AMENDMENTS TO HOUSE BILL NO. 1308

Sponsor: REPRESENTATIVE BONNER

Printer's No. 2316

Amend Bill, page 1, line 5, by striking out "SUICIDE AND OVERDOSE"

Amend Bill, page 1, line 8, by striking out "SUICIDE AND OVERDOSE"

Amend Bill, page 1, line 8, by striking out "TEAM" and inserting

teams

Amend Bill, page 8, lines 9 through 30; pages 9 through 16, lines 1 through 30; page 17, lines 1 through 14; by striking out all of said lines on said pages and inserting

Section 1. Short title.

This act shall be known and may be cited as the Suicide and Overdose Death Review Act.

Section 2. Definitions.

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

"County." A county of the first class, second class, second class A, third class, fourth class, fifth class, sixth class, seventh class and eighth class.

"Death review team." A suicide or overdose death review team established under section 3.

"Deceased individual." An individual who died by suicide or fatal overdose.

"Department." The Department of Health of the Commonwealth.

"Drug." A substance which produces a physiological effect when ingested or introduced into the body. The term includes an illicit or legal substance.

"EMS provider." The term includes the following:

(1) An emergency medical responder.

(2) An emergency medical technician.

(3) An advanced emergency medical technician.
(4) A paramedic.
(5) A prehospital registered nurse.
(6) A prehospital physician extender.
(7) A prehospital EMS physician.
(8) An individual prescribed by regulation of the department to provide specialized EMS.

"Health care provider." A physician, advanced practice nurse practitioner or physician assistant who is licensed to practice medicine in this Commonwealth.

"Hospital." An institution having an organized medical staff established for the purpose of providing to inpatients, by or under the supervision of physicians, diagnostic and therapeutic services for the care of individuals who are injured, disabled, pregnant, diseased, sick or mentally ill or rehabilitation services for the rehabilitation of individuals who are injured, disabled, pregnant, diseased, sick or mentally ill. The term includes facilities for the diagnosis and treatment of disorders within the scope of specific medical specialties.

"Law enforcement agency." The Pennsylvania State Police, a local law enforcement agency or the Office of Attorney General.

"Local department of health." Any of the following:

(1) A local department of health established by a municipality under the act of August 24, 1951 (P.L.1304, No.315), known as the Local Health Administration Law.

(2) A single-county department of health or joint-county department of health established under the Local Health Administration Law.

"Local law enforcement agency." A police department of a city, borough, incorporated town or township.

"Mental health provider." A psychiatrist, psychologist, advanced practice nurse practitioner with a specialty in psychiatric mental health, clinical social worker, professional clinical counselor or marriage and family therapist who is licensed to practice in this Commonwealth.

"Multicounty team." A multidisciplinary and multiagency suicide or overdose death review team jointly created by two or more counties in this Commonwealth.

"Municipality." A county, city, borough, incorporated town or township.

"Overdose." An alcohol or substance overdose.

"Overdose death." A fatality resulting from one or more substances taken in excessive amounts.

"Overdose death review." A process in which a multiagency, multidisciplinary team performs a series of individual overdose death reviews to effectively identify system gaps and innovative community-specific overdose prevention and intervention strategies.

"School." A facility providing elementary, secondary or postsecondary educational services. The term includes the following:

(1) A school of a school district.
(2) An area career and technical school.
(3) A joint school.
(4) An intermediate unit.
(5) A charter school or regional charter school.
(6) A cyber charter school.
(7) A private school licensed under the act of January 28, 1988 (P.L.24, No.11), known as the Private Academic Schools Act.
(8) A private school accredited by an accrediting association approved by the State Board of Education.
(9) A nonpublic school.
(10) An institution of higher education.
(11) A private school licensed under the act of December 15, 1986 (P.L.1585, No.174), known as the Private Licensed Schools Act.
(12) A private residential rehabilitative institution as defined in section 914.1-A(c) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

"Substance use disorder." A pattern of use of alcohol or other drugs leading to clinical or functional impairment.

"Substance use disorder treatment provider." An individual or entity who is licensed, registered or certified within this Commonwealth to treat substance use disorders or who has a drug addiction treatment waiver under section 303(g) of the Controlled Substances Act (Public Law 91-513, 84 Stat. 1236) from the Substance Abuse And Mental Health Services Administration to treat individuals with substance use disorder using medications approved for that indication by the United States Food and Drug Administration.

"Suicide death." A fatality caused by injuring oneself with the intent to die.

Section 3. Suicide or overdose death review teams.

(a) Establishment.--A county, or two or more counties, may establish a suicide death review team, an overdose death review team, or both, for the purposes of collecting and examining information and records concerning suicide or overdose fatalities in this Commonwealth to improve community resources and systems of care to reduce suicide or overdose fatalities. The following shall apply:

(1) A county may establish an independent county death review team or jointly with other counties. If a joint county death review team is established, the multicounty team members shall execute a memorandum of understanding between participating counties regarding team membership, staffing and operations.

(2) Upon the establishment of a death review team, the death review team shall notify the department of the establishment of the team.

(3) A death review team shall be multidisciplinary and culturally diverse and include professionals and

representatives from organizations that provide services or community resources for families in the community served by the death review team.

(b) Membership.--

(1) In counties where there is a local health department, the local health department shall be the lead organization to oversee and coordinate the death review team in a form and manner as prescribed by the department. In counties choosing to establish a death review team, if there is not a local health department, an organization interested in being selected as the lead organization shall submit an application, in a form and manner as prescribed by the department, for review and approval. Prior to submitting an application, a county's commissioners shall approve the submission of an organization as a lead organization.

(2) The lead organization shall select the membership of the death review team. The following shall apply:

(i) Members of the overdose death review team shall be selected from any of the following categories:

(A) A coroner or medical examiner.

(B) A pathologist.

(C) A psychologist licensed under the act of March 23, 1972 (P.L.136, No.52), known as the Professional Psychologists Practice Act.

(D) A physician licensed under the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, or a physician licensed under the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, who practices as a psychiatrist.

(E) A local behavioral health representative.

(F) An individual who is a member of the education community with experience regarding existing and potential overdose prevention efforts for students in primary and secondary schools.

(G) An individual who is a member of the law enforcement community with experience regarding existing and potential overdose prevention efforts for individuals who are involved with the law enforcement system.

(H) A representative of an organization that advocates for individuals with behavioral health issues and their family members.

(I) A representative of an organization that advocates for individuals with substance use disorders and their family members.

(J) A representative from a single county authority.

(K) The county health officer, or the officer's designee, if applicable.

(L) The director of the local office responsible

for human services or the director's designee.

(M) The local district attorney or the district attorney's designee.

(ii) Members of the suicide death review team shall be selected from any of the following categories:

(A) At least three mental health providers specializing in trauma, youth mental health, veteran and military mental health, or other relevant specialty.

(B) A crisis counselor specializing in suicide prevention.

(C) An advocate for the prevention of suicide fatalities.

(D) A medical examiner or coroner responsible for recording fatalities.

(E) A family medicine specialist or other relevant medical specialty.

(F) An individual who is a member of the education community with experience regarding existing and potential suicide prevention efforts for students in primary and secondary schools.

(G) An individual who is a member of the law enforcement community with experience regarding existing and potential suicide prevention efforts for individuals who are involved with the law enforcement system.

(H) The county health officer or the officer's designee, if applicable.

(I) The director of the local office responsible for human services or the director's designee.

(3) In addition to the members selected under paragraph (2), the lead organization may select additional members for a death review team as deemed necessary by the lead organization to administer the death review team's duties under section 4, including individuals with experience and knowledge in the following areas:

(i) Physical health services.

(ii) Social services.

(iii) Law enforcement.

(iv) Education.

(v) Emergency medicine.

(vi) Behavioral health services.

(vii) Juvenile delinquency.

(viii) Adult or juvenile probation.

(ix) Drug and alcohol substance use disorder.

(c) Chair, vacancies and meetings.--A death review team shall select a chair by a majority vote of a quorum of the death review team's members. A majority of a death review team's selected members shall constitute a quorum. The death review team shall meet at least quarterly to conduct business and review qualifying deaths under section 4(b). A vacancy on the

death review team shall be filled in accordance with section 3(b).

Section 4. Duties of death review team.

(a) Authorization.--Upon receipt of a report of a qualifying death under subsection (b), a death review team may perform the following:

(1) Inquire into cause of death upon receipt of a report of a qualifying death.

(2) Conduct a multidisciplinary review of available information collected regarding a deceased individual.

(3) Establish policies and procedures for collecting and reviewing available information and records under section 6 regarding the deceased individual from State, county and local agencies, law enforcement and private entities.

(4) Identify points of contact between the deceased individual and health care systems, social services systems, criminal justice systems and other systems involved with the deceased individual.

(5) Identify the risk factors that put individuals at risk for an overdose or suicide within the death review team's jurisdiction.

(6) Promote cooperation and coordination across State, county and local agencies involved in overdose or suicide investigations.

(7) Recommend improvements in sources of information relating to investigating reported overdose or suicide deaths, including standards for the uniform and consistent reporting of overdose or suicide deaths by law enforcement or other emergency service responders within the death review team's jurisdiction.

(8) Recommend improvements to State laws and local partnerships, policies and practices to prevent overdose and suicide deaths.

(b) Interviews.--If a death review team opts to contact a family member or caregiver of a deceased individual to conduct an interview, the death review team shall develop protocols for initiating the contact and conducting the interview. The protocols shall be based on trauma-informed care principles and shall address all of the following:

(1) The death review team's collection, use and disclosure of information and records from the family member or caregiver.

(2) Providing notice to the family member or caregiver that the interview is voluntary.

(3) Ensuring that information and records attained from the interview is confidential.

(c) Annual report.--A death review team shall prepare and submit to the department an annual report. The team shall publish the annual report on the local department of health's or local government's publicly accessible Internet website for the purpose of evaluations, policy considerations and health care

program enhancements. The annual report shall comply with confidentiality requirements under this act and shall include all of the following information:

(1) A summary of the aggregated, nonindividually identifiable findings of the death review team for the previous year.

(2) Recommendations to improve systems of care and community resources to reduce fatal suicides or overdoses in the death review team's jurisdiction.

(3) Proposed solutions for inadequacies in the systems of care.

(4) Recommendations to improve sources of information regarding the investigation of reported suicides and overdose deaths, including standards for the uniform and consistent reporting of fatal suicides and overdoses by law enforcement or other emergency service responders within the death review team's jurisdiction.

(5) Recommendations for improvements to State laws and local partnerships, policies and practices to prevent suicide and overdose fatalities.

Section 5. Duties of department.

The department, in consultation with State or local government agencies, shall have all of the following duties:

(1) Provide technical assistance to a death review team in conducting suicide and overdose death reviews.

(2) Facilitate communication between death review teams.

(3) Transmit available information to the appropriate death review team regarding a fatal suicide or overdose in the death review team's jurisdiction, including all of the following information:

(i) The deceased individual's age, race, gender, county of residence and county of death.

(ii) The date, manner, cause and specific circumstances of the suicide or overdose death as recorded on the deceased individual's completed death certificate.

(4) Promulgate regulations as necessary to implement this act.

(5) Submit an annual report to the Governor and the General Assembly by September of each year which includes a summary of reports received from local death review teams and recommendations relating to the reduction of risk of death by suicide and overdose.

Section 6. Authority to access records.

To the extent permitted by Federal law, a death review team may access records as follows:

(1) If deemed necessary for its review, the death review team may petition the court for leave to review and inspect all files and records of the court relating to a deceased individual pursuant to a proceeding under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) in accordance with 42 Pa.C.S.

§ 6307 (relating to inspection of court files and records). This paragraph shall not apply to a file and record of the court subject to a child fatality or near fatality review under 23 Pa.C.S. Ch. 63 (relating to child protective services).

(2) Notwithstanding any other provision of law and consistent with the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936) and 42 CFR Pt. 2 (relating to confidentiality of substance use disorder patient records), persons or entities that provide substance use disorder treatment services shall provide to an overdose death review team the records of a deceased individual under review without need for authorization of any person, including the executor, administrator or personal representative of the deceased individual for purposes of review under this act.

(3) Notwithstanding any other provision of law and consistent with the Health Insurance Portability and Accountability Act, the team may review and inspect mental health care service files and records of a deceased individual under review without the need for authorization of any person, including the executor, administrator or personal representative of the deceased individual for purposes of review under this act.

(4) Notwithstanding any other provision of law and consistent with the Health Insurance Portability and Accountability Act, health care facilities and health care providers, pharmacies and mental health care providers shall provide medical records of a deceased individual under review without the need for authorization of any person, including the executor, administrator or personal representative of the deceased individual for purposes of review under this act.

(5) Other records pertaining to the deceased under review for the purposes of this act shall be open to inspection as permitted by law.

Section 7. Requests for records.

(a) Request for information and records by a death review team.--Notwithstanding any other provision of law, the following shall be provided to a death review team on written request of the lead organization or chair of a death review team:

(1) Records regarding the treatment for substance use disorder, maintained by a Federally assisted substance use disorder treatment provider, for a deceased individual under review by a death review team, as permitted to be shared in accordance with Federal law, including 42 CFR Pt. 2 (relating to confidentiality of substance use disorder patient records).

(2) Records regarding the physical health and mental health, maintained by a health care provider, hospital or health system, for a deceased individual under review by a death review team.

(3) Records maintained by a State or local government agency or entity, including death investigative information, medical examiner investigative information, law enforcement investigative information, emergency medical services reports, fire department records, prosecutorial records, parole and probation information and records, court records, school records and information and records of a social services agency, including the Department of Human Services, if the agency or entity previously provided services to the deceased individual under review by a death review team.

(4) The following shall comply with a records request by a death review team made under this subsection:

(i) Coroner or medical examiner.

(ii) Fire department.

(iii) Health system.

(iv) Hospital.

(v) Law enforcement agency.

(vi) State or local governmental agency, including the department, Department of Human Services and the Department of Corrections.

(vii) Mental health provider.

(viii) Health care provider.

(ix) Substance use disorder treatment provider.

(x) School.

(xi) EMS provider.

(xii) Social services provider.

(xiii) Prescription drug monitoring program representative.

(xiv) Any other person or entity who is in possession of records pertinent to the overdose death review team investigation of an overdose death.

(b) Cost to provide records.--A person or entity subject to a records request by a death review team under subsection (a) may charge the death review team a reasonable fee for the service of duplicating any records requested by the death review team for which duplication is required.

(c) Disclosure of substance use disorder records.--The disclosure or redisclosure of a medical record developed in connection with the provision of substance use treatment services, without the authorization of a person in interest, shall be subject to any limitations that exist under section 8 of the act of April 14, 1972 (P.L.221, No.63), known as the Pennsylvania Drug and Alcohol Abuse Control Act, section 543 of the Public Health Service Act (58 Stat. 682, 42 U.S.C. 290dd-2) or 42 CFR Pt. 2.

(d) Provision of information.--Information, if requested by the lead organization or chair of the death review team, shall be provided within five business days of receipt of the written request, excluding weekends and holidays, unless an extension is granted by the lead organization or chair. Written requests may include a request submitted via email or facsimile transmission.

(e) Administrative subpoena.--Notwithstanding any other provision of law, a death review team shall not need an administrative subpoena or other form of legal compulsion to receive requested records under this act. This subsection shall not negate any right the death review team has to obtain an administrative subpoena or other form of legal compulsion.

(f) Sharing of information.--Information received by the lead organization or chair in response to a request under this section may be shared at a death review team meeting in accordance with section 8.

(g) Prohibition.--A record may not be released:

(1) During the pendency of an investigation.

(2) Without the appropriate written consent in accordance with the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936).

(h) Applicability.--This section shall apply to the extent permitted by Federal law.

Section 8. Confidentiality of death review team records and meetings.

(a) Meetings.--A death review team meeting shall be closed to the public and information discussed at the meeting shall be confidential.

(b) Records.--

(1) The proceedings, records and information maintained by and shared with a death review team may not be:

(i) Disclosed under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(ii) Subject to discovery, subpoena or introduction into evidence in a criminal or civil proceeding.

(2) Information presented in or opinions formed as a result of a meeting of a death review team may not be subject to subpoena, discovery or admissible in evidence in a civil or criminal action. Nothing under this subsection shall be construed to prevent a member of a death review team from testifying in a criminal or civil proceeding to information obtained independently of participation in the death review team or to information which is publicly available.

Section 9. Criminal and civil liability protections.

(a) Confidentiality.--An individual not a member of a death review team may, in good faith, provide information to a death review team for the purposes of this act. A member of a death review team may discuss confidential matters during a meeting of the death review team. The following shall apply:

(1) A member of a death review team shall comply with applicable Federal and State laws regarding confidentiality.

(2) Except as provided under subsection (b), a member of a death review team or an individual who, in good faith, provides information to a death review team may not be disciplined, criminally prosecuted or held administratively or civilly liable for complying with the provisions of this

act.

(b) Liability.--The immunity specified under subsection (a)(2) shall not apply to a member of a death review team or an individual providing information to a death review team by invitation who either rediscloses confidential information in a manner not in accordance with Federal or State law, or who discloses confidential information to the death review team with malice, in bad faith or in a negligent manner.

Section 10. Severability.

The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Section 11. Effective date.

This act shall take effect in 30 days.