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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/11/2018	.	
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Appropriations Subcommittee on Health and Human Services  
(Gibson) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

415.1103 Elder abuse fatality review teams.—

(1) (a) An elder abuse fatality review team may be  
established in each judicial circuit to review deaths of elderly  
persons alleged or found to have been caused by, or related to,



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11 abuse or neglect.  
12 (b) An elder abuse fatality review team may include, but is  
13 not limited to, representatives from the following entities  
14 within the review team's judicial circuit:  
15 1. Law enforcement agencies;  
16 2. The state attorney;  
17 3. The medical examiner;  
18 4. A county court judge;  
19 5. Adult protective services;  
20 6. The area agency on aging;  
21 7. The State Long-Term Care Ombudsman Program;  
22 8. The Agency for Health Care Administration;  
23 9. The Office of the Attorney General;  
24 10. The Office of the State Courts Administrator;  
25 11. The clerk of the court;  
26 12. A victim services program;  
27 13. An elder law attorney;  
28 14. Emergency services personnel;  
29 15. A certified domestic violence center;  
30 16. An advocacy organization for victims of sexual  
31 violence;  
32 17. A funeral home director;  
33 18. A forensic pathologist;  
34 19. A geriatrician;  
35 20. A geriatric nurse;  
36 21. A geriatric psychiatrist or other individual licensed  
37 to offer behavioral health services;  
38 22. A hospital discharge planner;  
39 23. A public guardian; or



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40           24. Any other persons who have knowledge regarding fatal  
41 incidents of elder abuse, domestic violence, or sexual violence,  
42 including knowledge of research, policy, law, and other matters  
43 connected with such incidents involving elders or who are  
44 recommended for inclusion by the review team.

45           (c) A person eligible under paragraph (b) may initiate the  
46 establishment of a team in his or her judicial circuit and call  
47 the first organizational meeting of the team. The executive  
48 director of the local area agency on aging shall appoint the  
49 members of the team. At the initial meeting, members of the team  
50 shall choose two members to serve as co-chairs.

51           (d) Participation in a review team is voluntary. Members of  
52 the review team shall serve without compensation and may not be  
53 reimbursed for per diem or travel expenses.

54           (e) Members shall serve for terms of 2 years, to be  
55 staggered as determined by the co-chairs. Members may be  
56 reappointed by the executive director of the local area agency  
57 on aging but not for more than 3 consecutive terms. Chairs may  
58 be reelected by a majority of the review team but not for more  
59 than 2 consecutive terms.

60           (f) A review team shall determine the local operations of  
61 the team, including, but not limited to, the process for case  
62 selection, which shall be limited to closed cases, and the  
63 meeting schedule, to include at least one meeting in each fiscal  
64 year.

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

67           (2) An elder abuse fatality review team must do all of the  
68 following:



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

72 (b) Consider the events leading up to a fatal incident,  
73 available community resources, current law and policies, and the  
74 actions taken by systems and individuals related to the fatal  
75 incident.

76 (c) Identify gaps, deficiencies, or problems in the  
77 delivery of services to elderly persons by public and private  
78 agencies which may be related to deaths reviewed by the team.

79 (d) Whenever possible, develop a communitywide approach to  
80 address causes of and contributing factors to deaths reviewed by  
81 the team.

82 (e) Develop practice standards and recommend changes in  
83 law, rules, and policies to support the care of elderly persons  
84 and prevent elder abuse deaths.

85 (f) Implement such recommendations and practice standards  
86 to the extent possible.

87 (3) (a) Upon written request from a co-chair of a review  
88 team, the following information or records pertaining to an  
89 elderly person whose death is being reviewed by the team shall  
90 be disclosed:

91 1. Information and records held by a criminal justice  
92 agency, as defined in s. 119.011(4), not including active  
93 criminal intelligence or investigative information, as defined  
94 in s. 119.011(3).

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

97 3. An autopsy report from the Medical Examiner's Office,



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98 not including materials protected under s. 406.135.

99 (b) Review teams may share with each other any relevant  
100 information that pertains to the review of the death of an  
101 elderly person.

102 (c) A team member may not contact, interview, or obtain  
103 information by request directly from a member of the deceased  
104 elder's family as part of the review, unless a team member is  
105 authorized to do so in the course of his or her employment  
106 duties. A member of the deceased elder's family may voluntarily  
107 provide records or information to a review team.

108 (4) (a) By September 1 of each year, each review team shall  
109 submit a report to the Department of Elderly Affairs, including,  
110 but not limited to:

111 1. Descriptive statistics regarding cases reviewed by the  
112 review team, including demographic information regarding victims  
113 and caregivers, and the causes and nature of deaths;

114 2. Current policies, procedures, rules, or statutes that  
115 the review team identified as contributing to the incidence of  
116 elder abuse and elder deaths, and recommendations for system  
117 improvement and needed resources, training, or information  
118 dissemination to address those identified issues;

119 3. Any other recommendations to prevent deaths from elder  
120 abuse, based on an analysis of the data and information  
121 presented in the report; and

122 4. Any steps taken by the review team and public and  
123 private agencies to implement necessary changes and improve the  
124 coordination of services and reviews.

125 (b) By November 1 of each year, the Department of Elderly  
126 Affairs shall prepare a summary report of the information



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127 required by paragraph (a), which shall be provided to the  
128 Governor, the President of the Senate, the Speaker of the House  
129 of Representatives, and the Department of Children and Families.

130 (5) Information and records acquired by an elder abuse  
131 fatality review team are not subject to discovery or  
132 introduction into evidence in any civil or criminal action or  
133 administrative or disciplinary proceeding by any state or local  
134 government department or agency if the information or records  
135 arose out of the matters that are the subject of review by a  
136 review team, unless the information and records are not  
137 discoverable from any other source. Information and records that  
138 are available from other sources are not immune from discovery  
139 or introduction into evidence solely because the information,  
140 documents, or records were presented to or reviewed by a review  
141 team.

142 (6) A person who has attended a meeting of the review team  
143 or who has otherwise participated in the activities authorized  
144 by this section may not be allowed or required to testify in any  
145 civil, criminal, administrative, or disciplinary proceeding as  
146 to any records or information produced or presented to a team  
147 during a meeting or other activity authorized by this section,  
148 unless such testimony is necessary to determine the records or  
149 information that was available to the fatality review team.  
150 However, this paragraph does not prevent any person who  
151 testifies before the team or who is a member of the team from  
152 testifying as to matters otherwise within his or her knowledge.

153 (7) There is no monetary liability on the part of, and a  
154 cause of action for damages may not arise against, any member of  
155 an elder abuse fatality review team in the performance of his or



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156 her duties as a review team member in regard to any discussions  
157 by, or deliberations or recommendations of, the team or the  
158 member, unless such member acted in bad faith, with wanton and  
159 willful disregard of human rights, safety, or property.

160 (8) Elder abuse fatality review teams and their members may  
161 not disclose any information that is confidential pursuant to  
162 law.

163 Section 2. Paragraph (m) is added to subsection (3) of  
164 section 415.107, Florida Statutes, to read:

165 415.107 Confidentiality of reports and records.—

166 (3) Access to all records, excluding the name of the  
167 reporter which shall be released only as provided in subsection  
168 (6), shall be granted only to the following persons, officials,  
169 and agencies:

170 (m) An elder abuse fatality review team established under  
171 s. 415.1103(1) that is reviewing the death of an elderly person.

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

173  
174 ===== T I T L E A M E N D M E N T =====

175 And the title is amended as follows:

176 Delete everything before the enacting clause  
177 and insert:

178 A bill to be entitled  
179 An act relating to elder abuse fatality review teams;  
180 creating s. 415.1103, F.S.; authorizing the  
181 establishment of elder abuse fatality review teams in  
182 each judicial circuit; providing conditions for team  
183 establishment and organization; specifying review team  
184 duties; providing review teams with access to and use



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185 of records; requiring each review team to submit an  
186 annual report by a certain date to the Department of  
187 Elderly Affairs containing specified information;  
188 requiring the department to prepare an annual report  
189 by a certain date with such information to the  
190 Governor, the Legislature, and the Department of  
191 Children and Families; exempting certain information  
192 and records from discovery; providing exceptions;  
193 prohibiting a member from testifying about information  
194 or records presented during meetings or activities of  
195 the team; providing immunity from monetary liability  
196 for members under certain conditions; prohibiting  
197 review teams and review team members from disclosing  
198 confidential information; amending s. 415.107, F.S.;  
199 requiring that elder abuse fatality review teams be  
200 granted access to certain records; providing an  
201 effective date.