

Senate Engrossed

~~child fatality review committee; establishment~~  
(now: maltreatment oversight committee; establishment)

State of Arizona  
Senate  
Fifty-sixth Legislature  
First Regular Session  
2023

# SENATE BILL 1252

AN ACT

AMENDING SECTIONS 8-801, 8-807, 12-2294 AND 36-3501, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 8; AMENDING SECTION 41-3024.14, ARIZONA REVISED STATUTES; RELATING TO MALTREATMENT FATALITIES AND NEAR FATALITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-801, Arizona Revised Statutes, is amended to  
3 read:

4 8-801. Definitions

5 In this article and articles 9, 10, 11, 12, 13 and 14 of this  
6 chapter, unless the context otherwise requires:

7 1. "Child safety services" means a specialized child welfare  
8 program that is administered by the department as provided in this chapter  
9 and that investigates allegations of and seeks to prevent, intervene in  
10 and treat abuse, ~~and~~ neglect, to promote the well-being of the child in a  
11 permanent home and to coordinate services to strengthen the family.

12 2. "Child safety worker" or "worker" means a person who has been  
13 selected by and trained under the requirements prescribed by the  
14 department and who assists in carrying out the provisions of this article.

15 3. "DCS INFORMATION":

16 (a) INCLUDES ALL INFORMATION THE DEPARTMENT GATHERS DURING THE  
17 COURSE OF AN INVESTIGATION CONDUCTED UNDER THIS CHAPTER FROM THE TIME A  
18 FILE IS OPENED AND UNTIL IT IS CLOSED.

19 (b) DOES NOT INCLUDE INFORMATION THAT IS CONTAINED IN CHILD WELFARE  
20 AGENCY LICENSING RECORDS.

21 ~~3.~~ 4. "In-home intervention" means a program of services provided  
22 pursuant to article 14 of this chapter while the child is still in the  
23 custody of the parent, guardian or custodian.

24 ~~4.~~ 5. "Relative" has the same meaning prescribed in section 8-501.

25 Sec. 2. Section 8-807, Arizona Revised Statutes, is amended to  
26 read:

27 8-807. DCS information; public record; use; confidentiality;  
28 violation; classification

29 A. DCS information shall be maintained by the department as  
30 required by federal law as a condition of the allocation of federal monies  
31 to this state. All exceptions for the public release of DCS information  
32 shall be construed as openly as possible under federal law.

33 B. The department, or a person who receives DCS information  
34 pursuant to this subsection, shall provide DCS information to a federal  
35 agency, a state agency, a tribal agency, a county or municipal agency, a  
36 law enforcement agency, a prosecutor, an attorney or a guardian ad litem  
37 representing a child victim of crime pursuant to article II, section 2.1,  
38 Constitution of Arizona, a school, a community service provider, a  
39 contract service provider or any other person that is providing services  
40 pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this  
41 chapter:

42 1. To meet its duties to provide for the safety and permanency of a  
43 child, provide services to a parent, guardian or custodian or provide  
44 services to family members to strengthen the family pursuant to this  
45 article or article 9, 10, 11, 12, 13 or 14 of this chapter.

1           2. To enforce or prosecute any violation involving child abuse or  
2 neglect or to assert the rights of the child as a victim of a crime.

3           3. To provide information to a defendant after a criminal charge  
4 has been filed as required by an order of the criminal court.

5           4. To help investigate and prosecute any violation involving  
6 domestic violence as defined in section 13-3601 or violent sexual assault  
7 as prescribed in section 13-1423.

8           C. The department shall disclose DCS information to a court, a  
9 party in a dependency or termination of parental rights proceeding or the  
10 party's attorney, the foster care review board or a court appointed  
11 special advocate for the purposes of and as prescribed in this title.

12           D. The department shall disclose DCS information to a domestic  
13 relations, family or conciliation court if the DCS information is  
14 necessary to promote the safety and well-being of children. The court  
15 shall notify the parties that it has received the DCS information.

16           E. A person or agent of a person who is the subject of DCS  
17 information shall have access to DCS information concerning that person.

18           F. The department may provide:

19           1. DCS information to confirm, clarify, correct or supplement  
20 information concerning an allegation or actual instance of child abuse or  
21 neglect that has been made public by a source or sources outside the  
22 department.

23           2. DCS information to a person who is conducting bona fide  
24 research, the results of which might provide DCS information that is  
25 beneficial in improving the department.

26           3. Access to DCS information to the parent, guardian or custodian  
27 of a child if the DCS information is reasonably necessary to promote the  
28 safety, permanency and well-being of the child.

29           4. DCS information if an employee of the department has a  
30 reasonable belief that exigent circumstances exist. For the purposes of  
31 this paragraph, "exigent circumstances" means a condition or situation in  
32 which the death of or serious injury to a child will likely result in the  
33 near future without immediate intervention.

34           G. The department shall disclose DCS information to a county  
35 medical examiner or an alternate medical examiner directing an  
36 investigation into the circumstances surrounding a death pursuant to  
37 section 11-593.

38           H. Access to DCS information in the central registry shall be  
39 provided as prescribed in section 8-804.

40           I. To provide oversight of the department, the department shall  
41 provide access to DCS information to the following persons, if the DCS  
42 information is reasonably necessary for the person to perform the person's  
43 official duties:

44           1. Federal or state auditors.

1           2. Persons conducting any accreditation deemed necessary by the  
2 department.

3           3. A standing committee of the legislature or a committee appointed  
4 by the president of the senate or the speaker of the house of  
5 representatives for purposes of conducting investigations related to the  
6 legislative oversight of the department. This information shall not be  
7 further disclosed unless a court has ordered the disclosure of this  
8 information, the information has been disclosed in a public or court  
9 record, or the information has been disclosed in the course of a public  
10 meeting or court proceeding.

11           4. A legislator who requests DCS information in the regular course  
12 of the legislator's duties. A legislator may discuss this information  
13 with another legislator if the other legislator has signed the form  
14 prescribed in subdivision (d) of this paragraph in regard to the specific  
15 file that will be discussed. This information shall not be further  
16 disclosed unless a court has ordered the disclosure of this information,  
17 the information has been disclosed in a public or court record, or the  
18 information has been disclosed in the course of a public meeting or court  
19 proceeding. To request a file pursuant to this paragraph:

20           (a) The legislator shall submit a written request for DCS  
21 information to the presiding officer of the body of which the state  
22 legislator is a member. The request shall state the name of the person  
23 whose case file is to be reviewed and any other information that will  
24 assist the department in locating the file. The presiding officer may  
25 authorize a legislative staff member to attend with the legislator any  
26 meeting to review the file.

27           (b) The presiding officer shall forward the request to the  
28 department within five working days of the receipt of the request.

29           (c) The department shall make the necessary arrangements for the  
30 legislator to review the file at an office of the department, chosen by  
31 the legislator, within ten working days.

32           (d) The legislator and staff member shall sign a form, consistent  
33 with the requirements of this paragraph and paragraph 3 of this  
34 subsection, before reviewing the file, that outlines the confidentiality  
35 laws governing department files and penalties for further release of the  
36 information.

37           5. A citizen review panel as prescribed by federal law, a child  
38 fatality review team as provided in title 36, chapter 35 and the office of  
39 ombudsman-citizens aide.

40           6. An independent oversight committee established pursuant to  
41 section 41-3801.

42           7. The governor who shall not disclose any information unless a  
43 court has ordered the disclosure of the information, the information has  
44 been disclosed in a public or court record or the information has been  
45 disclosed in the course of a public meeting or court proceeding.

1           8. THE INDEPENDENT MALTREATMENT FATALITY AND NEAR FATALITY  
2           OVERSIGHT COMMITTEE ESTABLISHED BY SECTION 41-812.

3           J. A person who has been denied DCS information regarding a  
4           fatality or near fatality caused by abuse, abandonment or neglect pursuant  
5           to subsection L of this section or section 8-807.01 may bring a special  
6           action pursuant to section 39-121.02 in the superior court to order the  
7           department to release that DCS information. A legislator has standing to  
8           bring or to join a special action regarding the release of DCS information  
9           or to challenge the redaction of released DCS information. The plaintiff  
10          shall provide notice to the county attorney, who has standing and may  
11          participate in the action. The court shall review the requested records  
12          in camera and order disclosure consistent with subsections A and L of this  
13          section and section 8-807.01. The court shall take reasonable steps to  
14          prevent any clearly unwarranted invasions of privacy and protect the  
15          privacy and dignity of victims of crime pursuant to article II, section  
16          2.1, subsection C, Constitution of Arizona.

17          K. The department or a person who is not specifically authorized by  
18          this section to obtain DCS information may petition a judge of the  
19          superior court to order the department to release DCS information. The  
20          plaintiff shall provide notice to the county attorney and to the attorney  
21          and guardian ad litem for the child, who have standing and may participate  
22          in the action. The court shall review the requested records in camera and  
23          shall balance the rights of the parties who are entitled to  
24          confidentiality pursuant to this section against the rights of the parties  
25          who are seeking the release of the DCS information. The court may release  
26          otherwise confidential DCS information only if the rights of the parties  
27          seeking the DCS information and any benefits from releasing the DCS  
28          information outweigh the rights of the parties who are entitled to  
29          confidentiality and any harm that may result from releasing the DCS  
30          information. The court shall take reasonable steps to prevent any clearly  
31          unwarranted invasions of privacy and protect the privacy and dignity of  
32          victims of crime pursuant to article II, section 2.1, subsection C,  
33          Constitution of Arizona.

34          L. Except as provided in subsection M of this section, before it  
35          releases records under this section or section 8-807.01, the department  
36          shall take whatever precautions it determines are reasonably necessary to  
37          protect the identity and safety of a person who reports child abuse or  
38          neglect and to protect any other person if the department believes that  
39          disclosure of the DCS information would be likely to endanger the life or  
40          safety of any person. The department is not required by this section to  
41          disclose DCS information if the department demonstrates that disclosure  
42          would cause a specific, material harm to a department investigation. The  
43          department is not required by this section to disclose DCS information if,  
44          in consultation with the county attorney, the county attorney demonstrates

1 that disclosure would cause a specific, material harm to a criminal  
2 investigation or prosecution.

3 M. A person who is the subject of an unfounded report or complaint  
4 made pursuant to this article or article 9, 10, 11, 12, 13 or 14 of this  
5 chapter and who believes that the report or complaint was made in bad  
6 faith or with malicious intent may petition a judge of the superior court  
7 to order the department to release the DCS information. The petition  
8 shall specifically set forth reasons supporting the person's belief that  
9 the report or complaint was made in bad faith or with malicious intent.  
10 The court shall review the DCS information in camera and the person filing  
11 the petition shall be allowed to present evidence in support of the  
12 petition. If the court determines that there is a reasonable question of  
13 fact as to whether the report or complaint was made in bad faith or with  
14 malicious intent and that disclosure of the identity of the person making  
15 the report or complaint would not be likely to endanger the life or safety  
16 of the person making the report or complaint, it shall provide a copy of  
17 the DCS information to the person filing the petition and the original DCS  
18 information is subject to discovery in a subsequent civil action regarding  
19 the making of the report or complaint.

20 N. The department shall provide the person who conducts a forensic  
21 medical evaluation with any records the person requests, including social  
22 history and family history regarding the child, the child's siblings and  
23 the child's parents or guardians.

24 O. The department shall provide DCS information on request to a  
25 prospective adoptive parent, foster parent or guardian, if the information  
26 concerns a child the prospective adoptive parent, foster parent or  
27 guardian seeks to adopt or provide care for.

28 P. If the department receives information that is confidential by  
29 law, the department shall maintain the confidentiality of the information  
30 as prescribed in the applicable law.

31 Q. A person may authorize the release of DCS information about the  
32 person but may not waive the confidentiality of DCS information concerning  
33 any other person.

34 R. The department may provide a summary of the outcome of a  
35 department investigation to the person who reported the suspected child  
36 abuse or neglect.

37 S. The department shall adopt rules to facilitate the accessibility  
38 of DCS information.

39 T. The department or a person who receives DCS information pursuant  
40 to subsection B of this section shall provide DCS information to law  
41 enforcement and a court to protect the safety of any employee of the  
42 department or the office of the attorney general or to protect a family  
43 member of such an employee.

1 U. A person who receives DCS information shall maintain the  
2 confidentiality of the information and shall not further disclose the  
3 information unless the disclosure is authorized by law or a court order.

4 V. The department may charge a fee for copying costs required to  
5 prepare DCS information for release pursuant to this section or section  
6 8-807.01.

7 W. A person who violates this section is guilty of a class 2  
8 misdemeanor.

9 ~~X. For the purposes of this section, "DCS information" includes all~~  
10 ~~information the department gathers during the course of an investigation~~  
11 ~~conducted under this chapter from the time a file is opened and until it~~  
12 ~~is closed. DCS information does not include information that is contained~~  
13 ~~in child welfare agency licensing records.~~

14 Sec. 3. Section 12-2294, Arizona Revised Statutes, is amended to  
15 read:

16 12-2294. Release of medical records and payment records to  
17 third parties

18 A. A health care provider shall disclose medical records or payment  
19 records, or the information contained in medical records or payment  
20 records, without the patient's written authorization as otherwise required  
21 by law or when ordered by a court or tribunal of competent jurisdiction.

22 B. A health care provider may disclose medical records or payment  
23 records, or the information contained in medical records or payment  
24 records, pursuant to written authorization signed by the patient or the  
25 patient's health care decision maker.

26 C. A health care provider may disclose medical records or payment  
27 records or the information contained in medical records or payment records  
28 and a clinical laboratory may disclose clinical laboratory results without  
29 the written authorization of the patient or the patient's health care  
30 decision maker as otherwise authorized by state or federal law, including  
31 the health insurance portability and accountability act privacy standards  
32 (45 Code of Federal Regulations part 160 and part 164, subpart E), or as  
33 follows:

34 1. To health care providers who are currently providing health care  
35 to the patient for the purpose of ~~diagnosis~~ **DIAGNOSING** or ~~treatment of~~  
36 **TREATING** the patient.

37 2. To health care providers who have previously provided treatment  
38 to the patient, to the extent that the records pertain to the provided  
39 treatment.

40 3. To ambulance attendants as defined in section 36-2201 for the  
41 purpose of providing care to or transferring the patient whose records are  
42 requested.

43 4. To a private agency that accredits health care providers and  
44 with whom the health care provider has an agreement requiring the agency  
45 to protect the confidentiality of patient information.

1           5. To a health profession regulatory board as defined in section  
2 32-3201.

3           6. To health care providers for the purpose of conducting  
4 utilization review, peer review and quality assurance pursuant to section  
5 36-441, 36-445, 36-2402 or 36-2917.

6           7. To a person or entity that provides services to the patient's  
7 health care providers or clinical laboratories and with whom the health  
8 care provider or clinical laboratory has an agreement requiring the person  
9 or entity to protect the confidentiality of patient information and as  
10 required by the health insurance portability and accountability act  
11 privacy standards, 45 Code of Federal Regulations part 164, subpart E.

12           8. To the legal representative of a health care provider in  
13 possession of the medical records or payment records for the purpose of  
14 securing legal advice.

15           9. To the patient's third party payor or the payor's contractor.

16           10. To the industrial commission of Arizona or parties to an  
17 industrial commission claim pursuant to title 23, chapter 6.

18           11. TO THE INDEPENDENT MALTREATMENT FATALITY AND NEAR FATALITY  
19 OVERSIGHT COMMITTEE ESTABLISHED BY SECTION 41-812.

20           D. A health care provider may disclose a deceased patient's medical  
21 records or payment records or the information contained in medical records  
22 or payment records to the patient's health care decision maker at the time  
23 of the patient's death. A health care provider also may disclose a  
24 deceased patient's medical records or payment records or the information  
25 contained in medical records or payment records to the personal  
26 representative or administrator of the estate of a deceased patient, or if  
27 a personal representative or administrator has not been appointed, to the  
28 following persons in the following order of priority, unless the deceased  
29 patient during the deceased patient's lifetime or a person in a higher  
30 order of priority has notified the health care provider in writing that  
31 the deceased patient opposed the release of the medical records or payment  
32 records:

33           1. The deceased patient's spouse, unless the patient and the  
34 patient's spouse were legally separated at the time of the patient's  
35 death.

36           2. The acting trustee of a trust created by the deceased patient  
37 either alone or with the deceased patient's spouse if the trust was a  
38 revocable inter vivos trust during the deceased patient's lifetime and the  
39 deceased patient was a beneficiary of the trust during the deceased  
40 patient's lifetime.

41           3. An adult child of the deceased patient.

42           4. A parent of the deceased patient.

43           5. An adult brother or sister of the deceased patient.

44           6. A guardian or conservator of the deceased patient at the time of  
45 the patient's death.

1 E. A person who receives medical records or payment records  
2 pursuant to this section shall not disclose those records without the  
3 written authorization of the patient or the patient's health care decision  
4 maker, unless otherwise authorized by law.

5 F. If a health care provider releases a patient's medical records  
6 or payment records to a contractor for the purpose of duplicating or  
7 disclosing the records on behalf of the health care provider, the  
8 contractor shall not disclose any part or all of a patient's medical  
9 records or payment records in its custody except as provided in this  
10 article. After duplicating or disclosing a patient's medical records or  
11 payment records on behalf of a health care provider, a contractor must  
12 return the records to the health care provider who released the medical  
13 records or payment records to the contractor.

14 Sec. 4. Section 36-3501, Arizona Revised Statutes, is amended to  
15 read:

16 36-3501. Child fatality review team; membership; duties

17 A. The child fatality review team is established in the department  
18 of health services. The team is composed of the head of the following  
19 entities or that person's designee:

- 20 1. Attorney general.
- 21 2. Office of women's and children's health in the department of  
22 health services.
- 23 3. Office of planning and health status monitoring in the  
24 department of health services.
- 25 4. Arizona health care cost containment system.
- 26 5. Division of developmental disabilities in the department of  
27 economic security.
- 28 6. Department of child safety.
- 29 7. Governor's office for children.
- 30 8. Administrative office of the courts.
- 31 9. Parent assistance office of the supreme court.
- 32 10. Department of juvenile corrections.
- 33 11. Arizona chapter of a national pediatric society.

34 B. The director of the department of health services shall appoint  
35 the following members to serve staggered three-year terms:

- 36 1. A medical examiner who is a forensic pathologist.
- 37 2. A maternal and child health specialist involved with the  
38 treatment of Native Americans.
- 39 3. A representative of a private nonprofit organization of tribal  
40 governments in this state.
- 41 4. A representative of the Navajo tribe.
- 42 5. A representative of the United States military family advocacy  
43 program.
- 44 6. A representative of a statewide prosecuting attorneys advisory  
45 council.

- 1           7. A representative of a statewide law enforcement officers  
2 advisory council who is experienced in child homicide investigations.
- 3           8. A representative of an association of county health officers.
- 4           9. A child advocate who is not employed by or an officer of this  
5 state or a political subdivision of this state.
- 6           10. A public member. If local teams are formed pursuant to this  
7 article, the director of the department of health services shall select  
8 this member from one of those local teams.
- 9           C. The team shall:
  - 10           1. Develop a child fatalities data collection system.
  - 11           2. Provide training to cooperating agencies, individuals and local  
12 child fatality review teams on the use of the child fatalities data  
13 **COLLECTION** system.
  - 14           3. Conduct an annual statistical report on the incidence and causes  
15 of child fatalities in this state during the past fiscal year and submit a  
16 copy of this report, including its recommendations for action, to the  
17 governor, the president of the senate and the speaker of the house of  
18 representatives on or before November 15 of each year.
  - 19           4. Encourage and assist in the development of local child fatality  
20 review teams.
  - 21           5. Develop standards and protocols for local child fatality review  
22 teams and provide training and technical assistance to these teams.
  - 23           6. Develop protocols for child fatality investigations, including  
24 protocols for law enforcement agencies, prosecutors, medical examiners,  
25 health care facilities and social service agencies.
  - 26           7. Study the adequacy of statutes, ordinances, rules, training and  
27 services to determine what changes are needed to decrease the incidence of  
28 preventable child fatalities and, as appropriate, take steps to implement  
29 these changes.
  - 30           8. Provide case consultation on individual cases to local teams if  
31 requested.
  - 32           9. Educate the public regarding the incidence and causes of child  
33 fatalities as well as the public's role in preventing these deaths.
  - 34           10. Designate a team chairperson.
  - 35           11. Develop and distribute an informational brochure that describes  
36 the purpose, function and authority of a team. The brochure shall be  
37 available at the offices of the department of health services.
  - 38           12. Evaluate the incidence and causes of maternal fatalities  
39 associated with pregnancy in this state. For the purposes of this  
40 paragraph, "maternal fatalities associated with pregnancy" means the death  
41 of a woman while she is pregnant or within one year after the end of her  
42 pregnancy.
  - 43           13. Inform the governor and the legislature of the need for  
44 specific recommendations regarding unexplained infant death.

1 14. Periodically review the infant death investigation checklist  
2 developed by the department of health services pursuant to section  
3 36-3506. In reviewing the checklist, the review team shall consider  
4 guidelines endorsed by national infant death organizations.

5 15. ON A FINDING THAT A CHILD'S FATALITY WAS THE RESULT OF  
6 MALTREATMENT, SUBMIT TO THE INDEPENDENT MALTREATMENT FATALITY AND NEAR  
7 FATALITY OVERSIGHT COMMITTEE ESTABLISHED BY SECTION 41-812 THE CHILD'S  
8 DEATH CERTIFICATE AND A NOTICE OF FINDING THAT ABUSE OR NEGLECT  
9 CONTRIBUTED TO THE CHILD'S DEATH AND THAT THERE WAS AN OPEN OR CLOSED CASE  
10 WITH THE DEPARTMENT OF CHILD SAFETY AT THE TIME OF THE CHILD'S DEATH.

11 D. Team members are not eligible to receive compensation, but  
12 members appointed pursuant to subsection B are eligible for reimbursement  
13 of expenses pursuant to title 38, chapter 4, article 2.

14 E. The department of health services shall provide professional and  
15 administrative support to the team.

16 F. Notwithstanding subsections C and D of this section, this  
17 section does not require expenditures above the revenue available from the  
18 child fatality review fund.

19 Sec. 5. Title 41, chapter 4, Arizona Revised Statutes, is amended  
20 by adding article 8, to read:

21 ARTICLE 8. INDEPENDENT MALTREATMENT  
22 FATALITY AND NEAR FATALITY OVERSIGHT COMMITTEE

23 41-811. Definitions

24 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- 25 1. "CHILD" INCLUDES A QUALIFIED YOUNG ADULT.
- 26 2. "COMMITTEE" MEANS THE INDEPENDENT MALTREATMENT FATALITY AND NEAR  
27 FATALITY OVERSIGHT COMMITTEE.
- 28 3. "DEPARTMENT" MEANS THE DEPARTMENT OF CHILD SAFETY.
- 29 4. "NEAR FATALITY" HAS THE SAME MEANING PRESCRIBED IN SECTION  
30 8-807.01.
- 31 5. "QUALIFIED YOUNG ADULT" HAS THE SAME MEANING PRESCRIBED IN  
32 SECTION 8-201.

33 41-812. Independent maltreatment fatality and near fatality  
34 oversight committee; membership

35 A. THE INDEPENDENT MALTREATMENT FATALITY AND NEAR FATALITY  
36 OVERSIGHT COMMITTEE IS ESTABLISHED IN THE DEPARTMENT OF ADMINISTRATION  
37 CONSISTING OF THE FOLLOWING MEMBERS:

- 38 1. THE FOLLOWING ADVISORY MEMBERS:
  - 39 (a) THE DIRECTOR OF THE DEPARTMENT OF CHILD SAFETY OR THE  
40 DIRECTOR'S DESIGNEE.
  - 41 (b) THE DIRECTOR OF THE DEPARTMENT OF ECONOMIC SECURITY OR THE  
42 DIRECTOR'S DESIGNEE.
  - 43 (c) THE COCHAIRPERSONS OF THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE  
44 ON THE DEPARTMENT OF CHILD SAFETY ESTABLISHED BY SECTION 41-1292 OR THEIR  
45 DESIGNEES.

1 (d) A JUVENILE COURT JUDGE WHO IS APPOINTED BY THE CHIEF JUSTICE OF  
2 THE SUPREME COURT AND WHO HAS SIGNIFICANT EXPERIENCE IN CHILD DEPENDENCY  
3 CASES, OR THE JUDGE'S DESIGNEE.

4 2. THE FOLLOWING MEMBERS WHO ARE APPOINTED BY THE DIRECTOR OF THE  
5 DEPARTMENT OF ADMINISTRATION:

6 (a) A LICENSED PEDIATRICIAN WHO HAS PROFESSIONAL EXPERIENCE  
7 RELATING TO CHILD NEGLECT AND ABUSE.

8 (b) A COUNTY MEDICAL EXAMINER.

9 (c) A PEACE OFFICER WHO HAS EXPERIENCE INVESTIGATING CHILD ABUSE  
10 AND NEGLECT FATALITIES AND NEAR FATALITIES.

11 (d) A PRACTICING ATTORNEY WHO HAS EXPERIENCE REPRESENTING CHILDREN  
12 IN DEPENDENCY LAW MATTERS.

13 (e) A PRACTICING SOCIAL WORKER.

14 (f) A PARENT ADVOCATE WHO HAS EXPERIENCE IN THE DEPENDENT CHILD  
15 PROTECTION SYSTEM.

16 (g) A PERSON WHO IS A FORMER FOSTER CHILD.

17 (h) A CURRENTLY OR FORMERLY LICENSED FOSTER PARENT.

18 (i) A PERSON WHO HAS EXPERTISE IN DATA ANALYTICS.

19 B. MEMBERS WHO ARE SERVING PURSUANT TO SUBSECTION A, PARAGRAPH 1 OF  
20 THIS SECTION ARE NONVOTING MEMBERS AND ARE NOT MEMBERS FOR THE PURPOSES OF  
21 DETERMINING IF A QUORUM IS PRESENT.

22 C. MEMBERS WHO ARE APPOINTED PURSUANT TO SUBSECTION A, PARAGRAPH 2  
23 OF THIS SECTION MAY NOT BE CURRENT OR FORMER EMPLOYEES OF THE DEPARTMENT  
24 OF CHILD SERVICES.

25 D. THE VOTING MEMBERS SHALL SELECT A CHAIRPERSON.

26 E. MEMBERS WHO ARE APPOINTED PURSUANT TO SUBSECTION A, PARAGRAPH 2  
27 OF THIS SECTION SERVE STAGGERED THREE-YEAR TERMS. VACANCIES OCCURRING  
28 OTHER THAN BY EXPIRATION OF TERM SHALL BE FILLED IN THE SAME MANNER FOR  
29 THE REMAINDER OF THE UNEXPIRED TERM. MEMBERS MAY CONTINUE TO SERVE UNTIL  
30 A SUCCESSOR IS APPOINTED.

31 F. COMMITTEE MEMBERS ARE NOT ELIGIBLE TO RECEIVE COMPENSATION OR  
32 REIMBURSEMENT OF EXPENSES.

33 G. THE COMMITTEE MAY EMPLOY AN EXECUTIVE DIRECTOR TO ASSIST THE  
34 COMMITTEE. THE EXECUTIVE DIRECTOR SHALL HAVE EXPERIENCE IN DEPARTMENT  
35 PROCEDURES, POLICIES AND LAWS.

36 41-813. Committee: powers; duties; annual report

37 THE COMMITTEE SHALL:

38 1. CONDUCT A THOROUGH REVIEW OF EACH CHILD MALTREATMENT FATALITY OR  
39 NEAR FATALITY. THE REVIEW SHALL INCLUDE:

40 (a) A REVIEW OF ALL AVAILABLE CASE RECORDS RELATING TO CHILD  
41 FATALITIES OR NEAR FATALITIES IN WHICH CHILD MALTREATMENT IS SUSPECTED AND  
42 IN WHICH THE CHILD, A PARENT, A CAREGIVER, A SIBLING OR A HOUSEHOLD MEMBER  
43 WAS THE SUBJECT OF A CURRENT OR PREVIOUS DEPARTMENT INVESTIGATION.

1 (b) INTERVIEWS WITH EMPLOYEES OF THIS STATE OR ITS POLITICAL  
2 SUBDIVISIONS WHO ARE INVOLVED WITH, WHO HAVE BEEN INVOLVED WITH OR WHO MAY  
3 HAVE KNOWLEDGE OF THE CIRCUMSTANCES AND FACTS OF THE CASE OR OF ANY  
4 SERVICES PROVIDED BY THE DEPARTMENT, ANY STATE AGENCY OR ANY POLITICAL  
5 SUBDIVISION OF THIS STATE TO THE CHILD OR THE CHILD'S PARENTS, SIBLINGS,  
6 GUARDIANS OR CAREGIVERS.

7 2. INFORM THE CHILD'S PARENTS, GUARDIAN OR CAREGIVER THAT THE  
8 COMMITTEE HAS COMMENCED A FATALITY OR NEAR FATALITY REVIEW. THE COMMITTEE  
9 MAY NOT COMPEL A PARENT, GUARDIAN OR CAREGIVER TO PROVIDE INFORMATION TO  
10 THE COMMITTEE. THE COMMITTEE SHALL INFORM THE PARENTS, GUARDIAN OR  
11 CAREGIVER OF THE RIGHT TO PRESENT ANY INFORMATION TO THE COMMITTEE THAT  
12 THE PARENTS, GUARDIAN OR CAREGIVER BELIEVES WILL ASSIST THE COMMITTEE WITH  
13 THE COMMITTEE'S REVIEW.

14 3. DEVELOP AN UNDERSTANDING OF THE CIRCUMSTANCES SURROUNDING A  
15 CHILD MALTREATMENT FATALITY OR NEAR FATALITY AND THE CAUSES OF AND  
16 RESPONSES FOLLOWING A CHILD MALTREATMENT FATALITY OR NEAR FATALITY AND  
17 IDENTIFY FACTORS THAT MAY HAVE CONTRIBUTED TO THE CHILD MALTREATMENT  
18 FATALITY OR NEAR FATALITY.

19 4. CRITICALLY ANALYZE THE CHILD SAFETY SYSTEM AS THE SYSTEM  
20 INTERACTED WITH THE CHILD AND THE CHILD'S FAMILY FOR EACH FATALITY OR NEAR  
21 FATALITY TO IDENTIFY IMPROVEMENTS THAT COULD MITIGATE FUTURE CHILD  
22 MALTREATMENT FATALITIES OR NEAR FATALITIES, INCLUDING:

23 (a) THE FAILURE TO COMPLY WITH APPLICABLE STATUTES, RULES AND  
24 POLICIES.

25 (b) THE EXTENT OF THE CHILD'S AND THE CHILD'S FAMILY'S PRIOR  
26 INVOLVEMENT WITH THE CHILD SAFETY SYSTEM.

27 (c) SYSTEMATIC FACTORS THAT MAY HAVE CONTRIBUTED TO THE CHILD  
28 MALTREATMENT FATALITY OR NEAR FATALITY, INCLUDING THE ADEQUACY OF  
29 INTERAGENCY COORDINATION AND COMMUNICATION.

30 5. IDENTIFY BEST PRACTICES AND SERVICES THAT MAY HAVE PREVENTED THE  
31 CHILD MALTREATMENT FATALITY OR NEAR FATALITY.

32 6. MAINTAIN A PUBLICLY ACCESSIBLE WEBSITE. THE WEBSITE SHALL  
33 INCLUDE:

34 (a) BIOGRAPHICAL INFORMATION FOR ALL MEMBERS OF THE COMMITTEE.

35 (b) ALL ANNUAL REPORTS.

36 (c) REPORTS OF STATUTORY, REGULATORY OR POLICY RECOMMENDATIONS MADE  
37 TO THE LEGISLATURE OR ANY STATE AGENCY AND ANY ACTIONS TAKEN BY THE  
38 LEGISLATURE OR A STATE AGENCY IN RESPONSE TO THESE RECOMMENDATIONS.

39 (d) ANNUAL DATA AND TRENDS ANALYZED AND PRESENTED IN A MANNER  
40 ACCESSIBLE TO THE PUBLIC.

41 7. ANALYZE AND PUBLISH ANNUAL DATA AND TRENDS RELATED TO  
42 OBSERVATIONS MADE DURING INDIVIDUAL FATALITY AND NEAR FATALITY REVIEWS  
43 CONDUCTED DURING THE CURRENT FISCAL YEAR AND FOR EACH PRIOR FISCAL YEAR  
44 FOR WHICH THERE IS DATA. THE COMMITTEE SHALL MAINTAIN A TEN-YEAR  
45 ANALYSIS.

1           8. ON OR BEFORE JUNE 30 OF EACH YEAR, PRODUCE, PUBLISH AND  
2           DISTRIBUTE AN ANNUAL CHILD MALTREATMENT FATALITY OR NEAR FATALITY REPORT  
3           THAT INCLUDES ALL OF THE FOLLOWING:

4           (a) INFORMATION THAT DETAILS THE SPECIFIC FACTS AND CIRCUMSTANCES  
5           OF EACH CASE INVOLVING A CHILD MALTREATMENT FATALITY OR NEAR FATALITY  
6           DURING THE PRIOR YEAR AND THE SERVICES AND RESOURCES PROVIDED TO THE  
7           CHILD, THE CHILD'S SIBLINGS, THE CHILD'S PARENTS, GUARDIANS OR CAREGIVERS  
8           AND HOUSEHOLD MEMBERS.

9           (b) A CASE-SPECIFIC SYSTEMATIC REVIEW OF THE FACTS AND FINDINGS  
10           HIGHLIGHTING THE SYSTEM'S STRENGTHS, SUCCESSSES, WEAKNESSES AND FAILURES.

11           (c) LONGITUDINAL DATA IDENTIFYING COMMONLY OCCURRING CIRCUMSTANCES  
12           RELATED TO FATALITIES AND NEAR FATALITIES AND THE SERVICES BEING OFFERED  
13           TO THE CHILD OR THE CHILD'S FAMILY AND BEING RECEIVED BY THE CHILD OR THE  
14           CHILD'S FAMILY.

15           (d) SPECIFIC RECOMMENDATIONS FOR IMPROVING STATUTES, RULES AND  
16           POLICIES BASED ON THE REVIEWS CONDUCTED DURING THE PRECEDING YEAR. THESE  
17           RECOMMENDATIONS SHALL ADDRESS ALL ASPECTS OF CHILD PROTECTION AND SHALL  
18           FOLLOW UP ON RECOMMENDATIONS FROM PRIOR REPORTS.

19           (e) A LIST OF ALL RECOMMENDATIONS THAT WERE SUBMITTED TO THE  
20           DEPARTMENT, A STATE AGENCY AND THE LEGISLATURE ALONG WITH THE RESPONSES  
21           RECEIVED.

22           (f) AN ANALYSIS OF FISCAL TRENDS.

23           9. POST THE ANNUAL CHILD FATALITY OR NEAR FATALITY REPORT ON THE  
24           COMMITTEE'S WEBSITE. THE REPORT SHALL NOT CONTAIN ANY PERSONAL  
25           IDENTIFYING INFORMATION. THE REPORT SHALL BE EASILY ACCESSIBLE ON THE  
26           WEBSITE.

27           10. SUBMIT A COPY OF THE ANNUAL CHILD FATALITY OR NEAR FATALITY  
28           REPORT TO THE GOVERNOR, THE SECRETARY OF STATE, THE PRESIDENT OF THE  
29           SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE COCHAIRPERSONS OF  
30           THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON THE DEPARTMENT OF CHILD  
31           SAFETY, THE DIRECTOR OF THE DEPARTMENT OF CHILD SAFETY, THE DIRECTOR OF  
32           THE DEPARTMENT OF HEALTH SERVICES AND THE DIRECTOR OF THE DEPARTMENT OF  
33           ECONOMIC SECURITY.

34           41-814. Access to records and information; confidentiality;  
35           violation; classification

36           A. THE COMMITTEE SHALL HAVE ONGOING ACCESS TO COMPLETE AND  
37           UNREDACTED RECORDS IN THE CUSTODY OF THE DEPARTMENT AND DIRECT REMOTE  
38           ACCESS TO ANY AUTOMATED CASE MANAGEMENT SYSTEM USED BY THE DEPARTMENT.

39           B. THE COMMITTEE SHALL HAVE ACCESS TO RELEVANT RECORDS AND  
40           INFORMATION CREATED BY ANY STATE AGENCY, EDUCATIONAL INSTITUTION OR  
41           MEDICAL PROVIDER OF THE CHILD, THE CHILD'S SIBLINGS, THE CHILD'S PARENTS,  
42           GUARDIANS OR CAREGIVERS AND HOUSEHOLD MEMBERS.

1 C. ON REQUEST OF THE COMMITTEE CHAIRPERSON OR THE CHAIRPERSON'S  
2 DESIGNEE TO ANY ENTITY OR AGENCY, THE COMMITTEE, WITHIN FIVE DAYS  
3 EXCLUDING WEEKENDS AND HOLIDAYS, SHALL BE PROVIDED WITH ACCESS TO  
4 INFORMATION AND RECORDS REGARDING A CHILD MALTREATMENT FATALITY OR NEAR  
5 FATALITY OR INFORMATION AND RECORDS REGARDING THE CHILD'S SIBLINGS, THE  
6 CHILD'S PARENTS, GUARDIANS OR CAREGIVERS AND HOUSEHOLD MEMBERS.

7 D. A LAW ENFORCEMENT AGENCY, WITH THE APPROVAL OF THE PROSECUTING  
8 ATTORNEY, MAY WITHHOLD INVESTIGATIVE RECORDS THAT INTERFERE WITH A PENDING  
9 CRIMINAL INVESTIGATION OR PROSECUTION.

10 E. THE COMMITTEE CHAIRPERSON OR THE CHAIRPERSON'S DESIGNEE MAY  
11 APPLY TO THE SUPERIOR COURT FOR A SUBPOENA AS NECESSARY TO COMPEL THE  
12 PRODUCTION OF BOOKS, RECORDS, DOCUMENTS AND OTHER EVIDENCE RELATED TO A  
13 CHILD MALTREATMENT FATALITY OR A NEAR FATALITY. SUBPOENAS ISSUED SHALL BE  
14 SERVED AND, ON APPLICATION TO THE COURT BY THE CHAIRPERSON OR THE  
15 CHAIRPERSON'S DESIGNEE, ENFORCED IN THE MANNER PROVIDED BY LAW FOR THE  
16 SERVICE AND ENFORCEMENT OF SUBPOENAS. A LAW ENFORCEMENT AGENCY IS NOT  
17 REQUIRED TO PRODUCE THE INFORMATION REQUESTED UNDER THE SUBPOENA IF THE  
18 SUBPOENAED EVIDENCE RELATES TO A PENDING CRIMINAL INVESTIGATION OR  
19 PROSECUTION.

20 F. ALL INFORMATION AND RECORDS ACQUIRED BY THE COMMITTEE ARE  
21 CONFIDENTIAL AND ARE NOT SUBJECT TO SUBPOENA, DISCOVERY OR INTRODUCTION  
22 INTO EVIDENCE IN ANY CIVIL OR CRIMINAL PROCEEDING, EXCEPT THAT  
23 INFORMATION, DOCUMENTS AND RECORDS OTHERWISE AVAILABLE FROM OTHER SOURCES  
24 ARE NOT IMMUNE FROM SUBPOENA, DISCOVERY OR INTRODUCTION INTO EVIDENCE  
25 THROUGH THOSE SOURCES SOLELY BECAUSE THEY WERE PRESENTED TO OR REVIEWED BY  
26 THE COMMITTEE.

27 G. MEMBERS OF THE COMMITTEE, PERSONS ATTENDING A COMMITTEE MEETING  
28 AND PERSONS WHO PRESENT INFORMATION TO THE COMMITTEE MAY NOT BE QUESTIONED  
29 IN ANY CIVIL OR CRIMINAL PROCEEDING REGARDING INFORMATION PRESENTED IN OR  
30 OPINIONS FORMED AS A RESULT OF A MEETING. THIS SUBSECTION DOES NOT  
31 PREVENT A PERSON FROM TESTIFYING TO INFORMATION THAT IS OBTAINED  
32 INDEPENDENTLY OF THE TEAM OR THAT IS PUBLIC INFORMATION.

33 H. COMMITTEE MEETINGS IN WHICH THE COMMITTEE IS REVIEWING THE FACTS  
34 AND CIRCUMSTANCES OF A CHILD MALTREATMENT FATALITY OR NEAR FATALITY ARE  
35 CLOSED TO THE PUBLIC AND ARE NOT SUBJECT TO TITLE 38, CHAPTER 3,  
36 ARTICLE 3.1. ALL OTHER TEAM MEETINGS ARE OPEN TO THE PUBLIC.

37 I. A PERSON WHO VIOLATES THE CONFIDENTIALITY REQUIREMENTS OF THIS  
38 SECTION IS GUILTY OF A CLASS 2 MISDEMEANOR.

39 41-815. Committee access to case materials

40 THE DEPARTMENT OF CHILD SAFETY SHALL NOTIFY THE COMMITTEE WITHIN  
41 FORTY-EIGHT HOURS AFTER A CONFIRMED CHILD FATALITY OR NEAR FATALITY AND  
42 SHALL PROVIDE THE COMMITTEE WITH ONGOING AND UNREDACTED ACCESS TO ANY  
43 WRITTEN AND ELECTRONIC MATERIAL ABOUT THE CASE.

