

State of Texas Child Death Review Legislation

Texas Statute § 264.501 (1995)

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SUBCHAPTER F. CHILD FATALITY REVIEW AND INVESTIGATION

§ 264.501. DEFINITIONS. In this subchapter:

- (1) "Autopsy" and "inquest" have the meanings assigned by Article 49.01, Code of Criminal Procedure.
- (2) "Bureau of vital statistics" means the bureau of vital statistics of the Texas Department of Health.
- (3) "Child" means a person younger than 18 years of age
- (4) "Committee" means the child fatality review team committee.
- (5) "Department" means the Department of Protective and Regulatory Services.
- (6) "Health care provider" means any health care practitioner or facility that provides medical evaluation or treatment, including dental and mental health evaluation or treatment.
- (7) "Meeting" means an in-person meeting or a meeting held by telephone or other electronic medium.
- (8) "Preventable death" means a death that may have been prevented by reasonable medical, social, legal, psychological, or educational intervention. The term includes the death of a child from:
 - (A) intentional or unintentional injuries;
 - (B) medical neglect;
 - (C) lack of access to medical care;
 - (D) neglect and reckless conduct, including failure to supervise and failure to seek medical care; and
 - (E) premature birth associated with any factor described by Paragraphs (A) through (D).
- (9) "Review" means a reexamination of information regarding a deceased child from relevant agencies, professionals, and health care providers.
- (10) "Review team" means a child fatality review team established under this subchapter.
- (11) "Unexpected death" includes a death of a child that, before investigation:
 - (A) appears to have occurred without anticipation or forewarning; and
 - (B) was caused by trauma, suspicious or obscure circumstances, sudden infant death syndrome, abuse or neglect, or an unknown cause.

Added by Acts 1995, 74th Leg., ch. 255, § 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 878, § 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 957, § 2, eff. Sept. 1, 2001.

§ 264.502. COMMITTEE.

- (a) The child fatality review team committee is composed of:
 - (1) a person appointed by and representing the state registrar for the bureau of vital statistics;
 - (2) a person appointed by and representing the director of protective services for families and children of the department;
 - (3) a person appointed by and representing the director of the bureau of epidemiology of the Texas Department of Health; and

- (4) individuals selected under Subsection (b).
- (b) The members of the committee who serve under Subsections (a)(1) through (3) shall select the following additional committee members:
 - (1) a criminal prosecutor involved in prosecuting crimes against children;
 - (2) a sheriff;
 - (3) a justice of the peace;
 - (4) a medical examiner;
 - (5) a police chief;
 - (6) a pediatrician experienced in diagnosing and treating child abuse and neglect;
 - (7) a child educator;
 - (8) a child mental health provider;
 - (9) a public health professional;
 - (10) a child protective services specialist;
 - (11) a sudden infant death syndrome family service provider;
 - (12) a neonatologist;
 - (13) a child advocate; and
 - (14) a chief juvenile probation officer.
- (c) Members of the committee selected under Subsection (b) serve two-year terms that expire on February 1 of each even-numbered year.
- (d) Members selected under Subsection (b) must reflect the geographical, cultural, racial, and ethnic diversity of the state.
- (e) An appointment to a vacancy on the committee shall be made in the same manner as the original appointment.
- (f) Members of the committee shall select a presiding officer from the members of the committee.
- (g) The presiding officer of the committee shall call the meetings of the committee, which shall be held at least quarterly.
- (h) A member of the committee is not entitled to compensation for serving on the committee but is entitled to reimbursement for the member's travel expenses as provided in the General Appropriations Act. Reimbursement under this subsection for a person serving on the committee under Subsection (a)(1) or (3) shall be paid from funds appropriated to the Texas Department of Health. Reimbursement for other persons serving on the committee shall be paid from funds appropriated to the department. Added by Acts 1995, 74th Leg., ch. 255, § 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 878, § 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 957, § 3, eff. Sept. 1, 2001.

§ 264.503. PURPOSE AND DUTIES OF COMMITTEE AND SPECIFIED STATE AGENCIES.

- (a) The purpose of the committee is to:
 - (1) develop an understanding of the causes and incidence of child deaths in this state;
 - (2) identify procedures within the agencies represented on the committee to reduce the number of preventable child deaths; and
 - (3) promote public awareness and make recommendations to the governor and the legislature for changes in law, policy, and practice to reduce the number of preventable child deaths.

(b) To ensure that the committee achieves its purpose, the department and the Texas Department of Health shall perform the duties specified by this section.

(c) The department shall:

(1) recognize the creation and participation of review teams;

(2) promote and coordinate training to assist the review teams in carrying out their duties;

(3) assist the committee in developing model protocols for:

(A) the reporting and investigating of child fatalities for law enforcement agencies, child protective services, justices of the peace and medical examiners, and other professionals involved in the investigations of child deaths;

(B) the collection of data regarding child deaths; and

(C) the operation of the review teams; and

(4) develop and implement procedures necessary for the operation of the committee.

(d) The department shall promote education of the public regarding the incidence and causes of child deaths, the public role in preventing child deaths, and specific steps the public can undertake to prevent child deaths. The committee shall enlist the support and assistance of civic, philanthropic, and public service organizations in the performance of the duties imposed under this subsection.

(e) The Texas Department of Health shall:

(1) collect data under this subchapter and coordinate the collection of data under this subchapter with other data collection activities; and

(2) perform annual statistical studies of the incidence and causes of child fatalities using the data collected under this subchapter.

(f) The committee shall issue annual reports on the committee's activities, including findings and recommendations relating to each purpose and duty of the committee described by this section. Not later than December 1 of each even-numbered year, the committee shall publish the report and submit a copy of the report to the governor, lieutenant governor, and speaker of the House of Representatives. Added by Acts 1995, 74th Leg., ch. 255, § 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 878, § 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 957, § 4, eff. Sept. 1, 2001.

§ 264.504. MEETINGS OF COMMITTEE.

(a) Except as provided by Subsections (b), (c), and (d), meetings of the committee are subject to the open meetings law, Chapter 551, Government Code, as if the committee were a governmental body under that chapter.

(b) Any portion of a meeting of the committee during which the committee discusses an individual child's death is closed to the public and is not subject to the open meetings law, Chapter 551, Government Code.

(c) Information identifying a deceased child, a member of the child's family, a guardian or caretaker of the child, or an alleged or suspected perpetrator of abuse or neglect of the child may not be disclosed during a public meeting.

(d) Information regarding the involvement of a state or local agency with the deceased child or another person described by Subsection (c) may not be disclosed during a public meeting.

(e) The committee may conduct an open or closed meeting by telephone conference call or other electronic medium. A meeting held under this subsection is subject to the notice requirements applicable to other meetings. The notice of the meeting must specify as the location of the

meeting the location where meetings of the committee are usually held. Each part of the meeting by telephone conference call that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting and shall be tape-recorded. The tape recording shall be made available to the public.

(f) This section does not prohibit the committee from requesting the attendance at a closed meeting of a person who is not a member of the committee and who has information regarding a deceased child. Added by Acts 1995, 74th Leg., ch. 255, § 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 878, § 1, eff. Sept. 1, 1995.

§ 264.505. ESTABLISHMENT OF REVIEW TEAM.

(a) A multidisciplinary and multiagency child fatality review team may be established for a county to review child deaths in that county. A review team for a county with a population of less than 50,000 may join with an adjacent county or counties to establish a combined review team.

(b) Any person who may be a member of a review team under Subsection (c) may initiate the establishment of a review team and call the first organizational meeting of the team.

(c) A review team may include:

- (1) a criminal prosecutor involved in prosecuting crimes against children;
- (2) a sheriff;
- (3) a justice of the peace or medical examiner;
- (4) a police chief;
- (5) a pediatrician experienced in diagnosing and treating child abuse and neglect;
- (6) a child educator;
- (7) a child mental health provider;
- (8) a public health professional;
- (9) a child protective services specialist;
- (10) a sudden infant death syndrome family service provider;
- (11) a neonatologist;
- (12) a child advocate; and
- (13) a chief juvenile probation officer.

(d) Members of a review team may select additional team members according to community resources and needs.

(e) A review team shall select a presiding officer from its members.

Added by Acts 1995, 74th Leg., ch. 255, § 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 878, § 1, eff. Sept. 1, 1995.

§ 264.506. PURPOSE AND DUTIES OF REVIEW TEAM.

(a) The purpose of a review team is to decrease the incidence of preventable child deaths by:

- (1) providing assistance, direction, and coordination to investigations of child deaths;
- (2) promoting cooperation, communication, and coordination among agencies involved in responding to child fatalities;
- (3) developing an understanding of the causes and incidence of child deaths in the county or counties in which the review team is located;
- (4) recommending changes to agencies, through the agency's representative member, that will reduce the number of preventable child deaths; and

- (5) advising the committee on changes to law, policy, or practice that will assist the team and the agencies represented on the team in fulfilling their duties.
- (b) To achieve its purpose, a review team shall:
- (1) adapt and implement, according to local needs and resources, the model protocols developed by the department and the committee;
 - (2) meet on a regular basis to review child fatality cases and recommend methods to improve coordination of services and investigations between agencies that are represented on the team;
 - (3) collect and maintain data as required by the committee; and
 - (4) submit to the bureau of vital statistics data reports on deaths reviewed as specified by the committee.
- (c) A review team shall initiate prevention measures as indicated by the review team's findings. Added by Acts 1995, 74th Leg., ch. 255, § 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 878, § 1, eff. Sept. 1, 1995.

§ 264.507. DUTIES OF PRESIDING OFFICER.

The presiding officer of a review team shall:

- (1) send notices to the review team members of a meeting to review a child fatality;
- (2) provide a list to the review team members of each child fatality to be reviewed at the meeting;
- (3) submit data reports to the bureau of vital statistics not later than the 30th day after the date on which the review took place; and
- (4) ensure that the review team operates according to the protocols developed by the department and the committee, as adapted by the review team.

Added by Acts 1995, 74th Leg., ch. 255, § 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 878, § 1, eff. Sept. 1, 1995.

§ 264.508. REVIEW PROCEDURE.

- (a) The review team of the county in which the injury, illness, or event that was the cause of the death of the child occurred, as stated on the child's death certificate, shall review the death.
- (b) On receipt of the list of child fatalities under Section 264.507, each review team member shall review the member's records and the records of the member's agency for information regarding each listed child.

Added by Acts 1995, 74th Leg., ch. 255, § 2, eff. Sept. 1, 1995;

Acts 1995, 74th Leg., ch. 878, § 1, eff. Sept. 1, 1995.

§ 264.509. ACCESS TO INFORMATION.

(a) A review team may request information and records regarding a deceased child as necessary to carry out the review team's purpose and duties. Records and information that may be requested under this section include:

- (1) medical, dental, and mental health care information; and
- (2) information and records maintained by any state or local government agency, including:
 - (A) a birth certificate;
 - (B) law enforcement investigative data;
 - (C) medical examiner investigative data;
 - (D) juvenile court records;

- (E) parole and probation information and records; and
- (F) child protective services information and records.

(b) On request of the presiding officer of a review team, the custodian of the relevant information and records relating to a deceased child shall provide those records to the review team.

(c) This subsection does not authorize the release of the original or copies of the mental health or medical records of any member of the child's family or the guardian or caretaker of the child or an alleged or suspected perpetrator of abuse or neglect of the child which are in the possession of any state or local government agency as provided in Subsection (a)(2). Information relating to the mental health or medical condition of a member of the child's family or the guardian or caretaker of the child or the alleged or suspected perpetrator of abuse or neglect of the child acquired as part of an investigation by a state or local government agency as provided in Subsection (a)(2) may be provided to the review team.

Added by Acts 1995, 74th Leg., ch. 255, § 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 878, § 1, eff. Sept. 1, 1995.

§ 264.510. MEETING OF REVIEW TEAM.

(a) A meeting of a review team is closed to the public and not subject to the open meetings law, Chapter 551, Government Code.

(b) This section does not prohibit a review team from requesting the attendance at a closed meeting of a person who is not a member of the review team and who has information regarding a deceased child.

(c) Except as necessary to carry out a review team's purpose and duties, members of a review team and persons attending a review team meeting may not disclose what occurred at the meeting.

(d) A member of a review team participating in the review of a child death is immune from civil or criminal liability arising from information presented in or opinions formed as a result of a meeting.

Added by Acts 1995, 74th Leg., ch. 255, § 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 878, § 1, eff. Sept. 1, 1995.

§ 264.511. USE OF INFORMATION AND RECORDS; CONFIDENTIALITY.

(a) Information and records acquired by the committee or by a review team in the exercise of its purpose and duties under this subchapter are confidential and exempt from disclosure under the open records law, Chapter 552, Government Code, and may only be disclosed as necessary to carry out the committee's or review team's purpose and duties.

(b) A report of the committee or of a review team or a statistical compilation of data reports is a public record subject to the open records law, Chapter 552, Government Code, as if the committee or review team were a governmental body under that chapter, if the report or statistical compilation does not contain any information that would permit the identification of an individual.

(c) A member of a review team may not disclose any information that is confidential under this section.

(d) Information, documents, and records of the committee or of a review team that are confidential under this section are not subject to subpoena or discovery and may not be introduced 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 solely because they were presented during proceedings of the committee or a review team or are maintained by the committee or a review team.

Added by Acts 1995, 74th Leg., ch. 255, § 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 878, § 1, eff. Sept. 1, 1995.

§ 264.512. GOVERNMENTAL UNITS.

The committee and a review team are governmental units for purposes of Chapter 101, Civil Practice and Remedies Code. A review team is a unit of local government under that chapter.

Added by Acts 1995, 74th Leg., ch. 255, § 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 878, § 1, eff. Sept. 1, 1995.

§ 264.513. REPORT OF DEATH OF CHILD.

(a) A person who knows of the death of a child younger than six years of age shall immediately report the death to the medical examiner of the county in which the death occurs or, if the death occurs in a county that does not have a medical examiner's office or that is not part of a medical examiner's district, to a justice of the peace in that county.

(b) The requirement of this section is in addition to any other reporting requirement imposed by law, including any requirement that a person report child abuse or neglect under this code.

(c) A person is not required to report a death under this section that is the result of a motor vehicle accident. This subsection does not affect a duty imposed by another law to report a death that is the result of a motor vehicle accident.

Added by Acts 1995, 74th Leg., ch. 255, § 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 878, § 1, eff. Sept. 1, 1995.

§ 264.514. PROCEDURE IN THE EVENT OF REPORTABLE DEATH.

(a) A medical examiner or justice of the peace notified of a death of a child under Section 264.513 shall hold an inquest under Chapter 49, Code of Criminal Procedure, to determine whether the death is unexpected or the result of abuse or neglect. An inquest is not required under this subchapter if the child's death is expected and is due to a congenital or neoplastic disease. A death caused by an infectious disease may be considered an expected death if:

- (1) the disease was not acquired as a result of trauma or poisoning;
- (2) the infectious organism is identified using standard medical procedures; and
- (3) the death is not reportable to the Texas Department of Health under Chapter 81, Health and Safety Code.

(b) The medical examiner or justice of the peace shall immediately notify an appropriate local law enforcement agency if the medical examiner or justice of the peace determines that the death is unexpected or the result of abuse or neglect, and that agency shall investigate the child's death.

(c) In this section, the terms "abuse" and "neglect" have the meaning assigned those terms by Section 261.001.

Added by Acts 1995, 74th Leg., ch. 255, § 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 878, § 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1022, § 95, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1301, § 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 785, § 3, eff. Sept. 1, 1999.

§ 264.515. INVESTIGATION.

(a) The investigation required by Section 264.514 must include:

- (1) an autopsy, unless an autopsy was conducted as part of the inquest;
- (2) an inquiry into the circumstances of the death, including an investigation of the scene of the death and interviews with the parents of the child, any guardian or caretaker of the child, and the person who reported the child's death; and
- (3) a review of relevant information regarding the child from an agency, professional, or health care provider.

(b) The review required by Subsection (a)(3) must include a review of any applicable medical record, child protective services record, record maintained by an emergency medical services provider, and law enforcement report.

(c) The committee shall develop a protocol relating to investigation of an unexpected death of a child under this section. In developing the protocol, the committee shall consult with individuals and organizations that have knowledge and experience in the issues of child abuse and child deaths.

Added by Acts 1995, 74th Leg., ch. 255, § 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 878, § 1, eff. Sept. 1, 1995.