

1 Introduced by Representative Senator Pollina of Washington County

2 Referred to Committee on

3 Date:

4 Subject: Human services; adult protective services; Vulnerable Adult Fatality

5 Review Team

6 Statement of purpose of bill as introduced: This bill proposes to establish a

7 Vulnerable Adult Fatality Review Team.

8 An act relating to the creation of a Vulnerable Adult Fatality Review Team

9 It is hereby enacted by the General Assembly of the State of Vermont:

10 Sec. 1. 33 V.S.A. chapter 69, subchapter 3 is added to read:

11 Subchapter 3. Vermont Vulnerable Adult Fatality Review Team

12 § 6961. VERMONT VULNERABLE ADULT FATALITY REVIEW TEAM

13 ESTABLISHED

14 (a) Creation. There is created a Vermont Vulnerable Adult Fatality Review

15 Team (Team), within the Office of the Attorney General, for the following

16 purposes:

17 (1) To aggregate and analyze the trends and patterns of abuse and neglect-

18 related fatalities of vulnerable adults in Vermont.

(Proposed Draft 4.16.15)

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1       (2) To educate the public, service providers and policymakers about abuse  
2       and neglect-related fatalities of vulnerable adults and strategies for  
3       intervention.

4       To recommend policies, practices and services to promote interagency  
5       collaboration and to improve systemic responses to abuse and neglect of  
6       vulnerable adults.

7       (b)(1) Membership. The Team shall comprise the following members ~~or~~  
8       their designees:

9               (A) the Attorney General or designee;

10              (B) the Commissioner of the Department of Disabilities, Aging and  
11       Independent Living or designee;

12              (C) the Commissioner of Public Safety or designee;

13              (D) the Chief Medical Examiner or designee;

14              ~~(E) the DAHL Adult Protective Services Program Chief or designee;~~

15              ~~(F) the DAHL State Survey Agency Director or designee;~~

16              (G) the Director of the Vermont Office of Emergency Medical  
17       Services and Injury Prevention or designee;

18              (H) an investigator from the Office of the Chief Medical Examiner,  
19       appointed by the Chief Medical Examiner;

1            (I) an investigator from the Medicaid Fraud and Residential Abuse  
2 Unit of the Office of the Attorney General, appointed by the Attorney General;

3            (J) the State Long-Term Care Ombudsman;

4            (K) a representative of victim services, appointed by the executive  
5 director of the Vermont Center for Crime Victim Services;

6            (L) a local law enforcement officer, appointed by the Governor;

7            (M) a gerontologist or geriatrician, appointed by the Governor; and

8            (N) the Director of Disability Rights Vermont, or designee.

9            ~~(A) the Chief Medical Examiner;~~

10           ~~(B) an investigator from the Office of the Chief Medical Examiner;~~

11           ~~(C) the Director of the Medicaid Fraud and Residential Abuse Unit of~~  
12 ~~the Office of the Attorney General;~~

13           ~~(D) an investigator from the Medicaid Fraud and Residential Abuse~~  
14 ~~Unit of the Office of the Attorney General;~~

15           ~~(E) the State Survey Agency Director in the Department of~~  
16 ~~Disabilities, Aging, and Independent Living (DAIL);~~

17           ~~(F) the DAIL Adult Protective Services Program Chief;~~

18           ~~(G) the State Long-Term Care Ombudsman;~~

19           ~~(H) the Director of the Vermont Office of Emergency Medical~~  
20 ~~Services and Injury Prevention;~~

1 ~~(I) a representative from the Vermont State Police;~~

2 ~~(J) a representative of victim services, appointed by the Attorney~~

3 ~~General;~~

4 ~~(K) a local law enforcement officer, appointed by the Attorney~~

5 ~~General;~~

6 ~~(L) a gerontologist or geriatrician, appointed by the Attorney~~

7 ~~General; and~~

8 ~~(M) two representatives from advocacy groups for persons who are~~

9 ~~elders or who have disabilities, appointed by the Attorney General.~~

10 (2) Additional persons may be invited to assist the Team if the services  
11 of these persons are appropriate to a particular case, and these persons shall be  
12 considered adjunct members of the Team for the duration of the review of the  
13 case.

14 (3) The appointed members of the Team appointed by the Attorney  
15 General shall serve two-year terms, except that two members of the first Team  
16 shall serve one-year terms to ensure that the Attorney General appoints new  
17 members are appointed to the Team each year. Any vacancy on the Team shall  
18 be filled in the same manner as the original appointment. The replacement  
19 member shall serve for the remainder of the unexpired term.

20 (c) Meetings.

1           (1) The Attorney General or designee shall call the first meeting of the  
2           Team to occur on or before September 30, 2015.

3           (2) The Team shall select a chair and vice chair from among its  
4           members at the first meeting, and annually thereafter. The Vice Chair shall  
5           also serve as Secretary.

6           (3) The Team shall meet at such times as may reasonably be necessary  
7           to carry out its duties, but at least once in each calendar quarter.

8           ~~(d) The Team shall have the administrative, technical, and legal assistance~~  
9           ~~of the Office of the Attorney General.~~

10           § 6962. POWERS AND DUTIES; REPORTS

11           (a) The Team shall develop and implement policies to ensure that the  
12           deaths of vulnerable adults in Vermont are analyzed using uniform procedures  
13           established by the Team and ~~modeled on~~ adhere to the American Bar  
14           Association's best practices for fatality review teams.- The Team shall  
15           recognize that vulnerable adults should receive quality care and be treated with  
16           dignity and respect.

17           (b)(1) The Team may review the death of any person who meets the  
18           definition of a vulnerable adult in subdivision 6902(14) of this title and:

19           (A) who was the subject of an adult protective services investigation;

1           (B) whose death came under the jurisdiction of, or was investigated  
2 by, the Office of the Chief Medical Examiner; or

3           (C) whose death was due to abuse or neglect or acts suggesting abuse  
4 or neglect.

5           ~~(2) The Team shall not initiate an adult death review until the conclusion~~  
6 ~~of any law enforcement investigation or criminal prosecution unless the~~  
7 ~~investigating authority requests or approves the review.~~ The Team shall review  
8 fatalities which are not under investigation and fatalities in cases that have  
9 been adjudicated through final judgment~~are postadjudication which have~~  
10 ~~received a final judgment.~~

11           (3) The Team is not required to conduct a review of a specific fatality in  
12 any year, but shall not conduct more than 12 reviews of specific fatalities in  
13 any year. The Team shall establish criteria for selecting specific fatalities for  
14 review to ensure the analysis of fatalities occurring in institutional, home and  
15 community-based settings.

16           (c)(1) Beginning in 2016, the Team shall submit an annual report to the  
17 Governor and the General Assembly on or before October 1 of each year.

18           (2) The annual report shall:

19           (A) summarize the Team's activities for the preceding year;

20           (B) identify any changes to the Team's uniform procedures;

- 1 ~~(C) include any budgetary recommendations developed by the Team;~~  
2 ~~(D) identify any system gaps and risk factors associated with deaths~~  
3 ~~reviewed by the Team;~~  
4 ~~(E) recommend any changes in statute, rule, policy, procedure,~~  
5 ~~training, or service coordination that would decrease the number of preventable~~  
6 ~~deaths in Vermont's vulnerable adult population; and~~  
7 ~~(F) assess the effectiveness of the Team's activities.~~

8 § 6963. CONFIDENTIALITY

- 9 ~~(a) All information obtained or generated by the Team regarding a case~~  
10 ~~review is confidential and exempt from public inspection and copying under~~  
11 ~~the Public Records Act, and shall not be released. The proceedings and records~~  
12 ~~of the Team are confidential and Such information shall not be subject to~~  
13 ~~subpoena or discovery or be admissible in any civil or criminal proceedings;~~  
14 ~~provided, however, that nothing in this subsection shall be construed to limit or~~  
15 ~~restrict the right to discover or use in any civil or criminal proceedings~~  
16 ~~anything that is available from another source and entirely independent of the~~  
17 ~~Team's review. The Team shall not use information, records or data that it~~  
18 ~~obtains or generates for purposes other than those designated by Section 6962.~~

1        (b) The aggregate findings of the Team may be disclosed or published in  
2        statistical form, but shall not identify or allow for the identification of any  
3        person.

4        (c) All information obtained or generated by the Team regarding a case  
5        review is confidential and exempt from public inspection and copying under  
6        the Public Records Act, and shall not be released. Meetings during which  
7        theof the Team reviews a specific death are confidential and shall be exempt  
8        from the Vermont Open Meeting Law, except the Team shall hold an open  
9        meeting to publish its annual report.;

10       (d) Team members and persons attending Team meetings shall not reveal  
11       information, records, discussions, and opinions disclosed during meetings at  
12       which the Team reviews a specific death, and shall execute a sworn statement  
13       to honor the confidentiality of such information, records, discussions, and  
14       opinions.

15       § 6964. ACCESS TO INFORMATION AND RECORDS

16       (a) In any case subject to review by the Team, and upon oral or written  
17       request by the Team, any person who possesses information or records that are  
18       necessary and relevant to Team review shall as soon as practicable provide the  
19       Team with the information and records.



1           (b) Persons disclosing or providing information or records upon the Team’s  
2           request are not criminally or civilly liable for disclosing or providing  
3           information or records in compliance with this section, subject to the  
4           limitations of other State and Federal laws.

5           Sec. 2. SUNSET

6           This act is repealed on July 1, 2020.

7           Sec. 3. EFFECTIVE DATE

8           This act shall take effect on July 1, 2015.