



707324

576-02005A-18

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to elder abuse fatality review teams;
creating s. 415.1103, F.S.; authorizing the
establishment of elder abuse fatality review teams in
each judicial circuit housed, for administrative
purposes only, in the Department of Elderly Affairs;
providing conditions for team establishment and
organization; specifying review team duties; providing
review teams with access to and use of records;
requiring each review team to submit an annual report
by a certain date to the Department of Elderly Affairs
containing specified information; requiring the
department to prepare an annual report by a certain
date with such information to the Governor, the
Legislature, and the Department of Children and
Families; exempting certain information and records
from discovery; providing exceptions; prohibiting a
member from testifying about information or records
presented during meetings or activities of the team;
providing immunity from monetary liability for members
under certain conditions; prohibiting review teams and
review team members from disclosing confidential
information; amending s. 415.107, F.S.; requiring that
elder abuse fatality review teams be granted access to
certain records; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:



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Section 1. Section 415.1103, Florida Statutes, is created to read:

415.1103 Elder abuse fatality review teams.-

(1) (a) An elder abuse fatality review team may be established in each judicial circuit to review deaths of elderly persons alleged or found to have been caused by, or related to, abuse or neglect. The teams are housed, for administrative purposes only, in the Department of Elderly Affairs.

(b) An elder abuse fatality review team may include, but is not limited to, representatives from the following entities within the review team's judicial circuit:

1. Law enforcement agencies;
2. The state attorney;
3. The medical examiner;
4. A county court judge;
5. Adult protective services;
6. The area agency on aging;
7. The State Long-Term Care Ombudsman Program;
8. The Agency for Health Care Administration;
9. The Office of the Attorney General;
10. The Office of the State Courts Administrator;
11. The clerk of the court;
12. A victim services program;
13. An elder law attorney;
14. Emergency services personnel;
15. A certified domestic violence center;
16. An advocacy organization for victims of sexual violence;



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- 57 17. A funeral home director;
58 18. A forensic pathologist;
59 19. A geriatrician;
60 20. A geriatric nurse;
61 21. A geriatric psychiatrist or other individual licensed
62 to offer behavioral health services;
63 22. A hospital discharge planner;
64 23. A public guardian; or
65 24. Any other persons who have knowledge regarding fatal
66 incidents of elder abuse, domestic violence, or sexual violence,
67 including knowledge of research, policy, law, and other matters
68 connected with such incidents involving elders or who are
69 recommended for inclusion by the review team.
70 (c) A person eligible under paragraph (b) may initiate the
71 establishment of a team in his or her judicial circuit and call
72 the first organizational meeting of the team. At the initial
73 meeting, members of the team shall choose two members to serve
74 as co-chairs.
75 (d) Participation in a review team is voluntary. Members of
76 the review team shall serve without compensation and may not be
77 reimbursed for per diem or travel expenses.
78 (e) Members shall serve for terms of 2 years, to be
79 staggered as determined by the co-chairs. Chairs may be
80 reelected by a majority of the review team but not for more than
81 2 consecutive terms.
82 (f) A review team shall determine the local operations of
83 the team, including, but not limited to, the process for case
84 selection, which must be limited to closed cases in which an
85 elderly person's death is verified to have been caused by abuse



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86 or neglect, and the meeting schedule, to include at least one
87 meeting in each fiscal year.

88 (g) Administrative costs of operating the review team shall
89 be borne by the team members or entities whom they represent.

90 (2) An elder abuse fatality review team must do all of the
91 following:

92 (a) Review deaths of elderly persons in its judicial
93 circuit alleged or found to have been caused by, or related to,
94 abuse or neglect.

95 (b) Consider the events leading up to a fatal incident,
96 available community resources, current law and policies, and the
97 actions taken by systems and individuals related to the fatal
98 incident.

99 (c) Identify gaps, deficiencies, or problems in the
100 delivery of services to elderly persons by public and private
101 agencies which may be related to deaths reviewed by the team.

102 (d) Whenever possible, develop a communitywide approach to
103 address causes of, and contributing factors to, deaths reviewed
104 by the team.

105 (e) Develop practice standards and recommend changes in
106 law, rules, and policies to support the care of elderly persons
107 and prevent elder abuse deaths.

108 (3) (a) Upon written request from a co-chair of a review
109 team, the following information or records pertaining to an
110 elderly person whose death is being reviewed by the team shall
111 be disclosed:

112 1. Information and records held by a criminal justice
113 agency, as defined in s. 119.011(4), not including active
114 criminal intelligence or investigative information, as defined



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115 in s. 119.011(3).

116 2. Information and records from Adult Protective Services
117 pursuant to s. 415.107(3) (m).

118 3. An autopsy report from the Medical Examiner's Office,
119 not including materials protected under s. 406.135.

120 (b) Review teams may share with each other any relevant
121 information that pertains to the review of the death of an
122 elderly person.

123 (c) A team member may not contact, interview, or obtain
124 information by request directly from a member of the deceased
125 elder's family as part of the review, unless a team member is
126 authorized to do so in the course of his or her employment
127 duties. A member of the deceased elder's family may voluntarily
128 provide records or information to a review team.

129 (4) (a) By September 1 of each year, each review team shall
130 submit a report to the Department of Elderly Affairs, including,
131 but not limited to:

132 1. Descriptive statistics regarding cases reviewed by the
133 review team, including demographic information regarding victims
134 and caregivers, and the causes and nature of deaths;

135 2. Current policies, procedures, rules, or statutes that
136 the review team identified as contributing to the incidence of
137 elder abuse and elder deaths, and recommendations for system
138 improvement and needed resources, training, or information
139 dissemination to address those identified issues;

140 3. Any other recommendations to prevent deaths from elder
141 abuse, based on an analysis of the data and information
142 presented in the report; and

143 4. Any steps taken by the review team and public and



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144 private agencies to implement necessary changes and improve the
145 coordination of services and reviews.

146 (b) By November 1 of each year, the Department of Elderly
147 Affairs shall prepare a summary report of the information
148 required by paragraph (a), which shall be provided to the
149 Governor, the President of the Senate, the Speaker of the House
150 of Representatives, and the Department of Children and Families.

151 (5) Information and records acquired by an elder abuse
152 fatality review team are not subject to discovery or
153 introduction into evidence in any civil or criminal action or
154 administrative or disciplinary proceeding by any state or local
155 government department or agency if the information or records
156 arose out of the matters that are the subject of review by a
157 review team, unless the information and records are not
158 discoverable from any other source. Information and records that
159 are available from other sources are not immune from discovery
160 or introduction into evidence solely because the information,
161 documents, or records were presented to or reviewed by a review
162 team.

163 (6) A person who has attended a meeting of the review team
164 or who has otherwise participated in the activities authorized
165 by this section may not be allowed or required to testify in any
166 civil, criminal, administrative, or disciplinary proceeding as
167 to any records or information produced or presented to a team
168 during a meeting or other activity authorized by this section,
169 unless such testimony is necessary to determine the records or
170 information that was available to the fatality review team.
171 However, this paragraph does not prevent any person who
172 testifies before the team or who is a member of the team from



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173 testifying as to matters otherwise within his or her knowledge.

174 (7) There is no monetary liability on the part of, and a
175 cause of action for damages may not arise against, any member of
176 an elder abuse fatality review team in the performance of his or
177 her duties as a review team member in regard to any discussions
178 by, or deliberations or recommendations of, the team or the
179 member, unless such member acted in bad faith, with wanton and
180 willful disregard of human rights, safety, or property.

181 (8) Elder abuse fatality review teams and their members may
182 not disclose any information that is confidential pursuant to
183 law.

184 Section 2. Paragraph (m) is added to subsection (3) of
185 section 415.107, Florida Statutes, to read:

186 415.107 Confidentiality of reports and records.—

187 (3) Access to all records, excluding the name of the
188 reporter which shall be released only as provided in subsection
189 (6), shall be granted only to the following persons, officials,
190 and agencies:

191 (m) An elder abuse fatality review team established under
192 s. 415.1103(1) that is reviewing the death of an elderly person.

193 Section 3. This act shall take effect July 1, 2018.