

CHAPTER 2023-260

Committee Substitute for Senate Bill No. 1540

An act relating to elder and vulnerable adult abuse fatality review teams; amending s. 415.1103, F.S.; authorizing the establishment of elder and vulnerable adult abuse fatality review teams for certain purposes; authorizing certain persons and entities to initiate a review team; requiring the initiating entity to determine the geographic area to be served by the review team; providing a requirement for such geographic area; revising the definition of the term “elder and vulnerable adult”; revising review team membership; authorizing continuance for review teams in existence on a certain date; requiring the entity that initiated the review team to call its first meeting; specifying certain members to be co-chairs of the review team; authorizing a review team to determine the number and types of incidents to review; removing provisions relating to state attorney requirements; requiring members of a review team to sign a written acknowledgment of public records requirements; requiring such acknowledgment to reference applicable criminal penalties for certain disclosures; requiring the initiating entity to provide the acknowledgment form and certain training; revising review team requirements to conform to changes made by the act; modifying the prohibition from contacting, interviewing, or obtaining information from the family of a victim; expanding immunity from monetary liability to certain persons; providing construction; providing that communications, information, and records produced or acquired by a review team are not subject to discovery or introduction into evidence in certain proceedings under certain circumstances; providing that a person who attends a meeting or other authorized activity of a review team may not testify in certain proceedings as to certain records or information; providing exceptions; providing an effective date.

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

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

415.1103 Elder and vulnerable adult abuse fatality review teams.—

(1)(a) ~~A state attorney, or his or her designee, may initiate~~ An elder and vulnerable adult abuse fatality review team ~~may be established in his or her judicial circuit to review incidents of deaths of elderly persons caused by, or related to, abuse, exploitation, or neglect which are believed to have caused or contributed to the death of an elderly person or vulnerable adult.~~

(b) An elder and vulnerable adult abuse fatality review team may be initiated by any of the following:

1. A state attorney.

- 2. A law enforcement agency.
- 3. The Department of Children and Families.
- 4. The Office of the Attorney General.
- 5. The Agency for Persons with Disabilities.

(c) The initiating entity shall determine the geographic area that the review team will serve. The geographic area served by the review team must be within the jurisdiction or service area of the initiating entity.

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

(2) For purposes of this section and s. 415.1104, the term “elder and vulnerable adult” refers to a person who meets the criteria for any of the following terms:

- (a) Vulnerable adult as defined in s. 415.102.
- (b) Disabled adult as defined in s. 825.101.
- (c) Elderly person as defined in s. 825.101.

(3) ~~An elder abuse fatality review team may include, but is not limited to, representatives from any of the entities listed under paragraph (1)(b) and any of the following persons or entities or persons located in the review team’s judicial circuit:~~

- ~~1. Law enforcement agencies.~~
- ~~2. The state attorney.~~
- ~~1.3. The medical examiner.~~
- ~~2.4. A county court judge.~~
- ~~5. Adult protective services.~~
- ~~3.6. The area agency on aging.~~
- ~~4.7. The State Long-Term Care Ombudsman Program.~~
- ~~5.8. The Agency for Health Care Administration.~~
- ~~9. The Office of the Attorney General.~~
- ~~6.10. The Office of the State Courts Administrator.~~
- ~~7.11. The clerk of the court.~~

- 8.12. A victim services program.
- 9.13. An elder law or disability rights attorney.
- 10.14. Emergency services personnel.
- 11.15. A certified domestic violence center.
- 12.16. An advocacy organization for victims of sexual violence.
- 13.17. A funeral home director.
- 14.18. A forensic pathologist.
- 15.19. A geriatrician.
- 16.20. A geriatric nurse.
- 17.21. A geriatric psychiatrist or other individual licensed to offer behavioral health services.
- 18.22. A hospital discharge planner.
- 19.23. A public guardian.
- 20.24. Any other persons who are identified and invited by the review team and who have knowledge regarding fatal incidents of elder abuse, vulnerable adult abuse, domestic violence, ~~or~~ sexual violence, or suicide, including knowledge of research, policy, law, and other matters connected with such incidents involving elders and vulnerable adults, ~~or who are recommended for inclusion by the review team.~~

(4)(a)(e) Participation in a review team is voluntary. Members of a review team shall serve without compensation and may not be reimbursed for per diem or travel expenses. A review team in existence on July 1, 2023, may continue to exist and must comply with the requirements of this section ~~Members shall serve for terms of 2 years, to be staggered as determined by the co-chairs.~~

(b)1.(d) ~~The entity initiating the review team shall state attorney may call the first organizational meeting of the team.~~

2. A representative of the entity initiating the review team, who is chosen by that entity, shall serve as a co-chair of the review team. At the initial meeting, members of a review team shall elect a member ~~choose two members~~ to serve as an additional co-chair. The co-chair elected by the review team shall serve a 2-year term and co-chairs. ~~Chairs may be reelected by a majority vote of a review team for not more than two consecutive terms.~~

3. At the initial meeting, members of a review team shall establish a schedule for future meetings. Each review team shall meet at least once each fiscal year.

~~(c)(e) Except as provided in subsection (1) and paragraph (4)(b), each review team shall determine its structure, local operations, and including, but not limited to, the process for case selection, including, but not limited to, the number and type of incidents it chooses to review. The state attorney shall refer cases to be reviewed by each team. Reviews must be limited to closed cases in which an elderly person's death was caused by, or related to, abuse or neglect. All identifying information concerning the elderly person must be redacted by the state attorney in documents received for review. As used in this paragraph, the term "closed case" means a case that does not involve information considered active as defined in s. 119.011(3)(d).~~

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

~~(e)1. Each member of a review team shall sign a written acknowledgment that the member is obligated to comply with the applicable provisions of chapter 119 and s. 24(a), Art. I of the State Constitution and may not knowingly disclose or reveal information or records produced, acquired, or discussed by the review team which are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The written acknowledgment must reference applicable criminal penalties for such disclosures and clearly identify the records for which such penalties apply.~~

~~2. The entity initiating the review team shall provide the acknowledgment form to be signed by each review team member and shall provide training to review team members on the requirements regarding records that are exempt or confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.~~

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

~~(5)(3) A An elder abuse fatality review team must shall do all of the following:~~

~~(a) Review incidents deaths of abuse, exploitation, or neglect of elders and vulnerable adults in the review team's geographic service area elderly persons in its judicial circuit which are believed found to have been caused or contributed to the death of such person by, or related to, abuse or neglect.~~

~~(b) Take into consideration the events leading up to a fatal incident, available community resources, current law and policies, and the actions taken by systems or individuals related to the fatal incident, and any information considered relevant by the team, including, but not limited to, a review of public records and records for which a public records exemption is granted.~~

~~(c) Identify potential gaps, deficiencies, or problems in the delivery of services to elders and vulnerable adults elderly persons by public and~~

private agencies which may be related to incidents deaths reviewed by the team.

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

(e) Develop recommendations and potential changes in law, rules, and policies to support the care of elders and vulnerable adults elderly persons and to prevent abuse of such persons ~~elder abuse deaths~~.

~~(6)(a)(4)(a)~~ A review team may share with other review teams in this state any relevant information that pertains to incidents identified or reviewed by the team ~~the review of the death of an elderly person~~.

~~(b)1.~~ A review team member may not contact, interview, or obtain information by request directly from a family member of a person whose case is subject to review by the review team as part of the review unless:

~~a.~~ ~~the deceased elder’s family as part of the review unless~~ A team member is authorized to do so in the course of his or her employment duties; ~~or~~

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

~~2.~~ A family member of a person whose case is subject to review by the review team ~~the deceased elder’s family~~ may voluntarily provide information or any record to a review team but must be informed that such information or any record is subject to public disclosure unless a public records exemption applies.

~~(7)(a)(5)(a)~~ Annually by September 1, each ~~elder abuse fatality~~ review team shall submit a summary report to the Department of Elderly Affairs which includes, but is not limited to:

1. Descriptive statistics regarding cases reviewed by the team, including, at a minimum, demographic information on victims, and the causes and nature of their deaths, and the incidents of abuse, exploitation, or neglect associated with their deaths.;

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

3. Any other recommendations to prevent fatal incidents of deaths from ~~elder abuse, exploitation, or neglect of elders and vulnerable adults,~~ based on an analysis of the data and information presented in the report.

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

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

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

(9)(a) Oral or written communications, information, and records produced or acquired by the review team are not subject to discovery and may not be introduced into evidence in any civil, criminal, administrative, or disciplinary proceeding if the communications, information, or records arose out of matters that are the subject of evaluation and review by the review team. Information, documents, and records otherwise available from sources other than the review team are not immune from discovery or introduction into evidence solely because the information, documents, or records were presented to or reviewed by a review team.

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

(c) This subsection does not prohibit:

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

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

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

Approved by the Governor June 19, 2023.

Filed in Office Secretary of State June 19, 2023.