

CHAPTER 1135

OPERATING WHILE INTOXICATED — CHEMICAL TEST EVIDENCE

H.F. 2170

AN ACT regarding application of the margin of error for chemical test evidence used in operating while intoxicated prosecutions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 321J.2, subsection 10, Code Supplement 1999, is amended to read as follows:

10. In any prosecution under this section, the results of a chemical test ~~may~~ **shall** not be used to prove a violation of subsection 1, paragraph “b” or “c”, if the alcohol, controlled substance, or other drug concentration indicated by the chemical test minus the established margin of error inherent in the device or method used to conduct the chemical test does not equal or exceed the level prohibited by subsection 1, paragraph “b” or “c”.

Approved April 21, 2000

CHAPTER 1136

DOMESTIC ABUSE DEATH REVIEW TEAM

H.F. 2362

AN ACT relating to the establishment of a domestic abuse death review team and providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 135.108 DEFINITIONS.

As used in this division, unless the context otherwise requires:

1. “Department” means the Iowa department of public health.
2. “Director” means the director of public health.
3. “Domestic abuse death” means a homicide or suicide that involves or is a result of an assault as defined in section 708.1 and to which any of the following circumstances apply to the parties involved:
 - a. The alleged or convicted perpetrator is related to the decedent as spouse, separated spouse, or former spouse.
 - b. The alleged or convicted perpetrator resided with the decedent at the time of the assault that resulted in the homicide or suicide.
 - c. The alleged or convicted perpetrator and the decedent resided together in the past but did not reside together at the time of the assault that resulted in the homicide or suicide.
 - d. The alleged or convicted perpetrator and decedent are parents of the same minor child, whether they were married or lived together at any time.
 - e. The alleged or convicted perpetrator was in an ongoing personal relationship with the decedent.
 - f. The alleged or convicted perpetrator was arrested for or convicted of stalking or harassing the decedent, or an order or court-approved agreement was entered against the perpetrator under chapter 232, 236, 598, or 915 to restrict contact by the perpetrator with the decedent.

g. The decedent was related by blood or affinity to an individual who lived in the same household with or was in the workplace or proximity of the decedent, and that individual was threatened with assault by the perpetrator.

4. "Team" means the domestic abuse death review team established in section 135.109.

Sec. 2. NEW SECTION. 135.109 IOWA DOMESTIC ABUSE DEATH REVIEW TEAM MEMBERSHIP.

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

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

3. The team shall include the following members:

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

b. A licensed physician who is knowledgeable concerning domestic abuse injuries and deaths, including suicides.

c. A licensed mental health professional who is knowledgeable concerning domestic abuse.

d. A representative or designee of the Iowa coalition against domestic violence.

e. A certified or licensed professional who is knowledgeable concerning substance abuse.

f. A law enforcement official who is knowledgeable concerning domestic abuse.

g. A law enforcement investigator experienced in domestic abuse investigation.

h. An attorney experienced in prosecuting domestic abuse cases.

i. A judicial officer appointed by the chief justice of the supreme court.

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

k. An employee or subcontractor of the department of corrections who is a trained batterers' education program facilitator.

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

m. Both a female and a male victim of domestic abuse.

n. A family member of a decedent whose death resulted from domestic abuse.

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

a. The attorney general.

b. The director of the Iowa department of corrections.

c. The director of public health.

d. The director of human services.

e. The commissioner of public safety.

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

g. The director of the department of education.

h. The state court administrator.

i. The director of the department of human rights.

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

b. A membership vacancy shall be filled in the same manner as the original appointment.

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

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

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

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

8. Team members and their agents are immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of any act, omission, proceeding, decision, or determination undertaken or performed, or recommendation made as a team member or agent provided that the team members or agents acted reasonably and in good faith

and without malice in carrying out their official duties in their official capacity. A complainant bears the burden of proof in establishing malice or unreasonableness or lack of good faith in an action brought against team members involving the performance of their duties and powers.

Sec. 3. NEW SECTION. 135.110 IOWA DOMESTIC ABUSE DEATH REVIEW TEAM POWERS AND DUTIES.

1. The review team shall perform the following duties:

a. Prepare an annual report for the governor, supreme court, attorney general, and the general assembly concerning the following subjects:

(1) The causes and manner of domestic abuse deaths, including an analysis of factual information obtained through review of domestic¹ death certificates and domestic abuse death data, including patient records and other pertinent confidential and public information concerning domestic abuse deaths.

(2) The contributing factors of domestic abuse deaths.

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

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

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

2. In performing duties pursuant to subsection 1, the review team shall review the relationship between the decedent victim and the alleged perpetrator from the point where the abuse allegedly began, until the domestic abuse death occurred, and shall review all relevant documents pertaining to the relationship between the parties, including but not limited to protective orders and dissolution, custody, and support agreements and related court records, in order to ascertain whether a correlation exists between certain events in the relationship and any escalation of abuse, and whether patterns can be established regarding such events in relation to domestic abuse deaths in general. The review team shall consider such conclusions in making recommendations pursuant to subsection 1.

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

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

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

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

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

b. Development of protocols by the team for domestic abuse death investigations and team review.

c. Development of regulatory changes related to domestic abuse deaths.

Sec. 4. NEW SECTION. 135.111 CONFIDENTIALITY OF DOMESTIC ABUSE DEATH RECORDS.

1. A person in possession or control of medical, investigative, or other information pertaining to a domestic abuse death and related incidents and events preceding the domestic abuse death, shall allow for the inspection and review of written or photographic information related to the death, whether the information is confidential or public in nature, by the department upon the request of the department and the team, to be used only in the administration and for the official duties of the team. Information and records produced under this section that are confidential under the law of this state or under federal law, or because of any legally recognized privilege, and information or records received from the confidential records, remain confidential under this section.

¹ See chapter 1232, §48 herein

2. A person does not incur legal liability by reason of releasing information to the department as required under and in compliance with this section.

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

Sec. 5. NEW SECTION. 135.112 RULEMAKING.

The department shall adopt rules pursuant to chapter 17A relating to the administration of the domestic abuse death review team and sections 135.108 through 135.111.

Sec. 6. INITIAL TERMS. Notwithstanding any contrary provision of section 135.109, as enacted by this Act, the director of public health shall designate initial terms of team members as follows: approximately one-third of the total number of members of the Iowa domestic abuse review team,² of those members first listed in section 135.109, subsection 3, as enacted by this Act, shall initially serve terms of three years; approximately one-third of the total number of members of those members next listed shall initially serve terms of two years; and approximately one-third of the total number of members of those members finally listed shall serve terms of one year.

Approved April 21, 2000

CHAPTER 1137

ACCESS TO CHILD ABUSE INFORMATION

H.F. 2377

AN ACT providing for access to certain child abuse information, making penalties and remedies applicable, and including an effective date and applicability provision.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 135.43, subsection 3, paragraph e, Code 1999, is amended by striking the paragraph.

Sec. 2. Section 135.43, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 3A. The review team shall develop protocols for a child fatality review committee to be appointed by the director on an ad hoc basis to immediately review the child abuse assessments which involve the fatality of a child under age eighteen. The director shall appoint a medical examiner, a pediatrician, and a person involved with law enforcement to the committee.

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

b. The committee shall have access to patient records and other pertinent confidential information and subject to the restrictions in this subsection may disseminate the confidential information in the committee's report.

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

² Iowa domestic abuse death review team probably intended