

SENATE BILL NO. 133

March 02, 2023, Introduced by Senators MCCANN, WEBBER, BELLINO, SANTANA, CHANG, MCMORROW, BAYER, POLEHANKI, GEISS, SHINK, SINGH, KLINEFELT and CAVANAGH and referred to the Committee on Health Policy.

A bill to provide for the review and prevention of deaths from drug overdose in this state; to allow for the creation of overdose fatality review teams; to provide for the powers and duties of the overdose fatality review teams; to regulate certain entities; to prescribe powers and duties of certain state and local governmental officers and entities; and to prescribe remedies for a violation of this act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "overdose fatality review

1 act".

2 Sec. 3. As used in this act:

3 (a) "Community overdose review" means performing a series of
4 individual overdose reviews to identify systematic barriers to
5 innovative overdose prevention and intervention strategies for that
6 community.

7 (b) "County health officer" means a local health officer as
8 that term is defined in section 1105 of the public health code,
9 1978 PA 368, MCL 333.1105.

10 (c) "Data sharing agreement" means an agreement that
11 identifies the data that are shared and how the data are used.

12 (d) "Drug" means that term as defined in section 7105 of the
13 public health code, 1978 PA 368, MCL 333.7105.

14 (e) "Drug overdose" means that term as defined in section 7403
15 of the public health code, 1978 PA 368, MCL 333.7403.

16 (f) "Identifying information" means any representation of
17 information that permits the identity of an individual to whom the
18 information applies to be reasonably inferred by either direct or
19 indirect means.

20 (g) "Individual overdose review" means the case review of an
21 individual who has died as the result of a drug overdose,
22 including, but not limited to, a review of both of the following:

23 (i) Consideration of the individual's points of contact, if
24 any, with health care systems, social services, educational
25 institutions, child and family services, the criminal justice
26 system, including law enforcement, and any other system.

27 (ii) Identification of the specific factors and social
28 determinants of health that put the individual at risk of a drug
29 overdose.

1 (h) "Mental health provider" means any of the following
2 individuals:

3 (i) A psychologist as that term is defined in section 18201 of
4 the public health code, 1978 PA 368, MCL 333.18201.

5 (ii) A licensed professional counselor as that term is defined
6 in section 18101 of the public health code, 1978 PA 368, MCL
7 333.18101.

8 (iii) A marriage and family therapist as that term is defined in
9 section 16901 of the public health code, 1978 PA 368, MCL
10 333.16901.

11 (iv) A licensed bachelor's social worker as that term is
12 defined in section 18501 of the public health code, 1978 PA 368,
13 MCL 333.18501.

14 (v) A licensed master's social worker as that term is defined
15 in section 18501 of the public health code, 1978 PA 368, MCL
16 333.18501.

17 (i) "Multidisciplinary team" means a group of professionals
18 from a variety of fields of study or sectors who work together
19 toward a shared purpose.

20 (j) "Overdose fatality review team" means the
21 multidisciplinary team established under this act by a county, a
22 group of counties, or a tribe to conduct individual overdose
23 reviews and overdose fatality reviews.

24 (k) "Participating county" means a county that, by itself or
25 with 1 or more other counties, establishes an overdose fatality
26 review team under section 5(1).

27 (l) "Recovery coach" means a professional who provides
28 assistance to support long-term recovery from a substance use
29 disorder.

1 (m) "Substance use disorder" means a pattern of using alcohol
2 or other drugs that leads to clinical or functional impairment.

3 (n) "Substance use disorder treatment provider" means an
4 individual or entity that is licensed in this state to treat an
5 individual with substance use disorder using medications that are
6 approved by the United States Food and Drug Administration to treat
7 substance use disorder.

8 Sec. 5. (1) A county may establish an overdose fatality review
9 team. Two or more counties may establish a single overdose fatality
10 review team for those counties.

11 (2) Any of the following individuals may be a member of an
12 overdose fatality review team:

13 (a) The following officials of the participating county:

14 (i) The county health officer.

15 (ii) The prosecuting attorney, or the attorney's designee.

16 (iii) The director of the community mental health agency, or the
17 director's designee.

18 (iv) The county medical examiner, or the medical examiner's
19 designee.

20 (b) A law enforcement officer of the department of state
21 police, the participating county, or a municipality within the
22 participating county.

23 (c) A representative of a jail or detention center in the
24 participating county.

25 (d) A health care provider who specializes in the prevention,
26 diagnosis, and treatment of substance use disorders.

27 (e) A mental health provider who specializes in the treatment
28 of substance use disorders.

29 (f) A substance use disorder treatment provider.

1 (g) A representative of an emergency medical services provider
2 in the participating county.

3 (h) A representative from the department of corrections who
4 has experience with parole, probation, or community corrections.

5 (i) An epidemiologist from a local health department or an
6 organization in the participating county.

7 (j) A child protective services caseworker.

8 (k) A representative from the department of health and human
9 services who is involved with issues regarding adult protective
10 services.

11 (l) Any other individual whose membership is necessary for the
12 overdose fatality review team to complete duties required under
13 this act.

14 (3) At the first meeting of the overdose fatality review team,
15 the overdose fatality review team shall elect a member as a
16 chairperson and may elect other officers that it considers
17 necessary or appropriate.

18 (4) The chairperson shall do all of the following for the
19 overdose fatality review team:

20 (a) Solicit and recruit additional individuals listed under
21 subsection (5) as provided under subsection (6)(e) to participate
22 in individual overdose reviews and community overdose reviews.

23 (b) Call the meetings and implement the protocols and
24 procedures.

25 (c) Oversee that confidentiality forms as described under
26 section 7 are signed as needed.

27 (d) Request and collect the information needed to conduct
28 individual overdose reviews and community overdose reviews.

29 (e) If a vacancy occurs, appoint an individual from the same

1 or equivalent position or discipline under subsection (2).

2 (f) Make written requests for information under section 7 that
3 are necessary to carry out the duties of the overdose fatality
4 review team under this act.

5 (5) Any of the following individuals may be invited to
6 participate in an individual overdose review or community overdose
7 review:

8 (a) A prepaid inpatient health plan chief executive officer or
9 that officer's designee, or the prepaid inpatient health plan
10 substance use disorder director.

11 (b) A superintendent of a school in the participating county,
12 or the superintendent's designee.

13 (c) A representative of a hospital in the participating
14 county.

15 (d) A health care provider who specializes in emergency
16 medicine.

17 (e) A health care provider who specializes in pain management.

18 (f) A pharmacist who has expertise in addressing prescription
19 drug misuse and diversion.

20 (g) A representative from a poison control center.

21 (h) A mental health provider.

22 (i) A prescription drug monitoring program administrator.

23 (j) A representative from a harm reduction provider.

24 (k) A recovery coach, peer support worker, or other
25 representative of the recovery community.

26 (l) A representative from a drug court in the participating
27 county.

28 (m) A substance use disorder prevention specialist or
29 representative.

1 (n) The director of the department of health and human
2 services office in the participating county, or the director's
3 designee.

4 (o) Any other individual necessary to complete the duties of
5 the overdose fatality review team under this act.

6 (6) An overdose fatality review team shall do all of the
7 following:

8 (a) Promote cooperation and coordination among agencies
9 involved in the investigation of drug overdose fatalities.

10 (b) Identify potential causes and incidence of drug overdose
11 fatalities in the participating county.

12 (c) Recommend and plan for changes within the agencies
13 represented on the overdose fatality review team to prevent drug
14 overdose fatalities.

15 (d) Propose potential changes to law, policy, funding, or
16 practices to prevent drug overdoses.

17 (e) In consultation with the department of health and human
18 services, establish and implement protocols and procedures to do
19 all of the following:

20 (i) Recruit individuals listed under subsection (5) to
21 participate in individual overdose reviews and community overdose
22 reviews.

23 (ii) Plan and facilitate meetings.

24 (iii) Collect, analyze, interpret, and maintain data on drug
25 overdose fatalities in the participating county.

26 (iv) Build a recommendation plan.

27 (f) Recommend prevention and intervention strategies, focusing
28 on evidence-based strategies and promising practices, to improve
29 the coordination of services and investigations among agencies

1 represented by members of the overdose fatality review team to
2 reduce drug overdose fatalities.

3 (7) Meetings of an overdose fatality review team may be
4 conducted remotely through a secure platform.

5 (8) Subject to subsection (9), the overdose fatality review
6 team shall submit an annual report to the public, the local health
7 department of the participating county, and the department of
8 health and human services that contains all of the following
9 information:

10 (a) The total number of drug overdose fatalities that occurred
11 within the participating county.

12 (b) The number of individual overdose reviews conducted by the
13 overdose fatality review team.

14 (c) Any recommendations.

15 (9) The report under subsection (8) must not contain
16 identifying information.

17 Sec. 7. (1) Except as otherwise expressly prohibited by
18 federal or state law and subject to subsection (2), overdose
19 fatality review team members and individuals invited under section
20 5(5) may discuss confidential matters and share confidential
21 information, as outlined in data sharing agreements, during an
22 overdose fatality review team meeting. This act does not authorize
23 the disclosure of confidential information described under this
24 subsection outside of the meeting.

25 (2) If an individual has not signed a confidentiality form,
26 that individual must not participate in or observe an overdose
27 fatality review team meeting, individual overdose review, or
28 community overdose review. A confidentiality form required under
29 this subsection must summarize the purpose and goal of the meeting

1 or review, the requirements for maintaining the confidentiality of
2 any information disclosed during the meeting, and any consequences
3 for the failure to maintain confidentiality.

4 (3) Except as otherwise expressly prohibited by federal or
5 state law and subject to subsection (5), on written request of the
6 chairperson, a health care provider, substance use disorder
7 treatment provider, hospital, or health system shall, not more than
8 5 business days after receiving the request, provide the
9 chairperson information and records regarding the physical health,
10 mental health, or treatment for substance use disorder of an
11 individual who is the subject of an individual overdose review of
12 the overdose fatality review team.

13 (4) Except as otherwise expressly prohibited by federal or
14 state law and subject to subsection (5), on written request of the
15 chairperson, a person shall, not more than 5 business days after
16 receiving the request, provide the chairperson the following
17 information and records:

18 (a) The following information or records regarding the
19 individual who is the subject of an individual overdose review:

20 (i) Death investigative information.

21 (ii) Medical examiner investigative information.

22 (iii) Law enforcement investigative information.

23 (iv) Emergency medical services reports.

24 (v) Fire department records.

25 (vi) Prosecuting attorney records.

26 (vii) Parole and probation information and records.

27 (viii) Court records.

28 (ix) School records.

29 (x) Information and records regarding resources provided by a

1 social services agency.

2 (b) Information and records regarding resources provided by a
3 social services agency to a family member of the individual who is
4 the subject of an individual overdose review.

5 (5) A person that provides the chairperson records or
6 information under subsection (3) or (4) may charge the overdose
7 fatality review team a fee in the same manner as a public body may
8 charge a fee under section 4 of the freedom of information act,
9 1976 PA 442, MCL 15.234.

10 (6) If a family member or friend of the individual who is the
11 subject of an individual overdose review submits a request to
12 submit information to an overdose fatality review team, a member of
13 that team may contact, interview, or obtain the information about
14 the individual from that family member or friend.

15 (7) Except as provided in section 5(8), information obtained
16 or created by or for an overdose fatality review team is
17 confidential and not subject to discovery or the freedom of
18 information act, 1976 PA 442, MCL 15.231 to 15.246. Documents
19 created by or for the overdose fatality review team are not subject
20 to subpoena, except that documents and records otherwise available
21 from other sources are not exempt from subpoena, discovery, or
22 introduction into evidence from other sources solely because they
23 were presented to or reviewed by an overdose fatality review team.

24 (8) An overdose fatality review team shall comply with federal
25 and state laws pertaining to confidentiality and to the disclosure
26 of substance use disorder treatment records, including, but not
27 limited to, 42 USC 290dd-2 and 42 CFR part 2.

28 Sec. 9. The department of health and human services shall
29 submit an annual report to the governor and to the committees in

1 the house of representatives and senate responsible for issues
2 concerning health or human services that aggregates the information
3 provided by overdose fatality review teams under section 5(8).

4 Sec. 11. If an overdose fatality review team member knowingly
5 discloses confidential information in violation of this act, a
6 person aggrieved by that violation may bring a civil action for
7 damages and any costs and reasonable attorney fees allowed by the
8 court.