

1 TO THE HONORABLE SENATE:

2 The Committee on Health and Welfare to which was referred Senate Bill
3 No. 40 entitled “An act relating to the creation of a Vulnerable Adult Fatality
4 Review Team” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 Sec. 1. 33 V.S.A. chapter 69, subchapter 3 is added to read:

8 Subchapter 3. Vermont Vulnerable Adult Fatality Review Team

9 § 6961. VERMONT VULNERABLE ADULT FATALITY REVIEW TEAM

10 ESTABLISHED

11 (a) Creation. There is created a Vermont Vulnerable Adult Fatality Review
12 Team (Team) within the Office of the Attorney General for the following
13 purposes:

14 (1) to examine select cases of abuse- and neglect-related fatalities and
15 preventable deaths of vulnerable adults in Vermont;

16 (2) to identify system gaps and risk factors associated with those deaths;

17 (3) to educate the public, service providers, and policymakers about
18 abuse- and neglect-related fatalities and preventable deaths of vulnerable adults
19 and strategies for intervention; and

1 (4) to recommend legislation, rules, policies, procedures, practices,
2 training, and coordination of services to promote interagency collaboration and
3 to improve systemic responses to the abuse and neglect of vulnerable adults.

4 (b)(1) Membership. The Team shall comprise the following members:

5 (A) the Attorney General or designee;

6 (B) the Commissioner of Disabilities, Aging, and Independent Living
7 or designee;

8 (C) the Commissioner of Public Safety or designee;

9 (D) the Chief Medical Examiner or designee;

10 (E) the Assistant Director for Adult Protective Services in the
11 Department of Disabilities, Aging, and Independent Living or designee;

12 (F) the Adult Services Division Director in the Department of
13 Disabilities, Aging, and Independent Living or designee;

14 (G) the Director of the Vermont Office of Emergency Medical
15 Services and Injury Prevention or designee;

16 (H) the State Long-Term Care Ombudsman;

17 (I) a representative of victim services, appointed by the Executive
18 Director of the Vermont Center for Crime Victim Services;

19 (J) the Director of the Center on Aging at the University of Vermont,
20 or a gerontologist or geriatrician appointed by the Director;

21 (K) the Director of Disability Rights Vermont or designee;

1 (L) a hospital representative, appointed by the Vermont Association
2 of Hospitals and Health Systems;

3 (M) a long-term care facility representative, appointed by the
4 Vermont Health Care Association; and

5 (N) a home health agency representative, appointed jointly by the
6 Vermont Association of Home Health Agencies and designated home health
7 agencies that are not members of the Vermont Association of Home Health
8 Agencies.

9 (2) The members of the Team specified in subdivision (1) of this
10 subsection shall serve two-year terms. Any vacancy on the Team shall be
11 filled in the same manner as the original appointment. The replacement
12 member shall serve for the remainder of the unexpired term.

13 (c) Meetings.

14 (1) The Attorney General or designee shall call the first meeting of the
15 Team to occur on or before September 30, 2016.

16 (2) The Team shall select a chair and vice chair from among its
17 members at the first meeting, and annually thereafter. The Vice Chair shall
18 also serve as Secretary.

19 (3) The Team shall meet at such times as may reasonably be necessary
20 to carry out its duties, but at least once in each calendar quarter.

1 § 6962. POWERS AND DUTIES; REPORTS

2 (a) The Team shall develop and implement policies to ensure that the
3 deaths of vulnerable adults in Vermont are reviewed using uniform procedures
4 established by the Team.

5 (b)(1) The Team may review the death of any person who meets the
6 definition of a vulnerable adult in subdivision 6902(14) of this title and:

7 (A) who was the subject of an adult protective services
8 investigation; or

9 (B) whose death came under the jurisdiction of, or was investigated
10 by, the Office of the Chief Medical Examiner.

11 (2) The Team shall not initiate the review of the death of a vulnerable
12 adult until the conclusion of any adult protective services or law enforcement
13 investigation, criminal prosecution, or civil action.

14 (3) The review shall not impose unreasonable burdens on health care
15 providers for production of information, records, or other materials. The Team
16 shall first seek to obtain information, records, and other materials from State
17 agencies or that were generated in the course of an investigation by the Adult
18 Protective Services Division, the Office of the Chief Medical Examiner, or law
19 enforcement.

1 (4) The Team shall establish criteria for selecting specific fatalities for
2 review to ensure the analysis of fatalities occurring in both institutional and
3 home- and community-based settings.

4 (c)(1) Beginning in 2018, the Team shall submit an annual report to the
5 General Assembly on or before January 15.

6 (2) The annual report shall:

7 (A) summarize the Team’s activities for the preceding year;

8 (B) identify any changes to the Team’s uniform procedures;

9 (C) identify system gaps and risk factors associated with deaths
10 reviewed by the Team;

11 (D) recommend changes in statute, rule, policy, procedure, practice,
12 training, or coordination of services that would decrease the number of
13 preventable deaths in Vermont’s vulnerable adult population; and

14 (E) assess the effectiveness of the Team’s activities.

15 § 6963. CONFIDENTIALITY

16 (a) The Team’s proceedings and records are confidential and exempt from
17 public inspection and copying under the Public Records Act, and shall not be
18 released. Such information shall not be subject to subpoena or discovery or be
19 admissible in any civil or criminal proceedings; provided, however, that
20 nothing in this subsection shall be construed to limit or restrict the right to
21 discover or use in any civil or criminal proceedings anything that is available

1 from another source and entirely independent of the Team’s review. The Team
2 shall not use information, records, or data that it obtains or generates for
3 purposes other than those described in this subchapter.

4 (b) The Team’s conclusions and recommendations may be disclosed, but
5 shall not identify or allow for the identification of any person or entity.

6 (c) Meetings of the Team are confidential and shall be exempt from the
7 Vermont Open Meeting Law. The Secretary of the Team shall maintain any
8 records, including meeting minutes, generated by the team.

9 (d) Team members and persons invited to assist the Team shall not reveal
10 information, records, discussions, and opinions disclosed in connection with
11 the Team’s work, and shall execute a sworn statement to honor the
12 confidentiality of such information, records, discussions, and opinions. The
13 Chair of the Team shall be responsible for obtaining and maintaining
14 confidentiality agreements.

15 § 6964. ACCESS TO INFORMATION AND RECORDS

16 (a) In any case subject to review by the Team, and upon written request by
17 the Chair of the Team, any person who possesses information or records that
18 are necessary and relevant to Team review shall as soon as practicable provide
19 the Team with the information and records.

20 (b) The Team shall not have access to the proceedings, reports, and records
21 of peer review committees as defined in 26 V.S.A. § 1441.

1 (c) Persons disclosing or providing information or records upon the Team's
2 request are not criminally or civilly liable for disclosing or providing
3 information or records in compliance with this section.

4 Sec. 2. EFFECTIVE DATE

5 This act shall take effect on July 1, 2016.

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8 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE