AN ACT relating to maternal health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 211.680 is amended to read as follows:

~~[The Kentucky General Assembly declares that the purpose of KRS 211.680 to 211.686 and KRS 72.029 is to reduce the number of child and maternal fatalities.]~~The ***Kentucky*** General Assembly finds ***and declares the following:***

(1) That establishing priorities and developing programs to prevent child and maternal fatalities requires the:

(a) ~~[(1)]~~ Accurate determination of the cause and manner of death;

(b) ~~[(2)]~~ Cooperation and communication among agencies responsible for the investigation of child and maternal fatalities; and

(c) ~~[(3)]~~ Collection and analysis of data to:

1. ~~[(a)]~~Identify trends, patterns, and risk factors; and

2. ~~[(b)]~~Evaluate the effectiveness of prevention and intervention strategies***;*** ~~[.]~~

(2) Every person should be entitled to dignity and respect during and after pregnancy and childbirth, and patients should receive the best care possible regardless of their race, age, class, sexual orientation, disability, language proficiency, nationality, or religion;

(3) The United States has had one of the highest maternal mortality rates in the developed world for over two (2) decades;

(4) For women of color, particularly black women, the maternal mortality rate remains two (2) to three (3) times higher than white women both in the United States and in Kentucky;

(5) Kentucky has a responsibility to decrease the number of preventable maternal deaths;

(6) Access to prenatal care, socioeconomic status, and general physical health do not fully explain the disparity seen in black women's maternal mortality and

morbidity rates; there is a growing body of evidence that black women are often treated unfairly and unequally in the health care system; and

(7) Implicit bias is a key cause that drives health disparities in communities of color.

➔Section 2. KRS 211.684 is amended to read as follows:

(1) For the purposes of KRS Chapter 211:

(a) "Child fatality" means the death of a person under the age of eighteen (18) years;

(b) "Local child and maternal fatality response team" and "local team" means a community team composed of representatives of agencies, offices, and institutions that investigate child and maternal deaths, including but not limited to, coroners, social service workers, medical professionals, law enforcement officials, and Commonwealth's and county attorneys; and

(c) "Maternal fatality" means the death of a woman within one (1) year of giving birth.

(2) The Department for Public Health ***shall*** ~~[may]~~establish a state child and maternal fatality review team. The state team may include representatives of public health, social services, law enforcement, prosecution, coroners, health-care providers, and other agencies or professions deemed appropriate by the commissioner of the department.

(3) ~~[If a state team is created,]~~The duties of the state team ***shall*** ~~[may]~~include the following:

(a) Develop and distribute a model protocol for local child and maternal fatality response teams for the investigation of child and maternal fatalities;

(b) Facilitate the development of local child and maternal fatality response teams which may include, but is not limited to, providing joint training opportunities and, upon request, providing technical assistance;

(c) Review and approve local protocols prepared and submitted by local teams;

(d) Receive data and information on child and maternal fatalities and analyze the information to identify trends, patterns, and risk factors;

(e) Evaluate the effectiveness of prevention and intervention strategies adopted; and

(f) Recommend changes in state programs, legislation, administrative regulations, policies, budgets, and treatment and service standards which may facilitate strategies for prevention and reduce the number of child and maternal fatalities.

(4) The department shall prepare an annual report to be submitted no later than November 1 of each year to the Governor, the Child Welfare Oversight and Advisory Committee established in KRS 6.943, the Chief Justice of the Kentucky Supreme Court, and to be made available to the citizens of the Commonwealth. The report shall include a statistical analysis of the incidence and causes of child and maternal fatalities in the Commonwealth during the past fiscal year and recommendations for action. The report shall not include any information which would identify specific child and maternal fatality cases.

➔Section 3. KRS 211.686 is amended to read as follows:

(1) A local child and maternal fatality response team ***shall*** ~~[may]~~ be established in every county or group of contiguous counties by the coroner or coroners with jurisdiction in the county or counties. The local coroner may authorize the creation of additional local teams within the coroner's jurisdiction as needed.

(2) Membership of the local team may include representatives of the coroner, the local office of the Department for Community Based Services, law enforcement agencies with investigation responsibilities for child and maternal fatalities which occur within the jurisdiction of the local team, the Commonwealth's and county attorneys, representatives of the medical profession, and other members whose participation the local team believes is important to carry out its purpose. Each local team

member shall be appointed by the agency the member is representing and shall serve at the pleasure of the appointing authority.

(3) The purpose of the local child and maternal fatality response team shall be to:

(a) Allow each member to share specific and unique information with the local team;

(b) Generate overall investigative direction and emphasis through team coordination and sharing of specialized information;

(c) Create a body of information that will assist in the coroner's effort to accurately identify the cause and reasons for death; and

(d) Facilitate the appropriate response by each member agency to the fatality, including but not limited to, intervention on behalf of others who may be adversely affected by the situation, implementation of health services necessary for protection of other citizens, further investigation by law enforcement, or legal action by Commonwealth's or county attorneys.

(4) The local team ***shall*** ~~[may]~~:

(a) Analyze information regarding local child and maternal fatalities to identify trends, patterns, and risk factors;

(b) Recommend to the state team, and any other entities deemed appropriate, changes in state or local programs, legislation, administrative regulations, policies, budgets, and treatment and service standards which may facilitate strategies for prevention and reduce the number of child and maternal fatalities; and

(c) Evaluate the effectiveness of local prevention and intervention strategies.

(5) The local team may establish a protocol for the investigation of child and maternal fatalities and may establish operating rules and procedures as it deems necessary to carry out the purposes of this section.

(6) The review of a child and maternal fatality by a local team may include information

from reports generated or received by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case.

(7) The proceedings, records, opinions, and deliberations of the local team shall be privileged and shall not be subject to discovery, subpoena, or introduction into evidence in any civil action in any manner that would directly or indirectly identify specific persons or cases reviewed by the local team. Nothing in this subsection shall be construed to restrict or limit the right to discover or use in any civil action any evidence that is discoverable independent of the proceedings of the local team.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As used in Sections 4 to 8 of this Act:

(1) "Implicit bias" means a bias in judgment or behavior that results from subtle cognitive processes, including implicit prejudice and implicit stereotypes that often operate at a level below conscious awareness and without intentional control;

(2) "Implicit prejudice" means prejudicial negative feelings or beliefs about a group that a person holds without being aware of them;

(3) "Implicit stereotypes" means the unconscious attributions of particular qualities to a member of a certain social group and are influenced by experience and based on learned associations between various qualities and social categories, including race or gender;

(4) "Perinatal care" means the provision of care during pregnancy, labor, delivery, and postpartum and neonatal periods; and

(5) "Pregnancy-related death" means the death of a person while pregnant or within three hundred and sixty five (365) days of the end of a pregnancy, irrespective of the duration or site of the pregnancy, from any cause related to, or aggravated by, the pregnancy or its management, but not from accidental or incidental causes.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) A health facility licensed under KRS Chapter 216B that provides perinatal care shall provide each patient, upon admission or as soon thereafter as reasonably practical, written information regarding the patient's right to the following:

(a) To be informed of continuing health care requirements following discharge from the hospital;

(b) To be informed that, if the patient so authorizes, a friend or family member may be provided information about the patient's continuing health care requirements following discharge from the hospital;

(c) To participate actively in decisions regarding medical care and the right to refuse treatment;

(d) To appropriate pain assessment and treatment;

(e) To be free of discrimination on the basis of race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sex, gender, sexual orientation, citizenship, or primary language; and

(f) To information on how to file a grievance with the following:

1. The Kentucky Board of Medical Licensure, in accordance with KRS 311.591; and

2. The Kentucky Commission on Human Rights.

(2) A hospital may include the information required by subsection (1) of this section with other notices to the patient regarding patient rights.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) A health facility licensed under KRS Chapter 216B that provides perinatal care shall implement an evidence-based implicit bias program for all health care

providers involved in the perinatal care of patients within those facilities.

(2) An implicit bias program implemented pursuant to subsection (1) of this section shall include all of the following:

(a) Identification of previous or current unconscious biases and misinformation;

(b) Identification of personal, interpersonal, institutional, structural, and cultural barriers to inclusion;

(c) Corrective measures to decrease implicit bias at the interpersonal and institutional levels, including ongoing policies that do not center the patient or that no longer support best practices within the field;

(d) Information on the ongoing personal effects of intergenerational trauma and oppression of communities of color;

(e) Information about understanding cultural trauma, racism, and centering the complex identity of the pregnant person;

(f) Strategies to foster effective communication between client and physician by employing a range of positive communication techniques;

(g) Discussion of the impact of the power dynamics and organizational decision making on implicit bias;

(h) Discussion on health inequities within the perinatal care field, including information on how implicit bias impacts maternal and infant health outcomes;

(i) Perspectives of diverse, local constituency groups, and experts on particular racial, identity, cultural, and provider-community relations issues in the community; and

(j) Information on reproductive justice and understanding of the ways that social detriments such as transportation, economic status, mental health, access to adequate information, immigration status, environmental justice,

and toxic lead exposure impact reproductive health.

(3) (a) A health care provider described in subsection (1) of this section shall complete initial basic training through the implicit bias program based on the components described in subsection (2) of this section.

(b) Upon completion of the initial basic training, a health care provider shall complete a refresher course under the implicit bias program every two (2) years thereafter, or on a more frequent basis if deemed necessary by the facility, in order to keep current with changing racial, identity, and cultural trends, and best practices in decreasing interpersonal and institutional implicit bias.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Department for Public Health shall track data on maternal death and severe morbidity, including but not limited to all of the following health conditions:

(a) Obstetric hemorrhage;

(b) Hypertension;

(c) Preeclampsia and eclampsia;

(d) Venous thromboembolism;

(e) Sepsis;

(f) Cerebrovascular accident;

(g) Amniotic fluid embolism;

(h) Other indirect obstetric complications; and

(i) Other complications pertaining to the pregnancy and puerperium period.

(2) The data collected pursuant to subsection (1) of this section shall be published by region, race, and ethnicity on the cabinet's Web site.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "qualified doula" means a birth companion who provides personal, nonmedical support to women and families throughout a woman's pregnancy, childbirth, and postpartum experience and who meets the qualifications set forth by the Cabinet for Health and Family Services by administrative regulations.

(2) A qualified doula's scope of practice includes the following:

(a) Provides prenatal counseling and assists the woman in preparing for and carrying out her plans for birth;

(b) Provides evidence-based information on general health practices pertaining to pregnancy, childbirth, postpartum, newborn health, and family dynamics;

(c) Has a general understanding of complications that can arise during pregnancy, labor, and delivery;

(d) Provides emotional support, physical comfort measures, and helps the woman get the information she needs to make informed decisions pertaining to childbirth and postpartum;

(e) Provides support for the whole birth team, including a woman's partner and family members and hospital staff;

(f) Provides evidence-based information on infant feeding;

(g) Provides general breastfeeding guidance and resources;

(h) Provides infant soothing and coping skills for the new parents;

(i) Provides postpartum support and honors cultural and family traditions; and

(j) Facilitates and ensures access to resources that can improve birth-related outcomes, including transportation, housing, substance abuse, WIC, SNAP, and intimate partner violence resources.

(3) The provisions of KRS 205.560 notwithstanding, the cabinet and any regional managed care partnership or other entity under contract with the cabinet for the

administration or provision of the Medicaid program shall provide Medicaid reimbursement for qualified doula services as defined in subsection (1) of this section.

(4) The cabinet shall establish reimbursement rates for qualified doula services.

(5) The cabinet and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall study the impact of this section on the health care delivery system in Kentucky and shall, upon implementation, issue an annual report to the Legislative Research Commission. This report shall include an analysis of:

(a) The impact of this section on:

1. The maternal mortality rate; and

2. The infant mortality rate; and

(b) The economic impact of this section on the Medicaid budget.

(6) The cabinet shall promulgate administrative regulations to establish the qualifications for becoming a qualified doula by January 1, 2021.