

# Statutes

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

## SECTION 1.

Chapter 15 of Title 19 of the Official Code of Georgia Annotated, relating to child abuse, is amended by striking Code Sections 19-15-1, relating to definitions; 19-15-2, relating to child abuse protocol and training; 19-15-3, relating to child death reporting and investigation; 19-15-4, relating to State-wide Child Abuse Prevention Panel; 19-15-5, relating to committee, subcommittee, or panel meetings and proceedings; and 19-15-6, relating to use of committee, subcommittee, or panel information or records, in their entirety and inserting in lieu thereof new Code Sections 19-15-1, 19-15-2, 19-15-3, 19-15-4, 19-15-5, and 19-15-6 to read as follows:

"19-15-1.

As used in this chapter, the term:

(1) 'Abused' means subjected to child abuse.

(2) 'Child' means any person under 18 years of age.

(3) 'Child abuse' means:

(A) Physical injury or death inflicted upon a child by a parent or caretaker thereof by other than accidental means; provided, however, physical forms of discipline may be used as long as there is no physical injury to the child;

(B) Neglect or exploitation of a child by a parent or caretaker thereof;

(C) Sexual abuse of a child; or

(D) Sexual exploitation of a child.

(4) 'Child protection professional' means any person who is employed by the state or a political subdivision of the state as a law enforcement officer, school teacher, school administrator, or school counselor or who is employed to render services to children by the Department of Human Resources or any county board of health or county department of family and children services.

(5) 'Eligible deaths' means deaths meeting the criteria for review by a county child fatality review committee including deaths resulting from Sudden Infant Death Syndrome, unintentional injuries, intentional injuries, medical conditions when unexpected or when unattended by a physician, or any manner that is suspicious or unusual.

(6) 'Investigation' in the context of child death includes all of the following:

(A) A post-mortem examination which may be limited to an external examination or may include an autopsy;

(B) An inquiry by law enforcement agencies having jurisdiction into the circumstances of the death, including a scene investigation and interview with the child's parents, guardian, or caretaker and the person who reported the child's death;

(C) A review of information regarding the child and family from relevant agencies, professionals, and providers of medical care.

(7) 'Panel' means the Georgia Child Fatality Review Panel established pursuant to Code Section 19-15-4. The panel oversees the local child fatality review process and reports to the Governor on the incidence of child deaths with recommendations for prevention.

(8) 'Protocol committee' means a multidisciplinary, multi-agency child abuse protocol committee established for a county pursuant to Code Section 19-15-2. The protocol committee is charged with developing local protocols to investigate and prosecute alleged cases of child abuse.

(9) 'Report' means a standardized form designated by the panel which is required for collecting data on child fatalities

reviewed by local child fatality review committees.

(10) 'Review committee' means a multidisciplinary, multiagency child fatality review committee established for a county or circuit pursuant to Code Section 19-15-3. The review committee is charged with reviewing all eligible child deaths to determine manner and cause of death and if the death was preventable.

(11) 'Sexual abuse' means a person's employing, using, persuading, inducing, enticing, or coercing any minor who is not that person's spouse to engage in any act which involves:

(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(B) Bestiality;

(C) Masturbation;

(D) Lewd exhibition of the genitals or pubic area of any person;

(E) Flagellation or torture by or upon a person who is nude;

(F) Condition of being fettered, bound, or otherwise physically restrained on the part of a person who is nude;

(G) Physical contact in an act of apparent sexual stimulation or gratification with any person's clothed or unclothed genitals, pubic area, or buttocks or with a female's clothed or unclothed breasts;

(H) Defecation or urination for the purpose of sexual stimulation; or

(I) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure.

'Sexual abuse' shall not include consensual sex acts involving persons of the opposite sex when the sex acts are between minors or between a minor and an adult who is not more than three years older than the minor. This provision shall not be deemed or construed to repeal any law concerning the age or capacity to consent.

(12) 'Sexual exploitation' means conduct by a child's parent or caretaker who allows, permits, encourages, or requires that child to engage in:

(A) Prostitution, as defined in Code Section 16-6-9; or

(B) Sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct, as defined in Code Section 16-12-100.

19-15-2.

(a) Each county shall be required to establish a child abuse protocol as provided in this Code section.

(b) The chief superior court judge of the circuit in which the county is located shall establish a child abuse protocol committee as provided in subsection (c) of this Code section and shall appoint an interim chairperson who shall preside over the first meeting and the chief superior court judge shall appoint persons to fill any vacancies on the committee. Thus established, the committee shall thereafter elect a chairperson from its membership.

(c)(1) Each of the following agencies of the county shall designate a representative to serve on the committee:

(A) The office of the sheriff;

(B) The county department of family and children services;

(C) The office of the district attorney;

(D) The juvenile court;

(E) The magistrate court;

(F) The county board of education;

(G) The county mental health organization;

(H) The office of the chief of police of a county in counties which have a county police department;

(I) The office of the chief of police of the largest municipality in the county;

(J) The county board of health, which shall designate a physician to serve on the committee; and

(K) The office of the coroner or county medical examiner.

(2) In addition to the representatives serving on the committee as provided for in paragraph (1) of this subsection, the chief superior court judge shall designate a representative from a local citizen or advocacy group which focuses on child abuse awareness and prevention.

(3) If any designated agency fails to carry out its duties relating to participation on the committee, the chief superior court judge of the circuit may issue an order requiring the participation of such agency. Failure to comply with such order shall be cause for punishment as for contempt of court.

(d) Each protocol committee shall elect or appoint a chairperson who shall be responsible for ensuring that written protocol procedures are followed by all agencies. That person can be independent of agencies listed in paragraph (1) of subsection (c) of this Code section. The child abuse protocol committee thus established may appoint such additional members as necessary and proper to accomplish the purposes of the protocol committee.

(e) The protocol committee shall, by July 1, 2001, adopt a written child abuse protocol which shall be filed with the Division of Family and Children Services of the Department of Human Resources and the Georgia Child Fatality Review Panel, a copy of which shall be furnished to each agency in the county handling the cases of abused children. The protocol shall be a written document outlining in detail the procedures to be used in investigating and prosecuting cases arising from alleged child abuse and the methods to be used in coordinating treatment programs for the perpetrator, the family, and the child. The protocol shall also outline procedures to be used when child abuse occurs in a household where there is violence between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons living or formerly living in the same household.

(f) The purpose of the protocol shall be to ensure coordination and cooperation between all agencies involved in a child abuse case so as to increase the efficiency of all agencies handling such cases, to minimize the stress created for the allegedly abused child by the legal and investigatory process, and to ensure that more effective treatment is provided for the perpetrator, the family, and the child, including counseling.

(g) Upon completion of the writing of the child abuse protocol, the protocol committee shall continue in existence and shall meet at least semiannually for the purpose of evaluating the effectiveness of the protocol and appropriately modifying and updating same.

(h) Each protocol committee shall adopt or amend its written child abuse protocol no later than July 1, 2001, to specify the circumstances under which law enforcement officers will and will not be required to accompany child abuse investigators from the county department of family and children services when these investigators investigate reports of child abuse. In determining when law enforcement officers shall and shall not accompany child abuse investigators, the protocol committee shall consider the need to protect the alleged victim and the need to preserve the confidentiality of the report. Each protocol committee shall establish joint work efforts between the law enforcement and child abuse investigative agencies in child abuse investigations. The adoption or amendment of the protocol shall also describe measures which can be taken within the county to prevent child abuse and shall be filed with and furnished to the same entities with or to which an original protocol is required to be filed or furnished. The protocol will be further amended to specify procedures to be adopted by the protocol committee to ensure that written protocol procedures are followed.

(i) The protocol committee shall issue a report no later than the first day of July in 2001 and no later than the first day of July each year thereafter. That report shall evaluate the extent to which child abuse investigations during the 12 months prior to the report have complied with the child abuse protocols of the protocol committee, recommend measures to improve compliance, and describe which measures taken within the county to prevent child abuse have been successful. The report shall be transmitted to the county governing authority, the fall term grand jury of the judicial circuit, the Georgia Child Fatality Review Panel, and the chief superior court judge.

(j) By July 1, 2001, members of each protocol committee shall receive appropriate training. As new members are

appointed, they will also receive training within 12 months after their appointment. The Department of Human Resources shall provide such training.

19-15-3.

(a)(1) Each county shall establish a local multidisciplinary, multiagency child fatality review committee as provided in this Code section. The chief superior court judge of the circuit in which the county is located shall establish a child fatality review committee composed of, but not limited to, the following members:

- (A) The county medical examiner or coroner;
- (B) The district attorney or his or her designee;
- (C) A county department of family and children services representative;
- (D) A local law enforcement representative;
- (E) The sheriff or his or her designee;
- (F) A juvenile court representative;
- (G) A county board of health representative; and
- (H) A county mental health representative;

(2) The district attorney or his or her designee shall serve as the chairperson to preside over all meetings.

(b) Review committee members shall recommend whether to establish a review committee for that county alone or establish a review committee with and for the counties within that judicial circuit.

(c) After the local review committee is established, it shall elect a chairperson from its membership. The chief superior court judge shall appoint persons to fill any vacancies on the review committee should the membership fail to do so.

(d) If any designated agency fails to carry out its duties relating to participation on the local review committee, the chief superior court judge of the circuit shall issue an order requiring the participation of such agency. Failure to comply with such order shall be cause for punishment as for contempt of court.

(e) Deaths eligible for review by local review committees are all deaths of children ages birth through 17 as a result of:

- (1) Sudden Infant Death Syndrome;
- (2) Any unexpected or unexplained conditions;
- (3) Unintentional injuries;
- (4) Intentional injuries;
- (5) Sudden death when the child is in apparent good health;
- (6) Any manner that is suspicious or unusual;
- (7) Medical conditions when unattended by a physician. For the purpose of this paragraph, no person shall be deemed to have died unattended when the death occurred while the person was a patient of a hospice licensed under Article 9 of Chapter 7 of Title 31; or
- (8) Serving as an inmate of a state hospital or a state, county, or city penal institution.

(f) It shall be the duty of any law enforcement officer, medical personnel, or other person having knowledge of the death of a child to immediately notify the coroner or medical examiner of the county wherein the body is found or death occurs.

(g) If the death of a child occurs outside the child's county of residence, it shall be the duty of the medical examiner or coroner in the county where the child died to notify the medical examiner or coroner in the county of the child's residence.

(h) When a county medical examiner or coroner receives a report regarding the death of any child he or she shall within 48 hours of the death notify the chairperson of the child fatality review committee of the county or circuit in

which such child resided at the time of death.

(i) The coroner or county medical examiner shall review the findings regarding the cause and manner of death for each child death report received and respond as follows:

(1) If the death does not meet the criteria for review pursuant to subsection (e) of this Code section, the coroner or county medical examiner shall sign the form designated by the panel stating that the death does not meet the criteria for review. He or she shall forward the form and findings, within seven days of the child's death, to the chairperson of the child fatality review committee in the county or circuit of the child's residence; or

(2) If the death meets the criteria for review pursuant to subsection (e) of this Code section, the coroner or county medical examiner shall complete and sign the form designated by the panel stating the death meets the criteria for review. He or she shall forward the form and findings, within seven days of the child's death, to the chairperson of the child fatality review committee in the county or circuit of the child's residence.

(j) When the chairperson of a local child fatality review committee receives a report from the coroner or medical examiner regarding the death of a child, that chairperson shall review the report and findings regarding the cause and manner of the child's death and respond as follows:

(1) If the report indicates the child's death does not meet the criteria for review and the chairperson agrees with this decision, the chairperson shall sign the form designated by the panel stating that the death does not meet the criteria for review. He or she shall forward the form and findings to the panel within seven days of receipt;

(2) If the report indicates the child's death does not meet the criteria for review and the chairperson disagrees with this decision, the chairperson shall follow the procedures for deaths to be reviewed pursuant to subsection (k) of this Code section;

(3) If the report indicates the child's death meets the criteria for review and the chairperson disagrees with this decision, the chairperson shall sign the form designated by the panel stating that the death does not meet the criteria for review. The chairperson shall also attach an explanation for this decision; or

(4) If the report indicates the child's death meets the criteria for review and the chairperson agrees with this decision, the chairperson shall follow the procedures for deaths to be reviewed pursuant to subsection (k) of this Code section.

(k) When a child's death meets the criteria for review, the chairperson shall convene the review committee within 30 days after receipt of the report for a meeting to review and investigate the cause and circumstances of the death.

Review committee members shall provide information as specified below, except where otherwise protected by statute:

(1) The providers of medical care and the medical examiner or coroner shall provide pertinent health and medical information regarding a child whose death is being reviewed by the local review committee;

(2) State, county, or local government agencies shall provide all of the following data on forms designated by the panel for reporting child fatalities:

(A) Birth information for children who died at less than one year of age including confidential information collected for medical and health use;

(B) Death information for children who have not reached their eighteenth birthday;

(C) Law enforcement investigative data, medical examiner or coroner investigative data, and parole and probation information and records;

(D) Medical care, including dental, mental, and prenatal health care; and

(E) Pertinent information from any social services agency that provided services to the child or family; and

(3) The review committee may obtain from any superior court judge of the county or circuit for which the review committee was created a subpoena to compel the production of documents or attendance of witnesses when that judge has made a finding that such documents or witnesses are necessary for the review committee's review.

However, this Code section shall not modify or impair the privileged communications as provided by law except as

otherwise provided in Code Section 19-7-5.

(l) The review committee shall complete its review and prepare a report of the child's death within 20 days, weekends and holidays excluded, following the first meeting held after receipt of the county medical examiner or coroner's report. The review committee's report shall:

- (1) State the circumstances leading up to death and cause of death;
- (2) Detail any agency involvement prior to death, including the beginning and ending dates and kinds of services delivered, the reasons for initial agency activity, and the reasons for any termination of agency activities;
- (3) State whether any agency services had been delivered to the family or child prior to the circumstances leading to the child's death;
- (4) State whether court intervention had ever been sought;
- (5) State whether there have been any acts or reports of violence between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons living or formerly living in the same household;
- (6) Conclude whether services or agency activities delivered prior to death were appropriate and whether the child's death could have been prevented;
- (7) Make recommendations for possible prevention of future deaths of similar incidents for children who are at risk for such deaths; and
- (8) Include other findings as requested by the Georgia Child Fatality Review Panel.

(m) The review committee shall transmit a copy of its report within 15 days of completion to the panel.

(n) The review committee shall transmit a copy of its report within 15 days following its completion to the district attorney of the county or circuit for which the review committee was created if the report concluded that the child named therein died as a result of:

- (1) Sudden Infant Death Syndrome when no autopsy was performed to confirm the diagnosis;
- (2) Accidental death when it appears that the death could have been prevented through intervention or supervision;
- (3) Any sexually transmitted disease;
- (4) Medical causes which could have been prevented through intervention by an agency or by seeking medical treatment;
- (5) Suicide of a child in custody or known to the Department of Human Resources or when the finding of suicide is suspicious;
- (6) Suspected or confirmed child abuse;
- (7) Trauma to the head or body; or
- (8) Homicide.

(o) Each local review committee shall issue an annual report no later than the first day of July in 2001 and in each year thereafter. The report shall:

- (1) Specify the numbers of reports received by that review committee from a county medical examiner or coroner pursuant to subsection (h) of this Code section for the preceding calendar year;
- (2) Specify the number of reports of child fatality reviews prepared by the review committee during such period;
- (3) Be published at least once annually in the legal organ of the county or counties for which the review committee was established with the expense of such publication paid each by such county; and
- (4) Be transmitted, no later than the fifteenth day of July in 2001 and in each year thereafter, to the Georgia Child Fatality Review Panel and the Judiciary Committees of the House of Representatives and Senate.

19-15-4.

(a) There is created the Georgia Child Fatality Review Panel as defined in paragraph (7) of Code Section 19-15-1.

(b) The panel shall be attached for administrative purposes only to the Department of Human Resources. Notwithstanding any provision in Code Section 50-4-3 to the contrary, the State Children's Trust Fund Commission shall provide such staff support as may be necessary to enable the panel to discharge its duties under the law.

(c) The panel shall be composed as follows:

- (1) One district attorney appointed by the Governor;
- (2) One juvenile court judge appointed by the Governor;
- (3) Two citizen members who shall be appointed by the Governor, who are not employed by or officers of the state or any political subdivision thereof and one of whom shall come from each of the following: (A) a state-wide child abuse prevention organization; and (B) a state-wide childhood injury prevention organization;
- (4) One forensic pathologist appointed by the Governor;
- (5) The chairperson of the Board of Human Resources;
- (6) The director of the Division of Family and Children Services of the Department of Human Resources;
- (7) The director of the Georgia Bureau of Investigation;
- (8) The chairperson of the Criminal Justice Coordinating Council;
- (9) A member of the Georgia Senate appointed by the Lieutenant Governor;
- (10) A member of the Georgia House of Representatives appointed by the Speaker of the House of Representatives;
- (11) A local law enforcement official appointed by the Governor;
- (12) A superior court judge appointed by the Governor;
- (13) A coroner appointed by the Governor;
- (14) The director of the Office of the Child Advocate for the Protection of Children; and
- (15) The director of the Division of Public Health of the Department of Human Resources.

(d) The Governor shall appoint the chairperson of the panel.

(e)(1) All appointed members shall be appointed for terms of two years beginning on July 1 of the year appointed and shall serve until their respective successors are appointed and qualified.

(2) All ex officio members shall serve during the time such persons hold the offices or positions specified therein.

(3) Members of the General Assembly shall serve for terms of office concurrent with their terms of office as members of the General Assembly.

(4) Vacancies in the membership of the panel so appointed shall be filled in the same manner as the original appointment for the unexpired term of office.

(f) Members of the panel who are members of the General Assembly shall be compensated for service on the panel from legislative funds in the manner provided for service on interim study committees. Those members of the panel who are not state officials or employees shall receive from funds appropriated or otherwise available to the panel for their services on the panel the same daily expense and travel or mileage allowance authorized for members of the General Assembly for service on interim study committees. The members of the panel who are state officials or employees shall receive no additional compensation for their service on the panel but may be reimbursed for reasonable and necessary travel expenses which shall be payable from the department or agency of which such member is an employee or officer.

(g) The panel shall meet quarterly to review the reports of local review committees and shall meet when requested to do so by the Governor.

(h) The purpose of the panel is to recommend measures to decrease the incidence of child death by undertaking all of the following duties:

- (1) Identify factors which place a child at risk for death;
- (2) Collect and share information among state agencies which provide services to children and families or investigate child deaths;

- (3) Make suggestions and recommendations to appropriate participating agencies regarding improving coordination of services and investigations;
- (4) Identify trends relevant to unexpected or unexplained child death;
- (5) Investigate the relationship, if any, between child deaths and violence between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons living or formerly living in the same household;
- (6) Review each report from local child fatality review committees. The chairperson may call a special meeting of the panel to review any report when the chairperson has concluded the report warrants expedited review and has been requested by the submitting local review committee to make such expedited review;
- (7) Provide training and written materials to the local review committees to assist them in carrying out their duties. Such written materials shall include model protocols for the operation of the review committees;
- (8) Develop a protocol for child fatality investigations and revise the protocol as needed;
- (9) Monitor the operations of local review committees to determine training needs and service gaps. If the panel determines that changes to any statute, regulation, or policy is needed to decrease the risk of child death, it shall propose and recommend such changes in its annual report; and
- (10) Develop and implement such procedures and policies as are necessary for its own operation.
  - (i) By December 1 of each calendar year, the panel shall submit a report to the Governor, the Lieutenant Governor, and the Speaker of the House of Representatives regarding the prevalence and circumstances of child fatalities in the state; recommend measures to reduce such fatalities caused by other than natural causes; and address in the report the following issues:
    - (1) Whether the deaths could have been prevented;
    - (2) Whether the children were known to any state or local agency;
    - (3) The actions, if any, taken by any state or local agency or court;
    - (4) Whether agency or court intervention could have prevented their deaths;
    - (5) Whether policy, procedural, regulatory, or statutory changes are called for as a result of these findings; and
    - (6) Whether any referral should have been made to a law enforcement agency which was not made.
  - (j) The panel shall also establish procedures for the conduct of reviews by local review committees into deaths of children and may obtain the assistance of child protection professionals in establishing such procedures.

19-15-5.

- (a) A protocol committee or review committee in the exercise of its duties shall be closed to the public and shall not be subject to Chapter 14 of Title 50, relating to open meetings.
- (b) The panel shall be open to the public as long as information identifying a deceased or abused child, any family member of the child, or alleged or suspected perpetrator of abuse upon the child is not disclosed during such meetings or proceedings, but the panel is authorized to close such meeting to the public when such identifying information is required to be disclosed to members of the panel in order for the panel to carry out its duties.

19-15-6.

- (a) Records and other documents which are made public records pursuant to any other provisions of law shall remain public records notwithstanding their being obtained, considered, or both, by a protocol committee, a review committee, or the panel.
- (b) Notwithstanding any other provision of law to the contrary, reports of a review committee made pursuant to Code Section 19-15-3 and reports of the panel made pursuant to Code Section 19-15-4 shall be public records and shall be released to any person making a request therefore but the panel protocol committee or review committee



having possession of such records or reports shall only release them after expunging there from all information contained therein which would permit identifying the deceased or abused child, any family member of the child, any alleged or suspected perpetrator of abuse upon the child, or any reporter of suspected child abuse.

(c) Statistical compilations of data by a review committee or the panel based upon information received thereby and containing no information which would permit the identification of any person shall be public records.

(d) Members of a protocol committee, a review committee, or of the panel shall not disclose what transpires at any meeting other than one made public by Code Section 19-15-5 nor disclose any information the disclosure of which is prohibited by this Code section, except to carry out the purposes of this chapter. Any person who knowingly violates this subsection shall be guilty of a misdemeanor.

(e) A person who presents information to a protocol committee, a review committee, or the panel or who is a member of any such body shall not be questioned in any civil or criminal proceeding regarding such presentation or regarding opinions formed by or confidential information obtained by such person as a result of serving as a member of any such body. This subsection shall not be construed to prohibit any person from testifying regarding information obtained independently of a protocol committee, a review committee, or the panel. In any proceeding in which testimony of such a member is offered the court shall first determine the source of such witness's knowledge.

(f) Except as otherwise provided in this Code section, information acquired by and records of a protocol committee, a review committee, or the panel shall be confidential, shall not be disclosed, and shall not be subject to Article 4 of Chapter 18 of Title 50, relating to open records, or subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding.

(g) A member of a protocol committee, a review committee, or the panel shall not be civilly or criminally liable for any disclosure of information made by such member as authorized by this Code section.

(h) Members of the review committee, persons attending a review committee meeting, and persons who present information to a review committee may release information to such government agencies as is necessary for the purpose of carrying out assigned review committee duties.

(i) Notwithstanding any other provisions of law, information acquired by and documents, records, and reports of the panel and child abuse protocol committees and review committees applicable to a child who at the time of his or her death was in the custody of a state department or agency or foster parent shall not be confidential and shall be subject to Article 4 of Chapter 18 of Title 50, relating to open records."

## **SECTION 2.**

All laws and parts of laws in conflict with this Act are repealed.