

Elder Death Review Teams

This Act authorizes counties to establish an interagency elder death review team to help local agencies identify and review suspicious elder deaths and to facilitate communications among people who perform autopsies and people involved in the investigation or reporting of elder abuse or neglect. It specifies that county elder death review teams shall be comprised of certain public and private entities and the procedures for the sharing or disclosure of information by elder death review teams.

Submitted as:

California

Chapter 301 of 2001

Status: enacted into law in 2001.

Suggested Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act may be cited as the “Elder Death Review Teams Act.”

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3 Section 2. [*Legislative Findings.*] The Legislature finds and declares the following:

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5 (a) Interagency child death teams have been used successfully to ensure that the incidents of child
6 abuse or neglect are recognized and other siblings and non-offending family members receive the appropriate
7 services in cases where a child has died.

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8 (b) Interagency domestic violence review teams have been used successfully to ensure that incidents
9 of domestic violence and abuse are recognized and that agency involvement is reviewed to develop
10 recommendations for policies and protocols for prevention and intervention initiatives to reduce the incidence
11 of domestic violence.

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12 (c) There is a need to ensure that incidents of elder abuse or neglect are recognized and that agency
13 involvement is reviewed to develop recommendations for policies and protocols for prevention and
14 intervention initiatives to reduce the incidence of elder abuse and neglect.

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15 Section 3. [*Definitions.*] As used in this Act, unless the context requires otherwise:

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17 (a) “Elder” means any person who is [sixty-five (65)] years old or older.

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18 (b) (1) “Abuse” means any of the conduct described in [insert citation].

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19 (2) Abuse does not include the use of any reasonable and necessary force that may result in
20 an injury used by a peace officer acting within the course of his or her employment as a peace officer.

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21 Section 4. [*Elder Death Review Teams Established.*]
22 (a) Each county may establish an interagency elder death team to assist local agencies in identifying
23 and reviewing suspicious elder deaths and facilitating communication among people who perform autopsies
24 and the various people and agencies involved in elder abuse or neglect cases.

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26 (b) Each county may develop a protocol that may be used as a guideline by people performing
27 autopsies on elder adults to assist coroners and other people who perform autopsies in the identification of
28 elder abuse, in the determination of whether elder abuse or neglect contributed to death or whether elder
29 abuse or neglect had occurred prior to but was not the actual cause of death, and in the proper written
30 reporting procedures for elder abuse or neglect, including the designation of the cause and mode of death.

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31 Section 5. [*Composition of Elder Death Review Teams.*] County elder death review teams may be
32 comprised of, but not limited to, the following:

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33 (a) Experts in the field of forensic pathology.

- 34 (b) Medical personnel with expertise in elder abuse and neglect.
35 (c) Coroners and medical examiners.
36 (d) District attorneys and city attorneys.
37 (e) County or local staff including, but not limited to:
38 (1) Adult protective services staff.
39 (2) Public administrator, guardian, and conservator staff.
40 (3) County health department staff who deal with elder health issues.
41 (4) County counsel.
42 (f) County and state law enforcement personnel.
43 (g) Local long-term care ombudsman.
44 (h) Community care licensing staff and investigators.
45 (i) Geriatric mental health experts.
46 (j) Criminologists.
47 (k) Representatives of local agencies that are involved with oversight of adult protective services and
48 reporting elder abuse or neglect.
49 (l) Local professional associations of people described in subdivisions (a) to (k), inclusive.
50

51 Section 6. *[Documentation Confidentiality.]*

52 (a) An oral or written communication or a document shared within or produced by an elder death
53 review team related to an elder death review is confidential and not subject to disclosure or discoverable by
54 another third party.

55 (b) An oral or written communication or a document provided by a third party to an elder death
56 review team, or between a third party and an elder death review team, is confidential and not subject to
57 disclosure or discoverable by a third party.

58 (c) Notwithstanding subdivisions (a) and (b), recommendations of an elder death review team upon
59 the completion of a review may be disclosed at the discretion of a majority of the members of the elder death
60 review team.
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62 Section 7. *[Information Sharing.]*

63 (a) Each organization represented on an elder death review team may share with other members of the
64 team information in its possession concerning the decedent who is the subject of the review or any person
65 who was in contact with the decedent and any other information deemed by the organization to be pertinent to
66 the review. Any information shared by an organization with other members of a team is confidential. The
67 intent of this subdivision is to permit the disclosure to members of the team of any information deemed
68 confidential, privileged, or prohibited from disclosure by any other provision of law.

69 (b) (1) Written and oral information may be disclosed to an elder death review team established
70 pursuant to this section. The team may make a request in writing for the information sought and any person
71 with information of the kind described in paragraph (3) may rely on the request in determining whether
72 information may be disclosed to the team.

73 (2) No individual or agency that has information governed by this subdivision shall be
74 required to disclose information. The intent of this subdivision is to allow the voluntary disclosure of
75 information by the individual or agency that has the information.

76 (3) The following information may be disclosed pursuant to this subdivision:

- 77 (A) Notwithstanding [insert citation], medical information.
78 (B) Notwithstanding [insert citation], mental health information.
79 (C) Notwithstanding [insert citation], information from elder abuse reports and
80 investigations, except the identity of people who have made reports, which shall not be disclosed.
81 (D) State summary criminal history information, criminal offender record
82 information, and local summary criminal history information, as defined in [insert citation].

83 (E) Notwithstanding [insert citation], information pertaining to reports by health
84 practitioners of people suffering from physical injuries inflicted by means of a firearm or of people suffering
85 physical injury where the injury is a result of assaultive or abusive conduct.

86 (F) Information provided to probation officers in the course of the performance of
87 their duties, including, but not limited to, the duty to prepare reports pursuant to [insert citation], as well as
88 the information on which these reports are based.

89 (G) Notwithstanding [insert citation], records relating to in-home supportive services,
90 unless disclosure is prohibited by federal law.

91 (c) Written and oral information may be disclosed under this section notwithstanding [insert citation],
92 the lawyer-client privilege protected by [insert citation], the physician-patient privilege protected by [insert
93 citation], and the psychotherapist-patient privilege protected by [insert citation].

94 (d) Information gathered by the elder death review team and any recommendations made by the team
95 shall be used by the county to develop education, prevention, and if necessary, prosecution strategies that will
96 lead to improved coordination of services for families and the elder population.

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98 Section 8. [*Severability.*] [Insert severability clause.]

99
100 Section 9. [*Repealer.*] [Insert repealer clause.]

101
102 Section 10. [*Effective Date.*] [Insert effective date.]