115TH CONGRESS
1ST SESSION

S. 1112

To support States in their work to save and sustain the health of mothers during pregnancy, childbirth, and in the postpartum period, to eliminate disparities in maternal health outcomes for pregnancy-related and pregnancy-associated deaths, to identify solutions to improve health care quality and health outcomes for mothers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 11, 2017

Ms. HEITKAMP (for herself and Mrs. CAPITO) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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A BILL

To support States in their work to save and sustain the health of mothers during pregnancy, childbirth, and in the postpartum period, to eliminate disparities in maternal health outcomes for pregnancy-related and pregnancy-associated deaths, to identify solutions to improve health care quality and health outcomes for mothers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Maternal Health Accountability Act of 2017''.

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The United States is ranked 50th globally for its maternal mortality rate, and it is one of eight countries in which the maternal mortality rate has been on the rise.

(2) In recent studies, the estimated maternal mortality rate in the United States increased by approximately 26.6 percent from 2000 to 2014, with the rate increasing in nearly all States. This reported increase, along with no improvement in previous years, remains a source of great concern for the Centers for Disease Control and Prevention (CDC), health care providers, and patient advocates such as the American Congress of Obstetricians and Gynecologists, the Association of Women's Health, Obstetric, and Neonatal Nurses, and the Preeclampsia Foundation.

(3) Maternal deaths in the United States result from pregnancy-related causes such as hemorrhage, hypertensive disease and preeclampsia, embolic disease, sepsis, and substance use disorder and over-

dose, and violent causes such as motor vehicle accidents, homicide, and suicide.

(4) As of 2017, less than 25 States conduct systematic reviews of maternal deaths and/or have standing maternal mortality review committees in order to develop the data needed to work toward management and solutions.

(5) Review of pregnancy-related and pregnancy-associated deaths is essential to determining strategies for developing prevention efforts and quality improvement and quality control programs. The United States must identify at-risk populations and understand how to support them to make pregnancy and the postpartum period safer.

(6) The most severe complications of pregnancy, generally referred to as severe maternal morbidity (SMM), affect more than 65,000 women in the United States every year. The CDC uses ICD–9–CM codes, which indicate a potentially life-threatening maternal condition or complication, to define SMM.

(7) Data from the CDC shows Black women are three times more likely to die from complications of pregnancy or childbirth than White women: 42.8

Black women per 100,000 live births, as opposed to 12.5 White women and 17.3 women of other races.

(8) The CDC recommends that maternal deaths be investigated through State collaboratives. These State collaboratives would bring together leaders in obstetric and neonatal health care from private, academic, and public health care settings to make recommendations for preventing pregnancy-related and pregnancy-associated deaths and health complications and identify ways to improve quality of care for women and infants.

(9) A few States, including California, have worked to develop and strengthen maternal morbidity and mortality review systems and utilize data to reduce maternal deaths and injuries to address leading issues such as maternal hemorrhage, hypertension and preeclampsia, and health and racial disparities.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To establish a shared responsibility between States and the Federal Government to identify opportunities for improvement in quality of care and system changes, and to educate and inform health institutions and professionals, women, and families

about preventing pregnancy-related and pregnancy-associated deaths and complications and reducing disparities.

(2) To develop a model for States and Federally recognized Indian tribes and tribal organizations to operate maternal mortality reviews and assess the various factors that may have contributed to maternal mortality, including quality of care, racial disparities, and systemic problems in the delivery of health care, and to develop appropriate interventions to reduce and prevent such deaths.

SEC. 3. STATE MATERNAL MORTALITY REVIEW COMMITTEES ON PREGNANCY-RELATED AND PREGNANCY-ASSOCIATED DEATHS.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Health and Human Services, through the Director of the Centers for Disease Control and Prevention, shall establish a grant program under which the Secretary may make grants to States, and Federally recognized Indian tribes and tribal organizations, for the purpose of—

(A) carrying out the activities described in subsection (b)(1);

(B) establishing and sustaining a State maternal mortality review committee, in accordance with subsection (b)(2);

(C) ensuring that the State department of health carries out the activities described in subsection (b)(3);

(D) disseminating the case abstraction form developed under subsection (c); and

(E) providing for the public disclosure of information, in accordance with subsection (d).

(2) CRITERIA.—The Secretary shall establish criteria for determining eligibility for, and the amount of a grant awarded to, a State under paragraph (1). Such criteria shall provide that in the case of a State that receives a grant under paragraph (1) for a fiscal year and is determined by the Secretary to have not used such grant in accordance with this section, such State may not be eligible for such a grant for any subsequent fiscal year.

(b) USE OF FUNDS.—

(1) REVIEW OF PREGNANCY-RELATED AND PREGNANCY-ASSOCIATED DEATHS.—With respect to a State that receives a grant under subsection (a)(1), the following shall apply:

(A) PROCESS FOR MANDATORY REPORTING OF PREGNANCY-RELATED AND PREGNANCY-ASSOCIATED DEATHS.—

(i) IN GENERAL.—The State, through the State maternal mortality review committee established under subsection (a)(1), shall develop a process that provides for mandatory and confidential case reporting to the State department of health by individuals and entities described in clause (ii) with respect to pregnancy-related and pregnancy-associated deaths.

(ii) INDIVIDUALS AND ENTITIES DESCRIBED.—Individuals and entities described in this clause include each of the following:

(I) Health care professionals.

(II) Medical examiners.

(III) Medical coroners.

(IV) Hospitals.

(V) Birth centers.

(VI) Other health care facilities.

(VII) Other individuals responsible for completing death records.

(VIII) Other appropriate individuals or entities specified by the Secretary.

(B) PROCESS FOR VOLUNTARY REPORTING OF PREGNANCY-RELATED AND PREGNANCY-ASSOCIATED DEATHS.—The State, through the State maternal mortality review committee established under subsection (a)(1), shall develop a process that provides for voluntary and confidential case reporting to the State department of health by family members of the deceased and other individuals on possible pregnancy-related and pregnancy-associated deaths. Such process shall include—

(i) making publicly available on the website of the State department of health a telephone number, Internet web link, and email address for such reporting; and

(ii) publicizing to local professional organizations, community organizations, and social services agencies the availability of the telephone number, Internet web link, and email address made available under clause (i).

(C) IDENTIFICATION OF PREGNANCY-RELATED AND PREGNANCY-ASSOCIATED DEATHS BY STATE VITAL STATISTICS UNIT.—The State, through the vital statistics unit of the State, shall annually identify pregnancy-related and pregnancy-associated deaths occurring in such State in the year involved by—

(i) matching each death record of a woman in such year to a live birth certificate or an infant death record for the purpose of identifying deaths of women that occurred during pregnancy and within one year after the end of a pregnancy;

(ii) identifying each death of a woman reported during such year as having an underlying or contributing cause of death related to pregnancy, regardless of the time that has passed between the end of the pregnancy and the death;

(iii) collecting data from medical examiner and coroner reports; and

(iv) using any other method the State may devise to identify maternal deaths such as reviewing a random sample of reported deaths of women to ascertain cases

of pregnancy-related and pregnancy-associated deaths that are not discernable from a review of death records alone.

For purposes of effectively collecting and obtaining data on pregnancy-related and pregnancy-associated deaths, the State shall adopt the most recent standardized birth and death records, as issued by the National Center for Vital Health Statistics, including the recommended checkbox section for pregnancy on each death record.

(D) CASE INVESTIGATION AND DEVELOPMENT OF CASE SUMMARIES.—

(i) IN GENERAL.—Following the receipt of reports by the State department of health pursuant to subparagraph (A) or (B) and the collection of cases of pregnancy-related and pregnancy-associated deaths by the vital statistics unit of the State under subparagraph (C), the State, through the State maternal mortality review committee established under subsection (a)(1), shall investigate each case, using the case abstraction form described in subsection (c), and prepare a de-identi-

fied case summary for each case, which shall be reviewed by the committee and included in applicable reports. The State department of health or vital statistics unit of the State, as the case may be, shall provide the State maternal mortality review committee with access to the information collected pursuant to subparagraphs (A) or (B), or under subparagraph (C), as necessary to carry out this subparagraph.

(ii) MANDATORY DATA AND INFORMATION.—Each case investigation under this subparagraph shall, subject to availability, include data and information obtained through—

(I) medical examiner and autopsy reports of the woman involved;

(II) medical records of the woman, including such records related to health care prior to pregnancy, prenatal and postnatal care, labor and delivery care, emergency room care, hospital discharge records, and any care delivered up until the time of death of the woman;

(III) oral and written interviews of individuals directly involved in the maternal care of the woman during and immediately following the pregnancy of the woman, including health care, mental health, and social service providers, as applicable;

(IV) socioeconomic and other relevant background information about the woman;

(V) any information collected under subparagraph (C)(i); and

(VI) any other information on the cause of death of the woman, such as social services and child welfare reports.

(iii) DISCRETIONARY DATA AND INFORMATION.—Each case investigation under this subparagraph may include data and information obtained through oral or written interviews of the family of the woman.

(2) STATE MATERNAL MORTALITY REVIEW COMMITTEES.—

(A) MANDATORY ACTIVITIES.—A State maternal mortality review committee established under subsection (a)(1) shall carry out the following activities:

(i) Develop the processes described in subparagraphs (A) and (B) of paragraph (1).

(ii) Review the data and information collected by the vital statistics unit of the State under paragraph (1)(C) regarding pregnancy-related and pregnancy-associated deaths to identify trends, patterns, and disparities in adverse outcomes and address medical, non-medical, and system-related factors that may have contributed to such pregnancy-related and pregnancy-associated deaths and disparities.

(iii) Carry out the activities described in paragraph (1)(D).

(iv) Develop recommendations, based on the case summaries prepared under paragraph (1)(D) and the data and information collected under paragraph (1)(C), to improve maternal care, social and health services, and public health policy and insti-

tutions, including improving access to maternal care and social and health services and identifying disparities in maternal care and outcomes.

(B) DISCRETIONARY ACTIVITIES.—

(i) IN GENERAL.—A State maternal mortality review committee established under subsection (a)(1) may, while subject to confidentiality requirements, present findings and recommendations based on the case summaries prepared under paragraph (1)(D) directly to a health care facility or its local or State professional organization for the purpose of—

(I) instituting policy changes, educational activities, and improvements in the quality of care provided by the facility; and

(II) exploring and forming regional collaborations.

(ii) INVESTIGATION OF CASES OF SEVERE MATERNAL MORBIDITY.—A State maternal mortality review committee may investigate cases of severe maternal morbidity and any such investigation may in-

clude data and information obtained through—

(I) identified patient registries; or

(II) oral or written interviews of the woman concerned and the family of such woman.

(C) COMPOSITION OF STATE MATERNAL MORTALITY REVIEW COMMITTEES.—

(i) IN GENERAL.—A State maternal mortality review committee established under subsection (a)(1) shall be multidisciplinary and diverse. Membership on the State maternal mortality review committee shall be reviewed annually by the State department of health to ensure that membership representation requirements are being fulfilled in accordance with this subparagraph.

(ii) REQUIRED MEMBERSHIP.—Each State maternal mortality review committee shall include—

(I) representatives from medical specialties providing care to pregnant and postpartum patients, including

obstetricians (including generalists and maternal fetal medicine specialists) and family practice physicians;

(II) certified nurse midwives, certified midwives, and advanced practice nurses;

(III) hospital-based registered nurses;

(IV) representatives of the maternal and child health department of the State department of health;

(V) social service providers or social workers, including those with experience working with communities diverse with respect to race, ethnicity, and limited English proficiency;

(VI) chief medical examiners or designees;

(VII) facility representatives, such as from hospitals or birth centers;

(VIII) patient advocates, community maternal health organizations, and minority advocacy groups that represent those diverse racial and eth-

nic communities within the State that are the most affected by pregnancy-related or pregnancy-associated deaths and by a lack of access to maternal health care services; and

(IX) representatives of the departments of health or public health of major cities in the State.

(iii) DISCRETIONARY MEMBERSHIP.—Each State maternal mortality review committee may also include representatives from other relevant academic, health, social service, or policy professions or community organizations on an ongoing basis, or as needed, as determined beneficial by the committee, including—

(I) anesthesiologists;

(II) emergency physicians;

(III) pathologists;

(IV) epidemiologists;

(V) intensivists;

(VI) nutritionists;

(VII) mental health professionals;

(VIII) substance use disorder treatment specialists;

(IX) representatives of relevant patient and provider advocacy groups;

(X) academics;

(XI) paramedics;

(XII) risk management specialists; and

(XIII) representatives of Federally recognized Indian tribes and tribal organizations.

(iv) STAFF.—Staff of each State maternal mortality review committee shall include—

(I) vital health statisticians, maternal child health statisticians, or epidemiologists;

(II) a coordinator of the State maternal mortality review committee, to be designated by the State; and

(III) administrative staff.

(D) OPTION FOR STATES TO ESTABLISH REGIONAL MATERNAL MORTALITY REVIEW COMMITTEES.—States may choose to partner with one or more neighboring States to carry out the activities required of a State maternal mortality review committee under this section. In such a

case, with respect to the States in such a partnership, any requirement under this section relating to the reporting of information related to such activities shall be deemed to be fulfilled by each such State if a single such report is submitted for the partnership.

(E) TREATMENT AS PUBLIC HEALTH AUTHORITY FOR PURPOSES OF HIPAA.—For purposes of applying HIPAA privacy and security law (as defined in section 3009(a)(2) of the Public Health Service Act (42 U.S.C. 300jj–19)), each State maternal mortality review committee and regional maternal mortality review committee established under subsection (a)(1) or subsection (b)(2)(D), as the case may be, shall be deemed to be a public health authority described in section 164.501 (and referenced in section 164.512(b)(1)(i)) of title 45, Code of Federal Regulations (or any successor regulation), carrying out public health activities and purposes described in such section 164.512(b)(1)(i) (or any such successor regulation).

(3) STATE DEPARTMENT OF HEALTH ACTIVITIES.—With respect to a State that receives a grant

under subsection (a)(1), the State department of health shall—

(A) in consultation with the State maternal mortality review committee and in conjunction with relevant professional organizations and patient advocacy organizations, develop a plan for ongoing health care provider education, based on the findings and recommendations of the committee, in order to improve the quality of maternal care; and

(B) take steps to widely disseminate the findings and recommendations of the State maternal mortality review committee and implement the recommendations of the committee.

(c) CASE ABSTRACTION FORM.—

(1) DISSEMINATION.—The Director of the Centers for Disease Control and Prevention shall disseminate a uniform case abstraction form to States and State maternal mortality review committees for the purpose of—

(A) ensuring that the data and information collected and reviewed by such committees can be pooled for review by the Department of Health and Human Services and its agencies; and

(B) preserving the uniformity of the information collected for Federal public health purposes.

(2) PERMISSIBLE STATE MODIFICATION.—Each State may modify the form developed under paragraph (1) for implementation and use by such State or by the State maternal mortality review committee of such State by including on such form additional information to be collected, but may not alter the standard questions on such form, in order to ensure that the information can be collected and reviewed centrally at the Federal level.

(d) PUBLIC DISCLOSURE OF INFORMATION.—

(1) IN GENERAL.—For fiscal year 2018, or a subsequent fiscal year, each State receiving a grant under this section for such year shall, subject to paragraph (3), provide for the public disclosure, and submission to the information clearinghouse established under paragraph (2), of the information included in the report of the State under subsection (f)(1) for such year.

(2) INFORMATION CLEARINGHOUSE.—The Secretary shall establish an information clearinghouse, to be administered by the Director of the Centers for Disease Control and Prevention, that will maintain

findings and recommendations submitted pursuant to paragraph (1) and provide such findings and recommendations for public review and research purposes by State departments of health, State maternal mortality review committees, and health providers and institutions.

(3) CONFIDENTIALITY OF INFORMATION.—In no case may any individually identifiable health information be provided to the public, or submitted to the information clearinghouse, under this subsection.

(e) CONFIDENTIALITY OF PROCEEDINGS OF STATE MATERNAL MORTALITY REVIEW COMMITTEES.—

(1) IN GENERAL.—All proceedings and activities of a State maternal mortality review committee established under subsection (a)(1), opinions of members of such a committee formed as a result of such proceedings and activities, and records obtained, created, or maintained pursuant to this section, including records of interviews, written reports, and statements procured by the Department of Health and Human Services or by any other person, agency, or organization acting jointly with the Department, in connection with morbidity and mortality reviews under this section, shall be confidential and may not be subject to discovery, subpoena, or

introduction into evidence in any civil, criminal, legislative, or other proceeding. Such records shall not be open to public inspection.

(2) TESTIMONY OF MEMBERS OF COMMITTEE.—

(A) IN GENERAL.—Members of a State maternal mortality review committee established under subsection (a)(1) may not be questioned in any civil, criminal, legislative, or other proceeding regarding information presented in, or opinions formed as a result of, a meeting or communication of the committee.

(B) CLARIFICATION.—Nothing in this subsection may be construed to prevent a member of a State maternal mortality review committee established under subsection (a)(1) from testifying regarding information that was obtained independent of such member's participation on the committee, or public information.

(3) AVAILABILITY OF INFORMATION FOR RESEARCH PURPOSES.—Nothing in this subsection may prohibit a State maternal mortality review committee established under subsection (a)(1) or the Department of Health and Human Services from pub-

lishing statistical compilations and research reports that—

(A) are based on confidential information, relating to morbidity and mortality reviews under this section; and

(B) do not contain identifying information or any other information that could be used to ultimately identify the individuals concerned.

(f) REPORTS.—

(1) STATE REPORTS.—For fiscal year 2018, and each subsequent fiscal year, each State maternal mortality review committee established under subsection (a)(1) and receiving a grant under this section for such year, shall submit to the Director of the Centers for Disease Control and Prevention a report on the findings and recommendations of such committee and information on the implementation of such recommendations during such year.

(2) ANNUAL REPORTS TO CONGRESS.—For fiscal year 2018, and each subsequent fiscal year, the Secretary of Health and Human Services shall submit to Congress a report on—

(A) the findings, recommendations, and implementation information submitted by any State pursuant to paragraph (1); and

(B) the status of pregnancy-related and pregnancy-associated deaths in the United States, including recommendations on methods to prevent such deaths in the United States.

(g) DEFINITIONS.—In this section:

(1) The term ''pregnancy-associated death'' means the death of a woman while pregnant or during the one-year period following the date of the end of pregnancy, irrespective of the cause of such death.

(2) The term ''pregnancy-related death'' means the death of a woman while pregnant or during the one-year period following the date of the end of pregnancy, irrespective of the duration of the pregnancy, from any cause related to, or aggravated by, the pregnancy or its management, excluding any accidental or incidental cause.

(3) The term ''Secretary'' means the Secretary of Health and Human Services.

(4) The term ''severe maternal morbidity'' means the physical and psychological conditions that result from, or are aggravated by, pregnancy and have an adverse effect on the health of a woman.

(5) The term ''State'' means each of the 50 States, the District of Columbia, and each of the territories, and shall include Federally recognized In-

dian tribes and tribal organizations that receive a grant under subsection (a)(1). Such tribes and organizations shall meet the requirements applicable to States under this section as determined appropriate by the Secretary.

(6) The term ''vital statistics unit'' means the entity that is responsible for maintaining vital records for a State, including official records of live births, deaths, fetal deaths, marriages, divorces, and annulments.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $7,000,000 for each of fiscal years 2018 through 2022.

SEC. 4. ELIMINATING DISPARITIES IN MATERNITY HEALTH OUTCOMES.

Part B of title III of the Public Health Service Act is amended by inserting after section 317T of such Act (42 U.S.C. 247b–22) the following new section:

''SEC. 317U. ELIMINATING DISPARITIES IN MATERNAL HEALTH OUTCOMES.

''(a) IN GENERAL.—The Secretary shall, in consultation with relevant national stakeholder organizations, such as national medical specialty organizations, national maternal child health organizations, national patient advocacy organizations, and national health disparity organiza-

tions, carry out the following activities to eliminate disparities in maternal health outcomes:

''(1) Conduct research into the determinants and the distribution of disparities in maternal care, health risks, and health outcomes, and improve the capacity of the performance measurement infrastructure to measure such disparities.

''(2) Expand access to health care services, resources, and information that have been demonstrated to improve the quality and outcomes of maternity care for vulnerable populations.

''(3) Establish a demonstration project to compare the effectiveness of interventions to reduce disparities in maternity services and outcomes and to implement and assess effective interventions.

''(b) SCOPE AND SELECTION OF STATES FOR DEMONSTRATION PROJECT.—The demonstration project under subsection (a)(3) shall be conducted in no more than 8 States, which shall be selected by the Secretary based on—

''(1) applications submitted by States, which specify which regions and populations the State involved will serve under the demonstration project;

''(2) criteria designed by the Secretary to ensure that, as a whole, the demonstration project is,

to the greatest extent possible, representative of the demographic and geographic composition of communities most affected by disparities;

''(3) criteria designed by the Secretary to ensure that a variety of models are tested through the demonstration project and that such models include interventions that have an existing evidence base for effectiveness; and

''(4) criteria designed by the Secretary to ensure that the demonstration projects and models will be carried out in consultation with local and regional provider organizations, such as community health centers, hospital systems, and medical societies representing providers of maternity services.

''(c) DURATION OF DEMONSTRATION PROJECT.—The demonstration project under subsection (a)(3) shall begin on January 1, 2018, and end on December 31, 2021.

''(d) GRANTS FOR EVALUATION AND MONITORING.—The Secretary may make grants to States and health care providers participating in the demonstration project under subsection (a)(3) for the purpose of collecting data necessary for the evaluation and monitoring of such project.

''(e) REPORTS.—

''(1) STATE REPORTS.—Each State that participates in the demonstration project under subsection (a)(3) shall report to the Secretary, in a time, form, and manner specified by the Secretary, the data necessary to—

''(A) monitor the—

''(i) outcomes of the project;

''(ii) costs of the project; and

''(iii) quality of maternity care provided under the project; and

''(B) evaluate the rationale for the selection of the items and services included in any bundled payment made by the State under the project.

''(2) FINAL REPORT.—Not later than December 31, 2022, the Secretary shall submit to Congress a report on the results of the demonstration project under subsection (a)(3).''.

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