

### **135.43 Iowa child death review team established duties.**

1. An Iowa child death review team is established as an independent agency of state government. The Iowa department of public health shall provide staffing and administrative support to the team.
2. The membership of the review team is subject to the provisions of sections 69.16 and 69.16A, relating to political affiliation and gender balance. Review team members who are not designated by another appointing authority shall be appointed by the director of public health in consultation with the director of human services. Membership terms shall be for three years. A membership vacancy shall be filled in the same manner as the original appointment. The review team shall elect a chairperson and other officers as deemed necessary by the review team. The review team shall meet upon the call of the chairperson, upon the request of a state agency, or as determined by the review team. The members of the team are eligible for reimbursement of actual and necessary expenses incurred in the performance of their official duties.

The review team shall include the following:

- a.* The state medical examiner or the state medical examiner's designee.
- b.* A certified or licensed professional who is knowledgeable concerning sudden infant death syndrome.
- c.* A pediatrician who is knowledgeable concerning deaths of children.
- d.* A family practice physician who is knowledgeable concerning deaths of children.
- e.* One mental health professional who is knowledgeable concerning deaths of children.
- f.* One social worker who is knowledgeable concerning deaths of children.
- g.* A certified or licensed professional who is knowledgeable concerning domestic violence.
- h.* A professional who is knowledgeable concerning substance abuse.
- i.* A local law enforcement official.
- j.* A county attorney.
- k.* An emergency room nurse who is knowledgeable concerning the deaths of children.
- l.* A perinatal expert.
- m.* A representative of the health insurance industry.
- n.* One other appointed at large.

3. The review team shall perform the following duties:

- a.* Collect, review, and analyze child death certificates and child death data, including patient records or other pertinent confidential information concerning the deaths of children under age eighteen, and other information as the review team deems appropriate for use in preparing an annual report to the governor and the general assembly concerning the causes and manner of child deaths. The report shall include analysis of factual information obtained through review and recommendations regarding prevention of child deaths.
- b.* Recommend to the governor and the general assembly interventions to prevent deaths of children based on

an analysis of the cause and manner of such deaths.

*c.* Recommend to the agencies represented on the review team changes which may prevent child deaths.

*d.* Except as authorized by this section, maintain the confidentiality of any patient records or other confidential information reviewed.

*e.* Recommend to the department of human services, appropriate law enforcement agencies, and any other person involved with child protection, interventions that may prevent harm to a child who is related to or is living in the same home as a child whose case is reviewed by the team.

*f.* If the sharing of information is necessary to assist in or initiate a child death investigation or criminal prosecution and the office or agency receiving the information does not otherwise have access to the information, share information possessed by the review team with the office of the attorney general, a county attorney's office, or an appropriate law enforcement agency. The office or agency receiving the information shall maintain the confidentiality of the information in accordance with this section. Unauthorized release or disclosure of the information received is subject to penalty as provided in this section.

*g.* In order to assist a division of the department in performing the division's duties, if the division does not otherwise have access to the information, share information possessed by the review team. The division receiving the information shall maintain the confidentiality of the information in accordance with this section. Unauthorized release or disclosure of the information received is subject to penalty as provided in this section.

4. The review team shall develop protocols for a child fatality review committee, to be appointed by the director on an ad hoc basis, to immediately review the child abuse assessments which involve the fatality of a child under age eighteen. The director shall appoint a medical examiner, a pediatrician, and a person involved with law enforcement to the committee.

*a.* The purpose of the review shall be to determine whether the department of human services and others involved with the case of child abuse responded appropriately. The protocols shall provide for the committee to consult with any multidisciplinary team, as defined in section 235A.13, that is operating in the area in which the fatality occurred.

*b.* The committee shall have access to patient records and other pertinent confidential information and, subject to the restrictions in this subsection, may disseminate the confidential information in the committee's report.

*c.* Upon completion of the review, the committee shall issue a report which shall include findings concerning the case and recommendations for changes to prevent child fatalities when similar circumstances exist. The report shall include but is not limited to the following information, subject to the restrictions listed in paragraph "d":

(1) The dates, outcomes, and results of any actions taken by the department of human services and others in regard to each report and allegation of child abuse involving the child who died.

(2) The results of any review of the case performed by a multidisciplinary team, or by any other public entity that reviewed the case.

(3) Confirmation of the department of human services receipt of any report of child abuse involving the child, including confirmation as to whether or not any assessment involving the child was performed in accordance

with section 232.71B, the results of any assessment, a description of the most recent assessment and the services offered to the family, the services rendered to the family, and the basis for the department's decisions concerning the case.

*d.* Prior to issuing the report, the committee shall consult with the county attorney responsible for prosecution of the alleged perpetrator of the child fatality. The committee's report shall include child abuse information associated with the case and the child, but is subject to the restrictions applicable to the department of human services for release of information concerning a child fatality or near fatality in accordance with section 235A.15, subsection 9.

*e.* Following the completion of the trial of any alleged perpetrator of the child fatality and the appeal period for the granting of a new trial, the committee shall issue a supplemental report containing the information that was withheld, in accordance with paragraph "*d*", so as not to jeopardize the prosecution or the rights of the alleged perpetrator to a fair trial as described in section 235A.15, subsection 9, paragraphs "*e*" and "*f*".

*f.* The report and any supplemental report shall be submitted to the governor and general assembly.

*g.* If deemed appropriate by the committee, at any point in the review the committee may recommend to the department of human services, appropriate law enforcement agencies, and any other person involved with child protection, interventions that may prevent harm to a child who is related to or is living in the same home as a child whose case is reviewed by the committee.

5. The following individuals shall designate a liaison to assist the review team in fulfilling its responsibilities:

*a.* The director of public health.

*b.* The director of human services.

*c.* The commissioner of public safety.

*d.* The administrator of the bureau of vital records of the Iowa department of public health.

*e.* The attorney general.

*f.* The director of transportation.

*g.* The director of the department of education.

6. The review team may establish subcommittees to which the team may delegate some or all of the team's responsibilities under subsection 3.

7. *a.* The Iowa department of public health and the department of human services shall adopt rules providing for disclosure of information which is confidential under chapter 22 or any other provision of state law, to the review team for purposes of performing its child death and child abuse review responsibilities.

*b.* A person in possession or control of medical, investigative, assessment, or other information pertaining to a child death and child abuse review shall allow the inspection and reproduction of the information by the department upon the request of the department, to be used only in the administration and for the duties of the Iowa child death review team. Except as provided for a report on a child fatality by an ad hoc child fatality review committee under subsection 4, information and records produced under this section which are confidential under section 22.7 and chapter 235A, and information or records received from the confidential records, remain confidential under this section. A person does not incur legal liability by reason of releasing information to the department as required under and in compliance with this section.

8. Review team members and their agents are immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of any act, omission, proceeding, decision, or determination undertaken or performed, or recommendation made as a review team member or agent provided that the review team members or agents acted in good faith and without malice in carrying out their official duties in their official capacity. The department shall adopt rules pursuant to chapter 17A to administer this subsection. A complainant bears the burden of proof in establishing malice or lack of good faith in an action brought against review team members involving the performance of their duties and powers under this section.

9. A person who releases or discloses confidential data, records, or any other type of information in violation of this section is guilty of a serious misdemeanor.

95 Acts, ch 147, §2; 97 Acts, ch 159, § 3, 4; 2000 Acts, ch 1051, §1; 2000 Acts, ch 1137, §13, 14; 2002 Acts, ch 1119, §129, 130; 2005 Acts, ch 6, §13; 2005 Acts, ch 179, §118

### **Footnotes**

Legislative findings and purpose; 95 Acts, ch 147, § 1