

1 A bill to be entitled
2 An act relating to elder abuse fatality review teams;
3 creating s. 415.1103, F.S.; authorizing the creation
4 of elder abuse fatality review teams in each judicial
5 circuit; housing the teams in the Department of
6 Elderly Affairs for administrative purposes only;
7 specifying membership; providing conditions for team
8 establishment and organization; providing duties;
9 providing teams with access to and use of records;
10 requiring annual reports; providing immunity for
11 members under certain conditions; exempting certain
12 information and records from discovery; prohibiting a
13 member from testifying about information or records
14 presented during meetings or activities of the team;
15 providing immunity from monetary liability for members
16 under certain conditions; prohibiting team members
17 from disclosing information confidential pursuant to
18 law; amending s. 415.107, F.S.; granting review teams
19 access to records at the request of the Department of
20 Elderly Affairs; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

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

26 | 415.1103 Elder Abuse Fatality Review Teams.—
 27 | (1) ESTABLISHMENT AND ORGANIZATION.—
 28 | (a) An elder abuse fatality review team may be established
 29 | in each judicial circuit to review deaths of elderly persons
 30 | alleged or found to have been caused by, or related to, abuse or
 31 | neglect. The teams are housed, for administrative purposes only,
 32 | in the Department of Elderly Affairs.
 33 | (b) A review team may include, but is not limited to,
 34 | representatives from the following entities within the review
 35 | team's judicial circuit:
 36 | 1. Law enforcement agencies.
 37 | 2. The state attorney.
 38 | 3. The medical examiner.
 39 | 4. A county court judge.
 40 | 5. Adult protective services.
 41 | 6. The Area Agency on Aging.
 42 | 7. The State Long-Term Care Ombudsman Program.
 43 | 8. The Agency for Health Care Administration.
 44 | 9. The Office of the Attorney General.
 45 | 10. The Office of the State Courts Administrator.
 46 | 11. The clerk of the court.
 47 | 12. A victim services program.
 48 | 13. An elder law attorney.
 49 | 14. Emergency services personnel.
 50 | 15. A certified domestic violence center.

- 51 16. An advocacy organization for victims of sexual
 52 violence.
- 53 17. A funeral home director.
- 54 18. A forensic pathologist.
- 55 19. A geriatrician.
- 56 20. A geriatric nurse.
- 57 21. A geriatric psychiatrist or other individual licensed
 58 to offer behavioral health services.
- 59 22. A hospital discharge planner.
- 60 23. A public guardian.
- 61 24. Any other persons who have knowledge regarding fatal
 62 incidents of elder abuse, domestic violence, or sexual violence,
 63 including knowledge of research, policy, law, and other matters
 64 connected with such incidents or who are recommended for
 65 inclusion by the review team.
- 66 (c) Any person eligible to serve on a review team under
 67 paragraph (b) may initiate the establishment of a review team in
 68 his or her judicial circuit by requesting the Department of
 69 Elderly Affairs to call the first organizational meeting of the
 70 team. The Secretary of the Department of Elderly Affairs, or his
 71 or her designee, shall appoint the members of the review team in
 72 consultation with the entities under paragraph (b). At the
 73 initial meeting of a review team, members shall elect two
 74 members to serve as co-chairs.
- 75 (d) Participation in a review team is voluntary. Members

76 of the review teams shall serve without compensation and may not
77 be reimbursed for per diem or travel expenses.

78 (e) Members of a review team shall serve for staggered
79 terms of 2 years. The Secretary of Elderly Affairs may reappoint
80 members for up to three consecutive terms. Co-chairs may be
81 reelected by a majority of the review team for up to two
82 consecutive terms.

83 (f) A review team shall determine the local operations of
84 the team, including, but not limited to, the process for case
85 selection, which shall be limited to closed cases in which an
86 elderly person's death is alleged or found to have been caused
87 by, or related to, abuse or neglect, and the meeting schedule,
88 shall include at least one meeting in each fiscal year.

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

92 (2) DUTIES.—A review team shall:

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

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

100 (c) Identify gaps, deficiencies, or problems in the

101 delivery of services to elderly persons by public and private
102 agencies which may be related to deaths reviewed by the review
103 team.

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

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

110 (3) RECORDS.—

111 (a) The Department of Elderly Affairs, on behalf of a
112 review team, may request and shall be provided the following
113 information or records pertaining to an elderly person whose
114 death is being reviewed by a review team:

115 1. Information and records held by a criminal justice
116 agency, as defined in s. 119.011, not including active criminal
117 intelligence or investigative information, as defined in s.
118 119.011.

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

121 3. An autopsy report from the medical examiner's office,
122 not including materials protected under s. 406.135.

123 (b) Review team members may share with each other any
124 relevant information that pertains to the review of the death of
125 an elderly person.

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

133 (4) ANNUAL REPORTS.—

134 (a) By September 1 of each year, each review team shall
135 submit a report to the Department of Elderly Affairs, including,
136 but not limited to:

137 1. Descriptive statistics regarding cases reviewed by the
138 review team, including demographic information regarding victims
139 and caregivers, and the causes and nature of elder deaths.

140 2. Current policies, procedures, rules, or statutes that
141 the review team identified as contributing to the incidence of
142 elder abuse and elder deaths, and recommendations for system
143 improvement and needed resources, training, or information
144 dissemination to address those identified issues.

145 3. Any other recommendations to prevent deaths from elder
146 abuse based on an analysis of the data and information presented
147 in the report.

148 4. Any steps taken by the review team and public and
149 private agencies to implement necessary changes and improve the
150 coordination of services and reviews.

151 (b) By November 1 of each year, the Department of Elderly
152 Affairs shall prepare a summary report of the information
153 required by paragraph (a), which shall be provided to the
154 Governor, the President of the Senate, the Speaker of the House
155 of Representatives, and the Department of Children and Families.

156 (5) Information and records acquired by a review team are
157 not subject to discovery or introduction into evidence in any
158 civil or criminal action or administrative or disciplinary
159 proceeding by any state or local government department or agency
160 if the information or records arose out of the matters that are
161 the subject of review by a review team. However, information,
162 documents, and records that are available from other sources are
163 not immune from discovery or introduction into evidence solely
164 because the information, documents, or records were presented to
165 or reviewed by a review team.

166 (6) A person who has attended a meeting of a review team
167 or who has otherwise participated in the activities authorized
168 by this section may not be permitted or required to testify in
169 any civil, criminal, administrative, or disciplinary proceeding
170 as to any records or information produced or presented to a
171 review team during a meeting or other activity authorized by
172 this section. However, this subsection does not prevent any
173 person who testifies before the review team or who is a member
174 of the review team from testifying as to matters otherwise
175 within his or her knowledge.

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

182 (8) Review teams and their members shall not disclose any
 183 information that is confidential pursuant to 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) The Department of Elderly Affairs on behalf of an
 192 elder abuse fatality review team established under s.
 193 415.1103(1) that is reviewing the death of an elderly person.

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