



SPONSOR: Rep. Griffith & Rep. Dorsey Walker &  
Rep. Michael Smith & Sen. Poore & Sen. Lopez &  
Sen. Brown  
Reps. Bolden, Briggs King, Cooke, Hensley, Matthews;  
Sens. Gay, Hansen, Sokola

HOUSE OF REPRESENTATIVES  
151st GENERAL ASSEMBLY

HOUSE BILL NO. 316

AN ACT TO AMEND TITLES 13 AND 16 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:

§ 2102. Composition [For application of this section, see 81 Del. Laws, c. 241, § 2].

The Council shall consist of the following members:

(1) The Chief Judge of the Family Court;

(2) Two members of the House of Representatives (1 from each caucus) appointed by the Speaker of the  
House of Representatives.

(3) Two members of the Senate (1 from each caucus) appointed by the President Pro Tempore of the Senate.

(4) The Attorney General;

(5) The Chief Defender;

(6) The Secretary of the Department of Safety and Homeland Security;

(7) A representative of the law-enforcement community appointed by the Secretary of the Department of  
Safety and Homeland Security;

(8) The President Judge of the Superior Court;

(9) The Commissioner of the Department of Correction;

(10) The Secretary of the Department of Services for Children, Youth and Their Families;

(11) A judicial officer from the Court of Common Pleas to be appointed by the Chief Judge of the Court of  
Common Pleas.

(12) The Chief Magistrate of the Justice of the Peace Court.

(12) (13) Seven members elected by the Council as follows: 1 member representing victims or survivors of domestic violence, 1 member representing victims or survivors of sexual assault, 1 member representing the health care community, and 4 members of the public.

a. The term of the at-large members elected by the Council shall be 3 years. At-large members may be eligible for reelection.

b. In case of a vacancy before the expiration of an at-large member's term, a successor shall be elected by the Council within 60 days of the vacancy.

c. At-large members may be removed by the Council if they do not attend 2 or more consecutive Council meetings.

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

(a) The Council shall meet at least 4 times per year. Seven members shall constitute a quorum.

(b) The Chairperson shall have the duty to convene and preside over meetings of the Council and prepare an agenda for meetings.

(c) The Chief Judge of the Family Court shall convene the initial meeting of the Council.

(d) At the initial meeting of the Council a Chairperson and Vice Chairperson shall be elected by the Council members. Thereafter, 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 2-year term. The Vice Chairperson's duty shall be to act as chairperson in the absence of the Chairperson.

(e) The Council shall establish committees composed of Council members and other knowledgeable individuals, as it deems advisable, to assist in planning, policy, goal and priority recommendations and developing implementation plans to achieve the purposes of the Council.

(f) The Council shall promulgate rules of procedure governing its operations, provided that they are in accordance with Chapters 100 and 101 of Title 29. ~~Members of the Council may appoint a proxy member only in circumstances under which they:~~

~~(1) Will be absent from the State, or~~

~~(2) Become physically disabled,~~

~~for a time period of 3 months or longer.~~

(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 15.

Section 2. Amend Chapter 12, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1212. Disclosure of protected health information.

(d) *Disclosure without informed consent.* — Protected health information may be disclosed without the informed consent of the individual who is the subject of the information where any of the following disclosures are made:

(1) Directly to the individual.

(2) To appropriate federal agencies or authorities as permitted by federal or state law and for law-enforcement purposes in accordance with 45 C.F.R. Parts 160, 162, and 164.

(3) To health-care personnel to the extent necessary in an emergency to protect the health or life of the person who is the subject of the information from serious, imminent harm.

(4) To the public safety authority during a public health emergency in accord with the uses described in § 1211 of this title.

(5) In the course of any judicial or administrative proceeding in accordance with 45 C.F.R. Parts 160, 162, and 164, or pursuant to a court order to avert a clear danger to the individual or the public health.

(6) To the Child Death Review Commission or to the Child Protection Accountability Commission.

(7) To the Division of Health Care Quality in cases where the Division is engaged in an investigation or survey involving the care or treatment of an individual at a facility licensed by the Division, and the individual has been admitted to a hospital from the facility or discharged from a hospital to the facility. The Division of Health Care Quality is an entity charged with helping to safeguard the health and safety of patients. It shall be recognized as a “public health authority” and as a “health oversight agency,” and it shall be recognized in the performance of its functions as a peer review organization or auditor or evaluator with respect to such aspects of health-care delivery systems or providers.

(8) Pursuant to § 2005 of this title.

(9) For research, regardless of the source of funding of the research, provided that the researcher provides documentation that an alteration to or waiver, in whole or in part, of the individual authorization required by subsection (a) of this section for use or disclosure of protected health information has been approved by the applicable privacy board in accordance with HIPAA regulations. Said approval shall not be granted until the Board has determined all of the following:

a. The use or disclosure of protected health information involves no more than a minimal risk to the privacy of individuals, based on, at least, the presence of the following elements:

- 79 1. An adequate plan to protect the identifiers from improper use and disclosure;
- 80 2. An adequate plan to destroy the identifiers at the earliest opportunity consistent with conduct of
- 81 the research, unless there is a health or research justification for retaining the identifiers or such retention is
- 82 otherwise required by law; and
- 83 3. Adequate written assurances that the protected health information will not be reused or disclosed
- 84 to any other person or entity, except as required by law, for authorized oversight of the research study, or for
- 85 other research for which the use or disclosure of protected health information would be permitted by this
- 86 subpart;
- 87 b. The research could not practicably be conducted without the waiver or alteration; and
- 88 c. The research could not practicably be conducted without access to and use of the protected health
- 89 information.

90 (10) For patient treatment and care coordination, defined as the provision, coordination, or management of

91 health-care and related services by 1 or more health-care providers, including the coordination or management of

92 health care by a health-care provider with a third party; consultation between health-care providers relating to a patient;

93 or the referral of a patient for health care from 1 health-care provider to another.

94 (11) To a health plan, health-care clearinghouse, business associate, or health-care provider, as each is defined

95 by 45 C.F.R. Part 160, to use only in accordance with federal law for transactions that transmit information between 2

96 parties to carry out financial or administrative activities related to health care, health-care operations, and health

97 insurance, as set forth in 45 C.F.R Parts 160, 162, and 164.

98 (12) To the Drug Overdose Fatality Review Commission.

99 (13) To the Prescription Monitoring Program.

100 (14) To the Fatal Incident Review Team of the Domestic Violence Coordinating Council. The Fatal Incident

101 Review Team of the Domestic Violence Coordinating Council is an entity charged with investigating and reviewing

102 the facts and circumstances of all deaths and near deaths as a result of domestic violence. It shall be recognized as a

103 “public health authority” and as a “health oversight agency”, and it shall be recognized in the performance of its

104 functions as a peer review organization or auditor or evaluator with respect to any aspect of health-care delivery

105 systems or providers.

106 ~~(14)~~ (15) As permitted by federal law, including regulations.

#### SYNOPSIS

This bill does all of the following relating to the Domestic Violence Coordinating Council. First, it adds the Chief Magistrate of the Justice of the Peace Court to the Domestic Violence Coordinating Council. Second, it removes the

limitations on the use of voting by proxy by members of the Council. These limitations are unnecessary because § 2104(f) provides that the Council promulgate rules of procedure governing its operations so long as they are in accordance with Chapters 100 and 101 of Title 29. Thus, the Council, not the statute, should determine the rules necessary to govern its own operations. Finally, the bill adds the Fatal Incident Review Team of the Domestic Violence Coordinating Council to the list of entities that are entitled to receive protected health information without informed consent. The protected health information at issue is essential for the Fatal Incident Review Team to review. Due to federal law, certain providers are prohibited from providing such information even with a subpoena. However, these providers can provide the protected health information if the statute specifically permits such protected health information to be disclosed without informed consent.