[Second 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)
Assemblywoman VALERIE VAINIERI HUTTLE
District 37 (Bergen)
Assemblyman JOHN ARMATO
District 2 (Atlantic)
Senator ROBERT W. SINGER
District 30 (Monmouth and Ocean)
Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)

Co-Sponsored by:
Assemblyman Mazzeo, Assemblywoman Murphy, Assemblyman Benson,
Assemblywoman Lopez, Assemblymen Space, Wirths, Assemblywoman
McKnight, Assemblymen Johnson, Houghtaling, Assemblywomen
Downey, Timberlake, Assemblyman McKeon, Senators Corrado and
Gopal

SYNOPSIS
Establishes local drug overdose fatality review teams.

CURRENT VERSION OF TEXT
As amended by the Senate on December 2, 2021.

(Sponsorship Updated As Of: 1/10/2022)
AN ACT regarding drug overdoses and supplementing Title 26 of the Revised Statutes.

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

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

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

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

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

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

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

e. Upon receipt of a report of drug overdose death that has been forwarded to a local drug overdose death fatality review team 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.
²Senate floor amendments adopted December 2, 2021.
reported case in accordance with the provisions of subsection f. of
this section.

f. Each local drug overdose fatality review team shall:
(1) develop methods to help prevent drug overdoses;
(2) explore methods to promote cooperation among multi-
disciplinary agencies in providing services to individuals with
substance use disorders;
(3) develop an understanding of the causes of drug overdoses;
(4) recommend possible changes to law and policy to prevent
drug overdoses; and
(5) meet at least quarterly to review drug overdose death cases
transmitted to the team pursuant to this section, as well as available
criminal, educational, substance abuse, and mental health records of
the deceased individuals. Local drug overdose fatality review team
meetings shall be closed to the public, and information discussed at
the meetings shall be deemed confidential.

As used in this section:
"Drug overdose" means an acute condition including, but not
limited to, extreme physical illness, coma, decreased level of
consciousness, respiratory depression, or death resulting from the
consumption or use of a controlled dangerous substance or another
substance with which a controlled dangerous substance was
combined and that a layperson would reasonably believe to require
medical assistance.¹

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

³ The Department of Health, in collaboration with each local
drug overdose fatality review team, shall report any findings made
pursuant to this act to the Governor and, pursuant to section 2 of
P.L.1991, c.164 (C.52:14-19.1), to the Legislature.¹
1 a. The Local Advisory Committee on Alcohol Use Disorder and Substance Use Disorder in each county may establish a local drug overdose fatality review team for that county. A local drug overdose fatality review team may serve one or more counties where practicable. Each local drug overdose fatality review team shall elect a chair.

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

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

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

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

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

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

f. Each local drug overdose fatality review team shall:

(1) develop methods to help prevent drug overdoses;

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

(3) develop an understanding of the causes of drug overdoses;
(4) recommend possible changes to law and policy to prevent
drug overdoses; and

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

g. As used in this section:

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

¹ L. As used in this act:
“Confidential case report” means a report created by a local
overdose fatality review team summarizing the data collected and
analyzed regarding a confirmed fatal drug overdose.
“De-identifiable data” means data or information not containing
personally identifiable information.

² “[Drug” means a substance which produces a physiological
effect when ingested or otherwise introduced into the body.]²

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

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

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

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

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

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

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

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

¹A county health department ²or a local board of
health ²may establish a local overdose fatality review team to
conduct a comprehensive review of confirmed overdose fatalities ²,
or a sample thereof using an approach authorized by the Department
of Health in consultation with the Office of the Chief State Medical
 Examiner ², in order to better understand the individual and
population circumstances and the resources and characteristics of
potential overdose victims for the purposes of preventing future
overdose deaths and related harms in a locality.

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

(a) ²one or more counties ²:
(b) The Office of the Chief State Medical Examiner may direct a local overdose fatality review team to establish a municipal subcommittee to focus on a municipality with a population of 100,000 persons or more; or

2[c](c) a municipality with a high overdose rate as determined on an annual basis by the Department of Health and the Office of the Chief State Medical Examiner.

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

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

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

(a) the county health officer, or a designee;
(b) the regional or county medical examiner, or a designee;
(c) a member of the Local Advisory Committee on Alcohol Use Disorder and Substance Use Disorder, established pursuant to section 4 of P.L.1983, c.531 (C.26:2B-33), if one exists within the local team’s jurisdiction;
(d) a State, county, or municipal law enforcement officer or county prosecutor;
(e) a substance use disorder health care professional; and
(f) the county or municipal director of behavioral health services, or a designee.

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

(a) the superintendent of schools, or a designee;
(b) an emergency medical services provider;
(c) a representative of a health care facility, including a hospital, health system, or federally qualified health center;
(d) a representative of a county jail, detention center, or corrections department;
(e) a representative of a county social services agency;
(f) a pharmacy permit holder or another individual with access to the Prescription Monitoring Program established pursuant to section 25 of P.L.2007, c.244 (C.45:1–45);

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

(h) a representative of a county healthcare facility;

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

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

(k) a representative of the office of county probation and parole services.

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

3. a. A local overdose fatality review team established pursuant to section 2 of this act shall:

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

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

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

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

(a) consideration of the decedent’s points of contact with health care systems, social services, educational institutions, child and family services, the criminal justice system, including law enforcement, and any other systems with which the decedent had contact prior to death; and
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1 (b) identification of the specific factors and social determinants
2 of health that put the decedent at risk for an overdose;
3
4 (5) recommend prevention and intervention strategies to
5 improve the coordination of services and investigations among
6 member agencies in an effort to reduce overdose deaths;
7
8 (6) produce confidential case reports based on information
9 received, which shall be transmitted to the Department of Health in
10 a form and manner prescribed by the department. The reports and
11 the data used therefor shall only be accessed by the department for
12 public health purposes, in a form and format that is secured to
13 prevent disclosure of personally identifiable information,
14 determined by the department and in accordance with
15 applicable State and federal laws; and
16
17 (7) submit to the Department of Health an annual report,
18 in a manner prescribed the department, containing only de-identified
19 data associated with the jurisdiction served by the local team, which
20 reports may be made available to the public pursuant to P.L.1963,
21 c.73 (C.47:1A-1 et seq.) and shall include, but need not be limited
22 to:
23
24 (a) the total number of fatal overdoses that occurred within the
25 jurisdiction of the local team;
26
27 (b) the number of fatal overdose cases investigated by the local
28 overdose fatality team;
29
30 (c) any recommendations for action by State agencies, local
31 agencies, or the Legislature for preventing fatal overdoses in this
32 State; and
33
34 (d) any assessable results of any recommendations made by the
35 local team, including, but not limited to, changes in local, county,
36 or State law, policy, or funding made as a result of the local team’s
37 recommendations.
38
39 b. A local overdose fatality review team shall establish policies
40 and procedures to ensure that all records in their possession
41 containing personally identifiable information are properly handled
42 and retained and are securely and permanently destroyed within
43 one year, or within a reasonable period of time, as determined
44 by the Department of Health, after the conclusion of a local
45 team’s review of a decedent’s case. The annual report and other
46 public records shall be destroyed in accordance to the requirements
47 of P.L.1953, c.410 (C.47:3-15 et seq.).
48
49 c. A local team may only request, collect, analyze, and share
50 information for public health purposes directly related to the review
51 of confirmed fatal drug overdoses and, except as otherwise provided
52 in this act, in compliance with all applicable State and federal laws
53 or regulations.
54
55 14. a. To the extent not otherwise inconsistent with State and
56 federal laws and only upon written request of the chair of a local
overdose fatality review team and as necessary to carry out the official functions of the local team and the provisions of this act, the entities listed in subsection b. of this section may provide a local team with the following information:

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

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

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

(1) county medical examiners;
(2) paid fire departments or volunteer fire companies;
(3) hospitals and health systems;
(4) law enforcement agencies;
(5) State and local government agencies;
(6) mental health providers;
(7) health care practitioners;
(8) substance use disorder treatment programs and providers;
(9) public and private schools and institutions of higher education;
(10) emergency medical services providers;
(11) social services agencies and providers; and
(12) the Prescription Monitoring Program.

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

d. (1) The chair of a local overdose fatality review team, or the chair’s designee, may request individuals authorized under 42 C.F.R. Part 2 to provide consent for the release of confidential information protected pursuant to 42 U.S.C. s.290dd-2 and 42 C.F.R. Part 2.

(2) To the extent not otherwise inconsistent with State and federal laws, and as necessary to carry out the official functions of the local team and the provisions of this act, other individuals and entities identified by a local overdose fatality review team as having relevant data for a confidential case report may also provide a local team with relevant information in their possession that may contain personally identifiable information.

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

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

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

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

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

i. 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.

j. 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 shall not be subject to civil
or criminal liability or any professional disciplinary action as a result of providing the information or records.¹

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

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

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

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

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

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

g. Nothing in this act shall be construed to require the disclosure of any private or confidential health information in violation of State or federal privacy laws.¹
6. a. The Department of Health, the Office of the Chief State Medical Examiner, applicable county and local health departments, applicable county medical examiner offices, and local overdose fatality review teams may pursue all sources of federal funding, matching funds, and foundation funding available to implement the provisions of this act.

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

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

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

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

8. Any local overdose fatality review team in existence on the date of enactment of this act shall conform to the requirements of, and operate in accordance with, the provisions of this act no later than 90 days after the date of enactment of this act.†
to exceed six months and which may thereafter be adopted.\footnote{1}
pursuant to the "Administrative Procedure Act," P.L.1968, c.410
(C.52:14B-1 et seq.) \footnote{1} to implement the provisions of this act\footnote{1}.

\footnote{5.} This act shall take effect \footnote{180} 90 days after the
date of enactment.