



BILL NO. 180

Government Bill

*2nd Session, 63rd General Assembly
Nova Scotia
68 Elizabeth II, 2019*

An Act to Amend Chapter 31 of the Acts of 2001, the Fatality Investigations Act

CHAPTER 30
ACTS OF 2019

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
OCTOBER 30, 2019**

The Honourable Mark Furey
Attorney General and Minister of Justice

*Halifax, Nova Scotia
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**An Act to Amend Chapter 31
of the Acts of 2001,
the Fatality Investigations Act**

Be it enacted by the Governor and Assembly as follows:

1 (1) Subsection 2(1) of Chapter 31 of the Acts of 2001, the *Fatality Investigations Act*, is amended by adding immediately after clause (c) the following clause:

(ca) “Committee” means a Death Review Committee established under Section 39B, the Domestic Violence Death Review Committee established under Section 39C or the Child Death Review Committee established under Section 39D;

(2) Subsection 2(1) of Chapter 31 is further amended by adding immediately after clause (d) the following clause:

(da) “death review” means a review by a Committee under Section 39B, 39C or 39D;

2 Section 7 of Chapter 31, as amended by Chapter 30 of the Acts of 2002, is further amended by adding immediately after subsection (5) the following subsections:

(6) Notwithstanding subsections (4) and 5(1), a medical examiner or investigator may collect information relating to the facts or circumstances of a death if requested to do so by a Committee.

(7) Notwithstanding subsection (4), for the purpose of conducting a death review, a Committee may use any information acquired by a medical examiner or investigator in the course of conducting an investigation or preparing a report under this Act.

3 Chapter 31 is further amended by adding immediately after Section 39 the following Sections:

39A In this Section and Sections 39B to 39K and 41A,

(a) “child death” means the death of a person under nineteen years of age that occurred under a circumstance referred to in Section 9 where, at the time of death, the person was

(i) in the care and custody of an agency pursuant to the *Children and Family Services Act*,

(ii) the subject of a supervision order pursuant to the *Children and Family Services Act*,

(iii) a resident of, or attending and present in, a child-caring facility licensed or approved under the *Children and Family Services Act*,

(iv) admitted to and assigned a bed in a hospital as defined in the *Hospitals Act*,

(v) a resident of a residential care facility or nursing home licensed under the *Homes for Special Care Act*,

(vi) detained or in custody in a correctional facility as defined in the *Correctional Services Act* or being transferred to or from a correctional facility by a sheriff as defined in that Act,

(vii) attending and present at a public school as defined in the *Education Act*,

(viii) in transit to or from a public school as defined in the *Education Act* while on a school bus,

(ix) attending an event or program offered by or on behalf of an education entity as defined in the *Education Act* or sanctioned by a public school, such as a field trip or a sporting event,

(x) attending a program and present in a day care facility or family day care home managed by an agency licensed under the *Day Care Act*,

(xi) attending and present at a pre-primary program provided under the *Pre-primary Education Act* or otherwise offered by an education entity as defined in the *Education Act*, or

(xii) in the custody or care of any other person or body as prescribed by the regulations;

(b) “death review information” means information that was communicated for the purpose of, or created in the course of, the carrying out of a death review by a Committee and is in the custody of a Committee or a medical examiner;

(c) “domestic violence death” means

(i) a homicide that involves the death of

(A) a person, the person’s child or other family member, or

(B) any other person present at a domestic violence incident involving a person

that is committed by the person’s current or former intimate partner, or

(ii) a homicide-suicide where, in addition to a death referred to in subclause (i), the current or former intimate partner commits suicide;

(d) “intimate partner” means, with respect to a person, an individual who is or was a spouse, common-law partner, dating partner or sexual partner of the person or in a similar relationship with the person.

39B (1) The Minister may, in consultation with the Chief Medical Examiner, establish one or more Death Review Committees to review the facts and circumstances of deaths referred to in subsection (2) for the purpose of

(a) investigating and monitoring trends involving deaths;

(b) reviewing the facts and circumstances relating to specific deaths;

- (c) providing advice and recommendations to the Minister; and
- (d) performing other duties and functions as prescribed by the regulations.

(2) A Death Review Committee may review the facts and circumstances of one or more deaths that occurred under a circumstance referred to in Sections 9 to 12 as determined by the Minister.

(3) A Death Review Committee shall not conduct a death review with respect to a specific death until a medical examiner has completed the medical examiner's duties under Section 5.

39C (1) There is hereby established a Domestic Violence Death Review Committee to review the facts and circumstances of domestic violence deaths for the purpose of

- (a) investigating and monitoring trends involving domestic violence deaths;
- (b) reviewing the facts and circumstances relating to specific domestic violence deaths;
- (c) providing advice and recommendations to the Minister regarding the prevention and reduction of domestic violence deaths; and
- (d) performing other duties and functions as prescribed by the regulations.

(2) The Domestic Violence Death Review Committee may review the facts and circumstances of one or more domestic violence deaths during a review.

(3) The Domestic Violence Death Review Committee shall not conduct a death review with respect to a specific domestic violence death until a medical examiner has completed the medical examiner's duties under Section 5.

39D (1) There is hereby established a Child Death Review Committee for the purpose of

- (a) reviewing aggregate, population-level information regarding deaths of persons under twenty-five years of age to find trends and inform prevention programs;
- (b) reviewing the facts and circumstances relating to specific child deaths;
- (c) providing advice and recommendations to the Minister respecting the prevention and reduction of
 - (i) deaths of persons under twenty-five years of age, and
 - (ii) child deaths; and
- (d) performing other duties and functions as prescribed by the regulations.

(2) The Child Death Review Committee shall not conduct a death review with respect to a specific child death until a medical examiner has completed the medical examiner's duties under Section 5.

(3) The Minister may, in consultation with the Chief Medical Examiner, direct the Child Death Review Committee to review the facts and circumstances of the death of a person under nineteen years of age that occurred under a circumstance referred to in Sections 9 to 12.

39E (1) Members of a Committee are to be appointed in the manner prescribed by the regulations.

(2) The Minister may prescribe, authorize or provide for the payment of remuneration and expenses of Committee members.

(3) The membership of the Domestic Violence Death Review Committee must include persons with knowledge and expertise in the area of domestic violence.

(4) The membership of the Child Death Review Committee must include persons with knowledge and expertise in the delivery of government services to persons under nineteen years of age.

(5) The Chief Medical Examiner is the Chair of all Committees.

(6) The Minister shall, after consultation with the Chief Medical Examiner, designate one of the members of each Committee to be the Vice-chair of that Committee.

(7) In case of the absence of the Chair of a Committee or the Chair's inability to act, the Vice-chair shall perform the duties and exercise the powers of the Chair.

39F A death review respecting a specific death may not interfere with a criminal investigation or prosecution.

39G (1) Upon completing a death review, a Committee shall prepare a written report containing

(a) its findings respecting the matter that is the subject of the review;

(b) its advice and recommendations to the Minister respecting the prevention of similar deaths; and

(c) any other information as may be prescribed by the regulations.

(2) The findings of a Committee may not include any findings of legal responsibility or any conclusions of law.

(3) A Committee shall provide the report prepared under subsection (1) to the Minister in the manner prescribed by the regulations.

(4) A Committee shall not disclose the report to any other person or body unless authorized to do so by the Minister.

(5) Notwithstanding subsection (4), where the subject-matter of a death review conducted by the Child Death Review Committee involves the death of a child under the custody, care or purview of a Government department other than the Department of Justice, the Child Death Review Committee shall provide a copy of the report to the Minister responsible for that department.

39H (1) Notwithstanding any other enactment, in conducting a death review, a Committee is entitled to access or make copies of any information, including personal information and personal health information, that

(a) is in the custody or under the control of a public body as defined in the *Freedom of Information and Protection of Privacy Act*, a municipality as defined in Part XX of the *Municipal Government Act* or a custodian as defined in the *Personal Health Information Act*; and

(b) the Committee considers necessary to enable it to carry out a death review.

(2) A public body or custodian shall, upon request from a Committee, disclose to the Committee the information to which the Committee is entitled under subsection (1).

(3) Nothing in this Section compels the disclosure of any information or records that are subject to any type of privilege, including solicitor-client privilege.

(4) Except as provided under this Act, a member of a Committee, or a person acting under the direction of, or on behalf of, a Committee shall not publish or disclose to any person or body any information recorded, compiled or created for or by, or provided to, the Committee in the course of a death review.

(5) The *Freedom of Information and Protection of Privacy Act*, Part XX of the *Municipal Government Act* and the *Personal Health Information Act* do not apply to Committees or to death review information.

39I (1) No action lies against a Committee, a member of a Committee or any person acting on behalf of, or under the direction of, a Committee for anything done, or omitted to be done, in good faith in the exercise of a power or performance of a duty or function under Sections 39B to 39H or the associated regulations.

(2) No action lies against a person who, in good faith, discloses information to a Committee at the request of the Committee or for the purpose of assisting the Committee with a death review.

39J (1) A member of a Committee shall not give or be compelled to give evidence in any criminal or civil proceeding in respect of any matter coming to that member's knowledge in the course of a death review, except in a prosecution for perjury.

(2) Nothing in subsection (1) prevents a member of a Committee from giving or being compelled to give evidence in any criminal or civil proceeding in respect of information or knowledge regarding the subject-matter of a death review that was acquired outside of the death review process.

(3) Death review information is not admissible in evidence in a legal proceeding.

39K Nothing in Sections 39H to 39J prevents the lawful use of, disclosure of or access to information regarding the subject-matter of a death review that was obtained or created outside of the death review process.

4 Chapter 31 is further amended by adding immediately after Section 41 the following Section:

- 41A (1) The Minister may make regulations
- (a) prescribing persons or bodies for the purpose of subclause 39A(a)(xii);
 - (b) prescribing the manner of appointments to a Committee;
 - (c) prescribing the term of office and qualification of any member of a Committee;
 - (d) prescribing the payment of remuneration and expenses to any member of a Committee;
 - (e) prescribing the terms of reference of a Committee;
 - (f) establishing the duties, powers and functions of a Committee and its members;
 - (g) respecting the procedures to be followed by a Committee in conducting a death review;
 - (h) respecting the types of deaths and the circumstances involving deaths that may be reviewed by a Committee;
 - (i) respecting matters other than deaths that may be reviewed by a Committee;
 - (j) prescribing the content that must be included in a report by a Committee and the manner and timing in which a Committee must provide its report to the Minister or to the Minister of a department as provided for under subsection 39G(5);
 - (k) respecting the publication of all or part of a Committee report, including the summaries or recommendations that may be part of a report;
 - (l) authorizing the Chair of a Committee to enter into agreements with persons or bodies to facilitate the work of a Committee;
 - (m) determining when the work of a Committee must be stayed;
 - (n) respecting any matter or thing the Minister considers necessary or advisable to effectively carry out the intent and purpose of Sections 39A to 39K.

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

5 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
