

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

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1 A bill to be entitled
2 An act relating to elder abuse and vulnerable adult
3 abuse fatality review teams; amending s. 415.1103,
4 F.S.; authorizing the establishment of elder abuse and
5 vulnerable adult abuse fatality review teams in
6 certain areas and for certain purposes; authorizing
7 certain persons and entities to initiate a review
8 team; defining the term "vulnerable adult"; requiring
9 certain representatives to be active participants on a
10 review team; revising review team membership; removing
11 provisions relating to state attorney requirements;
12 authorizing a review team to determine the number and
13 types of incidents to review; requiring members of a
14 review team to sign a confidentiality agreement;
15 creating a criminal penalty; requiring confidentiality
16 agreements to reference such criminal penalty;
17 authorizing continuance for review teams in existence
18 on a certain date; revising review team requirements
19 to conform to changes made by the act; modifying a
20 prohibition against contacting, interviewing, or
21 obtaining information from the family of a victim;
22 expanding immunity from monetary liability to certain
23 persons; providing construction; providing that oral
24 and written communications, information, and records
25 acquired by a review team are not subject to
26 disclosure, discovery, or introduction into evidence
27 in certain proceedings under certain circumstances;
28 specifying that provisions of law relating to a waiver
29 of sovereign immunity still apply; providing that a

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30 person who attends a meeting or other authorized
31 activities of a review team may not testify in certain
32 proceedings; providing exceptions and construction;
33 providing an effective date.

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

36
37 Section 1. Section 415.1103, Florida Statutes, is amended
38 to read:

39 415.1103 Elder abuse and vulnerable adult abuse fatality
40 review teams.—

41 (1) (a) An elder abuse or a vulnerable adult ~~A state~~
42 ~~attorney, or his or her designee,~~ may initiate an elder abuse
43 fatality review team may be established at a local, regional, or
44 state level in his or her judicial circuit to review incidents
45 of abuse, exploitation, or neglect of elderly persons and
46 vulnerable adults which are believed to have caused or
47 contributed to a fatal or near-fatal incident ~~deaths of elderly~~
48 ~~persons caused by, or related to, abuse or neglect.~~

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

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

53 b. A law enforcement agency.

54 c. The Department of Children and Families.

55 d. The Office of the Attorney General.

56 e. The Agency for Persons with Disabilities.

57 2. The person or entity who initiates a review team under
58 this paragraph must specify the geographic area in which the

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59 team shall serve.

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

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

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

70 (b) A review team may include, ~~but is not limited to,~~
71 representatives from ~~any of~~ the persons or entities that may
72 initiate a team under paragraph (1) (b) and any of the following
73 persons or entities ~~or persons located in the review team's~~
74 judicial circuit:

75 1. ~~Law enforcement agencies.~~

76 2. ~~The state attorney.~~

77 3. ~~The medical examiner.~~

78 2.4. ~~A county court judge.~~

79 5. ~~Adult protective services.~~

80 3.6. ~~The area agency on aging.~~

81 4.7. ~~The State Long-Term Care Ombudsman Program.~~

82 5.8. ~~The Agency for Health Care Administration.~~

83 9. ~~The Office of the Attorney General.~~

84 6.10. ~~The Office of the State Courts Administrator.~~

85 7.11. ~~The clerk of the court.~~

86 8.12. ~~A victim services program.~~

87 9.13. ~~An elder law or disability rights attorney.~~

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88 ~~10.14.~~ Emergency services personnel.

89 ~~11.15.~~ A certified domestic violence center.

90 ~~12.16.~~ An advocacy organization for victims of sexual
91 violence.

92 ~~13.17.~~ A funeral home director.

93 ~~14.18.~~ A forensic pathologist.

94 ~~15.19.~~ A geriatrician.

95 ~~16.20.~~ A geriatric nurse.

96 ~~17.21.~~ A geriatric psychiatrist or other individual
97 licensed to offer behavioral health services.

98 ~~18.22.~~ A hospital discharge planner.

99 ~~19.23.~~ A public guardian.

100 ~~20.24.~~ Any other persons who are identified and invited by
101 the team, and who have knowledge regarding fatal or near-fatal
102 incidents of elder abuse, vulnerable adult abuse, domestic
103 violence, ~~or~~ sexual violence, or suicide, including knowledge of
104 research, policy, law, and other matters connected with such
105 incidents involving vulnerable adults or elderly persons ~~elders,~~
106 ~~or who are recommended for inclusion by the review team.~~

107 ~~(4) (a)-(e)~~ Participation in a review team is voluntary.

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

112 ~~(d)~~ The state attorney may call the first organizational
113 meeting of the team. At the initial meeting, members of a review
114 team shall choose two members to serve as co-chairs. Chairs may
115 be reelected by a majority vote of a review team for not more
116 than two consecutive terms. At the initial meeting, members of a

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117 ~~review team shall establish a schedule for future meetings. Each~~
118 ~~review team shall meet at least once each fiscal year.~~

119 ~~(e) Each review team shall determine its local operations,~~
120 ~~including, but not limited to, the process for case selection.~~
121 ~~The state attorney shall refer cases to be reviewed by each~~
122 ~~team. Reviews must be limited to closed cases in which an~~
123 ~~elderly person's death was caused by, or related to, abuse or~~
124 ~~neglect. All identifying information concerning the elderly~~
125 ~~person must be redacted by the state attorney in documents~~
126 ~~received for review. As used in this paragraph, the term "closed~~
127 ~~case" means a case that does not involve information considered~~
128 ~~active as defined in s. 119.011(3)(d).~~

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

133 (c)~~(f)~~ Administrative costs of operating the review team
134 must be borne by the team members or entities they represent.

135 (d) Each member of a review team must sign a
136 confidentiality agreement acknowledging the requirement to
137 protect confidential and exempt oral or written communications,
138 information, or records produced or acquired by the review team
139 from unauthorized disclosure. A review team member who knowingly
140 and willfully discloses confidential and exempt oral or written
141 communications, information, or records produced or acquired by
142 the review team commits a misdemeanor of the second degree,
143 punishable as provided in s. 775.082 or s. 775.083. The
144 confidentiality agreement must reference such penalties.

145 (5)~~(2)~~ A An elder abuse fatality review team in existence

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146 on July 1, 2023 ~~July 1, 2020~~, may continue to exist and must
147 comply with the requirements of this section.

148 ~~(6)(3)~~ A ~~An elder abuse fatality~~ review team must ~~shall~~ do
149 all of the following:

150 (a) Review incidents ~~deaths~~ of abuse, exploitation, or
151 neglect of elderly persons and vulnerable adults in the team's
152 jurisdiction in its judicial circuit which are believed ~~found~~ to
153 have ~~been~~ caused or contributed to a fatal or near-fatal
154 incident by, or related to, abuse or neglect.

155 (b) Take into consideration the events leading up to a
156 fatal or near-fatal incident, available community resources,
157 current law and policies, ~~and~~ the actions taken by systems or
158 individuals related to the fatal or near-fatal incident, and any
159 information considered relevant by the team, including a review
160 of public records and records for which a public records
161 exemption is granted.

162 (c) Identify potential gaps, deficiencies, or problems in
163 the delivery of services to elderly persons or vulnerable adults
164 by public and private agencies which may be related to incidents
165 ~~deaths~~ reviewed by the team.

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

169 (e) Develop recommendations and potential changes in law,
170 rules, and policies to support the care of elderly persons and
171 vulnerable adults and to prevent abuse-related incidents ~~elder~~
172 ~~abuse deaths.~~

173 (7)(a) ~~(4)(a)~~ A review team may share with other review
174 teams in this state any relevant information that pertains to

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175 incidents identified or reviewed by the team ~~the review of the~~
176 ~~death of an elderly person.~~

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

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

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

186 2. A member of the elder or vulnerable adult's ~~deceased~~
187 ~~elder's~~ family may voluntarily provide information or any record
188 to a review team but must be informed that such information or
189 any record is subject to public disclosure unless a public
190 records exemption applies.

191 (8) (a) ~~(5) (a)~~ Annually by September 1, each ~~elder abuse~~
192 ~~fatality~~ review team shall submit a summary report to the
193 Department of Elderly Affairs which includes, but is not limited
194 to:

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

199 2. Current policies, procedures, rules, or statutes the
200 review team has identified as contributing to the incidence of
201 elder or vulnerable adult abuse and abuse-related ~~elder~~ deaths,
202 and recommendations for system improvements and needed
203 resources, training, or information dissemination to address

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204 such identified issues, ~~and~~

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

209 (b) Annually by November 1, the Department of Elderly
210 Affairs shall prepare a summary report of the review team
211 information submitted under paragraph (a). The department shall
212 submit its summary report to the Governor, the President of the
213 Senate, the Speaker of the House of Representatives, and the
214 Department of Children and Families.

215 (9) (a) ~~(6)~~ There is no monetary liability on the part of,
216 and a cause of action for damages may not arise against, any
217 member of a ~~an~~ elder abuse fatality review team, or any person
218 acting as a witness to, incident reporter to, or investigator
219 for a review team, for any act or proceeding taken or performed
220 within the scope and functions of the team, ~~due to the~~
221 performance of his or her duties as a review team member in
222 regard to any discussions by, or deliberations or
223 recommendations of, the team or the member unless such person
224 ~~member~~ acted in bad faith, with wanton and willful disregard of
225 human rights, safety, or property.

226 (b) This subsection does not affect the requirements of s.
227 768.28.

228 (10) (a) Oral or written communications, information, and
229 records produced or acquired by the review team are not subject
230 to disclosure, discovery, or introduction into evidence in any
231 civil, criminal, administrative, or disciplinary proceeding if
232 the communications, information, or records arose out of matters

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233 that are the subject of an evaluation and review by the review
234 team. However, information, documents, and records otherwise
235 available from other sources are not immune from discovery or
236 introduction into evidence solely because the information,
237 documents, or records were presented to or reviewed by a review
238 team.

239 (b) A person who attends a meeting or other authorized
240 activity of a review team may not testify in any civil,
241 criminal, administrative, or disciplinary proceedings as to any
242 records or information produced or presented to the review team
243 during its meetings or other activities authorized by this
244 section.

245 (c) This subsection does not prohibit:

246 1. A person who testifies before a review team or is a
247 member of a review team from testifying in a civil, criminal,
248 administrative, or disciplinary proceeding to matters otherwise
249 within his or her knowledge; or

250 2. A member of a review team from testifying in a policy-
251 related hearing or matter, as long as the member of the review
252 team does not disclose records or information that would
253 identify the victim or victim's family or any other confidential
254 or exempt records or information pertaining to a matter reviewed
255 by the review team.

256 Section 2. This act shall take effect July 1, 2023.