State of Wisconsin
2025 - 2026 LEGISLATURE

LRB-2584/1
SWB:cdc

2025 SENATE BILL 192

April 14, 2025 - Introduced by Senator JAMES, cosponsored by Representatives MOSES, CALLAHAN, SNYDER, O'CONNOR and MURSAU. Referred to Committee on Health.

AN ACT ***to amend*** 48.396 (1), 48.396 (2) (a), 48.78 (2) (a), 48.981 (7) (a) 15., 938.396 (1) (a), 938.396 (2) (a) and 938.78 (2) (a); ***to create*** 51.30 (4) (b) 29., 146.82 (2) (d), 250.22 and 961.385 (2) (cm) 5. of the statutes; **relating to:** fatality review teams and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill establishes fatality review teams under state law. Current law does not address fatality review teams, though several types of such teams currently exist in Wisconsin based on voluntary efforts primarily organized by counties, with state-level technical assistance available for certain types of teams.

Under the bill, a fatality review team is defined as a multidisciplinary and multiagency team reviewing one or more types of death among children or adults and developing recommendations to prevent future deaths of similar circumstances. The bill generally governs a team's responsibilities, ability to access certain records, confidentiality requirements, and disclosure of information.

Duties and authority of the Department of Health Services

Under the bill, the Department of Health Services must establish a fatality review program comprised of local fatality review teams established at the option of a municipality, a county, a local health department, or a tribal health department,

or a combination of these entities. The bill also authorizes, but does not require, DHS to create state fatality review teams.

The bill requires DHS to perform various duties, in consultation with other state agencies as appropriate, such as: 1) facilitate local team development; 2) identify training needs and make available training resources; 3) provide technical assistance and support; 4) in the absence of a local team or upon request, assign review of deaths to a state fatality review team, if established; 5) educate the public on causes and recommendations for prevention of reviewable deaths; and 6) provide information to the legislature, state agencies, and local communities on the need for modifications to law, policy, or practice. The bill allows DHS to contract with an entity to perform any of its duties under the bill.

Under the bill, DHS or its contracted entity must create and make available to fatality review teams a confidentiality agreement for use by team members to ensure confidentiality consistent with the bill's provisions. The bill requires DHS to promulgate administrative rules to develop and implement a standardized form for review of suicide deaths, and allows DHS to promulgate rules to develop and implement standardized forms for other types of reviewable deaths. The bill further grants general rule-making authority to DHS to implement the bill's provisions.

Fatality review teams

The bill contains general provisions governing any type of fatality review team. The bill identifies examples of the types of deaths that may constitute a reviewable death, including overdose, suicide, maternal death occurring during or within a year of a pregnancy, or any unexpected or unintentional death of a child, among others. The bill also provides a non-exhaustive list of potential team members.

Under the bill, a fatality review team has the purpose of gathering information about reviewable deaths to examine risk factors and understand how deaths may be prevented, through identifying recommendations for cross-sector, system-level policy and practice changes, and promoting cooperation and coordination among the agencies involved in understanding causes of reviewable deaths or in providing services to surviving family members.

If established, each fatality review team must: 1) establish and implement team protocols; 2) collect and maintain data; 3) create strategies and track implementation of prevention recommendations; and 4) evaluate the team's process, interagency collaboration, and implementation of recommendations. The bill requires teams to assign, as appropriate for a specific review, a team member to complete any standardized form developed by DHS, and to enter data regarding each reviewable death into any secure database designated by DHS or its contracted entity.

Record access and confidentiality

The bill authorizes a fatality review team to access records from a variety of

sources, such as certain state agencies, law enforcement, medical examiners and coroners, health care providers, social or human service agencies, schools, and the prescription drug monitoring program, among others, subject to certain restrictions under the bill and current law.

Information and records provided to or created by a fatality review team are confidential, subject to limited exceptions provided under the bill, and are not subject to Wisconsin's public records laws. The bill requires team members, and other individuals invited to attend a team meeting, to sign a confidentiality agreement before participating in or attending a fatality review team meeting. The bill prohibits team members, persons in attendance at team meetings, and others providing records to teams from testifying in any civil or criminal action as to the information specifically obtained through participation in the team's meeting.

The bill authorizes disclosure of information if such disclosure serves a team's purpose and certain other conditions are met, such as the information does not allow for identification of individuals and does not contain conclusory information attributing fault. The bill further specifies that a team's information and records are not subject to discovery or subpoena, or admissible as evidence, in a civil or criminal action, unless obtained independently from a team's review. The bill also provides that a person participating in a fatality review team is immune from civil or criminal liability for any good faith act or omission in connection with providing information or recommendations.

The bill exempts fatality review team meetings from Wisconsin's open meetings law. The bill allows for public meetings to share summary findings and recommendations, but limits the types of information that may be disclosed in public meetings.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 48.396 (1) of the statutes is amended to read:

48.396 **(1)** Law enforcement officers' records of children shall be kept separate from records of adults. Law enforcement officers' records of the adult expectant mothers of unborn children shall be kept separate from records of other adults. Law enforcement officers' records of children and the adult expectant mothers of unborn children shall not be open to inspection or their contents disclosed except under sub.

(1b), (1d), (5), or (6) or s. 48.293 ~~or~~, 250.22, or 938.396 (2m) (c) 1p. or by order of the court. This subsection does not apply to the representatives of newspapers or other reporters of news who wish to obtain information for the purpose of reporting news without revealing the identity of the child or adult expectant mother involved, to the confidential exchange of information between the police and officials of the public or private school attended by the child or other law enforcement or social welfare agencies, or to children 10 years of age or older who are subject to the jurisdiction of the court of criminal jurisdiction. A public school official who obtains information under this subsection shall keep the information confidential as required under s. 118.125, and a private school official who obtains information under this subsection shall keep the information confidential in the same manner as is required of a public school official under s. 118.125. This subsection does not apply to the confidential exchange of information between the police and officials of the tribal school attended by the child if the police determine that enforceable protections are provided by a tribal school policy or tribal law that requires tribal school officials to keep the information confidential in a manner at least as stringent as is required of a public school official under s. 118.125. A law enforcement agency that obtains information under this subsection shall keep the information confidential as required under this subsection and s. 938.396 (1) (a). A social welfare agency that obtains information under this subsection shall keep the information confidential as required under ss. 48.78 and 938.78.

SECTION 2. 48.396 (2) (a) of the statutes is amended to read:

48.396 **(2)** (a) Records of the court assigned to exercise jurisdiction under this

chapter and ch. 938 and of courts exercising jurisdiction under s. 48.16 shall be entered in books or deposited in files kept for that purpose only. Those records shall not be open to inspection or their contents disclosed except by order of the court assigned to exercise jurisdiction under this chapter and ch. 938 or as required or permitted under this subsection, sub. (3) (b) or (c) 1g., 1m., or 1r. or (6), or s. 48.375 (7) (e) or 250.22.

SECTION 3. 48.78 (2) (a) of the statutes is amended to read:

48.78 **(2)** (a) No agency may make available for inspection or disclose the contents of any record kept or information received about an individual who is or was in its care or legal custody, except as provided under sub. (2m) or s. 48.371, 48.38 (5) (b) or (d) or (5m) (d), 48.396 (3) (bm) or (c) 1r., 48.432, 48.433, 48.48 (17) (bm), 48.57 (2m), 48.66 (6), 48.93, 48.981 (7), 250.22, 938.396 (2m) (c) 1r., 938.51, or 938.78 or by order of the court.

SECTION 4. 48.981 (7) (a) 15. of the statutes is amended to read:

48.981 **(7)** (a) 15. A fatality review team established under s. 250.22, a child fatality review team recognized by the county department, or, in a county having a population of 750,000 or more, the department or a licensed child welfare agency under contract with the department.

SECTION 5. 51.30 (4) (b) 29. of the statutes is created to read:

51.30 **(4)** (b) 29. To an authorized member of a fatality review team established under s. 250.22. The recipient of any treatment records under this subdivision shall keep the records confidential in accordance with s. 250.22.

SECTION 6. 146.82 (2) (d) of the statutes is created to read:

146.82 **(2)** (d) Notwithstanding sub. (1), patient health care records may be released, upon request, to a fatality review team, as defined in s. 250.22 (1) (a), acting as a public health authority for the purpose of reviewing a death as described under s. 250.22. Records that may be released under this paragraph for the public health purposes under s. 250.22 may be disclosed to a fatality review team only in accordance with that section, and the recipient of any records released shall keep the records confidential.

SECTION 7. 250.22 of the statutes is created to read:

250.22 Fatality review teams. (1) DEFINITIONS. In this section:

(a) "Fatality review team" means a multidisciplinary and multiagency team examining one or more types of reviewable death among children or adults and developing recommendations to prevent future deaths of similar circumstances.

(b) "Local fatality review team" means a fatality review team that examines reviewable deaths from specific municipalities or counties. A "local fatality review team" may include a team formed by a collaboration of two or more municipalities, counties, local health departments, or tribal health departments.

(c) "Municipality" means a city, village, or town.

(d) "State fatality review team" means a fatality review team that examines reviewable deaths of residents across the state.

(e) 1. "Reviewable death" includes any of the following types of deaths:

a. Suicide.

b. Homicide or death involving domestic violence, intimate partner violence, or homicide related to community violence.

c. Motor vehicle incident.

d. Overdose death.

e. Child abuse or neglect.

f. Stillbirth.

g. Fetal death or infant death.

h. A maternal death occurring during or within a year of a pregnancy.

i. Any unexpected or unintentional death of a child.

2. "Reviewable death" does not include a death subject to review under s. 175.47.

(2) DEPARTMENT DUTIES AND AUTHORITY. (a) The department shall establish a fatality review program comprised of local fatality review teams established at the option of a municipality, a county, a local health department, a tribal health department, or a combination of these entities. The department may also establish a state fatality review team.

(b) In coordination with the department of justice, the department of children and families, or other state agencies, as appropriate, the department shall do all of the following:

1. Facilitate the development of local fatality review teams under this section.

2. Identify training needs and make training resources available to local fatality review teams, statewide professional organizations, advocacy groups, and others.

3. Respond to requests from local fatality review teams and provide any necessary technical assistance and support.

4. Upon request of a local fatality review team, or if a county does not have a fatality review team, assign review of deaths to a state fatality review team, if established.

5. Provide information to the legislature, state agencies, and local communities on the need for modifications to law, policy, or practice.

(c) The department may enter into a contract with an entity to perform any of the department's duties under this section.

(d) The department shall promulgate rules to develop and implement a standardized form for use by fatality review teams when reviewing suicide deaths. The department may promulgate rules to develop and implement standardized forms for use by fatality review teams when reviewing other types of reviewable deaths.

(e) The department may educate the public regarding the incidence and causes of reviewable deaths, including recommendations that identify needed policy changes or action to prevent future deaths.

(f) The department or its contracted entity shall create and make available to fatality review teams a confidentiality agreement to be used by fatality review team members to ensure confidentiality consistent with this section.

(g) The department may promulgate rules to implement this section.

(3) FATALITY REVIEW TEAMS; PURPOSE, DUTIES, MEMBERSHIP, AND RECORD ACCESS. (a) Fatality review teams shall have the purpose of gathering information concerning reviewable deaths to examine the risk factors and circumstances

leading to reviewable deaths and understand how the deaths could have been prevented through all of the following:

1. Identification of recommendations for cross-sector, system-level policy and practice changes to address the identified risk factors and prevent future reviewable deaths.

2. Promotion of cooperation and coordination among agencies involved in understanding the causes of reviewable deaths or in providing services to surviving family members.

(b) 1. If established, each fatality review team shall do all of the following:

a. Establish and implement a protocol for the fatality review team and, to the extent the department or its contracted entity is involved with the type of review undertaken, consult with the department or its contracted entity regarding the protocol.

b. Collect and maintain data to the extent requested by the department or its contracted entity for the type of review undertaken.

c. Create strategies and make and track the implementation of recommendations for the prevention and reduction of reviewable deaths in the area served by the fatality review team.

d. Evaluate the fatality review team's review process, interagency collaboration, and development and implementation of recommendations to ensure adherence to the purpose described in par. (a).

2. A fatality review team may address a reviewable death that occurred in the area served by the fatality review team or that relates to a resident of the area

served by the fatality review team if the incident or death occurred elsewhere in the state.

(c) When conducting a fatality review under this section, a fatality review team may be provided with information from the records held by any of the following, if the records pertain to a person or incident within the scope of the review:

1. The department of health services or a local health department.

2. The department of children and families.

3. A law enforcement agency.

4. A medical examiner or coroner.

5. A treatment provider for substance use or mental health.

6. A hospital or health care provider.

7. Emergency medical services, including a fire department.

8. A Women, Infants, and Children program under s. 253.06.

9. The department of corrections.

10. A district attorney's office.

11. A circuit or municipal court.

12. A social or human services agency.

13. Service providers or advocates that provide support in response to violence, including domestic abuse.

14. Child protective services or a child welfare agency.

15. A school or university.

16. If the fatality review team is an overdose fatality review team, a suicide

review team, or a maternal mortality review team, prescription drug monitoring program records.

17. Any other agency or organization identified as necessary for the review by a specific fatality review team.

(d) If established, the members of a fatality review team may include any of the following types of individuals, organizations, agencies, and areas of expertise:

1. Public health.

2. Tribal health centers.

3. Medical examiners and coroners.

4. Funeral directors.

5. Law enforcement.

6. The district attorney with jurisdiction, or his or her designee.

7. Medical professionals, including physicians, physician assistants, and nurses.

8. Emergency medical responders, as defined in s. 256.01 (4p), or emergency medical services practitioners, as defined in s. 256.01 (5).

9. Behavioral health professionals.

10. Service providers or advocates that provide support in response to violence, including domestic abuse.

11. Individuals with relevant personal experience.

12. Education professionals, including school counselors and school representatives.

13. Child protective services or child welfare agency.

14. Any other person requested by members of the team.

(e) A fatality review team shall enter data regarding each reviewable death under review into any secure database designated by the department or its contracted entity.

(f) A fatality review team shall assign, as appropriate for the specific type of review, a member of the team to complete any standardized form developed by the department under sub. (2) (d).

(4) DISCLOSURE OF INFORMATION; IMMUNITY. (a) Information and records provided to or created by a fatality review team are confidential, except as otherwise provided in this section, and are not subject to inspection or copying under s. 19.35. Before a member of a fatality review team may participate in the review of a reviewable death, the member must sign a copy of the confidentiality agreement described under sub. (2) (f) and review the purpose and goals of the fatality review team. Any person who is invited to a fatality review team meeting must sign a copy of the confidentiality agreement described under sub. (2) (f) before attending or participating in the meeting.

(b) Except as otherwise provided in this section, a member of a fatality review team may share information disclosed to the fatality review team regarding a reviewable death with other members of that fatality review team or with another fatality review team conducting a review of the same individual's death, except that the member may not distribute additional, printed copies of any information or record that is disclosed to him or her to other members of the member's fatality review team.

(c) Any person participating in the review of a reviewable death by a fatality review team, including any member of a fatality review team, a person attending a fatality review meeting, or a person who presents information to the fatality review team, and any person providing information or records to the fatality review team for the purpose of reviewing a reviewable death, may not testify in any civil or criminal action as to the information specifically obtained through the person's participation in the fatality review team's meeting or to any conclusion of the fatality review team regarding a reviewable death. This paragraph does not prohibit a person from testifying to information that is obtained independently of a fatality review team or that is public information.

(d) A person who attends a fatality review team meeting or presents information to a fatality review team is not prohibited under par. (a) or (b) from disclosing information or records obtained independently of the review if that disclosure is otherwise permitted under state or federal law.

(e) 1. A fatality review team may disclose information if the disclosure is made for the purpose of fulfilling a purpose of the fatality review team and if the information meets all of the following criteria:

a. The information does not contain any information that identifies the names or identifying numbers of individuals and does not contain other information for which there is reasonable basis to believe that the information could be used to identify an individual or entity.

b. The information does not contain addresses other than zip codes.

c. The information does not contain dates of birth, death, or incident other than the year.

d. The information does not contain conclusory information attributing fault, not including findings or judgments by law enforcement agencies, courts, or child welfare agencies.

2. Any of the following items, if the item does not contain any information that would allow the identity of an individual to be ascertained, may be disclosed or treated as public information:

a. Statistical or aggregate compilations of data.

b. Reports from fatality review teams.

(f) Information and records provided or obtained in the course of a fatality review under this section are not subject to discovery or subpoena in a civil or criminal action or an administrative proceeding and are not admissible as evidence during the course of a civil or criminal action or an administrative proceeding, except that information and records obtained independently of a review under this section are not immune from discovery merely because the information or records were presented to a fatality review team.

(g) Any person participating in a fatality review team's meeting under this section is immune from any civil or criminal liability for any good faith act or omission in connection with providing information or recommendations relevant to review of a reviewable death to the fatality review team in accordance with this section or any conclusions or recommendations reached by the fatality review team made in good faith. The immunity granted under this paragraph applies to persons

conducting the review as well as persons providing information or records to the fatality review team for the meeting. For the purpose of any civil or criminal action, any person participating in a review under this section is presumed to be acting in good faith.

(5) MEETINGS. (a) Meetings of a fatality review team shall be closed to the public and are not subject to subch. V of ch. 19. A fatality review team may hold a public meeting to share summary findings and recommendations of reviews by fatality review teams.

(b) During a public meeting under par. (a), no person may disclose information on or agency involvement with any of the following:

1. A deceased individual.

2. A family member, guardian, or caretaker of a deceased individual.

3. An individual convicted of a crime or adjudicated as having committed a delinquent act that caused a death or near fatality.

(c) This subsection does not prohibit a fatality review team from requesting the attendance at a team meeting of a person who has information relevant to the team's exercise of its purpose and duties, provided that any person attending the meeting signs the confidentiality agreement as described under sub. (2) (f).

SECTION 8. 938.396 (1) (a) of the statutes is amended to read:

938.396 **(1)** (a) *Confidentiality.* Law enforcement agency records of juveniles shall be kept separate from records of adults. Law enforcement agency records of juveniles may not be open to inspection or their contents disclosed except under par.

(b) or (c), sub. (1j), (2m) (c) 1p., or (10), or s. 250.22 or 938.293 or by order of the court.

SECTION 9. 938.396 (2) (a) of the statutes is amended to read:

938.396 **(2)** (a) Records of the court assigned to exercise jurisdiction under this chapter and ch. 48 and of municipal courts exercising jurisdiction under s. 938.17 (2) shall be entered in books or deposited in files kept for that purpose only. Those records shall not be open to inspection or their contents disclosed except by order of the court assigned to exercise jurisdiction under this chapter and ch. 48 or as required or permitted under sub. (2g), (2m) (b) or (c), or (10) or s. 250.22.

SECTION 10. 938.78 (2) (a) of the statutes is amended to read:

938.78 **(2)** (a) No agency may make available for inspection or disclose the contents of any record kept or information received about an individual who is or was in its care or legal custody, except as provided under sub. (2m) or (3) or s. 48.396 (3) (bm) or (c) 1r., 250.22, 938.371, 938.38 (5) (b) or (d) or (5m) (d), 938.396 (2m) (c) 1r., 938.51, or 938.57 (2m) or by order of the court.

SECTION 11. 961.385 (2) (cm) 5. of the statutes is created to read:

961.385 **(2)** (cm) 5. An overdose fatality review team, a suicide review team, or a maternal mortality review team under s. 250.22 (3) (c) 15.

SECTION 12. Effective date.

(1) This act takes effect on the first day of the 13th month beginning after publication.

(END)