

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 719

A bill to amend 1978 PA 389, entitled

"An act to provide for the prevention and treatment of domestic violence; to develop and establish policies, procedures, and standards for providing domestic violence assistance programs and services; to create a domestic violence prevention and treatment board and prescribe its powers and duties; to establish a domestic violence prevention and treatment fund and provide for its use; to prescribe powers and duties of the family independence agency; to prescribe immunities and liabilities of certain persons and officials; and to prescribe penalties for violations of this act,"

by amending section 11 (MCL 400.1511), as added by 2001 PA 192.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) The state or a county may establish an inter-
2 agency domestic violence fatality review team. Two or more coun-
3 ties may establish a single domestic violence fatality review
4 team for those counties. The purpose of a team is to learn how
5 to prevent domestic violence homicides and suicides by improving
6 the response of individuals and agencies to domestic violence.

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1 Subject to the requirements of this section, each team may
2 determine its structure and specific activities.

3 (2) The fatality review teams may review fatal and
4 near-fatal incidents of domestic violence, including suicides.
5 The review of a domestic violence incident may include a review
6 of events leading up to the domestic violence incident, available
7 community resources, current laws and policies, actions taken by
8 the agencies and individuals related to the incident and the par-
9 ties, and any other information considered relevant by the team.
10 The team may determine the number and type of incidents it wishes
11 to review and shall make policy and other recommendations as to
12 how incidents of domestic violence may be prevented.

13 (3) A fatality review team and its members are entitled to
14 the protections granted under this section if the fatality review
15 team is convened under this section and in compliance with the
16 requirements of this section.

17 (4) A fatality review team established under this section
18 shall include, but is not limited to, the following:

19 ~~-(a) An individual trained in forensic pathology.~~

20 (A) ~~-(b)-~~ A health care professional with training and
21 experience in responding to domestic violence.

22 (B) ~~-(c)-~~ A medical examiner.

23 (C) ~~-(d)-~~ A prosecuting attorney or a designated assistant
24 prosecuting attorney.

25 (D) ~~-(e)-~~ A representative of a domestic violence shelter
26 that receives funding from the Michigan domestic violence
27 prevention and treatment board.

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1 (E) ~~-(f)-~~ A law enforcement officer.

2 (5) If a state fatality review team is convened, the state
3 fatality review team shall be convened by the Michigan domestic
4 violence prevention and treatment board.

5 (6) Subject to subsection (9), information obtained or cre-
6 ated by OR FOR a fatality review team is confidential and not
7 subject to ~~civil~~ discovery or the freedom of information act,
8 1976 PA 442, MCL 15.231 to 15.246. Documents created by OR FOR
9 the fatality review team are not subject to subpoena, except that
10 documents and records otherwise available from other sources are
11 not exempt from subpoena, discovery, or introduction into evi-
12 dence from other sources solely because they were presented to or
13 reviewed by a fatality review team. Information relevant to the
14 investigation of a crime may be disclosed by a fatality review
15 team only to the prosecuting attorney or to a law enforcement
16 agency. Information required to be reported under the child pro-
17 tection law, 1975 PA 238, MCL 722.621 to 722.638, shall be dis-
18 closed by a fatality review team to the family independence
19 agency. A prosecuting attorney, a law enforcement agency, and
20 the family independence agency may use information received under
21 this subsection in carrying out their lawful responsibilities.
22 INDIVIDUALS AND THE ORGANIZATIONS REPRESENTED BY INDIVIDUALS WHO
23 PARTICIPATE AS MEMBERS OF A FATALITY REVIEW TEAM SHALL SIGN A
24 CONFIDENTIALITY AGREEMENT ACKNOWLEDGING THE CONFIDENTIALITY PRO-
25 VISIONS OF THIS SECTION.

26 (7) An individual who ~~appears before or participates in~~
27 PROVIDES INFORMATION TO a fatality review team shall sign a

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1 confidentiality ~~agreement~~ NOTICE acknowledging that any
2 information ~~provided~~ HE OR SHE PROVIDES to a fatality review
3 team ~~is confidential,~~ SHALL BE KEPT CONFIDENTIAL BY THE FATAL-
4 ITY REVIEW TEAM, but IS subject to possible disclosure to the
5 prosecuting attorney, a law enforcement agency, or the family
6 independence agency as provided in subsection (6).

7 (8) Fatality review team meetings are closed to the public
8 and are not subject to the open meetings act, 1976 PA 267, MCL
9 15.261 to 15.275. Information identifying a victim of domestic
10 violence whose case is being reviewed, or that person's family
11 members, or an alleged or suspected perpetrator of abuse upon the
12 victim, or regarding the involvement of any agency with the
13 victim or that person's family, shall not be disclosed in any
14 report that is available to the public.

15 (9) Fatality review teams convened under this section shall
16 prepare an annual report of ~~aggregate~~ findings, recommenda-
17 tions, and steps taken to implement recommendations. The report
18 shall not contain information identifying any victim of domestic
19 violence, or that person's family members, or an alleged or sus-
20 pected perpetrator of abuse upon a victim, or regarding the
21 involvement of any agency with a victim or that person's family.
22 The report shall cover each calendar year or portion of a calen-
23 dar year during which a fatality review team is convened and the
24 report shall be provided to the Michigan domestic violence pre-
25 vention and treatment board on or before March 1 of the following
26 year. If the Michigan domestic violence prevention and treatment
27 board develops a form for use by fatality review teams to report

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1 annual ~~aggregate~~ findings and recommendations, fatality review
2 teams shall use that form.

3 (10) A person who violates the confidentiality provisions of
4 this section is guilty of a misdemeanor.

5 (11) ~~A member of a domestic violence fatality review team~~
6 ~~or any person providing information to a domestic violence fatal-~~
7 ~~ity review team shall not be liable for personal injury or prop-~~
8 ~~erty damage sustained by any person as a result of any act or~~
9 ~~proceeding undertaken or performed within the scope of this~~
10 ~~section. In addition, a person acting as a member of a domestic~~
11 ~~violence fatality review team or any person providing information~~
12 ~~to a domestic violence fatality review team shall not be liable~~
13 ~~in a civil action for damages resulting from an act or omission~~
14 ~~arising out of and in the course of the person's good faith per-~~
15 ~~formance of that activity, unless the person's act or omission~~
16 ~~was the result of that person's gross negligence or willful~~
17 ~~misconduct. The state, a political subdivision, or, except in~~
18 ~~cases of willful misconduct, gross negligence, or bad faith, an~~
19 ~~employee, agent, or representative of the state or a political~~
20 ~~subdivision, or a domestic violence fatality review team, comply-~~
21 ~~ing with or reasonably attempting to comply with this act, shall~~
22 ~~not be liable for personal injury or property damage as a result~~
23 ~~of any act or proceeding undertaken or performed within the scope~~
24 ~~of this section. A FATALITY REVIEW TEAM, ANY MEMBER OF A FATAL-~~
25 ~~ITY REVIEW TEAM, ANY INDIVIDUAL PROVIDING INFORMATION TO A FATAL-~~
26 ~~ITY REVIEW TEAM, OR ANY OTHER PERSON OR AGENCY ACTING WITHIN THE~~
27 ~~SCOPE OF THIS SECTION IS IMMUNE FROM ALL CIVIL LIABILITY~~

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1 RESULTING FROM AN ACT OR OMISSION ARISING OUT OF AND IN THE
2 COURSE OF THE TEAM'S, MEMBER'S, INDIVIDUAL'S, PERSON'S, OR
3 AGENCY'S PERFORMANCE OF THAT ACTIVITY, UNLESS THE ACT OR OMISSION
4 WAS THE RESULT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. THIS
5 SECTION SHALL NOT BE CONSTRUED TO LIMIT THE IMMUNITY CONFERRED BY
6 1964 PA 170, MCL 691.1401 TO 691.1419, OR ANY OTHER IMMUNITY PRO-
7 VIDED BY STATUTE OR COMMON LAW.

8 (12) Subject to available funding, the Michigan domestic
9 violence prevention and treatment board may do any of the
10 following:

11 (a) Develop a protocol for use by state, county, and multi-
12 county domestic violence fatality review teams.

13 (b) Develop a form for use by fatality review teams to
14 report annual ~~aggregate~~ findings and recommendations as
15 required in subsection (9).

16 (c) Develop and provide training concerning fatality review
17 teams.

18 (d) Prepare a report to the governor, the senate, and the
19 house of representatives summarizing the ~~aggregate~~ findings and
20 recommendations of fatality review teams and making recommenda-
21 tions to reduce and eradicate the incidence of domestic
22 violence.

23 (13) If the Michigan domestic violence prevention and treat-
24 ment board develops a protocol for use by state, county, and mul-
25 ticounty fatality review teams, the teams shall follow that
26 protocol.