

NYS Fatality Review Team Enabling Legislation

Executive Law Section 575 (10)

Fatality review team.

- (a) There shall be established within the office [The NYS Office for the Prevention of Domestic Violence] a fatality review team for the purpose of analyzing, in conjunction with local representation, the domestic violence-related death or near death of individuals, with the goal of:
 - (i) examining the trends and patterns of domestic violence-related fatalities in New York state;
 - (ii) educating the public, service providers, and policymakers about domestic violence fatalities and strategies for intervention and prevention; and
 - (iii) recommending policies, practices, procedures, and services to reduce fatalities due to domestic violence.
- (b) A domestic violence-related death or near death shall mean any death or near death caused by a family or household member as defined in section eight hundred twelve of the family court act or section 530.11 of the criminal procedure law, except that there shall be no review of the death or near death of a child for those cases in which the office of children and family services is required to issue a fatality report in accordance with subdivision five of section twenty of the social services law.
- (c) The team shall review deaths or near deaths in cases that have been adjudicated and have received a final judgment and that are not under investigation.
- (d) Members of a domestic violence fatality review team shall be appointed by the executive director, in consultation with the advisory council, and shall include, but not be limited to, one representative from the office of children and family services, the office of temporary and disability assistance, the division of criminal justice services, the state police, the department of health, the office of court administration, the office of probation and correctional alternatives, the department of corrections and community supervision, at least one representative from local law enforcement, a county prosecutor's office, a local social services district, a member of the judiciary, and a domestic violence services program approved by the office of children and family services. A domestic violence fatality review team may also include representatives from sexual assault services programs, public health, mental health and substance abuse agencies, hospitals, clergy, local school districts, local divisions of probation, local offices of the department of corrections and community supervision, the office of the medical examiner or coroner, any local domestic violence task force, coordinating council or other interagency entity that meets regularly to support a coordinated

community response to domestic violence, any other program that provides services to domestic violence victims, or any other person necessary to the work of the team, including survivors of domestic violence.

- (e) The team shall identify potential cases and shall select which deaths or near deaths will be reviewed each year. Localities may request that the team conduct a review of a particular death or near death.
- (f) The team shall work with officials and organizations within the community where the death or near death occurred to conduct each review.
- (g) Team members shall serve without compensation but are entitled to be reimbursed for travel expenses to the localities where a fatality review will be conducted and members who are full-time salaried officers or employees of the state or of any political subdivision of the state are entitled to their regular compensation.
- (h) To the extent consistent with federal law, upon request the team shall be provided client-identifiable information and records necessary for the investigation of a domestic violence-related death or near death incident, including, but not limited to:
 - (i) records maintained by a local social services district;
 - (ii) law enforcement records, except where the provision of such records would interfere with an ongoing law enforcement investigation or identify a confidential source or endanger the safety or welfare of an individual;
 - (iii) court records;
 - (iv) probation and parole records;
 - (v) records from domestic violence residential or non-residential programs;
 - (vi) records from any relevant service provider, program or organization; and
 - (vii) all other relevant records in the possession of state and local officials or agencies provided, however, no official or agency shall be required to provide information or records concerning a person charged, investigated or convicted in such death or near death in violation of such person's attorney-client privilege.
- (i) Any information or records otherwise confidential and privileged in accordance with state law which are provided to the team shall remain confidential as otherwise provided by law. All records received, meetings conducted, reports and records made and maintained and all books and papers obtained by the team shall be confidential and shall not be open or made available, except by court order or as set forth in paragraphs (k) and (l) of this subdivision.
- (j) Any person who releases or permits the release of any information protected under paragraph (i) of this subdivision to persons or agencies not authorized to receive such information shall be guilty of a class A misdemeanor.

- (k) Team members and persons who present information to the team shall not be questioned in any civil or criminal proceeding regarding any opinions formed as a result of a meeting of the team. Nothing in this section shall be construed to prevent a person from testifying as to information which is obtained independently of the team or information which is public.
- (l) Team members are not liable for damages or other relief in any action brought by reason of the reasonable and good faith performance of a duty, function, or activity of the team.
- (m) Consistent with all federal and state confidentiality protections, the team may provide recommendations to any individual or entity for appropriate actions to improve a community's response to domestic violence.
- (n) The team shall periodically submit a cumulative report to the governor and the legislature incorporating the aggregate data and summary of the general findings and recommendations resulting from the domestic violence fatality reviews completed pursuant to this subdivision. The cumulative report shall thereafter be made available to the public, consistent with federal and state confidentiality protections.

§ 4. This act shall take effect on the one hundred eightieth day after it shall have become law.