

## State of Florida Child Death Review Legislation

Florida Statute § 383.402 (1999)

### **383.402 Child Abuse Death Review; State Child Abuse Death Review Committee; local child abuse death review committees.**

(1) It is the intent of the Legislature to establish a statewide multidisciplinary, multi-agency child abuse death assessment and prevention system that consists of state and local review committees. The state and local review committees shall review the facts and circumstances of all deaths of children from birth through age 18 which occur in this state as the result of child abuse or neglect and for whom at least one report of abuse or neglect was accepted by the central abuse hotline within the Department of Children and Family Services. The purpose of the review shall be to:

- (a) Achieve a greater understanding of the causes and contributing factors of deaths resulting from child abuse.
- (b) Whenever possible, develop a community-wide approach to address such cases and contributing factors.
- (c) Identify any gaps, deficiencies, or problems in the delivery of services to children and their families by public and private agencies, which may be related to deaths that are the result of child abuse.
- (d) Make and implement recommendations for changes in law, rules, and policies, as well as develop practice standards that support the safe and healthy development of children and reduce preventable child abuse deaths.

(2)(a) The State Child Abuse Death Review Committee is established within the Department of Health and shall consist of a representative of the Department of Health, appointed by the Secretary of Health, who shall serve as the state committee coordinator. The head of each of the following agencies or organizations shall also appoint a representative to the state committee:

1. The Department of Legal Affairs.
2. The Department of Children and Family Services.
3. The Department of Law Enforcement.
4. The Department of Education.
5. The Florida Prosecuting Attorneys Association, Inc.
6. The Florida Medical Examiners Commission, whose representative must be a forensic pathologist.

(b) In addition, the Secretary of Health shall appoint the following members to the state committee, based on recommendations from the Department of Health and the agencies listed in paragraph (a), and ensuring that the committee represents the regional, gender, and ethnic diversity of the state to the greatest extent possible:

1. A board-certified pediatrician.
2. A public health nurse.
3. A mental health professional who treats children or adolescents.
4. An employee of the Department of Children and Family Services who supervises family services counselors and who has at least 5 years of experience in child protective investigations.
5. The medical director of a child protection team.

6. A member of a child advocacy organization.
7. A social worker who has experience in working with victims and perpetrators of child abuse.
8. A person trained as a paraprofessional in patient resources who is employed in a child abuse prevention program.
9. A law enforcement officer who has at least 5 years of experience in children's issues.
10. A representative of the Florida Coalition Against Domestic Violence.
11. A representative from a private provider of programs on preventing child abuse and neglect.

(3) The State Child Abuse Death Review Committee shall:

- (a) Develop a system for collecting data on deaths that are the result of child abuse. The system must include a protocol for the uniform collection of data statewide, which uses existing data-collection systems to the greatest extent possible.
- (b) Provide training to cooperating agencies, individuals, and local child abuse death review committees on the use of the child abuse death data system.
- (c) Prepare an annual statistical report on the incidence and causes of death resulting from child abuse in the state during the prior calendar year. The state committee shall submit a copy of the report by September 30 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives, with the first annual report due on September 30, 2000. The report must include recommendations for state and local action, including specific policy, procedural, regulatory, or statutory changes, and any other recommended preventive action.
- (d) Encourage and assist in developing the local child abuse death review committees.
- (e) Develop guidelines, standards, and protocols, including a protocol for data collection, for local child abuse death review committees, and provide training and technical assistance to local committees.
- (f) Develop guidelines for reviewing deaths that are the result of child abuse, including guidelines to be used by law enforcement agencies, prosecutors, medical examiners, health care practitioners, health care facilities, and social service agencies.
- (g) Study the adequacy of laws, rules, training, and services to determine what changes are needed to decrease the incidence of child abuse deaths and develop strategies and recruit partners to implement these changes.
- (h) Provide consultation on individual cases to local committees upon request.
- (i) Educate the public regarding the provisions of chapter 99-168, Laws of Florida, the incidence and causes of child abuse death, and ways by which such deaths may be prevented.
- (j) Promote continuing education for professionals who investigate, treat, and prevent child abuse or neglect.
- (k) Recommend, when appropriate, the review of the death certificate of a child who died as a result of abuse or neglect.

(4) The members of the state committee shall be appointed to staggered terms of office which may not exceed 2 years, as determined by the Secretary of Health. Members are eligible for reappointment. The state committee shall elect a chairperson from among its members to serve

for a 2-year term, and the chairperson may appoint ad hoc committees as necessary to carry out the duties of the committee.

(5) Members of the state committee shall serve without compensation but are entitled to reimbursement for per diem and travel expenses incurred in the performance of their duties as provided in s. 112.061 and to the extent that funds are available.

(6) At the direction of the Secretary of Health, the director of each county health department, or the directors of two or more county health departments by agreement, may convene and support a county or multicounty child abuse death review committee in accordance with the protocols established by the State Child Abuse Death Review Committee. Each local committee must include a local state attorney, or his or her designee, and any other members that are determined by guidelines developed by the State Child Abuse Death Review Committee. The members of a local committee shall be appointed to 2-year terms and may be reappointed. The local committee shall elect a chairperson from among its members. Members shall serve without compensation but are entitled to reimbursement for per diem and travel expenses incurred in the performance of their duties as provided in s. 112.061 and to the extent that funds are available.

(7) Each local child abuse death review committee shall:

(a) Assist the state committee in collecting data on deaths that are the result of child abuse, in accordance with the protocol established by the state committee.

(b) Submit written reports at the direction of the state committee. The reports must include nonidentifying information on individual cases and the steps taken by the local committee and private and public agencies to implement necessary changes and improve the coordination of services and reviews.

(c) Submit all records requested by the state committee at the conclusion of its review of a death resulting from child abuse.

(d) Abide by the standards and protocols developed by the state committee.

(e) On a case-by-case basis, request that the state committee review the data of a particular case.

(8) Notwithstanding any other law, the chairperson of the State Child Abuse Death Review Committee, or the chairperson of a local committee, shall be provided with access to any information or records that pertain to a child whose death is being reviewed by the committee and that are necessary for the committee to carry out its duties, including information or records that pertain to the child's family, as follows:

(a) Patient records in the possession of a public or private provider of medical, dental, or mental health care, including, but not limited to, a facility licensed under chapter 393, chapter 394, or chapter 395, or a health care practitioner as defined in s. 456.001.

Providers may charge a fee for copies not to exceed 50 cents per page for paper records and \$1 per fiche for microfiche records.

(b) Information or records of any state agency or political subdivision which might assist a committee in reviewing a child's death, including, but not limited to, information or records of the Department of Children and Family Services, the Department of Health, the Department of Education, or the Department of Juvenile Justice.

(9) The State Child Abuse Death Review Committee or a local committee shall have access to all information of a law enforcement agency which is not the subject of an active investigation and which pertains to the review of the death of a child. A committee may not disclose any information that is not subject to public disclosure by the law enforcement agency, and active criminal intelligence information or criminal investigative information, as defined in s. 119.011(3), may not be made available for review or access under this section.

(10) The state committee and any local committee may share any relevant information that pertains to the review of the death of a child.

(11) A member of the state committee or a local committee may not contact, interview, or obtain information by request or subpoena directly from a member of a deceased child's family as part of a committee's review of a child abuse death, except that if a committee member is also a public officer or state employee, that member may contact, interview, or obtain information from a member of the deceased child's family, if necessary, as part of the committee's review. A member of the deceased child's family may voluntarily provide records or information to the state committee or a local committee.

(12) The chairperson of the State Child Abuse Death Review Committee may require the production of records by requesting a subpoena, through the Department of Legal Affairs, in any county of the state. Such subpoena is effective throughout the state and may be served by any sheriff. Failure to obey the subpoena is punishable as provided by law.

(13) This section does not authorize the members of the state committee or any local committee to have access to any grand jury proceedings.

(14) A person who has attended a meeting of the state committee or a local committee or who has otherwise participated in activities authorized by this section may not be permitted or required to testify in any civil, criminal, or administrative proceeding as to any records or information produced or presented to a committee during meetings or other activities authorized by this section. However, this subsection does not prevent any person who testifies before the committee or who is a member of the committee from testifying as to matters otherwise within his or her knowledge. An organization, institution, committee member, or other person who furnishes information, data, reports, or records to the state committee or a local committee is not liable for damages to any person and is not subject to any other civil, criminal, or administrative recourse. This subsection does not apply to any person who admits to committing a crime.

(15) The Department of Health shall administer the funds appropriated to operate the review committees and may apply for grants and accept donations.

(16) To the extent that funds are available, the Department of Health may hire staff or consultants to assist a review committee in performing its duties. Funds may also be used to reimburse reasonable expenses of the staff and consultants for the state committee and the local committees.

(17) For the purpose of carrying out the responsibilities assigned to the State Child Abuse

Death Review Committee and the local review committees, the Secretary of Health may substitute an existing entity whose function and organization include the function and organization of the committees established by this section.

(18) Each district administrator of the Department of Children and Family Services must appoint a child abuse death review coordinator for the district. The coordinator must have knowledge and expertise in the area of child abuse and neglect. The coordinator's general responsibilities include:

- (a) Coordinating with the local child abuse death review committee.
- (b) Ensuring the appropriate implementation of the child abuse death review process and all district activities related to the review of child abuse deaths.
- (c) Working with the committee to ensure that the reviews are thorough and that all issues are appropriately addressed.
- (d) Maintaining a system of logging child abuse deaths covered by this procedure and tracking cases during the child abuse death review process.
- (e) Conducting or arranging for a Florida Abuse Hotline Information System (FAHIS) record check on all child abuse deaths covered by this procedure to determine whether there were any prior reports concerning the child or concerning any siblings, other children, or adults in the home.
- (f) Coordinating child abuse death review activities, as needed, with individuals in the community and the Department of Health.
- (g) Notifying the district administrator, the Secretary of Children and Family Services, the Deputy Secretary for Children's Medical Services, and the Department of Health Child Abuse Death Review Coordinator of all child abuse deaths meeting criteria for review as specified in this section within 1 working day after verifying the child's death was due to abuse, neglect, or abandonment.
- (h) Ensuring that all critical issues identified by the local child abuse death review committee are brought to the attention of the district administrator and the Secretary of Children and Family Services.
- (i) Providing technical assistance to the local child abuse death review committee during the review of any child abuse death.