

1 A bill to be entitled
2 An act relating to elder protection; amending s.
3 415.101, F.S.; revising legislative intent; amending
4 s. 415.107, F.S.; requiring that elder abuse fatality
5 review teams be granted access to certain records;
6 creating s. 415.1103, F.S.; authorizing the
7 establishment of elder abuse fatality review teams in
8 each judicial circuit and housing the review teams,
9 for administrative purposes only, in the Department of
10 Elderly Affairs; providing conditions for review team
11 membership, establishment, and organization;
12 specifying requirements for the review team operations
13 and meeting schedules; assigning responsibility for
14 paying the administrative costs of review team
15 operations to the team members or the entities they
16 represent; authorizing elder abuse fatality review
17 teams in existence on a certain date to continue;
18 requiring such existing teams to comply with specified
19 requirements; specifying review team duties; allowing
20 review teams access to and use of certain information
21 and records; requiring each review team to submit an
22 annual report by a certain date to the Department of
23 Elderly Affairs containing specified information;
24 requiring the department to prepare annually a summary
25 report on the review teams' information and submit the

26 summary to the Governor, the Legislature, and the
27 Department of Children and Families; exempting certain
28 information and records from discovery; providing an
29 exception; restricting the testimony of certain
30 persons about information or records presented during
31 meetings or activities of the review teams; providing
32 immunity from monetary liability for review team
33 members under certain conditions; prohibiting review
34 teams and review team members from disclosing
35 confidential information; providing an effective date.
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37 Be It Enacted by the Legislature of the State of Florida:
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39 Section 1. Section 415.101, Florida Statutes, is amended
40 to read:

41 415.101 Adult Protective Services Act; legislative
42 intent.—

43 (1) Sections 415.101-415.113 may be cited as the "Adult
44 Protective Services Act."

45 (2) The Legislature recognizes that there are many persons
46 in this state who, because of age or disability, are in need of
47 protective services. Such services should allow such an
48 individual the same rights as other citizens and, at the same
49 time, protect the individual from abuse, neglect, and
50 exploitation. It is the intent of the Legislature to provide for

51 the detection and correction of abuse, neglect, and exploitation
52 through social services and criminal investigations and to
53 establish a program of protective services for all vulnerable
54 adults in need of them. It is intended that the mandatory
55 reporting of such cases will cause the protective services of
56 the state to be brought to bear in an effort to prevent further
57 abuse, neglect, and exploitation of vulnerable adults. In taking
58 this action, the Legislature intends to place the fewest
59 possible restrictions on personal liberty and the exercise of
60 constitutional rights, consistent with due process and
61 protection from abuse, neglect, and exploitation. Further, the
62 Legislature intends to encourage the constructive involvement of
63 families in the care and protection of vulnerable adults or
64 elderly persons. The Legislature further intends that each
65 protective investigator, as defined in s. 415.102, earn and
66 maintain a valid certification as a protective investigator
67 through a third-party credentialing entity approved under s.
68 402.40(3).

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

71 415.107 Confidentiality of reports and records.—

72 (3) Access to all records, excluding the name of the
73 reporter which shall be released only as provided in subsection
74 (6), shall be granted only to the following persons, officials,
75 and agencies:

76 (m) An elder abuse fatality review team established under
 77 s. 415.1103(1) which is reviewing the death of an elderly
 78 person.

79 Section 3. Section 415.1103, Florida Statutes, is created
 80 to read:

81 415.1103 Elder abuse fatality review teams.—

82 (1)(a) An elder abuse fatality review team may be
 83 established in each judicial circuit to review deaths of elderly
 84 persons alleged or found to have been caused by, or related to,
 85 abuse or neglect. The review teams are housed, for
 86 administrative purposes only, in the Department of Elderly
 87 Affairs.

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

- 91 1. Law enforcement agencies;
- 92 2. The state attorney;
- 93 3. The medical examiner;
- 94 4. A county court judge;
- 95 5. Adult protective services;
- 96 6. The area agency on aging;
- 97 7. The State Long-Term Care Ombudsman Program;
- 98 8. The Agency for Health Care Administration;
- 99 9. The Office of the Attorney General;
- 100 10. The Office of the State Courts Administrator;

- 101 11. The clerk of the court;
102 12. A victim services program;
103 13. An elder law attorney;
104 14. Emergency services personnel;
105 15. A certified domestic violence center;
106 16. An advocacy organization for victims of sexual
107 violence;
108 17. A funeral home director;
109 18. A forensic pathologist;
110 19. A geriatrician;
111 20. A geriatric nurse;
112 21. A geriatric psychiatrist or other individual licensed
113 to offer behavioral health services;
114 22. A hospital discharge planner;
115 23. A public guardian; or
116 24. Any other persons who have knowledge regarding fatal
117 incidents of elder abuse, domestic violence, or sexual violence,
118 including knowledge of research, policy, law, and other matters
119 connected with such incidents involving elders, or who are
120 recommended for inclusion by the review team.
121 (c) A state attorney, or his or her designee, may initiate
122 the establishment of a review team in his or her judicial
123 circuit and may call the first organizational meeting of the
124 team. At the initial meeting, members of the review team shall
125 choose two members to serve as co-chairs.

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

129 (e) Members shall serve for terms of 2 years, to be
130 staggered as determined by the co-chairs. Chairs may be
131 reelected by a majority vote of the review team but not for more
132 than two consecutive terms.

133 (f) A review team shall determine the local operations of
134 the team, including, but not limited to, the process for case
135 selection, which must be limited to closed cases in which an
136 elderly person's death is verified to have been caused by abuse
137 or neglect, and the review team meeting schedule, which must
138 include at least one meeting in each fiscal year.

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

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

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

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

149 (b) Consider the events leading up to a fatal incident,
150 available community resources, current law and policies, and the

151 actions taken by systems and individuals related to the fatal
152 incident.

153 (c) Identify gaps, deficiencies, or problems in the
154 delivery of services to elderly persons by public and private
155 agencies which may be related to deaths reviewed by the review
156 team.

157 (d) Whenever possible, develop communitywide approaches to
158 address causes of, and contributing factors to, deaths reviewed
159 by the review team.

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

163 (4) (a) Upon a written request from a co-chair of an elder
164 abuse fatality review team, the following information or records
165 pertaining to an elderly person whose death is being reviewed by
166 the team must be disclosed to the team:

167 1. Information and records held by a criminal justice
168 agency, as defined in s. 119.011(4), not including active
169 criminal intelligence information or criminal investigative
170 information, as defined in s. 119.011(3).

171 2. Information and records from Adult Protective Services,
172 pursuant to s. 415.107(3) (m).

173 3. An autopsy report from the medical examiner's office,
174 but not including materials protected under s. 406.135.

175 (b) Review teams may share with each other any relevant

176 information that pertains to the review of the death of an
177 elderly person.

178 (c) A review team member may not contact, interview, or
179 obtain information by request directly from a member of the
180 deceased elder's family as part of the review unless a team
181 member is authorized to do so in the course of his or her
182 employment duties. A member of the deceased elder's family may
183 voluntarily provide information or records to a review team.

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

187 1. Descriptive statistics regarding cases reviewed by the
188 review team, including demographic information on victims and
189 caregivers and the causes and nature of deaths;

190 2. Current policies, procedures, rules, or statutes that
191 the review team identified as contributing to the incidence of
192 elder abuse and elder deaths, and recommendations for system
193 improvements and needed resources, training, or information
194 dissemination to address those identified issues;

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

198 4. Any steps taken by the review team and public and
199 private agencies to implement necessary changes and to improve
200 the coordination of services and review of cases.

201 (b) Annually by November 1, the Department of Elderly
202 Affairs shall prepare a summary report of the review team
203 information required under paragraph (a). The department shall
204 provide the summary report to the Governor, the President of the
205 Senate, the Speaker of the House of Representatives, and the
206 Department of Children and Families.

207 (6) Information and records acquired by an elder abuse
208 fatality review team are not subject to discovery or
209 introduction into evidence in any civil or criminal action or
210 administrative or disciplinary proceeding by any state or local
211 government department or agency if the information or records
212 arose out of the matters that are the subject of review by a
213 review team, unless the information and records are not
214 discoverable from any other source. Information and records that
215 are available from other sources are not immune from discovery
216 or introduction into evidence solely because the information,
217 documents, or records were presented to or reviewed by a review
218 team.

219 (7) A person who has attended a meeting of an elder abuse
220 fatality review team or who has otherwise participated in the
221 activities authorized by this section may not be allowed or
222 required to testify in any civil, criminal, administrative, or
223 disciplinary proceeding as to any information or records
224 produced or presented to the review team during a meeting or
225 other activity authorized by this section, unless such testimony

226 is necessary to determine the information or records that were
227 available to the review team. However, this paragraph does not
228 prevent any person who testifies before the team or who is a
229 member of the team from testifying as to matters otherwise
230 within his or her knowledge.

231 (8) There is no monetary liability on the part of, and a
232 cause of action for damages may not arise against, any member of
233 an elder abuse fatality review team due to the performance of
234 his or her duties as a review team member in regard to any
235 discussions by, or deliberations or recommendations of, the team
236 or the member, unless such member acted in bad faith, with
237 wanton and willful disregard of human rights, safety, or
238 property.

239 (9) Elder abuse fatality review teams and their members
240 may not disclose any information that is confidential pursuant
241 to law.

242 Section 4. This act shall take effect July 1, 2019.