

State of South Carolina Child Death Review Legislation

South Carolina Island Statute § 20-7-5900 (1993)
Link: http://www.scsenate.org/sess110_1993-1994/bills/567.htm
(go to “Article 26 Department of Child Fatalities”)

Article 26

Department of Child Fatalities

State Child Fatality Advisory Committee

Section 20-7-5900. For purposes of this article:

- (1) `Child' means a person under eighteen years of age.
- (2) `Committee' means the State Child Fatality Advisory Committee.
- (3) `Department' means the State Law Enforcement Division's Department of Child Fatalities.
- (4) `Local child protective services agency' means the county department of social services for the jurisdiction where a deceased child resided.
- (5) `Meeting' means both in-person meetings and meetings through telephone conferencing.
- (6) `Preventable death' means a death which reasonable medical, social, legal, psychological, or educational intervention may have prevented.
- (7) `Provider of medical care' means a licensed health care practitioner who provides, or a licensed health care facility through which is provided, medical evaluation or treatment, including dental and mental health evaluation or treatment.
- (8) `Working day' means Monday through Friday, excluding official state holidays.
- (9) `Unexpected death' includes all child deaths, which, before investigation, appear possibly to have been caused by trauma, suspicious or obscure circumstances, or child abuse or neglect.

Section 20-7-5905.

There is created within the State Law Enforcement Division (SLED) the Department of Child Fatalities, which is under the supervision of the Chief of SLED.

Section 20-7-5910.

(A) There is created a multi-disciplinary State Child Fatality Advisory Committee composed of:

- (1) the Commissioner of the South Carolina Department of Social Services;
- (2) the Commissioner of the South Carolina Department of Health and Environmental Control;
- (3) the State Superintendent of Education;
- (4) the Executive Director of the South Carolina Criminal Justice Academy;
- (5) the Chief of the State Law Enforcement Division;
- (6) the Commissioner of the South Carolina Commission on Alcohol and Drug Abuse;
- (7) the Commissioner of the State Department of Mental Health;
- (8) the Commissioner of the State Department of Mental Retardation;
- (9) the Commissioner of the Department of Youth Services;
- (10) an attorney with experience in prosecuting crimes against children;
- (11) a county coroner or medical examiner;

(12) a pediatrician with experience in diagnosing and treating child abuse and neglect, appointed from recommendations submitted by the State Chapter of the American Academy of Pediatrics; and

(13) a solicitor.

(B) Those state agency members in items (1)-(9) shall serve ex officio and may appoint a designee to serve in their place from their particular departments or agencies who have administrative or program responsibilities for children and family services. The remaining members, including the coroner or medical examiner and solicitor who shall serve ex officio, must be appointed by the Governor for terms of four years and until their successors are appointed and qualify.

(C) A chairman and vice-chairman of the committee must be elected from among the members by a majority vote of the membership for a term of two years.

(D) Meetings of the committee must be held at least quarterly. A majority of the committee constitutes a quorum.

(E) Each ex officio member shall provide sufficient staff and administrative support to carry out the responsibilities of this article.

Section 20-7-5915. (A) The purpose of the department is to expeditiously investigate child deaths in all counties of the State.

(B) To achieve its purpose, the department shall:

(1) upon receipt of a report of a child death from the county coroner or medical examiner, as required by Sections 17-5-140 and 17-5-265, investigate and gather all information on the child fatality. The coroner or medical examiner immediately shall request an autopsy if SLED determines that an autopsy is necessary. The autopsy must be performed by a forensic pathologist as soon as possible. The forensic pathologist shall inform the department of the findings within forty-eight hours of completion of the autopsy. If the autopsy reveals the cause of death to be pathological or an unavoidable accident, the case must be closed by the department. If the autopsy reveals physical or sexual trauma, suspicious markings, or other findings that are questionable or yields no conclusion to the cause of death, the department immediately shall begin an investigation;

(2) request assistance of any other local, county, or state agency to aid in the investigation;

(3) upon receipt of additional investigative information, reopen a case for another coroner's inquest;

(4) upon receipt of the notification required by item (1), review agency records for information regarding the deceased child or family. Information available to the department pursuant to Section 20-7-5930 and information which is public under Chapter 4, Title 30, the Freedom of Information Act, must be available as needed to the county coroner or medical examiner and county department of social services;

(5) report the activities and findings related to a child fatality to the State Child Fatality Advisory Committee;

(6) develop a protocol for child fatality reviews;

(7) develop a protocol for the collection of data regarding child deaths as related to Sections 17-5-140 and 17-5-265 and provide training to local professionals delivering services to children, county coroners and medical examiners, and law enforcement agencies on the use of the protocol;

- (8) study the operations of local investigations of child fatalities, including the statutes, regulations, policies, and procedures of the agencies involved with children's services and child death investigations;
- (9) examine confidentiality and access to information statutes, regulations, policies, and procedures for agencies with responsibilities for children, including, but not limited to, health, public welfare, education, social services, mental health, alcohol and other substance abuse, and law enforcement agencies and determine whether those statutes, regulations, policies, or procedures impede the exchange of information necessary to protect children from preventable deaths. If the department identifies a statute, regulation, policy, or procedure that impedes the necessary exchange of information, the department shall notify the committee and the agencies serving on the committee and the committee shall include proposals for changes to statutes, regulations, policies, or procedures in the committee's annual report;
- (10) develop a Forensic Pathology Network available to coroners and medical examiners for prompt autopsy findings;
- (11) submit to the Governor and the General Assembly, an annual report and any other reports prepared by the department, including, but not limited to, the department's findings and recommendations;
- (12) promulgate regulations necessary to carry out its purposes and responsibilities under this article.

Section 20-7-5920. The purpose of the State Child Fatality Advisory Committee is to decrease the incidences of preventable child deaths by:

- (1) developing an understanding of the causes and incidences of child deaths;
 - (2) developing plans for and implementing changes within the agencies represented on the committee which will prevent child deaths; and
 - (3) advising the Governor and the General Assembly on statutory, policy, and practice changes which will prevent child deaths.
- (B) To achieve its purpose, the committee shall:
- (1) meet with the department no later than one month after the department receives notification by the county medical examiner or coroner pursuant to Section 17-5-140 or 17-5-265 to review the investigation of the death;
 - (2) undertake annual statistical studies of the incidences and causes of child fatalities in this State. The studies shall include an analysis of community and public and private agency involvement with the decedents and their families before and subsequent to the deaths;
 - (3) the committee shall consider training, including cross-agency training, consultation, technical assistance needs, and service gaps. If the committee determines that changes to any statute, regulation, policy, or procedure is needed to decrease the incidence of preventable child deaths, the committee shall include proposals for changes to statutes, regulations, policies, and procedures in the committee's annual report;
 - (4) educate the public regarding the incidences and causes of child deaths, the public role in preventing these deaths, and specific steps the public can undertake to prevent child deaths. The committee shall enlist the support of civic, philanthropic, and public service organizations in performing the committee's education duties;
 - (5) develop and implement policies and procedures for its own governance and operation;

(6) submit to the Governor and the General Assembly, an annual written report and any other reports prepared by the committee, including, but not limited to, the committee's findings and recommendations. Annual reports must be made available to the public.

Section 20-7-5930. Upon request of the department and as necessary to carry out the department's purpose and duties, the department immediately must be provided:

- (1) by a provider of medical care, access to information and records regarding a child whose death is being reviewed by the department, including information on prenatal care;
- (2) access to all information and records maintained by any state, county, or local government agency, including, but not limited to, birth certificates, law enforcement investigation data, county coroner or medical examiner investigation data, parole and probation information and records, and information and records of social services and health agencies that provided services to the child or family, including information made strictly confidential in Section 20-7-650 concerning unfounded reports of abuse or neglect.

Section 20-7-5940. When necessary in the discharge of the duties of the department and upon application of the department, the clerks of court shall issue a subpoena or subpoena duces tecum to any state, county, or local agency, board, or commission or to any representative of any state, county, or local agency, board, or commission or to a provider of medical care to compel the attendance of witnesses and production of documents, books, papers, correspondence, memoranda, and other relevant records to the discharge of the department's duties. Failure to obey a subpoena or subpoena duces tecum issued pursuant to this section may be punished as contempt.

Section 20-7-5950. (A) Meetings of the committee and department are closed to the public and are not subject to Chapter 4, Title 30, the Freedom of Information Act, when the committee and department are discussing individual cases of child deaths.

(B) Except as provided in subsection (C), meetings of the committee are open to the public and subject to the Freedom of Information Act when the committee is not discussing individual cases of child deaths.

(C) Information identifying a deceased child or a family member, guardian, or caretaker of a deceased child, or an alleged or suspected perpetrator of abuse or neglect upon a child may not be disclosed during a public meeting and information regarding the involvement of any agency with the deceased child or family may not be disclosed during a public meeting.

(D) Violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned not more than six months, or both.

Section 20-7-5960. (A) All information and records acquired by the committee and by the department in the exercise of their purposes and duties pursuant to this article are confidential, exempt from disclosure under Chapter 4, Title 30, the Freedom of Information Act, and only may be disclosed as necessary to carry out the committee's and department's duties and purposes.

(B) Statistical compilations of data which do not contain information that would permit the identification of a person to be ascertained are public records.

(C) Reports of the committee and department which do not contain information that would permit the identification of a person to be ascertained are public information.

(D) Except as necessary to carry out the committee's and department's purposes and duties, members of the committee and department and persons attending their meeting may not disclose what transpired at a meeting which is not public under Section 20-7-5940 and may not disclose information, the disclosure of which is prohibited by this section.

(E) Members of the committee, persons attending a committee meeting, and persons who present information to the committee may not be required to disclose in any civil or criminal proceeding information presented in or opinions formed as a result of a meeting, except that information available from other sources is not immune from introduction into evidence through those sources solely because it was presented during proceedings of the committee or department or because it is maintained by the committee or department. Nothing in this subsection may be construed to prevent a person from testifying to information obtained independently of the committee or which is public information.

(F) Information, documents, and records of the committee and department are not subject to subpoena, discovery, or the Freedom of Information Act, except that information, documents, and records otherwise available from other sources are not immune from subpoena, discovery, or the Freedom of Information Act through those sources solely because they were presented during proceedings of the committee or department or because they are maintained by the committee or department.

(G) Violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned for not more than six months, or both."