COMMITTEE REPORT

March 2, 2016

**H. 4666**

Introduced by Reps. Pope, Bales, Erickson, Clyburn, Hardee, Jefferson, M.S. McLeod, McKnight, Knight, Hicks, Bamberg, Hosey, Newton, Jordan, Tinkler, George, Gilliard, Mack, Limehouse, R.L. Brown, Hayes, Herbkersman, Norman, Ridgeway, Rivers, Whitmire, Henegan, Tallon, Mitchell, Whipper and W.J. McLeod

S. Printed 3/2/16--S.

Read the first time February 16, 2016.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4666) to amend the Code of Laws of South Carolina, 1976, by adding Article 7 to Chapter 25, Title 16 so as to entitle the article the “Domestic Violence Fatality Review Committees”, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

GREG HEMBREE for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill would have no expenditure impact on the general fund, federal funds, or other funds.

**Explanation of Fiscal Impact**

**State Expenditure**

This bill creates Domestic Violence Fatality Review Committees in each circuit, establishes action protocols and committee composition requirements, provides for confidentiality of certain information, and grants subpoena authority.

**South Carolina Commission on Prosecution Coordination, Judicial Department, and State Law Enforcement Division.** These agencies report that this bill will have no expenditure impact on the general fund, federal funds, or other funds.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 7 TO CHAPTER 25, TITLE 16 SO AS TO ENTITLE THE ARTICLE THE “DOMESTIC VIOLENCE FATALITY REVIEW COMMITTEES”, ESTABLISH THE DOMESTIC VIOLENCE FATALITY REVIEW COMMITTEES IN EACH CIRCUIT, PROVIDE APPROPRIATE PROTOCOLS WHICH MUST BE FOLLOWED BY THE COMMITTEES, PROVIDE FOR THE COMPOSITION OF THE COMMITTEES, PROVIDE FOR CONFIDENTIALITY OF CERTAIN INFORMATION BY THE COMMITTEES AND OTHER PERSONS, AND PROVIDE SUBPOENA AUTHORITY TO THE COMMITTEES UNDER CERTAIN CIRCUMSTANCES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 25, Title 16 of the 1976 Code is amended by adding:

“Article 7

Domestic Violence Fatality Review Committees

Section 16-25-710. This article may be cited as the ‘Domestic Violence Fatality Review Committees’.

Section 16-25-720. (A) Each Circuit Solicitor shall establish an interagency circuit‑wide Domestic Violence Fatality Review Committee to assist local agencies in identifying and reviewing domestic violence deaths, including homicides and suicides, and facilitating communication among the various agencies involved in domestic violence cases pursuant to the provisions of this chapter or any other relevant provision of law.

(B) The South Carolina Commission on Prosecution Coordination shall:

(1) develop a protocol for domestic violence fatality reviews; and

(2) develop a protocol that must be used as a guideline to assist coroners and other persons who perform autopsies on domestic violence victims in the identification of domestic violence, in the determination of whether domestic violence contributed to the death or whether domestic violence occurred prior to death but was not the actual cause of death, and in the proper written reporting procedures for domestic violence, including the designation of the cause and mode of death.

(C) Domestic violence fatality review committees may be comprised of, but not limited to, the following:

(1) experts in the field of forensic pathology;

(2) medical personnel with expertise in domestic violence;

(3) coroners and medical examiners;

(4) criminologists;

(5) assistant solicitors;

(6) domestic violence abuse organization staff;

(7) legal aid attorneys who represent victims of abuse;

(8) a representative of the local bar associations;

(9) local and state law enforcement personnel;

(10) representatives of local agencies that are involved with domestic violence abuse reporting;

(11) county health department staff who deal with domestic violence victims’ health issues;

(12) representatives of local child abuse agencies; and

(13) local professional associations of persons described in this subsection.

(D) An oral or written communication or a document shared within or produced by a domestic violence fatality review committee related to a domestic violence death is confidential and not subject to disclosure pursuant to Chapter 4, Title 30, the Freedom of Information Act, or discoverable by a third party. An oral or written communication or a document provided by a third party to a domestic violence fatality review committee is confidential and not subject to disclosure pursuant to the Freedom of Information Act or discoverable by a third party. However, recommendations of a domestic violence fatality review committee upon the completion of a review may be disclosed at the discretion of a majority of the members of the committee.

(E) Only deaths in which the investigation is closed and there is not a pending prosecution may be reviewed by a domestic violence fatality review committee.

(F) Upon request of the domestic violence fatality review committee and as necessary to carry out the committee’s purpose and duties, as allowed by law, the committee immediately must be provided:

(1) by a provider of medical care, access to information and records regarding a person whose death is being reviewed by the committee pursuant to this article;

(2) access to all information and records maintained by any state, county, or local governmental agency including, but not limited to, birth certificates, law enforcement investigation data, county coroner or medical examiner investigation data, parole and probation information and records, and information and records of social services and health agencies that provided services to the victim, alleged perpetrator, and other household members.

Section 16-25-730. Meetings of the committee are closed to the public and are not subject to the provisions of the Freedom of Information Act when the committee is discussing an individual case. A violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned not more than six months, or both.

Section 16-25-740. (A) All information and records acquired by the committee in the exercise of their purposes and duties pursuant to this article are confidential, exempt from disclosure under the Freedom of Information Act, and only may be disclosed as necessary to carry out the committee’s duties and purposes.

(B) Except as necessary to carry out the committee’s purposes and duties, members of the committee and persons attending their meeting may not disclose what transpired at a meeting which is not public under the Freedom of Information Act, and may not disclose information, the disclosure of which is prohibited by this section.

(C) Members of the committee, persons attending a committee meeting, and persons who present information to the committee may not be required to disclose in any civil or criminal proceeding information presented in or opinions formed as a result of a meeting, except that information available from other sources is not immune from introduction into evidence through those sources solely because it was presented during proceedings of the committee or because it is maintained by the committee. Nothing in this subsection prevents a person from testifying to information obtained independently of the committee or which is public information.

(D) Information, documents, and records of the committee are not subject to subpoena, discovery, or the Freedom of Information Act, except that information, documents, and records otherwise available from other sources are not immune from subpoena, discovery, or the Freedom of Information Act through those sources solely because they were presented during proceedings of the committee or because they are maintained by the committee.

(E) Except as necessary to carry out the committee’s purposes and duties, members of the committee are not to keep in their possession copies of information, documents, and records subpoenaed or otherwise obtained by or created by the committee. Upon the completion of an investigation, all information, documents, and records subpoenaed or otherwise obtained by or created by the committee shall remain with the Office of the Circuit Solicitor and retained pursuant to that office’s policies.

(F) A violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

Section 16-25-750. Each domestic fatality review committee shall make recommendations, when appropriate to, but not limited to, the Domestic Violence Advisory Committee created pursuant to Section 16-25-310 regarding:

(1) training, including cross‑agency training, consultation, technical assistance needs, and service gaps that would decrease the likelihood of domestic violence;

(2) the need for changes to any statute, regulation, policy, or procedure to decrease the incidences of domestic violence and include proposals for changes to statutes, regulations, policies, and procedures in the committee’s annual report;

(3) education of the public regarding the incidences and causes of domestic violence, specific steps the public can undertake to prevent domestic violence, and the support that civic, philanthropic, and public service organizations can provide in assisting the committee to educate the public;

(4) training of medical examiners, coroners, law enforcement, and other emergency responders on the causes and identification of domestic violence incidents, indicators, and injuries; and

(5) the development and implementation of policies and procedures for its own governance and operation.”

SECTION 2. This act takes effect upon approval by the Governor.

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