

CHAPTER 120

HEALTH AND ENVIRONMENT

HOUSE BILL 11-1181

BY REPRESENTATIVE(S) Kefalas, Casso, Fields, Fischer, Labuda, Lee, Peniston, Riesberg, Schafer S., Todd, Solano, Vigil, Wilson;
also SENATOR(S) Newell, Aguilar, Bacon, Boyd, Giron, Heath, Hudak, Jahn, King S., Lambert, Lundberg, Nicholson, Williams S.

AN ACT**CONCERNING THE DEPARTMENT OF HUMAN SERVICES CHILD FATALITY REVIEW TEAM.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 1 of article 1 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

26-1-139. Child fatality prevention - legislative declaration - process - department of human services child fatality review team - reporting - rules.

(1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) IT IS OF THE UTMOST IMPORTANCE AND A COMMUNITY RESPONSIBILITY TO MITIGATE THE DEATHS OF CHILDREN IN THE STATE DUE TO ABUSE OR NEGLECT. PROFESSIONALS FROM DISPARATE DISCIPLINES SHARE RESPONSIBILITIES FOR THE SAFETY AND WELL-BEING OF CHILDREN AS WELL AS EXPERTISE THAT CAN PROMOTE THAT SAFETY AND WELL-BEING. MULTIDISCIPLINARY REVIEWS OF THE DEATHS OF CHILDREN DUE TO ABUSE OR NEGLECT CAN LEAD TO A BETTER UNDERSTANDING OF THE CAUSES OF SUCH TRAGEDIES AND, MORE IMPORTANTLY, METHODS OF MITIGATING FUTURE DEATHS.

(b) THERE IS A NEED FOR A MULTIDISCIPLINARY TEAM TO CONDUCT IN-DEPTH CASE REVIEWS AFTER A CHILD FATALITY THAT INVOLVES A SUSPICION OF ABUSE OR NEGLECT AND WHERE THE CHILD OR FAMILY HAS HAD PREVIOUS INVOLVEMENT, THAT WAS DIRECTLY RELATED TO THE FATALITY, WITH A COUNTY DEPARTMENT WITHIN TWO YEARS PRIOR TO THE FATALITY. THE MULTIDISCIPLINARY REVIEW WOULD COMPLEMENT THAT OF THE REVIEW CONDUCTED BY THE COLORADO STATE CHILD FATALITY PREVENTION REVIEW TEAM IN THE DEPARTMENT OF PUBLIC HEALTH

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

AND ENVIRONMENT PURSUANT TO ARTICLE 20.5 OF TITLE 25, C.R.S. THE GOAL OF THE MULTIDISCIPLINARY REVIEW SHALL NOT BE TO AFFIX BLAME, BUT RATHER TO IMPROVE UNDERSTANDING OF WHY THE FATALITIES OCCUR AND DEVELOP RECOMMENDATIONS FOR MITIGATION OF FUTURE FATALITIES.

(c) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO CODIFY THE DEPARTMENT OF HUMAN SERVICES CHILD FATALITY REVIEW TEAM AS WELL AS MODIFY CERTAIN ASPECTS OF ITS PROCESSES TO PROMOTE AN UNDERSTANDING OF THE CAUSES OF EACH CHILD'S DEATH DUE TO ABUSE OR NEGLECT, IDENTIFY SYSTEMIC DEFICIENCIES IN THE DELIVERY OF SERVICES AND SUPPORTS TO CHILDREN AND FAMILIES, AND RECOMMEND CHANGES TO HELP MITIGATE FUTURE CHILD DEATHS.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "PREVIOUS INVOLVEMENT" MEANS A SITUATION IN WHICH THE COUNTY DEPARTMENT HAS RECEIVED A REFERRAL, RESPONDED TO A REPORT, OPENED AN ASSESSMENT, PROVIDED SERVICES, OR OPENED A CASE IN THE COLORADO TRAILS SYSTEM; EXCEPT THAT THE FOLLOWING SITUATIONS SHALL NOT BE CONSIDERED TO BE "PREVIOUS INVOLVEMENT":

(I) THE SITUATION DID NOT INVOLVE ABUSE OR NEGLECT;

(II) THE SITUATION OCCURRED WHEN THE PARENT WAS SEVENTEEN YEARS OF AGE OR YOUNGER AND BEFORE HE OR SHE WAS THE PARENT OF THE DECEASED CHILD; OR

(III) THE SITUATION OCCURRED WITH A DIFFERENT FAMILY COMPOSITION AND A DIFFERENT ALLEGED PERPETRATOR.

(b) "SUSPICIOUS FATALITY" MEANS A FATALITY THAT IS MORE LIKELY THAN NOT TO HAVE BEEN CAUSED BY ABUSE OR NEGLECT.

(c) "TEAM" MEANS THE DEPARTMENT OF HUMAN SERVICES CHILD FATALITY REVIEW TEAM ESTABLISHED IN RULES PROMULGATED PURSUANT TO SECTION 26-1-111 AND CODIFIED PURSUANT TO SUBSECTION (3) OF THIS SECTION.

(3) THERE IS HEREBY ESTABLISHED IN THE STATE DEPARTMENT THE DEPARTMENT OF HUMAN SERVICES CHILD FATALITY REVIEW TEAM. THE TEAM SHALL HAVE THE FOLLOWING OBJECTIVES:

(a) TO ASSESS THE RECORDS OF EACH CASE IN WHICH A SUSPICIOUS CHILD FATALITY OCCURRED AND THE CHILD OR FAMILY HAD PREVIOUS INVOLVEMENT WITH A COUNTY DEPARTMENT THAT WAS DIRECTLY RELATED TO THE FATALITY WITHIN TWO YEARS PRIOR TO THE FATALITY;

(b) TO UNDERSTAND THE CAUSES OF THE REVIEWED CHILD FATALITIES;

(c) TO IDENTIFY ANY GAPS OR DEFICIENCIES THAT MAY EXIST IN THE DELIVERY OF SERVICES TO CHILDREN AND THEIR FAMILIES BY PUBLIC AGENCIES THAT ARE DESIGNED TO MITIGATE FUTURE CHILD ABUSE, NEGLECT, OR DEATH; AND

(d) TO MAKE RECOMMENDATIONS FOR CHANGES TO LAWS, RULES, AND POLICIES

THAT WILL SUPPORT THE SAFE AND HEALTHY DEVELOPMENT OF COLORADO'S CHILDREN.

(4) THE TEAM SHALL HAVE THE FOLLOWING DUTIES:

(a) TO REVIEW THE CIRCUMSTANCES AROUND THE CHILD FATALITY;

(b) TO REVIEW THE SERVICES PROVIDED TO THE CHILD, THE CHILD'S FAMILY, AND THE PERPETRATOR BY THE COUNTY DEPARTMENT FOR ANY COUNTY WITH WHICH THE FAMILY HAS HAD PREVIOUS INVOLVEMENT THAT WAS DIRECTLY RELATED TO THE FATALITY IN THE TWO YEARS PRIOR TO THE FATALITY;

(c) TO REVIEW RECORDS AND INTERVIEW INDIVIDUALS, AS DEEMED NECESSARY AND NOT OTHERWISE PROHIBITED BY LAW, INVOLVED WITH OR HAVING KNOWLEDGE OF THE FACTS OF THE CASE OR FATALITY, INCLUDING BUT NOT LIMITED TO ALL OTHER STATE AND LOCAL AGENCIES HAVING PREVIOUS INVOLVEMENT WITH THE CHILD OR FAMILY THAT WAS DIRECTLY RELATED TO THE FATALITY WITHIN TWO YEARS PRIOR TO THE FATALITY;

(d) TO REVIEW THE COUNTY DEPARTMENT'S COMPLIANCE WITH STATUTES, REGULATIONS, AND RELEVANT POLICIES AND PROCEDURES THAT ARE DIRECTLY RELATED TO THE FATALITY;

(e) TO IDENTIFY STRENGTHS AND BEST PRACTICES OF SERVICE DELIVERY TO THE CHILD AND THE CHILD'S FAMILY;

(f) TO IDENTIFY FACTORS THAT MAY HAVE CONTRIBUTED TO CONDITIONS LEADING TO THE FATALITY, INCLUDING, BUT NOT LIMITED TO, LACK OF OR UNSAFE HOUSING, FAMILY AND SOCIAL SUPPORTS, EDUCATIONAL LIFE, PHYSICAL HEALTH, EMOTIONAL AND PSYCHOLOGICAL HEALTH, AND OTHER SAFETY, CRISIS, AND CULTURAL OR ETHNIC ISSUES;

(g) TO REVIEW SUPPORTS AND SERVICES PROVIDED TO SIBLINGS, FAMILY MEMBERS, AND AGENCY STAFF AFTER THE FATALITY;

(h) TO IDENTIFY THE QUALITY AND SUFFICIENCY OF COORDINATION BETWEEN STATE AND LOCAL AGENCIES;

(i) TO DEVELOP AND DISTRIBUTE THE FOLLOWING REPORTS, THE CONTENT OF WHICH SHALL BE DETERMINED BY RULES PROMULGATED BY THE STATE DEPARTMENT PURSUANT TO SUBSECTION (7) OF THIS SECTION:

(I) ON OR BEFORE APRIL 30, 2013, AND EACH APRIL 30 THEREAFTER, AN ANNUAL CHILD FATALITY REVIEW REPORT, ABSENT CONFIDENTIAL INFORMATION, SUMMARIZING THE CHILD FATALITY REVIEWS CONDUCTED BY THE TEAM DURING THE PREVIOUS YEAR. THE TEAM SHALL POST THE ANNUAL CHILD FATALITY REVIEW REPORT ON THE STATE DEPARTMENT'S WEB SITE AND DISTRIBUTE IT TO THE COLORADO STATE CHILD FATALITY PREVENTION REVIEW TEAM ESTABLISHED IN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO SECTION 25-20.5-406, C.R.S., THE GOVERNOR, THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE, AND THE HEALTH AND ENVIRONMENT COMMITTEE OF

THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES. THE ANNUAL CHILD FATALITY REVIEW REPORT SHALL BE PREPARED WITHIN EXISTING RESOURCES.

(II) THE FINAL CONFIDENTIAL, CASE-SPECIFIC CHILD FATALITY REVIEW REPORT REQUIRED PURSUANT TO SUBSECTION (5) OF THIS SECTION. THE FINAL CONFIDENTIAL, CASE-SPECIFIC CHILD FATALITY REVIEW REPORT SHALL BE SUBMITTED TO THE COLORADO STATE CHILD FATALITY PREVENTION REVIEW TEAM ESTABLISHED IN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO SECTION 25-20.5-406, C.R.S.

(III) A CASE-SPECIFIC EXECUTIVE SUMMARY, ABSENT CONFIDENTIAL INFORMATION, OF EACH CHILD FATALITY REVIEWED. THE TEAM SHALL POST THE CASE-SPECIFIC EXECUTIVE SUMMARY ON THE STATE DEPARTMENT'S WEB SITE.

(5) (a) EACH COUNTY DEPARTMENT SHALL REPORT TO THE STATE DEPARTMENT ANY SUSPICIOUS FATALITY OF A CHILD WITHIN TWENTY-FOUR HOURS OF THE FATALITY. IF THE COUNTY DEPARTMENT HAS HAD PREVIOUS INVOLVEMENT THAT WAS DIRECTLY RELATED TO THE CHILD FATALITY WITHIN TWO YEARS PRIOR TO THE FATALITY, THE COUNTY DEPARTMENT SHALL PROVIDE THE STATE DEPARTMENT WITH ALL RELEVANT REPORTS AND DOCUMENTATION REGARDING ITS PREVIOUS INVOLVEMENT WITH THE CHILD WITHIN SIXTY CALENDAR DAYS AFTER THE FATALITY. THE STATE DEPARTMENT MAY GRANT, AT ITS DISCRETION, AN EXTENSION TO A COUNTY DEPARTMENT FOR DELAYS OUTSIDE OF THE COUNTY DEPARTMENT'S CONTROL REGARDING THE RECEIPT OF ALL RELEVANT REPORTS AND INFORMATION CRITICAL TO AN EFFECTIVE FATALITY REVIEW, INCLUDING BUT NOT LIMITED TO THE FINAL AUTOPSY AND LAW ENFORCEMENT REPORTS, UNTIL SUCH DOCUMENTS CAN BE MADE AVAILABLE FOR REVIEW BY THE TEAM.

(b) THE FATALITY REVIEW SHALL BE COMPLETED AND THE DRAFT CONFIDENTIAL, CASE-SPECIFIC CHILD FATALITY REVIEW REPORT PREPARED AND SUBMITTED TO ANY COUNTY DEPARTMENT WITH PREVIOUS INVOLVEMENT WITHIN ONE HUNDRED TWENTY CALENDAR DAYS AFTER ALL NECESSARY INFORMATION IS AVAILABLE TO INITIATE THE REVIEW. ANY COUNTY DEPARTMENT WITH PREVIOUS INVOLVEMENT SHALL HAVE THIRTY CALENDAR DAYS AFTER THE COMPLETION OF THE DRAFT CONFIDENTIAL, CASE-SPECIFIC CHILD FATALITY REVIEW REPORT TO REVIEW THE DRAFT CONFIDENTIAL, CASE-SPECIFIC CHILD FATALITY REVIEW REPORT AND PROVIDE A WRITTEN RESPONSE TO BE INCLUDED IN THE FINAL CONFIDENTIAL, CASE-SPECIFIC CHILD FATALITY REVIEW REPORT. A CONFIDENTIAL, CASE-SPECIFIC CHILD FATALITY REVIEW REPORT SHALL BE FINALIZED AND SUBMITTED PURSUANT TO PARAGRAPH (d) OF THIS SUBSECTION (5) NO MORE THAN THIRTY CALENDAR DAYS AFTER THE COUNTY DEPARTMENT'S RESPONSE IS RECEIVED BY THE TEAM OR UPON CONFIRMATION IN WRITING FROM THE COUNTY DEPARTMENT THAT A WRITTEN RESPONSE WILL NOT BE PROVIDED.

(c) THE PROCEEDINGS, RECORDS, OPINIONS, AND DELIBERATIONS OF THE DEPARTMENT OF HUMAN SERVICES CHILD FATALITY REVIEW TEAM SHALL BE PRIVILEGED AND SHALL NOT BE SUBJECT TO DISCOVERY, SUBPOENA, OR INTRODUCTION INTO EVIDENCE IN ANY CIVIL ACTION IN ANY MANNER THAT WOULD DIRECTLY OR INDIRECTLY IDENTIFY SPECIFIC PERSONS OR CASES REVIEWED BY THE STATE DEPARTMENT OR COUNTY DEPARTMENT. NOTHING IN THIS PARAGRAPH (c) SHALL BE CONSTRUED TO RESTRICT OR LIMIT THE RIGHT TO DISCOVER OR USE IN ANY

CIVIL ACTION ANY EVIDENCE THAT IS DISCOVERABLE INDEPENDENT OF THE PROCEEDINGS OF THE DEPARTMENT OF HUMAN SERVICES CHILD FATALITY REVIEW TEAM.

(d) THE FINAL CONFIDENTIAL, CASE-SPECIFIC CHILD FATALITY REVIEW REPORT SHALL BE PROVIDED TO THE EXECUTIVE DIRECTOR, THE DIRECTOR FOR ANY COUNTY OR COMMUNITY AGENCY REFERENCED IN THE REPORT, THE COUNTY COMMISSIONERS OF ANY COUNTY DEPARTMENT WITH PREVIOUS INVOLVEMENT, THE LEGISLATIVE MEMBERS OF THE TEAM APPOINTED PURSUANT TO PARAGRAPH (f) OF SUBSECTION (6) OF THIS SECTION, AND THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

(e) THE STATE DEPARTMENT SHALL POST ON ITS WEB SITE A CASE-SPECIFIC EXECUTIVE SUMMARY OF THE FINAL CONFIDENTIAL, CASE-SPECIFIC CHILD FATALITY REVIEW REPORT, ABSENT CONFIDENTIAL INFORMATION, OF EACH CHILD FATALITY REVIEWED PURSUANT TO THIS SECTION.

(f) IF AT ANY POINT IN THE REVIEW PROCESS IT IS DETERMINED THAT THE FATALITY IS NOT THE RESULT OF ABUSE OR NEGLECT, THE REVIEW SHALL CEASE.

(6) THE TEAM SHALL CONSIST OF UP TO TWENTY MEMBERS, APPOINTED ON OR BEFORE SEPTEMBER 30, 2011, AS FOLLOWS:

(a) THREE MEMBERS FROM THE STATE DEPARTMENT, APPOINTED BY THE EXECUTIVE DIRECTOR;

(b) TWO MEMBERS FROM THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, APPOINTED BY THE EXECUTIVE DIRECTOR OF SAID DEPARTMENT;

(c) THREE MEMBERS REPRESENTING COUNTY DEPARTMENTS, APPOINTED BY A STATEWIDE ORGANIZATION REPRESENTING COUNTY COMMISSIONERS;

(d) AT LEAST EIGHT ADDITIONAL MULTIDISCIPLINARY MEMBERS, TO BE APPOINTED BY THE MEMBERS DESCRIBED IN PARAGRAPHS (a) TO (c) OF THIS SUBSECTION (6), INCLUDING BUT NOT LIMITED TO REPRESENTATIVES FROM THE OFFICE OF THE CHILD PROTECTION OMBUDSMAN AND FROM THE FIELDS OF CHILD PROTECTION, PHYSICAL MEDICINE, MENTAL HEALTH, EDUCATION, LAW ENFORCEMENT, DISTRICT ATTORNEYS, CHILD ADVOCACY, AND ANY OTHERS AS DEEMED APPROPRIATE;

(e) FOR THE PURPOSES OF PARTICIPATING IN A SPECIFIC CASE REVIEW, ADDITIONAL MEMBERS MAY BE APPOINTED AT THE DISCRETION OF THE MEMBERS DESCRIBED IN PARAGRAPHS (a) TO (c) OF THIS SUBSECTION (6) TO REPRESENT AGENCIES INVOLVED WITH THE CHILD OR THE CHILD'S FAMILY IN THE TWELVE MONTHS PRIOR TO THE FATALITY; AND

(f) ONE MEMBER FROM THE HEALTH AND ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES OR ANY SUCCESSOR COMMITTEE, TO BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND ONE MEMBER FROM THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE OR ANY SUCCESSOR COMMITTEE, TO BE APPOINTED BY THE PRESIDENT OF THE SENATE. THE MEMBERS APPOINTED PURSUANT TO THIS PARAGRAPH (f) SHALL BE NONVOTING MEMBERS AND SHALL NOT BE REQUIRED TO BE PRESENT AT ANY MEETING OF THE TEAM.

(7) THE STATE DEPARTMENT SHALL PROMULGATE ADDITIONAL RULES, AS NECESSARY, FOR THE IMPLEMENTATION OF THIS SECTION, INCLUDING BUT NOT LIMITED TO THE CONFIDENTIALITY OF INFORMATION.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 20, 2011