

West Virginia

CHAPTER 48. DOMESTIC RELATIONS.

ARTICLE 27A. DOMESTIC VIOLENCE FATALITY REVIEW TEAM.

§48-27A-1. Domestic violence fatality review team. (a) The domestic violence fatality review team is hereby established under the office of the chief medical examiner. The domestic violence fatality review team is a multidisciplinary team created to review the deaths resulting from suspected domestic violence as defined by the provisions of section two hundred four, article twenty-seven of this chapter.

(b) The domestic violence fatality review team is to consist of the following members, but not limited to, appointed by the governor to serve three-year terms:

- (1) The chief medical examiner, who is to serve as the chairperson of the domestic violence fatality review team;
- (2) Four prosecuting attorneys or their designees;
- (3) The state superintendent of the West Virginia state police or his or her designee;
- (4) One county law-enforcement official;
- (5) One local municipality police officer;
- (6) One physician, resident or nurse practitioner specializing in the practice of family medicine or emergency medicine;
- (7) One physician, resident or nurse practitioner specializing in the practice of obstetrics and gynecology;
- (8) One adult protective service worker currently employed in investigating reports of adult abuse or neglect;
- (9) One social worker who may be employed in medical social work;
- (10) The commissioner of the office of behavioral health services or his or her designee;
- (11) The director of the office of social services of the department of health and human resources or his or her designee;
- (12) One domestic violence advocate from a licensed domestic violence program;
- (13) A representative of the West Virginia coalition against domestic violence;

(14) Director of the state division of corrections or his or her designee; and

(15) Director of epidemiology and health promotion or his or her designee.

(c) Members of the domestic violence fatality review team shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and have qualified.

(d) Each appointment of a prosecuting attorney, whether for a full term or to fill a vacancy, is to be made by the governor from among three nominees selected by the West Virginia prosecuting attorneys institute. Each appointment of a county or local municipality law-enforcement officer, whether for a full term or to fill a vacancy, is to be made by the governor from among three nominees selected by the state fraternal order of police or the West Virginia deputy sheriff's association or the West Virginia chiefs of police association. Each appointment of a physician, resident or nurse practitioner, whether for a full term or to fill a vacancy, is to be made by the governor from among three nominees selected by the West Virginia state medical association. Each appointment of an adult protective services worker and a social worker, whether for a full term or to fill a vacancy, is to be made by the governor from among three nominees selected by the West Virginia social work licensing board. Each appointment of a domestic violence advocate is to be made by the governor from among three nominees selected by the West Virginia coalition against domestic violence. When an appointment is for a full term, the nomination is to be submitted to the governor not later than eight months prior to the date on which the appointment is to become effective. In the case of an appointment to fill a vacancy, the nominations are to be submitted to the governor within thirty days after the request for the nomination has been made by the governor to the chairperson or president of the organization. When an association fails to submit to the governor nominations for the appointment in accordance with the requirements of this section, the governor may make the appointment from any nomination provided by the chief medical examiner.

(e) Each member of the domestic violence fatality review team shall serve without additional compensation and may not be reimbursed for any expenses incurred in the discharge of his or her duties under the provisions of this article.

(f) The domestic violence fatality review team shall, pursuant to the provisions of chapter twenty-nine-a of this code, promulgate rules applicable to the following:

(1) The standard procedures for the establishment, formation and conduct of the domestic violence fatality review team; and

(2) Recommend protocols for the systematic review of domestic violence fatalities where other than natural causes are suspected.

(g) The domestic violence fatality review team shall:

(1) Review all deaths of victims or suspected victims of domestic violence, including suicides, eighteen years and older, who are residents of this state, in order to identify trends, patterns and risk factors;

(2) Provide statistical analysis regarding the causes of domestic violence fatalities in West Virginia;

(3) Promote public awareness of the incidence and causes of domestic violence fatalities, including recommendations for their reduction; and

(4) Provide training for state agencies.

(h) The domestic violence fatality review team shall submit an annual report to the governor and to the Legislature concerning its activities and the incidents of domestic violence fatalities within the state. The report is due annually in the first day of March. The report is to include statistics setting forth the number of domestic violence fatalities, identifiable trends in domestic violence fatalities in the state, including possible causes, if any, and recommendations to reduce the number of preventable domestic violence fatalities in the state.

(i) The domestic violence fatality review team, in the exercise of its duties as defined in this section, may not:

(1) Call witnesses or take testimony from individuals involved in the investigation of a domestic violence fatality;

(2) Contact a family member of the deceased; any member of the team when involved in the investigation of a death in the course of performing his or her duties outside of the team must so notify the team and will be recused from any analysis or other participation or discussion of that death by the domestic violence fatality review team; and

(3) Enforce any public health standard or criminal law or otherwise participate in any legal proceeding, except if a member of the team is involved in the investigation of the death or resulting prosecution and must participate in a legal proceeding in the course of performing his or her duties outside of the team.

(j) Proceedings, records and opinions of the domestic violence fatality review team are confidential and are not subject to discovery, subpoena or introduction into evidence in any civil or criminal proceeding. Nothing in this subsection is to be construed to limit or restrict the right to discover or use in any civil or criminal proceeding anything that is available from another source and entirely independent of the proceedings of the domestic violence fatality review team.

(k) Members of the domestic violence fatality review team may not be questioned in any civil or criminal proceeding regarding information presented in or opinions formed as a result of a meeting of the team. Nothing in this subsection may be construed to prevent a member of the domestic violence fatality review team

from testifying to information obtained independently of the team or which is public information.

§48-27A-2. Other agencies of government required to cooperate. State, county and local agencies, hospitals and other health agencies shall provide the domestic violence fatality review team with any information requested in writing by the team as allowable by law or upon receipt of a certified copy of the circuit court's order directing said agencies to release information in its possession relating to the deceased. The team shall assure that all information received and developed in connection with the provisions of this article remain confidential.

§48-27A-3. Law enforcement; prosecution; interference with performance of duties. The domestic violence fatality review team may not take any action which, in the determination of the prosecuting attorney or his or her assistant, impairs the ability of the prosecuting attorney, his or her assistant or any law-enforcement officer to perform his or her statutory duties.