

BILL ANALYSIS

Senate Research Center
77R2501 YDB-D

S.B. 515
By: Madla
Health & Human Services
2/20/2001
As Filed

DIGEST AND PURPOSE

In 1995, the 74th Legislature established Child Fatality Review teams which have been influential in promoting positive systemic changes which have decreased the incidents of child death and improved the treatment of children by state and local agencies who provide services and assistance to children. As proposed, S.B. 515 authorizes the creation of Adult Fatality Review Teams at the local county level to review cases involving abuse, neglect, family violence, or suicide. Annual reports will be submitted to the Department of Protective and Regulatory Services for release to the public and allow law enforcement personnel, prosecutors, and health and social service providers to view data identifying patterns and consistencies in certain adult fatalities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 8A, Health and Safety Code, by adding Chapter 672, as follows:

CHAPTER 672. ADULT FATALITY REVIEW AND INVESTIGATION

Sec. 672.001. DEFINITIONS. Defines “abuse,” “autopsy,” “inquest,” “family violence,” “health care provider,” “review,” “review team,” and “unexpected death.”

Sec. 672.002. ESTABLISHMENT OF REVIEW TEAM. (a) Authorizes the establishment of a multidisciplinary and multiagency unexpected fatality review team (review team) for a county to conduct reviews of unexpected deaths that occur within the county. Authorizes a county with a population of less than 50,000 to join with an adjacent county or counties to establish a combined review team.

(b) Authorizes the commissioners court of a county to oversee or designate a county department to oversee the activities of the review team. Authorizes the commissioners court to designate a nonprofit agency or certain political subdivisions of the state to oversee the activities of the review team if certain conditions are met.

(c) Authorizes any person who may be a member of a review team under Subsection (d) to initiate the establishment of a review team and call the first organizational meeting of the team.

(d) Authorizes the review team to include certain individuals.

(e) Authorizes members of a review team to select additional team members according to community resources and needs.

(f) Requires a review team to select a presiding officer from its members.

(g) Requires the members selected under Subsection (e) to reflect certain aspects of the diversity of the county or counties represented.

Sec. 672.003. PURPOSE AND POWERS OF REVIEW TEAM. (a) Provides that the purpose of a review team is to decrease the incidence of preventable adult deaths by performing certain tasks.

(b) Authorizes a review team to perform certain tasks to achieve its purpose.

Sec. 672.004. DUTIES OF PRESIDING OFFICER. Authorizes the presiding officer to perform certain duties.

Sec. 672.005. REVIEW PROCEDURE. (a) Authorizes the review team of the county in which the event that was the cause of the unexpected death occurred, as indicated in a certain manner, to review the death.

(b) Requires each review team member to review available records for information regarding each unexpected death listed on the list of fatalities received under Section 672.004.

Sec. 672.006. ACCESS TO INFORMATION. (a) Authorizes a review team to request information and records regarding certain adult deaths as necessary to carry out the review team's purpose and duties. Sets forth the kinds of records and information that may be requested under this section.

(b) Requires the custodian of the relevant information or records relating to the deceased adult to provide the information or records to the review team, upon request of the presiding officer of the review team.

(c) Provides that this section does not authorize the release of the original or copies of the mental health or medical records of any member of the deceased adult's family, guardian or caretaker of the deceased adult, or an alleged or suspected perpetrator of certain abuses that are in the possession of the state or local government agency as provided in Subsection (a)(2). Authorizes information relating to the mental health and medical condition of a member of the deceased adult's family, guardian or caretaker of the deceased adult, or the alleged or suspected perpetrator of certain abuses acquired as part of an investigation by a state or local government agency as provided in Subsection (a)(2) to be provided to the review team.

(d) Provides that this section does not authorize any interference with a criminal investigation, inquest, or autopsy.

Sec. 672.007. MEETING OF REVIEW TEAM. (a) Provides that a meeting of the review team is closed to the public and not subject to Chapter 551 (Open Meetings), Government Code.

(b) Provides that this section does not prohibit a review team from requesting the attendance of a person who is not a member of the review team and who has information regarding a fatality resulting from suicide, family violence, or abuse.

(c) Prohibits members of a review team and persons attending a review team meeting from disclosing what occurred at the meeting, except as necessary to carry out the review team's purpose and duties.

(d) Provides that a member of the review team participating in the review of an unexpected death is immune from criminal or civil liability arising from participation in a review team, including liability arising from information presented in or opinions formed as a result of a meeting.

Sec. 672.008. REPORT. (a) Requires each review team to submit a report on deaths reviewed to the Department of Protective and Regulatory Services (DPRS) not later than December 15 of each even-numbered year.

(b) Requires DPRS , subject to Section 672.009, to make reports received under Subsection (a) available to the public.

Sec. 672.009. USE OF INFORMATION AND RECORDS; CONFIDENTIALITY. (a) Provides that information and records acquired by a review team in the exercise of its purpose and duties under this chapter are confidential and exempt from disclosure under Chapter 552 (Public Information), Government Code and authorizes the disclosure only as necessary for the review team to carry out it's purpose and duties.

(b) Provides that a report of a review team or a statistical compilation of data reports is a public record subject to Chapter 552, Government Code, as if the review team were a governmental body under that chapter, as long as the report or statistical compilation does not contain any information that would permit the identification of an individual and is not otherwise confidential or privileged.

(c) Prohibits a member of a review team from disclosing any information that is confidential under this section.

(d) Provides that information and records 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. Provides that information 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 a review team or are maintained by a review team.

Sec. 672.010. GOVERNMENTAL UNIT. Provides that a review team under this chapter is a local governmental unit for purposes of Chapter 101 (Tort Claims), Civil Practice and Remedies Code.

Sec. 672.011. REPORT OF UNEXPECTED FATALITY. (a) Requires a person, including a health care provider, to immediately report the death of an adult that resulted from or occurred under certain circumstances to the medical examiner of the county in which the death occurred or, under certain circumstances, to a justice of the peace in that county.

(b) Provides that the requirement of this section is in addition to any other reporting requirement imposed by law.

Sec. 672.012. PROCEDURE IN THE EVEN OF REPORTABLE DEATH. (a) Authorizes a medical examiner or justice of the peace notified of a death under Section 672.011 to hold an inquest under Chapter 49 (Inquests Upon Dead Bodies), Code of Criminal Procedure, to determine whether the death was caused by suicide, family violence, or abuse.

(b) Requires the medical examiner or justice of the peace, regardless of whether an inquest is held under Subsection (a), to immediately notify the county or entity designated under Section 672.002(b) of certain items.

SECTION 2. Effective date: September 1, 2001.