

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 Appropriations

BILL: SB 400

INTRODUCER: Senator Gibson

SUBJECT: Elder Abuse Fatality Review Teams

DATE: January 22, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Herndon</u>	<u>Hendon</u>	<u>CF</u>	Favorable
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3.	<u>Howard</u>	<u>Kynoch</u>	<u>AP</u>	Pre-meeting

I. Summary:

SB 400 authorizes, but does not require, a state attorney in each judicial circuit to initiate the establishment of an elder abuse fatality review team, composed of volunteer members. The teams would review closed cases of fatal incidents of elder abuse or neglect and make policy and other recommendations to help prevent future incidents of elder abuse-related fatalities. The review teams are housed within the Department of Elder Affairs (DOEA) for administrative purposes only. The DOEA must submit a report, annually by November 1, that summarizes the findings and recommendations of the review teams to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Department of Children and Families.

According to the Department of Elder Affairs, the bill will have an indeterminate fiscal impact that can be absorbed within existing resources.

The bill takes effect July 1, 2020.

II. Present Situation:

The Adult Protective Services Act, ch. 415, F.S., charges the Department of Children and Families (DCF), to investigate reports of abuse or exploitation of a vulnerable adult or elderly person. The mandatory reporting requirement of persons who are required to investigate reports of abuse, neglect, or exploitation also extends to deaths due to alleged abuse or neglect.¹

Florida Abuse Hotline and Investigations

The Florida Abuse Hotline, administered by the DCF, screens allegations of adult abuse and neglect to determine if the allegations meet the criteria for an abuse report. If the allegations

¹ Section 415.1034, F.S.

meet the criteria, a protective investigation is initiated to confirm whether the evidence substantiates that abuse has occurred, whether the situation presents an immediate or long-term risk to the victim, and whether the victim needs additional services for protection.²

Section 415.1034, F.S., requires any person who knows or has reasonable cause to suspect that a vulnerable adult has been or is being abused, neglected, or exploited to report to the central abuse hotline. Additionally, if the DCF investigates elder abuse, neglect, or exploitation and has reasonable cause to suspect that a vulnerable adult died as a result of abuse, neglect, or exploitation, they must immediately report the suspicion to the appropriate medical examiner, the appropriate criminal justice agency, and to the DCF.³

The DCF is required, upon receipt of a report alleging abuse, neglect, or exploitation of a vulnerable adult, to begin within 24 hours a protective investigation of the matter.⁴ For each report it receives, the DCF must 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 need 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

Adult Protection Teams

Section 415.1102, F.S., authorizes the DCF to develop, maintain, and coordinate the services of one or more multidisciplinary adult protection teams in each of its regions. A "multidisciplinary adult protection team" is defined as a team of two or more persons 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 convened to supplement the protective services activities of the Adult Protective Services program of the DCF.⁸

Records Access

Section 415.107(3), F.S., enumerates persons and entities that may have access to records concerning reports of abuse, neglect, or exploitation of a vulnerable adult, including reports made to the central abuse hotline, otherwise held confidential and exempt from s. 119.07(1), F.S. The identity of any person reporting abuse, neglect, or exploitation of a vulnerable person shall not be released to these persons and entities.

² See s. 415.103, F.S. and Florida Department of Children and Families; Protecting Vulnerable Adults, <https://www.myflfamilies.com/service-programs/adult-protective-services/protecting-vulnerable-adults.shtml>.

³ Section 415.1034(2), F.S.

⁴ Section 415.104(1), F.S.

⁵ Section 415.104(3), F.S.

⁶ Section 415.1102(1), F.S.

⁷ Section 415.1102(2), F.S.

⁸ Section 415.1102(3), F.S.

III. Effect of Proposed Changes:

Elder Abuse Fatality Review Teams

Creation

The bill creates s. 415.1103, F.S., to authorize the establishment of an elder abuse fatality review team, made up of volunteers, in each of the 20 judicial circuits. The teams are authorized to review fatal incidents of abuse or neglect against the elderly. The establishment of the review teams may be initiated by the local state attorney, or his or her designee, and the teams are housed within the Department of Elder Affairs for administrative purposes only. At the initial meeting, the members must choose two co-chairs and must establish a schedule for future meetings. The review team must meet at least once during each fiscal year.

Composition

Each review team is composed of volunteers from numerous state and local agencies as well as community partners.⁹ Each volunteer serves without compensation for a two-year term, and the co-chairs will determine the team's staggered terms. Co-chairs may be reelected by a majority vote for up to two consecutive terms. Members may not be reimbursed for per diem or travel expenses. Any administrative costs for operating the review team must be borne by the team members themselves or the entities that they represent.

The bill allows elder abuse fatality review teams already operating before July 1, 2019, to continue operating as long as they comply with the requirements established under the bill.

Operations

Each team will determine how it operates and the process to select cases. The cases, however, must be limited to closed cases in which an elderly person's death is found to have been caused by, or related, to abuse or neglect. All information that would identify the person must be redacted in the documents that the team reviews.

Responsibilities

The elder abuse fatality team must:

- Review deaths of elderly people in its judicial circuit that were found to have been caused by, or related to, abuse or neglect;
- Consider events leading up to the fatal incident, available community resources, current law and policies, and the actions taken by systems or individuals related to the fatal incident;
- Identify potential gaps, deficiencies, or problems in the delivery of services to the elderly by agencies which may be related to the deaths;

⁹ The bill provides that membership may include, but is not be limited to, the following or their representatives: law enforcement agencies; the state attorney; the medical examiner; a county court judge; adult protective services; area agency on aging; the State Long-Term Care Ombudsman Program; the Agency for Health Care Administration; the Office of the Attorney General; the Office of State Courts Administrator; the clerk of the court; a victim services program; an elder law attorney; emergency services personnel; a certified domestic violence center; an advocacy organization for victims of sexual violence; a funeral home director; a forensic pathologist; a geriatrician; a geriatric nurse; a geriatric psychiatrist or other individual licensed to offer behavioral health services; a hospital discharge planner; a public guardian; and other persons with relevant expertise who are recommended by the review team.

- Develop communitywide approaches to address causes and contributing factors related to deaths reviewed by the team; and
- Develop recommendations and possible changes in law, rules, and policies to support the care of the elderly and prevent elder abuse deaths.

Prohibited Contact

Team members are prohibited from directly contacting someone in the deceased person's family as part of the review unless the team member is authorized to do so in the course of his or her employment duties. However, nothing in the bill prohibits a family member from voluntarily providing information or records to the review team. If a family member provides information to the review team, he or she must be informed that the information is subject to public disclosure unless a public records exemption applies to the information.

Reporting Requirements

Each team is required to submit its findings and recommendations to the DOEA annually by September 1. The report may include descriptive statistics, current policies, procedures, rules, or statutes that contribute to the incidence of elder abuse and deaths with recommendation for improvements, and any other recommendations to prevent deaths from elder abuse or neglect.

Additionally, by November 1 of each year, the DOEA must prepare a summary report of the information provided by the review teams, and submit the report to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Department of Children and Families.

Protection from Liability for Team Members

Unless a team member acts in bad faith, with wanton and willful disregard of human rights, safety, or property, he or she is not liable financially or subject to a cause of action for damages due to the performance of duties as a review team member with regard to any discussions by, deliberations, or recommendations of the team or the member.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

The information received by the elder abuse fatality review teams would be from closed cases and therefore previously redacted; all information received by the teams is public record subject to copying and inspection.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The elder abuse fatality review teams are volunteers who serve without compensation or reimbursement. However, the Department of Elder Affairs may incur additional costs associated with providing administrative support to the review teams and with submitting the annual report.

According to the Department of Elder Affairs, the bill will have an indeterminate fiscal impact that can be absorbed within existing resources.¹⁰

VI. Technical Deficiencies:

While the bill does allow each state attorney or his or her designee to initiate the establishment of a review team, the bill does not specify who the appointing authority will be.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill creates section 415.1103 of the Florida Statutes.

¹⁰ Email from Scott Read, Legislative Affairs Director, Florida Department of Elder Affairs (December 17, 2019), (on file with the Appropriations Subcommittee on Health and Human Services).

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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
