

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4

As Engrossed: H3/18/97

A Bill

HOUSE BILL 2280

5 By: Representatives Pollan and Ferrell
6
7

For An Act To Be Entitled

9 "AN ACT TO ESTABLISH A CHILD FATALITY REVIEW PROGRAM FOR
10 THE STATE OF ARKANSAS; TO CREATE IN EACH COUNTY OF THE
11 STATE A CHILD DEATH REVIEW TEAM; TO PROVIDE METHODS,
12 PROCEDURES AND PROTOCOLS FOR THE INVESTIGATION OF DEATHS
13 INVOLVING CHILDREN LIVE BIRTH THROUGH FOURTEEN (14) YEARS
14 OF AGE; TO CREATE A STATE CHILD DEATH REVIEW COMMITTEE FOR
15 THE DEVELOPMENT, EDUCATION AND IMPLEMENTATION OF
16 PROCEDURES AND PROTOCOLS FOR THE ESTABLISHMENT OF A CHILD
17 FATALITY REVIEW PROGRAM; AND FOR OTHER PURPOSES."
18

Subtitle

19
20 "TO ESTABLISH A CHILD FATALITY REVIEW
21 PROGRAM FOR THE STATE OF ARKANSAS; TO
22 CREATE IN EACH COUNTY OF THE STATE A
23 CHILD DEATH REVIEW TEAM; TO CREATE A
24 STATE CHILD DEATH REVIEW COMMITTEE."
25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. This act shall be known and may be cited as the "Child
29 Fatality Review and Prevention Act."
30

31 SECTION 2. (a) The prosecuting attorney shall impanel a child death
32 review team for each of the counties in which he serves to investigate the
33 deaths of children live birth through fourteen (14) years of age. The team
34 shall be formed and shall operate according to the rules, guidelines and
35 protocols established by the State Child Death Review Committee. In those
36 counties in which there is currently functioning a multi-disciplinary team

1 created pursuant to Arkansas Code Annotated § 20-82-206(5), the duties of the
2 county child death review team may be performed by said multi-disciplinary
3 team with the addition of the core members required to serve on the county
4 child death review team.

5 (b) The county child death review team shall include, but not be
6 limited to, the following:

- 7 (1) The prosecuting attorney;
- 8 (2) The county coroner;
- 9 (3) A county or city law enforcement representative;
- 10 (4) A representative from the local Department of Human Services,
11 Division of Child and Family Services;
- 12 (5) A representative of the county Health Department;
- 13 (6) A mental health professional;
- 14 (7) A representative from the local school district;
- 15 (8) An emergency room physician, a pediatrician or family
16 practice physician.

17 In the event that there is no one in the county qualified to fill a core
18 position, the team may utilize an out-of-county person or it may use the State
19 Child Death Review Committee member who represents the discipline.

20 (c) The prosecuting attorney shall organize the team and shall call the
21 first organizational meeting of the team. The eight (8) core members shall
22 elect a coordinator for the team, from either the core or optional membership
23 of the team, even in those instances where a local multi-disciplinary team is
24 utilized, who shall convene the team to meet to investigate questionable
25 deaths of children live birth through fourteen (14) years of age in accordance
26 with the rules, guidelines and protocols developed by the State Child Death
27 Review Committee. The county team shall issue a final report of each
28 investigation to the State Child Death Review Committee established pursuant
29 to Section 4 of this act. The final report shall include a completed summary
30 data form. This form shall be developed by the State Child Death Review
31 Committee. The State Department of Health shall analyze the county child
32 death review team reports and periodically prepare epidemiological reports
33 which describe the incidence, causes, location and other factors pertaining to
34 childhood deaths. Based on these data the State Department of Health shall
35 make recommendations to the State Child Death Review Committee and other
36 appropriate state agencies for the development of programs to prevent future

1 childhood injuries and/or deaths.

2 (d) Members of the county child death review team or multi-disciplinary
3 team, the State Child Death Review Committee and regional coordinators when
4 acting in their official capacity shall have immunity from civil liability. A
5 professional acting in his/her official capacity as a member of a county child
6 death review team or multi-disciplinary team, a regional coordinator, or
7 member of the Child Death Review Committee may waive any professional
8 confidentiality restrictions. Such waiver shall not give rise to any civil
9 action and the professional shall be immune from any civil liability.

10 (e) All meetings conducted, all reports made and maintained pursuant to
11 this act by the Department of Human Services and the Department of Health and
12 its divisions, the State Child Death Review Committee, a regional coordinator
13 or a county child death review team shall be confidential and shall not be
14 released to the general public except for the annual report pursuant to
15 Section 4 of this act.

16

17 SECTION 3. (a) The director of the State Department of Human Services
18 and the director of the State Department of Health, as co-chairs of the State
19 Child Death Review Committee, shall ensure that within six (6) months from the
20 effective date of this act that the Child Death Review Committee develops
21 forms, promulgates rules, guidelines and protocols for use by the county child
22 death review teams established pursuant to Section 2(a) of this act, regional
23 coordinators and the State Child Death Review Committee. The Committee may
24 establish such committees and subcommittees and designate the membership
25 thereof as it deems appropriate to aid in the implementation and execution of
26 this act. The State Child Death Review Committee shall meet at least once per
27 calendar year. The time and place of the meeting shall be set by agreement of
28 the co-chairs of the committee.

29 (b) The Arkansas Commission on Child Abuse, Rape and Domestic Violence
30 shall be responsible for all operational and administrative requirements and
31 for expenses incurred in the implementation and execution of this act at the
32 state level.

33 (c) The State Medical Examiners Office shall develop forms, promulgate
34 suggested rules, guidelines and protocols to assist coroners and medical
35 examiners to use to aid in the identification of suspicious circumstances in
36 the processing of cases involving deaths of children live birth through

1 fourteen (14) years of age. Nothing in this section shall be interpreted to
2 contravene the provisions of Arkansas Code Annotated § 12-12-318 conferring
3 authority to coroners, prosecuting attorneys, and law enforcement officials to
4 request postmortem examinations.

5
6 SECTION 4. (a) There is hereby created a State Child Death Review
7 Committee consisting of: (1) the director of the State Department of Human
8 Services; (2) the director of the State Division of Child and Family Services
9 of the Department of Human Services; (3) the director of the State Department
10 of Health; (4) a representative from the Arkansas Commission on Child Abuse,
11 Rape and Domestic Violence; (5) a mental health representative as designated
12 by the Child Abuse Committee of the Arkansas Commission on Child Abuse, Rape
13 and Domestic Violence; (6) a representative from the State Child Abuse and
14 Neglect Prevention Board; (7) an elected prosecuting attorney; (8) a
15 representative from the State Medical Examiners Office; (9) a representative
16 of the Arkansas State Police as designated by the director of the Arkansas
17 State Police. In addition to the forgoing members; a citizen; a pediatrician;
18 a physician with clinical experience in child abuse cases; a hospital
19 administrator; an epidemiologist; a coroner; an emergency medical technician-
20 paramedic (EMPT/P); and one (1) elected judge from either a municipal,
21 chancery or circuit court, shall be appointed by the Governor to serve
22 staggered four (4) year terms.

23 (b) The State Child Death Review Committee shall designate regions
24 within the state and appoint regional coordinators to serve as resources for
25 county child death review teams established pursuant to Section 2 of this act.
26 An elected coordinator or other core member, may be designated as a regional
27 coordinator.

28 (c) The State Child Death Review Committee shall:
29 (1) Review reports from the county child death review teams;
30 (2) Undertake annual statistical studies of the incidence and
31 causes of child fatalities in the state. The studies shall include an
32 analysis of community and public and private agency involvement with the
33 decedents and their families prior to and subsequent to the child's death.
34 (3) Report to the Governor, Speaker of the House of
35 Representatives, and the President Pro Tempore of the Senate concerning the
36 State Child Death Review Committees activities and its recommendations for

1 changes to any law, rule, or policy that would promote the safety and well-
2 being of children; and recommend ways to prevent future child fatalities.
3 This report shall be submitted annually not later than December 1, 1997.

4 (4) Develop technical assistance resources for county teams,
5 including the authorization of other medical or legal opinions on a particular
6 death;

7 (5) Periodically assess the operations of child fatality
8 prevention efforts and make recommendations for changes as needed.

9 (6) Provide education, training and resource materials to county
10 teams established pursuant to this act.

11

12 SECTION 5. (a) The director of the State Department of Health, in
13 consultation with the director of the State Department of Human Services and
14 the State Medical Examiners Office shall within six (6) months of the
15 effective date of this act develop forms, promulgate rules, guidelines and
16 protocols for hospitals and physicians to assist them in ascertaining the
17 cause of death of children live birth through fourteen (14) years of age.

18 (b) The State Crime Laboratory Board may require that the state medical
19 examiner and/or a deputy state medical examiner become certified forensic
20 pathologist or a board certified pathologist who through special training or
21 experience is deemed qualified in the area of child fatalities.

22

23 SECTION 6. The directors of the State Department of Human Services and
24 the director of the State Department of Health are authorized to accept on
25 behalf of the State Child Death Review Committee, or they may approve the
26 acceptance by a county child death review team, gifts, grants, or funds from
27 persons, associations, corporations foundations, and federal or state
28 governmental agencies and are authorized to use the gifts, grants or funds for
29 purposes of carrying out this act or for other purposes not inconsistent with
30 the purposes and intent of this act.

31

32 SECTION 7. All rules promulgated pursuant to this section shall be in
33 compliance with the Administrative Procedures Act, Arkansas Code Annotated
34 25-15-201, et seq.

35

36 SECTION 8. Arkansas Code Annotated § 14-15-302 is amended to read as

1 follows:

2 "14-15-302. Coroner's investigation.

3 (a) A coroner's investigation does not include criminal investigation
4 responsibilities. However, the coroner shall assist any law enforcement
5 agency or the State Crime Laboratory upon request.

6 (b)(1) Coroners shall be given access to all death scenes in order to
7 perform the duties set forth in this subchapter.

8 (2) A coroner is authorized to issue subpoenas as necessary to
9 secure pertinent medical or other records and testimony relevant to the
10 determination of the cause and manner of death.

11 (c)(1) The coroners and their deputies who have received instruction
12 and have been deemed qualified by the State Crime Laboratory to take and
13 handle toxicological samples from dead human bodies are authorized to do so
14 for the purpose of determining the presence of chemical agents which may have
15 contributed to the cause of death.

16 (2) Toxicological samples may be taken from bodies in those cases
17 where the coroner is required by law to conduct an investigation.

18 (d) When a child live birth through fourteen (14) years of age dies,
19 the prosecuting attorney, police, sheriff, law enforcement officer or
20 official, or any person having knowledge of such death shall immediately
21 notify the coroner of the known facts concerning the time, place, manner and
22 circumstances of death. The coroner shall immediately notify the prosecuting
23 attorney and the coordinator of the county child death review team of the
24 death. The coroner shall review the circumstances surrounding the child's
25 death and fill out a data report form provided by the State Child Death Review
26 Committee. The county child death review team shall meet within seventy-two
27 (72) hours of such notice to review the circumstances of any death in which
28 the coroner finds one (1) or more questionable circumstance as set forth in
29 the protocol developed pursuant to Section 2 of this act.

30 (e) If the coroner determines that the death of the child live birth
31 through fourteen (14) years of age does not include any questionable
32 circumstances as listed in the protocol, the coroner shall immediately
33 complete and sign the data report form and forward the form to the coordinator
34 of the county child death review team to be co-signed. If the coordinator
35 agrees with the coroner's findings, he shall co-sign the data report form and
36 forward it to the State Child Death Review Committee. In the event that the

1 coordinator disagrees with the coroner's findings, he may make application for
2 review by the prosecuting attorney for a determination and opinion as to
3 whether or not there is a need for a postmortem examination.

4 (f) When a child live birth through fourteen (14) years of age dies,
5 the coroner or the prosecuting attorney shall determine the need for a post-
6 mortem examination.

7 (g) Knowing failure by a coroner to notify the prosecuting attorney or
8 the coordinator of the county child death review team of the death of a child
9 live birth through fourteen (14) years of age, or failure of the prosecuting
10 attorney, police, sheriff, law enforcement officer, other official, or person
11 having knowledge of such death to notify the coroner shall constitute a Class
12 A misdemeanor."

13

14 SECTION 9. Arkansas Code Annotated § 12-2-315 is amended to read as
15 follows:

16 "12-12-315. Notification of certain deaths.

17 (a)(1) The county coroner and the chief law enforcement official of the
18 county and municipality in which the death of a human being occurs shall be
19 promptly notified by any physician, law enforcement officer, undertaker or
20 embalmer, jailer or correction officer, or coroner, or by any other person
21 present or with knowledge of the death, if:

22 (A) The death appears to be caused by violence or appears
23 to be the result of a homicide or a suicide or to be accidental;

24 (B) The death appears to be the result of the presence of
25 drugs or poisons in the body;

26 (C) The death appears to be a result of a motor vehicle
27 accident, or the body was found in or near a roadway or railroad;

28 (D) The death appears to be a result of a motor vehicle
29 accident and there is no obvious trauma to the body;

30 (E) The death occurs while the person is in a state mental
31 institution or hospital and there is no previous medical history to explain
32 the death, or while the person is in police custody, a jail, or penal
33 institution;

34 (F) The death appears to be the result of a fire or
35 explosion;

36 (G) The death of a minor child appears to indicate child

1 abuse prior to death;

2 (H) Human skeletal remains are recovered;

3 (I) Postmortem decomposition exists to the extent that an
4 external examination of the corpse cannot rule out injury, or where the
5 circumstances of death cannot rule out the commission of a crime;

6 (J) The death appears to be the result of drowning;

7 (K) The death is of an infant or minor child in cases where
8 there is no previous medical history to explain the death;

9 (L) The manner of death appears to be other than natural;

10 (M) The death is sudden and unexplained;

11 (N) The death occurs at a work site;

12 (O) The death is due to a criminal abortion;

13 (P) The death is of a person where a physician was not in
14 attendance within thirty-six (36) hours preceding death, or, in prediagnosed
15 terminal or bedfast cases, within thirty (30) days;

16 (Q) A person is admitted to a hospital emergency room
17 unconscious and is unresponsive, with cardiopulmonary resuscitative measures
18 being performed, and dies within twenty-four (24) hours of admission without
19 regaining consciousness or responsiveness, unless a physician was in
20 attendance within thirty-six (36) hours preceding presentation to the
21 hospital, or, in cases in which the decedent had a prediagnosed terminal or
22 bedfast condition, unless a physician was in attendance within thirty (30)
23 days preceding presentation to the hospital; ~~or~~

24 (R) The death occurs in the home; or

25 (S) The death involves a child, defined as live birth
26 through fourteen (14) years of age.

27 (2) Nothing in this section shall be construed to require an
28 investigation, autopsy, or inquest in any case where death occurred without
29 medical attendance solely because the deceased was under treatment by prayer
30 or spiritual means in accordance with the tenets and practices of a
31 well-recognized church or religious denomination.

32 (b) A violation of the provisions of this section is a Class A
33 misdemeanor."

34

35 SECTION 10. Arkansas Code Annotated § 12-12-507 is amended to read as
36 follows:

1 "12-12-507. Reports of suspected abuse or neglect.

2 (a) Any person ~~with or~~ official required under this section, including
3 employees of the division, who has reasonable cause to suspect ~~child~~
4 ~~maltreatment or~~ that a child has died as a result of ~~child abuse,~~
5 maltreatment, or neglect shall report that fact to the appropriate law
6 enforcement agency, coroner and to and to central intake. The coroner shall
7 accept the report for investigation in those instances involving the death of
8 a child live birth through fourteen (14) years of age and shall act in
9 accordance with Section 8 of this act. Any person or official designated as a
10 reporter pursuant to this section ~~or~~ who observes a child being subjected to
11 conditions or circumstances which would reasonably result in child abuse,
12 maltreatment, or neglect ~~may shall~~ immediately notify ~~central intake or the~~
13 appropriate law enforcement agency and central intake.

14 (b) When any physician, surgeon, coroner, dentist, osteopath, resident
15 intern, licensed nurse, medical personnel who may be engaged in admission,
16 examination, care, or treatment of persons, teacher, school official, school
17 counselor, social worker, family service worker, day care center worker, or
18 any other child or foster care worker, mental health professional, peace
19 officer, law enforcement official, prosecuting attorney, or judge has
20 reasonable cause to suspect that a child has been subjected to child
21 maltreatment, or that a child has died as a result of child maltreatment, or
22 who observes the child being subjected to conditions or circumstances which
23 would reasonably result in child maltreatment, he shall immediately notify
24 central intake or law enforcement.

25 (c) No privilege or contract shall relieve anyone required by this
26 subchapter to make notification of the requirement of making notification.

27 (d) In the event that central intake receives notification that a
28 client or a resident of any facility licensed or registered by the State of
29 Arkansas has been subjected to child maltreatment while at such facility,
30 central intake shall immediately notify that facility's licensing or
31 registering authority of its receipt of initial notification of suspected
32 maltreatment.

33 (e) When a person, agency, corporation, or partnership then providing
34 substitute care for any child in the custody of the department or a department
35 employee or employee's spouse or other person residing in the home is reported
36 as being suspected of child maltreatment, the investigation shall be conducted

1 pursuant to procedures established by the department. Such procedures shall
2 include referral of allegations to the Department of Arkansas State Police or
3 appropriate law enforcement agency should the allegation involve severe
4 maltreatment."

5

6 SECTION 11. Arkansas Code Annotated § 12-12-506 is amended to read as
7 follows:

8 "12-12-506. Disclosure of central registry data.

9 (a)(1) Reports made pursuant to this subchapter shall be confidential
10 and may be used or disclosed only as provided in this section.

11 (2)(A) If the allegations are determined to be true in accordance
12 with § 12-12-512, disclosure is absolutely limited to:

13 (i) The administration of the adoption, foster care,
14 children's protective services programs, or child care licensing programs of
15 any state;

16 (ii) Any law enforcement investigation or criminal
17 prosecution conducted in connection with the provisions of this subchapter;

18 (iii) Any person who is the subject of a true report;

19 (iv) A civil or administrative proceeding connected
20 with the administration of the Arkansas Child Welfare State Plan where the
21 court or hearing officer determines the information is necessary for the
22 determination of an issue before the court or agency;

23 (v) The administration of any federal or federally
24 assisted program which provides assistance, in cash or in kind, or services
25 directly to individuals on the basis of need;

26 (vi) An
27 audit or similar activity conducted in connection with the administration of
28 such plan or program by any governmental agency which is authorized by law to
conduct the audit or activity;

29 (vii) A person, agency, or organization engaged in a
30 bona fide research or evaluation project, but without information identifying
31 individuals named in a report or record, provided that:

32 (a) Having that information open for review is
33 essential to the research or evaluation;

34 (b) Prior written approval is granted by the
35 Director of the Department of Human Services; and

36 (c) The child, through his parent, guardian, or

1 guardian ad litem, gives permission to release the information;

2 (viii) A properly constituted authority, including
3 multidisciplinary teams referenced in § 12-12-502(b) or a county child death
4 review team, investigating a report of known or suspected child abuse or
5 neglect or providing services to a child or family which is the subject of a
6 report;

7 (ix)(a) The Child Care Facility Review Board and the
8 child care facility owner or operator who requested the registry information
9 through a signed notarized release from an individual who is a volunteer or
10 who has applied for employment or who is currently employed by a child care
11 facility or who is the owner or operator of a child care facility.

12 (b) This disclosure shall be for the limited
13 purpose of providing central registry background information and shall
14 indicate a true finding only.

15 (B) Reports of investigative determinations which are true
16 shall be disclosed to the Child Care Facility Review Board, by oral report
17 only, for purposes of enforcement of licensing law and regulations.

18 (b) Any licensing or registering authority in receipt of initial
19 notification of suspected child maltreatment may access the central registry
20 to the extent necessary to carry out its official responsibilities, but the
21 information must be maintained as confidential.

22 (c)(1) Any person or agency to whom disclosure is made shall not
23 disclose to any other person reports or other information obtained pursuant to
24 this section.

25 (2) Provided, however, that a local educational agency or a
26 school counselor shall forward all true reports of child maltreatment received
27 from the department whenever a child transfers from one (1) local educational
28 agency to another, and shall notify the department of the child's new school,
29 and address, if known.

30 (3) ~~Any person disclosing information in violation of this~~
31 ~~subsection shall be guilty of a Class C misdemeanor~~ Any person who knowingly
32 violates the provisions of this section, or who permits or encourages the
33 unauthorized dissemination of information contained in the central registry
34 shall be guilty of a Class B misdemeanor.

35 (d) Disclosure is prohibited to any committee or legislative body,
36 other than an agency referred to in §§ 12-12-507(e) and 12-12-509 - 12-12-511

1 with respect to an activity referred to in such sections, of any information
2 which identifies by name or address any applicant or recipient.

3 (e) The department shall not release data that would identify the
4 person who made the report or who cooperated in a subsequent investigation,
5 unless a court of competent jurisdiction orders release of the information for
6 good cause shown. However, the information shall be disclosed to the
7 prosecuting attorney or law enforcement officers on request.

8 (f) Within ten (10) days following an investigative determination, the
9 department shall provide the person or agency making notification of suspected
10 child maltreatment information as to whether an investigation has been
11 conducted and whether services have been offered."

12

13 SECTION 12. The provisions of this act shall not be construed to repeal
14 Arkansas Code Annotated § 12-12-512(a)(2)(A) or any other statute providing
15 for treatment by spiritual means or through prayer, in accordance with a
16 recognized religious method of healing by an accredited practitioner.

17

18 SECTION 13. All provisions of this act of a general and permanent
19 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
20 Code Revision Commission shall incorporate the same in the Code.

21

22 SECTION 14. If any provision of this act or the application thereof to
23 any person or circumstance is held invalid, such invalidity shall not affect
24 other provisions or applications of the act which can be given effect without
25 the invalid provision or application, and to this end the provisions of this
26 act are declared to be severable.

27

28 SECTION 15. All laws and parts of laws in conflict with this act are
29 hereby repealed.

30

/s/Rep. Pollan, et al

31

32

33

34

35