

CHAPTER 108

(House Bill 705)

AN ACT concerning

Child Fatality Review – Child Death Review Case Reporting System

FOR the purpose of authorizing certain members and staff of certain State teams to provide identifying information to a national center for child death review in accordance with certain data use agreements that authorize access to certain information to certain persons and require the national center to act as a fiduciary agent of certain State and local teams; establishing that certain information provided to a national center for child death review is confidential and subject to certain confidentiality and discovery protections; defining certain terms; and generally relating to child fatality review and a child death review case reporting system.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 5–701 and 5–704
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health – General

5–701.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Child” means an individual under the age of 18 years.

(c) **“CHILD DEATH REVIEW CASE REPORTING SYSTEM” MEANS A NATIONAL, STANDARDIZED, WEB-BASED REPORTING SYSTEM FOR THE CONFIDENTIAL COLLECTION, ANALYSIS, AGGREGATION, AND REPORTING OF CHILD DEATH DATA THAT IS MAINTAINED AND OPERATED BY A NATIONAL CENTER FOR CHILD DEATH REVIEW.**

(d) **“DATA USE AGREEMENT” MEANS A CONTRACT BETWEEN THE DEPARTMENT AND A NATIONAL CENTER FOR CHILD DEATH REVIEW THAT ESTABLISHES THE TERMS AND CONDITIONS FOR THE STATE AND LOCAL CHILD**

FATALITY REVIEW TEAMS' PARTICIPATION IN A CHILD DEATH REVIEW CASE REPORTING SYSTEM.

[(c)] (E) "Health care provider" means:

- (1) An individual licensed or certified under the Health Occupations Article to provide health care; or
- (2) A facility that provides health care to individuals.

[(d)] (F) "Local team" means the multidisciplinary and multiagency child fatality review team established for a county.

[(e)] (G) "Meeting" includes meetings through telephone conferencing.

(H) "NATIONAL CENTER FOR CHILD DEATH REVIEW" MEANS A PUBLIC, PRIVATE, NONPROFIT, OR GOVERNMENTAL ORGANIZATION OR ENTITY THAT IS FUNDED OR OTHERWISE RECOGNIZED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AND IS RESPONSIBLE FOR:

- (1) DEVELOPING A CHILD DEATH REVIEW CASE REPORTING SYSTEM;**
- (2) TRAINING AND SERVING AS A LIAISON TO STATE AGENCIES PARTICIPATING IN THE SYSTEM; AND**
- (3) DISSEMINATING NATIONAL CHILD DEATH REVIEW DATA GENERATED BY THE SYSTEM.**

[(f)] (I) "State Team" means the State Child Fatality Review Team.

[(g)] (J) "Unexpected child death" means a death of a child investigated by the office of the Chief Medical Examiner as required by § 5-309 of this title.

5-704.

- (a) The purpose of the State Team is to prevent child deaths by:
 - (1) Developing an understanding of the causes and incidence of child deaths;
 - (2) Developing plans for and implementing changes within the agencies represented on the Team to prevent child deaths; and

(3) Advising the Governor, the General Assembly, and the public on changes to law, policy, and practice to prevent child deaths.

(b) To achieve its purpose, the State Team shall:

(1) Undertake annual statistical studies of the incidence and causes of child fatalities in the State, including an analysis of community and public and private agency involvement with the decedents and their families before and after the deaths;

(2) Review reports from local teams;

(3) Provide training and written materials to the local teams established under § 5–705 of this subtitle to assist them in carrying out their duties, including model protocols for the operation of local teams;

(4) In cooperation with local teams, develop a protocol for child fatality investigations, including procedures for local health departments, law enforcement agencies, local medical examiners, and local departments of social services, using best practices from other states and jurisdictions;

(5) Develop a protocol for the collection of data regarding child deaths and provide training to local teams and county health departments on the use of the protocol;

(6) Undertake a study of the operations of local teams, including the State and local laws, regulations, and policies of the agencies represented on the local teams, recommend appropriate changes to any regulation or policy needed to prevent child deaths, and include proposals for changes to State or local laws in the annual report required by paragraph (12) of this subsection;

(7) Consider local and statewide training needs, including cross–agency training and service gaps, and make recommendations to member agencies to develop and deliver these training needs;

(8) Examine confidentiality and access to information laws, regulations, and policies for agencies with responsibilities for children, including health, public welfare, education, social services, mental health, and law enforcement agencies, recommend appropriate changes to any regulations and policies that impede the exchange of information necessary to protect children from preventable deaths, and include proposals for changes to statutes in the annual report required by paragraph (12) of this subsection;

(9) Examine the policies and procedures of State and local agencies and specific cases that the State Team considers necessary to perform its duties under this section, in order to evaluate the extent to which State and local agencies are effectively discharging their child protection responsibilities in accordance with:

- (i) The State plan under 42 U.S.C. § 5106a(b);
- (ii) The child protection standards set forth in 42 U.S.C. § 5106a(b); and
- (iii) Any other criteria that the State Team considers important to ensure the protection of children;

(10) Educate the public regarding the incidence and causes of child deaths, the public role in preventing child deaths, and specific steps the public can undertake to prevent child deaths;

(11) Recommend to the Secretary any regulations necessary for its own operation and the operation of the local teams;

(12) Provide the Governor, the public, and subject to § 2-1246 of the State Government Article, the General Assembly, with annual written reports, which shall include the State Team's findings and recommendations; and

(13) In consultation with local teams:

- (i) Define "near fatality"; and
- (ii) Develop procedures and protocols that local teams and the State Team may use to review cases of near fatality.

(c) The State Team shall coordinate its activities under this section with the State Citizens Review Board for Children, local citizens review panels, and the State Council on Child Abuse and Neglect in order to avoid unnecessary duplication of effort.

(d) **(1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, members and staff of the State Team:**

[(1)] (I) May not disclose to any person or government official any identifying information about any specific child protection case about which the State Team is provided information; and

[(2)] (II) May make public other information unless prohibited by law.

(2) (I) IN CARRYING OUT THE RESPONSIBILITIES UNDER THIS SECTION AND SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE MEMBERS AND STAFF OF THE STATE TEAM MAY PROVIDE IDENTIFYING

INFORMATION TO A NATIONAL CENTER FOR CHILD DEATH REVIEW IN ACCORDANCE WITH A DATA USE AGREEMENT THAT ~~REQUIRES~~:

1. AUTHORIZES ACCESS TO IDENTIFIABLE INFORMATION ONLY TO THE MEMBERS AND STAFF OF THE STATE TEAM;

2. AUTHORIZES THE NATIONAL CENTER FOR CHILD DEATH REVIEW TO ACCESS ONLY DE-IDENTIFIED INFORMATION; AND

3. REQUIRES THE NATIONAL CENTER FOR CHILD DEATH REVIEW TO ACT AS A FIDUCIARY AGENT OF THE STATE AND LOCAL TEAMS.

(II) INFORMATION PROVIDED TO A NATIONAL CENTER FOR CHILD DEATH REVIEW IN ACCORDANCE WITH THIS SUBSECTION IS CONFIDENTIAL AND SUBJECT TO THE SAME CONFIDENTIALITY AND DISCOVERY PROTECTIONS THAT APPLY TO THE STATE AND LOCAL TEAMS AS SET FORTH IN § 5-709 OF THIS SUBTITLE.

(e) In addition to any other penalties provided by law, the Secretary may impose on any person who violates subsection (d) of this section a civil penalty not exceeding \$500 for each violation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.