

**Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0183.01 Jane Ritter x4342

SENATE BILL 12-033

SENATE SPONSORSHIP

Guzman,

HOUSE SPONSORSHIP

Massey,

Senate Committees
Health and Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING ADDING NEAR FATALITIES TO THE RESPONSIBILITIES OF**
102 **THE DEPARTMENT OF HUMAN SERVICES CHILD FATALITY**
103 **REVIEW TEAM.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill defines the terms "near fatalities" and "incidents of egregious abuse or neglect" and adds the review of those events to the responsibilities of the department of human services child fatality review team. Counties are required to notify the department of human services

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

(department) of any suspicious near fatality or incident of egregious abuse or neglect. The department is required to promulgate rules concerning confidential information for different types of incidents.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 26-1-139 as
3 follows:

4 **26-1-139. Child fatality and near fatality prevention -**
5 **legislative declaration - process - department of human services child**
6 **fatality review team - reporting - rules.** (1) The general assembly
7 hereby finds and declares that:

8 (a) It is of the utmost importance and a community responsibility
9 to mitigate the INCIDENTS OF EGREGIOUS ABUSE OR NEGLECT, NEAR
10 DEATHS, OR deaths of children in the state due to abuse or neglect.
11 Professionals from disparate disciplines share responsibilities for the
12 safety and well-being of children as well as expertise that can promote
13 that safety and well-being. Multidisciplinary reviews of the INCIDENTS OF
14 EGREGIOUS ABUSE OR NEGLECT, NEAR DEATHS, OR deaths of children due
15 to abuse or neglect can lead to a better understanding of the causes of
16 such tragedies and, more importantly, methods of mitigating future
17 INCIDENTS OF EGREGIOUS ABUSE OR NEGLECT, NEAR DEATHS, OR deaths.

18 (b) There is a need for a multidisciplinary team to conduct
19 in-depth case reviews after ~~a~~ AN INCIDENT OF EGREGIOUS ABUSE OR
20 NEGLECT AGAINST A CHILD, A NEAR FATALITY, OR A child fatality that
21 involves a suspicion of abuse or neglect and ~~where~~ WHEN the child or
22 family has had previous involvement, that was directly related to the
23 INCIDENT OF EGREGIOUS ABUSE OR NEGLECT AGAINST A CHILD, NEAR
24 FATALITY, OR fatality, with a county department within two years prior to

1 the ~~fatality~~ INCIDENT. The multidisciplinary review would complement
2 that of the review conducted by the Colorado state child fatality
3 prevention review team in the department of public health and
4 environment pursuant to article 20.5 of title 25, C.R.S. The goal of the
5 multidisciplinary review shall not be to affix blame, but rather to improve
6 understanding of why the INCIDENTS OF EGREGIOUS ABUSE OR NEGLECT
7 AGAINST A CHILD, NEAR FATALITIES, OR fatalities occur and develop
8 recommendations for mitigation of future INCIDENTS OF EGREGIOUS
9 ABUSE OR NEGLECT AGAINST A CHILD, NEAR FATALITIES, OR fatalities.

10 (c) It is the intent of the general assembly to codify the department
11 of human services child fatality review team as well as modify certain
12 aspects of its processes to promote an understanding of the causes of each
13 child's death OR NEAR DEATH INCIDENT due to abuse or neglect, identify
14 systemic deficiencies in the delivery of services and supports to children
15 and families, and recommend changes to help mitigate future INCIDENTS
16 OF EGREGIOUS ABUSE OR NEGLECT AGAINST A CHILD, NEAR FATALITIES, OR
17 child deaths.

18 (d) IT IS FURTHER THE INTENT OF THE GENERAL ASSEMBLY TO
19 COMPLY WITH THE FEDERAL "CHILD ABUSE PREVENTION AND TREATMENT
20 ACT", 42 U.S.C. SEC. 5101 ET SEQ., WHICH REQUIRES STATES TO ALLOW
21 FOR PUBLIC DISCLOSURE OF THE FINDINGS OR INFORMATION ABOUT A CASE
22 OF CHILD ABUSE OR NEGLECT THAT RESULTED IN A CHILD FATALITY OR
23 NEAR FATALITY.

24 (2) As used in this section, unless the context otherwise requires:
25 (a) "INCIDENT OF EGREGIOUS ABUSE OR NEGLECT" MEANS AN
26 INCIDENT OF SUSPECTED ABUSE OR NEGLECT INVOLVING SIGNIFICANT
27 VIOLENCE, TORTURE, MULTIPLE VICTIMS, USE OF CRUEL RESTRAINTS, OR

1 OTHER SIMILAR, AGGRAVATED CIRCUMSTANCES THAT MAY BE FURTHER
2 DEFINED IN RULES PROMULGATED BY THE STATE DEPARTMENT PURSUANT
3 TO THIS SECTION.

4 (b) "NEAR FATALITY" MEANS A CASE IN WHICH A PHYSICIAN
5 DETERMINES THAT A CHILD IS IN SERIOUS, CRITICAL, OR LIFE-THREATENING
6 CONDITION AS THE RESULT OF SICKNESS OR INJURY CAUSED BY SUSPECTED
7 ABUSE, NEGLECT, OR MALTREATMENT.

8 (a) (c) "Previous involvement" means a situation in which the
9 county department has received a referral, responded to a report, opened
10 an assessment, provided services, or opened a case in the Colorado
11 TRAILS system; except that the following situations shall not be
12 considered to be "previous involvement":

- 13 (I) The situation did not involve abuse or neglect;
- 14 (II) The situation occurred when the parent was seventeen years
15 of age or younger and before he or she was the parent of the deceased
16 child; or
- 17 (III) The situation occurred with a different family composition
18 and a different alleged perpetrator.

19 (b) (d) "Suspicious fatality OR NEAR FATALITY" means a fatality
20 OR NEAR FATALITY that is more likely than not to have been caused by
21 abuse or neglect.

22 (c) (e) "Team" means the department of human services child
23 fatality review team established in rules promulgated pursuant to section
24 26-1-111 and codified pursuant to subsection (3) of this section.

25 (3) There is hereby established in the state department the
26 department of human services child fatality review team. The team shall
27 have the following objectives:

1 (a) To assess the records of each case in which a suspicious
2 INCIDENT OF EGREGIOUS ABUSE OR NEGLECT AGAINST A CHILD, NEAR
3 FATALITY, OR child fatality occurred and the child or family had previous
4 involvement with a county department that was directly related to the
5 INCIDENT OF EGREGIOUS ABUSE OR NEGLECT AGAINST A CHILD, NEAR
6 FATALITY, OR fatality within two years prior to the INCIDENT OF
7 EGREGIOUS ABUSE OR NEGLECT AGAINST A CHILD, NEAR FATALITY, OR
8 fatality;

9 (b) To understand the causes of the reviewed INCIDENTS OF
10 EGREGIOUS ABUSE OR NEGLECT AGAINST A CHILD, NEAR FATALITIES, OR
11 child fatalities;

12 (c) To identify any gaps or deficiencies that may exist in the
13 delivery of services to children and their families by public agencies that
14 are designed to mitigate future child abuse, neglect, or death; and

15 (d) To make recommendations for changes to laws, rules, and
16 policies that will support the safe and healthy development of Colorado's
17 children.

18 (4) The team shall have the following duties:

19 (a) To review the circumstances around the INCIDENT OF
20 EGREGIOUS ABUSE OR NEGLECT AGAINST A CHILD, NEAR FATALITY, OR
21 child fatality;

22 (b) To review the services provided to the child, the child's family,
23 and the perpetrator by the county department for any county with which
24 the family has had previous involvement that was directly related to the
25 INCIDENT OF EGREGIOUS ABUSE OR NEGLECT AGAINST A CHILD, NEAR
26 FATALITY, OR fatality in the two years prior to the INCIDENT OF EGREGIOUS
27 ABUSE OR NEGLECT AGAINST A CHILD, NEAR FATALITY, OR fatality;

1 (c) To review records and interview individuals, as deemed
2 necessary and not otherwise prohibited by law, involved with or having
3 knowledge of the facts of the ~~case or~~ INCIDENT OF EGREGIOUS ABUSE OR
4 NEGLECT AGAINST A CHILD, NEAR FATALITY, OR fatality, including but not
5 limited to all other state and local agencies having previous involvement
6 with the child or family that was directly related to the INCIDENT OF
7 EGREGIOUS ABUSE OR NEGLECT AGAINST A CHILD, NEAR FATALITY, OR
8 fatality within two years prior to the INCIDENT OF EGREGIOUS ABUSE OR
9 NEGLECT AGAINST A CHILD, NEAR FATALITY, OR fatality;

10 (d) To review the county department's compliance with statutes,
11 regulations, and relevant policies and procedures that are directly related
12 to the INCIDENT OF EGREGIOUS ABUSE OR NEGLECT AGAINST A CHILD,
13 NEAR FATALITY, OR fatality;

14 (e) To identify strengths and best practices of service delivery to
15 the child and the child's family;

16 (f) To identify factors that may have contributed to conditions
17 leading to the INCIDENT OF EGREGIOUS ABUSE OR NEGLECT AGAINST A
18 CHILD, NEAR FATALITY, OR fatality, including, but not limited to, lack of
19 or unsafe housing, family and social supports, educational life, physical
20 health, emotional and psychological health, and other safety, crisis, and
21 cultural or ethnic issues;

22 (g) To review supports and services provided to siblings, family
23 members, and agency staff after the INCIDENT OF EGREGIOUS ABUSE OR
24 NEGLECT AGAINST A CHILD, NEAR FATALITY, OR fatality;

25 (h) To identify the quality and sufficiency of coordination
26 between state and local agencies;

27 (i) To develop and distribute the following reports, the content of

1 which shall be determined by rules promulgated by the state department
2 pursuant to subsection (7) of this section:

3 (I) On or before April 30, 2013, and each April 30 thereafter, an
4 annual child fatality AND NEAR FATALITY review report, absent
5 confidential information, summarizing the ~~child~~ fatality reviews
6 REQUIRED BY SUBSECTION (5) OF THIS SECTION conducted by the team
7 during the previous year. The team shall post the annual child fatality AND
8 NEAR FATALITY review report on the state department's web site and
9 distribute it to the Colorado state child fatality prevention review team
10 established in the department of public health and environment pursuant
11 to section 25-20.5-406, C.R.S., the governor, the health and human
12 services committee of the senate, and the health and environment
13 committee of the house of representatives, or any successor committees.
14 The annual child fatality AND NEAR FATALITY review report shall be
15 prepared within existing resources.

16 (II) The final confidential, case-specific ~~child~~ fatality review
17 report required pursuant to subsection (5) of this section FOR EACH CHILD
18 FATALITY, NEAR FATALITY, OR INCIDENT OF EGREGIOUS ABUSE OR
19 NEGLECT. The final confidential, case-specific ~~child~~ fatality review report
20 shall be submitted to the Colorado state child fatality prevention review
21 team established in the department of public health and environment
22 pursuant to section 25-20.5-406, C.R.S.

23 (III) A case-specific executive summary, absent confidential
24 information, of each INCIDENT OF EGREGIOUS ABUSE OR NEGLECT AGAINST
25 A CHILD, NEAR FATALITY, OR child fatality reviewed. The team shall post
26 the case-specific executive summary on the state department's web site.

27 (5)(a) Each county department shall report to the state department

1 any suspicious INCIDENT OF EGREGIOUS ABUSE OR NEGLECT AGAINST A
2 CHILD, NEAR FATALITY, OR fatality of a child within twenty-four hours of
3 the INCIDENT OF EGREGIOUS ABUSE OR NEGLECT AGAINST A CHILD, NEAR
4 FATALITY, OR fatality. If the county department has had previous
5 involvement that was directly related to the INCIDENT OF EGREGIOUS
6 ABUSE OR NEGLECT AGAINST A CHILD, NEAR FATALITY, OR child fatality
7 within two years prior to the INCIDENT OF EGREGIOUS ABUSE OR NEGLECT
8 AGAINST A CHILD, NEAR FATALITY, OR fatality, the county department
9 shall provide the state department with all relevant reports and
10 documentation regarding its previous involvement with the child within
11 sixty calendar days after the INCIDENT OF EGREGIOUS ABUSE OR NEGLECT
12 AGAINST A CHILD, NEAR FATALITY, OR fatality. The state department may
13 grant, at its discretion, an extension to a county department for delays
14 outside of the county department's control regarding the receipt of all
15 relevant reports and information critical to an effective fatality review,
16 including but not limited to the final autopsy and law enforcement
17 reports, until such documents can be made available for review by the
18 team.

19 (b) The fatality review shall be completed and the TEAM SHALL
20 COMPLETE ITS REVIEW OF EACH INCIDENT OF EGREGIOUS ABUSE OR
21 NEGLECT, NEAR FATALITY, OR FATALITY, draft A confidential,
22 case-specific child fatality review report prepared and submitted SUBMIT
23 THE DRAFT REPORT to any county department with previous involvement
24 within one hundred twenty calendar days after all necessary information
25 is available to initiate the review. Any county department with previous
26 involvement shall have thirty calendar days after the completion of the
27 draft confidential, case-specific child fatality review report to review the

1 draft confidential, case-specific ~~child fatality~~ review report and provide
2 a written response to be included in the final confidential, case-specific
3 ~~child fatality~~ review report. A confidential, case-specific ~~child fatality~~
4 review report shall be finalized and submitted pursuant to paragraph (d)
5 of this subsection (5) no more than thirty calendar days after the county
6 department's response is received by the team or upon confirmation in
7 writing from the county department that a written response will not be
8 provided.

9 (c) The proceedings, records, opinions, and deliberations of the
10 department of human services child fatality review team shall be
11 privileged and shall not be subject to discovery, subpoena, or introduction
12 into evidence in any civil action in any manner that would directly or
13 indirectly identify specific persons or cases reviewed by the state
14 department or county department. Nothing in this paragraph (c) shall be
15 construed to restrict or limit the right to discover or use in any civil action
16 any evidence that is discoverable independent of the proceedings of the
17 department of human services child fatality review team.

18 (d) The final confidential, case-specific ~~child fatality~~ review
19 report shall be provided to the executive director, the director for any
20 county or community agency referenced in the report, the county
21 commissioners of any county department with previous involvement, the
22 legislative members of the team appointed pursuant to paragraph (f) of
23 subsection (6) of this section, and the department of public health and
24 environment.

25 (e) The state department shall post on its web site a case-specific
26 executive summary of the final confidential, case-specific ~~child fatality~~
27 review report, absent confidential information, of each INCIDENT OF

1 EGREGIOUS ABUSE OR NEGLECT AGAINST A CHILD, NEAR FATALITY, OR
2 child fatality reviewed pursuant to this section.

3 (f) If at any point in the review process it is determined that the
4 INCIDENT OF EGREGIOUS ABUSE OR NEGLECT AGAINST A CHILD, NEAR
5 FATALITY, OR fatality is not the result of abuse or neglect, the review shall
6 cease.

7 (6) The team ~~shall consist~~ CONSISTS of up to twenty members,
8 appointed on or before September 30, 2011, as follows:

9 (a) Three members from the state department, appointed by the
10 executive director;

11 (b) Two members from the department of public health and
12 environment, appointed by the executive director of said department;

13 (c) Three members representing county departments, appointed by
14 a statewide organization representing county commissioners;

15 (d) At least eight additional multidisciplinary members, to be
16 appointed by the members described in paragraphs (a) to (c) of this
17 subsection (6), including but not limited to representatives from the office
18 of the child protection ombudsman and from the fields of child
19 protection, physical medicine, mental health, education, law enforcement,
20 district attorneys, child advocacy, and any others as deemed appropriate;

21 (e) For the purposes of participating in a specific case review,
22 additional members may be appointed at the discretion of the members
23 described in paragraphs (a) to (c) of this subsection (6) to represent
24 agencies involved with the child or the child's family in the twelve
25 months prior to the INCIDENT OF EGREGIOUS ABUSE OR NEGLECT AGAINST
26 A CHILD, A NEAR FATALITY, OR fatality; and

27 (f) One member from the health and environment committee of

1 the house of representatives or any successor committee, to be appointed
2 by the speaker of the house of representatives, and one member from the
3 health and human services committee of the senate or any successor
4 committee, to be appointed by the president of the senate. The members
5 appointed pursuant to this paragraph (f) ~~shall be~~ ARE nonvoting members
6 and ~~shall~~ ARE not be required to be present at any meeting of the team.

7 (7) The state department shall promulgate additional rules, as
8 necessary, for the implementation of this section, including but not
9 limited to the confidentiality of information IN INCIDENTS OF EGREGIOUS
10 ABUSE OR NEGLECT AGAINST A CHILD, NEAR FATALITIES, OR CHILD
11 FATALITIES.

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