

State of Massachusetts Child Death Review Legislation

Massachusetts Statute § Section 2A-3 (2000)

Chapter 247 of the Acts of 2000

AN ACT RELATIVE TO THE ESTABLISHMENT OF A CHILD FATALITY REVIEW TEAM.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 1. Chapter 38 of the General Laws is hereby amended by inserting after section 2 the following section:

Section 2A. As used in this section, the following words shall have the following meanings:

"Child", any person under the age of 18.

"Fatality", any death of a child.

"Local team", a local multidisciplinary and multi-agency child fatality review team in each of the 11 districts headed by a district attorney. Notwithstanding the provisions of section 172 of chapter 6, members of the local team shall be subject to criminal offender record checks to be conducted by the district attorney. All members shall serve without compensation for their duties associated with membership on said team. Each local team shall be comprised of at least the following members:

- (1) the district attorney of the county, who shall chair each local team;
- (2) the chief medical examiner or his designee;
- (3) the commissioner of the department of social services or his designee;
- (4) a pediatrician with experience in diagnosing or treating child abuse and neglect, appointed by the state team;
- (5) a local police officer from the town or city where the child fatality occurred, appointed by the chief of police of said municipality;
- (6) a state law enforcement officer, appointed by the colonel of state police;
- (7) the chief justice of the juvenile division of the trial court or his designee;
- (8) the director of the Massachusetts center for sudden infant death syndrome, located at the Boston Medical Center or his designee;
- (9) the commissioner of the department of public health or his designee; and
- (10) any other person with expertise or information relevant to individual cases who may attend meetings on an ad hoc basis, by agreement of the permanent members of each local team. Such persons may include, but shall not be limited to, local or state law enforcement officers, hospital representatives, medical specialists or subspecialists, or designees of the commissioners of the departments of mental retardation, mental health, youth services and education.

"State team", a child fatality review team within the office of the chief medical examiner. Notwithstanding the provisions of section 172 of chapter 6, members of the state team shall be subject to criminal offender record checks to be conducted by the colonel of the state police, on behalf of the chief medical examiner. All members shall serve without compensation for their duties associated with membership on said team. The state team shall consist of at least the following members:

- (1) the chief medical examiner, who shall chair the state team;
- (2) the attorney general or his designee;
- (3) the commissioner of the department of social services or his designee;
- (4) the commissioner of the department of public health or his designee;
- (5) the commissioner of the department of education or his designee;
- (6) a representative of the Massachusetts District Attorney's Association to be selected by said association;
- (7) the colonel of the state police or his designee;
- (8) the commissioner of the department of mental health or his designee;
- (9) the commissioner of the department of mental retardation or his designee;
- (10) the director of the Massachusetts center for sudden infant death syndrome or his designee;
- (11) the commissioner of the department of youth services or his designee;
- (12) a representative of the Massachusetts chapter of the American Academy of Pediatrics, with experience in diagnosing or treating child abuse and neglect to be selected by said chapter;
- (13) a representative from the Massachusetts Hospital Association to be selected by said association;
- (14) the chief justice of the juvenile division of the trial court or her designee;
- (15) the president of the Massachusetts Chiefs of Police Association or his designee;
- (16) a child advocate appointed by a majority vote of the members of the state team; and
- (17) any other person selected by the chair, or by majority vote of the members of the state team, with expertise or information relevant to individual cases.

Section 2B (1) There shall be established within the office of the chief medical examiner the state child fatality review team. The purpose of the state team shall be to decrease the incidence of preventable child deaths and injuries by:

- (i) developing an understanding of the causes and incidence of child death; and
 - (ii) advising the governor, the general court and the public by recommending changes in law, policy and practice that will prevent child deaths.
- (2) To achieve its purpose, the state team shall:
- (i) develop model investigative and data collection protocols for local child fatality teams;
 - (ii) provide information to local teams and law enforcement agencies for the purpose of the protection of children;
 - (iii) provide training and written materials to the local teams to assist them in carrying out their duties;
 - (iv) review reports from local teams;
 - (v) study the incidence and causes of child fatalities in the commonwealth;
 - (vi) analyze community, public and private agency involvement with the decedents and their families prior to and subsequent to the deaths;
 - (vii) develop a protocol for the collection of data regarding child deaths and provide training to local teams on the protocol;

- (viii) develop and implement such rules and procedures as are necessary for its own operation; and
- (ix) provide the governor, the general court and the public with annual written reports, subject to confidentiality restrictions, which shall include, but not be limited to, the state team's findings and recommendations.

Section 2C (1) A local child fatality review team shall be established in each of the 11 districts headed by a district attorney. The purpose of each such local team shall be to decrease the incidence of preventable child deaths and injuries by:

- (i) coordinating the collection of information on child deaths;
- (ii) promoting cooperation and coordination between agencies responding to child deaths and in providing services to family members;
- (iii) developing an understanding of the causes and incidence of child deaths in the county; and
- (iv) advising the state team on changes in law, policy or practice which may affect child deaths and injuries.

(2) To achieve its purpose, the local team shall:

- (i) review, establish and implement model protocols from the state team;
- (ii) review, subject to the approval of the local district attorney, all individual child deaths in accordance with the established protocol;
- (iii) meet periodically, but at least four times per calendar year, to review the status of child death cases and recommend methods of improving coordination of services between member agencies;
- (iv) collect, maintain and provide confidential data as required by the state team; and
- (v) provide law enforcement or other agencies with information for the purposes of the protection of children.

(3) At the request of the local district attorney, the local team shall be immediately provided with:

- (i) information and records relevant to the cause of death of a child whose death is being reviewed by the local team, by providers of medical or other care, treatment or services, including dental and mental health care;
- (ii) information and records relevant to the cause of death maintained by any state, county or local government agency including, but not limited to, birth certificates, medical examiner investigative data, parole and probation information records, and law enforcement data post-disposition, except that certain law enforcement records may be exempted by the local district attorney;
- (iii) information and records of any provider of social services, including the state department of social services, to the child or his family, that the local team deems relevant to the review; and
- (iv) demographic information relevant to the decedent and his immediate family including but not limited to, address, age, race, gender, and economic status. The district attorney may enforce this paragraph by seeking an order of the superior court.

Section 2D (1) The following provisions shall apply to both the state and local teams: Any privilege or restriction on disclosure established pursuant to chapter 66A, section 70 of chapter 111, section 11 of chapter 111B, section 18 of 111E, chapters 112, 123, or sections 20B, 20J or 20K of chapter 233 or any other law relating to confidential communications shall not prohibit the disclosure of this information to the chair. Any information considered to be confidential pursuant to the aforementioned statutes may be submitted for the team's review upon the determination of the chair that the review of said information is necessary. The chair shall ensure that no information submitted for the team's review is disseminated to parties outside the team. Under no circumstances shall any member of this team violate the confidentiality provisions set forth in the aforementioned statutes. (2) 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 any information relating to the team's business. (3) Team meetings shall be closed to the public. Any and 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 chapter, shall be confidential, exempt from disclosure under chapter 66, and may only be disclosed as necessary to carry out the teams' duties and purposes. (4) Statistical compilations of data which do not contain any information that would permit the identification of any person may be disclosed to the public.