CONFIDENTIAL

LEGISLATIVE BILL REVIEW FORM: 2014

Bill Number:_H761 Name of Bill: Vulnerable Adult Fatality Review Team

Agency/ Dept: DAIL Author of Bill Review: Fran Keeler/Susan Wehry

Date of Bill Review: 2/12/2014 Status of Bill: (check one):

__X___Upon Introduction _____ As passed by 1st body _____As passed by both bodies _____ Fiscal

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Recommended Position:

____Support (note- support based on current language) _____Oppose ___X__Remain Neutral _____Support with modifications identified in #8 below

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Analysis of Bill

1. **Summary of bill and issue it addresses.** The Bill would create a Vulnerable Adult Fatality Review Team that may review the deaths of any vulnerable adult who was the subject of an APS investigation, whose death was investigated by the office of the Chief Medical Examiner (CME) or whose death was due to abuse or neglect. The team would issue an annual report of its activities that would include policy, regulatory, and budgetary recommendations. The Attorney General will call the first meeting and the team would meet at least once a quarter. The Office of the Attorney General would provide administrative, technical, and legal assistance to the team. The APS Chief and the State Survey Agency Director are specific named members of the team. Other members include but are not limited to the State Long Term Care Ombudsman, the Director of the Medicaid Fraud Unit, an investigator from the office of the CME, a member of the Vermont State Police, a geriatrician or a gerontologist, a representative from an advocacy group for persons who are elderly or disabled, and a representative from victim services.

2. **Is there a need for this bill? Has not been demonstrated:**
   - **2.2** There has been no evidence presented to show the statute is needed in Vermont.
   - **2.3** From reviewing the history of Adult Fatality Review Teams, it appears the original purpose of such teams across the nation is to devise a method - independent of criminal and civil proceedings – for review of cases that could lead to systems change/improvement and ultimately prevention of recurrence. There is no data to support that this method leads to that outcome.
   - **2.4** The body of literature that reports on the results of similar teams in other states is limited. However, some benefits have been reported. One article (Sanders, Hensch, and Bengston, 2012) reports on the team in a county in Iowa. The reported outcomes are greater collaboration between providers, greater awareness of the needs of elders in the community, and greater interest in advocacy.
   - **2.5** The 2005 Elder Abuse Fatality Review Team Replication Manual put out by the American Bar Association states that a 2001 Department of Justice Project demonstrated the advantages of such teams as being an increase in the awareness in the community about the seriousness and potential lethality of elder abuse and an encouragement of stakeholders to decide how to set preventative reforms in place. The manual states that such teams send "a message that the premature and/or unexplained death of an older person will be taken just as seriously as that of a younger adult or child" (p.14). The Manual goes on to report that the teams raise the level of sophistication and effectiveness of each system's response, and that the use of data generated by the teams can be used to educate the public about the outcomes of elder abuse. Lastly,

the Manual indicates that, through participation on the teams, team members receive valuable psychological support in dealing with difficult situations.

2.6 The desire to raise awareness, focus attention on elder abuse and provide psychological support is valuable in its own right, but one has to ask if this is the best path toward those ends.

3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?** Based on the current version of the bill, 2 DAIL staff would be required to travel to and attend "at least" quarterly meetings, prepare for the meetings by reading likely complicated files and participate in the creation and review of an annual report. Assuming mileage and a time commitment of at least 10 hour/staff/quarter and a $30 hourly rate the estimated yearly cost to DAIL would be about $2500.

   The real impact on DAIL if these hours were committed to this enterprise is that staff are less available for other activities already outlined in our and AHS' strategic plan, the burgeoning work related to ongoing challenges in the mental health system and the new initiatives regarding dementia care proposed in the SFY15 budget.

   It is unknown if any recommendations that the Review Team might make would have any fiscal or programmatic implications for DAIL, but it is reasonable to expect that they would have both.

4. **What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?**

   The Attorney General's office would incur costs to provide administrative support as well as staff time for the required team participants. The Office of the Chief Medical Examiner (CME) would also have costs for staff participation. A comparable bill in Virginia after which this legislation is fashioned, allocated $90,000 for a position to oversee this team. (In Virginia however, the position was located with Adult Protective Services in an Agency similar to DAIL). It is likely this team would need a similar level of support and it is unknown if the AG's office has the staffing or funding for such a position. It is unknown if either the AG's office or the CME feel there is sufficient need for this team to warrant the necessary allocation of resources.

5. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** (f*or example, public, municipalities, organizations, business, regulated entities, etc)*

The office of the State Long Term Care Ombudsman would have staff time costs. The State Long term Care Ombudsman has advocated for this bill so it seems she has concluded the benefits of participation outweigh the costs. Hospitals, nursing homes and other health care entities would likely incur additional expenses in preparing the documentation for this group to review. They are likely to raise questions about the need and the reimbursement for such activities.

6. **Other Stakeholders:**

   6.1 Who else is likely to support the proposal and why? Advocacy groups such as Vermont Legal Aid, Disability Rights Vermont, COVE will likely support this proposal because of the potential for raised awareness of abuse of Vulnerable Adult Vermonters. Vulnerable Adult Vermonters may also believe such a team would provide greater protections to them.

   6.2 Who else is likely to oppose the proposal and why?

Care providers (hospitals, nursing homes, home and community based settings) may have concerns about the adequacy of protections from liability.

7. **Rationale for recommendation:** The annual monetary cost to DAIL would likely be minimal; given our limited staff resources however, it is not clear that we can afford to divert our resources to this activity. There has been no clear need established and the desired outcomes have not been demonstrated in other states. We are stopping short of strong opposition to this bill however largely because it could be used to cast the Department in a negative light. DAIL staff participated on the work group that developed the concept and provided technical assistance to it. If the Attorney General's Office and Chief Medical Examiner have evidence of a need for this bill which they have not yet shared, DAIL is certainly willing to participate on a team that may positively impact the problem of abuse and neglect of vulnerable Vermont Adults.

8. **Specific modifications that would be needed to recommend support of this bill***:*

More research needs to be done to determine if such a team is needed, and if there is a need, a clearer articulation of outcomes and the additional administrative support for achieving them would be needed before DAIL could support it.

Sanders, S., Hensch, M., & Bengston, K. (2012, May). Community collaborations between the Medical Examiner's Office and gerontological service providers: implementation of an Older Adult Death Review Team. *Health and Social Work*, *37*(2), 123-127.

Stiegel, L. (2005). *Elder Abuse Fatality Review Teams a replication manual*. Washington, DC: The American Bar Association.