

Adopted by House 4-9-2013

SB108 HH&HR AM 4-4

The Committee on Health and Human Resources moves to amend the bill, by striking everything after the enacting clause and inserting in lieu thereof the following:

1 “That §48-25A-1, §48-25A-2, and §48-25A-3 of the Code of West
2 Virginia, 1931, as amended, be repealed; that §48-27A-1, §48-27A-2,
3 and §48-27A-3 of said code be repealed; that §49-5D-5 of said code
4 be repealed; that said code be amended by adding thereto a new
5 article, designated §61-12A-1, §61-12A-2, §61-12A-3, §61-12A-4 and
6 §61-12A-5, all to read as follows:

7 **ARTICLE 12A. FATALITY REVIEW TEAM.**

8 **§61-12A-1. Fatality Review Team.**

9 (a) A fatality review team is created under the Office of the
10 Chief Medical Examiner. The fatality review team combines the
11 Maternal Mortality Review Team, the Domestic Violence Fatality
12 Review Team and the Child Fatality Review Team. The fatality
13 review team is a multidisciplinary team created to examine, review
14 and analyze the deaths of all persons in West Virginia who die as
15 a result of unintentional prescription or pharmaceutical drug
16 overdoses; the deaths of children under the age of eighteen years;
17 the deaths resulting from suspected domestic violence; and the
18 deaths of all infants and of all women who die during pregnancy, at
19 the time of birth or within one year of the birth of a child.

20 (b) The fatality review team shall consist of the following:

21 (1) The Chief Medical Examiner in the Bureau for Public Health

1 or his or her designee, who is to serve as the chairperson and who
2 is responsible for calling and coordinating all meetings;

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

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

7 (4) A prosecuting attorney or his or her designee, as
8 appointed by the Governor.

9 (c) Each member serve for a term of three years, unless
10 otherwise reappointed to a second or subsequent term. Members
11 shall continue to serve until their respective terms expire or
12 until their successors have been appointed.

13 (d) Each member shall serve without additional compensation
14 and may not be reimbursed for any expenses incurred in the
15 discharge of his or her duties under the provisions of this
16 article.

17 **§61-12A-2. Responsibilities of the Fatality Review Team.**

18 (a) The Fatality Review Team shall:

19 (1) Review and analyze all deaths as required by this article;

20 (2) Ascertain and document the trends, patterns and risk
21 factors;

22 (3) Provide statistical information and analysis regarding the
23 causes of certain fatalities.

24 (b) During the review process, the team may include any
25 additional persons with expertise or knowledge in a particular
26 field that it determines is needed in the review and consideration

1 of a particular case as a result of a death in subsection (a) of
2 section one.

3 (c) The fatality review team, in the exercise of its duties as
4 defined in this section, may not:

5 (1) Call witnesses or take testimony from individuals involved
6 in the investigation of a fatality;

7 (2) Contact a family member of the deceased;

8 (3) Enforce any public health standard or criminal law or
9 otherwise participate in any legal proceeding; or

10 (4) Otherwise take any action which, in the determination of
11 a prosecuting attorney or his or her assistants, impairs the
12 ability of the prosecuting attorney, his or her assistants or any
13 law-enforcement officer to perform his or her statutory duties.

14 (d) The fatality review team shall submit an annual report to
15 the Governor and to the Legislative Oversight Commission on Health
16 and Human Resources Accountability concerning its activities within
17 the state. The report is due annually on December 1. The report is
18 to include statistical information concerning cases reviewed during
19 the year, trends and patterns concerning these cases and the team's
20 recommendations to reduce the number of unintentional
21 pharmaceutical drug overdose fatalities in the state.

22 **§61-12A-3. Access to information; other agencies of government**
23 **required to cooperate.**

24 (a) Notwithstanding any other provision of this code to the
25 contrary, the fatality review team may request information and
26 records as necessary to carry out its responsibilities. Records

1 and information that may be requested under this section include:

2 (1) Medical, dental and mental health records;

3 (2) Substance abuse records to the extent allowed by federal
4 law; and

5 (3) Information and records maintained by any state, county
6 and local government agency, except as provided in subsection (c),
7 section two of this article.

8 (b) State, county and local government agencies shall provide
9 the fatality review team with any information requested in writing
10 by the team.

11 **§61-12A-4. Confidentiality.**

12 (a) Proceedings, records and opinions of the fatality review
13 team are confidential and are not subject to discovery, subpoena or
14 introduction into evidence in any civil or criminal proceeding.
15 This section does not limit or restrict the right to discover or
16 use in any civil or criminal proceeding anything that is available
17 from another source and entirely independent of the proceedings of
18 the fatality review team.

19 (b) Members of the fatality review team may not be questioned
20 in any civil or criminal proceeding regarding information presented
21 in or opinions formed as a result of a meeting of the team. This
22 subsection does not prevent a member of the fatality review team
23 from testifying to information obtained independently of the team
24 or which is public information.

25 (c) Proceedings, records and opinions of the fatality review
26 team are exempt from disclosure under the Freedom of Information

1 Act, as provided in chapter twenty-nine-b of this code.

2 **§61-12A-5. Rules.**

3 The Office of the Chief Medical Examiner, in consultation with
4 the fatality review team, shall propose rules for legislative
5 approval in accordance with article three, chapter twenty-nine-a of
6 this code. Those rules shall include, at a minimum:

7 (1) The standard procedures for the conduct of the fatality
8 review team;

9 (2) The processes and protocols for the review and analysis of
10 fatalities of those who were not suffering from mortal diseases
11 shortly before death;

12 (3) The processes and protocols to ensure confidentiality of
13 records obtained by the fatality review team; and

14 (4) Other rules as may be deemed necessary to effectuate the
15 purposes of this article.