

By the Committee on Children, Families, and Elder Affairs; and
Senator Gibson

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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
4 establishment of elder abuse fatality review teams in
5 each judicial circuit and housing the review teams,
6 for administrative purposes only, in the Department of
7 Elderly Affairs; providing conditions for review team
8 membership, establishment, and organization;
9 specifying requirements for the review team operations
10 and meeting schedules; assigning responsibility for
11 paying the administrative costs of review team
12 operations to the team members or the entities they
13 represent; authorizing elder abuse fatality review
14 teams in existence on a certain date to continue;
15 requiring such existing teams to comply with specified
16 requirements; specifying review team duties; requiring
17 each review team to submit annually a summary report
18 by a certain date to the Department of Elderly Affairs
19 containing specified information; requiring the
20 department to prepare annually a summary report on the
21 review teams' information and submit the summary to
22 the Governor, the Legislature, and the Department of
23 Children and Families; exempting certain information
24 and records from discovery; providing an exception;
25 restricting the testimony of certain persons about
26 information or records presented during meetings or
27 activities of the review teams; providing immunity
28 from monetary liability for review team members under
29 certain conditions; prohibiting review teams and

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30 review team members from disclosing confidential
31 information; providing an effective date.
32

33 Be It Enacted by the Legislature of the State of Florida:
34

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

37 415.1103 Elder abuse fatality review teams.-

38 (1) (a) An elder abuse fatality review team may be
39 established in each judicial circuit to review deaths of elderly
40 persons alleged or found to have been caused by, or related to,
41 abuse or neglect. The review teams are housed, for
42 administrative purposes only, in the Department of Elderly
43 Affairs.

44 (b) An elder abuse fatality review team may include, but is
45 not limited to, representatives from the following entities in
46 the review team's judicial circuit:

- 47 1. Law enforcement agencies;
- 48 2. The state attorney;
- 49 3. The medical examiner;
- 50 4. A county court judge;
- 51 5. Adult protective services;
- 52 6. The area agency on aging;
- 53 7. The State Long-Term Care Ombudsman Program;
- 54 8. The Agency for Health Care Administration;
- 55 9. The Office of the Attorney General;
- 56 10. The Office of the State Courts Administrator;
- 57 11. The clerk of the court;
- 58 12. A victim services program;

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- 59 13. An elder law attorney;
60 14. Emergency services personnel;
61 15. A certified domestic violence center;
62 16. An advocacy organization for victims of sexual
63 violence;
64 17. A funeral home director;
65 18. A forensic pathologist;
66 19. A geriatrician;
67 20. A geriatric nurse;
68 21. A geriatric psychiatrist or other individual licensed
69 to offer behavioral health services;
70 22. A hospital discharge planner;
71 23. A public guardian; or
72 24. Any other persons who have knowledge regarding fatal
73 incidents of elder abuse, domestic violence, or sexual violence,
74 including knowledge of research, policy, law, and other matters
75 connected with such incidents involving elders, or who are
76 recommended for inclusion by the review team.

77 (c) A state attorney, or his or her designee, may initiate
78 the establishment of a review team in his or her judicial
79 circuit and may call the first organizational meeting of the
80 team. At the initial meeting, members of the review team shall
81 choose two members to serve as co-chairs and shall establish a
82 schedule for future meetings.

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

86 (e) Members shall serve for terms of 2 years, to be
87 staggered as determined by the co-chairs. Chairs may be

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88 reelected by a majority vote of the review team but not for more
89 than two consecutive terms.

90 (f) A review team shall determine the local operations of
91 the team, including, but not limited to, the process for case
92 selection. Reviews must be limited to closed cases in which an
93 elderly person's death is verified by the state attorney to have
94 been caused by abuse or neglect. All identifying information
95 concerning the person must be redacted in documents received for
96 review. The review team shall meet at least once each fiscal
97 year.

98 (g) Administrative costs of operating the review team must
99 be borne by the team members or entities that they represent.

100 (2) An elder abuse fatality review team in existence on
101 July 1, 2019, may continue to exist and shall comply with the
102 requirements created in this section.

103 (3) An elder abuse fatality review team shall do all of the
104 following:

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

108 (b) Consider the events leading up to a fatal incident,
109 available community resources, current law and policies, and the
110 actions taken by systems or individuals related to the fatal
111 incident.

112 (c) Identify potential gaps, deficiencies, or problems in
113 the delivery of services to elderly persons by public and
114 private agencies which may be related to deaths reviewed by the
115 review team.

116 (d) Whenever possible, develop communitywide approaches to

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117 address causes of, and contributing factors to, deaths reviewed
118 by the review team.

119 (e) Develop recommendations and potential changes in law,
120 rules, and policies to support the care of elderly persons and
121 to prevent elder abuse deaths.

122 (4) (a) Review teams in this state may share with each other
123 any relevant information that pertains to the review of the
124 death of an elderly person.

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

131 (5) (a) Annually by September 1, each elder abuse fatality
132 review team shall submit a summary report to the Department of
133 Elderly Affairs which includes, but is not limited to:

134 1. Descriptive statistics regarding cases reviewed by the
135 review team, including demographic information on victims and
136 the causes and nature of deaths;

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

142 3. Any other recommendations to prevent deaths from elder
143 abuse or neglect, based on an analysis of the data and
144 information presented in the report; and

145 (b) Annually by November 1, the Department of Elderly

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146 Affairs shall prepare a summary report of the review team
147 information required under paragraph (a). The department shall
148 provide the summary report to the Governor, the President of the
149 Senate, the Speaker of the House of Representatives, and the
150 Department of Children and Families.

151 (6) Information and records acquired by an elder abuse
152 fatality review team are not subject to discovery or
153 introduction into evidence in any civil or criminal action or
154 administrative or disciplinary proceeding by any state or local
155 government department or agency if the information or records
156 arose out of the matters that are the subject of review by a
157 review team, unless the information and records are not
158 discoverable from any other source. Information and records that
159 are available from other sources are not immune from discovery
160 or introduction into evidence solely because the information,
161 documents, or records were presented to or reviewed by a review
162 team.

163 (7) A person who has attended a meeting of an elder abuse
164 fatality review team or who has otherwise participated in the
165 activities authorized by this section may not be allowed or
166 required to testify in any civil, criminal, administrative, or
167 disciplinary proceeding as to any information or records
168 produced or presented to the review team during a meeting or
169 other activity authorized by this section, unless such testimony
170 is necessary to determine the information or records that were
171 available to the review team. However, this paragraph does not
172 prevent any person who testifies before the team or who is a
173 member of the team from testifying as to matters otherwise
174 within his or her knowledge.

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175 (8) There is no monetary liability on the part of, and a
176 cause of action for damages may not arise against, any member of
177 an elder abuse fatality review team due to the performance of
178 his or her duties as a review team member in regard to any
179 discussions by, or deliberations or recommendations of, the team
180 or the member, unless such member acted in bad faith, with
181 wanton and willful disregard of human rights, safety, or
182 property.

183 (9) Elder abuse fatality review teams and their members may
184 not disclose any information that is confidential pursuant to
185 law.

186 Section 2. This act shall take effect July 1, 2019.