

As Amended by House Committee

Session of 2018

HOUSE BILL No. 2573

By Committee on Health and Human Services

1-30

1 AN ACT concerning health and healthcare; relating to maternal deaths;
2 study and investigation by the secretary of health and environment;
3 access to records; confidentiality; amending K.S.A. 2017 Supp. 65-177
4 and repealing the existing section.

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

7 Section 1. K.S.A. 2017 Supp. 65-177 is hereby amended to read as
8 follows: 65-177. (a) ~~The term (1) "Data," as used in K.S.A. 65-177~~
9 ~~through 65-179, and amendments thereto, shall be construed to include~~
10 *includes* all facts, information, records of interviews, written reports,
11 statements, notes; or memoranda secured in connection with an authorized
12 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 (b) (1) *The secretary of health and environment shall have access to*
18 *all law enforcement investigative information regarding a maternal death*
19 *in Kansas, any autopsy records and coroner's investigative records*
20 *relating to the death, any medical records of the mother and any records of*
21 *the Kansas department for children and families or any other state social*
22 *service agency that has provided services to the mother:*

23 (2) (A) *The secretary may apply to the district court for the issuance*
24 *of, and the district court may issue, a subpoena to compel the production*
25 *of any books, records or papers relevant to the cause of any maternal*
26 *death being investigated by the secretary. Any books, records or papers*
27 *received by the secretary pursuant to the subpoena shall be confidential*
28 *and privileged information and not subject to disclosure.*

29 (B) *The provisions of this paragraph providing for confidentiality of*
30 *records shall expire on July 1, 2023, unless the legislature acts to reenact*
31 *such provisions. The legislature shall review the provisions of this*
32 *paragraph pursuant to K.S.A. 45-229, and amendments thereto, prior to*
33 *July 1, 2023.*

34 (c) *The secretary of health and environment shall:*

35 (1) *Identify maternal death cases;*

36 (2) *review medical records and other relevant data;*

1 (3) *contact family members and other affected or involved persons to*
2 *collect additional relevant data;*

3 (4) *consult with relevant experts to evaluate the records and data*
4 *collected;*

5 (5) *make determinations regarding the preventability of maternal*
6 *deaths;*

7 (6) *develop recommendations and actionable strategies to prevent*
8 *maternal deaths; and*

9 (7) *disseminate findings and recommendations to the legislature,*
10 *healthcare providers, healthcare facilities and the general public.*

11 (d) (1) *Healthcare providers licensed pursuant to chapters 65 and 74*
12 *of the Kansas Statutes Annotated, and amendments thereto, medical care*
13 *facilities licensed pursuant to article 4 of chapter 65 of the Kansas Statutes*
14 *Annotated, and amendments thereto, maternity centers licensed pursuant*
15 *to article 5 of chapter 65 of the Kansas Statutes Annotated, and*
16 *amendments thereto, and pharmacies licensed pursuant to article 16 of*
17 *chapter 65 of the Kansas Statutes Annotated, and amendments thereto,*
18 *shall provide reasonable access to all relevant medical records associated*
19 *with a maternal death case under review by the secretary.*

20 (2) *A healthcare provider, medical care facility, maternity center or*
21 *pharmacy providing access to medical records pursuant to this section*
22 *shall not be held liable for civil damages or be subject to criminal or*
23 *disciplinary administrative action for good faith efforts to provide such*
24 *records.*

25 (e) (1) *Information, records, reports, statements, notes, memoranda*
26 *or other data collected pursuant to this section shall be privileged and*
27 *confidential and shall not be admissible as evidence in any action of any*
28 *kind in any court or before another tribunal, board, agency or person.*
29 *Such information, records, reports, statements, notes, memoranda or other*
30 *data shall not be exhibited nor their contents disclosed in any way, in*
31 *whole or in part, by any officer or representative of the department of*
32 *health and environment or any other person, except as may be necessary*
33 *for the purpose of furthering the investigation of the case to which they*
34 *relate. No person participating in such investigation shall disclose, in any*
35 *manner, the information so obtained.*

36 (2) *The provisions of this subsection providing for confidentiality of*
37 *records shall expire on July 1, 2023, unless the legislature acts to reenact*
38 *such provisions. The legislature shall review the provisions of this*
39 *subsection pursuant to K.S.A. 45-229, and amendments thereto, prior to*
40 *July 1, 2023.*

41 (f) (1) *All proceedings and activities of the secretary or*
42 *representatives of the secretary under this section, opinions of the*
43 *secretary or representatives of the secretary formed as a result of such*

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

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

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

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

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

1 tribunal, except that statistics or tables resulting from such data shall be
2 admissible and may be received as evidence. This section shall not affect
3 the right of any patient or such patient's guardians, representatives or heirs
4 to require hospitals, physicians, sanatoriums, rest homes, nursing homes or
5 other persons or agencies to furnish such patient's hospital record to such
6 patient's representatives upon written authorization, or the admissibility in
7 evidence thereof.

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

18 Sec. 2. K.S.A. 2017 Supp. 65-177 is hereby repealed.

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