

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/SB 422 (707324)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services) and Senator Gibson

SUBJECT: Elder Abuse Fatality Review Teams

DATE: March 1, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hendon</u>	<u>Hendon</u>	<u>CF</u>	Favorable
2.	<u>Loe</u>	<u>Williams</u>	<u>AHS</u>	Recommend: Fav/CS
3.	<u>Loe</u>	<u>Hansen</u>	<u>AP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 422 authorizes the establishment of elder abuse fatality review teams on a voluntary basis in each judicial circuit to review fatal incidents of elder abuse, and make policy and other recommendations to help prevent future incidents of elder abuse-related fatalities. The bill exempts certain information and records acquired by a review team from discovery or introduction into evidence in specified actions or proceedings. The review teams are assigned to the Department of Elder Affairs (DOEA) for administrative purposes only. The DOEA must submit a report, annually by November 1, that summarizes the findings and recommendations of the review teams to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Department of Children and Families.

The bill adds elder abuse fatality review teams to the list of persons and entities authorized pursuant to s. 415.107(3), F.S., to have access to records concerning reports of abuse, neglect, or exploitation of a vulnerable adult, including reports made to the central abuse hotline, otherwise held confidential and exempt from s. 119.07(1), F.S.

The bill will increase state expenditures by an indeterminate amount. The Department of Elder Affairs will experience an increase in workload related to submitting the required report and providing administrative support to the review teams; however, these costs can be absorbed within existing resources.

The bill takes effect on July 1, 2018.

II. Present

There are currently no designated Elder Abuse Fatality Review Teams in Florida. The Adult Protective Services Program, under the Department of Children and Families (DCF), is responsible for preventing further harm to vulnerable adults who are victims of abuse, neglect, exploitation, or self-neglect. The mandatory reporting requirement of persons who are required to investigate reports of abuse, neglect, or exploitation also extends to alleged deaths due to abuse or neglect.

The Florida Abuse Hotline, administered by the DCF, screens allegations of adult abuse and neglect to determine whether the information meets the criteria of an abuse report. If the criteria are met, a protective investigation is initiated to confirm whether there is evidence that abuse has occurred; whether that is an immediate or long-term risk to the victim; and whether the victim needs additional services to safeguard his or her well-being.¹

Section 415.1034, F.S., enumerates persons that have an immediate, mandatory requirement to report to the central abuse hotline if they know, have suspicion, or have reasonable cause to suspect that a vulnerable adult has been or is being abused, neglected, or exploited. Additionally, any person required to investigate reports of abuse, neglect, or exploitation and who has reasonable cause to suspect that a vulnerable adult died as a result of abuse, neglect, or exploitation shall immediately report the suspicion to the appropriate medical examiner, the appropriate criminal justice agency and to the DCF, notwithstanding the existence of a death certificate signed by a practicing physician.²

The DCF is required, upon receipt of a report alleging abuse, neglect, or exploitation of a vulnerable adult, to begin within 24 hours a protective investigation of the matter.³ For each report it receives, the DCF shall perform an onsite investigation to determine, among other things, if the person meets the definition of a vulnerable adult and, if so, if the person is in need of services; whether there is an indication that the vulnerable adult was abused, neglected, or exploited; and if protective, treatment, and ameliorative services are necessary to safeguard and ensure the vulnerable adult's well-being.⁴

Section 415.1102, F.S., authorizes the DCF to develop, maintain, and coordinate the services of one or more multidisciplinary adult protection teams in each of its regions. A "multidisciplinary adult protection team" is defined as a team of two or more persons trained in the prevention, identification, and treatment of abuse of elderly persons.⁵ The multidisciplinary teams may be composed of, but are not limited to, psychiatrists, psychologists, or other trained counseling personnel; law enforcement officers; medical personal with experience or training to provide

¹Florida Department of Children and Families; Protecting Vulnerable Adults, *available at*: <http://www.myflfamilies.com/service-programs/adult-protective-services/protecting-vulnerable-adults> (last visited Nov. 7, 2017).

² Section 415.1034(2), F.S.

³ Section 415.104(1), F.S.

⁴ Section 415.104(2), F.S.

⁵ Section 415.1102(1), F.S.

health services; social workers who have experience or training in the prevention of abuse of the elderly or dependent persons; and public and professional guardians.⁶ The multidisciplinary team is convened to supplement the protective services activities of the Adult Protective Services program of the DCF.⁷

Section 415.107(3), F.S., enumerates persons and entities that may have access to records concerning reports of abuse, neglect, or exploitation of a vulnerable adult, including reports made to the central abuse hotline, otherwise held confidential and exempt from s. 119.07(1), F.S. The identity of any person reporting abuse, neglect, or exploitation of a vulnerable person shall not be released to these persons and entities.

III. Effect of Proposed Changes:

Section 1 creates s. 415.1103, F.S., to authorize the creation of an elder abuse fatality review team on a voluntary basis in each judicial circuit⁸ to review fatal or near-fatal incidents of abuse, neglect, or violence against the elderly. Each review team is composed of volunteers from numerous state and local agencies as well as community partners.⁹ Each volunteer serves without compensation for a two-year term. Each team will determine the number of cases it will review and must limit its review to closed cases in which an elderly person's death is verified to have been caused by abuse or neglect in order to avoid interference with an ongoing criminal investigation or prosecution.

The elder abuse fatality team's review may include a review of events leading up to the incident, available community resources, actions taken by systems and individuals related to the incident, and any other information deemed relevant to the team. The review team is directed to make policy and other recommendations, which include system improvements and necessary resources, training, or other information to prevent future incidents of elder abuse deaths. Each team is required to submit its findings and recommendations to the DOEA annually by September 1. By November 1 each year, the DOEA shall prepare a summary report of the information provided by the review teams, and submit the report to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Department of Children and Families.

The bill exempts a member of a review team in the performance of his or her duties as a review team member from monetary liability. Additionally, all information and records acquired by an elder abuse fatality review team are not subject to discovery or introduction into evidence in any

⁶ Section 415.1102(2), F.S.

⁷ Section 415.1102(3), F.S.

⁸ There are currently 20 judicial circuits in Florida.

⁹ The bill provides for membership to include, but not be limited to, the following or their representatives: law enforcement agencies; the state attorney; the medical examiner; a county court judge; adult protective services; an Aging and Disability Resource Center; the State Long-Term Care Ombudsman program; the Agency for Health Care Administration; the Office of the Attorney General; the office of court administration; the clerk of the court; a victim services program; an elder law attorney; emergency services personnel; a certified domestic violence center; an advocacy organization for victims of sexual violence; a funeral home director; a forensic pathologist; a geriatrician; a geriatric nurse; a geriatric psychiatrist or other individual licensed to offer behavioral health services; a hospital discharge planner; a public guardian; and other persons with knowledge regarding fatal incidents of elder abuse, domestic violence, or sexual violence.

civil or criminal action. The elder abuse fatality review teams are assigned to the Department of Elder Affairs for administrative purposes only.

Section 2 adds elder abuse fatality review teams to the list of persons and entities authorized pursuant to s. 415.107(3), F.S., to have access to records concerning reports of abuse, neglect, or exploitation of a vulnerable adult, including reports made to the central abuse hotline, otherwise held confidential and exempt from s. 119.07(1), F.S.

Section 3 provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Any public records or open meetings issues are addressed in SB 424.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Elder Affairs will incur additional costs associated with providing administrative support to the various elder abuse fatality review teams, and submitting the required annual report; however, these costs can be absorbed within existing resources. Other public agencies whose staff serve on the review teams may incur some costs.

VI. Technical Deficiencies:

The bill does not specify the appointing authority for the members of the review team. As a result, anyone that falls within the particular membership categories may “volunteer” to participate on the review team. This may raise concerns because the review team has access to information that is otherwise confidential and exempt from public disclosure.

VII. Related Issues:

The bill does not define the term “elder,” specifically the age at which a person is deemed to be an elder, which may lead to inconsistency in the cases a team chooses to review. Providing a definition of “elder” which establishes, at a minimum, the age of a person eligible for a team review will allow for more standardized comparability amongst the separate reports required to be submitted by each team.

VIII. Statutes Affected:

This bill creates section 415.1103 of the Florida Statutes.

The bill amends section 415.107 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS by Appropriations Subcommittee on Health and Human Services on January 10, 2018:

The committee substitute makes the following changes:

- Makes the establishment of an elder abuse fatality review team voluntary in each judicial circuit in Florida;
- Requires the scope of the review team be limited to closed cases in which abuse or neglect is verified;
- Requires the review teams to submit recommendations by September 1 annually to the DOEA;
- Requires the DOEA to compile the recommendations of the review teams into a single report to be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Department of Children and Families by November 1 annually; and
- Adds elder abuse fatality review teams to the list of persons and entities authorized pursuant to s. 415.107(3), F.S., to have access to records concerning reports of abuse, neglect, or exploitation of a vulnerable adult, including reports made to the central abuse hotline, otherwise held confidential and exempt from s. 119.07(1), F.S.

- B. **Amendments:**

None.