

By Senator Silver

38-1472-00

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 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.)