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(Proposed Draft 4.16.15)

Prepared by:

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1 Introduced by 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:

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1 (1) To aggregate and analyze the trends and patterns of abuse and neglect-
2 related fatalities of vulnerable adults in Vermont.

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

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

9 (b)(1) Membership. The Team shall comprise the following members:

10 (A) the Attorney General or designee;

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

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

14 (D) the Chief Medical Examiner or designee;

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

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

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

19 (c) Meetings.

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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

9 § 6962. POWERS AND DUTIES; REPORTS

10 (a) The Team shall develop and implement policies to ensure that the
11 deaths of vulnerable adults in Vermont are analyzed using uniform procedures
12 established by the Team and adhere to the American Bar Association's best
13 practices for fatality review teams.

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

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

17 (B) whose death came under the jurisdiction of, or was investigated

18 by, the Office of the Chief Medical Examiner; or

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1 (C) whose death was due to abuse or neglect or acts suggesting abuse
2 or neglect.

3 (2) The Team shall review fatalities which are not under investigation
4 and fatalities in cases that have been adjudicated through final judgment.

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

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

12 (2) The annual report shall:

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

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

15 (C) identify any system gaps and risk factors associated with deaths
16 reviewed by the Team;

17 (D) recommend any changes in statute, rule, policy, procedure,
18 training, or service coordination that would decrease the number of preventable
19 deaths in Vermont's vulnerable adult population; and

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1 (E) assess the effectiveness of the Team's activities.

2 § 6963. CONFIDENTIALITY

3 (a) The proceedings and records of the Team are confidential and shall not
4 be subject to subpoena or discovery or be admissible in any civil or criminal
5 proceedings; provided, however, that nothing in this subsection shall be
6 construed to limit or restrict the right to discover or use in any civil or criminal
7 proceedings anything that is available from another source and entirely
8 independent of the Team's review. The Team shall not use information,
9 records or data that it obtains or generates for purposes other than those
10 designated by Section 6962.

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

14 (c) All information obtained or generated by the Team regarding a case
15 review is confidential and exempt from public inspection and copying under
16 the Public Records Act, and shall not be released. Meetings of the Team are
17 confidential and shall be exempt from the Vermont Open Meeting Law, except
18 the Team shall hold an open meeting to publish its annual report.

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1 (d) Team members and persons attending Team meetings shall not reveal
2 information, records, discussions, and opinions disclosed during, and shall
3 execute a sworn statement to honor the confidentiality of such information,
4 records, discussions, and opinions.

5 § 6964. ACCESS TO INFORMATION AND RECORDS

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

10 (b) Persons disclosing or providing information or records upon the Team's
11 request are not criminally or civilly liable for disclosing or providing
12 information or records in compliance with this section, subject to the
13 limitations of other State and Federal laws.

14 Sec. 2. SUNSET

15 This act is repealed on July 1, 2020.

16 Sec. 3. EFFECTIVE DATE

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