

By Senator Cowin

11-725-99

1 A bill to be entitled
2 An act relating to child deaths; creating the
3 "Florida Child Death Review Act"; providing
4 legislative policy and intent; creating a Child
5 Death Review Committee within the Department of
6 Health; providing for membership of the
7 committee; specifying the duties of the
8 committee; providing for terms of office;
9 providing for members of the committee to be
10 reimbursed for expenses; providing for counties
11 to establish local child death review
12 committees; providing for membership and
13 duties; authorizing the review committees to
14 have access to information pertaining to the
15 death of a child; authorizing the State Child
16 Death Review Committee to issue subpoenas;
17 providing immunity from liability for members
18 of the committees and employees; requiring that
19 the Department of Health administer the funds
20 appropriated to operate the review committees;
21 providing an effective date.

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

25 Section 1. Short title.--This act may be cited as the
26 "Florida Child Death Review Act."

27 Section 2. Legislative policy and intent; child death
28 reviews.--

29 (1) The Legislature declares the following as the
30 policy of the state:

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1 (a) When a child dies, the response by the state and
2 the community to the death must include an accurate and
3 complete determination of the cause of death and the
4 contributing factors, and the development and implementation
5 of measures to reduce preventable child deaths to the greatest
6 extent possible.

7 (b) Professionals from disparate disciplines and
8 agencies who have responsibilities for children and expertise
9 that can promote child safety and well-being should share
10 their expertise in order to determine the causes and
11 contributing factors of child deaths and reduce preventable
12 child deaths.

13 (c) Multidisciplinary and multiagency reviews of child
14 deaths can assist the state and communities in achieving such
15 goals.

16 (2) It is the intent of the Legislature to establish a
17 statewide multidisciplinary, multiagency child death
18 assessment and prevention system that includes state and local
19 committees. The state and local committees shall review the
20 facts and circumstances of all deaths of children from birth
21 through age 18 which occur in this state. The purpose of the
22 review is to:

23 (a) Achieve a greater understanding of the causes of
24 and factors contributing to child deaths.

25 (b) Whenever possible, develop a communitywide
26 approach to address such cases and contributing factors.

27 (c) Identify any gaps or deficiencies in the delivery
28 of services to children and their families by public and
29 private agencies which may be related to such causes.

30 (d) Make and implement recommendations for changes in
31 law, rules, and policies, as well as develop practice

1 standards that support the safe and healthy development of
2 children and reduce preventable child deaths.

3 Section 3. State committee created; membership;
4 compensation.--

5 (1) There is created the State Child Death Review
6 Committee in the Department of Health.

7 (2)(a) The Secretary of Health shall appoint one
8 representative from the Department of Health to be a member of
9 the committee and serve as the state committee coordinator.

10 The head of each of the following agencies or organizations
11 shall also appoint a representative to the state committee:

- 12 1. The Department of Legal Affairs.
- 13 2. The Department of Children and Family Services.
- 14 3. The Department of Juvenile Justice.
- 15 4. The Department of Law Enforcement.
- 16 5. The Department of Education.
- 17 6. The Florida Prosecuting Attorneys Association, Inc.
- 18 7. The Florida Medical Examiners Commission, whose
19 representative must be a forensic pathologist.

20 (b) In addition, the Secretary of Health shall appoint
21 the following members to the state committee, based on
22 recommendations from the Department of Health and the agencies
23 listed in paragraph (a), and ensuring that the committee
24 represents the regional, gender, and ethnic diversity of the
25 state to the greatest extent possible:

- 26 1. A board-certified pediatrician.
- 27 2. A public health nurse.
- 28 3. A forensic mental health professional.
- 29 4. An employee of the Department of Children and
30 Family Services who supervises family services counselors and

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1 who has at least 5 years of experience in child protective
2 investigations.

3 5. An epidemiologist from the Department of Health.

4 6. The medical director of a child protection team.

5 7. A member of a child advocacy organization.

6 8. A social worker who has experience in maternal and
7 child health.

8 9. A person trained as a parent resource
9 paraprofessional who is employed in a prevention program.

10 10. A law enforcement officer who has at least 5 years
11 of experience in children's issues.

12 11. A representative of the Division of Medical
13 Quality Assurance.

14 12. A representative of the Florida Coalition Against
15 Domestic Violence.

16 13. A representative from a program dealing with the
17 prevention of child abuse and neglect.

18 (3) The members of the state committee shall be
19 appointed to staggered terms of office which may not exceed 2
20 years, as determined by the Secretary of Health. Members are
21 eligible for reappointment. The state committee shall elect a
22 chairperson from among its members to serve for a 2-year term.
23 The chairperson may appoint ad hoc committees as necessary to
24 carry out the duties of the committee.

25 (4) Members of the state committee shall serve without
26 compensation, but are entitled to reimbursement for per diem
27 and travel expenses incurred in the performance of their
28 duties as provided in section 112.061, Florida Statutes, to
29 the extent that funds are available.

30 Section 4. Duties of the state committee.--The State
31 Child Death Review Committee shall:

1 (1) Develop a system for collecting data on child
2 deaths. The system must include a protocol for the uniform
3 collection of data statewide, which uses existing
4 data-collection systems to the greatest extent possible.

5 (2) Provide training to cooperating agencies,
6 individuals, and local child death review committees on the
7 use of the child death data system.

8 (3) Prepare an annual statistical report on the
9 incidence and causes of child deaths in the state during the
10 prior calendar year. The state committee shall submit a copy
11 of the report by September 30 of each year to the Governor,
12 the President of the Senate, and the Speaker of the House of
13 Representatives, with the first annual report due on September
14 30, 2000. The report must include recommendations for state
15 and local action, including specific policy, procedural,
16 regulatory, or statutory changes, and any other recommended
17 preventive action.

18 (4) Encourage and assist in developing the local child
19 death review committees.

20 (5) Develop guidelines, standards, and protocols,
21 including a protocol for data collection, for local child
22 death review committees, and provide training and technical
23 assistance to local committees.

24 (6) Develop guidelines for conducting reviews of child
25 deaths, including guidelines to be used by law enforcement
26 agencies, prosecutors, medical examiners, health care
27 practitioners, health care facilities, and social service
28 agencies.

29 (7) Study the adequacy of laws, rules, training, and
30 services to determine what changes are needed to decrease the
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1 incidence of preventable child deaths and develop strategies
2 and recruit partners to implement these changes.

3 (8) Provide consultation on individual cases to local
4 committees upon request.

5 (9) Educate the public regarding this act, the
6 incidence and causes of child death, and the role of the
7 public in preventing such deaths.

8 (10) Promote continuing education for professionals
9 who investigate, treat, and prevent child abuse or neglect as
10 a means of preventing child deaths that occur due to such
11 abuse or neglect.

12 (11) Recommend, when appropriate, the review of the
13 death certificate of a deceased child.

14 Section 5. Local child death review committees;
15 creation; membership; duties.

16 (1) At the direction of the Secretary of Health, the
17 director of each county health department, or the directors of
18 two or more county health departments by agreement, may
19 convene and support a county or multicounty child death review
20 committee in accordance with the protocols established by the
21 State Child Death Review Committee. Each local committee must
22 include a local state attorney, or his or her designee, and
23 any other members that are determined by guidelines developed
24 by the State Child Death Review Committee. The members of a
25 local committee shall be appointed to 2-year terms and may be
26 reappointed. The local committee shall elect a chairperson
27 from among its members. Members shall serve without
28 compensation but are entitled to reimbursement for per diem
29 and travel expenses incurred in the performance of their
30 duties as provided in section 112.061, Florida Statutes, to
31 the extent that funds are available.

- 1 (2) Each local child death review committee shall:
2 (a) Review all deaths of children which are reported
3 to the Office of Vital Statistics.
4 (b) Assist the state committee in collecting data on
5 child deaths, in accordance with the protocol established by
6 the state committee.
7 (c) Submit written reports at the direction of the
8 state committee. The reports must include nonidentifying
9 information on individual cases and the steps taken by the
10 local committee to implement necessary changes and improve the
11 coordination of services and reviews.
12 (d) Submit all records requested by the state
13 committee at the conclusion of its review of a child's death.
14 (e) Abide by the standards and protocols developed by
15 the state committee.
16 (f) On a case-by-case basis, request that the state
17 committee review the data in a particular case.
18 Section 6. Access to information.--
19 (1) Notwithstanding any other law, the chairperson of
20 the State Child Death Review Committee, or the chairperson of
21 a local committee, shall be provided, within 5 working days
22 after a request, access to any information or records that
23 pertain to a child whose death is being reviewed by the
24 committee and that are necessary for the committee to carry
25 out its duties, including information or records that pertain
26 to the child's family, as follows:
27 (a) Information or records of a public or private
28 provider of medical, dental, or mental health care, including,
29 but not limited to, a facility licensed under chapter 393,
30 chapter 394, or chapter 395, Florida Statutes, or a health
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1 care practitioner as defined in section 455.501, Florida
2 Statutes.

3 (b) Information or records of any state agency or
4 political subdivision which might assist a committee in
5 reviewing a child's death, including, but not limited to,
6 information or records of the Department of Children and
7 Family Services, the Department of Health, the Department of
8 Education, and the Department of Juvenile Justice.

9 (2) The State Child Death Review Committee or a local
10 committee shall have access to all information in the
11 possession of a law enforcement agency which is not the
12 subject of an active investigation and which pertains to the
13 review of the death of a child. A committee may not disclose
14 any information that is not subject to public disclosure by
15 the law enforcement agency, and active criminal intelligence
16 information or criminal investigative information, as defined
17 in section 119.011(3), Florida Statutes, may not be made
18 available for review or access under this section.

19 (3) The state committee and any local committee may
20 share any relevant information that pertains to the review of
21 the death of a child.

22 (4) A member of the state committee or a local
23 committee may not contact, interview, or obtain information by
24 request or subpoena directly from a member of a deceased
25 child's family as part of a committee's review of a child's
26 death, except that if a committee member is also a public
27 officer or state employee, that member may contact, interview,
28 or obtain information from a member of the deceased child's
29 family, if necessary, as part of the committee's review. A
30 member of the deceased child's family may voluntarily provide
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1 records or information to the state committee or a local
2 committee.

3 (5) The chairperson of the State Child Death Review
4 Committee may require the production of records by requesting
5 a subpoena, through the Department of Legal Affairs, in any
6 county of the state. Such subpoena is effective throughout the
7 state and may be served by any sheriff. Failure to obey the
8 subpoena is punishable as provided by law.

9 (6) This section does not authorize the members of the
10 state committee or any local committee to have access to any
11 grand jury proceedings.

12 Section 7. Protection from liability.--

13 (1) A member of the state committee or of a local
14 committee, or an authorized agent or employee of the state
15 committee or a local committee, is not subject to, and shall
16 be immune from, claims, suits, liability, damages, or any
17 other recourse, civil or criminal, arising from any act,
18 proceeding, decision, or determination undertaken or performed
19 or recommendation made, if such person acted in good faith and
20 without malice in carrying out his or her responsibilities,
21 authority, duties, powers, or privileges conferred by law or
22 rule. A complainant has the burden of proving, by clear and
23 convincing evidence, the existence of malice or a lack of good
24 faith in order to defeat the immunity provided in this
25 subsection.

26 (2) The attendance by any person at a meeting of the
27 state committee or a local committee may not be used as
28 grounds to require that person to testify in any civil or
29 criminal proceeding. An organization, institution, committee
30 member, or other person who furnishes information, data,
31 reports, or records to the state committee or a local

1 committee is not liable for damages to any person and is not
2 subject to any other civil or criminal recourse. This
3 subsection does not apply to any person who admits to
4 committing a crime.

5 Section 8. Funding.--

6 (1) The Department of Health shall administer the
7 funds appropriated to operate the review committees and may
8 apply for grants and accept donations.

9 (2) To the extent that funds are available, the
10 Department of Health may hire staff or consultants to assist a
11 review committee in performing its duties. Funds may also be
12 used to reimburse reasonable expenses of the staff and
13 consultants for the state committee and the local committees.

14 Section 9. This act shall take effect upon becoming a
15 law.

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18 SENATE SUMMARY

19 Creates the "Florida Child Death Review Act." Establishes
20 the State Child Death Review Committee within the
21 Department of Health. Provides for counties to establish
22 local child death review committees. Requires that the
23 state and local committees review the circumstances of
24 all deaths of children in the state and recommend changes
25 in law and develop practice standards to reduce the
26 number of such deaths. Authorizes the review committees
27 to have access to information pertaining to the death of
28 a child. Authorizes the State Child Death Review
29 Committee to issue subpoenas. Provides immunity from
30 liability for members of the committees and employees.
31 (See bill for details.)