

Buncombe County Agenda Item Information Sheet

AGENDA ITEM: Buncombe County Comprehensive Plan On Domestic Violence Plan

MEETING DATE: May 13, 2014

REQUESTED BY: Mandy Stone, MSW Assistant County Manager

Background information

To support the Buncombe County Comprehensive Plan on Domestic Violence we are requesting that the local delegation introduce legislation to allow Buncombe County to be added as a pilot site for NC Domestic Violence Fatality Prevention and Protection Review Teams. Currently Mecklenburg, Alamance/Pitt and Wake are sites. Session Law 2009-52 (Senate Bill 381) created the first team in Mecklenburg in 2009 and the additional sites have been added between 2009-2013. Participating as a pilot site will support a process for a comprehensive review of all DV related fatalities for the purpose of identifying system gaps and identifying strategies for system improvements. The law enables Boards of Commissioners in counties included as pilots to appoint the team in accordance with the fields of expertise outlined in the law.

Funds required

There are no funds required for this request.

Alternatives N/A

Action recommended:

Request: That the Board of Commissioners request the members of our local delegation to take action allowing Buncombe County to be named as an additional pilot site for a Domestic Violence Fatality Prevention And Protection Review Team.



Wanda Greene, PhD, CPA
County Manager

Buncombe County Manager

Jon Creighton, MBA
Assistant County Manager/Planning Director

Mandy Stone, MSW
Assistant County Manager/HHS Director

MEMORANDUM

TO: Senator Terry VanDuyn

Senator Tom Apodaca

Representative Tim D. Moffitt

Representative Nathan Ramsey

Representative Susan Fisher

FROM: Wanda Greene, PhD, Buncombe County Manager *WSG*
Mandy Stone, MSW, Assistant County Manager, Health and Human Services Director *MS*

RE: North Carolina Domestic Violence Fatality Review Team

SL 2009-52 (Mecklenburg)

SL 2013-70 (Alamance and Pitt)

SL 2013-270 (Wake)

In June 2009 the NC General Assembly ratified SL 2009-52 creating the first Domestic Violence Fatality Review Team in North Carolina. Between 2009 and 2013 two additional session laws were ratified allowing similar teams in Alamance, Pitt and Wake County.

In Buncombe County key leadership representing law enforcement, the District Attorney, the Courts, County Management and Helpmate, our local domestic violence agency, have been researching evidence based models to reduce domestic violence lethality. In May the Board of Commissioners will endorse a model that includes:

- Cross System Dialogue
- High Risk Domestic Violence Team
- Electronic Monitoring
- Focused Deterrence

This model includes evidence based Domestic Violence lethality practices developed in the State of Massachusetts as well as in Pitt County, North Carolina. It also includes the evidenced based focused deterrent work originating in the High Point Police Department and adopted by the Asheville City Police Department and Buncombe County Sheriff's Department.

As you are aware, recent reports from both the North Carolina Attorney General and US Department of Justice highlighted the upward trending of domestic violence lethality. As we implement a Buncombe County Domestic Violence Lethality Model we ask your assistance in seeking legislation to allow Buncombe County to form a Domestic Violence Fatality Review Team.

We have attached the prior legislation specific to the prior four counties as well as a copy of the Buncombe County Domestic Crime Prevention strategy. We will forward to you specifics about the Press Conference to announce this model on May 13, 2014 and invite you to attend the Board of Commissioners meeting later that day where the model is scheduled to be presented and endorsed.

Thank you for your assistance in this matter and for your continued leadership on behalf of our community.

Attachments

Cc: Van Duncan, Sheriff, Buncombe County
William Anderson, Chief, Asheville Police Dept.
Ron Moore, District Attorney

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-52
SENATE BILL 381**

**AN ACT ESTABLISHING A DOMESTIC VIOLENCE FATALITY PREVENTION AND
PROTECTION REVIEW TEAM.**

Whereas, the General Assembly finds that it is the public policy of this State to prevent domestic violence fatalities; and

Whereas, the General Assembly further finds that the prevention of these fatalities is a community responsibility, and professionals from disparate disciplines have expertise that can promote the safety and well-being of victims of domestic violence; and

Whereas, multidisciplinary reviews of these deaths can lead to a greater understanding of the causes and methods of preventing these deaths; and

Whereas, according to the North Carolina Coalition Against Domestic Violence, there were 81 domestic violence-related homicides in the State in 2008; and

Whereas, according to the Charlotte Mecklenburg Police Department, there were 11 domestic violence-related homicides in Charlotte, North Carolina, in 2008; and

Whereas, the Charlotte Mecklenburg area is a leader throughout the State with its innovative domestic violence programming and services, yet there remains a disconnect when it comes to the rate of domestic violence-related homicides; and

Whereas, there is a need to increase safety of citizens with one strategy mitigating the effect of abuse by increasing the safety of victims of domestic violence, exploring circumstances from a strengths perspective to allow professionals to gain clarity in the continued needs of the community; and

Whereas, precedence has been established in this area as similar statutes are already in existence, such as the North Carolina Child Fatality Prevention System, which outlines the course of action for a statewide disciplinary team to review child fatalities; and

Whereas, establishing a Domestic Violence Fatality Prevention and Protection Review Team will be modeled after the North Carolina Child Fatality Prevention Team, with potential members representing a cross section of community service providers, including health, mental health, social services, law enforcement, courts, school professionals, and other domestic violence service providers; and

Whereas, by creating legislation that protects professionals from confidentiality violations in specific cases where domestic violence-related homicides have occurred, the effectiveness of this project will be increased; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) Domestic Violence Fatality Prevention and Protection Review Team. - A county may establish a multidisciplinary Domestic Violence Fatality Prevention and Protection Review Team to identify and review domestic violence-related deaths, including homicides and suicides, and facilitate communication among the various agencies and organizations involved in domestic violence cases to prevent future fatalities.

SECTION 1.(b) Definitions. - The following definitions apply in this act:

- (1) Domestic violence fatality. - The death of a person, 18 years of age or older, that is the result of an act of domestic violence as defined in G.S. 50B-1.
- (2) Review Team. - The Domestic Violence Fatality Prevention and Protection Review Team.

SECTION 1.(c) Composition. - The Review Team shall consist of a lead agency, Community Support Services of Charlotte, North Carolina, and representatives of public and nonpublic agencies in the community that provide services to victims or families of domestic violence, including:

- (1) A representative from a domestic violence victim's service group.
- (2) An attorney from the local district attorney's office.
- (3) Local law enforcement personnel.
- (4) A representative from the local medical examiner's office.
- (5) A representative from the local department of social services.
- (6) A representative from the local health department.
- (7) A representative from an area mental health authority.
- (8) A representative from the local public schools.
- (9) A representative from a health care system.
- (10) Local medic or emergency services personnel.
- (11) A survivor of domestic violence.

SECTION 1.(d) Powers and Duties of the Review Team. - The Review Team shall meet at least four times each year. To accomplish the purposes of this act, the Review Team shall:

- (1) Study the incidences and causes of death by domestic violence-related behavior in the community. The study shall include an analysis of all community, private, and public agency involvement with the decedent and family members prior to death.
- (2) Develop a system for multidisciplinary review of domestic violence-related deaths.
- (3) Examine the laws, rules, and policies relating to confidentiality.
- (4) Access information that affects the agencies that provide intervention services to determine whether those laws, rules, and policies inappropriately impede the exchange of information necessary to protect victims of domestic violence and recommend any necessary changes.
- (5) Perform any other studies, evaluations, or determinations the Review Team considers necessary to carry out its mandate.
- (6) Make recommendations for system improvements and needed resources where gaps and deficiencies may exist.
- (7) In addition to any other duties outlined in this act, the lead agency shall develop a

written plan outlining standard operating procedures for the following:

- a. Appointing Review Team members and a chair.
- b. Establishing other Review Team duties and responsibilities.
- c. Establishing terms of service for Review Team members.
- d. Establishing the procedure for filling vacancies.
- e. Maintaining confidentiality policies consistent with applicable laws.
- f. Training Review Team members.
- g. Establishing a meeting schedule.
- h. Maintaining a record of official meetings, including minutes and those in attendance.
- i. Establishing a process to initiate case review.
- j. Reporting annually to the local board of county commissioners and the Governor's Crime Commission.

SECTION 1.(e) Access to Records. - The Review Team, during its existence, shall have access to all medical records, hospital records, and records maintained by the county or any local agency as necessary to carry out the purposes of this act, including police investigations data, medical examiner investigative data, health records, mental health records, and social services records. Any member of the Review Team may share relevant information in an official Review Team meeting only.

Unless the personal representative of the estate of the deceased has been charged with or convicted of a crime in connection with the death of the victim of domestic violence, the Review Team shall notify the personal representative that the records will be reviewed by the Review Team at least 30 days before the records are reviewed. If the estate is closed, the next of kin shall be notified, unless the next of kin was charged or convicted of a crime in connection with the death of the victim.

SECTION 1.(f) Limitation on Access. - Notwithstanding any provision in the law that allows the Review Team to access records, no member of the Review Team shall be authorized to review a domestic violence fatality case while the case is under investigation by any law enforcement agency, or if an action is pending in any criminal or civil court in the State, except as provided in this section. A Review Team member may review and have access to records in a domestic violence fatality case only if:

- (1) A district attorney has given written approval for access due to the completion of the investigation or court proceedings; or
- (2) A district attorney has given written approval for access, stating that access by the Review Team will not have any negative or adverse effects on the investigation or completion of a pending case.

SECTION 1.(g) Confidentiality; Immunity. - All otherwise confidential information and records acquired by the Review Team, during its existence and in the exercise of its duties, shall: (i) be confidential; (ii) not be subject to discovery or introduction into evidence in any proceedings; and (iii) only be disclosed as necessary to carry out the purposes of the Review Team. No member of the Review Team or any person who attends a meeting of the Review Team may testify in any proceeding about what transpired at a particular meeting, information presented at the meeting, or opinions formed by a person as a result of the meeting. This section shall not prohibit a person from testifying in a civil or criminal action about matters within that person's independent knowledge.

Each member of the Review Team and any invited participants shall sign a statement

indicating an understanding of and adherence to confidentiality requirements, including the possible civil or criminal consequences of any breach of confidentiality.

Persons disclosing or providing information or records pursuant to this act are not criminally or civilly liable for disclosing or providing the information. Except for possible civil or criminal liability for breach of confidentiality, Review Team members are immune from claims of liability, and confidential information gathered pursuant to this act is not subject to subpoena or discovery.

Access to criminal investigative reports and criminal intelligence information of public law enforcement agencies and confidential information in the possession of the Review Team shall be governed by G.S. 132-1.4. Nothing herein shall be deemed to require the disclosure or release of any information in the possession of a district attorney.

Meetings of the Review Team are not subject to the provisions of Article 33C of Chapter 143 of the General Statutes. However, the Review Team may hold periodic public meetings to discuss, in a general manner not revealing confidential information, the findings of its reviews and its recommendations for preventive actions. Minutes of all public meetings shall be kept in compliance with Article 33C of Chapter 143 of the General Statutes. Any minutes or any other information generated during any closed session of a public meeting shall be sealed from public inspection.

SECTION 2. A Review Team established by a county pursuant to this act shall terminate upon the earlier of its filing its final report, or June 15, 2014.

SECTION 3. Each Review Team established pursuant to this act shall issue an interim report to the local board of county commissioners, the North Carolina Domestic Violence Commission, and the Governor's Crime Commission summarizing its findings and activities by June 15, 2011, and a final report with recommendations for action by June 15, 2014. The reports shall not identify the specific cases or case reviews that led to the individual Review Team's findings and recommendations.

SECTION 4. This act shall not be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act.

SECTION 5. This act applies to Mecklenburg County only.

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of June, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

SESSION LAW 2013-70
HOUSE BILL 456

AN ACT CONCERNING MEMBERSHIP ON THE DOMESTIC VIOLENCE REVIEW TEAM IN MECKLENBURG COUNTY AND ESTABLISHING A DOMESTIC VIOLENCE REVIEW TEAM IN PITT COUNTY AND ALAMANCE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Subsection (c) of Section 1 of S.L. 2009-52 reads as rewritten:

"SECTION 1.(c) Composition. – The Review Team shall consist of of (i) a lead agency, ~~Community Support Services of Charlotte, North Carolina, agency that has experience working with victims of domestic violence and~~ (ii) representatives of public and nonpublic agencies in the community that provide services to victims or families of domestic violence, ~~including violence. No person who has been convicted of a domestic violence-related crime or who has been a participant in a batterer intervention program shall be a member of the Review Team. The board of county commissioners shall designate the lead agency for the Review Team. The members of the Review Team shall include all of the following:~~

- (1) A representative from a domestic violence victim's service group who shall be appointed by the lead agency pursuant to subdivision (7) of subsection (d) of this section.
- (2) Two survivors of domestic violence who shall be appointed by the lead agency pursuant to subdivision (7) of subsection (d) of this section.
- (2)(3) An attorney from the local district attorney's office. The district attorney from the appropriate prosecutorial district or an assistant district attorney designated by the district attorney.
- (3)(4) Local law enforcement personnel. A local law enforcement officer appointed by the chief of the local police department of the largest municipality in the county and at least one law enforcement officer from the other police departments in the county appointed jointly by the chiefs of police of the other municipalities in the county.
- (5) The sheriff of the county or a person designated by the sheriff.
- (4)(6) A representative from the local medical examiner's office. The medical examiner of the county or a person designated by the medical examiner.
- (5)(7) A representative from the local department of social services. The director of the department of social services or a person designated by the director.
- (6)(8) A representative from the local health department. The director of the county health department or a person designated by the director.
- (7)(9) A representative from an area mental health authority. The director of the local mental health managed care organization or a person designated by the director.
- (8)(10) A representative from the local public schools. The superintendent of the public schools or a person designated by the superintendent.
- (9)(11) A representative from a health care system. each of the primary health care systems in the county.
- (10)(12) Local medic or emergency services personnel. A magistrate designated by the chief district court judge.
- (11)(13) A survivor of domestic violence. A representative of an institution of higher education appointed by the board of county commissioners.



- (14) A probation and parole officer who supervises probationers convicted of domestic violence appointed by the chief probation and parole officer of the judicial district.
- (15) A district court judge who presides over domestic violence cases designated by the chief district court judge.
- (16) At the option of the board of county commissioners, the board may appoint not more than two additional representatives from the community who have knowledge, experience, or expertise in preventing domestic violence."

SECTION 2. Section 2 of S.L. 2009-52 is repealed.

SECTION 3. Section 3 of S.L. 2009-52 reads as rewritten:

"**SECTION 3.** Each Review Team established pursuant to this act shall ~~issue an interim~~ issue a report to the local board of county commissioners, the North Carolina Domestic Violence Commission, and the Governor's Crime Commission summarizing its findings and activities ~~by June 15, 2011, and a final report with and making~~ recommendations for action by June 15, 2014, 2014, and every three years thereafter. The reports shall not identify the specific cases or case reviews that led to the individual Review Team's findings and recommendations."

SECTION 4. Section 5 of S.L. 2009-52 reads as rewritten:

"**SECTION 5.** This act applies to Mecklenburg County only. Alamance County, Pitt County, and Mecklenburg County."

SECTION 5. This act applies to the following counties: Alamance, Pitt, and Mecklenburg.

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of June, 2013.

s/ Daniel J. Forest
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

SESSION LAW 2013-270
SENATE BILL 288

AN ACT CONCERNING FILLING OF VACANCIES ON THE BOARD OF COMMISSIONERS OF WAKE COUNTY AND ESTABLISHING A DOMESTIC VIOLENCE FATALITY PREVENTION AND PROTECTION REVIEW TEAM IN WAKE COUNTY AND TO PERMIT MULTIFAMILY DEVELOPMENT ON CERTAIN PARCELS IN THE TOWN OF ABERDEEN.

The General Assembly of North Carolina enacts:

SECTION 1. Article 4 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-27.2. Vacancies on the board of commissioners in certain counties.

(a) This section applies to Wake County only, which is not subject to G.S. 153A-27.
(b) If a vacancy occurs on the board of commissioners, the remaining members of the board shall appoint a qualified person to fill the vacancy. If the vacating member was elected as the nominee of a political party, the board of commissioners shall consult the county executive committee of that party before filling the vacancy. The board shall vote on that nomination within 30 days of its submission, and, if it is not approved, the board shall request that county executive committee to submit another name. The board shall vote on that second nomination within 30 days of its submission, and, if it is not approved, the board may appoint any person eligible under subsection (d) of this section. If the remaining board members are unable to fill the vacancy within 30 days of the failure to approve the second nomination and the vacating member was elected as the nominee of a political party, a special primary election shall be called under subsection (e) of this section.

(c) If the vacancy occurs later than 90 days before the general election held after the first two years of the term, the appointment to fill the vacancy is for the remainder of the unexpired term. Otherwise, the term of the person appointed to fill the vacancy extends to the first Monday in December next following the first general election held more than 90 days after the day the vacancy occurs; at that general election, a person shall be elected to the seat vacated for the remainder of the unexpired term.

(d) To be eligible for appointment to fill a vacancy, a person must (i) be a member of the same political party as the member being replaced if that member was elected as the nominee of a political party and (ii) be a resident of the same district as the member being replaced if the county is divided into electoral districts.

(e) If a special primary election is required under subsection (b) of this section, the county board of commissioners shall call that special primary election for the purpose of allowing the members of the party with which the vacating member was affiliated when elected to make a recommendation. The special primary election shall be conducted in accordance with Article 10 of Chapter 163 of the General Statutes, except that the county board of elections may, with the approval of the State Board of Elections, set deadlines for filing notices of candidacy and for absentee voting in the special primary election. The date of the special primary election shall be set by the county board of commissioners, but the date shall be governed by G.S. 163-287. Only persons who are affiliated with the party may vote, except that if the party has allowed unaffiliated voters to participate in primary elections of that party under G.S. 163-119 then unaffiliated voters may also participate. No such special primary shall be held, however, if (i) less than 120 days remain in the term of office or (ii) if the vacancy is being filled for the remainder of the term at the mid-term election under subsection (c) of this section and less than 120 days remain until the date of that election. The county board of commissioners shall immediately upon the certification of the primary returns appoint the



winner to serve until the first Monday in December following the next general election which occurs after the date of the vacancy. This subsection applies only if the vacating member was elected as the nominee of a political party.

(f) If the number of vacancies on the board is such that a quorum of the board cannot be obtained for any action under this section, the chairman of the board shall appoint enough members to make up a quorum. If the number of vacancies on the board is such that a quorum of the board cannot be obtained and the office of chairman is vacant, the clerk of superior court of the county shall fill the vacancies upon the request of any remaining member of the board or upon the petition of any registered voters of the county."

SECTION 2.(a) Section 5 of S.L. 2009-52, as amended by S.L. 2013-70, reads as rewritten:

"**SECTION 5.** This act applies to Alamance County, Pitt County, and Mecklenburg County, County, and Wake County."

SECTION 2.(b) Section 5 of S.L. 2013-70 reads as rewritten:

"**SECTION 5.** This act applies to the following counties: Alamance, Pitt, and Mecklenburg, Mecklenburg, and Wake."

SECTION 3.(a) Notwithstanding Article 19 of Chapter 160A of the General Statutes or any zoning, occupancy, or other ordinance or statute to the contrary, multifamily development, including apartments, is permitted on the following described properties in the Town of Aberdeen:

TRACT I: lying and being in Sandhills Township, Moore County, North Carolina, and BEING all of that lot, tract, or parcel of land, containing 4.25 acres, as recorded in Deed Book 1059, at Page 267, in the Moore County Registry, reference to which is hereby made for a more complete and accurate description of the aforesaid tract.

TRACT II: lying and being in Sandhills Township, Moore County, North Carolina, and BEING all of that lot, tract, or parcel of land, containing 0.49 acres, as recorded in Deed Book 980, at Page 295, in the Moore County Registry, reference to which is hereby made for a more complete and accurate description of the aforesaid tract.

TRACT III: lying and being in Sandhills Township, Moore County, North Carolina, and BEING all of that lot, tract, or parcel of land, containing 2.67 acres, as recorded in Deed Book 3109, at Page 467, in the Moore County Registry, reference to which is hereby made for a more complete and accurate description of the aforesaid tract.

SECTION 3.(b) Multifamily development on the above described property shall be subject to the zoning, development, and other land-use plans, laws, and regulations of the Town of Aberdeen in existence and effective for the properties zoned R-10 on March 1, 1989.

SECTION 3.(c) This section applies to the Town of Aberdeen only.

SECTION 4. Section 1 of this act is effective when it becomes law but only applies to vacancies occurring on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of July, 2013.

s/ Daniel J. Forest
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives