

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SENATE BILL 381
RATIFIED BILL**

AN ACT ESTABLISHING A DOMESTIC VIOLENCE FATALITY PREVENTION AND PROTECTION REVIEW TEAM.

Whereas, the General Assembly finds that it is the public policy of this State to prevent domestic violence fatalities; and

Whereas, the General Assembly further finds that the prevention of these fatalities is a community responsibility, and professionals from disparate disciplines have expertise that can promote the safety and well-being of victims of domestic violence; and

Whereas, multidisciplinary reviews of these deaths can lead to a greater understanding of the causes and methods of preventing these deaths; and

Whereas, according to the North Carolina Coalition Against Domestic Violence, there were 81 domestic violence-related homicides in the State in 2008; and

Whereas, according to the Charlotte Mecklenburg Police Department, there were 11 domestic violence-related homicides in Charlotte, North Carolina, in 2008; and

Whereas, the Charlotte Mecklenburg area is a leader throughout the State with its innovative domestic violence programming and services, yet there remains a disconnect when it comes to the rate of domestic violence-related homicides; and

Whereas, there is a need to increase safety of citizens with one strategy mitigating the effect of abuse by increasing the safety of victims of domestic violence, exploring circumstances from a strengths perspective to allow professionals to gain clarity in the continued needs of the community; and

Whereas, precedence has been established in this area as similar statutes are already in existence, such as the North Carolina Child Fatality Prevention System, which outlines the course of action for a statewide disciplinary team to review child fatalities; and

Whereas, establishing a Domestic Violence Fatality Prevention and Protection Review Team will be modeled after the North Carolina Child Fatality Prevention Team, with potential members representing a cross section of community service providers, including health, mental health, social services, law enforcement, courts, school professionals, and other domestic violence service providers; and

Whereas, by creating legislation that protects professionals from confidentiality violations in specific cases where domestic violence-related homicides have occurred, the effectiveness of this project will be increased; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) Domestic Violence Fatality Prevention and Protection Review Team. – A county may establish a multidisciplinary Domestic Violence Fatality Prevention and Protection Review Team to identify and review domestic violence-related deaths, including homicides and suicides, and facilitate communication among the various agencies and organizations involved in domestic violence cases to prevent future fatalities.

SECTION 1.(b) Definitions. – The following definitions apply in this act:

- (1) Domestic violence fatality. – The death of a person, 18 years of age or older, that is the result of an act of domestic violence as defined in G.S. 50B-1.
- (2) Review Team. – The Domestic Violence Fatality Prevention and Protection Review Team.

SECTION 1.(c) Composition. – The Review Team shall consist of a lead agency, Community Support Services of Charlotte, North Carolina, and representatives of public and



nonpublic agencies in the community that provide services to victims or families of domestic violence, including:

- (1) A representative from a domestic violence victim's service group.
- (2) An attorney from the local district attorney's office.
- (3) Local law enforcement personnel.
- (4) A representative from the local medical examiner's office.
- (5) A representative from the local department of social services.
- (6) A representative from the local health department.
- (7) A representative from an area mental health authority.
- (8) A representative from the local public schools.
- (9) A representative from a health care system.
- (10) Local medic or emergency services personnel.
- (11) A survivor of domestic violence.

SECTION 1.(d) Powers and Duties of the Review Team. – The Review Team shall meet at least four times each year. To accomplish the purposes of this act, the Review Team shall:

- (1) Study the incidences and causes of death by domestic violence-related behavior in the community. The study shall include an analysis of all community, private, and public agency involvement with the decedent and family members prior to death.
- (2) Develop a system for multidisciplinary review of domestic violence-related deaths.
- (3) Examine the laws, rules, and policies relating to confidentiality.
- (4) Access information that affects the agencies that provide intervention services to determine whether those laws, rules, and policies inappropriately impede the exchange of information necessary to protect victims of domestic violence and recommend any necessary changes.
- (5) Perform any other studies, evaluations, or determinations the Review Team considers necessary to carry out its mandate.
- (6) Make recommendations for system improvements and needed resources where gaps and deficiencies may exist.
- (7) In addition to any other duties outlined in this act, the lead agency shall develop a written plan outlining standard operating procedures for the following:
 - a. Appointing Review Team members and a chair.
 - b. Establishing other Review Team duties and responsibilities.
 - c. Establishing terms of service for Review Team members.
 - d. Establishing the procedure for filling vacancies.
 - e. Maintaining confidentiality policies consistent with applicable laws.
 - f. Training Review Team members.
 - g. Establishing a meeting schedule.
 - h. Maintaining a record of official meetings, including minutes and those in attendance.
 - i. Establishing a process to initiate case review.
 - j. Reporting annually to the local board of county commissioners and the Governor's Crime Commission.

SECTION 1.(e) Access to Records. – The Review Team, during its existence, shall have access to all medical records, hospital records, and records maintained by the county or any local agency as necessary to carry out the purposes of this act, including police investigations data, medical examiner investigative data, health records, mental health records, and social services records. Any member of the Review Team may share relevant information in an official Review Team meeting only.

Unless the personal representative of the estate of the deceased has been charged with or convicted of a crime in connection with the death of the victim of domestic violence, the Review Team shall notify the personal representative that the records will be reviewed by the Review Team at least 30 days before the records are reviewed. If the estate is closed, the next of kin shall be notified, unless the next of kin was charged or convicted of a crime in connection with the death of the victim.

SECTION 1.(f) Limitation on Access. – Notwithstanding any provision in the law that allows the Review Team to access records, no member of the Review Team shall be authorized to review a domestic violence fatality case while the case is under investigation by any law enforcement agency, or if an action is pending in any criminal or civil court in the State, except as provided in this section. A Review Team member may review and have access to records in a domestic violence fatality case only if:

- (1) A district attorney has given written approval for access due to the completion of the investigation or court proceedings; or
- (2) A district attorney has given written approval for access, stating that access by the Review Team will not have any negative or adverse effects on the investigation or completion of a pending case.

SECTION 1.(g) Confidentiality; Immunity. – All otherwise confidential information and records acquired by the Review Team, during its existence and in the exercise of its duties, shall: (i) be confidential; (ii) not be subject to discovery or introduction into evidence in any proceedings; and (iii) only be disclosed as necessary to carry out the purposes of the Review Team. No member of the Review Team or any person who attends a meeting of the Review Team may testify in any proceeding about what transpired at a particular meeting, information presented at the meeting, or opinions formed by a person as a result of the meeting. This section shall not prohibit a person from testifying in a civil or criminal action about matters within that person's independent knowledge.

Each member of the Review Team and any invited participants shall sign a statement indicating an understanding of and adherence to confidentiality requirements, including the possible civil or criminal consequences of any breach of confidentiality.

Persons disclosing or providing information or records pursuant to this act are not criminally or civilly liable for disclosing or providing the information. Except for possible civil or criminal liability for breach of confidentiality, Review Team members are immune from claims of liability, and confidential information gathered pursuant to this act is not subject to subpoena or discovery.

Access to criminal investigative reports and criminal intelligence information of public law enforcement agencies and confidential information in the possession of the Review Team shall be governed by G.S. 132-1.4. Nothing herein shall be deemed to require the disclosure or release of any information in the possession of a district attorney.

Meetings of the Review Team are not subject to the provisions of Article 33C of Chapter 143 of the General Statutes. However, the Review Team may hold periodic public meetings to discuss, in a general manner not revealing confidential information, the findings of its reviews and its recommendations for preventive actions. Minutes of all public meetings shall be kept in compliance with Article 33C of Chapter 143 of the General Statutes. Any minutes or any other information generated during any closed session of a public meeting shall be sealed from public inspection.

SECTION 2. A Review Team established by a county pursuant to this act shall terminate upon the earlier of its filing its final report, or June 15, 2014.

SECTION 3. Each Review Team established pursuant to this act shall issue an interim report to the local board of county commissioners, the North Carolina Domestic Violence Commission, and the Governor's Crime Commission summarizing its findings and activities by June 15, 2011, and a final report with recommendations for action by June 15, 2014. The reports shall not identify the specific cases or case reviews that led to the individual Review Team's findings and recommendations.

SECTION 4. This act shall not be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act.

SECTION 5. This act applies to Mecklenburg County only.

SECTION 6. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 1st day of June, 2009.

Walter H. Dalton
President of the Senate

Joe Hackney
Speaker of the House of Representatives