

[Second Reprint]
SENATE, No. 52

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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District 30 (Monmouth and Ocean)
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District 14 (Mercer and Middlesex)

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SYNOPSIS

Establishes local drug overdose fatality review teams.

CURRENT VERSION OF TEXT

As amended by the Senate on June 21, 2021.



1 AN ACT regarding drug overdoses and supplementing Title 26 of
2 the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 ²**[1.** a. The Local Advisory Committee on Alcohol Use
8 Disorder and Substance Use Disorder in each county ¹**[shall] may**¹
9 establish a local drug overdose fatality review team for that county.
10 A local drug overdose fatality review team may serve one or more
11 counties where practicable. Each local drug overdose fatality
12 review team shall elect a chair ¹**[to administer a process of review**
13 and enact and implement a standard protocol for the collection and
14 maintenance of data that shall be consistent with all teams. The
15 Commissioner of Human Services shall make available to local
16 drug overdose fatality review teams such funding as may be
17 appropriate to enable the teams to undertake the duties required
18 under this section, which may include, but shall not be limited to,
19 funding sufficient to allow each team to employ appropriate full-
20 time and part-time personnel as may be necessary¹ .

21 b. Local drug overdose fatality review teams shall consist of
22 individuals with experience and knowledge regarding health, social
23 services, law enforcement, education, emergency medicine, mental
24 health, juvenile delinquency, and drug and alcohol abuse.

25 c. The Commissioner of Health shall develop a mandatory drug
26 overdose death reporting process, pursuant to which health care
27 practitioners, medical examiners, hospitals, emergency medical
28 services providers, local health departments, law enforcement
29 agencies, substance use disorder treatment programs, and relevant
30 social services agencies will be required to confidentially report
31 cases of drug overdose death to the Department of Health in a
32 standardized, uniform format.

33 d. The department shall transmit to the appropriate local drug
34 overdose fatality review team such information as the department
35 has available concerning any drug overdose that occurs within the
36 county served by the local drug overdose fatality review team,
37 including, but not limited to: the individual's age, race, gender,
38 county of residence, and county of death; and the date, manner,
39 cause, and specific circumstances of the overdose death, as recorded
40 on the individual's completed death certificate. In addition, the
41 team may be provided access to the following records related to the
42 individual:

43 (1) any relevant information and records maintained by a health
44 care provider related to the individual's physical health, mental

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted June 10, 2021.

²Senate floor amendments adopted June 21, 2021.

1 health, and substance use disorder treatment ¹], if the individual's
2 next of kin or authorized representative consents to the release of
3 the information or records¹ ; and

4 (2) any relevant information and records maintained by a State
5 or local government agency, including criminal history records and
6 records of probation and parole ¹if the transmission of such records
7 does not imperil ongoing investigations¹ , medical examiner
8 records, social service records, and school records and educational
9 histories ¹], if the individual's next of kin or authorized
10 representative consents to the release of the information or
11 records¹ .

12 e. Upon receipt of a report of drug overdose death that has
13 been forwarded to a local drug overdose death fatality review team
14 pursuant to subsection d. of this section, the team shall review the
15 reported case in accordance with the provisions of subsection f. of
16 this section.

17 f. Each local drug overdose fatality review team shall:

18 (1) develop methods to help prevent drug overdoses;

19 (2) explore methods to promote cooperation among multi-
20 disciplinary agencies in providing services to individuals with
21 substance use disorders;

22 (3) develop an understanding of the causes of drug overdoses;

23 (4) recommend possible changes to law and policy to prevent
24 drug overdoses; and

25 (5) meet at least quarterly to review drug overdose death cases
26 transmitted to the team pursuant to this section, as well as available
27 criminal, educational, substance abuse, and mental health records of
28 the deceased individuals. Local drug overdose fatality review team
29 meetings shall be closed to the public ¹, and information discussed
30 at the meetings shall be deemed confidential¹ .

31 g. As used in this section:

32 "Drug overdose" means an acute condition including, but not
33 limited to, ¹extreme¹ physical illness, coma, ¹[mania, hysteria]
34 decreased level of consciousness, respiratory depression¹ , or death
35 resulting from the consumption or use of a controlled dangerous
36 substance or another substance with which a controlled dangerous
37 substance was combined and that a layperson would reasonably
38 believe to require medical assistance.]²

39

40 ²[2. Names and individual identification data collected pursuant
41 to the provisions of this act shall not be disclosed by the
42 Department of Health or a local drug overdose fatality review team
43 member unless required by law, and nothing in this act shall be
44 construed to require disclosure of any private or confidential health
45 information in violation of State or federal privacy laws.
46 Notwithstanding the foregoing, State and local government agencies
47 are directed to share, upon request by ¹the Department of Law and

1 Public Safety for integration into its integrated drug awareness
2 dashboard, or by¹ a local drug overdose fatality review team, ¹[and,
3 in the case of confidential or personal identifying information, with
4 the consent of the next of kin or authorized representative of the
5 individual who is the subject of the information or record,]¹ such
6 information or records as may be necessary and appropriate for the
7 local drug overdose fatality review team to conduct a review of
8 reported drug overdose deaths pursuant to section 1 of this act ¹or
9 for the Department of Law and Public Safety to integrate into its
10 integrated drug awareness dashboard in order to protect the public
11 health, safety, and welfare¹ .]²
12

13 ²[¹3. The Department of Health, in collaboration with each local
14 drug overdose fatality review team, shall report any findings made
15 pursuant to this act to the Governor and, pursuant to section 2 of
16 P.L.1991, c.164 (C.52:14-19.1), to the Legislature.¹]²
17

18 ²1. As used in this act:

19 “Confidential case report” means a report created by a local
20 overdose fatality review team summarizing the data collected and
21 analyzed regarding a confirmed fatal drug overdose.

22 “De-identifiable data” means data or information not containing
23 personally identifiable information.

24 “Drug” means a substance which produces a physiological effect
25 when ingested or otherwise introduced into the body.

26 “Health care provider” means a physician, advanced practice
27 nurse, or physician assistant acting within the scope of a valid
28 license or certification issued pursuant to Title 45 of the Revised
29 Statutes.

30 “Local team” means a local overdose fatality review team.

31 “Mental health provider” means a psychiatrist, a psychologist, an
32 advanced practice nurse practitioner with a specialty in psychiatric
33 mental health, a clinical social worker, a professional counselor, or
34 a marriage and family therapist who is licensed to provide mental
35 health services pursuant to Title 45 of the Revised Statutes.

36 “Overdose” means “drug overdose” as that term is defined in
37 section 3 of P.L.2013, c.46 (C.24:6J-3).

38 “Personally identifiable information” means any information
39 about an individual that can be used to distinguish or trace an
40 individual’s identity, including, but not limited to, an individual’s
41 name, address, social security number, date and place of birth,
42 mother’s maiden name, biometric records, and medical,
43 educational, financial, and employment information.

44 “Public health purpose” means a purpose of protecting and
45 improving the health of people and their communities. “Public
46 health purpose” includes, but is not limited to, implementing
47 educational programs, recommending policies, administering

1 services, conducting research, and promoting healthcare equity, in
2 an effort to protect the health of entire populations.

3 “Substance use disorder” shall have the same meaning prescribed
4 by the American Psychiatric Association in the Diagnostic and
5 Statistical Manual of Mental Disorders, Fifth Edition, and any
6 subsequent editions, and shall include the symptoms of withdrawal
7 from a substance use disorder.

8 “Substance use disorder treatment provider” means any
9 individual or entity licensed, registered, or certified pursuant to the
10 laws of this State to treat substance use disorders or who holds a
11 current and valid waiver under the federal Drug Addiction
12 Treatment Act of 2000 (Pub. L. 106-310) from the federal
13 Substance Abuse and Mental Health Services Administration to
14 treat individuals with substance use disorder using medications
15 approved for that indication by the United States Food and Drug
16 Administration.²

17
18 ². a. (1) A county health department or a local board of health
19 may establish a local overdose fatality review team to conduct a
20 comprehensive review of confirmed overdose fatalities in order to
21 better understand the individual and population circumstances and
22 the resources and characteristics of potential overdose victims for
23 the purposes of preventing future overdose deaths and related harms
24 in a locality.

25 (2) A local drug overdose fatality review team may be
26 established to serve:

27 (a) one or more counties;

28 (b) a municipality with a population of 100,000 persons or
29 more; or

30 (c) a municipality with a high overdose rate as determined on
31 annual basis by the Department of Health and the Office of the
32 Chief State Medical Examiner.

33 (3) A local overdose fatality review team shall be under the
34 direction of the county health department or the local board of
35 health, as appropriate, and shall be subject to the regulation of the
36 Department of Health. A local team shall work cooperatively with
37 the Local Advisory Committee on Alcohol Use Disorder and
38 Substance Use Disorder, established pursuant to section 4 of
39 P.L.1983, c.531 (C.26:2B-33), if one exists within the local team’s
40 jurisdiction. A local team shall cooperate with and provide any
41 information as may be requested by the Office of the Chief State
42 Medical Examiner or the Department of Health through the Deputy
43 Commissioner for Public Health Services for public health
44 purposes.

45 b. A local overdose fatality review team shall consist of
46 individuals with experience and knowledge regarding health, social
47 services, law enforcement, education, emergency medicine, mental
48 health, juvenile delinquency, and substance use disorders.

1 (1) At a minimum, each local overdose fatality review team
2 shall include:

3 (a) the municipal or county health officer, or a designee;

4 (b) the regional or county medical examiner, or a designee;

5 (c) a member of the Local Advisory Committee on Alcohol Use
6 Disorder and Substance Use Disorder, established pursuant to
7 section 4 of P.L.1983, c.531 (C.26:2B-33), if one exists within the
8 local team's jurisdiction;

9 (d) a State, county, or municipal law enforcement officer or
10 county prosecutor;

11 (e) a substance use disorder health care professional; and

12 (f) the county or municipal director of behavioral health
13 services, or a designee.

14 (2) A local overdose fatality review team may also include any
15 of the following:

16 (a) the superintendent of schools, or a designee;

17 (b) an emergency medical services provider;

18 (c) a representative of a health care facility, including a hospital,
19 health system, or federally qualified health center;

20 (d) a representative of a county jail, detention center, or
21 corrections department;

22 (e) a representative of a county social services agency;

23 (f) a pharmacy permit holder or another individual with access to
24 the Prescription Monitoring Program established pursuant to section
25 25 of P.L.2007, c.244 (C.45:1-45);

26 (g) a representative of the local office of the Division of Child
27 Protection and Permanency in the Department of Children and
28 Families;

29 (h) a representative of a county healthcare facility;

30 (i) a representative of a harm reduction center, if one is located
31 in a municipality or county over which the local team exercises
32 jurisdiction; and

33 (j) any individual deemed necessary for the work of the local
34 team, as recommended by the chair and approved by a majority vote
35 of the team members and by the Department of Health.²

36
37 ²3. a. A local overdose fatality review team established
38 pursuant to section 2 of this act shall:

39 (1) establish and implement appropriate protocols and
40 procedures that allow the local teams to operate in accordance with
41 applicable State and federal laws;

42 (2) elect, in accordance with the procedures established pursuant
43 to paragraph (1) of this subsection and on an annual basis, a chair,
44 who shall be a member of the local team;

45 (3) collect, analyze, interpret, and maintain local data on
46 overdose deaths, which information shall be maintained by the local
47 team in accordance with all appropriate and industry-standard

1 technical, administrative, and physical controls necessary to protect
2 the privacy and security of the information;

3 (4) conduct, in accordance with Department of Health
4 regulations and guidance, a multidisciplinary review of the
5 information collected pursuant to this section regarding a decedent
6 of a confirmed fatal drug overdose, as selected by the office of the
7 county medical examiner in the county in which the decedent was
8 pronounced dead and at the direction of the Office of Chief State
9 Medical Examiner, which review shall include, but need not be
10 limited to:

11 (a) consideration of the decedent's points of contact with health
12 care systems, social services, educational institutions, child and
13 family services, the criminal justice system, including law
14 enforcement, and any other systems with which the decedent had
15 contact prior to death; and

16 (b) identification of the specific factors and social determinants
17 of health that put the decedent at risk for an overdose;

18 (5) recommend prevention and intervention strategies to
19 improve the coordination of services and investigations among
20 member agencies in an effort to reduce overdose deaths;

21 (6) produce confidential case reports based on information
22 received, which shall be transmitted to the Department of Health in
23 a form and manner prescribed by the department. The reports and
24 the data used therefor shall only be accessed by the department for
25 public health purposes, in a form and format that is secured to
26 prevent disclosure of personally identifiable information,
27 determined by the department and in accordance with applicable
28 State and federal law; and

29 (7) submit to the Department of Health an annual report
30 containing only de-identified data associated with the jurisdiction
31 served by the local team, which reports may be made available to
32 the public pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) and shall
33 include, but need not be limited to:

34 (a) the total number of fatal overdoses that occurred within the
35 jurisdiction of the local team;

36 (b) the number of fatal overdose cases investigated by the local
37 overdose fatality team;

38 (c) any recommendations for action by State agencies, local
39 agencies, or the Legislature for preventing fatal overdoses in this
40 State; and

41 (d) any assessable results of any recommendations made by the
42 local team, including, but not limited to, changes in local, county,
43 or State law, policy, or funding made as a result of the local team's
44 recommendations.

45 b. A local overdose fatality review team shall establish policies
46 and procedures to ensure that all records containing personally
47 identifiable information are destroyed within one year or within a
48 reasonable period of time after the conclusion of a local team's

1 review of a decedent's case. The annual report and other public
2 records shall be destroyed in accordance to the requirements of
3 P.L.1953, c.410 (C.47:3-15 et seq.).

4 c. A local team may only request, collect, analyze, and share
5 information for public health purposes directly related to the review
6 of confirmed fatal drug overdoses and, except as otherwise provided
7 in this act, in compliance with all applicable State and federal laws
8 or regulations.²

9
10 ²⁴. a. To the extent not otherwise inconsistent with State and
11 federal laws and only upon written request of the chair of a local
12 overdose fatality review team and as necessary to carry out the
13 official functions of the local team and the provisions of this act, the
14 entities listed in subsection b. of this section may provide a local
15 team with the following information:

16 (1) any relevant information and records maintained by a health
17 care provider related to an individual's physical health, mental
18 health, and substance use disorder treatment; and

19 (2) any relevant information and records maintained by a State or
20 local government agency, including criminal history records and
21 records of probation and parole if the transmission of such records
22 does not imperil ongoing investigations, medical examiner records,
23 social service records, and school records and educational histories.

24 b. The following individuals and entities may disclose, within a
25 reasonable period of time following a request, medical records and
26 information requested pursuant to subsection a. of this section:

27 (1) county medical examiners;

28 (2) paid fire departments or volunteer fire companies;

29 (3) hospitals and health systems;

30 (4) law enforcement agencies;

31 (5) State and local government agencies;

32 (6) mental health providers;

33 (7) health care practitioners;

34 (8) substance use disorder treatment programs and providers;

35 (9) public and private schools and institutions of higher
36 education;

37 (10) emergency medical services providers;

38 (11) social services agencies and providers; and

39 (12) the Prescription Monitoring Program.

40 c. An individual or entity subject to a request for information or
41 records by a local overdose fatality review team pursuant to this
42 section may charge the local team a reasonable fee for the service of
43 duplicating any records.

44 d. The chair of a local overdose fatality review team, or the
45 chair's designee, may request individuals authorized under 42
46 C.F.R. Part 2 to provide consent for the release of confidential
47 information protected pursuant to 42 U.S.C. s.290dd-2 and 42
48 C.F.R. Part 2.

1 e. A local overdose fatality review team shall develop a
2 confidentiality form establishing: the requirements for maintaining
3 the confidentiality of any information disclosed during a meeting,
4 during review, or at any other time; the responsibilities concerning
5 those requirements; and any penalties associated with failure to
6 maintain such confidentiality. Such requirements shall be in
7 accordance with all applicable State and federal laws and any best
8 practices identified by the Department of Health. An individual
9 shall review the confidentiality form, purpose, and goals of the local
10 team prior to participating in any review. All necessary and
11 reasonable measures shall be taken to prevent the disclosure of a
12 decedent's name or initials at any team meeting.

13 f. Information received pursuant to this act may be shared with
14 local team members at a meeting of the local team, provided that
15 each individual present, including staff, has signed and abides by
16 the provisions of the confidentiality form developed pursuant to
17 subsection e. of this section. Such information may be shared with
18 any non-member attendees who meet the criteria of subsection b. of
19 section 2 of this act and whose attendance is approved in
20 accordance with this act, provided that such attendees also sign and
21 abide by the provisions of the confidentiality form.

22 g. (1) Meetings of a local team during which confidential
23 information is discussed shall be closed to the public, except that,
24 upon a majority vote of the local team members present, a local
25 team may request and permit an individual who has information
26 relevant to the exercise of the team's duties to attend a team
27 meeting, regardless of whether the individual meets the criteria set
28 forth in subsection b. of section 2 of this act or is a permanent
29 member of the local team. Notice concerning the individual's
30 attendance shall be provided to members of the local team not later
31 than 10 days prior to the meeting at which the individual will be
32 present.

33 (2) A representative from the Department of Health, as
34 designated by the Deputy Commissioner for Public Health Services,
35 and a representative from the Office of the Chief State Medical
36 Examiner, may attend any meeting of a local overdose fatality
37 review team. Notice concerning a representative's attendance shall
38 be provided to members of the local team not later than 10 days
39 prior to the meeting at which the representative will be present.

40 h. Meetings of a local overdose fatality review team shall be
41 exempt from the "Senator Byron M. Baer Open Public Meetings
42 Act," P.L.1975, c.231 (C.10:4-6 et seq.).

43 i. A member of the local overdose fatality review team may
44 contact, interview, or obtain information by request from a family
45 member or friend of an individual whose death is being reviewed by
46 the local team.

47 j. To the extent not otherwise inconsistent with State and federal
48 law, an entity that provides, in good faith, information or records to

1 a local overdose fatality review team shall not be subject to civil or
2 criminal liability or any professional disciplinary action as a result
3 of providing the information or records.²
4

5 ²5. a. Information and records acquired by a local overdose
6 fatality review team, except for information contained within the
7 annual report submitted pursuant to paragraph (7) of subsection a.
8 of section 3 of this act, shall be confidential and shall not be subject
9 to subpoena, discovery, or introduction into evidence in a civil or
10 criminal proceeding or disciplinary or other administrative action.
11 Information and records that are otherwise available from other
12 sources shall not be immune from subpoena, discovery, or
13 introduction into evidence through those sources solely due to the
14 presentation or review of the information or record to or by a local
15 team.

16 b. Information and records created by a local overdose fatality
17 review team shall be considered confidential and shall not be
18 disclosed to the public or considered a government record pursuant
19 to P.L.1963, c.73 (C.47:1A-1 et seq.).

20 c. Substance use disorder treatment records requested by or
21 provided to a local overdose fatality review team shall be subject to
22 any additional limitations on the redisclosure of a medical record
23 developed in connection with the provision of substance use
24 disorder treatment services under State or federal law, including,
25 but not limited to, 42 U.S.C. s.290dd-2 and 42 C.F.R. Part 2.

26 d. Local overdose fatality review team members, and any
27 individual who presents or provides information to a local team,
28 may not be questioned in any civil or criminal proceeding or
29 disciplinary action regarding the information presented or provided,
30 except in an action contesting the validity of the disclosure itself.
31 This subsection shall not prevent an individual from testifying
32 regarding information obtained independently of the local team,
33 public information, or publicly available information.

34 e. The county health department or local board of health, as
35 appropriate, shall ensure the privacy, confidentiality, and security of
36 the information provided to a local overdose fatality review team
37 shall be maintained as required by State and federal laws and any
38 local ordinances.

39 f. An individual damaged by the negligent or knowing and
40 willful disclosure of confidential information by a local team or its
41 members may bring an action for damages, costs, and attorney fees
42 consistent with State law. Additionally, the Department of Health
43 may establish penalties for the negligent or knowing and willful
44 disclosure of confidential information by a local team or its
45 members.

46 g. Nothing in this act shall be construed to require the disclosure
47 of any private or confidential health information in violation of
48 State or federal privacy laws.²

1 ²6. a. The Department of Health, the Office of the Chief State
2 Medical Examiner, applicable county medical examiner offices, and
3 local overdose fatality review teams may pursue all sources of
4 federal funding, matching funds, and foundation funding available
5 to implement the provisions of this act.

6 b. The Department of Health, the Office of the Chief State
7 Medical Examiner, county medical examiner offices, and local
8 overdose fatality review teams may accept such gifts, grants, and
9 endowments, from public or private sources, as may be made, in
10 trust or otherwise, or any income derived according to the terms of
11 a gift, grant, or endowment, to implement the provisions of this
12 act.²

13
14 ²7. a. The Department of Health shall analyze and compile
15 reports from each local overdose fatality review team and submit
16 one Statewide annual overdose fatality report containing
17 information from each local team. The report shall be submitted to
18 the Governor and, pursuant to section 2 of P.L.1991, c.164
19 (C.52:14-19.1), to the Legislature. The report shall be considered a
20 government record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.).
21 Each publication of the Statewide annual report shall be in a format
22 that does not identify any individual or decedent and does not
23 contain personally identifying information.

24 b. The Office of the Chief State Medical Examiner may direct
25 all local teams to assist with the coordination of all the relevant
26 information necessary to review a specific decedent case.

27 c. The Department of Health may share data containing de-
28 identified data at any time. The department may only share data
29 containing personally identifiable information if the data is being
30 shared for public health purposes, the sharing of the data is
31 permitted by this act and other applicable laws, and the data is in a
32 form and format that is secured to prevent the disclosure of
33 personally identifiable information. Any publication made
34 available to the public shall be in a format that does not identify any
35 individual or decedent and does not contain personally identifiable
36 information.²

37
38 ²8. Any local overdose fatality review team in existence on the
39 date of enactment of this act shall conform to the requirements of,
40 and operate in accordance with, the provisions of this act no later
41 than 90 days after the date of enactment of this act.²

42
43 ²[¹[3.] 4.¹] 9. ²The Department of Health ²[shall] ²may² adopt
44 ²any² rules and regulations ²necessary to effectuate the provisions
45 of this act² , ²which rules and regulations shall be effective
46 immediately upon filing with the Office of Administrative Law for
47 a period not to exceed six months and which may thereafter be

1 adopted² pursuant to the "Administrative Procedure Act," P.L.1968,
2 c.410 (C.52:14B-1 et seq.) ²**[**, to implement the provisions of this
3 act²**]** .

4

5 ²**[**¹**[**4.**]** 5.1¹**]** 10.² This act shall take effect ²**[**180²**]** 90² days after
6 the date of enactment.