

CHAPTER 253
FORMERLY
SENATE BILL NO. 220
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 13, CHAPTER 21 OF THE DELAWARE CODE RELATING TO THE DOMESTIC VIOLENCE COORDINATING COUNCIL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 21, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2104 Meetings; quorum; officers; committees; procedure.

(d) At the initial meeting of the Council a Chairperson and Vice Chairperson shall be elected by the Council members. Thereafter, ~~in December of each year,~~ the Council shall elect a Chairperson and Vice Chairperson biennially, at the first meeting of the calendar year in odd-numbered years, to serve a two year term. The Vice Chairperson's duty shall be to act as chairperson in the absence of the Chairperson.

(g) The Council shall submit a written report of its activities and recommendations to the Governor, General Assembly and the Chief Justice of the Supreme Court at least once every year on or before ~~October~~ September 15.

§ 2105 Fatal and near death incident reviews.

(a)(1) The Council shall have the power to investigate and review, through a review panel, the facts and circumstances of all deaths and near deaths that occur in Delaware as a result of domestic violence. "Near death" means a victim who has suffered life threatening injuries, in serious or critical condition as certified by a physician. ~~Deaths. This review shall~~ include both homicides and suicides resulting from domestic violence.

(2) ~~The~~ Division of Forensic Science shall submit to the Council a monthly report within 30 days of the last day of the previous month, of all the homicides and suicides that occurred in Delaware. The Attorney General, the Department of Services for Children Youth and Their Families, and any other state or local agency with knowledge of a domestic violence-related death or near death incident shall report such incident to the Council within 14 days. ~~Reviews may also include cases where the victim suffered a substantial risk of serious physical injury or death.~~ The review of deaths or near deaths involving criminal investigations will require the authorization of ~~be delayed for at least 6 months, and will under no circumstances begin until authorized by the~~ Attorney General's office.

(3) ~~Any~~ case involving the death of a ~~minor~~ (any child under the age of 18) related to domestic violence will be reviewed jointly by the Child Protection Accountability Commission and the domestic violence fatal incident review panel. The death of a minor will only be reviewed by the domestic violence fatal incident review panel where the minor's parents or guardians were involved in an abusive relationship and the minor's death is directly related to that abuse.

(b) There shall be a Fatal Incident Review Team that shall consist of 3 co-chairs ~~will be co-chaired by 3 members of the Coordinating Council~~ to be elected by the Council. In addition to the co-chairs, the Review Team shall consist of ~~7 other core members:~~

(1) ~~The~~ Attorney General or the Attorney General's designee; ~~the~~

(2) ~~The~~ Chief Defender or the Chief Defender's designee;

(3) ~~The~~ Director of the Division of Family Services or the Director's designee; ~~a victim advocate appointed by the Council, the~~

(4) ~~The~~ President Judge of the Superior Court, or the President Judge's designee;

(5) ~~The~~ Chief Judge of the Family Court or the Chief Judge's designee; ~~the~~

(6) ~~The~~ Chief Magistrate of the Justice of the Peace Courts or the Chief Magistrate's designee; ~~the~~

(7) ~~The~~ Director of the Division of Substance Abuse and Mental Health, or the Director's designee;

(8) ~~The~~ Commissioner of the Department of Correction or the Commissioner's designee;

(9) ~~A~~ and a law-enforcement officer to be appointed by the Delaware ~~Chiefs of Police~~ Chiefs' Council;

(10) A treatment provider from a certified batterers' intervention program appointed by the Council;

(11) Two victim advocates appointed by the Council; and,

(12) A victim of domestic violence appointed by the Council.

All members of the Review Team, plus other individuals invited to participate, shall be considered part of the review panel for a particular case or incident. The Review Team shall invite other law-enforcement personnel to serve and participate as full members of a review panel in any case in which a law-enforcement agency has investigated the death or near death under review or any prior domestic violence incident involving the decedent or near death victim. The Review Team may also invite other relevant persons to serve on an ad-hoc basis and participate as full members of the review panel for a particular review. Such persons may include, but are not limited to, individuals with particular expertise that would be helpful to the review panel, representatives from those organizations or agencies that had contact with or provided services to the individual prior to that individual's own death or near death, that individual's abusive partner or family member and/or the alleged perpetrator of the death or near death.

(g) The Review Team shall establish rules and procedures to govern each review prior to the first review to be conducted. The Review Team shall issue an annual report to the ~~Domestic Violence Coordinating~~ Council summarizing in an aggregate fashion all findings and recommendations made over the year by each review panel and describing any systemic changes that were effectuated as a result of the panels' work. The report shall not identify the specific case or case review that led to such findings and recommendations.

(h) The review process, and any records created therein, shall be exempt from the provisions of the Freedom of Information Act in Chapter 100 of Title 29. The records of any such review, including all original documents and documents produced in the review process with regard to the facts and circumstances of each death or near death, shall be confidential, shall be used by the ~~Coordinating~~ Council only in the exercise of its proper function and shall not be disclosed. The records and proceedings shall not be available through court subpoena and shall not be subject to discovery. No person who participated in the review nor any member of the ~~Domestic Violence Coordinating~~ Council shall be required to make any statement as to what transpired during the review or information collected during the review. Statistical data and recommendations based on the reviews, however, may be released by the ~~Coordinating~~ Council at its discretion.

(i) Members of the Domestic Violence Coordinating Council, members of the Review Team and members of each review panel, as well as their agents or employees, shall be immune from claims and shall not be subject to any suits, liability, damages or any other recourse, civil or criminal, arising from any act, proceeding, decision or determination undertaken or performed or recommendation made, provided such persons acted in good faith and without malice in carrying out their responsibilities; good faith is presumed until proven otherwise, with the complainant bearing the burden of proving malice or a lack of good faith. No organization, institution or person furnishing information, data, testimony, reports or records to the review panels or the ~~Coordinating~~ Council as part of such an investigation shall, by reason of furnishing such information, be liable in damages or subject to any other recourse, civil or criminal.

Approved June 09, 2016