

## State of Alabama Child Death Review Legislation

Ala. Code § 26-16-90 (1997)

Link: <http://alisd.b.legislature.state.al.us/acas/codeofalabama/1975/127900.htm>

### **Enrolled, An Act,**

Relating to child mortality; concerning efforts to identify deaths which may be from child abuse or neglect or other causes; relating to obtaining and maintaining statistics on child mortality within the state; providing services to surviving family members; developing and implementing measures to aid in reducing the risk and incidence of future child injury and death; establishing the State Child Death Review Team and local teams; establishing policies and procedures as are necessary for the operation of the State Child Death Review Team and the local team ; and making an appropriation from the State General Fund to the Alabama Department of Public Health in the amount of \$300,000 for the fiscal year ending September 30, 1998 to be used for the implementation of the provisions of this bill.

### **BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:**

**Section 1.** The Legislature finds and declares that: Every child is entitled to live in safety and in health and to survive into adulthood; there are concerns about the adequacy of efforts in this state to identify deaths; and recognizing that no single agency or person is responsible, that multidisciplinary, multiagency child death review team are methods of achieving the state policy.

**Section 2.** The following words and phrases have the following meanings unless the context clearly indicates otherwise:

- (1) AUTOPSY. An external and internal examination, medical history and record review.
- (2) CHILD. A person who has not yet reached his or her eighteenth birthday.
- (3) CHILD DEATHS TO BE REVIEWED. Those deaths which are unexpected or unexplained.
- (4) COMMUNITY. The people and area within the local team jurisdiction.
- (5) COUNTY. The county in which a deceased child resided prior to his or her death.
- (6) INVESTIGATION. In the context of child death, includes all of the following:
  - a. A postmortem examination which may be limited to an external examination or may include an autopsy.
  - b. An inquiry by law enforcement agencies having jurisdiction into the circumstances of the death, including a scene investigation and interview with the child's parents, guardians, or caretakers and the person who reported the child's death.
  - c. A review of information regarding the child from relevant agencies, professionals, and providers of medical care.
- (7) LOCAL TEAM. A multidisciplinary, multiagency child death review team established for a county or judicial circuit pursuant to Section 7.
- (8) MEETING. In-person meetings and conferences as well as those through telephone and other live electronic means. Individual participation in meetings through electronic

conferencing may be authorized through the State Team chairperson or designee. Local team may not meet by electronic means.

(9) **PERSON ACTING IN A PROFESSIONAL CAPACITY.** A health practitioner, law enforcement officer, employee of a local department of social services, undertaker, funeral home director or employee of a funeral home, or firefighter, who is acting in the course of his or her professional duties.

(10) **PROVIDER OF MEDICAL CARE.** Any health practitioner who personally provides, or a facility through which is provided, any medical evaluation or treatment including dental and mental health evaluation or treatment.

(11) **STATE TEAM.** The State Child Death Review Team.

(12) **UNEXPECTED/UNEXPLAINED.** In referring to a child's death, includes all deaths which, prior to investigation, appear possibly to have been caused by trauma, suspicious or obscure circumstances, child abuse or neglect, or other agents or Sudden Infant Death Syndrome.

**Section 3.** It is the policy of this state that responding to unexpected/unexplained child deaths is a state and a community responsibility and must include an accurate and complete determination of the cause of death.

**Section 4.** (a) There is hereby created the State Child Death Review Team, referred to in this act as the State Team.

(b) The State Team shall be situated within the Alabama Department of Public Health for administrative and budgetary purposes.

(c) The State Team shall be a multidisciplinary, multiagency review team, composed of 28 members, the first 7 of whom are ex officio. The ex officio members may designate representatives from their particular departments or offices to represent them on the State Team who may vote and exercise all other prerogatives of the appointment. The members of the State Team shall include all of the following:

(1) The Jefferson County Coroner, Medical Examiner.

(2) The State Health Officer who shall serve as chair.

(3) One member appointed by the Alabama Sheriffs Association.

(4) The Director of the Alabama Department of Forensic Sciences.

(5) The Commissioner of the Alabama Department of Human Resources.

(6) The Commissioner of the Alabama Department of Mental Health and Mental Retardation.

(7) The Director of the Alabama Department of Public Safety.

(8) A pediatrician with expertise in SIDS appointed by the Alabama Chapter, American Academy of Pediatrics.

(9) A health professional with expertise in child abuse and neglect appointed by the Alabama Department of Public Health.

(10) A family practice physician appointed by the Alabama Academy of Family Physicians.

(11) A pediatric pathologist appointed by the Alabama Department of Forensic Sciences.

(12) Eight private citizens appointed by the Governor.

- (13) A member of the clergy appointed by the Governor.
- (14) A representative of the Alabama Coroner's Association.
- (15) A representative of the Alabama Network of Children's Advocacy Centers.
- (16) A representative of the Alabama Sheriff's Association.
- (17) A representative of the Alabama District Attorney's Association.
- (18) A specialist in Pediatric Emergency Medicine appointed by the Alabama Medical Association.
- (19) A representative of the Alabama Association of Chiefs of Police
- (20) Chair of the Senate Health Committee or his or her designee and the Chair of the House Health Committee or his or her designee.

(d) Members who are not ex officio shall serve for a three-year term and shall not serve more than two consecutive terms. Terms for these members shall be staggered.

(e) Staffing for the State Team shall be provided through the Alabama Department of Public Health using funds appropriated under this act.

(f) The initial meeting of the State Team shall be held within 60 days of enactment. Meetings shall be held at least quarterly thereafter.

(g) Fifteen members shall constitute a quorum for conducting all activities of the State Team which may require a vote among the members. A simple majority of members present constituting a quorum shall be required for any affirmative vote.

**Section 5.** The purpose of the State Team is to decrease the risk and incidence of unexpected/unexplained child injury and death by undertaking all of the following duties:

- (1) Identifying factors which make a child at risk for injury or death.
  - (2) Collecting and sharing information among State Team members and agencies which provide services to children and families or investigate child deaths.
  - (3) Making suggestions and recommendations to appropriate participating agencies regarding improving coordination of services and investigations.
  - (4) Identifying trends relevant to unexpected/unexplained child injury and death.
  - (5) Reviewing reports from local child death teams and, upon request of a local team, individual cases of child deaths.
  - (6) Providing training and written materials to the local teams to assist them in carrying out their duties. Such written materials shall include model protocols for the operation of the local teams.
  - (7) Developing a protocol for child death investigations, and revising the protocol as needed. The protocol for child death investigations shall not include any activity that causes public scrutiny of the family circumstances surrounding the subject death.
  - (8) Undertaking a study of the operations of local teams considering training needs and service gaps. If the State Team determines that changes to any statute, regulation, or policy is needed to decrease the risk and incidence of child injury and death, it shall propose and recommend changes to such statute, regulation, or policy in its annual report.
  - (9) Educating the public in Alabama regarding the incidence and causes of child injury and death and the public role in aiding in reducing the risk of such injuries and deaths.

The State Team shall enlist the support of civil, philanthropic, and public service organizations in its performance of its education duties.

(10) Developing and implementing such procedures and policies as are necessary for its own operation.

(11) Providing the Governor and the Legislature with an annual written report which shall include, but not be limited to, the State Team's findings and recommendations for each of its duties; and providing copies of such report to the public.

(12) Determining, by consent of State Team members, what protocols should be followed by team members for providing data and/or information to the State Team as a whole.

(13) Examining confidentiality and access to information laws, regulations, and policies for agencies with responsibilities for children, including health, public welfare, education, social services, mental health, and law enforcement agencies, and determining whether those laws, regulations, or policies impede the exchange of information necessary to reduce the risk of injury and death. If the State Team determines that such laws, regulations, or policies do impede the necessary exchange of information, it shall take prompt steps to propose and recommend changes to the appropriate state agencies.

**Section 6.** State and local team members shall be immune from any and all civilian and criminal liability in connection with their good faith participation on the state or local team and all activities associated therewith, provided however, this immunity shall not be available in the event any state or local team member violates the provisions of confidentiality enumerated in the legislation.

**Section 7.** (a) There are hereby created local child death review teams.

(b) Each county of the state shall be included in a local multidisciplinary, multiagency child death review team's jurisdiction. The district attorney shall initiate the establishment of local teams by convening a meeting of potential team members within 60 days of enactment. In the absence of the initiation of a child death review team by the district attorney within sixty days of enactment of this legislation, the local public health representative will initiate the first team meeting. During this meeting, participants shall recommend whether to establish a team for that county alone or to establish a team with and for the counties within that judicial circuit.

(c) The local team shall include, but not be limited to, all of the following members, the first five of whom are ex officio. The ex officio members may designate representatives from their particular departments or offices to represent them on the local team who may vote and exercise all other prerogatives of the appointment. The members of the local team include the following:

(1) The County Health Officer.

(2) The Director of the County Department of Human Resources.

(3) The County District Attorney.

(4) The Medical Examiner.

(5) The local coroner.

(6) An investigator with a local sheriff's department who is familiar with homicide investigation.

(7) An investigator with a local police department who is familiar with homicide investigation.

(8) A pediatrician, or if no pediatrician is available, a primary care physician appointed by the County Medical Society.

(9) A representative from a local child advocacy center, if one exists.

(d) The local team shall select a chair from among its members. The chair shall serve a term of three years and may serve more than one consecutive term.

(e) Members are not ex officio shall serve for a three-year term and may succeed themselves but shall not serve more than two consecutive terms. Terms for these members shall be staggered.

(f) The initial meeting of the local team shall be held within 60 days of enactment.

(g) A quorum for conducting all activities shall be determined by the local team. A simple majority of members present constituting a quorum shall be required for any affirmative vote.

(h) The purpose of the local team is to decrease the incidence of unexpected/unexplained child injury and death by the following means:

(1) Identifying factors which make a child at risk of injury or death.

(2) Sharing information among the agencies which provide services to children and families or which investigate child deaths or provide services.

(3) Improving local investigations of unexpected/unexplained child deaths by participating agencies.

(4) Improving existing services and systems and assisting in the establishment of additional services and systems to fill in gaps in the community.

(5) Identifying trends relevant to unexpected/unexplained child injury and death.

(6) Educating the local public regarding the incidence and causes of child injury and death and the public role in aiding and reducing the risk of such injuries and deaths.

(i) To achieve its purpose, the local team shall perform all the following duties and functions:

(1) Establish and implement a protocol for the local team within two months of receipt of the model protocols from the State Team as required by Section 4 of this act.

(2) Respond by recording all child deaths and reviewing individual unexpected/unexplained child deaths in accordance with protocols from the State Team.

(3) Meet as deemed necessary by the local chair, but not less than annually, to review the status of unexpected/unexplained child death cases, propose recommendations for improving coordination of services and investigations between member agencies, and propose changes within the member agencies which shall reduce the risk and incidence of unexpected/unexplained child injury and death.

(4) Collect data as required for submittal to the State Team.

(5) Provide reports to the State Team following each team meeting which shall include data on child deaths, steps taken to improve coordination of services and investigations, steps taken to implement changes within member agencies, and advice on needed changes to law, policy, and practice which shall aid in reducing the risk and incidence of child injury and death.

(j) At a local team meeting to review unexpected/unexplained child deaths, information shall be provided as specified below, except where otherwise protected by statute, to carry out each of the following of the local team's purpose and duties:

(1) The providers of medical care, the physician representative or the medical examiner, shall provide pertinent health and medical information regarding a child whose death is being reviewed by the local team.

(2) State, county, or local government agencies shall provide all of the following data on forms developed by the State Team for reporting to local child death review teams:

- a. Birth information for children who died at less than one year of age including confidential information collected for medical and health use.
- b. Death information for children who have not reached their eighteenth birthday.
- c. Law enforcement investigative data, medical examiner investigative data, parole and probation information, and records.
- d. Medical care, including dental, mental and prenatal health care.
- e. Pertinent information from any social services agency that provided services to the child or family.

**Section 8.** (a) Meetings of the State Team and of local team shall be closed to the public and not subject to the State Sunshine Law when the State Team or local team is discussing a specific child death.

(b) Information identifying a deceased child, a family member, guardian or caretaker of a deceased child, or an alleged or suspected perpetrator of abuse or neglect upon a child, may not be disclosed during a meeting which is open to the public.

(c) Information regarding the involvement of any agency with the deceased child or family may not be disclosed during a public meeting.

(d) Nothing in this section shall be construed as preventing the State Team or a local team from requesting the attendance at a team meeting of a person who has information relevant to the team's exercise of its purpose and duties.

(e) Any person who intentionally violates the portion of this section commits a Class C misdemeanor and shall be punished as prescribed by law.

Any person who violates the provisions of confidentiality in any proceedings conducted by either a local team or the state team shall be removed from the team in addition to any other penalty.

**Section 9.** (a) All information and records acquired by the State Team or by a local team, in the exercise of its purpose and duties pursuant to this act, are confidential, exempt from disclosure under Section 41-13-1, Code of Alabama 1975, and may only be disclosed as necessary to carry out the team's duties and purposes.

(b) Reports of the State Team and of a local team which do not contain any information that would permit the identification of any person to be ascertained shall be public information.

(c) Except as necessary to carry out a team's purpose and duties, members of a team and persons attending a team meeting may not disclose what transpired at a meeting which is not public under Section 9 of this act, nor shall they disclose any information the disclosure of which is prohibited by this section.

(d) Members of a team, persons attending a team meeting, and persons who present information to a team may release information to such government agencies as is necessary for the purpose of carrying out assigned team duties.

(e) Information, documents, and records of the State Team or of a local team are not subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding, except that information, documents, and records otherwise available from other sources are not immune from subpoena, discovery, or introduction into evidence through those sources solely because they were presented during proceedings of the team or are maintained by a team.

(f) Moreover, notwithstanding Sections 9 (a) and 9 (b), those criminal records, court records and other records that have been open to public inspection before passage of this statute shall remain open.

**Section 10.** The duties of the coroner/medical examiner shall include the following:

(1) Except in locations where a county medical examiner has jurisdiction, the coroner or a person acting in a professional capacity shall report the death of a child by telecommunications to the medical examiner or his or her representative as soon as possible upon discovery.

(2) Upon receipt of a report of a child death, the county medical examiner or state medical examiner shall determine whether the death appears to be unexpected/unexplained. If the death appears to be unexpected/unexplained, the county medical examiner or state medical examiner shall commence an investigation of the death consisting of a postmortem examination conducted by a state or county medical examiner. Upon the recommendation of the state medical examiner, with authorization from a district attorney, an autopsy may be conducted. A county medical examiner may conduct an autopsy at his or her discretion as authorized by existing statutes. This section should not be interpreted as mandating an autopsy. In a case where an autopsy is not performed, the postmortem examination shall consist of an external examination.

**Section 11.** There is hereby appropriated from the State General Fund to the Alabama Department of Public Health for the fiscal year ending September 30, 1998, the sum of \$300,000 to be used for the implementation and operations of the State Child Death Review Team program as herein provided.

**Section 12.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part, which remains.

**Section 13.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.