

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  
15 and preventable deaths of vulnerable adults in Vermont;

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

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

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

5           **(b)(1) Membership. The Team shall comprise the following members ~~or~~**  
6           **their designees:**

7                   **(A) the Attorney General or designee;**

8                   **(B) the Commissioner of Disabilities, Aging, and Independent**  
9           **Living or designee;**

10                   **(C) the Commissioner of Public Safety or designee;**

11                   **(D) the Chief Medical Examiner;**

12                   **~~(B) an investigator from the Office of the Chief Medical~~**  
13           **Examiner;**

14                   **~~(C) the Director of the Medicaid Fraud and Residential Abuse~~**  
15           **Unit of the Office of the Attorney General;**

16                   **~~(D) an investigator from the Medicaid Fraud and Residential~~**  
17           **Abuse Unit of the Office of the Attorney General;**

18                   **(E) the ~~State Survey Agency Director~~ Assistant Director for Adult**  
19           **Protective Services in the Department of Disabilities, Aging, and Independent**  
20           **Living or designee;**

1            ~~(F) the **DAHL Adult Protective Services Program Chief Adult**~~  
2            ~~**Services Division Director in the Department of Disabilities, Aging, and**~~  
3            ~~**Independent Living or designee;**~~

4            ~~(G) the Director of the Vermont Office of Emergency Medical~~  
5            ~~Services and Injury Prevention or designee;~~

6            ~~(H) the State Long-Term Care Ombudsman;~~

7            ~~**(I) a representative from the Vermont State Police;**~~

8            ~~(I) a representative of victim services, appointed by the **Attorney**~~  
9            ~~**General Executive Director of the Vermont Center for Crime Victim**~~  
10           ~~**Services;**~~

11           ~~**(K) a local law enforcement officer, appointed by the Attorney**~~

12           ~~**General;**~~

13           ~~**(J) the Director of the Center on Aging at the University of**~~  
14           ~~**Vermont, or a gerontologist or geriatrician appointed by the Attorney**~~

15           ~~**General Director; and**~~

16           ~~**(M) two representatives from advocacy groups for persons who**~~  
17           ~~**are elders or who have disabilities, appointed by the Attorney General**~~

18           ~~**(K) the Director of Disability Rights Vermont or designee;**~~

19           ~~**(L) a hospital representative, appointed by the Vermont**~~

20           ~~**Association of Hospitals and Health Systems;**~~

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

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

7            (2) Additional persons may be invited to assist the Team if the  
8            services of these persons are appropriate to a particular case, and these  
9            persons shall be considered adjunct members of the Team for the  
10           duration of the review of the case. The Team may invite additional persons  
11           to provide assistance.

12           (3) The members of the Team appointed by the Attorney General  
13           specified in subdivision (1) of this subsection shall serve two-year terms,  
14           except that two members of the first Team shall serve one-year terms to  
15           ensure that the Attorney General new members are designated to serve  
16           on the Team each year. Any vacancy on the Team shall be filled in the same  
17           manner as the original appointment. The replacement member shall serve for  
18           the remainder of the unexpired term.

19           (c) Meetings.

20           (1) The Attorney General or designee shall call the first meeting of the  
21           Team to occur on or before September 30, 2015 2016.

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

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

6           ~~**(d) The Team shall have the administrative, technical, and legal**~~  
7           ~~**assistance of the Office of the Attorney General.**~~

8           § 6962. POWERS AND DUTIES; REPORTS

9           (a) The Team shall develop and implement policies to ensure that the  
10          deaths of vulnerable adults in Vermont are ~~analyzed~~ reviewed using uniform  
11          procedures established by the Team. ~~The Team shall recognize that~~  
12          ~~**vulnerable adults should receive quality care and be treated with dignity**~~  
13          ~~**and respect.**~~

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

16                 (A) who was the subject of an adult protective services investigation;  
17          ~~or~~

18                 (B) whose death came under the jurisdiction of, or was investigated  
19          by, the Office of the Chief Medical Examiner; ~~or~~

20                 ~~**(C) whose death was due to abuse or neglect or acts suggesting**~~  
21          ~~**abuse or neglect.**~~

1           (2) The Team shall not initiate a **vulnerable adult death** review of the  
2           **death of a vulnerable adult** until the conclusion of any **adult protective**  
3           **services or** law enforcement investigation, criminal prosecution, **or civil**  
4           **action unless the investigating authority requests or approves the review.**

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

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

14           (c)(1) Beginning in ~~2016~~ **2018**, the Team shall submit an annual report to  
15           the ~~Governor and the~~ General Assembly on or before ~~October 1~~ **January 15**  
16           **of each year.**

17           (2) The annual report shall:

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

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

20           (C) identify system gaps and risk factors associated with deaths

21           reviewed by the Team; **and**

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

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

5       § 6963. CONFIDENTIALITY

6           (a) ~~All information obtained or generated by the Team regarding a~~  
7 case review is The Team’s proceedings and records are confidential and  
8 exempt from public inspection and copying under the Public Records Act, and  
9 shall not be released. Such information shall not be subject to subpoena or  
10 discovery or be admissible in any civil or criminal proceedings; provided,  
11 however, that nothing in this subsection shall be construed to limit or restrict  
12 the right to discover or use in any civil or criminal proceedings anything that is  
13 available from another source and entirely independent of the Team’s review.

14 **The Team shall not use information, records, or data that it obtains or**  
15 **generates for purposes other than those described in this subchapter.**

16           (b) The ~~aggregate findings of the Team~~ Team’s conclusions and  
17 recommendations may be disclosed ~~or published in statistical form,~~ but  
18 shall not identify or allow for the identification of any person **or entity.**

19           (c) Meetings ~~during which of the Team reviews a specific death shall be~~  
20 **are confidential and shall be exempt from the Vermont Open Meeting Law.**

1 **The Secretary of the Team shall maintain any records, including meeting**  
2 **minutes, generated by the team.**

3 **(d) Team members and persons attending Team meetings invited to**  
4 **assist the Team shall not reveal information, records, discussions, and**  
5 **opinions disclosed during meetings at which the Team reviews a specific**  
6 **death in connection with the Team’s work, and shall execute a sworn**  
7 **statement to honor the confidentiality of such information, records,**  
8 **discussions, and opinions. The Chair of the Team shall be responsible for**  
9 **obtaining and maintaining confidentiality agreements.**

10 **§ 6964. ACCESS TO INFORMATION AND RECORDS**

11 **(a) In any case subject to review by the Team, and upon oral or written**  
12 **request by the Chair of the Team, any person who possesses information or**  
13 **records that are necessary and relevant to Team review shall as soon as**  
14 **practicable provide the Team with the information and records.**

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

17 **(c) Persons disclosing or providing information or records upon the Team’s**  
18 **request are not criminally or civilly liable for disclosing or providing**  
19 **information or records in compliance with this section.**

20 **Sec. 2. SUNSET**

21 **This act is repealed on July 1, 2020.**

1       Sec. 2. EFFECTIVE DATE

2           This act shall take effect on July 1, ~~2015~~ 2016.

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10       (Committee vote: \_\_\_\_\_)

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Senator \_\_\_\_\_

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FOR THE COMMITTEE