

House Engrossed

drug overdose fatality review teams

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HOUSE BILL 2194

AN ACT

AMENDING TITLE 36, CHAPTER 1, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 6; REPEALING TITLE 36, CHAPTER 1, ARTICLE 6, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF HEALTH SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 36, chapter 1, Arizona Revised Statutes, is
3 amended by adding article 6, to read:

4 ARTICLE 6. DRUG OVERDOSE FATALITIES

5 36-198. Drug overdose fatality review team; members; duties;
6 local drug overdose fatality review teams;
7 confidentiality

8 A. THE DRUG OVERDOSE FATALITY REVIEW TEAM IS ESTABLISHED IN THE
9 DEPARTMENT OF HEALTH SERVICES. THE HEAD OF EACH OF THE FOLLOWING ENTITIES
10 OR THAT PERSON'S DESIGNEE SHALL SERVE ON THE REVIEW TEAM:

- 11 1. THE ATTORNEY GENERAL.
- 12 2. THE DEPARTMENT OF HEALTH SERVICES.
- 13 3. THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.
- 14 4. THE DEPARTMENT OF ECONOMIC SECURITY.
- 15 5. THE GOVERNOR'S OFFICE OF YOUTH, FAITH AND FAMILY.
- 16 6. THE ADMINISTRATIVE OFFICE OF THE COURTS.
- 17 7. THE STATE DEPARTMENT OF CORRECTIONS.
- 18 8. THE ARIZONA COUNCIL OF HUMAN SERVICES PROVIDERS.
- 19 9. THE DEPARTMENT OF PUBLIC SAFETY.

20 B. THE DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES SHALL APPOINT
21 THE FOLLOWING MEMBERS TO SERVE ON THE REVIEW TEAM:

- 22 1. A MEDICAL EXAMINER WHO IS A RURAL FORENSIC PATHOLOGIST.
- 23 2. A MEDICAL EXAMINER WHO IS A METROPOLITAN FORENSIC PATHOLOGIST.
- 24 3. A REPRESENTATIVE OF A TRIBAL GOVERNMENT.
- 25 4. A PUBLIC MEMBER.
- 26 5. A REPRESENTATIVE OF A PROFESSIONAL EMERGENCY MANAGEMENT SYSTEM
27 ASSOCIATION.
- 28 6. A HEALTH CARE PROFESSIONAL FROM A STATEWIDE ASSOCIATION
29 REPRESENTING NURSES.
- 30 7. A HEALTH CARE PROFESSIONAL FROM A STATEWIDE ASSOCIATION
31 REPRESENTING PHYSICIANS.
- 32 8. A REPRESENTATIVE OF AN ASSOCIATION OF COUNTY HEALTH OFFICERS.
- 33 9. A REPRESENTATIVE OF AN ASSOCIATION REPRESENTING HOSPITALS.
- 34 10. A HEALTH CARE PROFESSIONAL WHO SPECIALIZES IN THE PREVENTION,
35 DIAGNOSIS AND TREATMENT OF SUBSTANCE USE DISORDERS.
- 36 11. A COUNTY SHERIFF, OR THE SHERIFF'S DESIGNEE, WHO REPRESENTS A
37 COUNTY WITH A POPULATION OF LESS THAN FIVE HUNDRED THOUSAND PERSONS AND A
38 COUNTY SHERIFF, OR THE SHERIFF'S DESIGNEE, WHO REPRESENTS A COUNTY WITH A
39 POPULATION OF FIVE THOUSAND PERSONS OR MORE.

40 C. THE REVIEW TEAM SHALL:

- 41 1. DEVELOP A DRUG OVERDOSE FATALITIES DATA COLLECTION SYSTEM.
- 42 2. CONDUCT AN ANNUAL ANALYSIS ON THE INCIDENCE AND CAUSES OF DRUG
43 OVERDOSE FATALITIES IN THIS STATE DURING THE PRECEDING FISCAL YEAR.

1 3. ENCOURAGE AND ASSIST IN THE DEVELOPMENT OF LOCAL DRUG OVERDOSE
2 FATALITY REVIEW TEAMS.

3 4. DEVELOP MINIMUM STANDARDS AND PROTOCOLS FOR LOCAL DRUG OVERDOSE
4 FATALITY REVIEW TEAMS AND PROVIDE TRAINING AND TECHNICAL ASSISTANCE TO
5 THESE TEAMS.

6 5. DEVELOP PROTOCOLS FOR DRUG OVERDOSE INVESTIGATIONS, INCLUDING
7 PROTOCOLS FOR LAW ENFORCEMENT AGENCIES, PROSECUTORS, MEDICAL EXAMINERS,
8 HEALTH CARE FACILITIES AND SOCIAL SERVICE AGENCIES.

9 6. STUDY THE ADEQUACY OF STATUTES, ORDINANCES, RULES, TRAINING AND
10 SERVICES TO DETERMINE WHAT CHANGES ARE NEEDED TO DECREASE THE INCIDENCE OF
11 PREVENTABLE DRUG OVERDOSE FATALITIES AND, AS APPROPRIATE, TAKE STEPS TO
12 IMPLEMENT THESE CHANGES.

13 7. EDUCATE THE PUBLIC REGARDING THE INCIDENCE AND CAUSES OF DRUG
14 OVERDOSE FATALITIES AS WELL AS THE PUBLIC'S ROLE IN PREVENTING THESE
15 DEATHS.

16 8. DESIGNATE A MEMBER OF THE REVIEW TEAM TO SERVE AS CHAIRPERSON OR
17 TEAM COORDINATOR.

18 D. TEAM MEMBERS ARE NOT ELIGIBLE TO RECEIVE COMPENSATION, BUT
19 MEMBERS APPOINTED PURSUANT TO SUBSECTION B OF THIS SECTION ARE ELIGIBLE
20 FOR REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2.

21 E. THE DEPARTMENT OF HEALTH SERVICES SHALL PROVIDE PROFESSIONAL AND
22 ADMINISTRATIVE SUPPORT TO THE REVIEW TEAM.

23 F. LAW ENFORCEMENT AGENCIES SHALL PROVIDE UNREDACTED DEPARTMENT
24 REPORTS TO THE CHAIRPERSON OR TEAM COORDINATOR OF A LOCAL DRUG OVERDOSE
25 FATALITY REVIEW TEAM ON REQUEST. ALL INFORMATION AND RECORDS ACQUIRED BY
26 A LOCAL DRUG OVERDOSE FATALITY REVIEW TEAM ARE CONFIDENTIAL AND ARE NOT
27 SUBJECT TO SUBPOENA, DISCOVERY OR INTRODUCTION INTO EVIDENCE IN A CIVIL OR
28 CRIMINAL PROCEEDING OR DISCIPLINARY ACTION. INFORMATION AND RECORDS THAT
29 ARE OTHERWISE AVAILABLE FROM OTHER SOURCES ARE NOT IMMUNE FROM SUBPOENA,
30 DISCOVERY OR INTRODUCTION INTO EVIDENCE THROUGH THOSE SOURCES SOLELY
31 BECAUSE THE INFORMATION OR RECORD WAS PRESENTED TO OR REVIEWED BY A LOCAL
32 DRUG OVERDOSE FATALITY REVIEW TEAM.

33 G. A MEMBER OF A LOCAL DRUG OVERDOSE FATALITY REVIEW TEAM OR ANY
34 PERSON WHO PRESENTS INFORMATION TO A LOCAL DRUG OVERDOSE FATALITY REVIEW
35 TEAM MAY NOT BE QUESTIONED IN ANY CIVIL OR CRIMINAL PROCEEDING OR
36 DISCIPLINARY ACTION REGARDING THE INFORMATION PRESENTED. THIS SUBSECTION
37 DOES NOT PREVENT A PERSON FROM TESTIFYING REGARDING INFORMATION OBTAINED
38 INDEPENDENTLY OF THE LOCAL DRUG OVERDOSE FATALITY REVIEW TEAM OR AS TO
39 PUBLIC INFORMATION.

40 36-198.01. Access to information; confidentiality; violation;
41 classification

42 A. ON REQUEST OF THE CHAIRPERSON OR TEAM COORDINATOR OF THE DRUG
43 OVERDOSE FATALITY REVIEW TEAM WHO IS AN EMPLOYEE OF THE DEPARTMENT OF
44 HEALTH SERVICES OR A LOCAL DRUG OVERDOSE FATALITY REVIEW TEAM WHO IS AN

1 EMPLOYEE OF THE LOCAL COUNTY HEALTH DEPARTMENT OR AN ORGANIZATION THAT
2 MANAGES THE LOCAL OVERDOSE FATALITY REVIEW TEAM FOR THE LOCAL HEALTH
3 DEPARTMENT AND AS NECESSARY TO CARRY OUT THE REVIEW TEAM'S DUTIES, THE
4 CHAIRPERSON OR TEAM COORDINATOR SHALL BE PROVIDED, WITHIN FIVE DAYS
5 EXCLUDING WEEKENDS AND HOLIDAYS, WITH ACCESS TO INFORMATION AND RECORDS
6 REGARDING A DRUG OVERDOSE FATALITY THAT IS BEING REVIEWED BY THE REVIEW
7 TEAM OR REGARDING THE PERSON WHO OVERDOSED ON DRUGS. THE REVIEW TEAM MAY
8 REVIEW DRUG OVERDOSE FATALITIES FROM JANUARY 1, 2021 TO THE PRESENT AND
9 MAY REQUEST THE INFORMATION AND RECORDS FROM ANY OF THE FOLLOWING:

10 1. A PROVIDER OF MEDICAL, DENTAL OR MENTAL HEALTH CARE.

11 2. THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE THAT MIGHT
12 ASSIST THE REVIEW TEAM IN REVIEWING THE FATALITY.

13 B. A LAW ENFORCEMENT AGENCY, WITH THE APPROVAL OF THE PROSECUTING
14 ATTORNEY, MAY WITHHOLD FROM THE DRUG OVERDOSE FATALITY REVIEW TEAM OR A
15 LOCAL TEAM ANY INVESTIGATIVE RECORDS THAT MIGHT INTERFERE WITH A PENDING
16 CRIMINAL INVESTIGATION OR PROSECUTION.

17 C. THE DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES OR THE
18 DIRECTOR'S DESIGNEE MAY APPLY TO THE SUPERIOR COURT FOR A SUBPOENA AS
19 NECESSARY TO COMPEL THE PRODUCTION OF BOOKS, RECORDS, DOCUMENTS AND OTHER
20 EVIDENCE RELATED TO THE PERSON WHO OVERDOSED ON DRUGS. SUBPOENAS ISSUED
21 UNDER THIS SUBSECTION SHALL BE SERVED AND, ON APPLICATION TO THE COURT BY
22 THE DIRECTOR OR THE DIRECTOR'S DESIGNEE, ENFORCED IN THE MANNER PROVIDED
23 BY LAW FOR THE SERVICE AND ENFORCEMENT OF SUBPOENAS. A LAW ENFORCEMENT
24 AGENCY IS NOT REQUIRED TO PRODUCE THE INFORMATION REQUESTED UNDER THE
25 SUBPOENA IF THE SUBPOENAED EVIDENCE RELATES TO A PENDING CRIMINAL
26 INVESTIGATION OR PROSECUTION. ALL RECORDS SHALL BE RETURNED TO THE AGENCY
27 OR ORGANIZATION ON COMPLETION OF THE REVIEW. THE DRUG OVERDOSE FATALITY
28 REVIEW TEAM OR A LOCAL TEAM MAY NOT KEEP WRITTEN REPORTS OR RECORDS
29 CONTAINING IDENTIFYING INFORMATION.

30 D. ALL INFORMATION AND RECORDS ACQUIRED BY THE DRUG OVERDOSE
31 FATALITY REVIEW TEAM OR ANY LOCAL TEAM ARE CONFIDENTIAL AND ARE NOT
32 SUBJECT TO SUBPOENA, DISCOVERY OR INTRODUCTION INTO EVIDENCE IN ANY CIVIL
33 OR CRIMINAL PROCEEDING, EXCEPT THAT INFORMATION, DOCUMENTS AND RECORDS
34 THAT ARE OTHERWISE AVAILABLE FROM OTHER SOURCES ARE NOT IMMUNE FROM
35 SUBPOENA, DISCOVERY OR INTRODUCTION INTO EVIDENCE THROUGH THOSE SOURCES
36 SOLELY BECAUSE THEY WERE PRESENTED TO OR REVIEWED BY A REVIEW TEAM
37 PURSUANT TO THIS ARTICLE.

38 E. MEMBERS OF THE DRUG OVERDOSE FATALITY REVIEW TEAM OR A LOCAL
39 TEAM, PERSONS ATTENDING A REVIEW TEAM MEETING AND PERSONS WHO PRESENT
40 INFORMATION TO A REVIEW TEAM MAY NOT BE QUESTIONED IN ANY CIVIL OR
41 CRIMINAL PROCEEDING REGARDING INFORMATION PRESENTED IN OR OPINIONS FORMED
42 AS A RESULT OF A MEETING. THIS SUBSECTION DOES NOT PREVENT A PERSON FROM
43 TESTIFYING TO INFORMATION THAT IS OBTAINED INDEPENDENTLY OF THE REVIEW
44 TEAM OR THAT IS PUBLIC INFORMATION.

1 F. A MEMBER OF THE DRUG OVERDOSE FATALITY REVIEW TEAM OR A LOCAL
2 TEAM MAY CONTACT, INTERVIEW OR OBTAIN INFORMATION BY REQUEST OR SUBPOENA
3 FROM A FAMILY MEMBER OF A DECEASED PERSON WHO OVERDOSED ON DRUGS.

4 G. MEETINGS OF THE DRUG OVERDOSE FATALITY REVIEW TEAM OR A LOCAL
5 TEAM ARE CLOSED TO THE PUBLIC AND ARE NOT SUBJECT TO TITLE 38, CHAPTER 3,
6 ARTICLE 3.1 IF THE REVIEW TEAM IS REVIEWING INFORMATION ON A PERSON WHO
7 OVERDOSED ON DRUGS. ALL OTHER REVIEW TEAM MEETINGS ARE OPEN TO THE
8 PUBLIC.

9 H. A PERSON WHO VIOLATES THE CONFIDENTIALITY REQUIREMENTS OF THIS
10 SECTION IS GUILTY OF A CLASS 2 MISDEMEANOR.

11 Sec. 2. Delayed repeal

12 Title 36, chapter 1, article 6, Arizona Revised Statutes, as added
13 by this act, is repealed from and after December 31, 2028.

14 Sec. 3. Emergency

15 This act is an emergency measure that is necessary to preserve the
16 public peace, health or safety and is operative immediately as provided by
17 law.