

[First Reprint]

ASSEMBLY, No. 798

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

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District 37 (Bergen)

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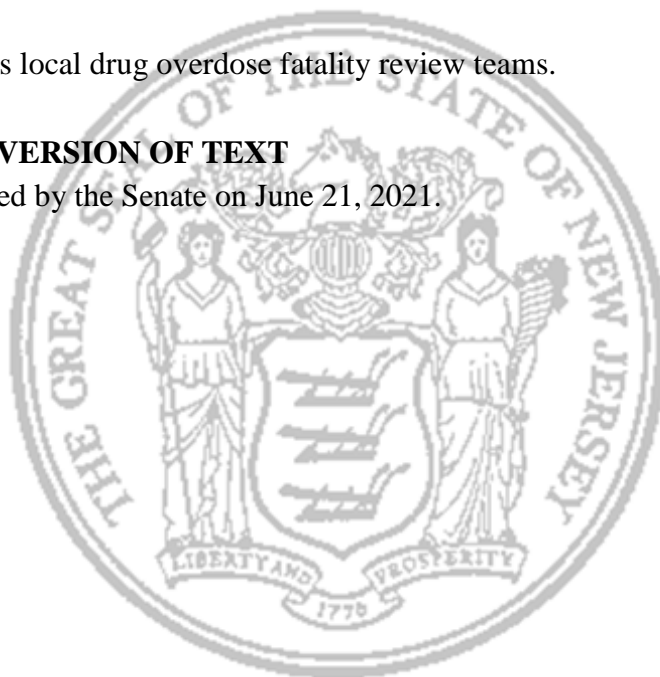
**Assemblyman Mazzeo, Assemblywoman Murphy, Assemblyman Benson,
Assemblywoman Lopez, Assemblymen Space, Wirths, Assemblywoman
McKnight, Assemblymen Johnson, Houghtaling, Assemblywomen
Downey, Timberlake and Assemblyman McKeon**

SYNOPSIS

Establishes local drug overdose fatality review teams.

CURRENT VERSION OF TEXT

As amended by the Senate on June 21, 2021.



(Sponsorship Updated As Of: 3/25/2021)

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 ¹**[1.** a. The Local Advisory Committee on Alcohol Use
8 Disorder and Substance Use Disorder in each county may establish
9 a local drug overdose fatality review team for that county. A local
10 drug overdose fatality review team may serve one or more counties
11 where practicable. Each local drug overdose fatality review team
12 shall elect a chair.

13 b. Local drug overdose fatality review teams shall consist of
14 individuals with experience and knowledge regarding health, social
15 services, law enforcement, education, emergency medicine, mental
16 health, juvenile delinquency, and drug and alcohol abuse.

17 c. The Commissioner of Health shall develop a mandatory drug
18 overdose death reporting process, pursuant to which health care
19 practitioners, medical examiners, hospitals, emergency medical
20 services providers, local health departments, law enforcement
21 agencies, substance use disorder treatment programs, and relevant
22 social services agencies will be required to confidentially report
23 cases of drug overdose death to the Department of Health in a
24 standardized, uniform format.

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

35 (1) any relevant information and records maintained by a health
36 care provider related to the individual's physical health, mental
37 health, and substance use disorder treatment; and

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

43 e. Upon receipt of a report of drug overdose death that has
44 been forwarded to a local drug overdose death fatality review team
45 pursuant to subsection d. of this section, the team shall review the

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 floor amendments adopted June 21, 2021.

1 reported case in accordance with the provisions of subsection f. of
2 this section.

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

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

5 (2) explore methods to promote cooperation among multi-
6 disciplinary agencies in providing services to individuals with
7 substance use disorders;

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

9 (4) recommend possible changes to law and policy to prevent
10 drug overdoses; and

11 (5) meet at least quarterly to review drug overdose death cases
12 transmitted to the team pursuant to this section, as well as available
13 criminal, educational, substance abuse, and mental health records of
14 the deceased individuals. Local drug overdose fatality review team
15 meetings shall be closed to the public, and information discussed at
16 the meetings shall be deemed confidential.

17 g. As used in this section:

18 "Drug overdose" means an acute condition including, but not
19 limited to, extreme physical illness, coma, decreased level of
20 consciousness, respiratory depression, or death resulting from the
21 consumption or use of a controlled dangerous substance or another
22 substance with which a controlled dangerous substance was
23 combined and that a layperson would reasonably believe to require
24 medical assistance.】¹

25

26 ¹【2. Names and individual identification data collected pursuant
27 to the provisions of this act shall not be disclosed by the
28 Department of Health or a local drug overdose fatality review team
29 member unless required by law, and nothing in this act shall be
30 construed to require disclosure of any private or confidential health
31 information in violation of State or federal privacy laws.
32 Notwithstanding the foregoing, State and local government agencies
33 are directed to share, upon request by the Department of Law and
34 Public Safety for integration into its integrated drug awareness
35 dashboard, or by a local drug overdose fatality review team, such
36 information or records as may be necessary and appropriate for the
37 local drug overdose fatality review team to conduct a review of
38 reported drug overdose deaths pursuant to section 1 of this act or for
39 the Department of Law and Public Safety to integrate into its
40 integrated drug awareness dashboard in order to protect the public
41 health, safety, and welfare.】¹

42

43 ¹【3. The Department of Health, in collaboration with each local
44 drug overdose fatality review team, shall report any findings made
45 pursuant to this act to the Governor and, pursuant to section 2 of
46 P.L.1991, c.164 (C.52:14-19.1), to the Legislature.】¹

1 ¹1. As used in this act:

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

5 “De-identifiable data” means data or information not containing
6 personally identifiable information.

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

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

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

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

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

20 “Personally identifiable information” means any information
21 about an individual that can be used to distinguish or trace an
22 individual’s identity, including, but not limited to, an individual’s
23 name, address, social security number, date and place of birth,
24 mother’s maiden name, biometric records, and medical,
25 educational, financial, and employment information.

26 “Public health purpose” means a purpose of protecting and
27 improving the health of people and their communities. “Public
28 health purpose” includes, but is not limited to, implementing
29 educational programs, recommending policies, administering
30 services, conducting research, and promoting healthcare equity, in
31 an effort to protect the health of entire populations.

32 “Substance use disorder” shall have the same meaning prescribed
33 by the American Psychiatric Association in the Diagnostic and
34 Statistical Manual of Mental Disorders, Fifth Edition, and any
35 subsequent editions, and shall include the symptoms of withdrawal
36 from a substance use disorder.

37 “Substance use disorder treatment provider” means any
38 individual or entity licensed, registered, or certified pursuant to the
39 laws of this State to treat substance use disorders or who holds a
40 current and valid waiver under the federal Drug Addiction
41 Treatment Act of 2000 (Pub. L. 106-310) from the federal
42 Substance Abuse and Mental Health Services Administration to
43 treat individuals with substance use disorder using medications
44 approved for that indication by the United States Food and Drug
45 Administration.¹

46

47 ¹2. a. (1) A county health department or a local board of health
48 may establish a local overdose fatality review team to conduct a

1 comprehensive review of confirmed overdose fatalities in order to
2 better understand the individual and population circumstances and
3 the resources and characteristics of potential overdose victims for
4 the purposes of preventing future overdose deaths and related harms
5 in a locality.

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

8 (a) one or more counties;

9 (b) a municipality with a population of 100,000 persons or
10 more; or

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

14 (3) A local overdose fatality review team shall be under the
15 direction of the county health department or the local board of
16 health, as appropriate, and shall be subject to the regulation of the
17 Department of Health. A local team shall work cooperatively with
18 the Local Advisory Committee on Alcohol Use Disorder and
19 Substance Use Disorder, established pursuant to section 4 of
20 P.L.1983, c.531 (C.26:2B-33), if one exists within the local team's
21 jurisdiction. A local team shall cooperate with and provide any
22 information as may be requested by the Office of the Chief State
23 Medical Examiner or the Department of Health through the Deputy
24 Commissioner for Public Health Services for public health
25 purposes.

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

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

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

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

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

38 (d) a State, county, or municipal law enforcement officer or
39 county prosecutor;

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

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

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

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

46 (b) an emergency medical services provider;

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

1 (d) a representative of a county jail, detention center, or
2 corrections department;

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

4 (f) a pharmacy permit holder or another individual with access to
5 the Prescription Monitoring Program established pursuant to section
6 25 of P.L.2007, c.244 (C.45:1-45);

7 (g) a representative of the local office of the Division of Child
8 Protection and Permanency in the Department of Children and
9 Families;

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

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

14 (j) any individual deemed necessary for the work of the local
15 team, as recommended by the chair and approved by a majority vote
16 of the team members and by the Department of Health.¹

17
18 ¹3. a. A local overdose fatality review team established
19 pursuant to section 2 of this act shall:

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

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

26 (3) collect, analyze, interpret, and maintain local data on
27 overdose deaths, which information shall be maintained by the local
28 team in accordance with all appropriate and industry-standard
29 technical, administrative, and physical controls necessary to protect
30 the privacy and security of the information;

31 (4) conduct, in accordance with Department of Health
32 regulations and guidance, a multidisciplinary review of the
33 information collected pursuant to this section regarding a decedent
34 of a confirmed fatal drug overdose, as selected by the office of the
35 county medical examiner in the county in which the decedent was
36 pronounced dead and at the direction of the Office of Chief State
37 Medical Examiner, which review shall include, but need not be
38 limited to:

39 (a) consideration of the decedent's points of contact with health
40 care systems, social services, educational institutions, child and
41 family services, the criminal justice system, including law
42 enforcement, and any other systems with which the decedent had
43 contact prior to death; and

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

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

1 (6) produce confidential case reports based on information
2 received, which shall be transmitted to the Department of Health in
3 a form and manner prescribed by the department. The reports and
4 the data used therefor shall only be accessed by the department for
5 public health purposes, in a form and format that is secured to
6 prevent disclosure of personally identifiable information,
7 determined by the department and in accordance with applicable
8 State and federal laws; and

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

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

16 (b) the number of fatal overdose cases investigated by the local
17 overdose fatality team;

18 (c) any recommendations for action by State agencies, local
19 agencies, or the Legislature for preventing fatal overdoses in this
20 State; and

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

25 b. A local overdose fatality review team shall establish policies
26 and procedures to ensure that all records containing personally
27 identifiable information are destroyed within one year or within a
28 reasonable period of time after the conclusion of a local team's
29 review of a decedent's case. The annual report and other public
30 records shall be destroyed in accordance to the requirements of
31 P.L.1953, c.410 (C.47:3-15 et seq.).

32 c. A local team may only request, collect, analyze, and share
33 information for public health purposes directly related to the review
34 of confirmed fatal drug overdoses and, except as otherwise provided
35 in this act, in compliance with all applicable State and federal laws
36 or regulations.¹

37
38 ¹4. a. To the extent not otherwise inconsistent with State and
39 federal laws and only upon written request of the chair of a local
40 overdose fatality review team and as necessary to carry out the
41 official functions of the local team and the provisions of this act, the
42 entities listed in subsection b. of this section may provide a local
43 team with the following information:

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

47 (2) any relevant information and records maintained by a State
48 or local government agency, including criminal history records and

1 records of probation and parole if the transmission of such records
2 does not imperil ongoing investigations, medical examiner records,
3 social service records, and school records and educational histories.

4 b. The following individuals and may disclose, within a
5 reasonable period of time following a request, medical records and
6 information requested pursuant to subsection a. of this section:

7 (1) county medical examiners;

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

9 (3) hospitals and health systems;

10 (4) law enforcement agencies;

11 (5) State and local government agencies;

12 (6) mental health providers;

13 (7) health care practitioners;

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

15 (9) public and private schools and institutions of higher
16 education;

17 (10) emergency medical services providers;

18 (11) social services agencies and providers; and

19 (12) the Prescription Monitoring Program.

20 c. An individual or entity subject to a request for information or
21 records by a local overdose fatality review team pursuant to this
22 section may charge the local team a reasonable fee for the service of
23 duplicating any records.

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

29 e. A local overdose fatality review team shall develop a
30 confidentiality form establishing: the requirements for maintaining
31 the confidentiality of any information disclosed during a meeting,
32 during review, or at any other time; the responsibilities concerning
33 those requirements; and any penalties associated with failure to
34 maintain such confidentiality. Such requirements shall be in
35 accordance with all applicable State and federal laws and any best
36 practices identified by the Department of Health. An individual
37 shall review the confidentiality form, purpose, and goals of the local
38 team prior to participating in any review. All necessary and
39 reasonable measures shall be taken to prevent the disclosure of a
40 decedent's name or initials at any team meeting.

41 f. Information received pursuant to this act may be shared with
42 local team members at a meeting of the local team, provided that
43 each individual present, including staff, has signed and abides by
44 the provisions of the confidentiality form developed pursuant to
45 subsection e. of this section. Such information may be shared with
46 any non-member attendees who meet the criteria of subsection b. of
47 section 2 of this act and whose attendance is approved in

1 accordance with this act, provided that such attendees also sign and
2 abide by the provisions of the confidentiality form.

3 g. (1) Meetings of a local team during which confidential
4 information is discussed shall be closed to the public, except that,
5 upon a majority vote of the local team members present, a local
6 team may request and permit an individual who has information
7 relevant to the exercise of the team's duties to attend a team
8 meeting, regardless of whether the individual meets the criteria set
9 forth in subsection b. of section 2 of this act or is a permanent
10 member of the local team. Notice concerning the individual's
11 attendance shall be provided to members of the local team not later
12 than 10 days prior to the meeting at which the individual will be
13 present.

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

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

24 i. A member of the local overdose fatality review team may
25 contact, interview, or obtain information by request from a family
26 member or friend of an individual whose death is being reviewed by
27 the local team.

28 j. To the extent not otherwise inconsistent with State and federal
29 laws, an entity that provides, in good faith, information or records
30 to a local overdose fatality review team shall not be subject to civil
31 or criminal liability or any professional disciplinary action as a
32 result of providing the information or records.¹

33
34 ¹5. a. Information and records acquired by a local overdose
35 fatality review team, except for information contained within the
36 annual report submitted pursuant to paragraph (7) of subsection a.
37 of section 3 of this act, shall be confidential and shall not be subject
38 to subpoena, discovery, or introduction into evidence in a civil or
39 criminal proceeding or disciplinary or other administrative action.
40 Information and records that are otherwise available from other
41 sources shall not be immune from subpoena, discovery, or
42 introduction into evidence through those sources solely due to the
43 presentation or review of the information or record to or by a local
44 team.

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

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

7 d. Local overdose fatality review team members, and any
8 individual who presents or provides information to a local team,
9 may not be questioned in any civil or criminal proceeding or
10 disciplinary action regarding the information presented or provided,
11 except in an action contesting the validity of the disclosure itself.
12 This subsection shall not prevent an individual from testifying
13 regarding information obtained independently of the local team,
14 public information, or publicly available information.

15 e. The county health department or local board of health, as
16 appropriate, shall ensure the privacy, confidentiality, and security of
17 the information provided to a local overdose fatality review team
18 shall be maintained as required by State and federal laws and any
19 local ordinances.

20 f. An individual damaged by the negligent or knowing and
21 willful disclosure of confidential information by a local team or its
22 members may bring an action for damages, costs, and attorney fees
23 consistent with State law. Additionally, the Department of Health
24 may establish penalties for the negligent or knowing and willful
25 disclosure of confidential information by a local team or its
26 members.

27 g. Nothing in this act shall be construed to require the disclosure
28 of any private or confidential health information in violation of
29 State or federal privacy laws.¹
30

31 ^{16.} a. The Department of Health, the Office of the Chief State
32 Medical Examiner, applicable county medical examiner offices, and
33 local overdose fatality review teams may pursue all sources of
34 federal funding, matching funds, and foundation funding available
35 to implement the provisions of this act.

36 b. The Department of Health, the Office of the Chief State
37 Medical Examiner, county medical examiner offices, and local
38 overdose fatality review teams may accept such gifts, grants, and
39 endowments, from public or private sources, as may be made, in
40 trust or otherwise, or any income derived according to the terms of
41 a gift, grant, or endowment, to implement the provisions of this
42 act.¹
43

44 ^{17.} a. The Department of Health shall analyze and compile
45 reports from each local overdose fatality review team and submit
46 one Statewide annual overdose fatality report containing
47 information from each local team. The report shall be submitted to
48 the Governor and, pursuant to section 2 of P.L.1991, c.164

1 (C.52:14-19.1), to the Legislature. The report shall be considered a
2 government record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.).
3 Each publication of the Statewide annual report shall be in a format
4 that does not identify any individual or decedent and does not
5 contain personally identifying information.

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

9 c. The Department of Health may share data containing de-
10 identified data at any time. The department may only share data
11 containing personally identifiable information if the data is being
12 shared for public health purposes, the sharing of the data is
13 permitted by this act and other applicable laws, and the data is in a
14 form and format that is secured to prevent the disclosure of
15 personally identifiable information. Any publication made
16 available to the public shall be in a format that does not identify any
17 individual or decedent and does not contain personally identifiable
18 information.¹

19
20 ¹8. Any local overdose fatality review team in existence on the
21 date of enactment of this act shall conform to the requirements of,
22 and operate in accordance with, the requirements of this act no later
23 than 90 days after the date of enactment of this act.¹

24
25 ¹[4.] 9.¹ The Department of Health ¹[shall] may¹ adopt ¹any¹
26 rules and regulations ¹necessary to effectuate the provisions of this
27 act¹, ¹which rules and regulations shall be effective immediately
28 upon filing with the Office of Administrative Law for a period not
29 to exceed six months and which may thereafter be adopted¹
30 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
31 (C.52:14B-1 et seq.) ¹[, to implement the provisions of this act]¹ .

32
33 ¹[5.] 10.¹ This act shall take effect ¹[180] 90¹ days after the
34 date of enactment.