



TO: Health and Human Services Commission
Executive Council

DATE: December 6, 2018

FROM: Dr. Manda Hall, Community Health
Improvement Division

AGENDA ITEM: 2.a

SUBJECT: State Child Fatality Review Team Committee

BACKGROUND: Federal Legislative Other: Program Initiative

Senate Bill 1485, 74th Legislature, Regular Session, 1995, established the State Child Fatality Review Team Committee (committee) and authorized Texas counties to form local and regional child fatality review teams.

Senate Bill 6, 79th Legislature, Regular Session, 2005, amended Texas Family Code, Chapter 264, Subchapter F, §§264.501 - 264.515 moving support and coordination of the state committee and local review teams from the Department of Family and Protective Services (DFPS) to the Department of State Health Services (DSHS).

The committee is a statutorily defined multidisciplinary committee within DSHS whose mission is to reduce the number of preventable child deaths. Texas Family Code, §§264.501 - 264.515, directs the committee to meet quarterly to discuss issues related to child risks and safety; to develop strategies to improve child death data collection and analysis; to develop position statements on specific child safety issues; and to research and develop recommendations that will make Texas safer for children. Amended 25 TAC §37.410 describes the operations of the committee, including the purpose, tasks, reporting requirements, membership composition, and meeting schedules.

House Bill 1549, 85th Legislature, Regular Session, 2017, amended Texas Family Code, §264.502(a) and (b) adding three additional permanent members to the state committee representing the Texas Legislature:

- a person appointed by and representing the speaker of the house of representatives;
- a person appointed by and representing the lieutenant governor; and
- a person appointed by and representing the governor.

Subsection 264.503(h) was added to require that state committee members be a member of the local child fatality review team in the county where the committee member resides unless the committee member is an appointed representative of a state agency.

Additionally, Texas Family Code, §264.502(b) designates that the permanent members listed in §264.502(a) shall appoint the additional committee members.

ISSUES AND ALTERNATIVES:

No identified issues, concerns or objections.

STAKEHOLDER INVOLVEMENT:

DSHS sought stakeholder input on the committee rule amendment. The proposed rule amendment was posted on the HHSC website between August 1 and August 15, 2018, and notification about the draft rule was sent to stakeholders on HHSC GovDelivery distribution list. No comments were received concerning the rule amendment.

In addition, the Community Health Improvement Division solicited stakeholder input from the State Child Fatality Review Team Committee members through email on August 2, 2018. One member expressed support for the rule. There were no other public comments received.

FISCAL IMPACT:

None

SERVICES IMPACT STATEMENT:

No client services will be impacted due to this rule change.

RULE DEVELOPMENT SCHEDULE:

December 6, 2018	Present to HHSC Executive Council
December 2018	Publish proposed rule in <i>Texas Register</i>
April 2019	Publish adopted rule in <i>Texas Register</i>
April 2019	Effective date

PROPOSED PREAMBLE

The Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (DSHS), proposes an amendment to §37.410, concerning the State Child Fatality Review Team Committee.

BACKGROUND AND PURPOSE

The purpose of the proposed amendment is to align the rule with Texas Family Code, Chapter 264, Subchapter F, Child Fatality Review and Investigation. The amendment is necessary to comply with House Bill 1549, 85th Legislature, Regular Session, 2017, regarding the State Child Fatality Review Team Committee (committee) composition and requirements.

There are additional changes proposed by program to clean up language, clarify term limits, and streamline the rule for clarity and readability.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §37.410(c)(2) adds the word "the" for clarity and readability.

The proposed amendment to §37.410(d)(1) clarifies the timeframe for publishing the committee biennial report as defined in the Texas Family Code, §264.503(f).

The proposed amendment to §37.410(d)(3) deletes the language that the committee will submit data reports to vital statistics as required by Texas Family Code, §264.506. This data report is a responsibility of the local child fatality review teams, not the state committee.

The proposed amendment to §37.410(e)(1) and (2) adds three committee members and adds the requirement for non-agency appointed members to be a part of a local child fatality review team in accordance with Texas Family Code, §264.502(a), (b) and (h). The proposed amendment also clarifies who appoints non-permanent members to align with the Texas Family Code. The paragraphs are relabeled to account for addition of paragraphs and subparagraphs.

The proposed amendment to §37.410(f) clarifies member term limits in accordance with agency policy. The paragraphs are renumbered to account for deletion of a paragraph.

The proposed amendments to §37.410(g), (h) and (i) update language related to referencing officers.

The proposed amendment to §37.410(h) clarifies applicability of the Texas Family Code, §264.504, relating to Meetings of Committee.

The proposed amendment to §37.410(k) deletes paragraphs (1) - (4) and streamlines the rule and requires the committee to adopt bylaws to outline meeting procedures in accordance with agency advisory committee policies.

FISCAL NOTE

Dr. Manda Hall, Associate Commissioner of the Community Health Improvement Division, has determined that for each year of the first five years that the section will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the section as proposed.

GOVERNMENT GROWTH IMPACT STATEMENT

DSHS has determined that during the first five years that the section will be in effect:

- (1) the proposed rule will not create or eliminate a government program;
- (2) implementation of the proposed rule will not affect the number of employee positions;
- (3) implementation of the proposed rule will not require an increase or decrease in future legislative appropriations;
- (4) the proposed rule will not affect fees paid to the agency;
- (5) the proposed rule will not create a new rule;
- (6) the proposed rule will expand an existing rule;
- (7) the proposed rule will not change the number of individuals subject to the rule; and
- (8) the proposed rule will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Donna Sheppard, Chief Financial Officer, has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. The rule does not apply to small or micro-businesses, or rural communities.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons who are required to comply with the section as proposed.

There is no anticipated negative impact on local employment.

COSTS TO REGULATED PERSONS

Texas Government Code, §2001.0045 does not apply to this rule because the rule does not impose a cost on regulated persons; is necessary to implement legislation that does not specifically state that §2001.0045 applies to the rule; and is necessary to protect the health, safety, and welfare of the residents of Texas.

PUBLIC BENEFIT

Dr. Manda Hall, Associate Commissioner, has determined that for each year of the first five years the section is in effect, the public will benefit from adoption of the section. The public benefit anticipated as a result of enforcing or administering the section will be a better understanding of the causes and incidences of child death in Texas and provide strategies for reducing the number of preventable child deaths.

TAKINGS IMPACT ASSESSMENT

DSHS has determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

PUBLIC COMMENT

Questions about the content of this proposal may be directed to Amy Bailey at (512) 776-2311 in DSHS Community Health Improvement Division.

Written comments on the proposal may be submitted to Rules Coordination Office, P.O. Box 149030, Mail Code 4102, Austin, Texas 78714-9030 or street address 4900 North Lamar Boulevard, MC 4102, Austin, Texas 78751; or faxed to 512-776-7358; or emailed to HHRulesCoordinationOffice@hhsc.state.tx.us. When faxing or emailing comments, please indicate "Comments on Proposed Rule 18R028" in the subject line.

Comments are accepted for 30 days following publication of the proposal in the *Texas Register*. If the last day to submit comments falls on a weekend or a holiday, comments must be postmarked, shipped, faxed or emailed before midnight on the following business day to be accepted.

STATUTORY AUTHORITY

The amendment is authorized by Texas Family Code, §264.503 which describes the purpose and duties of the committee; and Texas Government Code, §531.0055(e), and the Texas Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code, Chapter 1001.

The amendment affects Texas Family Code, Chapter 264; Texas Government Code, Chapter 531; and Texas Health and Safety Code, Chapter 1001.

This agency hereby certifies that this proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

TITLE 25 HEALTH SERVICES
PART 1 DEPARTMENT OF STATE HEALTH SERVICES
CHAPTER 37 MATERNAL AND INFANT HEALTH SERVICES
SUBCHAPTER R ADVISORY COMMITTEES

§37.410. State Child Fatality Review Team Committee.

(a) The committee. The State Child Fatality Review Team Committee (committee) is appointed under and governed by this section. The committee is established under Texas Family Code, §§264.501 - 264.515.

(b) Purpose. The purpose of the committee is to reduce the number of preventable deaths to children in the State of Texas.

(c) Tasks.

(1) The committee develops an understanding of the causes and incidences of child death in Texas.

(2) The committee identifies procedures within the agencies represented on the committee to reduce the number of preventable child deaths.

(3) The committee promotes public awareness and makes recommendations to the Governor and Texas Legislature for changes in law, policy, and practice to reduce the number of preventable child deaths.

(d) Reports.

(1) Not later than April 1 of each even-numbered year, the [The] committee files a biennial written report with the Governor, Lieutenant Governor, Speaker of the House of Representatives, Texas Department of State Health Services (DSHS), and Texas Department of Family and Protective Services (DFPS) and makes the report available to the public.

(2) The report contains aggregate child fatality data collected by local child fatality review teams, recommendations to prevent child fatalities and injuries, and recommendations to DFPS based on input from the child safety review subcommittee.

~~[(3) The committee shall submit data reports to the Vital Statistics Unit not later than the 30th day after the day on which the review of child fatalities took place.]~~

(e) Composition.

(1) The committee is composed of 25 [22] members. Permanent members of the [appointed by the Texas Health and Human Services Commission (HHSC) Executive Commissioner. The] committee include [includes]:

(A) ~~[(1)]~~ a person appointed by and representing the State Registrar of Vital Statistics;

(B) ~~[(2)]~~ a person appointed by and representing the DFPS ~~[DSHS]~~ Commissioner;

(C) ~~[(3)]~~ a person appointed by and representing the DSHS Title V Director; ~~[and]~~

(D) a person appointed by and representing the speaker of the house of representatives;

(E) a person appointed by and representing the lieutenant governor;
and

(F) a person appointed by and representing the governor.

(2) The permanent members of the committee who serve under paragraph (1) of this subsection, shall appoint the following committee members, who must be members of their local Child Fatality Review Team, unless the committee member is an appointed representative of a state agency:

~~[(4) the following individuals:]~~

(A) a criminal prosecutor involved in prosecuting crimes against children;

(B) a sheriff;

(C) a justice of the peace;

(D) a medical examiner;

(E) a police chief;

(F) a pediatrician experienced in diagnosing and treating child abuse and neglect;

(G) a child educator;

- (H) a child mental health provider;
- (I) a public health professional;
- (J) a child protective services specialist;
- (K) a sudden infant death syndrome family service provider;
- (L) a neonatologist;
- (M) a child advocate;
- (N) a chief juvenile probation officer;
- (O) a child abuse prevention specialist;
- (P) a representative of the Texas Department of Public Safety;
- (Q) a representative of the Texas Department of Transportation;
- (R) an emergency medical services provider; and
- (S) a provider of services to, or an advocate for, victims of family violence.

(f) Terms of office. Except as necessary to stagger terms, the term of office for members that are appointed under subsection (e)(2) of this section [each member] is three years.

(1) Members [~~At the expiration of their terms, members~~] may apply to serve up to two terms. Terms do not have to be consecutive [~~renew their terms~~].

~~[(2) The person appointed by and representing the State Registrar of Vital Statistics, the person appointed by and representing the DSHS Commissioner, and the person appointed by and representing the DSHS Title V Director are permanent members of the committee.]~~

(2) [~~(3)~~] An appointment to a vacancy on the committee is made in the same manner as the original appointment.

(g) Officers. The committee selects from its members a chair [~~presiding officer~~] and vice-chair [~~an assistant presiding officer~~].

(1) The chair [~~presiding officer~~] presides at all committee meetings at which he or she is in attendance and calls meetings of the committee.

(2) The vice-chair [~~assistant presiding officer~~] presides at meetings if the chair [~~presiding officer~~] is unable to attend.

(h) Meetings.

(1) The committee meets quarterly.

(2) Meeting arrangements are made by DSHS staff.

(3) Except as provided by Texas Family Code, §264.504 (b), (c), and (d), the [~~The~~] committee is a "governmental body" as defined in the Open Meetings Act, Texas Government Code, Chapter 551. Meetings may be conducted in person, through teleconference call, or by means of other technology.

(4) A simple majority of the appointed committee members constitutes a quorum for the purpose of transacting official business.

(5) The committee is authorized to transact official business only when in a legally constituted meeting with quorum present.

(6) The agenda for each committee meeting includes an item entitled public comment under which any person is allowed to address the committee on matters relating to business. The chair [~~presiding officer~~] may establish procedures for public comment, including a time limit on each comment.

(i) Attendance. Members must attend committee meetings as scheduled.

(1) A member must notify the chair [~~presiding officer~~] or appropriate DSHS staff if he or she is unable to attend a scheduled meeting.

(2) It is grounds for removal from the committee if a member cannot discharge the member's duties for which the member is appointed because of illness or disability or is absent from more than one committee meeting per year.

(3) A member may give another member voting proxy upon his or her absence.

(j) Staff. Staff support for the committee is provided by DSHS.

(k) Procedures. The committee shall adopt bylaws to outline meeting and operating procedures.

~~[(1) Any action taken by the committee must be approved by a majority vote of the members present, once quorum is established.]~~

~~[(2) Each member has one vote unless given proxy by another member.]~~

~~[(3) The committee makes decisions in the discharge of its duties without discrimination based on any person's race, creed, gender, religion, national origin, age, physical condition, or economic status.]~~

~~[(4) Minutes of each committee meeting are taken by DSHS staff and approved by the committee at the next scheduled meeting.]~~

(l) Statement by members.

(1) HHSC, DSHS, and the committee are not bound in any way by any statement, recommendation, or action on the part of any committee member, except when a statement or action is in pursuit of specific instructions from HHSC, DSHS, or the committee.

(2) The committee and its members may not participate in legislative activity in the name of the committee. Committee members are not prohibited from representing themselves or other entities in the legislative process.

(3) A committee member may not accept or solicit any benefit that might reasonably tend to influence the member in the discharge of the member's official duties.

(4) A committee member may not disclose confidential information acquired through his or her committee membership.

(5) A committee member may not knowingly solicit, accept, or agree to accept any benefit for having exercised the member's official powers or duties in favor of another person.

(6) A committee member who has a personal or private interest in a matter pending before the committee must publicly disclose the fact in a committee meeting and may not vote or otherwise participate in the matter. The phrase "personal or private interest" means the committee member has a direct pecuniary interest in the matter but does not include the committee member's engagement in a profession, trade, or occupation when the

member's interest is the same as all others similarly engaged in the profession, trade, or occupation.

(m) Reimbursement for expenses. A member of the committee is not entitled to compensation for serving on the committee but is entitled to reimbursement for the member's travel expenses as provided for in the General Appropriations Act.

(1) Reimbursement for a person serving on the committee is paid from funds appropriated by DSHS.

(2) Reimbursement for other persons serving on the committee shall be paid from funds appropriated to DSHS.