

**SUBSTITUTE FOR
HOUSE BILL NO. 5278**

A bill to amend 1978 PA 389, entitled

"An act to provide for the prevention and treatment of domestic violence; to develop and establish policies, procedures, and standards for providing domestic violence assistance programs and services; to create a domestic violence prevention and treatment board and prescribe its powers and duties; to establish a domestic violence prevention and treatment fund and provide for its use; to prescribe powers and duties of the family independence agency; to prescribe immunities and liabilities of certain persons and officials; and to prescribe penalties for violations of this act,"

by amending the title and sections 1, 2, 4, and 11 (MCL 400.1501, 400.1502, 400.1504, and 400.1511), the title as amended by 2001 PA 192, section 1 as amended by 2000 PA 84, and section 11 as amended by 2002 PA 732.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

2

An act to provide for the prevention and treatment of domestic

3

AND SEXUAL violence; to develop and establish policies, procedures,

1 and standards for providing domestic **AND SEXUAL** violence assistance
 2 programs and services; to ~~create a~~ **DECLARE THE POWERS AND DUTIES OF**
 3 **THE MICHIGAN** domestic **AND SEXUAL** violence prevention and treatment
 4 board; and ~~prescribe its powers and duties;~~ to establish a domestic
 5 violence prevention and treatment fund and provide for its use; to
 6 ~~prescribe~~ **PROVIDE FOR THE** powers and duties of ~~the family~~
 7 ~~independence agency;~~ **CERTAIN STATE GOVERNMENTAL OFFICERS AND**
 8 **ENTITIES;** to prescribe immunities and liabilities of certain
 9 persons and officials; and to prescribe penalties for violations of
 10 this act.

11 Sec. 1. As used in this act:

12 (a) "Board" means the **MICHIGAN** domestic **AND SEXUAL** violence
 13 prevention and treatment board ~~created in section 2.~~ **CREATED UNDER**
 14 **EXECUTIVE ORDER NO. 2012-17.**

15 (b) "Dating relationship" means frequent, intimate
 16 associations primarily characterized by the expectation of
 17 affectional involvement. Dating relationship does not include a
 18 casual relationship or an ordinary fraternization between 2
 19 individuals in a business or social context.

20 (c) "Department" means the ~~family independence~~
 21 ~~agency.~~ **DEPARTMENT OF HEALTH AND HUMAN SERVICES.**

22 (d) "Domestic violence" means the occurrence of any of the
 23 following acts by a person that is not an act of self-defense:

24 (i) Causing or attempting to cause physical or mental harm to
 25 a family or household member.

26 (ii) Placing a family or household member in fear of physical
 27 or mental harm.

1 (iii) Causing or attempting to cause a family or household
2 member to engage in involuntary sexual activity by force, threat of
3 force, or duress.

4 (iv) Engaging in activity toward a family or household member
5 that would cause a reasonable person to feel terrorized,
6 frightened, intimidated, threatened, harassed, or molested.

7 (e) "Family or household member" includes any of the
8 following:

9 (i) A spouse or former spouse.

10 (ii) An individual with whom the person resides or has
11 resided.

12 (iii) An individual with whom the person has or has had a
13 dating relationship.

14 (iv) An individual with whom the person is or has engaged in a
15 sexual relationship.

16 (v) An individual to whom the person is related or was
17 formerly related by marriage.

18 (vi) An individual with whom the person has a child in common.

19 (vii) The minor child of an individual described in
20 subparagraphs (i) to (vi).

21 (f) "Fund" means the domestic violence prevention and
22 treatment fund created in section 5.

23 (g) "Prime sponsor" means a county, city, village, or township
24 of this state, or a combination thereof, or a private, nonprofit
25 association or organization.

26 Sec. 2. (1) The domestic **AND SEXUAL** violence prevention and
27 treatment board ~~is created in the department. The board shall~~

1 ~~consist~~ **UNDER EXECUTIVE ORDER NO. 2012-17 CONSISTS** of 7 members,
 2 all of whom ~~shall~~ **MUST** have experience in an area related to the
 3 problems of domestic **OR SEXUAL** violence. The members ~~shall~~ **MUST** be
 4 appointed by the governor with the advice and consent of the
 5 senate.

6 (2) ~~The term~~ **MEMBERS** of ~~office of a member~~ **THE BOARD** shall be
 7 **SERVE FOR TERMS OF** 3 years ~~;~~ except that ~~;~~ of the members first
 8 appointed ~~;~~ 2 shall serve for a term of 1 year, 2 shall serve for a
 9 term of 2 years, and 1 shall serve for a term of 3 years. ~~;~~ and of
 10 ~~the 2 additional members appointed under this 1979 amendatory act,~~
 11 ~~1 shall serve for a term of 2 years and 1 shall serve for a term of~~
 12 ~~3 years.~~ A member appointed to fill a vacancy occurring other than
 13 by expiration of a term ~~shall~~ **MUST** be appointed for the remainder
 14 of the unexpired term.

15 (3) The governor shall designate 1 member of the board to
 16 serve as chairperson. A majority of the members ~~shall~~ **OF THE BOARD**
 17 constitute a quorum.

18 (4) The per diem compensation of the board and the schedule
 19 for reimbursement of expenses ~~shall~~ **WILL** be established annually by
 20 the legislature.

21 Sec. 4. The department shall provide staff to enable the board
 22 to carry out the following powers and duties **ESTABLISHED UNDER**
 23 **EXECUTIVE ORDER NO. 2012-17:**

24 (a) Coordinate and monitor programs and services funded under
 25 this act for the prevention of domestic **AND SEXUAL** violence and the
 26 treatment of victims of domestic **AND SEXUAL** violence.

27 (b) Develop standards for the implementation and

1 administration of services and procedures to prevent domestic **AND**
2 **SEXUAL** violence and to provide services and programs for victims of
3 domestic **AND SEXUAL** violence.

4 (c) Provide planning and technical assistance to prime
5 sponsors for the development, implementation, and administration of
6 programs and services for the prevention of domestic **AND SEXUAL**
7 violence and the treatment of victims of domestic **AND SEXUAL**
8 violence.

9 (d) Conduct research to develop and implement effective means
10 for preventing domestic **AND SEXUAL** violence and treating victims of
11 domestic **AND SEXUAL** violence.

12 (e) Provide assistance to the department of state police in
13 developing a system for monitoring and maintaining a uniform
14 reporting system to provide accurate statistical data on domestic
15 **AND SEXUAL** violence.

16 (f) Coordinate educational and public informational programs
17 for the purpose of developing appropriate public awareness
18 regarding the problems of domestic **AND SEXUAL** violence; encourage
19 professional persons and groups to recognize and deal with problems
20 of domestic **AND SEXUAL** violence; to make information about the
21 problems of domestic **AND SEXUAL** violence available to the public,
22 ~~and~~ organizations, and agencies ~~which~~ **THAT** deal with problems of
23 domestic **AND SEXUAL** violence; and encourage the development of
24 community programs to prevent domestic **AND SEXUAL** violence and
25 provide services to victims of domestic **AND SEXUAL** violence.

26 (g) Study and recommend changes in civil and criminal **LAWS AND**
27 procedures ~~which~~ **THAT** will enable victims of domestic **AND SEXUAL**

1 violence to receive equitable and fair treatment under the law.

2 (h) Advise the legislature and governor on the nature,
3 magnitude, and priorities of the problem of domestic **AND SEXUAL**
4 violence and the needs of victims of domestic **AND SEXUAL** violence;
5 and recommend **APPROPRIATE** changes in state **LAWS AND** programs ~~7~~
6 ~~statutes,~~ **RELATED TO DOMESTIC AND SEXUAL VIOLENCE.**

7 **(I) DEVELOP** policies, budgets, and standards ~~which~~ **THAT** will
8 reduce the problem **OF DOMESTIC AND SEXUAL VIOLENCE** and improve the
9 condition of victims.

10 **(J) ADMINISTER GRANTS FROM THE FEDERAL GOVERNMENT OR A FEDERAL**
11 **AGENCY AND OTHER FUNDS AS PROVIDED BY LAW OR DESIGNATED BY THE**
12 **DEPARTMENT.**

13 Sec. 11. (1) The state or a county may establish an
14 interagency domestic violence fatality review team. Two or more
15 counties may establish a single domestic violence fatality review
16 team for those counties. The purpose of a team is to learn how to
17 prevent domestic violence homicides and suicides by improving the
18 response of individuals and agencies to domestic violence. Subject
19 to the requirements of this section, each team may determine its
20 structure and specific activities.

21 (2) The fatality review teams may review fatal and near-fatal
22 incidents of domestic violence, including suicides. The review of a
23 domestic violence incident may include a review of events leading
24 up to the domestic violence incident, available community
25 resources, current laws and policies, actions taken by the agencies
26 and individuals related to the incident and the parties, and any
27 other information considered relevant by the team. The team may

1 determine the number and type of incidents it wishes to review and
2 shall make policy and other recommendations as to how incidents of
3 domestic violence may be prevented.

4 (3) A fatality review team and its members are entitled to the
5 protections granted under this section if the fatality review team
6 is convened under this section and in compliance with the
7 requirements of this section.

8 (4) A fatality review team established under this section
9 ~~shall~~**MUST** include, but is not limited to, the following:

10 (a) A health care professional with training and experience in
11 responding to domestic violence.

12 (b) A medical examiner.

13 (c) A prosecuting attorney or a designated assistant
14 prosecuting attorney.

15 (d) A representative of a domestic violence shelter that
16 receives funding from the ~~Michigan domestic violence prevention and~~
17 ~~treatment board.~~

18 (e) A law enforcement officer.

19 (5) If a state fatality review team is convened, the state
20 fatality review team shall be convened by the ~~Michigan domestic~~
21 ~~violence prevention and treatment board.~~

22 (6) Subject to subsection (9), information obtained or created
23 by or for a fatality review team is confidential and not subject to
24 discovery or the freedom of information act, 1976 PA 442, MCL
25 15.231 to 15.246. Documents created by or for the fatality review
26 team are not subject to subpoena, except that documents and records
27 otherwise available from other sources are not exempt from

1 subpoena, discovery, or introduction into evidence from other
2 sources solely because they were presented to or reviewed by a
3 fatality review team. Information relevant to the investigation of
4 a crime may be disclosed by a fatality review team only to the
5 prosecuting attorney or to a law enforcement agency. Information
6 required to be reported under the child protection law, 1975 PA
7 238, MCL 722.621 to 722.638, ~~shall~~ **MUST** be disclosed by a fatality
8 review team to the ~~family independence agency~~. **DEPARTMENT**. A
9 prosecuting attorney, a law enforcement agency, and the ~~family~~
10 ~~independence agency~~ **DEPARTMENT** may use information received under
11 this subsection in carrying out their lawful responsibilities.
12 Individuals and the organizations represented by individuals who
13 participate as members of a fatality review team shall sign a
14 confidentiality agreement acknowledging the confidentiality
15 provisions of this section.

16 (7) An individual who provides information to a fatality
17 review team ~~shall~~ **MUST** sign a confidentiality notice acknowledging
18 that any information he or she provides to a fatality review team
19 ~~shall~~ **MUST** be kept confidential by the fatality review team, but is
20 subject to possible disclosure to the prosecuting attorney, a law
21 enforcement agency, or the ~~family independence agency~~ **DEPARTMENT** as
22 provided in subsection (6).

23 (8) Fatality review team meetings are closed to the public and
24 are not subject to the open meetings act, 1976 PA 267, MCL 15.261
25 to 15.275. Information identifying a victim of domestic violence
26 whose case is being reviewed, or that person's family members, or
27 an alleged or suspected perpetrator of abuse upon the victim, or

1 regarding the involvement of any agency with the victim or that
2 person's family, ~~shall~~**MUST** not be disclosed in any report that is
3 available to the public.

4 (9) Fatality review teams convened under this section shall
5 prepare an annual report of findings, recommendations, and steps
6 taken to implement recommendations. The report ~~shall~~**MUST** not
7 contain information identifying any victim of domestic violence, or
8 that person's family members, or an alleged or suspected
9 perpetrator of abuse upon a victim, or regarding the involvement of
10 any agency with a victim or that person's family. The report ~~shall~~
11 **MUST** cover each calendar year or portion of a calendar year during
12 which a fatality review team is convened and the report ~~shall~~**MUST**
13 be provided to the ~~Michigan domestic violence prevention and~~
14 ~~treatment~~ board on or before March 1 of the following year. If the
15 ~~Michigan domestic violence prevention and treatment~~ board develops
16 a form for use by fatality review teams to report annual findings
17 and recommendations, fatality review teams shall use that form.

18 (10) A person who violates the confidentiality provisions of
19 this section is guilty of a misdemeanor.

20 (11) A fatality review team, any member of a fatality review
21 team, any individual providing information to a fatality review
22 team, or any other person or agency acting within the scope of this
23 section is immune from all civil liability resulting from an act or
24 omission arising out of and in the course of the team's, member's,
25 individual's, person's, or agency's performance of that activity,
26 unless the act or omission was the result of gross negligence or
27 willful misconduct. This section shall not be construed to limit

1 the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1419, or
2 any other immunity provided by statute or common law.

3 (12) Subject to available funding, the ~~Michigan domestic~~
4 ~~violence prevention and treatment~~ board may do any of the
5 following:

6 (a) Develop a protocol for use by state, county, and
7 multicounty domestic violence fatality review teams.

8 (b) Develop a form for use by fatality review teams to report
9 annual findings and recommendations as required in subsection (9).

10 (c) Develop and provide training concerning fatality review
11 teams.

12 (d) Prepare a report to the governor, the senate, and the
13 house of representatives summarizing the findings and
14 recommendations of fatality review teams and making recommendations
15 to reduce and eradicate the incidence of domestic violence.

16 (13) If the ~~Michigan domestic violence prevention and~~
17 ~~treatment~~ board develops a protocol for use by state, county, and
18 multicounty fatality review teams, the teams shall follow that
19 protocol.

20 Enacting section 1. This amendatory act takes effect 90 days
21 after the date it is enacted into law.