDING ACCESS TO INFORMATION NECESSARY TO THE WORK OF FETAL, INFANT, AND CHILD
8 MORTALITY REVIEW TEAMS; PROVIDING CIVIL AND CRIMINAL PENALTIES FOR UNLAWFUL USE OR
9 DISCLOSURE OF THAT INFORMATION; AMENDING SECTIONS 44-5-303, 50-16-525, AND 50-19-323,
10 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 NEW SECTION. Section 1. Short title. [Sections 1 through 4 6] may be cited as the "Fetal, Infant,
15 and Child Mortality Prevention Act".

16
17 NEW SECTION. Section 2. Statement of policy -- access to information. (1) The prevention of
18 fetal, infant, and child deaths is both the policy of the state of Montana and a community responsibility.
19 Many community professionals have expertise that can be used to promote the health, safety, and welfare
20 of fetuses, infants, and children. The use of these professionals in reviewing fetal, infant, and child deaths
21 can lead to a greater understanding of the causes of death and the methods of preventing deaths. It is the
22 intent of the legislature to encourage local communities to establish voluntary multidisciplinary fetal, infant,
23 and child mortality review teams to study the incidence and causes of fetal, infant, and child deaths.

24 (2) A health care provider may disclose information about a patient without the patient's
25 authorization OR WITHOUT THE AUTHORIZATION OF THE REPRESENTATIVE OF A PATIENT WHO IS
26 DECEASED upon request of ~~a designated member of~~ a local fetal, infant, and child mortality review team.
27 The ~~designated member~~ REVIEW TEAM may request and may receive information from a county attorney
28 as provided in 44-5-303(4) and from a health care provider as provided in 50-16-525 AFTER THE REVIEW
29 TEAM HAS CONSIDERED WHETHER THE DISCLOSURE OF THE INFORMATION BY THE PROVIDER
30 SATISFIES THE CRITERIA PROVIDED IN 50-16-529(6). The review team shall maintain the confidentiality

1 of the information received.

2 (3) The local fetal, infant, and child mortality review team may ONLY:

3 (a) compile statistics of fetal, infant, and child mortality;

4 (b) analyze the preventable causes of fetal, infant, and child deaths, including child abuse and
5 neglect; and

6 (c) recommend measures to prevent future fetal, infant, and child deaths.

7

8 NEW SECTION. Section 3. Local fetal, infant, and child mortality review team. (1) A LOCAL
9 FETAL, INFANT, AND CHILD MORTALITY REVIEW TEAM MUST BE APPROVED BY THE COUNTY HEALTH
10 DEPARTMENT. APPROVAL MUST BE GIVEN IF:

11 (A) THE COUNTY HEALTH DEPARTMENT HAS DESIGNATED A LEAD PERSON FOR THE PURPOSES
12 OF MANAGEMENT OF THE REVIEW TEAM;

13 (B) AT LEAST FIVE OF THE INDIVIDUALS LISTED IN SUBSECTION (2) HAVE AGREED TO SERVE
14 ON THE REVIEW TEAM; AND

15 (C) THE FIVE INDIVIDUALS HAVE DEVELOPED A PLAN THAT INCLUDES, AT A MINIMUM,
16 OPERATING POLICIES OF THE REVIEW TEAM COVERING COLLECTION AND DESTRUCTION OF
17 INFORMATION OBTAINED PURSUANT TO 44-5-303(4) OR [SECTION 2(2)].

18 (2) If a local fetal, infant, and child mortality review team is established, the team must be
19 multidisciplinary and may include ONLY:

20 ~~(1)~~(A) the county attorney or a designee;

21 ~~(2)~~(B) a law enforcement officer;

22 ~~(3)~~(C) the medical examiner or coroner for the jurisdiction;

23 ~~(4)~~(D) a physician;

24 ~~(5)~~(E) a school district representative;

25 ~~(6)~~(F) a representative of the local health department;

26 ~~(7)~~(G) a representative of the department of public health and human services;

27 ~~(8)~~(H) a forensic pathologist;

28 ~~(9)~~(I) a pediatrician;

29 ~~(10)~~(J) a family practice physician;

30 ~~(11)~~(K) an obstetrician;

- 1 ~~(12)(L)~~ a nurse practitioner;
- 2 ~~(13)(M)~~ a public health nurse;
- 3 ~~(14)(N)~~ a mental health professional;
- 4 ~~(15)(O)~~ a local trauma coordinator; and
- 5 ~~(16)(P)~~ representatives of the following:
- 6 ~~(a)(I)~~ local emergency medical services;
- 7 ~~(b)(II)~~ a local hospital;
- 8 ~~(c)(III)~~ a local hospital medical records department;
- 9 ~~(d)(IV)~~ a local fire department; and
- 10 ~~(e)(V) any other entity that the team considers appropriate~~ THE LOCAL REGISTRAR.

11

12 NEW SECTION. Section 4. Records -- confidentiality. Material and information obtained by a local

13 fetal, infant, and child mortality review team are not subject to disclosure under the public records law.

14 Material and information obtained by a local fetal, infant, and child mortality review team are not subject

15 to subpoena unless the material and information are reviewed by a district court judge and ordered to be

16 provided to the person seeking access.

17

18 NEW SECTION. SECTION 5. UNAUTHORIZED DISCLOSURE BY REVIEW TEAM MEMBER -- CIVIL

19 PENALTY. A PERSON AGGRIEVED BY THE USE OF INFORMATION OBTAINED PURSUANT TO [SECTION

20 2(2)] FOR A PURPOSE NOT AUTHORIZED BY [SECTION 2(3)] OR BY A DISCLOSURE OF THAT

21 INFORMATION IN VIOLATION OF [SECTION 2(2)] BY A MEMBER OF A LOCAL FETAL, INFANT, AND

22 CHILD MORTALITY REVIEW TEAM MAY BRING A CIVIL ACTION IN THE DISTRICT COURT OF THE

23 COUNTY OF THE PERSON'S RESIDENCE FOR DAMAGES, COSTS, AND FEES AS PROVIDED IN

24 50-16-553(6) THROUGH (8).

25

26 NEW SECTION. SECTION 6. UNAUTHORIZED DISCLOSURE BY REVIEW TEAM MEMBER --

27 MISDEMEANOR. A MEMBER OF A LOCAL FETAL, INFANT, AND CHILD MORTALITY REVIEW TEAM WHO

28 KNOWINGLY USES INFORMATION OBTAINED PURSUANT TO [SECTION 2(2)] FOR A PURPOSE NOT

29 AUTHORIZED BY [SECTION 2(3)] OR WHO DISCLOSES THAT INFORMATION IN VIOLATION OF [SECTION

30 2(2)] IS GUILTY OF A MISDEMEANOR AND UPON CONVICTION IS PUNISHABLE AS PROVIDED IN

1 50-16-551.

2

3 **Section 7.** Section 44-5-303, MCA, is amended to read:

4 **"44-5-303. Dissemination of confidential criminal justice information.** (1) Except as provided in
5 ~~subsection~~ subsections (2) through (4), dissemination of confidential criminal justice information is restricted
6 to criminal justice agencies, to those authorized by law to receive it, and to those authorized to receive it
7 by a district court upon a written finding that the demands of individual privacy do not clearly exceed the
8 merits of public disclosure.

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

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

17 (4) The county attorney or the county attorney's designee is authorized to receive confidential
18 criminal justice information for the purpose of cooperating with local fetal, infant, and child mortality review
19 teams. The county attorney or the county attorney's designee may, in that person's discretion, disclose
20 information determined necessary to the goals of the review team. The review team and the county
21 attorney or the designee shall maintain the confidentiality of the information."

22

23 **Section 8.** Section 50-16-525, MCA, is amended to read:

24 **"50-16-525. Disclosure by health care provider.** (1) Except as authorized in 50-16-529, and
25 50-16-530, and [section 2] or as otherwise specifically provided by law or the Montana Rules of Civil
26 Procedure, a health care provider, an individual who assists a health care provider in the delivery of health
27 care, or an agent or employee of a health care provider may not disclose health care information about a
28 patient to any other person without the patient's written authorization. A disclosure made under a patient's
29 written authorization must conform to the authorization.

30 (2) A health care provider shall maintain, in conjunction with a patient's recorded health care

1 information, a record of each person who has received or examined, in whole or in part, the recorded health
2 care information during the preceding 3 years, except for a person who has examined the recorded health
3 care information under 50-16-529(1) or (2). The record of disclosure must include the name, address, and
4 institutional affiliation, if any, of each person receiving or examining the recorded health care information,
5 the date of the receipt or examination, and to the extent practicable a description of the information
6 disclosed."

7

8 **Section 9.** Section 50-19-323, MCA, is amended to read:

9 **"50-19-323. Coordination of programs.** The department shall coordinate services under the MIAMI
10 project with other services and programs in the state including:

11 (1) the early and periodic screening, diagnosis, and treatment services program under Title XIX of
12 the federal Social Security Act;

13 (2) the Montana medicaid program established in 53-6-101; ~~and~~

14 (3) programs administered with funds under the federal Maternal and Child Health Services Block
15 Grant Act, Public Law 97-35, as may be amended; and

16 (4) the services of fetal, infant, and child mortality teams as provided in [sections 1 through 4 6]."

17

18 **NEW SECTION. Section 10. Codification instruction.** [Sections 1 through 4 6] are intended to be
19 codified as an integral part of Title 50, chapter 19, and the provisions of Title 50, chapter 19, apply to
20 [sections 1 through 4 6].

21

22 **NEW SECTION. Section 11. Effective date.** [This act] is effective on passage and approval.

23

-END-

1 HOUSE BILL NO. 333

2 INTRODUCED BY SOFT, MCGEE, GRIMES, DENNY, R. JOHNSON, KOTTEL

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE POLICY OF THE STATE TO PREVENT
5 FETAL, INFANT, AND CHILD DEATHS; ENCOURAGING FETAL, INFANT, AND CHILD MORTALITY REVIEW
6 THROUGH THE CREATION OF VOLUNTARY FETAL, INFANT, AND CHILD MORTALITY REVIEW TEAMS;
7 PROVIDING ACCESS TO INFORMATION NECESSARY TO THE WORK OF FETAL, INFANT, AND CHILD
8 MORTALITY REVIEW TEAMS; PROVIDING CIVIL AND CRIMINAL PENALTIES FOR UNLAWFUL USE OR
9 DISCLOSURE OF THAT INFORMATION; AMENDING SECTIONS 44-5-303, 50-16-525, AND 50-19-323,
10 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11

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

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE
REPRINTED. PLEASE REFER TO SECOND READING COPY
(YELLOW) FOR COMPLETE TEXT.**

1 HOUSE BILL NO. 333

2 INTRODUCED BY SOFT, MCGEE, GRIMES, DENNY, R. JOHNSON, KOTTEL

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE POLICY OF THE STATE TO PREVENT
5 FETAL, INFANT, AND CHILD DEATHS; ENCOURAGING FETAL, INFANT, AND CHILD MORTALITY REVIEW
6 THROUGH THE CREATION OF VOLUNTARY FETAL, INFANT, AND CHILD MORTALITY REVIEW TEAMS;
7 PROVIDING ACCESS TO INFORMATION NECESSARY TO THE WORK OF FETAL, INFANT, AND CHILD
8 MORTALITY REVIEW TEAMS; PROVIDING CIVIL AND CRIMINAL PENALTIES FOR UNLAWFUL USE OR
9 DISCLOSURE OF THAT INFORMATION; AMENDING SECTIONS 44-5-303, 50-16-525, AND 50-19-323,
10 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 NEW SECTION. Section 1. Short title. [Sections 1 through 4 6] may be cited as the "Fetal, Infant,
15 and Child Mortality Prevention Act".

16
17 NEW SECTION. Section 2. Statement of policy -- access to information. (1) The prevention of
18 fetal, infant, and child deaths is both the policy of the state of Montana and a community responsibility.
19 Many community professionals have expertise that can be used to promote the health, safety, and welfare
20 of fetuses, infants, and children. The use of these professionals in reviewing fetal, infant, and child deaths
21 can lead to a greater understanding of the causes of death and the methods of preventing deaths. It is the
22 intent of the legislature to encourage local communities to establish voluntary multidisciplinary fetal, infant,
23 and child mortality review teams to study the incidence and causes of fetal, infant, and child deaths.

24 (2) A health care provider may disclose information about a patient without the patient's
25 authorization OR WITHOUT THE AUTHORIZATION OF THE REPRESENTATIVE OF A PATIENT WHO IS
26 DECEASED upon request of a ~~designated member~~ of a local fetal, infant, and child mortality review team.
27 The ~~designated member~~ REVIEW TEAM may request and may receive information from a county attorney
28 as provided in 44-5-303(4) and from a health care provider as provided in 50-16-525 AFTER THE REVIEW
29 TEAM HAS CONSIDERED WHETHER THE DISCLOSURE OF THE INFORMATION BY THE PROVIDER
30 SATISFIES THE CRITERIA PROVIDED IN 50-16-529(6). The review team shall maintain the confidentiality

1 of the information received.

2 (3) The local fetal, infant, and child mortality review team may ONLY:

3 (a) compile statistics of fetal, infant, and child mortality;

4 (b) analyze the preventable causes of fetal, infant, and child deaths, including child abuse and
5 neglect; and

6 (c) recommend measures to prevent future fetal, infant, and child deaths.

7

8 NEW SECTION. Section 3. Local fetal, infant, and child mortality review team. (1) A LOCAL
9 FETAL, INFANT, AND CHILD MORTALITY REVIEW TEAM MUST BE APPROVED BY THE COUNTY HEALTH
10 DEPARTMENT. APPROVAL MUST BE GIVEN IF:

11 (A) THE COUNTY HEALTH DEPARTMENT HAS DESIGNATED A LEAD PERSON FOR THE PURPOSES
12 OF MANAGEMENT OF THE REVIEW TEAM;

13 (B) AT LEAST FIVE OF THE INDIVIDUALS LISTED IN SUBSECTION (2) HAVE AGREED TO SERVE
14 ON THE REVIEW TEAM; AND

15 (C) THE FIVE INDIVIDUALS HAVE DEVELOPED A PLAN THAT INCLUDES, AT A MINIMUM,
16 OPERATING POLICIES OF THE REVIEW TEAM COVERING COLLECTION AND DESTRUCTION OF
17 INFORMATION OBTAINED PURSUANT TO 44-5-303(4) OR [SECTION 2(2)].

18 (2) If a local fetal, infant, and child mortality review team is established, the team must be
19 multidisciplinary and may include ONLY:

20 ~~(1)~~(A) the county attorney or a designee;

21 ~~(2)~~(B) a law enforcement officer;

22 ~~(3)~~(C) the medical examiner or coroner for the jurisdiction;

23 ~~(4)~~(D) a physician;

24 ~~(5)~~(E) a school district representative;

25 ~~(6)~~(F) a representative of the local health department;

26 ~~(7)~~(G) a representative of the department of public health and human services;

27 ~~(8)~~(H) a forensic pathologist;

28 ~~(9)~~(I) a pediatrician;

29 ~~(10)~~(J) a family practice physician;

30 ~~(11)~~(K) an obstetrician;

- 1 ~~(12)~~(L) a nurse practitioner;
- 2 ~~(13)~~(M) a public health nurse;
- 3 ~~(14)~~(N) a mental health professional;
- 4 ~~(15)~~(O) a local trauma coordinator;
- 5 (P) A REPRESENTATIVE, APPOINTED BY THE TRIBAL GOVERNMENT, OF AN INDIAN
- 6 RESERVATION THAT IS LOCATED IN WHOLE OR IN PART WITHIN THE BOUNDARIES OF THE COUNTY;
- 7 (Q) A REPRESENTATIVE OF THE BUREAU OF INDIAN AFFAIRS OR THE INDIAN HEALTH SERVICE,
- 8 OR BOTH, WHO IS LOCATED WITHIN THE COUNTY; and
- 9 ~~(16)~~~~(P)~~(R) representatives of the following:
- 10 ~~(a)~~(I) local emergency medical services;
- 11 ~~(b)~~(II) a local hospital;
- 12 ~~(c)~~(III) a local hospital medical records department;
- 13 ~~(d)~~(IV) a local fire department; and
- 14 ~~(e)~~(V) ~~any other entity that the team considers appropriate~~ THE LOCAL REGISTRAR.

15

16 NEW SECTION. Section 4. Records -- confidentiality. Material and information obtained by a local

17 fetal, infant, and child mortality review team are not subject to disclosure under the public records law.

18 Material and information obtained by a local fetal, infant, and child mortality review team are not subject

19 to subpoena unless the material and information are reviewed by a district court judge and ordered to be

20 provided to the person seeking access.

21

22 NEW SECTION. SECTION 5. UNAUTHORIZED DISCLOSURE BY REVIEW TEAM MEMBER -- CIVIL

23 PENALTY. A PERSON AGGRIEVED BY THE USE OF INFORMATION OBTAINED PURSUANT TO [SECTION

24 2(2)] FOR A PURPOSE NOT AUTHORIZED BY [SECTION 2(3)] OR BY A DISCLOSURE OF THAT

25 INFORMATION IN VIOLATION OF [SECTION 2(2)] BY A MEMBER OF A LOCAL FETAL, INFANT, AND

26 CHILD MORTALITY REVIEW TEAM MAY BRING A CIVIL ACTION IN THE DISTRICT COURT OF THE

27 COUNTY OF THE PERSON'S RESIDENCE FOR DAMAGES, COSTS, AND FEES AS PROVIDED IN

28 50-16-553(6) THROUGH (8).

29

30 NEW SECTION. SECTION 6. UNAUTHORIZED DISCLOSURE BY REVIEW TEAM MEMBER --

1 **MISDEMEANOR. A MEMBER OF A LOCAL FETAL, INFANT, AND CHILD MORTALITY REVIEW TEAM WHO**
 2 **KNOWINGLY USES INFORMATION OBTAINED PURSUANT TO [SECTION 2(2)] FOR A PURPOSE NOT**
 3 **AUTHORIZED BY [SECTION 2(3)] OR WHO DISCLOSES THAT INFORMATION IN VIOLATION OF [SECTION**
 4 **2(2)] IS GUILTY OF A MISDEMEANOR AND UPON CONVICTION IS PUNISHABLE AS PROVIDED IN**
 5 **50-16-551.**

6

7 **Section 7.** Section 44-5-303, MCA, is amended to read:

8 **"44-5-303. Dissemination of confidential criminal justice information.** (1) Except as provided in
 9 ~~subsection~~ subsections (2) through (4), dissemination of confidential criminal justice information is restricted
 10 to criminal justice agencies, to those authorized by law to receive it, and to those authorized to receive it
 11 by a district court upon a written finding that the demands of individual privacy do not clearly exceed the
 12 merits of public disclosure.

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

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

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

26

27 **Section 8.** Section 50-16-525, MCA, is amended to read:

28 **"50-16-525. Disclosure by health care provider.** (1) Except as authorized in 50-16-529, ~~and~~
 29 50-16-530, and [section 2] or as otherwise specifically provided by law or the Montana Rules of Civil
 30 Procedure, a health care provider, an individual who assists a health care provider in the delivery of health

1 care, or an agent or employee of a health care provider may not disclose health care information about a
2 patient to any other person without the patient's written authorization. A disclosure made under a patient's
3 written authorization must conform to the authorization.

4 (2) A health care provider shall maintain, in conjunction with a patient's recorded health care
5 information, a record of each person who has received or examined, in whole or in part, the recorded health
6 care information during the preceding 3 years, except for a person who has examined the recorded health
7 care information under 50-16-529(1) or (2). The record of disclosure must include the name, address, and
8 institutional affiliation, if any, of each person receiving or examining the recorded health care information,
9 the date of the receipt or examination, and to the extent practicable a description of the information
10 disclosed."

11

12 **Section 9.** Section 50-19-323, MCA, is amended to read:

13 **"50-19-323. Coordination of programs.** The department shall coordinate services under the MIAMI
14 project with other services and programs in the state including:

15 (1) the early and periodic screening, diagnosis, and treatment services program under Title XIX of
16 the federal Social Security Act;

17 (2) the Montana medicaid program established in 53-6-101; ~~and~~

18 (3) programs administered with funds under the federal Maternal and Child Health Services Block
19 Grant Act, Public Law 97-35, as may be amended; and

20 (4) the services of fetal, infant, and child mortality teams as provided in [sections 1 through 4 6]."

21

22 **NEW SECTION. Section 10. Codification instruction.** [Sections 1 through 4 6] are intended to be
23 codified as an integral part of Title 50, chapter 19, and the provisions of Title 50, chapter 19, apply to
24 [sections 1 through 4 6].

25

26 **NEW SECTION. Section 11. Effective date.** [This act] is effective on passage and approval.

27

-END-

1 HOUSE BILL NO. 333

2 INTRODUCED BY SOFT, MCGEE, GRIMES, DENNY, R. JOHNSON, KOTTEL

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE POLICY OF THE STATE TO PREVENT
 5 FETAL, INFANT, AND CHILD DEATHS; ENCOURAGING FETAL, INFANT, AND CHILD MORTALITY REVIEW
 6 THROUGH THE CREATION OF VOLUNTARY FETAL, INFANT, AND CHILD MORTALITY REVIEW TEAMS;
 7 PROVIDING ACCESS TO INFORMATION NECESSARY TO THE WORK OF FETAL, INFANT, AND CHILD
 8 MORTALITY REVIEW TEAMS; PROVIDING CIVIL AND CRIMINAL PENALTIES FOR UNLAWFUL USE OR
 9 DISCLOSURE OF THAT INFORMATION; AMENDING SECTIONS 44-5-303, 50-16-525, AND 50-19-323,
 10 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11

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

13

14 NEW SECTION. Section 1. Short title. [Sections 1 through 4 6] may be cited as the "Fetal, Infant,
 15 and Child Mortality Prevention Act".

16

17 NEW SECTION. Section 2. Statement of policy -- access to information. (1) The prevention of
 18 fetal, infant, and child deaths is both the policy of the state of Montana and a community responsibility.
 19 Many community professionals have expertise that can be used to promote the health, safety, and welfare
 20 of fetuses, infants, and children. The use of these professionals in reviewing fetal, infant, and child deaths
 21 can lead to a greater understanding of the causes of death and the methods of preventing deaths. It is the
 22 intent of the legislature to encourage local communities to establish voluntary multidisciplinary fetal, infant,
 23 and child mortality review teams to study the incidence and causes of fetal, infant, and child deaths.

24 (2) A health care provider may disclose information about a patient without the patient's
 25 authorization OR WITHOUT THE AUTHORIZATION OF THE REPRESENTATIVE OF A PATIENT WHO IS
 26 DECEASED upon request of ~~a designated member of~~ a local fetal, infant, and child mortality review team.
 27 The ~~designated member~~ REVIEW TEAM may request and may receive information from a county attorney
 28 as provided in 44-5-303(4) and from a health care provider as provided in 50-16-525 AFTER THE REVIEW
 29 TEAM HAS CONSIDERED WHETHER THE DISCLOSURE OF THE INFORMATION BY THE PROVIDER
 30 SATISFIES THE CRITERIA PROVIDED IN 50-16-529(6). The review team shall maintain the confidentiality

1 of the information received.

2 (3) The local fetal, infant, and child mortality review team may ONLY:

3 (a) compile statistics of fetal, infant, and child mortality;

4 (b) analyze the preventable causes of fetal, infant, and child deaths, including child abuse and
5 neglect; and

6 (c) recommend measures to prevent future fetal, infant, and child deaths.

7

8 NEW SECTION. Section 3. Local fetal, infant, and child mortality review team. (1) A LOCAL
9 FETAL, INFANT, AND CHILD MORTALITY REVIEW TEAM MUST BE APPROVED BY THE COUNTY HEALTH
10 DEPARTMENT. APPROVAL MUST BE GIVEN IF:

11 (A) THE COUNTY HEALTH DEPARTMENT HAS DESIGNATED A LEAD PERSON FOR THE PURPOSES
12 OF MANAGEMENT OF THE REVIEW TEAM;

13 (B) AT LEAST FIVE OF THE INDIVIDUALS LISTED IN SUBSECTION (2) HAVE AGREED TO SERVE
14 ON THE REVIEW TEAM; AND

15 (C) THE FIVE INDIVIDUALS HAVE DEVELOPED A PLAN THAT INCLUDES, AT A MINIMUM,
16 OPERATING POLICIES OF THE REVIEW TEAM COVERING COLLECTION AND DESTRUCTION OF
17 INFORMATION OBTAINED PURSUANT TO 44-5-303(4) OR [SECTION 2(2)].

18 (2) If a local fetal, infant, and child mortality review team is established, the team must be
19 multidisciplinary and may include ONLY:

20 ~~(1)~~(A) the county attorney or a designee;

21 ~~(2)~~(B) a law enforcement officer;

22 ~~(3)~~(C) the medical examiner or coroner for the jurisdiction;

23 ~~(4)~~(D) a physician;

24 ~~(5)~~(E) a school district representative;

25 ~~(6)~~(F) a representative of the local health department;

26 ~~(7)~~(G) a representative of the department of public health and human services;

27 ~~(8)~~(H) a forensic pathologist;

28 ~~(9)~~(I) a pediatrician;

29 ~~(10)~~(J) a family practice physician;

30 ~~(11)~~(K) an obstetrician;

1 ~~(12)(L)~~ a nurse practitioner;

2 ~~(13)(M)~~ a public health nurse;

3 ~~(14)(N)~~ a mental health professional;

4 ~~(15)(O)~~ a local trauma coordinator;

5 (P) A REPRESENTATIVE, APPOINTED BY THE TRIBAL GOVERNMENT, OF AN INDIAN
6 RESERVATION THAT IS LOCATED IN WHOLE OR IN PART WITHIN THE BOUNDARIES OF THE COUNTY;

7 (Q) A REPRESENTATIVE OF THE BUREAU OF INDIAN AFFAIRS OR THE INDIAN HEALTH SERVICE,
8 OR BOTH, WHO IS LOCATED WITHIN THE COUNTY; and

9 ~~(16)(P)(R)~~ representatives of the following:

10 ~~(a)(I)~~ local emergency medical services;

11 ~~(b)(II)~~ a local hospital;

12 ~~(c)(III)~~ a local hospital medical records department;

13 ~~(d)(IV)~~ a local fire department; and

14 ~~(e)(V) any other entity that the team considers appropriate~~ THE LOCAL REGISTRAR.

15

16 **NEW SECTION. Section 4. Records -- confidentiality.** Material and information obtained by a local
17 fetal, infant, and child mortality review team are not subject to disclosure under the public records law.
18 Material and information obtained by a local fetal, infant, and child mortality review team are not subject
19 to subpoena unless the material and information are reviewed by a district court judge and ordered to be
20 provided to the person seeking access.

21

22 **NEW SECTION. SECTION 5. UNAUTHORIZED DISCLOSURE BY REVIEW TEAM MEMBER -- CIVIL**
23 **PENALTY. A PERSON AGGRIEVED BY THE USE OF INFORMATION OBTAINED PURSUANT TO [SECTION**
24 **2(2)] FOR A PURPOSE NOT AUTHORIZED BY [SECTION 2(3)] OR BY A DISCLOSURE OF THAT**
25 **INFORMATION IN VIOLATION OF [SECTION 2(2)] BY A MEMBER OF A LOCAL FETAL, INFANT, AND**
26 **CHILD MORTALITY REVIEW TEAM MAY BRING A CIVIL ACTION IN THE DISTRICT COURT OF THE**
27 **COUNTY OF THE PERSON'S RESIDENCE FOR DAMAGES, COSTS, AND FEES AS PROVIDED IN**
28 **50-16-553(6) THROUGH (8).**

29

30 **NEW SECTION. SECTION 6. UNAUTHORIZED DISCLOSURE BY REVIEW TEAM MEMBER --**

1 MISDEMEANOR. A MEMBER OF A LOCAL FETAL, INFANT, AND CHILD MORTALITY REVIEW TEAM WHO
 2 KNOWINGLY USES INFORMATION OBTAINED PURSUANT TO [SECTION 2(2)] FOR A PURPOSE NOT
 3 AUTHORIZED BY [SECTION 2(3)] OR WHO DISCLOSES THAT INFORMATION IN VIOLATION OF [SECTION
 4 2(2)] IS GUILTY OF A MISDEMEANOR AND UPON CONVICTION IS PUNISHABLE AS PROVIDED IN
 5 50-16-551.

6
 7 **Section 7.** Section 44-5-303, MCA, is amended to read:

8 **"44-5-303. Dissemination of confidential criminal justice information.** (1) Except as provided in
 9 ~~subsection~~ subsections (2) through (4), dissemination of confidential criminal justice information is restricted
 10 to criminal justice agencies, to those authorized by law to receive it, and to those authorized to receive it
 11 by a district court upon a written finding that the demands of individual privacy do not clearly exceed the
 12 merits of public disclosure.

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

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

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

26
 27 **Section 8.** Section 50-16-525, MCA, is amended to read:

28 **"50-16-525. Disclosure by health care provider.** (1) Except as authorized in 50-16-529, and
 29 50-16-530, and [section 2] or as otherwise specifically provided by law or the Montana Rules of Civil
 30 Procedure, a health care provider, an individual who assists a health care provider in the delivery of health

1 care, or an agent or employee of a health care provider may not disclose health care information about a
2 patient to any other person without the patient's written authorization. A disclosure made under a patient's
3 written authorization must conform to the authorization.

4 (2) A health care provider shall maintain, in conjunction with a patient's recorded health care
5 information, a record of each person who has received or examined, in whole or in part, the recorded health
6 care information during the preceding 3 years, except for a person who has examined the recorded health
7 care information under 50-16-529(1) or (2). The record of disclosure must include the name, address, and
8 institutional affiliation, if any, of each person receiving or examining the recorded health care information,
9 the date of the receipt or examination, and to the extent practicable a description of the information
10 disclosed."

11

12 **Section 9.** Section 50-19-323, MCA, is amended to read:

13 **"50-19-323. Coordination of programs.** The department shall coordinate services under the MIAMI
14 project with other services and programs in the state including:

15 (1) the early and periodic screening, diagnosis, and treatment services program under Title XIX of
16 the federal Social Security Act;

17 (2) the Montana medicaid program established in 53-6-101; ~~and~~

18 (3) programs administered with funds under the federal Maternal and Child Health Services Block
19 Grant Act, Public Law 97-35, as may be amended; and

20 (4) the services of fetal, infant, and child mortality teams as provided in [sections 1 through 4 6]."

21

22 **NEW SECTION. Section 10. Codification instruction.** [Sections 1 through 4 6] are intended to be
23 codified as an integral part of Title 50, chapter 19, and the provisions of Title 50, chapter 19, apply to
24 [sections 1 through 4 6].

25

26 **NEW SECTION. Section 11. Effective date.** [This act] is effective on passage and approval.

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