

HOUSE BILL NO. HB0167

Child fatality review.

Sponsored by: Representative(s) Iekel, Esquibel, K.,
Hallinan and Petersen and Senator(s)
Aullman, Landen and Ross

A BILL

for

1 AN ACT relating to child fatality reviews; providing for a
2 child fatality and major injury review state team created
3 within the department of health; providing for
4 confidentiality of review proceedings; creating protection
5 for review team members and review findings; providing for
6 local review teams to review all cases of preventable child
7 fatalities and major injuries; providing mandatory
8 responsibilities of review teams; providing for
9 coordination between local review teams and the state team;
10 granting rulemaking authority; and providing for an
11 effective date.

12

13 *Be it Enacted by the Legislature of the state of Wyoming:*

14

15 **Section 1.** W.S. 35-1-1101 through 35-1-1106 are
16 created to read:

1

2

ARTICLE 11

3

CHILD FATALITY AND MAJOR INJURY REVIEWS

4

5

35-1-1101. Definitions.

6

7

(a) For purposes of this article:

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9

(i) "Child" means a person under eighteen (18) years of age;

11

12

(ii) "Major injury" means sexual abuse or bodily injury which creates a substantial risk of death, severe disfigurement, protracted loss or impairment of the function of any bodily member or organ, second or third degree burns, fracture of any bone, subdural hematoma or substantial malnutrition which appears possibly to have been caused by trauma, suspicious or obscure circumstances or child abuse or neglect;

20

21

(iii) "Preventable death" means a death which reasonable medical, social, legal, psychological or educational intervention may have prevented;

24

1 (iv) "Provider of medical care" means a health
2 practitioner who provides, or a facility through which is
3 provided, medical evaluation or treatment, including dental
4 and mental health evaluation or treatment;

5

6 (v) "State team" means the state child fatality
7 and major injury review team;

8

9 (vi) "Unexpected death" includes all child
10 fatalities which, before investigation, appear possibly to
11 have been caused by trauma, suspicious or obscure
12 circumstances or child abuse or neglect.

13

14 **35-1-1102. State child fatality and major injury**
15 **review team.**

16

17 (a) There is created within the department of health
18 the state child major injury and fatality review team. The
19 state team shall be composed of the following members
20 appointed by the governor and other than the members in
21 paragraphs (i) through (iv) shall serve terms of three (3)
22 years:

23

1 (i) The director of the department of family
2 services;

3

4 (ii) The director of the department of health;

5

6 (iii) The state superintendent of public
7 instruction;

8

9 (iv) The director of the division of criminal
10 investigation;

11

12 (v) A representative of state health
13 department's mental health and substance abuse services
14 division;

15

16 (vi) A pediatrician with experience in
17 diagnosing and treating child abuse and neglect;

18

19 (vii) A coroner or medical examiner;

20

21 (viii) A representative of the county and
22 prosecuting attorney's association;

23

1 (ix) A representative of a local law enforcement
2 agency;

3

4 (x) A representative of a county public health
5 or local health department;

6

7 (xi) An emergency services provider;

8

9 (xii) A mental health provider;

10

11 (xiii) A member of the judiciary who regularly
12 sits on both criminal and civil cases;

13

14 (xiv) A member of the defense bar;

15

16 (xv) A representative from a school district;

17

18 (xvi) A member of a victim's advocacy group or
19 organization;

20

21 (xvii) A representative of the citizens review
22 panel;

23

1 (xviii) A child advocate or member of a child
2 advocacy organization;

3

4 (xix) A representative of a parent group or
5 organization;

6

7 (xx) Two (2) members of the public at-large.

8

9 (b) The mandatory state team members may appoint up
10 to six (6) other members to serve on the state team as
11 follows:

12

13 (i) A guardian ad litem;

14

15 (ii) Representatives from other relevant
16 professions;

17

18 (iii) Tribal representatives;

19

20 (iv) A military representative;

21

22 (v) Temporary members selected for the needs of
23 a particular case.

24

1 (c) State agency members and the elected official
2 designated in paragraphs (a)(i) through (v) of this section
3 shall serve ex officio and may appoint a designee to serve
4 in their place from their particular departments or
5 agencies who have administrative or program
6 responsibilities for children and families. Each ex
7 officio member shall provide sufficient staff and
8 administrative support to carry out the responsibilities of
9 this article.

10
11 (d) The governor may remove any member of the state
12 team as provided in W.S. 9-1-202.

13
14 (e) A chairman, vice-chairman and secretary of the
15 state team shall be elected from among the members by a
16 majority vote of the membership for staggered terms of two
17 (2) years.

18
19 (f) Meetings of the state team shall be held at least
20 quarterly. A majority of the state team constitutes a
21 quorum.

22
23 (g) Members of the state team shall not receive
24 compensation for their services, but when actually engaged

1 in the performance of their duties, they shall receive
2 travel expenses, per diem and mileage expenses in the same
3 manner and amount as employees of the state.

4
5 **35-1-1103. Review of preventable child fatalities and**
6 **major injuries; purpose; duties.**

7
8 (a) The purpose of the state team is to decrease the
9 incidence of preventable child fatalities and major
10 injuries by:

11
12 (i) Developing an understanding of the causes
13 and incidence of child fatalities and major injuries;

14
15 (ii) Recommending and assisting in the
16 development of plans for and implementation of changes
17 within the agencies represented on the team which will
18 prevent child fatalities and major injuries; and

19
20 (iii) Advising the governor and the legislature
21 on statutory, policy and practice changes which will
22 prevent child fatalities and major injuries.

23

1 (b) To achieve its purpose, the state team's duties
2 include, but are not limited, to the following:

3

4 (i) Undertaking annual statistical studies of
5 the incidence and causes of child fatalities and major
6 injuries in this state. The studies shall include a
7 summary of community and public and private agency
8 involvement with the decedents or victims and their
9 families before and subsequent to the fatalities or major
10 injuries;

11

12 (ii) Reviewing the circumstances of the death or
13 major injury by sharing information regarding the child and
14 family contained in the records of agencies represented on
15 the team at the state team's next scheduled meeting. The
16 responsibilities for members of the team and dates for
17 subsequent meetings regarding the child or family shall be
18 established at the meeting;

19

20 (iii) Developing a protocol for child fatality
21 and major injury reviews;

22

23 (iv) Developing a protocol for the collection of
24 data regarding child fatalities and major injuries;

1

2 (v) Developing partnerships with the local
3 review teams. The state team shall assist the further
4 development of case reviews by the local teams. If the
5 state team in its works believes that changes to any
6 statute or agency regulation, policy or procedure are
7 needed to decrease the incidence of preventable child
8 fatalities or major injuries, the team shall take steps to
9 recommend the development and implementation of these
10 changes to regulations, policies and procedures and shall
11 include proposals for changes to statutes in the team's
12 annual report;

13

14 (vi) Examining confidentiality and access to
15 information, statutes, regulations, policies and procedures
16 for agencies with responsibilities for children including,
17 but not limited to, health, public welfare, education,
18 social services, mental health, alcohol and other substance
19 abuse and law enforcement agencies and determining whether
20 those statutes, regulations, policies or procedures impede
21 the exchange of information necessary to protect children
22 from preventable fatalities and major injuries. If the
23 state team identifies a statute, regulation, policy or
24 procedure that impedes the necessary exchange of

1 information, the team shall notify the relevant state
2 agencies for the purpose of development and implementation
3 of the recommended changes to regulations, policies and
4 procedures and the state team shall include proposals for
5 changes to statutes in the team's annual report;

6
7 (vii) Developing and implementing policies and
8 procedures for its own governance and operation;

9
10 (viii) Submitting to the governor, the joint
11 judiciary interim committee and the joint labor, health and
12 social services interim committee an annual written report
13 by October 1 of each year and any other reports prepared by
14 the state team including, but not limited to, the state
15 team's findings and recommendations. Annual reports shall
16 be made available to the public.

17
18 **35-1-1104. Access to information.**

19
20 (a) Unless otherwise prohibited by law, upon request
21 of the chairman of the state team and as necessary to carry
22 out the state team's purpose and duties, the state team
23 shall be provided:

1 (i) By a provider of medical care, access to
2 information and records regarding a child whose death or
3 major injury is being reviewed by the state team, including
4 information on prenatal care;

5
6 (ii) Access to all information and records
7 maintained by any state, county or local government agency
8 including, but not limited to, birth certificates, death
9 certificates, law enforcement investigation data, county
10 coroner or medical examiner investigation data, parole and
11 probation information and records and information and
12 records of social services and health agencies that
13 provided services to the child or family.

14
15 (b) When necessary in the discharge of the duties of
16 the state team and upon application of the team, the
17 circuit court shall issue a subpoena or subpoena duces
18 tecum to any state, county or local agency, board or
19 commission or to any representative of any state, county or
20 local agency, board or commission or to a provider of
21 medical care to compel the attendance of witnesses and
22 production of documents, books, papers, correspondence,
23 memoranda and other relevant records to the discharge of
24 the team's duties. Failure to obey a subpoena or subpoena

1 duces tecum issued pursuant to this section may be punished
2 as contempt.

3

4 **35-1-1105. Confidentiality of records and**
5 **proceedings.**

6

7 (a) Meetings of the state team are closed to the
8 public and are not subject to W.S. 16-4-401 through
9 16-4-408 when the state team is discussing individual cases
10 of child fatalities or major injuries.

11

12 (b) Except as provided in subsection (a) of this
13 section, meetings of the state team are open to the public
14 and subject to W.S. 16-4-401 through 16-4-408 when the
15 state team is not discussing individual cases of child
16 fatalities or major injuries.

17

18 (c) Information identifying a deceased child or child
19 sustaining a major injury, or a family member, guardian or
20 caretaker of a deceased child or child sustaining a major
21 injury, or an alleged or suspected perpetrator of abuse or
22 neglect upon a child shall not be disclosed during a public
23 meeting and information regarding the involvement of any
24 agency with the deceased child or child sustaining a major

1 injury or the child's family shall not be disclosed during
2 a public meeting.

3

4 (d) Nothing in this section shall be construed to
5 prevent the state team from requesting the attendance at a
6 team meeting of a person who has information relevant to
7 the team's exercise of its purpose and duties.

8

9 (e) Except as otherwise provided in this section, all
10 information and records acquired by and compiled by the
11 state team in the exercise of its purpose and duties
12 pursuant to this article are confidential, exempt from
13 disclosure under the Wyoming Public Records Act and may
14 only be disclosed as necessary to carry out the team's
15 duties and purpose.

16

17 (f) Statistical compilations of data which do not
18 contain information that would permit the identification of
19 a person to be ascertained are public records.

20

21 (g) Reports of the state team which do not contain
22 information that would permit the identification of a
23 person to be ascertained are public records.

24

1 (h) Except as necessary to carry out the state team's
2 purpose and duties, members of the team and persons
3 attending the team meeting may not disclose what transpired
4 at a meeting or information disclosed at a meeting except
5 as otherwise allowed under this section and shall sign a
6 confidentiality agreement at the opening of each meeting.

7

8 (j) Members of the state team, persons attending a
9 team meeting and persons who present information to the
10 state team shall not be required to disclose in any civil
11 or criminal proceeding information presented in or opinions
12 formed as a result of a meeting. Nothing in this
13 subsection shall be construed to prevent a person from
14 testifying to information obtained independently of the
15 team or which is public information.

16

17 (k) Information, documents and records of the state
18 team are not subject to subpoena, discovery or introduction
19 into evidence in any civil or criminal proceeding, except
20 that information, documents and records otherwise available
21 from other sources are not immune from subpoena, discovery
22 or introduction into evidence through those sources solely
23 because they were presented during proceedings of the team
24 or are maintained by the team.

1

2 (m) Violation of this section is a misdemeanor
3 punishable by a fine of not more than five hundred dollars
4 (\$500.00), imprisonment for not more than six (6) months,
5 or both.

6

7 **35-1-1106. Local child fatality and major injury**
8 **review teams; creation; composition; duties; records**
9 **confidential.**

10

11 (a) The state team and local agencies shall encourage
12 the creation of local child fatality and major injury
13 review teams within each of the fifteen (15) judicial
14 districts of the state. The purposes of the local review
15 teams shall be to review all cases involving a preventable
16 child death or major injury to a child, to advocate for
17 improved services or procedures for children and to provide
18 case information and recommendations to the state team.
19 The state team may assist local teams in the promulgation
20 of reasonable rules and regulations to define the roles and
21 procedures of local review teams.

22

23 (b) A local review team may be composed of:

24

1 (i) A member of the district or prosecuting
2 attorney's office;

3

4 (ii) A designated representative from the school
5 district or districts within the area served by the team;

6

7 (iii) A representative from the local field
8 office of the department of family services;

9

10 (iv) A representative from the county
11 government;

12

13 (v) A representative from each city and town in
14 the judicial district;

15

16 (vi) A coroner or medical examiner;

17

18 (vii) A representative of a county public health
19 office or local health department;

20

21 (viii) A pediatrician or family practice
22 physician;

23

24 (ix) An emergency services provider;

1

2 (x) A mental health provider;

3

4 (xi) Representatives from other relevant
5 professions;

6

7 (xii) Temporary members selected for the needs
8 of a particular case as determined by the team.

9

10 (c) A local review team may:

11

12 (i) Assist and coordinate with the state team,
13 the local child protective agency and all available
14 agencies and organizations dealing with children;

15

16 (ii) Identify or develop community resources to
17 serve and advocate for improved services and procedures for
18 children;

19

20 (iii) Identify training needs, sponsor training
21 and raise community awareness of child protection issues;

22

1 (iv) Assist and make recommendations of
2 appropriate services in individual cases brought to it by
3 the state team; and

5 (v) Review all cases within the area served by
6 the review team involving a preventable child death or
7 major injury to a child.

9 (d) All records and proceedings of the local review
10 teams are confidential and local team members and
11 proceedings shall have the same protections provided to the
12 state team in W.S. 35-1-1105 and the same access to
13 information as the state team in W.S. 35-1-1104.

15 **Section 2.** This act is effective July 1, 2008.

17 (END)