

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 518

INTRODUCER: Senator Gibson

SUBJECT: Elder Abuse Fatality Review Teams

DATE: March 20, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Pre-meeting
2.			AHS	
3.			AP	
4.			RC	

I. Summary:

SB 518 authorizes the establishment of elder abuse fatality review teams to review fatal and near-fatal incidents of elder abuse. The bill also exempts certain information and records acquired by a review team from discovery or introduction into evidence in specified actions or proceedings. The review teams are assigned to the Department of Children and Families (DCF).

The bill has an effective date of July 1, 2017, and the fiscal impact is unknown.

II. Present Situation:

There are currently no designated Elder Abuse Fatality Review Teams. The Adult Protective Services Program, under DCF, is responsible for preventing further harm to vulnerable adults who are victims of abuse, neglect, exploitation or self-neglect. This responsibility includes alleged deaths due to abuse or neglect.

The Florida Abuse Hotline, under DCF, screens allegations of adult abuse and/or neglect to determine whether the information meets the criteria of an abuse report. If the criteria is met, a protective investigation is initiated to confirm whether or not there is evidence that abuse has occurred; whether that is an immediate or long-term risk to the victim; and whether the victim needs additional services to safeguard his or her well-being.¹ In 2016, Florida Adult Protective Services Program investigated 198 deaths in which the death was alleged to be due to abuse and/or neglect.²

¹Florida Department of Children and Families; Protecting Vulnerable Adults, *available at* <http://www.myflfamilies.com/service-programs/adult-protective-services/protecting-vulnerable-adults> (last visited March 17, 2017).

² E-mail from Lindsey Perkins Zander, Department of Children and Families, dated March 17, 2017, and on file with the staff of the Senate Committee on Children, Families and Elder Affairs.

In section 415.1034, F.S., there is a list of persons that have an immediate, mandatory requirement to report to the central abuse hotline if they know, have suspicion, or have reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited. Additionally, any person required to investigate reports of abuse, neglect, or exploitation and who has reasonable cause to suspect that a vulnerable adult dies as a result of abuse, neglect, or exploitation shall immediately report the suspicion to the appropriate medical examiner, the appropriate criminal justice agency and to the department, notwithstanding the existence of a death certificate signed by a practicing physician.³

The department is required, upon receipt of a report alleging abuse, neglect, or exploitation of a vulnerable adult, begin within 24 hours a protective investigation of the matter.⁴ For each report it receives the department shall perform an onsite investigation to determine, among other things, if the person meets the definition of a vulnerable adult and, if so, if the person is in needs of services, whether there is an indication that the vulnerable adult was abused, neglected, or exploited, and if protective, treatment, and ameliorative services are necessary to safeguard and ensure the vulnerable adult's well-being.⁵

Section 415.1102, F.S., authorizes DCF to develop, maintain, and coordinate the services of one or more multidisciplinary adult protection teams in each of its districts. Multidisciplinary adult protection team is defined as a team of two or more persons who are trained in the prevention, identification, and treatment of abuse of elderly persons.⁶ The multidisciplinary teams may be composed of, but are not limited to, psychiatrists, psychologists, or other trained counseling personnel; law enforcement officers; medical personal with experience or training to provide health services; social workers who have experience or training in the prevention of abuse of the elderly or dependent persons; and public and professional guardians.⁷ The multidisciplinary team is to be utilized and convened to supplement the protective services activities of the protective services program of the department.⁸

III. Effect of Proposed Changes:

Section 1 creates s. 825.107, F.S., to authorize the creation of elder abuse fatality review teams. The review teams include numerous state and local agencies as well as community partners. The fatality review teams may be established at a local, regional, or state level to review fatal or near-fatal incidents of abuse, neglect or violence against the elderly. The review may include a review of events leading up to the incident, available community resources, current laws and policies and actions taken by systems and individuals related to the incident. The review team is provided the discretion to determine the number and type of incidents it wishes to review; however, the team is directed to make policy and other recommendations as to how incidents of elder abuse may be prevented.

³ Section 415.1034(2), F.S.

⁴ Section 415.104(1), F.S.

⁵ Section 415.104(2), F.S.

⁶ Section 415.1102(1), F.S.

⁷ Section 415.1102(2), F.S.

⁸ Section 415.1102(3), F.S.

This section includes language to prevent monetary liability on the part of any member of the elder abuse fatality review team. Additionally, all information and records acquired by an elder abuse fatality review team are not subject to discovery or introduction into evidence in any civil or criminal action. The elder abuse fatality review teams are assigned to DCF for administrative purposes.

Section 2 provides an effective date of July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Any public records or open meetings issues are addressed in SB 520.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The statutes currently allow for the creation of a multidisciplinary team to investigate reports of abuse, neglect and exploitation of the elderly. The proposed bill will create a team that will review fatal or near-fatal incidents of elders as a result of abuse or neglect.

C. Government Sector Impact:

Depending on whether the fatality review teams are established on a state, regional or local level, there may be an impact on law enforcement agencies, state agencies and local government agencies. The cost to DCF cannot be determined without knowing the type of administrative support or frequency of the review teams.

VI. Technical Deficiencies:

A definition of “near-lethal” should be added to offer guidance to the review teams.

VII. Related Issues:

Review teams will most likely need access to confidential information in order to complete its reviews. Section 415.107, F.S., makes reports and investigations of elder abuse and/or neglect confidential but the team will most likely need this information to complete its reviews.

VIII. Statutes Affected:

This bill creates section 825.107 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.