

Louisiana Child Death Review Legislation

Louisiana Statute § 40:4019 (1992)

Link: <http://www.legis.state.la.us/lss/lss.asp?doc=98002>

2019. Child death investigation

A. Findings and purpose.

(1) The legislature hereby finds and declares that:

(a) Protection of the health and welfare of the children of this state is a goal of its people, and the unexpected death of infants and children is an important public health concern that requires legislative action.

(b) Collecting data on the causes of unexpected deaths will better enable the state to protect some infants and children from preventable deaths and will help reduce the incidence of such deaths.

(c) Identifying persons responsible for abuse or neglect resulting in unexpected death will better enable the state to protect other children who may be under the care of the same persons and will help reduce the incidence of such deaths.

(d) Multidisciplinary and multiagency reviews of child deaths can assist the state in the investigation of child deaths, in the development of a greater understanding of the incidence and causes of child deaths and the methods for preventing such deaths, and in identifying gaps in services to children and families.

(2) The purpose of this Section is to identify the cause of death of children fourteen years of age and below, and thereby reduce the incidence of injury and death to infants and children by requiring that a death investigation be performed in the case of all unexpected deaths of children fourteen years of age and below, and establishing the Louisiana State Child Death Review Panel to collect data from such investigations and report to the legislature regarding the causes of such deaths and share information among local and regional panels, health care providers, and state agencies which provide services to children and families.

B. Definitions. For the purpose of this Section, the following terms shall have the following meaning:

(1) "Autopsy" means a post-mortem external and internal physical examination conducted in accordance with accepted medical practice and the laws of this state using a standardized child death investigation protocol performed by a forensic pathologist or, if a forensic pathologist is unavailable, a pathologist licensed or otherwise appointed to conduct such an examination under such laws.

(2) "Death investigation" means the process of determining the cause and manner of death and shall include the following:

(a) A postmortem examination which may be limited to an external examination or may include an autopsy.

(b) An inquiry by any law enforcement agency having jurisdiction into the circumstances of the death, including a death scene investigation and interview with the child's parent, legal guardian, or caretaker, and the person who reported the child's death.

- (c) A review of information regarding the child from any other relevant agency, professional, or health care provider.
- (3) "Unexpected death" means a death which is a result of undiagnosed disease, or trauma in which the surrounding circumstances are suspicious, obscure, or otherwise unexplained, or other death the circumstances of which are suspicious, obscure, or otherwise unexplained. A clinical diagnosis of death due to Sudden Infant Death Syndrome (SIDS) shall be deemed an unexpected death.

C. Child Death Review Panel. There is established within the Department of Health and Hospitals the Louisiana State Child Death Review Panel, hereinafter referred to as the "state panel" which shall be composed of twenty-five persons. Members of the panel shall include:

- (1) The state health officer or his designee.
- (2) The secretary of the Department of Health and Hospitals or his designee.
- (3) The secretary of the Department of Social Services or his designee.
- (4) The superintendent of the office of state police or his designee.
- (5) The state registrar of vital records in the office of public health or his designee.
- (6) The attorney general or his designee.
- (7) A member of the Senate appointed by the president of the Senate.
- (8) A member of the House of Representatives appointed by the speaker of the House of Representatives.
- (9) The commissioner of the Department of Insurance or his designee.
- (10) The executive director of the Highway Safety Commission of the Department of Public Safety and Corrections or his designee.
- (11) The state fire marshal or his designee.
- (12) A representative of the injury research and prevention section of the office of public health appointed by the assistant secretary of the office of public health.
- (13) The executive director of the Louisiana Maternal and Child Health Coalition.
- (14) A district attorney appointed by the Louisiana District Attorneys Association.
- (15) A sheriff appointed by the Louisiana Sheriff's Association.
- (16) A police chief appointed by the Louisiana Association of Chiefs of Police.
- (17) A forensic pathologist certified by the American Board of Pathology and licensed to practice medicine in the state appointed by the chairman of the Louisiana State Child Death Review Panel subject to Senate confirmation.
- (18) A pathologist experienced in pediatrics appointed by the Louisiana Pathology Society.
- (19) A coroner appointed by the president of the Louisiana Coroner's Association.
- (20) Six persons appointed by the governor, subject to Senate confirmation, for a term of three years as follows:
 - (a) A health professional with expertise in Sudden Infant Death Syndrome appointed from a list of three names submitted by the Louisiana State Medical Society.
 - (b) A pediatrician with experience in diagnosing and treating child abuse and neglect appointed from a list of three names submitted by the state chapter of the American Academy of Pediatrics.
 - (c) Four citizens from the state at large who represent different geographic areas of the state.

D. Functions and duties of panel.

(1) The state panel shall:

(a) Establish a standardized child death investigation protocol which shall require at a minimum that all death investigations be completed within thirty working days of the report of the death. The protocol shall include procedures for all law enforcement agencies and local departments of social services to follow in response to a child death.

(b) Establish criteria for information that must be included in a death investigation report and provide such information to the appropriate agencies and medical providers to be used as a guideline in preparing the death investigation report.

(c) Collect, review, and analyze all death investigation reports prepared in accordance with this Section, and such other information as the state panel deems appropriate, to use in preparation of reports to the legislature concerning the causes of and methods of decreasing unexpected deaths of infants and children.

(d) Recommend changes within the agencies represented on the state panel which may prevent child deaths.

(2) The state panel may:

(a) Establish local and regional panels to which it may delegate some or all of its responsibilities under this Section.

(b) Analyze any data available through any state systems that may decrease the incidence of injury and unexpected death to infants and children below the age of fourteen.

E. Child death investigation.

(1) In each unexpected death of a child fourteen years of age and below, a death investigation shall be performed in accordance with the child death investigation protocol established by the Louisiana State Child Death Review Panel which may include, at the discretion of the coroner but not be limited to, a complete autopsy performed by the coroner of the parish where the death occurred pursuant to the death investigation procedure established by R.S. 33:1563. The death investigation findings shall be reported to appropriate authorities including the police, health care providers, and the child protective services if appropriate, within three days of the conclusion of the death investigation.

(2) A copy of the death investigation report, or any portion thereof, including law enforcement, coroner, fire department, and medical providers, or any other information relative to the death investigation shall be provided to the state panel within thirty days from the date the state panel requests such information.

(3) Nothing in this Section shall be construed to change, alter, or restrict the authority or jurisdiction of a coroner as established in R.S. 33:1551 et seq.

(4) Nothing in this Section shall be construed as requiring a finding of negligent treatment or maltreatment when the state panel determines that the parents or guardians were treating the child solely according to the tenets and practices of a well-recognized religious method of treatment which has a reasonable, proven record of success.

F. Records; confidentiality; prohibited disclosure and discovery.

(1) Notwithstanding any other provision of law to the contrary, the state panel, and any local or regional panel or its agent thereof, shall be authorized to access medical and vital records in the custody of physicians, hospitals, clinics, and other health care providers, and the office of public health, and to any other information, documents, or records pertaining to the completed investigation of unexpected deaths of infants and children below the age of fourteen in the custody of any law enforcement agency or child protective service agency in order that it may perform its functions and duties as provided in Subsection D. All such records obtained by the state panel or any local or regional panel or its agent in accordance with the provisions of this Subsection, as well as the results of any child death investigation report, shall be confidential and shall not be available for subpoena nor shall such information be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding nor shall such records be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

(2) The furnishing of confidential information, documents, and reports in accordance with this Section by any person, agency, or entity furnishing such information, documents, and reports shall not expose such person, agency, or entity to liability and shall not be considered a violation of any privileged or confidential relationship, provided the participant has acted in good faith in the reporting as required in this Section.

(3) Nothing in this Subsection shall prohibit the publishing by the state panel of statistical compilations relating to unexpected child deaths of infants and children fourteen years of age or below which do not identify individual cases or individual physicians, hospitals, clinics, or other health care providers.

G. Report. The state panel shall report to the legislature annually concerning the causes of unexpected deaths of infants and children below the age of fourteen. The report shall include analysis of factual information obtained through review of death investigation reports required in Subsection D of this Section.

Acts 1992, No. 745, §1, eff. July 7, 1992; Acts 1995, No. 893, §1; Acts 1999, No. 736, §1; Acts 1999, No. 965, §1, eff. July 9, 1999.