

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

House Bill 4874

By Delegates Summers and Tully

[Originating the Committee on Health and Human

Resources; Reported on January 18, 2024]

1 A BILL to amend and reenact §61-12A-1, §61-12A-2, §61-12A-3 and §61-12A-4, of the Code of
2 West Virginia, 1931, as amended; and to repeal §61-12A-5 of said code, all relating to
3 fatality and mortality review team; providing team members; updating the authority of
4 review team; removing the study of certain deaths; removing advisory boards; requiring
5 certain reports; and eliminating required reporting and analysis.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12A. FATALITY AND MORTALITY REVIEW TEAM.

§61-12A-1. Fatality and Mortality Review Team.

1 (a) The Fatality and Mortality Review Team is ~~created~~ continued. ~~under the Bureau for~~
2 ~~Public Health~~ The Fatality and Mortality Review Team is a multidisciplinary team created to
3 oversee and coordinate the examination, review and assessment of:

4 ~~(1) The deaths of all persons in West Virginia who die as a result of unintentional~~
5 ~~prescription or pharmaceutical drug overdoses;~~

6 ~~(2) The deaths of children under the age of eighteen years;~~

7 ~~(3) The deaths resulting from suspected domestic violence; and~~

8 ~~(4) The deaths of all infants and all women who die during pregnancy, at the time of birth or~~
9 ~~within one year of the birth of a child~~ and children under 18 years of age;

10 (b) The Fatality and Mortality Review Team shall consist of the following members:

11 (1) ~~The Chief Medical Examiner in the Bureau for Public Health or his or her designee,~~ The
12 state health officer, who is to serve as the chairperson and who is responsible for calling and
13 coordinating meetings of the Fatality and Mortality Review Team; ~~and meetings of any advisory~~
14 ~~panel created by the Fatality and Mortality Review Team~~

15 (2) The Commissioner of the Bureau for Public Health or his or her designee;

16 (3) The Superintendent of the West Virginia State Police or his or her designee; and

17 (4) A prosecuting attorney, as appointed by the ~~Governor~~ Prosecuting Attorneys Institute,
18 who shall serve for a term of three years unless otherwise reappointed. ~~to a second or subsequent~~

19 ~~term.~~ A prosecuting attorney appointed to the team shall continue to serve until his or her term
20 expires or until his or her successor has been appointed.

21 (5) A designee of the Chief Medical Examiner;

22 (6) A designee selected by the Chair of the Minority Health Institute at Marshall University
23 that has an expertise in the causes of the disproportionate high mortality rates of minority births in
24 West Virginia;

25 (7) A designee of the Perinatal Partnership; and

26 (8) Any additional persons may be added on a case-by-case basis when expertise is
27 needed, as determined by the chair. The designee may change based upon the circumstances of
28 each particular case.

29 (c) Each member shall serve without additional compensation and may not be reimbursed
30 for any expenses incurred in the discharge of his or her duties under the provisions of this article.

§61-12A-2. Responsibilities of the Fatality and Mortality Review Team.

1 (a) ~~The Fatality and Mortality Review Team shall: establish the following advisory panels to~~
2 ~~carry out the purposes of this article, including~~

3 ~~(1) An unintentional pharmaceutical drug overdose fatality review panel to examine,~~
4 ~~analyze, and review deaths resulting from unintentional prescription or pharmaceutical drug~~
5 ~~overdose;~~

6 ~~(2) A child fatality review panel to examine, analyze, and review deaths of children under~~
7 ~~the age of 18 years;~~

8 ~~(3) A domestic violence fatality review panel to examine, analyze, and review deaths~~
9 ~~resulting from suspected domestic violence; and~~

10 ~~(4) An infant and maternal mortality review panel to examine, analyze, and review the~~
11 ~~deaths of infants and women who die during pregnancy, at the time of birth, or within one year of~~
12 ~~the birth of a child.~~

13 ~~(b) The members of the Fatality and Mortality Review Team shall serve as members of~~
14 ~~each of the advisory panels established pursuant to this article.~~

15 ~~(c) The Commissioner of the Bureau for Public Health, in consultation with the Fatality and~~
16 ~~Mortality Review Team, shall propose rules for legislative approval in accordance with §29A-3-1 et~~
17 ~~seq. of this code. that the advisory panels shall follow. Those rules shall include, at a minimum:~~

18 ~~(1) The representatives that shall be included on each advisory panel;~~

19 ~~(2) The responsibilities of each of the advisory panels, including but not limited to, each~~
20 ~~advisory panel's responsibility to:~~

21 ~~(A) Review and analyze all deaths as required by this article the deaths of all infants and all~~
22 ~~women who die during pregnancy, at the time of birth or within one year of the birth of a child and~~
23 ~~children under 18 years of age;~~

24 ~~(B) Ascertain and document the trends, patterns, and risk factors; and~~

25 ~~(C) Provide statistical information and analysis regarding the causes of certain fatalities;~~
26 ~~and~~

27 ~~(3) The standard procedures for the conduct of the advisory panels;~~

28 ~~(4) (D) The Establish processes and protocols for the review and analysis of fatalities and~~
29 ~~mortalities of those who were not suffering from mortal diseases shortly before death;~~

30 ~~(5) The processes and protocols to ensure confidentiality of records obtained by the~~
31 ~~advisory panel;~~

32 ~~(6) That the advisory panels must Submit a report to the Fatality and Mortality Review~~
33 ~~Team annually, the date the annual report must be submitted, and the contents of the annual~~
34 ~~report;~~

35 ~~(7) That the advisory panel may include any additional persons with expertise or~~
36 ~~knowledge in a particular field that it determines are needed in the review and consideration of a~~
37 ~~particular case as a result of a death in §61-12A-1(a) of this code.~~

38 ~~(8) That the advisory panel may provide training for state agencies and local~~
39 ~~multidisciplinary teams on the matters examined, reviewed, and analyzed by the advisory panel;~~

40 ~~(9) The advisory panel's responsibility to promote public awareness on the matters~~
41 ~~examined, reviewed, and analyzed by the advisory panel~~

42 ~~(10) (b) Actions the advisory panel team may not take or engage in, including:~~

43 (A) Call witnesses or take testimony from individuals involved in the investigation of a
44 fatality;

45 (B) Contact a family member of the deceased, unless there is a clear public health interest
46 which is approved by a majority vote of the team;

47 (C) Enforce any public health standard or criminal law or otherwise participate in any legal
48 proceeding; or

49 (D) Otherwise take any action which, in the determination of a prosecuting attorney or his
50 or her assistants, impairs the ability of the prosecuting attorney, his or her assistants or any law-
51 enforcement officer to perform his or her statutory duties. ~~and~~

52 ~~(11) Other rules as may be deemed necessary to effectuate the purposes of this article.~~

53 ~~(d) (c) The Fatality and Mortality Review Team shall submit an annual report to the~~
54 ~~Governor, the Office of the Inspector General, and to the Legislative Oversight Commission on~~
55 ~~Health and Human Resources Accountability concerning its activities within the state and the~~
56 ~~activities of the advisory panels. The report is due annually starting on December 1, 2024, and~~
57 ~~shall reflect the previous year's data. The report is to include statistical information concerning~~
58 ~~cases reviewed during the year, trends and patterns concerning these cases and the team's~~
59 ~~recommendations to reduce the number of fatalities and mortalities that occur in the state.~~

60 ~~(e) (d) The Fatality and Mortality Review Team may provide reporting to birth facilities,~~
61 ~~practitioners and government entities to inform internal peer review activities of recommend~~
62 ~~changes to practices or policies. ~~Such~~ The information shall be deemed is confidential and shall~~
63 ~~be used only for peer review purposes.~~

§61-12A-3. Access to information; other agencies of government required to cooperate.

1 (a) Notwithstanding any other provision of this code to the contrary, the Fatality and
2 Mortality Review Team ~~and the advisory panels established by the team pursuant to this article~~
3 may request information and records as necessary to carry out its responsibilities. Records and
4 information that may be requested under this section include:

- 5 (1) Medical, dental, and mental health records;
6 (2) Substance abuse records to the extent allowed by federal law; and
7 (3) Information and records maintained by any state, county and local government agency,
8 except as provided in ~~subsection (c), section two of this article~~ §61-12A-2(b) of this code.

9 (b) State, county, and local government agencies shall provide the Fatality and Mortality
10 Review Team ~~and the advisory panels established by the team~~ with any information requested in
11 writing. ~~by the team or by an advisory panel.~~

§61-12A-4. Confidentiality.

1 (a) Proceedings, records, and opinions of the Fatality and Mortality Review Team ~~and the~~
2 ~~advisory panels established by the team pursuant to this article~~ are confidential and are not
3 subject to discovery, subpoena, or introduction into evidence in any civil or criminal proceeding.
4 This section does not limit or restrict the right to discover or use in any civil or criminal proceeding
5 anything that is available from another credible source and entirely independent of the
6 proceedings of the team. ~~or advisory panels.~~

7 (b) Members of the Fatality and Mortality Review Team ~~and members of the advisory~~
8 ~~panels established by the team~~ may not be questioned in any civil or criminal proceeding
9 regarding information presented in or opinions formed as a result of a meeting of the team. This
10 subsection does not prevent a member of the team ~~or an advisory panel~~ from testifying to
11 information obtained independently of the team ~~or advisory panel~~ which is public information.

12 (c) Proceedings, records, and opinions of the Fatality and Mortality Review Team ~~and the~~
13 ~~advisory panels established by the team~~ are exempt from disclosure under the Freedom of
14 Information Act as provided in ~~chapter 29B of this code.~~ §29B-1-1 et seq. of this code.

15 (d) Notwithstanding any other provisions to the contrary, the Fatality and Mortality Review
16 Team may prepare a data compilation to be shared, on an annual basis or more often as needed,
17 with the Centers for Disease Control and Prevention to study maternal mortality in an effort to
18 reduce mortality rates. No individually identifiable records may be produced.

§61-12A-5. Required reporting and analysis.

1 [Repealed]

NOTE: The purpose of this bill is to update the composition, authority and responsibilities of the Fatality and Mortality Review Team.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.