

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 982 Session of
2005

INTRODUCED BY ORIE, COSTA, FONTANA, ERICKSON, MUSTO, BOSCOLA,
GORDNER, RAFFERTY, KITCHEN, TARTAGLIONE, RHOADES, WOZNIAK,
C. WILLIAMS AND BROWNE, NOVEMBER 1, 2005

REFERRED TO JUDICIARY, NOVEMBER 1, 2005

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 23 (Domestic
2 Relations) of the Pennsylvania Consolidated Statutes, further
3 providing for the disclosure of certain criminal history
4 record information and certain information related to abuse
5 to the Domestic Violence Fatality Review Board and to any
6 domestic violence fatality review team; establishing the
7 Domestic Violence Fatality Review Program, the Domestic
8 Violence Fatality Review Board and domestic violence fatality
9 review teams and providing for their powers and duties and
10 fixing penalties for certain violations related to the
11 Domestic Violence Fatality Review Program.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Section 9104(d) of Title 18 of the Pennsylvania
15 Consolidated Statutes is amended to read:

16 § 9104. Scope.

17 * * *

18 (d) Certain disclosures authorized.--

19 (1) Nothing in this chapter shall prohibit a criminal
20 justice agency from disclosing an individual's prior criminal
21 activity to an individual or agency if the information
22 disclosed is based on records set forth in subsection (a).

1 (2) Nothing in this chapter shall prohibit a criminal
2 justice agency from disclosing criminal history record
3 information and intelligence information, investigative
4 information, treatment information, including medical and
5 psychological information, caution indicator information,
6 modus operandi information, missing persons information,
7 employment history information, personal history information
8 or presentence investigative information to members of a
9 Domestic Violence Fatality Review Board established under 23
10 Pa.C.S. Ch. 68 (relating to Domestic Violence Fatality Review
11 Program) and authorized under that chapter to investigate and
12 analyze domestic violence-related fatalities.

13 * * *

14 Section 2. Section 9121(b.1) of Title 18 is amended to read:

15 § 9121. General regulations.

16 * * *

17 (b.1) Exception.--Subsection (b)(1) and (2) shall not apply:

18 (1) If the request is made by a county children and
19 youth agency or the Department of Public Welfare in the
20 performance of duties relating to children and youth under
21 the act of June 24, 1937 (P.L.2017, No.396), known as the
22 County Institution District Law, section 2168 of the act of
23 August 9, 1955 (P.L.323, No.130), known as The County Code,
24 the act of June 13, 1967 (P.L.31, No.21), known as the Public
25 Welfare Code, 23 Pa.C.S. Ch. 63 (relating to child protective
26 services) or 42 Pa.C.S. Ch. 63 (relating to juvenile
27 matters).

28 (2) If the request is made by a domestic violence
29 fatality review team or the Domestic Violence Fatality Review
30 Board established under 23 Pa.C.S. Ch. 68 and authorized

1 under that chapter to investigate and analyze domestic
2 violence-related fatalities.

3 * * *

4 Section 3. Section 6340(a) of Title 23 is amended by adding
5 a paragraph to read:

6 § 6340. Release of information in confidential reports.

7 (a) General rule.--Reports specified in section 6339
8 (relating to confidentiality of reports) shall only be made
9 available to:

10 * * *

11 (10.1) Members of a domestic violence fatality review
12 team and members of the Domestic Violence Fatality Review
13 Board established under Ch. 68 (relating to Domestic Violence
14 Fatality Review Program) and authorized under that chapter to
15 investigate and analyze domestic violence-related fatalities.

16 * * *

17 Section 4. Title 23 is amended by adding a chapter to read:

18 CHAPTER 68

19 DOMESTIC VIOLENCE FATALITY REVIEW PROGRAM

20 Sec.

21 6801. Short title of chapter.

22 6802. Definitions.

23 6803. Domestic Violence Fatality Review Program.

24 6804. Domestic violence fatality review teams.

25 6805. Domestic Violence Fatality Review Board.

26 6806. Access to records.

27 6807. Confidentiality.

28 6808. Penalties.

29 § 6801. Short title of chapter.

30 This chapter shall be known and may be cited as the Domestic

1 Violence Fatality Review Act.

2 § 6802. Definitions.

3 The following words and phrases when used in this chapter
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Domestic Violence Fatality Review Board" or "board." A
7 multidisciplinary, Statewide panel that advises domestic
8 violence fatality review teams and recommends Statewide
9 improvements in domestic violence investigation, intervention
10 and prevention efforts.

11 "Domestic violence fatality review team" or "review team." A
12 multidisciplinary team that reviews domestic violence-related
13 fatalities in a local jurisdiction.

14 "Domestic violence-related fatality." A death resulting from
15 or relating to an act of abuse as defined in section 6102
16 (relating to definitions), including the fatality of a victim,
17 perpetrator, family member, partner or bystander.

18 § 6803. Domestic Violence Fatality Review Program.

19 (a) Establishment.--The Office of Attorney General and a
20 domestic violence center as defined in section 2333(e) of the
21 act of April 9, 1929 (P.L.177, No.175), known as The
22 Administrative Code of 1929, shall establish a program to be
23 known as the Domestic Violence Fatality Review Program. This
24 program shall establish a Domestic Violence Fatality Review
25 Board and domestic violence fatality review teams with the
26 purpose of investigating domestic violence-related fatalities
27 and identifying gaps in systemic responses to domestic violence,
28 as well as recommending improvements in domestic violence
29 investigations, interventions and prevention efforts throughout
30 this Commonwealth.

1 (b) Administration.--The Office of Attorney General and a
2 domestic violence center as defined in section 2333(e) of the
3 act of April 9, 1929 (P.L.177, No.175), known as The
4 Administrative Code of 1929, shall coordinate the activities of
5 the board and shall be jointly responsible for the provision of
6 standard protocols, training and technical assistance to review
7 teams.

8 (c) Case selection.--Review teams and the board shall only
9 review domestic violence-related fatalities in which:

10 (1) no criminal charges have been filed against a
11 perpetrator associated with a domestic violence-related
12 fatality and the chief law enforcement officer of the
13 jurisdiction indicates that no criminal charges will be
14 filed; or

15 (2) all criminal legal proceedings associated with a
16 domestic violence-related fatality have been closed.

17 § 6804. Domestic violence fatality review teams.

18 (a) General rule.--It shall be the duty of a domestic
19 violence fatality review team to do all of the following:

20 (1) Gather information regarding the events leading to
21 and facts surrounding incidences of domestic violence-related
22 fatalities.

23 (2) Analyze information gathered regarding domestic
24 violence-related fatalities.

25 (3) Identify trends, patterns and risk factors resulting
26 from domestic violence-related fatality investigations.

27 (4) Examine and assess service delivery related to
28 domestic violence.

29 (5) Provide aggregated fatality review reports to the
30 board pursuant to section 6805 (relating to Domestic Violence

Fatality Review Board).

(b) Protocols.--Review teams shall establish a protocol for the investigation of domestic violence-related fatalities in consultation with the board pursuant to section 6805(b).

(c) Location.--A review team may be established in any jurisdiction or combination of jurisdictions.

(d) Membership.--Membership of a review team may include court personnel, law enforcement, medical professionals, victim advocates and any other individual or entity that the review team deems appropriate for the conduct of the review.

(e) Additional duties.--In furtherance of the purposes of this section, review teams may recommend any or all of the following:

(1) Changes in legislation, regulations, policies, budgets, treatment and service standards that may facilitate the reduction of domestic violence-related fatalities.

(2) Prevention and intervention strategies.

(3) Public awareness strategies.

(4) Strategies for enhanced interagency coordination.

§ 6805. Domestic Violence Fatality Review Board.

(a) Powers and duties.--The Domestic Violence Fatality Review Board shall do all of the following:

(1) Advise and consult with review teams.

(2) Provide education and technical assistance to review teams.

(3) Develop minimum data collection guidelines for review teams.

(4) Receive summary fatality review reports from review teams.

(5) Analyze data from the reports of review teams to

1 identify Statewide trends and patterns associated with
2 domestic violence-related fatalities.

3 (6) Recommend changes to domestic violence prevention,
4 intervention and investigation efforts and monitor the
5 implementation of these recommendations.

6 (7) Prepare an annual report of findings,
7 recommendations and steps taken to implement recommendations
8 subject to the following requirements:

9 (i) The annual report shall not contain information
10 identifying any victim or alleged perpetrator of domestic
11 violence or their family members.

12 (ii) The annual report shall be submitted to the
13 public and the Governor on September 1 of each year and
14 shall be presented at a joint meeting of the Judiciary
15 Committee of the Senate and the Judiciary Committee of
16 the House of Representatives at a public hearing.

17 (b) Membership.--At a minimum, the board shall be comprised
18 of a designee from:

19 (1) The Office of Attorney General.

20 (2) A domestic violence center as defined in section
21 2333(e) of the act of April 9, 1929 (P.L.177, No.175), known
22 as The Administrative Code of 1929, to be chosen by a
23 majority vote of the board from a list of at least three
24 centers provided by the Pennsylvania Coalition Against
25 Domestic Violence.

26 (3) Two local domestic violence programs as defined in
27 section 2333(e) of The Administrative Code of 1929 to be
28 chosen by a majority vote of the board from a list of at
29 least six programs provided by the Pennsylvania Coalition
30 Against Domestic Violence.

(4) The Office of Physician General.

(5) The Office of Victim Advocate.

(6) The Pennsylvania Board of Probation and Parole.

(7) The Pennsylvania State Police.

(8) The Administrative Office of Pennsylvania Courts.

(9) Three community members impacted by domestic violence or a domestic violence-related fatality to be chosen by a majority vote of the board from a list of at least nine community members provided by the Pennsylvania Coalition Against Domestic Violence.

(10) The Pennsylvania Commission on Crime and Delinquency.

(11) An eligible legal services provider as defined in 42 Pa.C.S. section 4903 (relating to definitions).

(12) The State association of sheriffs authorized by the act of June 14, 1923 (P.L.774, No.305), entitled "An act authorizing the sheriffs of the several counties of this Commonwealth to organize themselves into a State Association, for the purpose of holding annual meetings, to secure more uniformity and cooperation in the conduct of their offices, and providing for the payment of certain expenses in connection with such meetings by the various counties."

(13) A rape crisis center, as defined in section 2333(e) of The Administrative Code of 1929, to be selected by a majority vote of the board.

(14) The State association for district attorneys as provided in section 440 of the act of August 9, 1955 (P.L.323, No.130), known as The County Code, to be selected by a majority vote of the board.

(15) Two members of the Senate appointed by the

1 President pro tempore, one from the majority party and one
2 from the minority party.

3 (16) Two members of the House of Representatives
4 appointed by the Speaker, one from the majority party and one
5 from the minority party.

6 (17) Any other person that the board by a majority vote
7 deems appropriate.

8 (c) Initial board organization.--The initial organization of
9 the board shall consist of the designees under subsection
10 (b)(1), (4), (5), (6), (7), (8), (10), (11), (12), (15) and
11 (16). After these members are organized into the board, that
12 board shall act to name designees to the board under subsection
13 (b)(2), (3), (9), (13), (14) and (17). Thereafter the board
14 shall conduct its normal business.

15 § 6806. Access to records.

16 (a) General rule.--Review teams and the board shall have
17 access to and may review the following records to the extent
18 permitted by law or court rule:

19 (1) Guardian ad litem reports, parenting evaluations and
20 victim impact statements.

21 (2) Media accounts.

22 (3) Protection from abuse documents, transcripts,
23 violations and other materials as produced by the courts and
24 law enforcement officials.

25 (4) Criminal history record information.

26 (5) Law enforcement incident documentation from closed
27 cases, such as incident reports, dispatch records, victim,
28 witness and suspect reports.

29 (6) Medical examiners' and coroners' reports.

30 (7) Records of court proceedings.

1 (8) Documents, reports and evaluations prepared in
2 conjunction with court proceedings pursuant to general or
3 local court rules.

4 (9) Probation and parole information.

5 (10) Reports to animal control.

6 (11) Presentence interviews and reports, and any
7 recommendations made regarding bail and release on own
8 recognizance.

9 (12) Investigative reports from the Office of Children,
10 Youth and Families.

11 (13) Statements from witnesses, friends, family and
12 employers of the victim and perpetrator.

13 (14) Any other information determined to be relevant to
14 the review that will not jeopardize an ongoing investigation
15 or prosecution.

16 (b) Court order.--In the event that the custodian of the
17 records, pursuant to subsection (a), refuses a request for
18 records by a review team or the board, the court shall issue an
19 order directing the custodian of the records to comply with the
20 request.

21 (c) Confidentiality of information.--Review teams and the
22 board shall maintain the confidentiality of such information to
23 the extent required by any applicable law.

24 (d) Immunity.--An entity, individual or institution that in
25 good faith provides information or records to a review team or
26 the board is immune from civil or criminal liability that might
27 otherwise be imposed as a result of providing these records or
28 information.

29 § 6807. Confidentiality.

30 (a) Signed confidentiality agreement.--Each member of a

1 review team and the board and any person appearing before them
2 shall be required to sign a confidentiality agreement created by
3 the board in order to maintain the confidentiality of the
4 proceedings.

5 (b) Confidentiality of proceedings, deliberations and
6 opinions.--The proceedings, deliberations and opinions of the
7 review teams and the board and their members are privileged and
8 confidential, except as otherwise provided by this chapter.
9 Information known to or opinions held by members of a review
10 team or the board and any person who presents information to a
11 review team or the board shall not be subject to discovery,
12 subpoena or introduction into evidence in any civil or criminal
13 action, except as otherwise provided in this chapter.

14 (c) Confidentiality of records.--The records of a review
15 team and the board are privileged and confidential, except as
16 otherwise provided by this chapter. Records of a review team and
17 the board shall not be subject to discovery, subpoena or
18 introduction into evidence in any civil or criminal action,
19 except as otherwise provided in this chapter.

20 (1) All records brought to a review team by a person or
21 agency remain the property of that person or agency. These
22 records shall be maintained by the person or agency to which
23 the records belong.

24 (2) All records produced by a review team are the
25 property of that review team. These records, including the
26 names of victims, alleged perpetrators and family members, as
27 well as documents relating to the proceedings, opinions and
28 deliberations of a review team and the board shall be kept
29 confidential and shall not be subject to the provisions of
30 section 2 of the act of June 21, 1957 (P.L.390, No. 212),

referred to as the Right-to-Know Law.

(3) All records produced by the board are the property of the board. These records, including the names of victims, alleged perpetrators and family members, as well as documents relating to the proceedings, opinions and deliberations of a review team or the board shall be kept confidential and shall not be subject to the provisions of section 2 of the Right-to-Know Law.

(4) Release of aggregated statistics, scenarios, annual reports, recommendations and other nonidentifying information by a review team or the board shall not constitute a breach of confidentiality as outlined in this section.

(d) Discovery.--Nothing in this section shall be construed to restrict or limit the right to discover or use in any civil or criminal action any evidence that is discoverable independent of the proceedings of review teams or the board.

(e) Immunity of members.--The board and its members and any review team and its members acting within the scope of this program are immune from all civil liability resulting from an act or omission arising out of and in the course of the board's or the review team's performance of that activity, unless the act or omission was the result of gross negligence, recklessness or intentional misconduct. This section shall not be construed to limit any other immunity provided by statute or common law.

§ 6808. Penalties.

Whoever discloses, makes use of or knowingly permits the use of information concerning a victim or other persons in violation of this chapter commits a summary offense.

Section 5. This act shall take effect July 1, 2006.