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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2003

ENROLLED

Committee Substitute for

SENATE BILL NO. 453

(By Senator Hunter, et al)

PASSED March 8, 2003

In Effect ninety days from Passage

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 453

(SENATORS HUNTER, ROWE, MCCABE, UNGER,
OLIVERIO, MINARD, CALDWELL, KESSLER, BOWMAN,
FANNING, BAILEY, LOVE, FACEMYER, ROSS, WEEKS,
SMITH, SHARPE, DEMPSEY, MINEAR, SPROUSE, EDGELL,
PLYMALE, PREZIOSO, HELMICK, CHAFIN, WHITE, JENKINS
AND TOMBLIN, MR. PRESIDENT, *original sponsors*.)

[Passed March 8, 2003; in effect ninety days from passage.]

AN ACT to amend chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-seven-a, relating to establishing the domestic violence fatality review team.

Be it enacted by the Legislature of West Virginia:

That chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twenty-seven-a, to read as follows:

ARTICLE 27A. DOMESTIC VIOLENCE FATALITY REVIEW TEAM.

§48-27A-1. Domestic violence fatality review team.

1 (a) The domestic violence fatality review team is hereby
2 established under the office of the chief medical examiner.
3 The domestic violence fatality review team is a
4 multidisciplinary team created to review the deaths
5 resulting from suspected domestic violence as defined by
6 the provisions of section two hundred four, article twenty-
7 seven of this chapter.

8 (b) The domestic violence fatality review team is to
9 consist of the following members, but not limited to,
10 appointed by the governor to serve three-year terms:

11 (1) The chief medical examiner, who is to serve as the
12 chairperson of the domestic violence fatality review team;

13 (2) Four prosecuting attorneys or their designees;

14 (3) The state superintendent of the West Virginia state
15 police or his or her designee;

16 (4) One county law-enforcement official;

17 (5) One local municipality police officer;

18 (6) One physician, resident or nurse practitioner special-
19 izing in the practice of family medicine or emergency
20 medicine;

21 (7) One physician, resident or nurse practitioner special-
22 izing in the practice of obstetrics and gynecology;

23 (8) One adult protective service worker currently em-
24 ployed in investigating reports of adult abuse or neglect;

25 (9) One social worker who may be employed in medical
26 social work;

27 (10) The commissioner of the office of behavioral health
28 services or his or her designee;

29 (11) The director of the office of social services of the
30 department of health and human resources or his or her
31 designee;

32 (12) One domestic violence advocate from a licensed
33 domestic violence program;

34 (13) A representative of the West Virginia coalition
35 against domestic violence;

36 (14) Director of the state division of corrections or his or
37 her designee; and

38 (15) Director of epidemiology and health promotion or
39 his or her designee.

40 (c) Members of the domestic violence fatality review
41 team shall, unless sooner removed, continue to serve until
42 their respective terms expire and until their successors
43 have been appointed and have qualified.

44 (d) Each appointment of a prosecuting attorney, whether
45 for a full term or to fill a vacancy, is to be made by the
46 governor from among three nominees selected by the West
47 Virginia prosecuting attorneys institute. Each appoint-
48 ment of a county or local municipality law-enforcement
49 officer, whether for a full term or to fill a vacancy, is to be
50 made by the governor from among three nominees selected
51 by the state fraternal order of police or the West Virginia
52 deputy sheriff's association or the West Virginia chiefs of
53 police association. Each appointment of a physician,
54 resident or nurse practitioner, whether for a full term or to
55 fill a vacancy, is to be made by the governor from among
56 three nominees selected by the West Virginia state medical
57 association. Each appointment of an adult protective
58 services worker and a social worker, whether for a full
59 term or to fill a vacancy, is to be made by the governor
60 from among three nominees selected by the West Virginia
61 social work licensing board. Each appointment of a
62 domestic violence advocate is to be made by the governor
63 from among three nominees selected by the West Virginia

64 coalition against domestic violence. When an appointment
65 is for a full term, the nomination is to be submitted to the
66 governor not later than eight months prior to the date on
67 which the appointment is to become effective. In the case
68 of an appointment to fill a vacancy, the nominations are to
69 be submitted to the governor within thirty days after the
70 request for the nomination has been made by the governor
71 to the chairperson or president of the organization. When
72 an association fails to submit to the governor nominations
73 for the appointment in accordance with the requirements
74 of this section, the governor may make the appointment
75 from any nomination provided by the chief medical
76 examiner.

77 (e) Each member of the domestic violence fatality review
78 team shall serve without additional compensation and may
79 not be reimbursed for any expenses incurred in the dis-
80 charge of his or her duties under the provisions of this
81 article.

82 (f) The domestic violence fatality review team shall,
83 pursuant to the provisions of chapter twenty-nine-a of this
84 code, promulgate rules applicable to the following:

85 (1) The standard procedures for the establishment,
86 formation and conduct of the domestic violence fatality
87 review team; and

88 (2) Recommend protocols for the systematic review of
89 domestic violence fatalities where other than natural
90 causes are suspected.

91 (g) The domestic violence fatality review team shall:

92 (1) Review all deaths of victims or suspected victims of
93 domestic violence, including suicides, eighteen years and
94 older, who are residents of this state, in order to identify
95 trends, patterns and risk factors;

96 (2) Provide statistical analysis regarding the causes of
97 domestic violence fatalities in West Virginia;

98 (3) Promote public awareness of the incidence and causes
99 of domestic violence fatalities, including recommendations
100 for their reduction; and

101 (4) Provide training for state agencies.

102 (h) The domestic violence fatality review team shall
103 submit an annual report to the governor and to the Legis-
104 lature concerning its activities and the incidents of domes-
105 tic violence fatalities within the state. The report is due
106 annually in the first day of March. The report is to include
107 statistics setting forth the number of domestic violence
108 fatalities, identifiable trends in domestic violence fatalities
109 in the state, including possible causes, if any, and recom-
110 mendations to reduce the number of preventable domestic
111 violence fatalities in the state.

112 (i) The domestic violence fatality review team, in the
113 exercise of its duties as defined in this section, may not:

114 (1) Call witnesses or take testimony from individuals
115 involved in the investigation of a domestic violence
116 fatality;

117 (2) Contact a family member of the deceased; any
118 member of the team when involved in the investigation of
119 a death in the course of performing his or her duties
120 outside of the team must so notify the team and will be
121 recused from any analysis or other participation or
122 discussion of that death by the domestic violence fatality
123 review team; and

124 (3) Enforce any public health standard or criminal law
125 or otherwise participate in any legal proceeding, except if
126 a member of the team is involved in the investigation of
127 the death or resulting prosecution and must participate in
128 a legal proceeding in the course of performing his or her
129 duties outside of the team.

130 (j) Proceedings, records and opinions of the domestic
131 violence fatality review team are confidential and are not

132 subject to discovery, subpoena or introduction into
133 evidence in any civil or criminal proceeding. Nothing in
134 this subsection is to be construed to limit or restrict the
135 right to discover or use in any civil or criminal proceeding
136 anything that is available from another source and entirely
137 independent of the proceedings of the domestic violence
138 fatality review team.

139 (k) Members of the domestic violence fatality review
140 team may not be questioned in any civil or criminal
141 proceeding regarding information presented in or opinions
142 formed as a result of a meeting of the team. Nothing in
143 this subsection may be construed to prevent a member of
144 the domestic violence fatality review team from testifying
145 to information obtained independently of the team or
146 which is public information.

§48-27A-2. Other agencies of government required to cooperate.

1 State, county and local agencies, hospitals and other
2 health agencies shall provide the domestic violence fatality
3 review team with any information requested in writing by
4 the team as allowable by law or upon receipt of a certified
5 copy of the circuit court's order directing said agencies to
6 release information in its possession relating to the
7 deceased. The team shall assure that all information
8 received and developed in connection with the provisions
9 of this article remain confidential.

**§48-27A-3. Law enforcement; prosecution; interference with
performance of duties.**

1 The domestic violence fatality review team may not take
2 any action which, in the determination of the prosecuting
3 attorney or his or her assistant, impairs the ability of the
4 prosecuting attorney, his or her assistant or any law-
5 enforcement officer to perform his or her statutory duties.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within is approved this the 27th
March Day of March, 2003.
[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 3:20:03

Time 9:40 AM