

**HOUSE SUMMARY OF SENATE AMENDMENTS****HB 452****2021 Regular Session****Davis**

DOMESTIC ABUSE: Creates a domestic violence fatality review team within the Louisiana Department of Health

**Synopsis of Senate Amendments**

1. Changes the Fatality Review "Team" to a "Panel".
2. Expands the definition of "family members" for the purposes of proposed law to include "unborn children".
3. Requires additional information to be reported if the decedent victim is female.
4. Provides that the review panel may request information maintained in the office of vital records.
5. Stipulates that proposed law shall not become effective until funds are available through nongovernmental sources or are specifically appropriated by the legislature.
6. Provides for placement of the review panel within the executive branch of state government.
7. Revises proposed law relative to protection from liability for the furnishing of information, documents, and reports in accordance with proposed law.
8. Makes technical changes.

**Digest of Bill as Finally Passed by Senate**

Proposed law creates the La. Domestic Abuse Fatality Review Panel (review panel), within the La. Dept. of Health.

Proposed law provides for membership of the review panel and those persons who shall serve. Provides that those members shall be the following:

- (1) The state health officer or his designee.
- (2) The secretary of the Louisiana Dept. of Health or his designee.
- (3) The secretary of the Dept. of Children and Family Services or his designee.
- (4) The assistant secretary of the office of behavioral health of the La. Dept. of Health or his designee.
- (5) The director of the bureau of emergency medical services of the La. Dept. of Health or his designee.
- (6) The director of the governor's office on women's policy or his designee.
- (7) The superintendent of state police or his designee.
- (8) The state registrar of vital records in the office of public health or his designee.

- (9) The attorney general or his designee.
- (10) A district attorney or assistant district attorney appointed by the Louisiana District Attorney's Assoc.
- (11) A sheriff appointed by the Louisiana Sheriff's Assoc.
- (12) A police chief appointed by the Louisiana Assoc. of Chiefs of Police.
- (13) A coroner appointed by the president of the Louisiana Coroner's Assoc..
- (14) The executive director of the Louisiana Coalition Against Domestic Violence or his designee.
- (15) The executive director of a community-based domestic violence service organization or his designee.
- (16) The president of the Louisiana Clerks of Court Assoc. or his designee.
- (17) A forensic pathologist certified by the American Board of Pathology and licensed to practice medicine in the state appointed by the La. State Board of Medical Examiners.
- (18) A representative of the La. Protective Order Registry appointed by the judicial administrator of the La. Supreme Court.
- (19) A representative of the legal services program funded by the Legal Services Corp. that regularly provides civil legal representation to survivors of domestic violence.
- (20) A director or his designee of a local supervised visitation or safe exchange center who is professionally trained to identify the unique safety needs of domestic violence victims.

Proposed law allows any additional persons to be appointed to the review panel who have relevant knowledge regarding domestic abuse and would be able to assist the review panel in its duties.

Proposed law provides for the review panel to elect a chairman. Further provides that members who serve on the review panel may appoint a single person to serve as proxy for the duration of the member's term. The proxy may be used when the member is unable to attend a meeting scheduled by the review panel. Proposed law states that the proxy shall not be subject to the nomination and appointment procedures which are outlined in proposed law.

Proposed law provides that the functions of the review panel shall include the following:

- (1) Identify and characterize the scope and nature of domestic abuse fatalities in this state. Require information about whether the decedent was pregnant at the time of death, whether there is medical evidence indicating that the decedent had been recently pregnant at the time of death, and whether the decedent was single, married, or divorced to be reported by the review panel if the decedent victim is female.
- (2) Research and review trends, data, or patterns that are observed surrounding domestic abuse fatalities.
- (3) Review past events and circumstances surrounding domestic abuse fatalities by reviewing records and other pertinent documents of public and private agencies that are responsible for investigating deaths or treating victims.

- (4) Research and revise, as necessary, operating rules and procedures for review of domestic abuse fatalities including but not limited to identification of cases to be reviewed, coordination among agencies and professionals involved, and improvement of the identification, data collection, and record-keeping of the causes of domestic violence fatalities.
- (5) Recommend systemic improvements to promote improved and integrated public and private systems serving victims of domestic abuse.
- (6) Recommend components for prevention and education programs.
- (7) Recommend training to improve the identification and investigation of domestic violence fatalities that occur in La.

Proposed law provides that the review panel may establish local and regional panels to help review data of domestic abuse fatalities across this state. Further provides that the review panel may analyze data through any state system which would be helpful to decrease fatalities of domestic abuse. Also, proposed law allows the review panel to establish relationships with local and regional fatality review panels to accomplish its duties as outlined in proposed law.

Proposed law stipulates that notwithstanding any other provision of present law, the review panel or any local or regional panel formed under the review panel, shall have authority to access medical and vital records in the custody of physicians, hospitals, clinics, or other healthcare providers, and office of public health or any law enforcement agency that may aid in the completion of any domestic abuse fatality and allow the review panel to complete its duties.

Proposed law authorizes the review panel to request from a person, agency, or entity any of the following information:

- (1) Medical information.
- (2) Mental health information.
- (3) Information from elder abuse reports and investigation reports which exclude the identity of persons who have made report, which shall not be disclosed.
- (4) Information from child abuse reports and investigations which exclude the identity of persons who have made reports and shall not be disclosed.
- (5) Summary of criminal history, criminal offender record, and local criminal history.
- (6) Information pertaining to reports by healthcare providers of persons suffering from physical injuries inflicted by means of a firearm or of persons suffering physical injury where the injury is a result of abusive conduct.
- (7) Information concerning a juvenile court proceeding.
- (8) Information maintained by a family court or the office of vital records.
- (9) Information provided by probation officers in the course of the performance of their duties including but not limited to the duty to prepare reports as well as the information on which these reports are based.
- (10) Records of in-home supportive services unless disclosure is prohibited by federal law.

Proposed law further provides that the disclosure of information requested by the review

panel or a local or regional panel is allowed on a voluntary basis by the requested person, agency, or entity.

Proposed law provides that all information and records obtained by the review panel or any local or regional panel or its agent thereof in accordance with the provisions of proposed law, as well as any results of any domestic abuse fatality report prepared shall be confidential and shall not be available for subpoena. Provided that no such information be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding or admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

Proposed law provides that no person, agency, or entity that furnishes information to the review panel or any local or regional panel or its agent thereof pursuant to proposed law shall be found liable or in violation of a duty of confidentiality provided the person, agency, or entity has acted in good faith.

Proposed law states that no member of the review panel or any local or regional panel or agent thereof may disclose any information that is deemed confidential pursuant to proposed law. Further provides that any person who appears before the review panel or any local or regional panel or agent thereof, shall sign a confidentiality document stating that any information provided shall be deemed confidential. Any information identifying a victim or person's family members involved in domestic abuse shall not be disclosed in any report that is to be made public. Nothing in proposed law shall prohibit the review panel or any local or regional panel or agent thereof from publishing its findings pursuant to proposed law.

Proposed law states that all information and records obtained during the review process shall be returned to the providing person, agency, or entity who furnished the information or records.

Proposed law provides that the review committee shall report any recommendations on or before Jan. 30, 2023, and every year thereafter to the governor, the speaker of the House of Representatives, and the president of the Senate.

Proposed law authorizes the La. Dept. of Health to secure financial and human resources from, or create partnerships with, external entities in order to fulfil requirements of proposed law.

Proposed law provides that any information, documents, or records received by the review panel or any local or regional panel of the La. Domestic Abuse Fatality Panel shall be exempt from the public records law.

Proposed law shields any person, agency, or entity furnishing information, documents, or reports in accordance with proposed law from liability for disclosure.

Proposed law stipulates that it shall not become effective unless and until sufficient funding is available through governmental sources and specifically appropriated by the legislature.

(Adds R.S. 36:259(B)(38), R.S. 40:2024.1-2024.7, and R.S. 44:4(59))