

TITLE 13

Domestic Relations

CHAPTER 21. DOMESTIC VIOLENCE COORDINATING COUNCIL

§ 2105. Fatal incident reviews.

(a) The Council shall have the power to investigate and review, through a review panel, the facts and circumstances of all deaths and near deaths that occur in Delaware as a result of domestic violence. "Near death" means a victim in serious or critical condition as certified by a physician. This review shall include both homicides and suicides resulting from domestic violence. The Office of the Chief Medical Examiner shall submit to the Council a monthly report within 30 days of the last day of the previous month, of all the homicides and suicides that occurred in Delaware. Reviews may also include cases where the victim suffered a substantial risk of serious physical injury or death. The review of deaths or near deaths involving criminal investigations will be delayed for at least 6 months, and will under no circumstances begin until authorized by the Attorney General's office. Any case involving the death of a minor (any child under the age of 18) related to domestic violence will be reviewed jointly by the appropriate regional panel of the Child Death, Near Death and Stillborn Commission and the domestic violence fatal incident review panel. The death of a minor will only be reviewed by the domestic violence fatal incident review panel where the minor's parents or guardians were involved in an abusive relationship and the minor's death is directly related to that abuse.

(b) There shall be a Fatal Incident Review Team that will be co-chaired by 3 members of the Coordinating Council to be elected by the Council. In addition to the co-chairs, the Review Team shall consist of 7 other core members: the Attorney General or the Attorney General's designee, the Director of the Division of Family Services or the Director's designee, a victim advocate appointed by the Council, the Chief Judge of the Family Court or the Chief Judge's designee, the Chief Magistrate of the Justice of the Peace Courts or the Chief Magistrate's designee, the Director of the Division of Substance Abuse and Mental Health, or the Director's designee and a law-enforcement officer to be appointed by the Delaware Chiefs of Police Council. All members of the Review Team, plus other individuals invited to participate, shall be considered part of the review panel for a particular case or incident. The Review Team shall invite other law-enforcement personnel to serve and participate as full members of a review panel in any case in which a law-enforcement agency has investigated the death or near death under review or any prior domestic violence incident involving the decedent or near death victim. The Review Team

may also invite other relevant persons to serve on an ad-hoc basis and participate as full members of the review panel for a particular review. Such persons may include, but are not limited to, individuals with particular expertise that would be helpful to the review panel, representatives from those organizations or agencies that had contact with or provided services to the individual prior to that individual's own death or near death, that individual's abusive partner or family member and/or the alleged perpetrator of the death or near death.

(c) A review panel shall be convened by the co-chairs of the Review Team on an as-needed basis and may also be convened by any 2 other members of the Review Team.

(d) As part of any review, a review panel shall have the power and authority to administer oaths and to compel the attendance of witnesses whose testimony is related to the death or near death under review and the production of records related to the death or near death under review by filing a praecipe for a subpoena, through the office of the Attorney General, with the Prothonotary of any County of this State. Such a subpoena will be effective throughout the State and service of such subpoena will be made by any sheriff. Failure to obey such a subpoena will be punishable according to the Rules of the Superior Court.

(e) Each review panel shall prepare a report, to be maintained by the Review Team, including a description of the incident reviewed, and the findings and recommendations of the review panel.

(f) Findings and recommendations by the panel shall be adopted only upon a 60 percent vote of participating members of the review panel.

(g) The Review Team shall establish rules and procedures to govern each review prior to the first review to be conducted. The Review Team shall issue an annual report to the Domestic Violence Coordinating Council summarizing in an aggregate fashion all findings and recommendations made over the year by each review panel and describing any systemic changes that were effectuated as a result of the panels' work. The report shall not identify the specific case or case review that led to such findings and recommendations.

(h) The review process, and any records created therein, shall be exempt from the provisions of the Freedom of Information Act in Chapter 100 of Title 29. The records of any such review, including all original documents and documents produced in the review process with regard to the facts and circumstances of each death or near death, shall be confidential, shall be used by the Coordinating Council only in

the exercise of its proper function and shall not be disclosed. The records and proceedings shall not be available through court subpoena and shall not be subject to discovery. No person who participated in the review nor any member of the Domestic Violence Coordinating Council shall be required to make any statement as to what transpired during the review or information collected during the review. Statistical data and recommendations based on the reviews, however, may be released by the Coordinating Council at its discretion.

(i) Members of the Domestic Violence Coordinating Council, members of the Review Team and members of each review panel, as well as their agents or employees, shall be immune from claims and shall not be subject to any suits, liability, damages or any other recourse, civil or criminal, arising from any act, proceeding, decision or determination undertaken or performed or recommendation made, provided such persons acted in good faith and without malice in carrying out their responsibilities; good faith is presumed until proven otherwise, with the complainant bearing the burden of proving malice or a lack of good faith. No organization, institution or person furnishing information, data, testimony, reports or records to the review panels or the Coordinating Council as part of such an investigation shall, by reason of furnishing such information, be liable in damages or subject to any other recourse, civil or criminal.

[70 Del. Laws, c. 409, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 279, §§ 1, 2; 76 Del. Laws, c. 211, § 2; 77 Del. Laws, c. 136, §§ 1-4; 78 Del. Laws, c. 63, §§ 1, 2; 78 Del. Laws, c. 309, § 1.](#)