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Indicates New Matter

AMENDED

March 29, 2017

**S. 170**

Introduced by Senators Shealy and Hutto

S. Printed 3/29/17--S. [SEC 3/30/17 4:25 PM]

Read the first time January 10, 2017.

**A** **BILL**

TO AMEND ARTICLE 7, CHAPTER 5, TITLE 17, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DUTIES OF CORONERS AND MEDICAL EXAMINERS, BY ADDING SECTIONS 17-5-541 AND 17-5-542, SO AS TO PROVIDE THAT THE CORONER OF EACH COUNTY SHALL SCHEDULE A LOCAL CHILD FATALITY REVIEW TEAM TO PERFORM A REVIEW OF A CASE WHERE A CHILD UNDER THE AGE OF EIGHTEEN DIES IN THE COUNTY HE SERVES AND TO PROVIDE THE PURPOSE OF THE REVIEW TEAM; TO AMEND ARTICLE 3, CHAPTER 5, TITLE 17, RELATING TO CORONERS, BY ADDING SECTION 17-5-140, SO AS TO PROVIDE THAT FUNDS MUST BE DISBURSED TO THE COUNTIES EQUALLY TO PAY THE DULY ELECTED FULL‑TIME CORONER OR OTHER RELATED PERSONNEL OR EQUIPMENT AND TO PROVIDE THAT EXCESS FUNDS MUST BE USED BY THE CORONERS TRAINING ADVISORY COMMITTEE TO PERFORM ITS DUTIES; AND TO AMEND SECTION 17‑5‑130, RELATING TO THE CORONERS TRAINING ADVISORY COMMITTEE, SO AS TO PROVIDE ADDITIONAL DUTIES.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 7, Chapter 5, Title 17 of the 1976 Code is amended by adding:

“Section 17-5-541. (A) For the purposes of this section, ‘a person responsible for a child’s welfare’ has the same meaning as in Section 63-7-20(16).

(B) The coroner of each county, within a timeframe not exceeding seven working days, shall schedule a local Child Fatality Review Team to perform a review of a case where a child under the age of eighteen dies in the county he serves. The team may be composed of:

(1) the county coroner or his designee;

(2) a local law enforcement officer;

(3) an agent from the State Law Enforcement Division’s Department of Child Fatalities assigned to the case;

(4) a board certified child abuse pediatrician;

(5) a representative from the local county department of social services; and

(6) a forensic pathologist.

(C) In addition to the mandatory notification requirement in Section 17-5-540, the coroner shall immediately notify the local county department of social services and request any involvement of the agency, excluding any economic services, in the life of the child, a sibling, or a person responsible for a child’s welfare that resulted in a referred, indicated, or unfounded case.

(D) The local county department of social services, within twenty-four hours or one working day, whichever comes first, must provide the coroner and the State Law Enforcement Division’s Department of Child Fatalities information related to any involvement of the agency, excluding any economic services, in the life of the child, a sibling, or a person responsible for a child’s welfare that resulted in a referred, indicated, or unfounded case.

Section 17-5-542. (A) The purpose of the local Child Fatality Review Team is to rapidly and expeditiously review all child deaths that occur in the county in which each coroner serves.

(B) To achieve this purpose, the local Child Fatality Review Team shall:

(1) enter the team’s findings of each reviewed child death into the Child Death Review Case Reporting System at the direction of the coroner;

(2) submit to the State Child Fatality Advisory Committee, a monthly report and any other reports prepared by the team, including the team’s findings of each reviewed child death; and

(3) submit a report of the findings of each reviewed child death to the Bureau of Vital Statistics as prescribed by the State Registrar of Vital Statistics.

(C) Information, documents, and records considered by a local Child Fatality Review Team during the course of a review are subject to subpoena and discovery in a criminal or civil proceeding but are not subject to disclosure under the Freedom of Information Act. Members of a local review team, persons attending a local review team meeting, and persons who present information to the local review team may be required to disclose in a civil or criminal proceeding information presented in or opinions formed as a result of a meeting.”

(D) For the purposes of a civil or criminal proceeding, the findings of a local Child Fatality Review Team are not binding on a court. A trial court that hears a civil or criminal matter in which a review team’s findings are presented to the judge shall instruct the jury that it is not bound to accept the findings as fact and that it should make its own determination about the truth and veracity of the review team’s findings.”

SECTION 2. Article 3, Chapter 5, Title 17 of the 1976 Code is amended by adding:

“Section 17‑5‑140. (A) From the funds appropriated for the implementation of this section, and subject to the provisions of subsection (C), the State Treasurer shall disburse an equal amount to each county treasurer on a monthly basis. These funds must supplement, and not supplant, existing funds utilized for full-time county coroners.

(B) From the funds received pursuant to this section, each county treasurer must pay the duly elected full-time coroner at least thirty‑five thousand dollars annually. If the funds are not totally expended to pay the duly elected full-time coroner, then at the discretion of the coroner he may use the funds to hire a deputy coroner, administrative personnel, or personnel with forensic training. Also, the coroner may use the funds to provide an office or office equipment.

(C) Upon disbursing thirty‑five thousand dollars to each county treasurer in a fiscal year, the State Treasurer shall credit any remaining funds pursuant to subsection (D) to the full-time coroners of each county for the performance of their duties. The remaining funds shall be disbursed as follows:

(1) For those counties with a population of one hundred fifty thousand and above, according to the latest official United States Decennial Census, each full-time coroner shall receive an equal share of fifty-five percent of the remaining funds.

(2) For those counties with a population of at least fifty thousand but not more than one hundred forty‑nine thousand, nine hundred ninety‑nine, according to the latest official United States Decennial Census, each full-time coroner shall receive an equal share of thirty-five percent of the remaining funds.

(3) For those counties with a population of less than fifty thousand, according to the latest official United States Decennial Census, each full-time coroner shall receive an equal share of ten percent of the remaining funds.

(D) Implementation of this section is contingent upon the appropriation of state general funds or the availability of financial support from other sources and must be operational within one year of adequate funding becoming available.”

SECTION 3. Section 17‑5‑130(G) of the 1976 Code is amended to read:

“(G)(1) The Director of the South Carolina Criminal Justice Academy shall appoint a Coroners Training Advisory Committee to assist in the determination of training requirements for coroners and deputy coroners and to determine those forensic science degree and certification programs that qualify as ‘recognized’ pursuant to the requirements of this section. Also, the committee shall assist in determining annual training requirements as set forth in this section. The committee must consist of no fewer than five coroners and at least one physician trained in forensic pathology as recommended by the South Carolina Coroners Association. The members of the committee shall serve without compensation.

(2) The Coroners Training Advisory Committee shall govern the qualifications of all coroners, deputy coroners, and candidates for coroner as set forth in this section. Also, the committee must certify all coroners. The committee may require a coroner or a deputy coroner to appear before it for performance review. Failure to appear before the committee or failure to follow state law relating to the performance of official duties may result in sanctioning in the form of a private or public reprimand. Also, the committee may recommend suspension to the Governor and loss of funding to the county council. A person may appeal an action of the committee pursuant to the provisions of Chapter 23, Title 1. The committee may hire an administrative assistant if it is determined necessary.”

SECTION 4. Article 7, Chapter 5, Title 17 of the 1976 Code is amended by adding:

“Section 17-5-543. (A) Meetings of the Child Fatality Review Team the ‘review team’ are closed to the public and are not subject to Chapter 4, Title 30, the Freedom of Information Act, when the review team is discussing individual cases of child deaths.

(B) Except as provided in subsection (C), meetings of the review team are open to the public and subject to the Freedom of Information Act when the review team is not discussing individual cases of child deaths.

(C) Information identifying a deceased child or a family member, guardian, or caretaker of a deceased child, or an alleged or suspected perpetrator of abuse or neglect upon a child may not be disclosed during a public meeting and information regarding the involvement of any agency with the deceased child or family may not be disclosed during a public meeting.

(D) Violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned not more than six months, or both.”

SECTION 5. Article 7, Chapter 5, Title 17 of the 1976 Code is amended by adding:

“Section 17-5-544. (A) All information and records acquired by the Child Fatality Review Team in the exercise of their purposes and duties pursuant to this article are confidential, exempt from disclosure under Chapter 4, Title 30, the Freedom of Information Act, and only may be disclosed as necessary to carry out the review team's duties and purposes.

(B) Statistical compilations of data which do not contain information that would permit the identification of a person to be ascertained are public records.

(C) Reports of the review team which do not contain information that would permit the identification of a person to be ascertained are public information.

(D) Except as necessary to carry out the review team’s purposes and duties, members of the committee and persons attending their meeting may not disclose what transpired at a meeting and may not disclose information, the disclosure of which is prohibited by this section.

(E) Members of the Child Fatality Review Team, persons attending a committee meeting, and persons who present information to the review team may not be required to disclose in any civil or criminal proceeding information presented in or opinions formed as a result of a meeting, except that information available from other sources is not immune from introduction into evidence through those sources solely because it was presented during proceedings of the review team or because it is maintained by the review team. Nothing in this subsection may be construed to prevent a person from testifying to information obtained independently of the review team or which is public information.

(F) Information, documents, and records of the review team are not subject to subpoena, discovery, or the Freedom of Information Act, except that information, documents, and records otherwise available from other sources are not immune from subpoena, discovery, or the Freedom of Information Act through those sources solely because they were presented during proceedings of the review team or because they are maintained by the review team.

(G) Violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned for not more than six months, or both.”

SECTION 4. This act takes effect upon approval by the Governor.

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