

2021 Regular Session

HOUSE BILL NO. 452

BY REPRESENTATIVES DAVIS, BACALA, WILFORD CARTER, COX, GLOVER,
HODGES, HORTON, JEFFERSON, JENKINS, LANDRY, LARVADAIN, AND
WHITE

1 AN ACT

2 To enact R.S. 36:259(B)(38) and Part I-A of Chapter 11 of Title 40 of the Louisiana Revised
3 Statutes of 1950, to be comprised of R.S. 40:2024.1 through 2024.7, and R.S.
4 44:4(59), relative to domestic abuse fatalities; to create the Louisiana Domestic
5 Abuse Fatality Review Panel; to place the review panel within the executive branch
6 of government; to provide definitions; to provide for the membership of the review
7 panel; to authorize functions and duties of the review panel; to create local and
8 regional panels to work within the review panel; to authorize the sharing of
9 information, documents, and records between the review panel or any agency or
10 entity; to provide confidentiality for the use of certain information obtained by the
11 review panel; to provide limitations relative to the use of certain information
12 obtained by the review panel; to provide for the issuance of an annual report; to
13 provide for a public records exception; to provide for an effective date; and to
14 provide for related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 36:259(B)(38) is hereby enacted to read as follows:

17 §259. Transfer of agencies and functions to Louisiana Department of Health

18 * * *

19 B. The following agencies, as defined in R.S. 36:3, are placed within
20 the Louisiana Department of Health and shall perform and exercise their
21 powers, duties, functions, and responsibilities as otherwise provided by law:

22 * * *

1 perpetrator's, or the suicide of a person where there are implications that a person is
2 the victim of domestic abuse prior to his suicide. For the purposes of this Section,
3 "domestic abuse fatality" shall be interpreted broadly to give the Domestic Abuse
4 Fatality Review Panel discretion to review fatalities that have occurred both directly
5 or peripherally to domestic relationships.

6 (5) "Family member" means spouses, former spouses, parents, children,
7 stepchildren, unborn children, foster parents, foster children, other ascendants, and
8 other descendants. "Family member" also means the other parent or foster parent of
9 any child or foster child of the offender.

10 (6) "Household member" means any person presently or formerly living in
11 the same residence with the offender and who is involved or has been involved in a
12 sexual or intimate relationship with the offender, or any child presently or formerly
13 living in the same residence with the offender, or any child of the offender regardless
14 of where the child resides.

15 (7) "Review" means an examination or re-examination of information
16 regarding a deceased person from relevant agencies, professionals, healthcare
17 providers, or other sources.

18 §2024.3. Louisiana Domestic Abuse Fatality Review Panel; membership; chairman;
19 proxies

20 A. The legislature hereby establishes within the Louisiana Department of
21 Health a review panel which shall be designated as the "Louisiana Domestic Abuse
22 Fatality Review Panel", hereinafter referred to in this Part as "review panel". The
23 review panel shall be comprised of the following members:

24 (1) The state health officer or his designee.

25 (2) The secretary of the Louisiana Department of Health or his designee.

26 (3) The secretary of the Department of Children and Family Services or his
27 designee.

1 (4) The assistant secretary of the office of behavioral health of the Louisiana
2 Department of Health or his designee.

3 (5) The director of the bureau of emergency medical services of the
4 Louisiana Department of Health or his designee.

5 (6) The director of the governor's office on women's policy or his designee.

6 (7) The superintendent of state police or his designee.

7 (8) The state registrar of vital records in the office of public health or his
8 designee.

9 (9) The attorney general or his designee.

10 (10) A district attorney or assistant district attorney appointed by the
11 Louisiana District Attorneys Association.

12 (11) A sheriff appointed by the Louisiana Sheriffs' Association.

13 (12) A police chief appointed by the Louisiana Association of Chiefs of
14 Police.

15 (13) A coroner appointed by the president of the Louisiana Coroners
16 Association.

17 (14) The executive director of the Louisiana Coalition Against Domestic
18 Violence or his designee.

19 (15) The executive director of a community-based domestic violence service
20 organization or his designee.

21 (16) The president of the Louisiana Clerks of Court Association or his
22 designee.

23 (17) A forensic pathologist certified by the American Board of Pathology
24 and licensed to practice medicine in the state appointed by the Louisiana State Board
25 of Medical Examiners.

26 (18) A representative of the Louisiana Protective Order Registry appointed
27 by the judicial administrator of the Louisiana Supreme Court.

1 (19) A representative of the legal services program funded by the Legal
2 Services Corporation that regularly provides civil legal representation to survivors
3 of domestic violence.

4 (20) A director or his designee of a local supervised visitation or safe
5 exchange center who is professionally trained to identify the unique safety needs of
6 domestic violence victims.

7 B. Any additional persons may be appointed to the review panel who are
8 determined to have relevant knowledge regarding domestic abuse and would aid the
9 review panel in fulfilling its duties.

10 C. The members of the review panel shall elect a chairman to serve the
11 review panel.

12 D. Notwithstanding the provisions set forth in Subsection A of this Section,
13 each member shall be entitled to appoint a single person to serve as proxy for the
14 duration of his term if the member is unable to attend a meeting of the review panel.
15 The term of the designated proxy shall be the same as the voting member. A
16 member appointing a person to serve as his designated proxy shall make his
17 appointment known to the chairman of the review panel.

18 §2024.4. Functions; duties of the review panel

19 A. The functions of the review panel shall include:

20 (1) Identify and characterize the scope and nature of domestic abuse fatalities
21 in this state and, if the decedent victim is female, report all of the following:

22 (a) Whether the decedent was pregnant at the time of death.

23 (b) Is there medical evidence that indicates that the decedent had been
24 recently pregnant but was no longer pregnant at the time of death.

25 (c) Whether the decedent was single, married, or divorced to the extent such
26 information can be determined.

27 (2) Research and review trends, data, or patterns that are observed of
28 domestic abuse fatalities.

1 (3) Review past events and circumstances of domestic abuse fatalities by
 2 reviewing records and other pertinent documents of public and private agencies that
 3 are responsible for investigating deaths or treating victims.

4 (4) Research and revise, as necessary, operating rules and procedures for
 5 review of domestic abuse fatalities including but not limited to identification of cases
 6 to be reviewed, coordination among agencies and professionals involved, and
 7 improvement of the identification, data collection, and record-keeping of the causes
 8 of domestic violence fatalities.

9 (5) Recommend systemic improvements to promote improved and integrated
 10 public and private systems serving victims of domestic abuse.

11 (6) Recommend components for prevention and education programs.

12 (7) Recommend training to improve the identification and investigation of
 13 domestic violence fatalities that occur in Louisiana.

14 B. The review panel may do all of the following:

15 (1) Establish local and regional panels to which the review panel may
 16 delegate some or all of its responsibilities under this Part.

17 (2) Analyze data available through any state systems that may decrease the
 18 incidence of domestic abuse fatalities in this state.

19 (3) Create formal partnerships with existing local and regional fatality
 20 review panels to accomplish its responsibilities under this Section.

21 §2024.5. Records; confidentiality; prohibited disclosure and discovery

22 A. Notwithstanding any other provision of law to the contrary, the review
 23 panel, or any local or regional panel or agent of a local or regional panel, shall be
 24 authorized to access medical and vital records in the custody of physicians, hospitals,
 25 clinics, other healthcare providers, and the office of public health, and any other
 26 information, documents, or records pertaining to the completed investigation of any
 27 domestic abuse fatality in the custody of any law enforcement agency in order that
 28 it may perform its functions and duties as provided in this Section.

1 B. The review panel, or any local or regional panel or agent of a local or
2 regional panel, may request from a person, agency, or entity any relevant
3 information, whether written or oral, to carry out its functions and duties. This
4 information may include but is not limited to the following:

5 (1) Medical information.

6 (2) Mental health information.

7 (3) Information from elder abuse reports and investigation reports which
8 exclude the identity of persons who have made a report and shall not be disclosed.

9 (4) Information from child abuse reports and investigations which exclude
10 the identity of persons who have made a report and shall not be disclosed.

11 (5) Summary of criminal history, criminal offender record, and local
12 criminal history.

13 (6) Information pertaining to reports by healthcare providers of persons
14 suffering from physical injuries inflicted by means of a firearm or of persons
15 suffering physical injury where the injury is a result of abusive conduct.

16 (7) Information concerning a juvenile court proceeding.

17 (8) Information maintained by a family court or the office of vital records.

18 (9) Information provided by probation officers in the course of the
19 performance of their duties including but not limited to the duty to prepare reports
20 as well as the information on which these reports are based.

21 (10) Records of in-home supportive services unless disclosure is prohibited
22 by federal law.

23 C. The review panel, or any local or regional panel or agent of a local or
24 regional panel, may make a request in writing for the information sought and any
25 person, agency, or entity with information may rely on the request to determine
26 whether information may be disclosed. A person, agency, or entity that has the
27 information and is governed by this Section shall not be required to disclose the
28 information. The intent of this Section is to allow the voluntary disclosure of
29 information by a person, agency, or entity that has the information.

1 D. Except as provided in this Subsection, information and records obtained
2 by the review panel, or any local or regional panel or agent of a local or regional
3 panel, in accordance with the provisions of this Section, or results of any domestic
4 abuse fatality report, shall be confidential and shall not be available for subpoena nor
5 shall the information be disclosed, discoverable, or compelled to be produced in any
6 civil, criminal, administrative, or other proceeding, nor shall the records be deemed
7 admissible as evidence in any civil, criminal, administrative, or other tribunal or
8 court of any reason. Information and records presented to the review panel, or any
9 local or regional panel or agent of a local or regional panel, shall not be immune
10 from subpoena, discovery, or prohibited from being introduced into evidence solely
11 because they were presented to or reviewed by the review panel, or any local or
12 regional panel or agent of a local or regional panel, if the information and records
13 have been obtained from other sources.

14 E. Any person, agency, or entity furnishing information, documents, and
15 reports in accordance with this Section shall not be liable for the disclosure and shall
16 not be considered in violation of any privileged or confidential relationship, if the
17 person, agency, or entity has acted in good faith in the reporting pursuant to this
18 Section.

19 F. A member of the review panel, or any local or regional panel or agent of
20 a local or regional panel, may not disclose any information that is confidential under
21 this Section. A person who appears before, participates in, or provides information
22 to the review panel, or any local or regional panel or agent of a local or regional
23 panel, shall sign a confidentiality notice to acknowledge that any information he
24 provides to the review panel, or any local or regional panel or agent of a local or
25 regional panel, shall be confidential. Information identifying a victim of domestic
26 violence whose case is being reviewed, or that victim's family members, or an
27 alleged or suspected perpetrator of abuse upon the victim, or regarding the
28 involvement of any agency with the victim or victim's family members, shall not be
29 disclosed in any report that is available to the public. Nothing in this Section shall
30 prohibit the publishing by the review panel, or any local or regional panel or agent

1 of a local or regional panel, of statistical compilations relating to domestic abuse
2 fatalities which do not identify a person's case or person's healthcare provider, law
3 enforcement agency, or organization who provides services to victims.

4 G. When the review panel, or any local or regional panel or agent of a local
5 or regional panel, concludes a review of a domestic abuse fatality or other review,
6 it shall return all information and records that concern a victim or the victim's family
7 members to the person, agency, or entity that furnished the information.

8 §2024.6. Reporting to the legislature; requirements

9 The review panel shall issue an annual report of its findings and
10 recommendations to the governor, the speaker of the House of Representatives, and
11 the president of the Senate. The report shall not contain information identifying any
12 victim of domestic abuse or that victim's family members, an alleged or suspected
13 perpetrator of abuse upon a victim, or the involvement of any agency with a victim
14 or the victim's family members. The review panel shall issue its initial report on or
15 before January 30, 2023, and every year thereafter. The report may include any
16 recommendations for legislation that the review panel considers necessary and
17 appropriate.

18 §2024.7. Financial and human resources obligations

19 The Louisiana Department of Health may, at its discretion, secure financial
20 and human resources from, or create formal partnerships with, external entities, in
21 order to meet its obligations as described in this Part.

22 Section 3. R.S. 44:4(59) is hereby enacted to read as follows:

23 §4. Applicability

24 This Chapter shall not apply:

25 * * *

26 (59) To any information, documents, or records received by the Louisiana
27 Domestic Abuse Fatality Panel, or any local or regional panel of the Louisiana
28 Domestic Abuse Fatality Review Panel defined as confidential under the provisions
29 of R.S. 40:2024.5.

1 Section 4. The provisions of this Act shall not become effective unless and until
2 sufficient funds are available through nongovernmental sources or are specifically
3 appropriated by the legislature.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____