

Senate Study Bill 3123 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON SMITH)

A BILL FOR

1 An Act relating to the establishment of the Iowa child death
2 and domestic abuse death review team by merging the Iowa
3 child death review team and the Iowa domestic abuse death
4 review team.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135.108, subsection 4, Code 2020, is
2 amended to read as follows:

3 4. "*Team*" means the Iowa child death and domestic abuse
4 death review team established in section 135.109.

5 Sec. 2. Section 135.109, Code 2020, is amended to read as
6 follows:

7 **135.109 ~~Iowa domestic abuse death review team membership~~ Iowa**
8 **child death and domestic abuse death review team — membership.**

9 1. An Iowa child death and domestic abuse death review team
10 is established as an independent agency of state government.

11 2. The department shall provide staffing and administrative
12 support to the team.

13 3. The team shall include the following members:

14 a. The state medical examiner or the state medical
15 examiner's designee.

16 b. A licensed physician or nurse who is knowledgeable
17 concerning domestic abuse injuries and deaths, including
18 suicides.

19 c. A pediatrician who is knowledgeable concerning deaths of
20 children.

21 ~~e.~~ d. A licensed mental health professional who is
22 knowledgeable concerning domestic abuse or deaths of children.

23 e. A certified or licensed professional who is knowledgeable
24 concerning sudden infant death syndrome.

25 f. A perinatal expert.

26 g. An emergency room nurse who is knowledgeable concerning
27 the deaths of children.

28 ~~d.~~ h. A representative or designee of the Iowa coalition
29 against domestic violence.

30 ~~e.~~ i. A certified or licensed professional who is
31 knowledgeable concerning substance abuse.

32 j. A social worker who is knowledgeable concerning deaths
33 of children.

34 ~~f.~~ k. A local law enforcement official ~~who is knowledgeable~~
35 ~~concerning domestic abuse.~~

1 ~~g.~~ l. A law enforcement investigator experienced in
2 domestic abuse investigation.

3 ~~h.~~ m. An A county attorney ~~experienced in prosecuting~~
4 ~~domestic abuse cases.~~

5 ~~i.~~ n. A judicial officer appointed by the chief justice of
6 the supreme court.

7 ~~j.~~ ~~A clerk of the district court appointed by the chief~~
8 ~~justice of the supreme court.~~

9 ~~k.~~ o. An employee or subcontractor of the department of
10 corrections who is a trained batterers' education program
11 facilitator.

12 ~~l.~~ p. An attorney licensed in this state who provides
13 criminal defense assistance or child custody representation,
14 and who has experience in dissolution of marriage proceedings.

15 ~~m.~~ q. Both a female and a male victim of domestic abuse.

16 ~~n.~~ r. A family member of a ~~decedent whose death resulted~~
17 ~~from domestic abuse~~ the public.

18 4. The following individuals shall each designate a liaison
19 to assist the team in fulfilling the team's duties:

20 a. The attorney general.

21 b. The director of the Iowa department of corrections.

22 c. The director of public health.

23 d. The director of human services.

24 e. The commissioner of public safety.

25 f. The administrator of the bureau of vital records of the
26 Iowa department of public health.

27 g. The director of the department of education.

28 h. The state court administrator.

29 i. The director of the department of human rights.

30 j. The director of the state law enforcement academy.

31 k. The director of the department of transportation.

32 5. a. The director of public health, in consultation with
33 the attorney general, shall appoint review team members who are
34 not designated by another appointing authority.

35 b. A membership vacancy shall be filled in the same manner

1 as the original appointment.

2 c. The membership of the review team is subject to the
3 provisions of **sections 69.16 and 69.16A**, relating to political
4 affiliation and gender balance.

5 d. A member of the team may be reappointed to serve
6 additional terms on the team, subject to the provisions of
7 chapter 69.

8 6. Membership terms shall be three-year staggered terms.

9 7. Members of the team are eligible for reimbursement of
10 actual and necessary expenses incurred in the performance of
11 their official duties.

12 8. Team members and their agents are immune from any
13 liability, civil or criminal, which might otherwise be incurred
14 or imposed as a result of any act, omission, proceeding,
15 decision, or determination undertaken or performed, or
16 recommendation made as a team member or agent provided that the
17 team members or agents acted reasonably and in good faith and
18 without malice in carrying out their official duties in their
19 official capacity. A complainant bears the burden of proof
20 in establishing malice or unreasonableness or lack of good
21 faith in an action brought against team members involving the
22 performance of their duties and powers.

23 Sec. 3. Section 135.110, Code 2020, is amended to read as
24 follows:

25 **135.110 Iowa child death and domestic abuse death review team**
26 **powers and duties.**

27 1. The review team shall perform the following duties:

28 a. Prepare a biennial report for the governor, supreme
29 court, attorney general, and the general assembly concerning
30 the following subjects:

31 (1) The causes and manner of child death and domestic
32 abuse deaths, including an analysis of factual information
33 obtained through review of child death and domestic abuse death
34 certificates and child death and domestic abuse death data,
35 including patient records and other pertinent confidential and

1 public information concerning domestic abuse deaths.

2 (2) The contributing factors of child death and domestic
3 abuse deaths.

4 (3) Recommendations regarding the prevention of future
5 child death and domestic abuse deaths, including actions
6 to be taken by communities, based on an analysis of these
7 contributing factors.

8 b. Advise and consult the agencies represented on the team
9 and other state agencies regarding program and regulatory
10 changes that may prevent child death and domestic abuse deaths.

11 c. Develop protocols for child death and domestic abuse
12 death investigations and team review.

13 2. In performing duties pursuant to subsection 1 in a
14 death investigation that involves a suspected case of child
15 abuse or domestic abuse, the review team shall review the
16 relationship between the decedent victim and the alleged or
17 convicted perpetrator from the point where the abuse allegedly
18 began, until the child abuse or domestic abuse death occurred,
19 and shall review all relevant documents pertaining to the
20 relationship between the parties, including but not limited
21 to protective orders and dissolution, custody, and support
22 agreements and related court records, in order to ascertain
23 whether a correlation exists between certain events in the
24 relationship and any escalation of abuse, and whether patterns
25 can be established regarding such events in relation to child
26 abuse or domestic abuse deaths in general. The review team
27 shall consider such conclusions in making recommendations
28 pursuant to subsection 1.

29 3. The review team shall develop protocols for a child
30 fatality review committee, to be appointed by the state medical
31 examiner on an ad hoc basis, to immediately review child abuse
32 assessments which involve the fatality of a child under age
33 eighteen. The state medical examiner shall appoint a medical
34 examiner, a pediatrician, and a person involved with law
35 enforcement to the committee.

1 a. The purpose of the review shall be to determine
2 whether the department of human services and others involved
3 with a case of child abuse responded appropriately. The
4 protocols shall provide for the committee to consult with any
5 multidisciplinary team, as defined in section 235A.13, that is
6 operating in the area in which the fatality occurred.

7 b. The committee shall have access to patient records
8 and other pertinent confidential information and, subject to
9 the restrictions in this subsection, may redisseminate the
10 confidential information in the committee's report.

11 c. Upon completion of the review, the committee shall issue
12 a report which shall include findings concerning the case and
13 recommendations for changes to prevent child fatalities when
14 similar circumstances exist. The report shall include but
15 is not limited to the following information, subject to the
16 restrictions listed in paragraph "d":

17 (1) The dates, outcomes, and results of any actions taken by
18 the department of human services and others in regard to each
19 report and allegation of child abuse involving the child who
20 died.

21 (2) The results of any review of the case performed by a
22 multidisciplinary team, or by any other public entity that
23 reviewed the case.

24 (3) Confirmation of the department of human services
25 receipt of any report of child abuse involving the child,
26 including confirmation as to whether or not any assessment
27 involving the child was performed in accordance with section
28 232.71B, the results of any assessment, a description of the
29 most recent assessment and the services offered to the family,
30 the services rendered to the family, and the basis for the
31 department's decisions concerning the case.

32 d. Prior to issuing the report, the committee shall consult
33 with the county attorney responsible for prosecution of the
34 alleged perpetrator of the child fatality. The committee's
35 report shall include child abuse information associated with

1 the case and the child, but is subject to the restrictions
2 applicable to the department of human services for release of
3 information concerning a child fatality or near fatality in
4 accordance with section 235A.15, subsection 9.

5 e. Following the completion of the trial of any alleged
6 perpetrator of the child fatality and the appeal period
7 for the granting of a new trial, the committee shall issue
8 a supplemental report containing the information that was
9 withheld, in accordance with paragraph "d", so as not to
10 jeopardize the prosecution or the rights of the alleged
11 perpetrator to a fair trial as described in section 235A.15,
12 subsection 9, paragraphs "e" and "f".

13 f. The report and any supplemental report shall be submitted
14 to the governor and general assembly.

15 g. If deemed appropriate by the committee, at any point
16 in the review the committee may recommend to the department
17 of human services, appropriate law enforcement agencies, and
18 any other person involved with child protection, interventions
19 that may prevent harm to a child who is related to or is living
20 in the same home as a child whose case is reviewed by the
21 committee.

22 ~~3.~~ 4. The team shall meet upon the call of the chairperson,
23 upon the request of a state agency, or as determined by a
24 majority of the team.

25 ~~4.~~ 5. The team shall annually elect a chairperson and other
26 officers as deemed necessary by the team.

27 ~~5.~~ 6. The team may establish committees or panels to whom
28 the team may assign some or all of the team's responsibilities.

29 ~~6.~~ 7. Members of the team who are currently practicing
30 attorneys or current employees of the judicial branch of state
31 government shall not participate in the following:

32 a. An investigation by the team that involves a case in
33 which the team member is presently involved in the member's
34 professional capacity.

35 b. Development of protocols by the team for child abuse or

1 domestic abuse death investigations and team review.

2 *c.* Development of regulatory changes related to domestic
3 abuse deaths.

4 Sec. 4. Section 135.111, Code 2020, is amended to read as
5 follows:

6 **135.111 Confidentiality of child and domestic abuse death**
7 **records.**

8 1. A person in possession or control of medical,
9 investigative, or other information pertaining to a child
10 abuse or domestic abuse death and related incidents and events
11 preceding the child abuse or domestic abuse death, shall allow
12 for the inspection and review of written or photographic
13 information related to the death, whether the information is
14 confidential or public in nature, by the department upon the
15 request of the department and the team, to be used only in
16 the administration and for the official duties of the team.
17 Information and records produced under [this section](#) that are
18 confidential under the law of this state or under federal law,
19 or because of any legally recognized privilege, and information
20 or records received from the confidential records, remain
21 confidential under [this section](#).

22 2. A person does not incur legal liability by reason of
23 releasing information to the department as required under and
24 in compliance with [this section](#).

25 3. A person who releases or discloses confidential data,
26 records, or any other type of information in violation of this
27 section is guilty of a serious misdemeanor.

28 Sec. 5. Section 135.112, Code 2020, is amended to read as
29 follows:

30 **135.112 Rulemaking.**

31 The department shall adopt rules pursuant to [chapter 17A](#)
32 relating to the administration of the child death and domestic
33 abuse death review team and [sections 135.108 through 135.111](#).

34 Sec. 6. Section 216A.133, subsection 3, paragraph o,
35 subparagraph (8), Code 2020, is amended to read as follows:

1 (8) Best practices related to the Iowa child death and
2 domestic abuse death review team established in section ~~135.43~~
3 ~~and the Iowa domestic abuse death review team established in~~
4 ~~section~~ 135.109.

5 Sec. 7. Section 691.6, subsection 10, Code 2020, is amended
6 to read as follows:

7 10. To provide staffing and support for ~~the child death~~
8 ~~review team~~ and any child fatality review committee under
9 section ~~135.43~~ 135.10.

10 Sec. 8. CODE EDITOR DIRECTIVE. The Code editor may change
11 the current subchapter title of chapter 135, subchapter XI, to
12 "IOWA CHILD DEATH AND DOMESTIC ABUSE DEATH REVIEW TEAM".

13 Sec. 9. REPEAL. Section 135.43, Code 2020, is repealed.

14 EXPLANATION

15 The inclusion of this explanation does not constitute agreement with
16 the explanation's substance by the members of the general assembly.

17 This bill relates to the establishment of the Iowa child
18 death and domestic abuse death review team.

19 The bill merges the Iowa child death review team and the Iowa
20 domestic abuse death review team to create the new Iowa child
21 death and domestic abuse death review team. The team includes
22 the following members: the state medical examiner or the state
23 medical examiner's designee; a licensed physician or nurse
24 who is knowledgeable concerning domestic abuse injuries or
25 deaths, including suicides; a pediatrician who is knowledgeable
26 concerning deaths of children; a licensed mental health
27 professional who is knowledgeable concerning domestic abuse or
28 deaths of children; a certified or licensed professional who
29 is knowledgeable concerning sudden infant death syndrome; a
30 perinatal expert; an emergency room nurse who is knowledgeable
31 concerning the deaths of children; a representative or designee
32 of the Iowa coalition against domestic violence; a certified or
33 licensed professional who is knowledgeable concerning substance
34 abuse; a social worker who is knowledgeable concerning
35 deaths of children; a local law enforcement official; a

1 law enforcement investigator experienced in domestic abuse
2 investigation; a county attorney; a judicial officer appointed
3 by the chief justice of the supreme court; an employee or
4 subcontractor of the department of corrections who is a trained
5 batterers' education program facilitator; an attorney licensed
6 in this state who provides criminal defense assistance or child
7 custody representation, and who has experience in dissolution
8 of marriage proceedings; a male and a female victim of domestic
9 abuse; and a member of the public.

10 The bill provides that liaisons designated by the attorney
11 general, the director of the Iowa department of corrections,
12 the director of public health, the director of human services,
13 the commissioner of public safety, the administrator of the
14 bureau of vital records of the Iowa department of public
15 health, the director of the department of education, the state
16 court administrator, the director of the department of human
17 rights, the director of the state law enforcement academy, the
18 director of the department of transportation, and the state
19 medical examiner will assist the team in fulfilling the team's
20 duties.

21 The bill provides that the duties of the team include:
22 preparing a biennial report for the governor, supreme court,
23 attorney general, and the general assembly; advising and
24 consulting the agencies represented on the team and other
25 state agencies regarding program and regulatory changes that
26 may prevent child and domestic abuse deaths; and developing
27 protocols for child and domestic abuse death investigations and
28 team review.

29 The bill provides that the review team shall develop
30 protocols for a child fatality review committee to immediately
31 review child abuse assessments which involve the fatality of a
32 child under age eighteen.

33 The bill makes conforming Code changes including
34 definitions, confidentiality, and rulemaking for the new review
35 team.