

2021 Regular Session

HOUSE BILL NO. 452

BY REPRESENTATIVE DAVIS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

DOMESTIC ABUSE: Creates a domestic violence fatality review team within the Louisiana Department of Health

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

AN ACT

To amend and reenact R.S. 44:4.1(B)(26) and to enact Part I-A of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:2024.1 through 2024.7 and R.S. 44:4(59), relative to domestic abuse fatalities; to create the Louisiana Domestic Abuse Fatality Review Team; to provide definitions; to provide for the membership of the review team; to authorize functions and duties of the review team; to create local and regional panels to work within the review team; to authorize the sharing of information, documents, and records between the review team or any agency or entity; to provide confidentiality for the use of certain information obtained by the review team; to provide limitations relative to the use of certain information obtained by the review team; to provide for the issuance of an annual report; to provide for a public records exception; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part I-A of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:2024.1 through 2024.7, is hereby enacted to read as follows:

PART I-A. LOUISIANA DOMESTIC ABUSE FATALITY REVIEW TEAM

§2024.1. Title

This Part shall be known and cited as the "Louisiana Domestic Abuse Fatality Review Team".

1 §2024.2. Definitions

2 A. For the purposes of this Part, the following terms have the following
3 meanings ascribed to them, unless the context clearly indicates otherwise:

4 (1) "Adult" means any individual eighteen years of age or older, or any
5 person under the age of eighteen who has been emancipated by marriage or
6 otherwise.

7 (2) "Dating partner" means any person who is involved or has been involved
8 in a sexual or intimate relationship with the offender characterized by the expectation
9 of affectionate involvement independent of financial considerations, regardless of
10 whether the person presently lives or formerly lived in the same residence with the
11 offender. "Dating partner" shall not include a casual relationship or ordinary
12 association between persons in a business or social context.

13 (3) "Domestic abuse" includes but is not limited to physical or sexual abuse
14 and any offense against the person, physical or non-physical, as defined in the
15 Louisiana Criminal Code, except negligent injury and defamation, committed by one
16 family member, household member, or dating partner against another. "Domestic
17 abuse" also includes sexual abuse as defined in R.S. 15:1503.

18 (4) "Domestic abuse fatality" means any death of a person resulting from an
19 incident of domestic abuse or attempted domestic abuse, including the death of a
20 person who is not a family member, household member, or dating partner of the
21 perpetrator's, or the suicide of a person where there are implications that a person is
22 the victim of domestic abuse prior to his suicide. For the purposes of this Section,
23 "domestic abuse fatality" shall be interpreted broadly to give the Domestic Abuse
24 Fatality Review Team discretion to review fatalities that have occurred both directly
25 or peripherally to domestic relationships.

26 (5) "Family member" means spouses, former spouses, parents, children,
27 stepchildren, foster parents, foster children, other ascendants, and other descendants.
28 "Family member" also means the other parent or foster parent of any child or foster
29 child of the offender.

1 (6) "Household member" means any person presently or formerly living in
2 the same residence with the offender and who is involved or has been involved in a
3 sexual or intimate relationship with the offender, or any child presently or formerly
4 living in the same residence with the offender, or any child of the offender regardless
5 of where the child resides.

6 (7) "Review" means an examination or reexamination of information
7 regarding a deceased person from relevant agencies, professionals, healthcare
8 providers, or other sources.

9 §2024.3. Louisiana Domestic Abuse Fatality Review Team; membership; chairman;
10 proxies

11 A. The legislature hereby establishes within the Louisiana Department of
12 Health a review team which shall be designated as the "Louisiana Domestic Abuse
13 Fatality Review Team" hereinafter referred to in this Part as "review team". The
14 review team shall be comprised of the following members:

15 (1) The state health officer or his designee.

16 (2) The secretary of the Louisiana Department of Health or his designee.

17 (3) The secretary of the Department of Children and Family Services or his
18 designee.

19 (4) The assistant secretary of the office of behavioral health of the Louisiana
20 Department of Health or his designee.

21 (5) The director of the bureau of emergency medical services of the
22 Louisiana Department of Health or his designee.

23 (6) The director of the governor's office on women's policy or his designee.

24 (7) The superintendent of state police or his designee.

25 (8) The state registrar of vital records in the office of public health or his
26 designee.

27 (9) The attorney general or his designee.

28 (10) A district attorney or assistant district attorney appointed by the
29 Louisiana District Attorneys Association.

- 1 (11) A sheriff appointed by the Louisiana Sheriffs' Association.
- 2 (12) A police chief appointed by the Louisiana Association of Chiefs of
3 Police.
- 4 (13) A coroner appointed by the president of the Louisiana Coroners
5 Association.
- 6 (14) The executive director of the Louisiana Coalition Against Domestic
7 Violence or his designee.
- 8 (15) The executive director of a community-based domestic violence service
9 organization or his designee.
- 10 (16) The president of the Louisiana Clerks of Court Association or his
11 designee.
- 12 (17) A forensic pathologist certified by the American Board of Pathology
13 and licensed to practice medicine in the state appointed by the Louisiana State Board
14 of Medical Examiners.
- 15 (18) A representative of the Louisiana Protective Order Registry appointed
16 by the judicial administrator of the Louisiana Supreme Court.
- 17 (19) A representative of the legal services program funded by the Legal
18 Services Corporation that regularly provides civil legal representation to survivors
19 of domestic violence.
- 20 (20) A director or his designee of a local supervised visitation or safe
21 exchange center who is professionally trained to identify the unique safety needs of
22 domestic violence victims.
- 23 B. Any additional persons may be appointed to the review team who are
24 determined to have relevant knowledge regarding domestic abuse and would aid the
25 review team in fulfilling its duties.
- 26 C. The members of the review team shall elect a chairman to serve the
27 review team.
- 28 D. Notwithstanding the provisions set forth in Subsection A, each member
29 shall be entitled to appoint a single person to serve as proxy for the duration of his

1 term if the member is unable to attend a meeting of the review team. The term of the
2 designated proxy shall be the same as the voting member. A member appointing a
3 person to serve as his designated proxy shall make his appointment known to the
4 chairman of the review team.

5 §2024.4. Functions; duties of the review team

6 A. The functions of the review team shall include:

7 (1) Identify and characterize the scope and nature of domestic abuse fatalities
8 in this state.

9 (2) Research and review trends, data, or patterns that are observed of
10 domestic abuse fatalities.

11 (3) Review past events and circumstances of domestic abuse fatalities by
12 reviewing records and other pertinent documents of public and private agencies that
13 are responsible for investigating deaths or treating victims.

14 (4) Research and revise, as necessary, operating rules and procedures for
15 review of domestic abuse fatalities including but not limited to identification of cases
16 to be reviewed, coordination among agencies and professionals involved, and
17 improvement of the identification, data collection, and record-keeping of the causes
18 of domestic violence fatalities.

19 (5) Recommend systemic improvements to promote improved and integrated
20 public and private systems serving victims of domestic abuse.

21 (6) Recommend components for prevention and education programs.

22 (7) Recommend training to improve the identification and investigation of
23 domestic violence fatalities that occur in Louisiana.

24 B. The review team may do all of the following including but not limited to:

25 (1) Establish local and regional panels to which the review team may
26 delegate some or all of its responsibilities under this Part.

27 (2) Analyze data available through any state systems that may decrease the
28 incidence of domestic abuse fatalities in this state.

1 (3) Create formal partnerships with existing local and regional fatality
2 review panels to accomplish its responsibilities under this Section.

3 §2024.5. Records; confidentiality; prohibited disclosure and discovery

4 A. Notwithstanding any other provision of law to the contrary, the review
5 team, or any local or regional panel or agent thereof, shall be authorized to access
6 medical and vital records in the custody of physicians, hospitals, clinics, other
7 healthcare providers, and the office of public health, and any other information,
8 documents, or records pertaining to the completed investigation of any domestic
9 abuse fatality in the custody of any law enforcement agency in order that it may
10 perform its functions and duties as provided in Subsection D of this Section.

11 B. The review team, or any local or regional panel or agent thereof, may
12 request from a person, agency, or entity any relevant information, whether written
13 or oral, to carry out its functions and duties. This information may include but is not
14 limited to the following:

15 (1) Medical information.

16 (2) Mental health information.

17 (3) Information from elder abuse reports and investigation reports which
18 exclude the identity of persons who have made a report and shall not be disclosed.

19 (4) Information from child abuse reports and investigations which exclude
20 the identity of persons who have made a report and shall not be disclosed.

21 (5) Summary of criminal history, criminal offender record, and local
22 criminal history.

23 (6) Information pertaining to reports by healthcare providers of persons
24 suffering from physical injuries inflicted by means of a firearm or of persons
25 suffering physical injury where the injury is a result of abusive conduct.

26 (7) Information concerning a juvenile court proceeding.

27 (8) Information maintained by a family court.

1 (9) Information provided by probation officers in the course of the
2 performance of their duties including but not limited to the duty to prepare reports
3 as well as the information on which these reports are based.

4 (10) Records of in-home supportive services unless disclosure is prohibited
5 by federal law.

6 C. The review team, or any local or regional panel or agent thereof, may
7 make a request in writing for the information sought and any person, agency, or
8 entity with information may rely on the request to determine whether information
9 may be disclosed thereto. A person, agency, or entity that has the information and
10 is governed by this Section shall not be required to disclose such information. The
11 intent of this Section is to allow the voluntary disclosure of information by a person,
12 agency, or entity that has the information.

13 D. Except as provided in this Subsection, information and records obtained
14 by the review team, or any local or regional panel or agent thereof, in accordance
15 with the provisions of this Subsection, or results of any domestic abuse fatality
16 report, shall be confidential and shall not be available for subpoena nor shall such
17 information be disclosed, discoverable, or compelled to be produced in any civil,
18 criminal, administrative, or other proceeding, nor shall such records be deemed
19 admissible as evidence in any civil, criminal, administrative, or other tribunal or
20 court of any reason. Information and records presented to the review team, or any
21 local or regional panel or agent thereof, shall not be immune from subpoena,
22 discovery, or prohibited from being introduced into evidence solely because they
23 were presented to or reviewed by the review team, or any local or regional panel or
24 agent thereof, if the information and records have been obtained from other sources.

25 E. The furnishing of confidential information, documents, and reports in
26 accordance with this Section by any person, agency, or entity furnishing such
27 information, documents, and reports shall not expose such person, agency, or entity
28 to liability and shall not be considered a violation of any privileged or confidential

1 relationship, provided the person, agency, or entity has acted in good faith in the
2 reporting pursuant to this Section.

3 F. A member of the review team, or any local or regional panel or agent
4 thereof, may not disclose any information that is confidential under this Section. A
5 person who appears before, participates in, or provides information to the review
6 team, or any local or regional panel or agent thereof, shall sign a confidentiality
7 notice to acknowledge that any information he provides to the review team, or any
8 local or regional panel or agent thereof, shall be confidential. Information
9 identifying a victim of domestic violence whose case is being reviewed, or that
10 person's family members, or an alleged or suspected perpetrator of abuse upon the
11 victim, or regarding the involvement of any agency with the victim or victim's family
12 members, shall not be disclosed in any report that is available to the public. Nothing
13 in this Section shall prohibit the publishing by the review team, or any local or
14 regional panel or agent thereof, of statistical compilations relating to domestic abuse
15 fatalities which do not identify a person's case or person's healthcare provider, law
16 enforcement agency, or organization who provides services to victims.

17 G. When the review team, or any local or regional panel or agent thereof,
18 concludes a review of a domestic abuse fatality or other review, it shall return all
19 information and records that concern a victim or the victim's family members to the
20 person, agency, or entity that furnished such information.

21 §2024.6. Reporting to the legislature; requirements

22 The review team shall issue an annual report of its findings and
23 recommendations to the governor, the speaker of the House of Representatives, and
24 the president of the Senate. The report shall not contain information identifying any
25 victim of domestic abuse, or that person's family members, or an alleged or
26 suspected perpetrator of abuse upon a victim, or regarding the involvement of any
27 agency with a victim or the victim's family members. The review team shall issue
28 its initial report on or before January 30, 2023, and every year thereafter. The report

1 may include any recommendations for legislation that the review team deems
2 necessary and appropriate.

3 §2024.7. Financial and human resources obligations

4 The Louisiana Department of Health may, at its discretion, secure financial
5 and human resources from, or create formal partnerships with, external entities, in
6 order to meet its obligations as described in this Part.

7 Section 2. R.S. 44:4.1(B)(26) is hereby amended and reenacted and R.S. 44:4(59)
8 is hereby enacted to read as follows:

9 §4. Applicability

10 This Chapter shall not apply:

11 * * *

12 (59) To any information, documents, or records received by the Louisiana
13 Domestic Abuse Fatality Team, or any local or regional panel of the Louisiana
14 Domestic Abuse Fatality Review Team defined as confidential under the provisions
15 of R.S. 40:2024.5.

16 §4.1. Exceptions

17 * * *

18 B. The legislature further recognizes that there exist exceptions, exemptions,
19 and limitations to the laws pertaining to public records throughout the revised
20 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
21 limitations are hereby continued in effect by incorporation into this Chapter by
22 citation:

23 * * *

24 (26) R.S. 40:3.1, 31.14, 31.27, 39.1, 41, 73, 95, 96, 526, 528, 973.1, 978.2.1,
25 1007, 1061.21, 1079.18, 1081.10, 1105.6, 1105.8, 1133.8, 1168.3, 1171.4, 1203.4,
26 1231.4, 1379.1.1(D), 1379.3, 2009.8, 2009.14, 2010.5, 2017.9, 2018, 2018.5, 2019,
27 2020, 2024.5, 2106, 2138, 2175.7(B)(1), 2532, 2845.1

28 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 452 Engrossed

2021 Regular Session

Davis

Abstract: Creates the La. Domestic Abuse Fatality Review Team and authorizes certain functions and duties of the review team.

Proposed law creates the La. Domestic Abuse Fatality Review Team (review team), within the La. Dept. of Health.

Proposed law provides for membership of the review team and those persons who shall serve. Those members shall be the following:

- (1) The state health officer or his designee.
- (2) The secretary of the Louisiana Department of Health or his designee.
- (3) The secretary of the Department of Children and Family Services or his designee.
- (4) The assistant secretary of the office of behavioral health of the Louisiana Department of Health or his designee.
- (5) The director of the bureau of emergency medical services of the Louisiana Department of Health or his designee.
- (6) The director of the governor's office on women's policy or his designee.
- (7) The superintendent of state police or his designee.
- (8) The state registrar of vital records in the office of public health or his designee.
- (9) The attorney general or his designee.
- (10) A district attorney or assistant district attorney appointed by the Louisiana District Attorney's Association.
- (11) A sheriff appointed by the Louisiana Sheriff's Association.
- (12) A police chief appointed by the Louisiana Association of Chiefs of Police.
- (13) A coroner appointed by the president of the Louisiana Coroner's Association.
- (14) The executive director of the Louisiana Coalition Against Domestic Violence or his designee.
- (15) The executive director of a community-based domestic violence service organization or his designee.
- (16) The president of the Louisiana Clerks of Court Association or his designee.
- (17) A forensic pathologist certified by the American Board of Pathology and licensed to practice medicine in the state appointed by the Louisiana State Board of Medical Examiners.

- (18) A representative of the Louisiana Protective Order Registry appointed by the judicial administrator of the Louisiana Supreme Court.
- (19) A representative of the legal services program funded by the Legal Services Corporation that regularly provides civil legal representation to survivors of domestic violence.
- (20) A director or his designee of a local supervised visitation or safe exchange center who is professionally trained to identify the unique safety needs of domestic violence victims.

Proposed law allows any additional persons to be appointed to the review team who have relevant knowledge regarding domestic abuse and would be able to assist the review team in its duties.

Proposed law provides for the review team to elect a chairman. Further provides that members who serve on the review team may appoint a single person to serve as proxy for the duration of the member's term. The proxy may be used when the member is unable to attend a meeting scheduled by the review team. Proposed law states that the proxy shall not be subject to the nomination and appointment procedures which are outlined in proposed law.

Proposed law states that the review team shall be able to perform the following functions:

- (1) Identify and characterize the scope and nature of domestic abuse fatalities in this state.
- (2) Research and review trends, data, or patterns that are observed surrounding domestic abuse fatalities.
- (3) Review past events and circumstances surrounding domestic abuse fatalities by reviewing records and other pertinent documents of public and private agencies that are responsible for investigating deaths or treating victims.
- (4) Research and revise, as necessary, operating rules and procedures for review of domestic abuse fatalities including but not limited to identification of cases to be reviewed, coordination among agencies and professionals involved, and improvement of the identification, data collection, and record-keeping of the causes of domestic violence fatalities.
- (5) Recommend systemic improvements to promote improved and integrated public and private systems serving victims of domestic abuse.
- (6) Recommend components for prevention and education programs.
- (7) Recommend training to improve the identification and investigation of domestic violence fatalities that occur in Louisiana.

Proposed law provides that the review team may establish local and regional panels to help review data of domestic abuse fatalities across this state. Further provides that the review team may analyze data through any state system which would be helpful to decrease fatalities of domestic abuse. Also, proposed law allows the review team to establish relationships with local and regional fatality review panels to accomplish its duties as outlined in proposed law.

Proposed law stipulates that notwithstanding any other provision of present law, the review team or any local or regional panel formed under the review panel, shall have authority to access medical and vital records in the custody of physicians, hospitals, clinics, or other

healthcare providers, and office of public health or any law enforcement agency that may aid in the completion of any domestic abuse fatality and allow the review team to complete its duties.

In accordance with proposed law, the following information may be disclosed by a person, agency, or entity to the review team:

- (1) Medical information.
- (2) Mental health information.
- (3) Information from elder abuse reports and investigation reports which exclude the identity of persons who have made report, which shall not be disclosed.
- (4) Information from child abuse reports and investigations which exclude the identity of persons who have made reports and shall not be disclosed.
- (5) Summary of criminal history, criminal offender record, and local criminal history.
- (6) Information pertaining to reports by healthcare providers of persons suffering from physical injuries inflicted by means of a firearm or of persons suffering physical injury where the injury is a result of abusive conduct.
- (7) Information concerning a juvenile court proceeding.
- (8) Information maintained by a family court.
- (9) Information provided by probation officers in the course of the performance of their duties including but not limited to the duty to prepare reports as well as the information on which these reports are based.
- (10) Records of in-home supportive services unless disclosure is prohibited by federal law.

Proposed law further provides that the disclosure of information requested by the review team or a local or regional panel is allowed on a voluntary basis by the requested person, agency, or entity.

Proposed law provides that all information and records obtained by the review team or any local or regional panel or its agent thereof with the provisions of proposed law, as well as any results of any domestic abuse fatality report prepared shall be confidential and shall not be available for subpoena. Nor shall such information be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding or admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

Proposed law provides that no person, agency, or entity that furnishes information to the review team or any local or regional panel or its agent thereof pursuant to proposed law shall be found liable or in violation of a duty of confidentiality provided the person, agency, or entity has acted in good faith.

Proposed law states that no member of the review team or any local or regional panel or agent thereof may disclose any information that is deemed confidential pursuant to proposed law. Further provides that any person who appears before the review team or any local or regional panel or agent thereof, shall sign a confidentiality document stating that any information provided shall be deemed confidential. Any information identifying a victim or person's family members involved in domestic abuse shall not be disclosed in any report that is to be made public. Nothing in proposed law shall prohibit the review team or any

local or regional panel or agent thereof from publishing its findings pursuant to proposed law.

Proposed law states that all information and records obtained during the review process shall be returned to the providing person, agency, or entity who furnished the information or records.

Proposed law provides that the review committee shall report any recommendations on or before January 30, 2023, and every year thereafter to the governor, the speaker of the House of Representatives, and the president of the Senate.

Pursuant to proposed law, the La. Dept. of Health may secure any financial, human resources, or form partnership to perform its duties and obligations outlined in proposed law.

Proposed law states that any information, documents, or records received by the review team or any local or regional panel of the La. Domestic Abuse Fatality Team shall be exempt from the public records law pursuant to present law.

(Amends R.S. 44:4.1(B)(26); Adds R.S. 40:2024.1-2024.7 and R.S. 44:4(59))