

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5280**

A bill to amend 1978 PA 389, entitled

"An act to provide for the prevention and treatment of domestic violence; to develop and establish policies, procedures, and standards for providing domestic violence assistance programs and services; to create a domestic violence prevention and treatment board and prescribe its powers and duties; to establish a domestic violence prevention and treatment fund and provide for its use; and to prescribe powers and duties of the family independence agency,"

(MCL 400.1501 to 400.1510) by amending the title and by adding section 11.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

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An act to provide for the prevention and treatment of domes-

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tic violence; to develop and establish policies, procedures, and

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1 domestic violence prevention and treatment fund and provide for
2 its use; ~~and~~ to prescribe powers and duties of the family inde-
3 pendence agency; TO PRESCRIBE IMMUNITIES AND LIABILITIES OF CER-
4 TAIN PERSONS AND OFFICIALS; AND TO PRESCRIBE PENALTIES FOR VIOLA-
5 TIONS OF THIS ACT.

6 SEC. 11. (1) THE STATE OR A COUNTY MAY ESTABLISH AN INTER-
7 AGENCY DOMESTIC VIOLENCE FATALITY REVIEW TEAM. TWO OR MORE COUN-
8 TIES MAY ESTABLISH A SINGLE DOMESTIC VIOLENCE FATALITY REVIEW
9 TEAM FOR THOSE COUNTIES. THE PURPOSE OF A TEAM IS TO LEARN HOW
10 TO PREVENT DOMESTIC VIOLENCE HOMICIDES AND SUICIDES BY IMPROVING
11 THE RESPONSE OF INDIVIDUALS AND AGENCIES TO DOMESTIC VIOLENCE.
12 SUBJECT TO THE REQUIREMENTS OF THIS SECTION, EACH TEAM MAY DETER-
13 MINE ITS STRUCTURE AND SPECIFIC ACTIVITIES.

14 (2) THE FATALITY REVIEW TEAMS MAY REVIEW FATAL AND
15 NEAR-FATAL INCIDENTS OF DOMESTIC VIOLENCE, INCLUDING SUICIDES.
16 THE REVIEW OF A DOMESTIC VIOLENCE INCIDENT MAY INCLUDE A REVIEW
17 OF EVENTS LEADING UP TO THE DOMESTIC VIOLENCE INCIDENT, AVAILABLE
18 COMMUNITY RESOURCES, CURRENT LAWS AND POLICIES, ACTIONS TAKEN BY
19 THE AGENCIES AND INDIVIDUALS RELATED TO THE INCIDENT AND THE PAR-
20 TIES, AND ANY OTHER INFORMATION CONSIDERED RELEVANT BY THE TEAM.
21 THE TEAM MAY DETERMINE THE NUMBER AND TYPE OF INCIDENTS IT WISHES
22 TO REVIEW AND SHALL MAKE POLICY AND OTHER RECOMMENDATIONS AS TO
23 HOW INCIDENTS OF DOMESTIC VIOLENCE MAY BE PREVENTED.

24 (3) A FATALITY REVIEW TEAM AND ITS MEMBERS ARE ENTITLED TO
25 THE PROTECTIONS GRANTED UNDER THIS SECTION IF THE FATALITY REVIEW
26 TEAM IS CONVENED UNDER THIS SECTION AND IN COMPLIANCE WITH THE
27 REQUIREMENTS OF THIS SECTION.

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1 (4) A FATALITY REVIEW TEAM ESTABLISHED UNDER THIS SECTION
2 SHALL INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING:

3 (A) AN INDIVIDUAL TRAINED IN FORENSIC PATHOLOGY.

4 (B) A HEALTH CARE PROFESSIONAL WITH TRAINING AND EXPERIENCE
5 IN RESPONDING TO DOMESTIC VIOLENCE.

6 (C) A MEDICAL EXAMINER.

7 (D) A PROSECUTING ATTORNEY OR A DESIGNATED ASSISTANT PROSE-
8 CUTING ATTORNEY.

9 (E) A REPRESENTATIVE OF A DOMESTIC VIOLENCE SHELTER THAT
10 RECEIVES FUNDING FROM THE MICHIGAN DOMESTIC VIOLENCE PREVENTION
11 AND TREATMENT BOARD.

12 (F) A LAW ENFORCEMENT OFFICER.

13 (5) IF A STATE FATALITY REVIEW TEAM IS CONVENED, THE STATE
14 FATALITY REVIEW TEAM SHALL BE CONVENED BY THE MICHIGAN DOMESTIC
15 VIOLENCE PREVENTION AND TREATMENT BOARD.

16 (6) SUBJECT TO SUBSECTION (9), INFORMATION OBTAINED OR CRE-
17 ATED BY A FATALITY REVIEW TEAM IS CONFIDENTIAL AND NOT SUBJECT TO
18 CIVIL DISCOVERY OR THE FREEDOM OF INFORMATION ACT, 1976 PA 442,
19 MCL 15.231 TO 15.246. DOCUMENTS CREATED BY THE FATALITY REVIEW
20 TEAM ARE NOT SUBJECT TO SUBPOENA, EXCEPT THAT DOCUMENTS AND
21 RECORDS OTHERWISE AVAILABLE FROM OTHER SOURCES ARE NOT EXEMPT
22 FROM SUBPOENA, DISCOVERY, OR INTRODUCTION INTO EVIDENCE FROM
23 OTHER SOURCES SOLELY BECAUSE THEY WERE PRESENTED TO OR REVIEWED
24 BY A FATALITY REVIEW TEAM. INFORMATION RELEVANT TO THE INVESTI-
25 GATION OF A CRIME MAY BE DISCLOSED BY A FATALITY REVIEW TEAM ONLY
26 TO THE PROSECUTING ATTORNEY OR TO A LAW ENFORCEMENT AGENCY.
27 INFORMATION REQUIRED TO BE REPORTED UNDER THE CHILD PROTECTION

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1 LAW, 1975 PA 238, MCL 722.621 TO 722.638, SHALL BE DISCLOSED BY A
2 FATALITY REVIEW TEAM TO THE FAMILY INDEPENDENCE AGENCY. A PROSE-
3 CUTING ATTORNEY, A LAW ENFORCEMENT AGENCY, AND THE FAMILY INDE-
4 PENDENCE AGENCY MAY USE INFORMATION RECEIVED UNDER THIS SUBSEC-
5 TION IN CARRYING OUT THEIR LAWFUL RESPONSIBILITIES.

6 (7) AN INDIVIDUAL WHO APPEARS BEFORE OR PARTICIPATES IN A
7 FATALITY REVIEW TEAM SHALL SIGN A CONFIDENTIALITY AGREEMENT
8 ACKNOWLEDGING THAT ANY INFORMATION PROVIDED TO A FATALITY REVIEW
9 TEAM IS CONFIDENTIAL, BUT SUBJECT TO POSSIBLE DISCLOSURE TO THE
10 PROSECUTING ATTORNEY, A LAW ENFORCEMENT AGENCY, OR THE FAMILY
11 INDEPENDENCE AGENCY AS PROVIDED IN SUBSECTION (6).

12 (8) FATALITY REVIEW TEAM MEETINGS ARE CLOSED TO THE PUBLIC
13 AND ARE NOT SUBJECT TO THE OPEN MEETINGS ACT, 1976 PA 267, MCL
14 15.261 TO 15.275. INFORMATION IDENTIFYING A VICTIM OF DOMESTIC
15 VIOLENCE WHOSE CASE IS BEING REVIEWED, OR THAT PERSON'S FAMILY
16 MEMBERS, OR AN ALLEGED OR SUSPECTED PERPETRATOR OF ABUSE UPON THE
17 VICTIM, OR REGARDING THE INVOLVEMENT OF ANY AGENCY WITH THE
18 VICTIM OR THAT PERSON'S FAMILY, SHALL NOT BE DISCLOSED IN ANY
19 REPORT THAT IS AVAILABLE TO THE PUBLIC.

20 (9) FATALITY REVIEW TEAMS CONVENED UNDER THIS SECTION SHALL
21 PREPARE AN ANNUAL REPORT OF AGGREGATE FINDINGS, RECOMMENDATIONS,
22 AND STEPS TAKEN TO IMPLEMENT RECOMMENDATIONS. THE REPORT SHALL
23 NOT CONTAIN INFORMATION IDENTIFYING ANY VICTIM OF DOMESTIC VIO-
24 LENCE, OR THAT PERSON'S FAMILY MEMBERS, OR AN ALLEGED OR SUS-
25 PECTED PERPETRATOR OF ABUSE UPON A VICTIM, OR REGARDING THE
26 INVOLVEMENT OF ANY AGENCY WITH A VICTIM OR THAT PERSON'S FAMILY.
27 THE REPORT SHALL COVER EACH CALENDAR YEAR OR PORTION OF A

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1 CALENDAR YEAR DURING WHICH A FATALITY REVIEW TEAM IS CONVENED AND
2 THE REPORT SHALL BE PROVIDED TO THE MICHIGAN DOMESTIC VIOLENCE
3 PREVENTION AND TREATMENT BOARD ON OR BEFORE MARCH 1 OF THE FOL-
4 LOWING YEAR. IF THE MICHIGAN DOMESTIC VIOLENCE PREVENTION AND
5 TREATMENT BOARD DEVELOPS A FORM FOR USE BY FATALITY REVIEW TEAMS
6 TO REPORT ANNUAL AGGREGATE FINDINGS AND RECOMMENDATIONS, FATALITY
7 REVIEW TEAMS SHALL USE THAT FORM.

8 (10) A PERSON WHO VIOLATES THE CONFIDENTIALITY PROVISIONS OF
9 THIS SECTION IS GUILTY OF A MISDEMEANOR.

10 (11) A MEMBER OF A DOMESTIC VIOLENCE FATALITY REVIEW TEAM OR
11 ANY PERSON PROVIDING INFORMATION TO A DOMESTIC VIOLENCE FATALITY
12 REVIEW TEAM SHALL NOT BE LIABLE FOR PERSONAL INJURY OR PROPERTY
13 DAMAGE SUSTAINED BY ANY PERSON AS A RESULT OF ANY ACT OR PROCEED-
14 ING UNDERTAKEN OR PERFORMED WITHIN THE SCOPE OF THIS SECTION. IN
15 ADDITION, A PERSON ACTING AS A MEMBER OF A DOMESTIC VIOLENCE
16 FATALITY REVIEW TEAM OR ANY PERSON PROVIDING INFORMATION TO A
17 DOMESTIC VIOLENCE FATALITY REVIEW TEAM SHALL NOT BE LIABLE IN A
18 CIVIL ACTION FOR DAMAGES RESULTING FROM AN ACT OR OMISSION ARIS-
19 ING OUT OF AND IN THE COURSE OF THE PERSON'S GOOD FAITH PER-
20 FORMANCE OF THAT ACTIVITY, UNLESS THE PERSON'S ACT OR OMISSION
21 WAS THE RESULT OF THAT PERSON'S GROSS NEGLIGENCE OR WILLFUL
22 MISCONDUCT. THE STATE, A POLITICAL SUBDIVISION, OR, EXCEPT IN
23 CASES OF WILLFUL MISCONDUCT, GROSS NEGLIGENCE, OR BAD FAITH, AN
24 EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE STATE OR A POLITICAL
25 SUBDIVISION, OR A DOMESTIC VIOLENCE FATALITY REVIEW TEAM, COMPLY-
26 ING WITH OR REASONABLY ATTEMPTING TO COMPLY WITH THIS ACT, SHALL
27 NOT BE LIABLE FOR PERSONAL INJURY OR PROPERTY DAMAGE AS A RESULT

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1 OF ANY ACT OR PROCEEDING UNDERTAKEN OR PERFORMED WITHIN THE SCOPE
2 OF THIS SECTION.

3 (12) SUBJECT TO AVAILABLE FUNDING, THE MICHIGAN DOMESTIC
4 VIOLENCE PREVENTION AND TREATMENT BOARD MAY DO ANY OF THE
5 FOLLOWING:

6 (A) DEVELOP A PROTOCOL FOR USE BY STATE, COUNTY, AND MULTI-
7 COUNTY DOMESTIC VIOLENCE FATALITY REVIEW TEAMS.

8 (B) DEVELOP A FORM FOR USE BY FATALITY REVIEW TEAMS TO
9 REPORT ANNUAL AGGREGATE FINDINGS AND RECOMMENDATIONS AS REQUIRED
10 IN SUBSECTION (9).

11 (C) DEVELOP AND PROVIDE TRAINING CONCERNING FATALITY REVIEW
12 TEAMS.

13 (D) PREPARE A REPORT TO THE GOVERNOR, THE SENATE, AND THE
14 HOUSE OF REPRESENTATIVES SUMMARIZING THE AGGREGATE FINDINGS AND
15 RECOMMENDATIONS OF FATALITY REVIEW TEAMS AND MAKING RECOMMENDA-
16 TIONS TO REDUCE AND ERADICATE THE INCIDENCE OF DOMESTIC
17 VIOLENCE.

18 (13) IF THE MICHIGAN DOMESTIC VIOLENCE PREVENTION AND TREAT-
19 MENT BOARD DEVELOPS A PROTOCOL FOR USE BY STATE, COUNTY, AND MUL-
20 TICOUNTY FATALITY REVIEW TEAMS, THE TEAMS SHALL FOLLOW THAT
21 PROTOCOL.

22 Enacting section 1. This amendatory act takes effect
23 October 1, 2002.