

By the Committee on Health, Aging and Long-Term Care; and  
Senator Cowin

317-1844A-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.

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

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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 Department of Highway Safety and Motor  
18 Vehicles.

19 7. The Florida Prosecuting Attorneys Association, Inc.

20 8. The Florida Medical Examiners Commission, whose  
21 representative must be a forensic pathologist.

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

28 1. A board-certified pediatrician.

29 2. A public health nurse.

30 3. A forensic mental health professional.

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1           4. An employee of the Department of Children and  
2 Family Services who supervises family services counselors and  
3 who has at least 5 years of experience in child protective  
4 investigations.

5           5. An epidemiologist from the Department of Health.

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

7           7. A member of a child advocacy organization.

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

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

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

14           11. A representative of the Division of Medical  
15 Quality Assurance.

16           12. A representative of the Florida Coalition Against  
17 Domestic Violence.

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

20           14. A board-certified orthopedic surgeon.

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

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

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

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

9 (2) Provide training to cooperating agencies,  
10 individuals, and local child death review committees on the  
11 use of the child death data system.

12 (3) Prepare an annual statistical report on the  
13 incidence and causes of child deaths in the state during the  
14 prior calendar year. The state committee shall submit a copy  
15 of the report by September 30 of each year to the Governor,  
16 the President of the Senate, and the Speaker of the House of  
17 Representatives, with the first annual report due on September  
18 30, 2000. The report must include recommendations for state  
19 and local action, including specific policy, procedural,  
20 regulatory, or statutory changes, and any other recommended  
21 preventive action.

22 (4) Encourage and assist in developing the local child  
23 death review committees.

24 (5) Develop guidelines, standards, and protocols,  
25 including a protocol for data collection, for local child  
26 death review committees, and provide training and technical  
27 assistance to local committees.

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

3 (7) Study the adequacy of laws, rules, training, and  
4 services to determine what changes are needed to decrease the  
5 incidence of preventable child deaths and develop strategies  
6 and recruit partners to implement these changes.

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

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

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

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

18 Section 5. Local child death review committees;  
19 creation; membership; duties.

20 (1) At the direction of the Secretary of Health, the  
21 director of each county health department, or the directors of  
22 two or more county health departments by agreement, may  
23 convene and support a county or multicounty child death review  
24 committee in accordance with the protocols established by the  
25 State Child Death Review Committee. Each local committee must  
26 include a local state attorney, or his or her designee, and  
27 any other members that are determined by guidelines developed  
28 by the State Child Death Review Committee. The members of a  
29 local committee shall be appointed to 2-year terms and may be  
30 reappointed. The local committee shall elect a chairperson  
31 from among its members. Members shall serve without

1 compensation but are entitled to reimbursement for per diem  
2 and travel expenses incurred in the performance of their  
3 duties as provided in section 112.061, Florida Statutes, to  
4 the extent that funds are available.

5 (2) Each local child death review committee shall:

6 (a) Review all deaths of children which are reported  
7 to the Office of Vital Statistics.

8 (b) Assist the state committee in collecting data on  
9 child deaths, in accordance with the protocol established by  
10 the state committee.

11 (c) Submit written reports at the direction of the  
12 state committee. The reports must include nonidentifying  
13 information on individual cases and the steps taken by the  
14 local committee to implement necessary changes and improve the  
15 coordination of services and reviews.

16 (d) Submit all records requested by the state  
17 committee at the conclusion of its review of a child's death.

18 (e) Abide by the standards and protocols developed by  
19 the state committee.

20 (f) On a case-by-case basis, request that the state  
21 committee review the data in a particular case.

22 Section 6. Access to information.--

23 (1) Notwithstanding any other law, the chairperson of  
24 the State Child Death Review Committee, or the chairperson of  
25 a local committee, shall be provided, within 10 working days  
26 after a request, access to any information or records that  
27 pertain to a child whose death is being reviewed by the  
28 committee and that are necessary for the committee to carry  
29 out its duties, including information or records that pertain  
30 to the child's family, as follows:

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1           (a) Patient records in the possession of a public or  
2 private provider of medical, dental, or mental health care,  
3 including, but not limited to, a facility licensed under  
4 chapter 393, chapter 394, or chapter 395, Florida Statutes, or  
5 a health care practitioner as defined in section 455.501,  
6 Florida Statutes. Providers may charge a fee for copies not to  
7 exceed 50 cents per page for paper records and not to exceed  
8 \$1 per fiche for microfiche records.

9           (b) Information or records of any state agency or  
10 political subdivision which might assist a committee in  
11 reviewing a child's death, including, but not limited to,  
12 information or records of the Department of Children and  
13 Family Services, the Department of Health, the Department of  
14 Education, and the Department of Juvenile Justice.

15           (c) All information in the possession of a law  
16 enforcement agency which is not active criminal intelligence  
17 or active criminal investigative information as defined in s.  
18 119.011(3), Florida Statutes, and which pertains to the review  
19 of the death of a child.

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

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

7           (4) This section does not authorize the members of the  
8 state committee or any local committee to have access to any  
9 grand jury proceedings.

10           Section 7. Protection from liability.--

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

24           (2) A person who has attended a meeting of the state  
25 committee or a local committee or who has otherwise  
26 participated in activities authorized by this section may not  
27 be permitted or required to testify in any civil, criminal, or  
28 administrative proceeding as to any records or information  
29 produced or presented to a committee during meetings or other  
30 activities authorized by this section. However, this  
31 subsection does not prevent any person who testifies before

1 the committee or who is a member of the committee from  
2 testifying as to matters otherwise within his or her  
3 knowledge. An organization, institution, committee member, or  
4 other person who furnishes information, data, reports, or  
5 records to the state committee or a local committee is not  
6 liable for damages to any person and is not subject to any  
7 other civil or criminal recourse as a result of furnishing  
8 information, data, reports, or records to the state committee  
9 or a local committee. This subsection does not apply to any  
10 person who admits to committing a crime.

11 Section 8. Funding.--

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

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

20 Section 9. This act shall take effect upon becoming a  
21 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 1406

Adds an appointee of the Department of Highway Safety and Motor Vehicles and a board-certified orthopedic surgeon to the State Child Death Review Committee; allows hospitals and other medical providers 10 days for the provision of records requested by committees; clarifies that information which must be provided to committees by medical providers is patient information; establishes fees providers may charge for providing records to committees; clarifies that persons attending committee meetings are not permitted to testify in judicial or administrative proceeding, but may testify as to information otherwise within their knowledge; clarifies that immunity from civil and criminal liability only pertains to the act of furnishing information to child death review committees.