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LEGISLATIVE ACTION

| Senate | . | House |
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| Comm: RCS | . | |
| 04/05/2023 | . | |
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The Committee on Children, Families, and Elder Affairs (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete lines 34 - 191

and insert:

fatality review team may be established at a local, regional, or state level ~~in his or her judicial circuit~~ to review incidents of abuse, exploitation, or neglect of elderly persons and vulnerable adults that are believed to have caused or contributed to a fatal or near-fatal incident ~~deaths of elderly persons caused by, or related to, abuse or neglect.~~



393150

11 (b)1. An elder or vulnerable adult abuse fatality review
12 team may be initiated by any of the following persons or
13 entities:

14 a. A state attorney, or his or her designee.

15 b. A law enforcement agency.

16 c. The Department of Children and Families.

17 d. The Office of the Attorney General.

18 e. The Agency for Persons with Disabilities.

19 2. The person or entity who initiates a review team under
20 this paragraph must specify the geographic area in which the
21 team shall serve.

22 (c) The purpose of a review team is to learn how to prevent
23 elder and vulnerable adult abuse and abuse-related deaths by
24 intervening early and improving the system response to elder and
25 vulnerable adult abuse, exploitation, or neglect.

26 (2) For purposes of this section and s. 415.1104, the term
27 "vulnerable adult" includes a disabled adult and elderly person
28 as those terms are defined in s. 825.101(3) and (4),
29 respectively.

30 (3) (a) ~~A An elder abuse fatality review team must~~ may
31 include a representative from the person or entity initiating
32 the team, who must be an active participant on the team.

33 (b) A review team may include, ~~but is not limited to,~~
34 representatives from ~~any of the~~ persons or entities that may
35 initiate a team under paragraph (1) (b) and any of the following
36 persons or entities ~~or persons located in the review team's~~
37 judicial circuit:

38 1. ~~Law enforcement agencies.~~

39 2. ~~The state attorney.~~



393150

40 ~~1.3.~~ The medical examiner.
41 ~~2.4.~~ A county court judge.
42 ~~5.~~ ~~Adult protective services.~~
43 ~~3.6.~~ The area agency on aging.
44 ~~4.7.~~ The State Long-Term Care Ombudsman Program.
45 ~~5.8.~~ The Agency for Health Care Administration.
46 ~~9.~~ ~~The Office of the Attorney General.~~
47 ~~6.10.~~ The Office of the State Courts Administrator.
48 ~~7.11.~~ The clerk of the court.
49 ~~8.12.~~ A victim services program.
50 ~~9.13.~~ An elder law or disability rights attorney.
51 ~~10.14.~~ Emergency services personnel.
52 ~~11.15.~~ A certified domestic violence center.
53 ~~12.16.~~ An advocacy organization for victims of sexual
54 violence.
55 ~~13.17.~~ A funeral home director.
56 ~~14.18.~~ A forensic pathologist.
57 ~~15.19.~~ A geriatrician.
58 ~~16.20.~~ A geriatric nurse.
59 ~~17.21.~~ A geriatric psychiatrist or other individual
60 licensed to offer behavioral health services.
61 ~~18.22.~~ A hospital discharge planner.
62 ~~19.23.~~ A public guardian.
63 ~~20.24.~~ Any other persons who are identified and invited by
64 the team, and who have knowledge regarding fatal or near-fatal
65 incidents of elder abuse, vulnerable adult abuse, domestic
66 violence, ~~or~~ sexual violence, or suicide, including knowledge of
67 research, policy, law, and other matters connected with such
68 incidents involving vulnerable adults or elderly persons ~~elders,~~



393150

69 ~~or who are recommended for inclusion by the review team.~~

70 (4) (a) (e) Participation in a review team is voluntary.

71 Members of a review team shall serve without compensation and
72 may not be reimbursed for per diem or travel expenses. ~~Members~~
73 ~~shall serve for terms of 2 years, to be staggered as determined~~
74 ~~by the co-chairs.~~

75 ~~(d) The state attorney may call the first organizational~~
76 ~~meeting of the team. At the initial meeting, members of a review~~
77 ~~team shall choose two members to serve as co-chairs. Chairs may~~
78 ~~be reelected by a majority vote of a review team for not more~~
79 ~~than two consecutive terms. At the initial meeting, members of a~~
80 ~~review team shall establish a schedule for future meetings. Each~~
81 ~~review team shall meet at least once each fiscal year.~~

82 ~~(e) Each review team shall determine its local operations,~~
83 ~~including, but not limited to, the process for case selection.~~
84 ~~The state attorney shall refer cases to be reviewed by each~~
85 ~~team. Reviews must be limited to closed cases in which an~~
86 ~~elderly person's death was caused by, or related to, abuse or~~
87 ~~neglect. All identifying information concerning the elderly~~
88 ~~person must be redacted by the state attorney in documents~~
89 ~~received for review. As used in this paragraph, the term "closed~~
90 ~~case" means a case that does not involve information considered~~
91 ~~active as defined in s. 119.011(3)(d).~~

92 (b) Except as provided in subparagraph (1) (b) 2., a review
93 team may determine its structure, local operations, and
94 activities, including the number and type of incidents it
95 chooses to review.

96 (c) Administrative costs of operating the review team must
97 be borne by the team members or entities they represent.



393150

98 (d) Each member of a review team must sign a
99 confidentiality agreement acknowledging the requirement to
100 protect confidential and exempt oral or written communications,
101 information, or records produced or acquired by the review team
102 from unauthorized disclosure. A review team member who knowingly
103 and willfully discloses confidential and exempt oral or written
104 communications, information, or records produced or acquired by
105 the review team commits a misdemeanor of the second degree,
106 punishable as provided in s. 775.082 or s. 775.083. The
107 confidentiality agreement must reference such penalties.

108 (5)(2) A An elder abuse fatality review team in existence
109 on July 1, 2023 July 1, 2020, may continue to exist and must
110 comply with the requirements of this section.

111 (6)(3) A An elder abuse fatality review team must shall do
112 all of the following:

113 (a) Review incidents deaths of abuse, exploitation, or
114 neglect of elderly persons and vulnerable adults in the team's
115 jurisdiction in its judicial circuit which that are believed
116 found to have been caused or contributed to a fatal or near-
117 fatal incident by, or related to, abuse or neglect.

118 (b) Take into consideration the events leading up to a
119 fatal or near-fatal incident, available community resources,
120 current law and policies, ~~and~~ the actions taken by systems or
121 individuals related to the fatal or near-fatal incident, and any
122 information considered relevant by the team, including a review
123 of public records and records for which a public records
124 exemption is granted.

125 (c) Identify potential gaps, deficiencies, or problems in
126 the delivery of services to elderly persons or vulnerable adults



393150

127 by public and private agencies which may be related to incidents
128 ~~deaths~~ reviewed by the team.

129 (d) Whenever possible, develop communitywide approaches to
130 address the causes of, and contributing factors to, incidents
131 ~~deaths~~ reviewed by the team.

132 (e) Develop recommendations and potential changes in law,
133 rules, and policies to support the care of elderly persons and
134 vulnerable adults and to prevent abuse-related incidents ~~elder~~
135 ~~abuse deaths~~.

136 (7) (a) (4) (a) A review team may share with other review
137 teams in this state any relevant information that pertains to
138 incidents identified or reviewed by the team ~~the review of the~~
139 ~~death of an elderly person~~.

140 (b) 1. A review team member may not contact, interview, or
141 obtain information by request directly from a member of the
142 elder or vulnerable adult's ~~deceased elder's~~ family as part of
143 the review unless:

144 a. A team member is authorized to do so in the course of
145 his or her employment duties; or

146 b. Such contact, interview, or request is necessary for the
147 review team to complete its review and determine findings and
148 such information is not obtainable through any other means.

149 2. A member of the elder or vulnerable adult's ~~deceased~~
150 ~~elder's~~ family may voluntarily provide information or any record
151 to a review team but must be informed that such information or
152 any record is subject to public disclosure unless a public
153 records exemption applies.

154 (8) (a) (5) (a) Annually by September 1, each ~~elder abuse~~
155 ~~fatality~~ review team shall submit a summary report to the



393150

156 Department of Elderly Affairs which includes, but is not limited
157 to:

158 1. Descriptive statistics regarding cases reviewed by the
159 team, including demographic information on victims and the
160 causes and nature of their fatal or near-fatal incidents of
161 abuse, exploitation, or neglect.~~deaths;~~

162 2. Current policies, procedures, rules, or statutes the
163 review team has identified as contributing to the incidence of
164 elder or vulnerable adult abuse and abuse-related ~~elder~~ deaths,
165 and recommendations for system improvements and needed
166 resources, training, or information dissemination to address
167 such identified issues.~~;~~ and

168 3. Any other recommendations to prevent fatal or near-fatal
169 incidents ~~deaths~~ from ~~elder~~ abuse, exploitation, or neglect,
170 based on an analysis of the data and information presented in
171 the report.

172 (b) Annually by November 1, the Department of Elderly
173 Affairs shall prepare a summary report of the review team
174 information submitted under paragraph (a). The department shall
175 submit its summary report to the Governor, the President of the
176 Senate, the Speaker of the House of Representatives, and the
177 Department of Children and Families.

178 (9) (a) (6) There is no monetary liability on the part of,
179 and a cause of action for damages may not arise against, any
180 member of a an elder abuse fatality review team, or any person
181 acting as a witness to, incident reporter to, or investigator
182 for a review team, for any act or proceeding taken or performed
183 within the scope and functions of the team, due to the
184 performance of his or her duties as a review team member in



393150

185 ~~regard to any discussions by, or deliberations or~~
186 ~~recommendations of, the team or the member~~ unless such person
187 ~~member~~ acted in bad faith, with wanton and willful disregard of
188 human rights, safety, or property.

189 (b) This subsection does not affect the requirements of s.
190 768.28.

191 (10) (a) Oral or written communications, information, and
192 records produced or acquired by the review team and are not
193 subject to disclosure, discovery, or introduction into evidence
194 in any civil, criminal, administrative, or disciplinary
195 proceeding, if the communications, information, or records arose
196 out of matters that are the subject of an

197 ===== T I T L E A M E N D M E N T =====

198 And the title is amended as follows:

199 Delete lines 4 - 22

200 and insert:

201 F.S.; authorizing the establishment of elder and
202 vulnerable adult abuse fatality review teams in
203 certain areas and for certain purposes; authorizing
204 certain persons and entities to initiate a review
205 team; revising the definition of the term "vulnerable
206 adult"; requiring certain representatives to be active
207 participants on a review team; revising review team
208 membership; removing provisions relating to state
209 attorney requirements; authorizing a review team to
210 determine the number and types of incidents to review;
211 requiring members of a review team to sign a
212 confidentiality agreement; creating a criminal
213 penalty; requiring confidentiality agreements to



393150

214 reference certain criminal penalties; authorizing
215 continuance for review teams in existence on a certain
216 date; revising review team requirements to conform to
217 changes made by the act; modifying a prohibition from
218 contacting, interviewing, or obtaining information
219 from the family of a victim; providing specified
220 exceptions to such prohibition; expanding immunity
221 from monetary liability to certain persons; providing
222 construction; providing that oral and written
223 communications, information, and records acquired by a
224 review team are not subject to discovery or
225 introduction into evidence in certain proceedings
226 under certain circumstances; specifying that
227 provisions of law relating to a waiver of sovereign
228 immunity still apply; providing that a person who
229 attends a meeting or other authorized activities of a
230 review team may not testify in