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H.686

Introduced by Representatives Keefe of Manchester, Brumsted of Shelburne,
Devereux of Mount Holly, Donahue of Northfield, Donovan of
Burlington, Gage of Rutland City, Gamache of Swanton,
Gannon of Wilmington, Lippert of Hinesburg, Noyes of
Wolcott, Pugh of South Burlington, Rosenquist of Georgia, and
Yacovone of Morristown

Referred to Committee on

Date:

Subject: Health; public health; child fatality review

Statement of purpose of bill as introduced: This bill proposes to establish the
Child Fatality Review Team to examine unexpected, unexplained, or
preventable child fatalities in Vermont.

An act relating to establishing the Child Fatality Review Team

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

~~Sec. 1. 18 V.S.A. chapter 30A is added to read:~~

~~CHAPTER 30A. CHILD FATALITY REVIEW TEAM~~

~~§ 1561. CHILD FATALITY REVIEW TEAM~~

~~(a) Creation. There is created the Child Fatality Review Team within the~~

1 Department of Health for the following purposes:

2 (1) to examine cases of child fatality in Vermont in which the fatality is
3 either unexpected, unexplained, or preventable;

4 (2) to identify system gaps and risk factors associated with child
5 fatalities that are either unexpected, unexplained, or preventable;

6 (3) to educate the public, service providers, and policymakers about
7 unexpected, unexplained, or preventable child fatalities and strategies for
8 intervention;

9 (4) to recommend legislation, rules, policies, practices, training, and
10 coordination of services that promote interagency collaboration and prevent
11 future unexpected, unexplained, or preventable child fatalities.

12 (b) Membership.

13 (1) The Team shall comprise the following members:

14 (A) the Chief Medical Examiner or designee;

15 (B) the Commissioner of Health or designee;

16 (C) the Commissioner for Children and Families or designee;

17 (D) the Commissioner of Mental Health or designee;

18 (E) the Commissioner of Corrections or designee;

19 (F) the Commissioner of Public Safety or designee;

20 (G) the Secretary of Education or designee;

21 (H) the Emergency Medical Services Chief in the Vermont

1 Emergency Medical Services Office:

2 (I) the Attorney General or designee;

3 (J) a pediatrician, appointed by the Vermont chapter of the American
4 Academy of Pediatrics;

5 (K) a physician licensed to practice pursuant to 26 V.S.A. chapter 23
6 or 33 who specializes in the practice of child psychiatry, appointed by the
7 Vermont Psychiatric Association;

8 (L) a municipal law enforcement officer, appointed by the Speaker of
9 the House; and

10 (M) any other professional specializing in child abuse or neglect,
11 health, social work, child care, education, or law enforcement and who is
12 appointed by either the Commissioner of Health or for Children and Families.

13 (2)(A) The members of the Team specified in subdivision (1) of this
14 subsection shall serve three-year terms, except that of the members first
15 appointed pursuant to subdivisions (1)(J)–(M) of this subsection, two each
16 shall serve a term of one year and two each shall serve a term of two years.

17 (B) Any vacancy on the Team shall be filled in the same manner as
18 the original appointment. The replacement member shall serve for the
19 remainder of the unexpired term.

20 (c) Meetings.

21 (1) The Team shall meet at such times as may reasonably be necessary.

1 ~~to carry out its duties, but at least once in each calendar quarter.~~

2 (2) The Commissioner of Health or designee shall call the first meeting
3 of the Team to occur on or before September 30, 2018.

4 (3) The Team shall select a chair, vice chair, and secretary from among
5 its members at the first meeting, and biannually thereafter.

6 (d) Access to information and records.

7 (1) In any case under review by the Team, upon written request of the
8 Chair, a person who possesses information or records that are necessary and
9 relevant to a child fatality that is either unexpected, unexplained, or
10 preventable shall, as soon as practicable, provide the Team with the
11 information and records. All reasonable requests for information or records by
12 the Chair shall be provided by the person possessing the information or records
13 to the Team at no cost.

14 (2) A person shall not be held criminally or civilly liable for disclosing
15 or providing information or records to the Team pursuant to this subsection.

16 (3) The Team shall not have access to the proceedings, reports, and
17 records of a peer review committee as defined in 26 V.S.A. § 1441.

18 (e) Limitations.

19 (1) The Team's review process shall not commence until:

20 (A) any criminal prosecution arising out of the child fatality is
21 concluded or the Attorney General and State's Attorney provide written notice

1 ~~to the Team that no criminal charges shall be filed; and~~

2 (B) any investigation by the Department for Children and Families is
3 concluded.

4 (2) The Team's review shall not impose unreasonable burdens on health
5 care providers or educators with regard to the production of information or
6 records. The Team shall seek to obtain information or records generated in the
7 course of an investigation from State agencies or law enforcement officials
8 before making a request to health care providers and educators.

9 (f)(1) Confidentiality. The records produced or acquired by the Team are
10 exempt from public inspection and copying under the Public Records Act and
11 shall be kept confidential. The records of the Team are not subject to
12 subpoena, discovery, or introduction into evidence in a civil or criminal action.
13 Nothing in this section shall be construed to limit or restrict the right to
14 discover or use in any civil or criminal proceedings information or records that
15 are available from another source and entirely outside the Team's review. The
16 Team shall not use the information or records generated during the course of
17 its review for purposes other than those described in this section.

18 (2) The Team's meetings are confidential and shall be exempt from
19 1 V.S.A. chapter 5, subchapter 2 (the Vermont Open Meeting Law).

20 (3) Members of the Team and persons invited to testify before the Team
21 shall not disclose information, records, discussions, and opinions stated in

1 ~~connection to the Team's review. Members of the Team and persons invited to~~
2 ~~testify before the Team shall execute a sworn statement honoring the~~
3 ~~confidentiality of all information, records, discussions, and opinions related to~~
4 ~~the Team's review, which shall be maintained by the Chair.~~

5 (g) Report. Notwithstanding 2 V.S.A. § 20(d), the Commission shall report
6 its conclusions and recommendations to the Governor and General Assembly,
7 as the Team deems necessary, but not less frequently than once per calendar
8 year. The report shall disclose individually identifiable information only to the
9 extent necessary to convey the Commission's conclusions and
10 recommendations, and any such disclosures shall be limited to information
11 already known to the public. The report shall be available to the public
12 through the Department of Health.

13 Sec. 2. EFFECTIVE DATE

14 ~~This act shall take effect on July 1, 2018.~~

Sec. 1. 18 V.S.A. chapter 30A is added to read:

CHAPTER 30A. CHILD FATALITY REVIEW TEAM

§ 1561. CHILD FATALITY REVIEW TEAM

(a) Creation. There is created the Child Fatality Review Team within the
Department of Health for the following purposes:

(1) to examine cases of child fatality in Vermont in which the fatality is
either unexpected, unexplained, or preventable;

(2) to identify system gaps and risk factors associated with child fatalities that are either unexpected, unexplained, or preventable;

(3) to educate the public, service providers, and policymakers about unexpected, unexplained, or preventable child fatalities and strategies for intervention;

(4) to recommend legislation, rules, policies, practices, training, and coordination of services that promote interagency collaboration and prevent future unexpected, unexplained, or preventable child fatalities.

(b) Membership.

(1) The Team shall comprise the following members:

(A) the Chief Medical Examiner or designee;

(B) the Commissioner of Health or designee;

(C) the Commissioner for Children and Families or designee;

(D) the Commissioner of Mental Health or designee;

(E) the Commissioner of Public Safety or designee;

(F) the Secretary of Education or designee;

(G) the Attorney General or designee;

(H) a physician licensed to practice pursuant to 26 V.S.A. chapter 23 or 33 who specializes in the practice of pediatrics, appointed by the Vermont chapter of the American Academy of Pediatrics;

(I) a physician licensed to practice pursuant to 26 V.S.A. chapter 23

or 33 who specializes in the practice of child psychiatry, appointed by the Vermont Psychiatric Association;

(J) a municipal law enforcement officer, appointed by the Vermont Association of Chiefs of Police; and

(K) any other professional specializing in child abuse or neglect, health, social work, child care, education, or law enforcement and who is appointed by the Secretary of Human Services.

(2)(A) The members of the Team specified in subdivision (1) of this subsection shall serve three-year terms, except that of the members first appointed pursuant to subdivisions (1)(H)–(K) of this subsection, two shall serve a term of one year and two shall serve a term of two years.

(B) Any vacancy on the Team shall be filled in the same manner as the original appointment. The replacement member shall serve for the remainder of the unexpired term.

(c) Meetings.

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

(2) The Commissioner of Health or designee shall call the first meeting of the Team to occur on or before September 30, 2018.

(3) The Team shall select a chair and vice chair from among its members at the first meeting, and biannually thereafter.

(d) Assistance. The Team shall have the administrative, technical, and legal assistance of the Department of Health.

(e) Access to information and records.

(1) In any case under review by the Team, upon written request of the Chair, a person who possesses information or records that are necessary and relevant to the review of a child fatality that is either unexpected, unexplained, or preventable shall, as soon as practicable, provide the Team with the information and records. All requests for information or records by the Chair related to a case under review shall be provided by the person possessing the information or records to the Team at no cost.

(2) A person shall not be held criminally or civilly liable for disclosing or providing information or records to the Team pursuant to this subsection.

(3) The Team shall not have access to the proceedings, reports, and records of a peer review committee as defined in 26 V.S.A. § 1441.

(f) Limitations.

(1) The Team's review process shall not commence until:

(A) any criminal prosecution arising out of the child fatality is concluded or the Attorney General and State's Attorney provide written notice to the Team that no criminal charges shall be filed; and

(B) any investigation by the Department for Children and Families is concluded.

(2) The Team shall seek to obtain information or records generated in the course of an investigation from State agencies or law enforcement officials before making a request to health care providers and educators.

(g)(1) Confidentiality. The records produced or acquired by the Team are exempt from public inspection and copying under the Public Records Act and shall be kept confidential. The records of the Team are not subject to subpoena, discovery, or introduction into evidence in a civil or criminal action. Nothing in this section shall be construed to limit or restrict the right to discover or use in any civil or criminal proceedings information or records that are available from another source and entirely outside the Team's review. The Team shall not use the information or records generated during the course of its review for purposes other than those described in this section.

(2) The Team's meetings are confidential and shall be exempt from 1 V.S.A. chapter 5, subchapter 2 (the Vermont Open Meeting Law).

(3) Members of the Team and persons invited to testify before the Team shall not disclose information, records, discussions, and opinions stated in connection to the Team's review. Members of the Team and persons invited to testify before the Team shall execute a sworn statement honoring the confidentiality of all information, records, discussions, and opinions related to the Team's review, which shall be maintained by the Chair.

(h) Report. Notwithstanding 2 V.S.A. § 20(d), the Team shall report its

conclusions and recommendations to the Governor and General Assembly, as the Team deems necessary, but not less frequently than once per calendar year. The report shall disclose individually identifiable information only to the extent necessary to convey the Team's conclusions and recommendations, and any such disclosures shall be limited to information already known to the public. The report shall be available to the public through the Department of Health.

(i) As used in this chapter, "child" means an individual from the time of birth to 18 years of age.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2018.