

By: Burkett

H.B. No. 3097

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the procedures following a child fatality or near  
3 fatality and the relating investigation by the Department of Family  
4 and Protective Services.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Article 49.10, Code of Criminal Procedure, is  
7 amended by adding Subsection (i-1) to read as follows:

8 (i-1) Notwithstanding any provision to the contrary, if the  
9 deceased was a child younger than six years of age whose death is  
10 determined under Section 264.514, Family Code, to be unexpected or  
11 the result of abuse or neglect, a justice of the peace must order a  
12 complete autopsy of the deceased.

13 SECTION 2. Section 9(a), Article 49.25, Code of Criminal  
14 Procedure, is amended to read as follows:

15 (a) If the cause of death shall be determined beyond a  
16 reasonable doubt as a result of the investigation, the medical  
17 examiner shall file a report thereof setting forth specifically the  
18 cause of death with the district attorney or criminal district  
19 attorney, or in a county in which there is no district attorney or  
20 criminal district attorney with the county attorney, of the county  
21 in which the death occurred. If in the opinion of the medical  
22 examiner an autopsy is necessary, or if such is requested by the  
23 district attorney or criminal district attorney, or county attorney  
24 where there is no district attorney or criminal district attorney,

1 the autopsy shall be immediately performed by the medical examiner  
2 or a duly authorized deputy. In those cases where a complete  
3 autopsy is deemed unnecessary by the medical examiner to ascertain  
4 the cause of death, the medical examiner may perform a limited  
5 autopsy involving the taking of blood samples or any other samples  
6 of body fluids, tissues or organs, in order to ascertain the cause  
7 of death or whether a crime has been committed. If the deceased was  
8 a child younger than six years of age and the death is determined  
9 under Section 264.514, Family Code, to be unexpected or the result  
10 of abuse or neglect, the medical examiner shall perform a complete  
11 autopsy. In the case of a body of a human being whose identity is  
12 unknown, the medical examiner may authorize such investigative and  
13 laboratory tests and processes as are required to determine its  
14 identity as well as the cause of death. In performing an autopsy  
15 the medical examiner or authorized deputy may use the facilities of  
16 any city or county hospital within the county or such other  
17 facilities as are made available. Upon completion of the autopsy,  
18 the medical examiner shall file a report setting forth the findings  
19 in detail with the office of the district attorney or criminal  
20 district attorney of the county, or if there is no district attorney  
21 or criminal district attorney, with the county attorney of the  
22 county.

23 SECTION 3. Subchapter C, Chapter 261, Family Code, is  
24 amended by adding Section 261.2031 to read as follows:

25 Sec. 261.2031. DESIGNATED CHILD FATALITY INVESTIGATION  
26 CASEWORKERS. The department shall designate caseworkers or create  
27 a specialized unit of department employees to conduct

1 investigations involving child fatalities. Caseworkers or  
2 employees designated for child fatality investigations shall be  
3 assigned based on experience and length of time working for the  
4 department.

5 SECTION 4. Sections 264.502(a) and (b), Family Code, are  
6 amended to read as follows:

7 (a) The child fatality review team committee is composed of:

8 (1) a person appointed by and representing the state  
9 registrar of vital statistics;

10 (2) a person appointed by and representing the  
11 commissioner of the department;

12 (3) a person appointed by and representing the Title V  
13 director of the Department of State Health Services; ~~and~~

14 (4) a person appointed by and representing the speaker  
15 of the house of representatives;

16 (5) a person appointed by and representing the  
17 lieutenant governor;

18 (6) a person appointed by and representing the  
19 governor; and

20 (7) individuals selected under Subsection (b).

21 (b) The members of the committee who serve under Subsections  
22 (a)(1) through (6) ~~(3)~~ shall select the following additional  
23 committee members:

24 (1) a criminal prosecutor involved in prosecuting  
25 crimes against children;

26 (2) a sheriff;

27 (3) a justice of the peace;

- 1 (4) a medical examiner;
- 2 (5) a police chief;
- 3 (6) a pediatrician experienced in diagnosing and
- 4 treating child abuse and neglect;
- 5 (7) a child educator;
- 6 (8) a child mental health provider;
- 7 (9) a public health professional;
- 8 (10) a child protective services specialist;
- 9 (11) a sudden infant death syndrome family service
- 10 provider;
- 11 (12) a neonatologist;
- 12 (13) a child advocate;
- 13 (14) a chief juvenile probation officer;
- 14 (15) a child abuse prevention specialist;
- 15 (16) a representative of the Department of Public
- 16 Safety;
- 17 (17) a representative of the Texas Department of
- 18 Transportation;
- 19 (18) an emergency medical services provider; and
- 20 (19) a provider of services to, or an advocate for,
- 21 victims of family violence.

22 SECTION 5. Section [264.503](#), Family Code, is amended by  
23 amending Subsections (d) and (e) and adding Subsection (h) to read  
24 as follows:

- 25 (d) The Department of State Health Services shall:
  - 26 (1) recognize the creation and participation of review
  - 27 teams;

1           (2) promote and coordinate training to assist the  
2 review teams in carrying out their duties;

3           (3) assist the committee in developing model protocols  
4 for:

5                   (A) the reporting and investigating of child  
6 fatalities for law enforcement agencies, child protective  
7 services, justices of the peace and medical examiners, and other  
8 professionals involved in the investigations of child deaths;

9                   (B) the collection of data regarding child  
10 deaths; and

11                   (C) the operation of the review teams;

12           (4) develop and implement procedures necessary for the  
13 operation of the committee; ~~and~~

14           (5) develop and implement training for justices of the  
15 peace and medical examiners regarding inquests in child death  
16 cases; and

17           (6) promote education of the public regarding the  
18 incidence and causes of child deaths, the public role in preventing  
19 child deaths, and specific steps the public can undertake to  
20 prevent child deaths.

21           (e) In addition to the duties under Subsection (d), the  
22 Department of State Health Services shall:

23                   (1) collect data under this subchapter and coordinate  
24 the collection of data under this subchapter with other data  
25 collection activities; ~~and~~

26                   (2) perform annual statistical studies of the  
27 incidence and causes of child fatalities using the data collected

1 under this subchapter; and

2 (3) evaluate the available child fatality data and use  
3 the data to create public health strategies for the prevention of  
4 child fatalities.

5 (h) Each member of the committee must be a member of the  
6 child fatality review team in the county where the committee member  
7 resides.

8 SECTION 6. Subchapter F, Chapter 264, Family Code, is  
9 amended by adding Sections 264.5031 and 264.5032 to read as  
10 follows:

11 Sec. 264.5031. COLLECTION OF NEAR FATALITY DATA. (a) The  
12 Department of State Health Services shall develop a definition for  
13 the term "near fatality" to allow for statewide consistency in  
14 child fatality investigations.

15 (b) The Department of State Health Services shall include  
16 near fatality child abuse or neglect cases in the child fatality  
17 case database, for cases in which child abuse or neglect is  
18 determined to have been the cause of the near fatality. The  
19 Department of State Health Services must also develop a data  
20 collection strategy for near fatality child abuse or neglect cases.

21 Sec. 264.5032. TRACKING OF CHILD FATALITY AND NEAR FATALITY  
22 DATA. (a) The department shall produce a report relating to child  
23 fatality and near fatality cases resulting from child abuse or  
24 neglect containing the following information:

25 (1) any prior contact the department had with the  
26 child's family and the manner in which the case was disposed,  
27 including cases in which the department made the following

1 dispositions:

2 (A) priority none or administrative closure;

3 (B) call screened out;

4 (C) alternative or differential response

5 provided;

6 (D) unable to complete the investigation;

7 (E) unable to determine whether abuse or neglect

8 occurred;

9 (F) reason to believe abuse or neglect occurred;

10 or

11 (G) child removed and placed into substitute

12 care;

13 (2) for any case investigated by the department

14 involving the child or the child's family:

15 (A) the number of caseworkers assigned to the

16 case before the fatality or near fatality occurred;

17 (B) the level of education for each caseworker

18 assigned to the case and the caseworker's employment tenure; and

19 (C) the caseworker's caseload at the time the

20 case was opened and at the time the case was closed;

21 (3) for any case in which the department investigation

22 concluded that there was reason to believe that abuse or neglect

23 occurred, and the family was referred to family-based safety

24 services:

25 (A) the safety plan provided to the family;

26 (B) the services offered to the family; and

27 (C) the level of compliance with the safety plan

1 or completion of the services by the family;

2 (4) the number of contacts the department made with  
3 children and families in family-based safety services cases; and

4 (5) the initial and attempted contacts the department  
5 made with child abuse and neglect victims.

6 (b) The department shall make the data collected under  
7 Subsection (a) available to allow research into the determining  
8 factors related to child abuse fatalities or near fatalities, with  
9 the purpose of:

10 (1) reducing child fatalities or near fatalities and  
11 repeated referrals of a child or family to the department; and

12 (2) predicting future occurrences of child fatalities  
13 and near fatalities to improve prevention and early intervention  
14 strategies.

15 SECTION 7. Sections 264.505(a) and (c), Family Code, are  
16 amended to read as follows:

17 (a) A multidisciplinary and multiagency child fatality  
18 review team may be established for a county to review child deaths  
19 in that county. A [~~review team for a~~] county [~~with a population of~~  
20 ~~less than 50,000~~] may join with an adjacent county or counties to  
21 establish a combined review team.

22 (c) A review team must reflect the diversity of the county's  
23 population and may include:

24 (1) a criminal prosecutor involved in prosecuting  
25 crimes against children;

26 (2) a sheriff;

27 (3) a justice of the peace or medical examiner;



- 1 (4) a police chief;
- 2 (5) a pediatrician experienced in diagnosing and  
3 treating child abuse and neglect;
- 4 (6) a child educator;
- 5 (7) a child mental health provider;
- 6 (8) a public health professional;
- 7 (9) a child protective services specialist;
- 8 (10) a sudden infant death syndrome family service  
9 provider;
- 10 (11) a neonatologist;
- 11 (12) a child advocate;
- 12 (13) a chief juvenile probation officer; and
- 13 (14) a child abuse prevention specialist.

14 SECTION 8. Section 264.506(b), Family Code, is amended to  
15 read as follows:

16 (b) To achieve its purpose, a review team shall:

17 (1) adapt and implement, according to local needs and  
18 resources, the model protocols developed by the department and the  
19 committee;

20 (2) meet on a regular basis to review child fatality  
21 cases and recommend methods to improve coordination of services and  
22 investigations between agencies that are represented on the team;

23 (3) collect and maintain data as required by the  
24 committee; ~~and~~

25 (4) review and analyze the collected data to identify  
26 any demographic trends in child fatality cases, including whether  
27 there is a disproportionate number of child fatalities in a

1 particular population group or geographic area; and

2           (5) submit to the vital statistics unit data reports  
3 on deaths reviewed as specified by the committee.

4           SECTION 9. Section 264.509, Family Code, is amended by  
5 adding Subsection (b-1) to read as follows:

6           (b-1) The Department of State Health Services shall provide  
7 a review team with electronic access to the preliminary death  
8 certificate for a deceased child.

9           SECTION 10. (a) Section 264.514, Family Code, is amended by  
10 adding Subsection (a-1) and amending Subsection (b) to read as  
11 follows:

12           (a-1) The commissioners court of a county shall adopt  
13 regulations relating to the timeliness for conducting an inquest  
14 into the death of a child. The regulations adopted under this  
15 subsection must be as stringent as the standards issued by the  
16 National Association of Medical Examiners unless the commissioners  
17 court determines that it would be cost prohibitive for the county to  
18 comply with those standards.

19           (b) The medical examiner or justice of the peace shall  
20 immediately notify an appropriate local law enforcement agency if  
21 the medical examiner or justice of the peace determines that the  
22 death is unexpected or the result of abuse or neglect, and that  
23 agency shall investigate the child's death. The medical examiner or  
24 justice of the peace shall notify the appropriate county child  
25 fatality review team of the child's death not later than the 120th  
26 day after the date the death is reported.

27           (b) A county must attempt to implement the timeliness

1 standards for inquests as described by Section 264.514(a-1), Family  
2 Code, as added by this Act, as soon as possible after the effective  
3 date of this Act.

4 SECTION 11. This Act takes effect September 1, 2017.