

## HOUSE BILL No. 2716

By Representative Ousley

2-6

1 AN ACT concerning the department of health and environment; relating to  
2 the duties of the secretary; providing for the study and investigation of  
3 maternal deaths in the state of Kansas; continuing in existence  
4 exceptions to the disclosure of public records under the open records  
5 act related to maternal death investigations; amending K.S.A. 2023  
6 Supp. 65-177 and repealing the existing section.

7  
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 2023 Supp. 65-177 is hereby amended to read as  
10 follows: 65-177. (a) (1) "Data;" as used in K.S.A. 65-177 through 65-179,  
11 and amendments thereto, includes all facts, information, records of  
12 interviews, written reports, statements, notes or memoranda secured in  
13 connection with an authorized medical research study.

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

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

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

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

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

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

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

36 (2) The secretary may apply to the district court for the issuance of,

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

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

7 (1) Identify maternal death cases;

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

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

11 (4) consult with relevant experts to evaluate the records and data  
12 collected;

13 (5) *utilize a specialized review form that includes sections*  
14 *recognizing the impact of generational and historical trauma, social*  
15 *factors, cultural beliefs, rural-urban geographic healthcare access,*  
16 *discrimination and other factors related to disparate outcomes;*

17 (6) make determinations regarding the preventability of maternal  
18 deaths;

19 ~~(6)(7)~~ develop recommendations and actionable strategies to prevent  
20 maternal deaths; ~~and~~

21 ~~(7)(8)~~ disseminate findings and recommendations to the legislature,  
22 healthcare providers, healthcare facilities and the general public;

23 (9) *work with healthcare providers and healthcare facilities to*  
24 *promote the continuity of maternal healthcare for women during and after*  
25 *pregnancy;*

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

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

32 (12) *establish an external community review committee that shall*  
33 *review cases of individuals from populations experiencing racial, ethnic or*  
34 *geographic rural disparities independently and make recommendations as*  
35 *to actionable strategies to prevent future deaths, subject to the following*  
36 *requirements:*

37 (A) *Include a numerical majority of stakeholders that is*  
38 *representative of populations experiencing disparities in maternal*  
39 *morbidity and mortality, including ethnic, racial and geographic*  
40 *disparities;*

41 (B) *include individuals representing law enforcement agencies, tribal*  
42 *health councils, medical subspecialties, cultural, geographic or religious*  
43 *experts, as well as topical experts;*

1       (C) have access to publicly available disaggregated raw data,  
2 including maternal interviews and clinical notes;

3       (D) require each committee member to sign a confidentiality  
4 agreement prior to reviewing case data. If a member of the committee  
5 breaches the confidentiality agreement, such member shall be promptly  
6 removed from the committee; and

7       (E) prior to case review by the committee, designated individuals  
8 who have authorization to access such confidential maternal death  
9 records shall:

10       (i) De-identify the case data;

11       (ii) interpret the case data and provide a description to the  
12 committee, including analysis regarding whether the death was  
13 preventable, caused by pathological changes in the body or if  
14 sociocultural process played a part in the maternal death; and

15       (iii) provide summaries of interviews conducted with family members  
16 of the deceased to the committee and follow up with such family members  
17 prior to committee review.

18       (d) (1) Healthcare providers licensed pursuant to chapters 65 and 74  
19 of the Kansas Statutes Annotated, and amendments thereto, medical care  
20 facilities licensed pursuant to article 4 of chapter 65 of the Kansas Statutes  
21 Annotated, and amendments thereto, maternity centers licensed pursuant  
22 to article 5 of chapter 65 of the Kansas Statutes Annotated, and  
23 amendments thereto, and pharmacies licensed pursuant to article 16 of  
24 chapter 65 of the Kansas Statutes Annotated, and amendments thereto,  
25 shall provide reasonable access to all relevant medical records associated  
26 with a maternal death case under review by the secretary.

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

32       (e) Information, records, reports, statements, notes, memoranda or  
33 other data collected pursuant to this section shall be privileged and  
34 confidential and shall not be admissible as evidence in any action of any  
35 kind in any court or before another tribunal, board, agency or person. Such  
36 information, records, reports, statements, notes, memoranda or other data  
37 shall not be exhibited nor their contents disclosed in any way, in whole or  
38 in part, by any officer or representative of the department of health and  
39 environment or any other person, except as may be necessary for the  
40 purpose of furthering the investigation of the case to which they relate. No  
41 person participating in such investigation shall disclose, in any manner, the  
42 information so obtained.

43       (f) (1) All proceedings and activities of the secretary or

1 representatives of the secretary under this section, opinions of the secretary  
2 or representatives of the secretary formed as a result of such proceedings  
3 and activities and records obtained, created or maintained pursuant to this  
4 section, including records of interviews, written reports and statements  
5 procured by the secretary or any other person, agency or organization  
6 acting jointly or under contract with the department of health and  
7 environment in connection with the requirements of this section, shall be  
8 confidential and not subject to the provisions of the open records act or the  
9 open meetings act or subject to subpoena, discovery or introduction into  
10 evidence in any civil or criminal proceeding. Nothing in this section shall  
11 be construed to limit or otherwise restrict the right to discover or use in  
12 any civil or criminal proceeding any document or record that is available  
13 and entirely independent of proceedings and activities of the secretary or  
14 representatives of the secretary under this section.

15 (2) The secretary or representatives of the secretary shall not be  
16 questioned in any civil or criminal proceeding regarding the information  
17 presented in or opinions formed as a result of an investigation. Nothing in  
18 this section shall be construed to prevent the secretary or representatives of  
19 the secretary from testifying to information obtained independently of this  
20 section or that is public information.

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

27 (h) The secretary of health and environment shall receive data  
28 secured in connection with medical research studies conducted for the  
29 purpose of reducing morbidity or mortality from maternal, perinatal and  
30 anesthetic causes. Such studies may be conducted by the secretary of  
31 health and environment and staff or with other qualified persons, agencies  
32 or organizations. If such studies are conducted with any funding not  
33 provided by the state of Kansas, then the source of such funding shall be  
34 clearly identified in such study. Where authorization to conduct such a  
35 study is granted by the secretary of health and environment, all data  
36 voluntarily made available to the secretary of health and environment in  
37 connection with such study shall be treated as confidential and shall be  
38 used solely for purposes of medical research. Research files and opinions  
39 expressed upon the evidence found in such research shall not be  
40 admissible as evidence in any action in any court or before any other  
41 tribunal, except that statistics or tables resulting from such data shall be  
42 admissible and may be received as evidence. This section shall not affect  
43 the right of any patient or such patient's guardians, representatives or heirs

1 to require hospitals, physicians, sanatoriums, rest homes, nursing homes or  
2 other persons or agencies to furnish such patient's hospital record to such  
3 patient's representatives upon written authorization, or the admissibility in  
4 evidence thereof.

5 (i) No employee of the secretary of health and environment shall  
6 interview any patient named in any such report, nor any relative of any  
7 such patient, unless otherwise provided in K.S.A. 65-2422d, and  
8 amendments thereto. Nothing in this section shall prohibit the publication  
9 by the secretary of health and environment, or a duly authorized  
10 cooperating person, agency or organization, of final reports or statistical  
11 compilations derived from morbidity or mortality studies if such reports or  
12 compilations do not identify individuals, associations, corporations or  
13 institutions that were the subjects of such studies or reveal sources of  
14 information.

15 Sec. 2. K.S.A. 2023 Supp. 65-177 is hereby repealed.

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