BILL ANALYSIS

Senate Research Center   S.B. 1872
81R10020 TJS-F   By: Zaffirini
                                                                                      Jurisprudence
                                                                                         4/13/2009
                                                                                           As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, conversations and work product (e.g., notes, minutes) generated in adult fatality reviews may be subpoenaed and used in criminal and civil lawsuits. This means that in order to avoid the possibility of subpoena, reviews must be conducted after the civil statutes of limitation have run their course. As a result, despite the systemic change that could result from reviews of domestic violence fatalities, the reviews do not occur as quickly as they might.

Section 672.009 (Use of Information and Records; Confidentiality), Health and Safety Code, makes it a Class A misdemeanor to disclose the business of the fatality review if done for a purpose other than the business of the review. A judge could order that the information be disclosed by a participant, regardless of the potential of that disclosure being a Class A misdemeanor.

As proposed, S.B. 1872 provides that information, documents, and records acquired during a fatality review and investigation are not subject to subpoena or discovery and may not be introduced into evidence in any civil or criminal proceeding.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 672.009, Health and Safety Code, by adding Subsection (e), to provide that information, documents, and records that are confidential as provided by this section are not subject to subpoena or discovery and may not be introduced into evidence in any civil or criminal proceeding. Provides that a document or other information that is otherwise available from another source is not protected from subpoena, discovery, or introduction into evidence under this subsection solely because the document or information was acquired by a review team in the exercise of its duties under this chapter.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.