

# STATEMENT TO

## **ASSEMBLY, No. 798**

with Senate Floor Amendments  
(Proposed by Senator SINGER)

ADOPTED: JUNE 21, 2021

The Senate floor amendments provide that a county health county health department or a local board of health, rather than a Local Advisory Council on Alcohol Use Disorder and Substance Use Disorder, may establish a local overdose fatality review team. The local team will be under the direction of the county health department or local board of health, be subject to the regulations of the Department of Health (DOH), and work cooperatively with Local Advisory Councils on Alcohol Use Disorder and Substance Use Disorder, the Office of the Chief State Medical Examiner, and the DOH though the Deputy Commissioner of Public Health Services. The amendments provide that a local team may also be established to serve one or more counties, a municipality with a population of 100,000 persons, or more or a municipality with a high overdose rate as determined annually by the DOH and the Office of the Chief State Medical Examiner.

The amendments provide additional requirements for the composition of a local overdose fatality review team. A local team will be required to include: the municipal or county health officer, or a designee; the regional or county medical examiner, or a designee; a member of the Local Advisory Committee on Alcohol Use Disorder and Substance Use Disorder, if applicable; a State, county, or municipal law enforcement officer or county prosecutor; a substance use disorder health care professional; and the county or municipal director of behavioral health services, or a designee. The local team may also include: the superintendent of schools, or a designee; an emergency medical services provider; a representative of a health care facility, including a hospital, health system, or federally qualified health center; a representative of a county jail, detention center, or corrections department; a representative of a county social services agency; a pharmacy permit holder or another individual with access to the Prescription Monitoring Program; a representative of the local office of the Division of Child Protection and Permanency in the Department of Children and Families; a representative of a county healthcare facility; a representative of a harm reduction center, if applicable; and any individual necessary for the work of the local team, as recommended by the chair of the team and approved by a majority vote of the team members and by the DOH.

The amendments specify and expand the required duties of each local overdose fatality review team to include: the establishment

and implementation of appropriate protocols and procedures that allow the local teams to operate in accordance with applicable State and federal laws; the election of a chair; the collection, analysis, interpretation, and maintenance of local data on overdose deaths, in a manner that protects the privacy and security of the data; a multidisciplinary review of information that considers a decedent's points of contact with health care systems, social services, educational institutions, child and family services, the criminal justice system, any other applicable systems, and identifies specific factors and social determinants of health that may have placed the decedent at risk of an overdose; the recommendation of prevention and intervention strategies to improve the coordination of services and investigations among member agencies to reduce overdose deaths; the production of confidential case reports; the submission of an annual report to the DOH containing de-identified data and including the total number of fatal overdoses within the jurisdiction of and the number of fatal overdose cases investigated by the local overdose fatality team; any recommendations for action by State agencies, local agencies, or the Legislature for preventing fatal overdoses in this State; and any assessable results of any recommendations made by the local team.

The amendments provide that local overdose fatality review teams will also establish policies and procedures to ensure that all records containing personally identifiable information are destroyed within one year or within a reasonable period of time after the conclusion of a local team's review of a decedent's case. The local team may only request, collect, analyze, and share information for public health purposes, which the amendments define as purposes of protecting and improving the health of people and their communities, and in compliance of applicable State and federal laws or regulations.

As introduced, the bill required the DOH to provide each local team with relevant case information or access to case-related records from a DOH-developed mandatory drug overdose reporting process. The amendments now provide that, instead, specific entities may provide a local team with relevant case information upon written request of a local team's chair, which entities include: county medical examiners; paid fire departments or volunteer fire companies; hospitals and health systems; law enforcement agencies; State and local government agencies; mental health providers; health care practitioners; substance use disorder treatment programs and providers; public and private schools and institutions of higher education; emergency medical services providers; social services agencies and providers; and the Prescription Monitoring Program. An individual or entity subject to a request for information or records by a local team may charge the local team a reasonable fee for the service of duplicating any records.

The amendments require local overdose fatality review teams to develop a confidentiality form establishing requirements for maintaining the confidentiality of information, the responsibilities concerning those requirements, and any penalties associated with

the failure to maintain confidentiality. Any individual present at a review or meeting of the local team will be required to sign and abide by the provisions of the form. The amendments provide that certain non-member individuals may attend a team meeting subject to a majority vote of team members and prior notice. The amendments provide that a member of the local overdose fatality review team may contact, interview, or obtain information by request from a family member or friend of an individual whose death is being reviewed by the local team. To the extent not otherwise inconsistent with State and federal laws, an entity that provides, in good faith, information or records to a local overdose fatality review team will not be subject to civil or criminal liability or any professional disciplinary action as a result of providing the information or records.

The amendments provide enhanced confidentiality provisions concerning the information and records acquired and created by local overdose fatality review teams, and establish certain immunity from questioning in civil or criminal proceedings or disciplinary actions regarding the information presented or provided.

The amendments provide that an individual damaged by the negligent or knowing and willful disclosure of confidential information by a local overdose fatality review team or its members may bring an action for damages, costs, and attorney fees consistent with State law. The DOH may also establish penalties for such disclosures.

The amendments permit the DOH, the Office of the Chief State Medical Examiner, applicable county medical examiner offices, and local overdose fatality review teams to pursue all sources of federal funding, matching funds, and foundation funding available and accept any gifts, grants, and endowments from public or private sources to implement the provisions of the bill.

The amendments provide additional reporting requirements for the DOH concerning the information obtained by each local drug overdose fatality review team.

The amendments require that any existing local overdose fatality review team conform to the requirements of the bill not later than the 90th day following the date of enactment of the bill.

The amendments provide clarifying language to provide that the DOH may adopt necessary rules and regulations to implement the provisions of the bill.

The amendments revise the bill's effective date from 180 days to 90 days after the date of enactment.

The amendments remove requirements for the Commissioner of Health to develop a mandatory drug overdose reporting process. The amendments also remove language that would direct State and local government agencies to share information and records with the Department of Law and Public Safety to integrate into the department's drug awareness dashboard.

The amendments revise the synopsis of the bill to reflect these changes.