

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1567 Elder and Vulnerable Adult Abuse Fatality Review Teams

SPONSOR(S): Hawkins

TIED BILLS: HB 1569 **IDEN./SIM. BILLS:** SB 1540

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee		Osborne	Brazzell
2) Health & Human Services Committee			

SUMMARY ANALYSIS

In 2022, Florida had an estimated 4.7 million people age 65 and older, approximately 21 percent of the state's population. Mental and physical infirmities associated with aging and social isolation make elders vulnerable to abuse, which increases their rates of hospitalization and hastens death. One in 10 elders is abused, but incidents of elder abuse are reported in less than 5 percent of cases, primarily because the most common perpetrator is a relative, friend, neighbor, or caregiver whom the elder trusts or fears.

In 2020, the Legislature authorized the creation of multidisciplinary, multiagency elder abuse fatality review team (EA-FRT) in each judicial circuit to review closed cases where the death of an elderly person was caused by, or related to, abuse or neglect. An EA-FRT may only be initiated by a state attorney, and may only review closed cases which have been referred by the state attorney and redacted according to public records exemptions. This limits EA-FRTs to reviewing cases which have been opened or criminally prosecuted by the state attorney's office.

There are currently two EA-FRTs established by state attorneys in the state; one in the Fourth Judicial Circuit and the other in Fifth Judicial Circuit. The 2nd Annual Report from the Fourth Judicial Circuit's EA-FRT included a series of recommendations for changes to allow a more comprehensive review of cases. The recommendations included removing the statutory restrictions on the types of cases which an EA-FRT may review, removing the requirement that EA-FRTs be initiated by a state attorney, and creating public records and meeting exemptions so that EA-FRTs may meaningfully engage in case review.

HB 1567 expands the scope of the existing EA-FRTs to include vulnerable adults and changes their name to the Elder and Vulnerable Adult Abuse Review Teams (review teams). The bill also expands the scope to include "near fatal" incidents and incidents which are the result of exploitation and expands membership. The bill creates provisions to protect individuals interviewed and information collected by review teams from being used in a civil or criminal trial.

HB 1567 allows any members permitted to serve to create a review team. The bill removes the provision that restricted review teams to reviewing only closed cases which have been referred and redacted by a state attorney; thus, taken together with the public records and public meetings exemptions authorized in the tied bill, these teams would then be permitted to meet in a closed meeting and view confidential and exempt records as well as contact the members of a deceased elder's family.

The bill has no fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

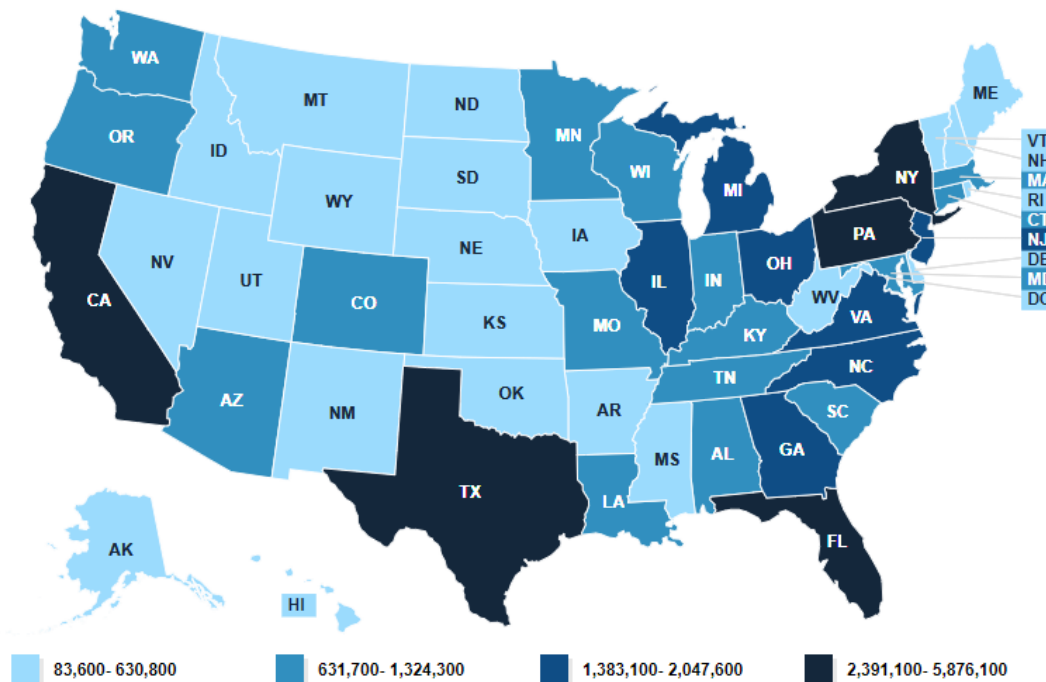
A. EFFECT OF PROPOSED CHANGES:

Current Situation

Elder Population in Florida

As the country's "baby-boom" population reaches retirement age and life expectancy increases, the nation's elder population is projected to increase from 54.1 million in 2019¹ to 80.8 million by 2040.² Florida has long been a destination state for senior citizens and has the second highest percentage of senior residents in the entire nation behind Maine.³ In 2022, Florida had an estimated 4.7 million people age 65 and older, approximately 21 percent of the state's population.⁴ By 2030, this number is projected to increase to 5.9 million, meaning the elderly will make up approximately one quarter of the state's population and will account for most of the state's growth.⁵

National Distribution of Population Ages 65 and Older (2021)⁶



In Florida, almost 1.5 million senior citizens live in medically underserved areas and 758,000 have one or more disabilities.⁷

Abuse of Elderly Persons and Vulnerable Adults

¹ U.S. Census Bureau, *65 and Older Population Grows Rapidly as Baby Boomers Age* (June 25, 2020), Release Number: CB20-99, <https://www.census.gov/newsroom/press-releases/2020/65-older-population-grows.html> (last visited March 19, 2023).

² U.S. Department of Health and Human Services Administration on Aging, *2020 Profile of Older Americans* (May 2021), https://acl.gov/sites/default/files/Aging%20and%20Disability%20in%20America/2020ProfileOlderAmericans.Final_.pdf (last visited March 19, 2023).

³ *Id.*

⁴ U.S. Census Bureau, *Quick Facts— Florida*. Available at <https://www.census.gov/quickfacts/fact/table/FL#> (last visited Jan. 26, 2022).

⁵ Florida Office of Economic & Demographic Research, *Florida Population by Age Group*. Available at http://edr.state.fl.us/Content/population-demographics/data/pop_census_day-2020.pdf (last visited March 19, 2023).

⁶ Kaiser Family Foundation, *State Health Facts, Population Distribution by Age*, <https://www.kff.org/other/state-indicator/distribution-by-age/> (last visited Feb. 13, 2020). Kaiser Family Foundation, *State Health Facts, Population Distribution by Age*. Available at <https://www.kff.org/other/state-indicator/distribution-by-age/> (last visited March 19, 2023).

⁷ Department of Elder Affairs, *2021 Profile of Older Floridians*. Available at https://elderaffairs.org/wp-content/uploads/2021_Florida-Profile.pdf (last visited March 19, 2023).

Under Chapter 415, F.S., the Adult Protective Services Act, a “vulnerable adult” is considered a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.⁸ The term implicitly includes elderly persons, but also incorporates disabled adults and other adults whom the Legislature has determined to be at risk of abuse, neglect, and exploitation, and in need of protective services.⁹

Elder populations are particularly vulnerable to abuse and exploitation due to risk factors associated with aging, such as physical and mental infirmities and social isolation.¹⁰ Elder abuse occurs in community settings, such as private homes, as well as in institutional settings like nursing homes and other long-term care facilities. Prevalent forms of abuse are financial exploitation, neglect, emotional or psychological abuse, and physical abuse; however, an elder abuse victim will often experience multiple forms of abuse at the same time.¹¹ The most common perpetrators of elder abuse are relatives, such as adult children or a spouse, followed by friends and neighbors, and then home care aides.¹²

According to the Department of Justice, approximately 1 in 10 seniors is abused each year in the United States, though incidents of elder abuse are reported to local authorities in 1 out of every 23 cases.¹³ Elder abuse can have significant physical and emotional effects on an older adult and can lead to premature death.¹⁴ Abused seniors are twice as likely to be hospitalized and three times more likely to die than non-abused seniors.¹⁵ Research shows that elder abuse is underreported, often because the victims fear retribution or care for or trust their perpetrators.¹⁶ Elder abuse deaths are more likely to go undetected because an elder death is expected to occur, given age or infirmity, more so than other deaths due to abuse such as a child death or a death involving domestic violence.¹⁷ Experts believe this may be one of the reasons elder abuse lags behind child abuse and domestic violence in research, awareness, and systemic change.¹⁸

Florida’s Adult Protective Services System

Florida’s Adult Protective Services system is established in ch. 415, F.S., and operates under the Department of Children and Families (DCF). DCF protects vulnerable adults from abuse, neglect, and exploitation through mandatory reporting and investigation of suspected abuse.¹⁹ This includes deaths allegedly due to abuse, neglect, and exploitation.²⁰ In FY 2018-19, DCF received 37,145 reports of abuse, neglect, or exploitation of persons aged 60 years or older and investigated 252 deaths in which

⁸ S. 415.102(28), F.S.

⁹ S. 415. 101, F.S.

¹⁰ National Center on Elder Abuse, *Research, Statistics, and Data: Risk Factors and Protective Factors*. Available at <https://ncea.acl.gov/About-Us/What-We-Do/Research/Statistics-and-Data.aspx#risk> (last visited March 19, 2023); U.S. Department of Justice, *What is Elder Abuse*. Available at <https://www.justice.gov/elderjustice/about-elder-abuse> (last visited March 19, 2023). See also, Xing Qi Dong, et al., *Elder Abuse as a Risk Factor for Hospitalization in Older Persons*, *JAMA Intern Med.* 173:10 at 911-917 (2013).

¹¹ National Center on Elder Abuse, *Research, Statistics, and Data Behavioral Health: Social Conditions, Violence, and Elder Mistreatment*. Available at <https://ncea.acl.gov/What-We-Do/Research/Statistics-and-Data.aspx> (last visited March 19, 2023).

¹² National Center on Elder Abuse, *Research, Statistics, and Data: Perpetrator Identity*. Available at <https://ncea.acl.gov/About-Us/What-We-Do/Research/Statistics-and-Data.aspx#perpetrators> (last visited March 19, 2023).

¹³ U.S. Department of Justice, *Elder Abuse Statistics*. Available at <https://www.justice.gov/file/1098056/download> (last visited March 19, 2023). See also, Ron Acierno et al., *Prevalence and Correlates of Emotional, Physical, Sexual, and Financial Abuse and Potential Neglect in the United States: The National Elder Mistreatment Study*, 100:2 *Am. J. Pub. Health*, at 292-297 (Feb. 2010), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2804623/> (last visited March 19, 2023).

¹⁴ *Id.* See also, Mark S. Lachs et al., *The Mortality of Elder Mistreatment*, 280:5 *JAMA* at 428-432 (1998), <https://jamanetwork.com/journals/jama/fullarticle/187817> (last visited March 19, 2023).

¹⁵ Xing Qi Dong et al., *Elder Abuse as a Risk Factor for Hospitalization in Older Persons*, *JAMA Intern Med.* 173:10 at 911-917 (2013).

¹⁶ Center for Disease Control and Prevention, *Understanding Elder Abuse, Fact Sheet 2021*. Available at <https://www.cdc.gov/violenceprevention/pdf/elder/preventingElderAbuseFactsheet.pdf> (last visited Jan. 26, 2022).

¹⁷ U.S. Department of Justice, National Institute of Justice, *Elder Justice Roundtable Report: Medical Forensic Issues Concerning Abuse and Neglect*, October 18, 2000, p. 8. Available at <https://www.ncjrs.gov/pdffiles1/nij/242221.pdf> (last visited March 19, 2023).

¹⁸ *Id.* at pp. 7-10.

¹⁹ S. 415.101(2), F.S.

²⁰ Department of Children and Families, *CF Operating Procedure No. 140-2: Adult Protective Services* (2022), pp. 4-9 - 4-10. Available at https://www.myflfamilies.com/sites/default/files/2022-12/cfop_140-02_adult_protective_services.pdf (last visited March 19, 2023).

the death was allegedly due to abuse or neglect.²¹ During that same fiscal year, DCF verified 6,277 allegations of abuse or neglect, 34 of which involved a fatality.²² Eighty-one (81) percent of these reports were from in-home settings, which is consistent with the research findings that relatives, friends, or caregivers are the primary perpetrators of elder abuse.

Confidentiality of Reports and Records Concerning Vulnerable Adults

Current law protects all records concerning reports of abuse, neglect, or exploitation of a vulnerable adult, including reports made to the central abuse hotline operated by DCF,²³ and all records generated as a result of those reports are confidential and exempt²⁴ from public record requirements.²⁵ Access²⁶ to these records is granted only to the following entities in specified circumstances:

- DCF, Agency for Health Care Administration (AHCA), Department of Elder Affairs (DOEA), and Agency for Persons with Disabilities (APD) employees or agents with certain relevant responsibilities, or the employees or agents of an agency of another state with jurisdiction similar to those agencies;
- A criminal justice agency investigating a report of known or suspected abuse, neglect, or exploitation of a vulnerable adult;
- The state attorney of the judicial circuit in which the vulnerable adult resides or in which the alleged abuse, neglect, or exploitation occurred;
- Any victim, the victim's guardian, caregiver, or legal counsel, and any person whom DCF has determined might be abusing, neglecting, or exploiting the victim;
- A court;
- A grand jury, by subpoena upon its determination that access to such records is necessary;
- An official of the Florida advocacy council, State Long-Term Care Ombudsman program, or long-term care ombudsman council;
- Any person engaged in bona fide research or auditing, so long as the identifying information is not made available;
- The Public Employees Relations Commission for the sole purpose of obtaining evidence for appeals; and
- Any person in the event of the death of a vulnerable adult determined to be a result of abuse, neglect, or exploitation.²⁷

Additionally, the identity of any person reporting abuse, neglect, or exploitation of a vulnerable adult may not be released, without that person's consent, to any person other than the employees of DCF responsible for protective services, the central abuse hotline, or the appropriate state attorney or law enforcement agency.²⁸

Central Abuse Hotline

DCF maintains a statewide 24/7 toll-free central abuse hotline where anyone can report known or suspected abuse, neglect, or exploitation.²⁹ This includes, but is not limited to, vulnerable adults. Any

²¹ Email from Lindsey Zander, Deputy Director of Legislative Affairs, Department of Children and Families, RE: APS Statistics (Oct. 30, 2019) (On file with House Health and Human Services Committee staff).

²² *Id.*

²³ S. 415.103(1), F.S.

²⁴ There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in statute. See Op. Att'y Gen. Fla. 85-62 (1985).

²⁵ S. 415.107, F.S.

²⁶ The term "access" is defined to mean a visual inspection or copy of the hard-copy record maintained in the district. S. 415.07(7), F.S.

²⁷ S. 415.107(3), F.S.

²⁸ S. 415.107(6), F.S.

²⁹ S. 415.103(1), F.S.

person who knows or has reasonable cause to suspect abuse, neglect, or exploitation of a vulnerable adult is required to immediately report this knowledge or suspicion to the central abuse hotline.³⁰ The hotline number must be provided to clients in nursing homes³¹ and publicly displayed in every health facility licensed by the Agency for Health Care Administration (AHCA).³² The number is also listed on the agency websites for DCF, AHCA, and the Department of Elder Affairs (DOEA).³³

Additionally, any person who is required to investigate allegations of abuse, neglect, or exploitation, and who has reasonable cause to suspect that a vulnerable adult died as result of such harm must report that suspicion to DCF, the medical examiner, and appropriate criminal justice agency.³⁴ Medical examiners in turn are required to consider this information in their cause of death determinations and report their findings to DCF and the appropriate criminal justice agency and state attorney.³⁵

Protective Investigations

Once DCF believes there is reasonable cause to suspect abuse or neglect of a vulnerable adult, they begin an investigation within 24 hours, conducted in cooperation with law enforcement and the state attorney.³⁶ DCF investigators determine, among other things, whether the vulnerable adult is in need of services, whether there is evidence of abuse, neglect or exploitation, the nature and extent of any harm, and what is necessary to ensure the victim's safety and well-being.³⁷ DCF investigators must complete their investigations and submit their recommendations within 60 days of the initial report.³⁸ If DCF determines that a victim is in need of protective services or supervision, it will provide or facilitate the provision of those services to the victim.³⁹ If a victim dies during an open investigation, DCF investigators must verify the cause of death before closing the case to determine if the death was related to abuse or neglect.⁴⁰

If there is a report that a death occurred due to elder abuse, neglect, or exploitation, the DCF investigator notifies the department's regional registered nurse specialist (RNS) within 24 hours.⁴¹ If the alleged victim resided with other vulnerable adults, DCF conducts an on-site investigation to ensure the safety of these individuals as well.⁴² The DCF investigator and RNS work together to gather all relevant medical investigative information, including, but not limited to, medical records, the death certificate, the autopsy report, and specific questions to be included in the investigative process.⁴³ The DCF investigators also gather other relevant information such as copies of any related law enforcement investigations, criminal history and abuse reports relating to the alleged perpetrator, and prior adult protective services records relating to the victim or perpetrator, including the facilities where the death occurred.⁴⁴

³⁰ S. 415.1034(1), F.S.

³¹ S. 408.810(5)(a)2., F.S.

³² S. 400.141(1)(m), F.S.; AHCA poster can be found here:

https://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Long_Term_Care/docs/Nursing_Homes/Posters/NURSING_HOME_POSTER_ENGLISH_LETTER.pdf (last visited March 19, 2023).

³³ Department of Children and Families, *Report Abuse Neglect or Exploitation*. Available at <http://www.myflfamilies.com/service-programs/abuse-hotline/report-online> (last visited March 19, 2023); Agency for Health Care Administration, *Complaint Administration Unit*. Available at http://ahca.myflorida.com/MCHQ/Field_Ops/CAU.shtml (last visited March 19, 2023); Department of Elder Affairs, *Elder Abuse Prevention Program*. Available at <https://elderaffairs.org/programs-services/elder-protection-programs/> (last visited March 19, 2023).

³⁴ S. 415.1034(2), F.S.

³⁵ *Id.*

³⁶ S. 415.104(1), F.S. Note, DCF does not investigate reports of elder abuse when the adult victim is determined *notto* be vulnerable under s. 415.102(28), F.S. Those elder abuse cases are the sole jurisdiction of law enforcement agencies.

³⁷ S. 415.104(3), F.S.

³⁸ S. 415.104(4), F.S.

³⁹ S. 415.105(1), F.S.

⁴⁰ Department of Children and Families, *CF Operating Procedure No. 140-2: Adult Protective Services* (2022), pp. 4-9 - 4-10. Available at https://www.myflfamilies.com/sites/default/files/2022-12/cfop_140-02_adult_protective_services.pdf (last visited March 19, 2023).

⁴¹ An RNS is a Florida-licensed registered nurse who assists the DCF in its Adult Protective Services investigations by providing medical expertise to help inform the DCF's findings. Department of Children and Families, *CF Operating Procedure No. 140-11: Adult Protective Services Registered Nurse Specialist* (Oct. 21, 2011), p. 1, available at https://www.myflfamilies.com/sites/default/files/2022-12/cfop_140-11_adult_protective_services_registered_nurse_specialist.pdf (last visited March 20, 2023).

⁴² *Supra* note 40, at 21-1.

⁴³ *Supra* note 40, at 21-2.

⁴⁴ *Id.*

The DCF investigators review all of this information before making their determinations as to the cause of death and will summarize their findings in a report.⁴⁵ In these cases involving an elder abuse death, DCF designates a second party to review the DCF investigators' findings before closing the case.⁴⁶ The second party reviews the investigation process to ensure that it was thorough and that all issues were properly addressed, reviews the reports for completeness and accuracy, and documents its review for DCF's records.⁴⁷

Adult Protection Teams

Current law authorizes DCF to create multidisciplinary Adult Protection Teams in each district⁴⁸ to support activities of the protective services program and provide services the team finds necessary for victims of elder abuse.⁴⁹ The teams can only provide these services with the consent of the vulnerable adult, the person's guardian, or court order, and should not duplicate services provided by other units or offices of DCF.⁵⁰

The teams can consist of anyone trained in the prevention, identification, and treatment of abuse of elderly persons, such as:⁵¹

- Psychiatrists, psychologists, and other trained counseling personnel;
- Police officers or other law enforcement officers;
- Medical personnel who have sufficient training to provide health services;
- Social workers who have experience or training in preventing the abuse of elderly or dependent persons; and
- Public and professional guardians under part II of chapter 744, F.S.

Elder Adult Fatality Review Teams

In 2020, the Legislature authorized Elder Adult Fatality Review Teams (EA-FRTs) to be operated in the state.⁵² EA-FRTs are multidisciplinary, multiagency teams⁵³ established in the state's judicial circuits to review elderly persons' deaths alleged or found to have been caused by, or related to, abuse⁵⁴ or neglect.⁵⁵ An EA-FRT's review includes consideration of the events leading up to a fatal incident, available community resources, current law and policies, and the actions taken by public and private systems and individuals related to the fatal incident.⁵⁶ EA-FRTs are directed to identify any gaps, deficiencies, or problems in the delivery of services related to the fatal incident.⁵⁷

⁴⁵ *Supra* note 40, at 21-2 - 21-3

⁴⁶ *Supra* note 40, at 21-3.

⁴⁷ *Id.*

⁴⁸ DCF has now adopted a regional structure rather than a district-based structure.

⁴⁹ Ss. 415.1102(1), 415.1102(4), F.S. DCF has established 15 Adult Protection Teams statewide, varying in how often and under what circumstances they convene, Email from Lindsey Perkins Zander, Deputy Director of Legislative Affairs, Department of Children and Families, RE: Adult Protective Services Statistics (Jan. 5, 2018) (On file with House Health and Human Services Committee staff).

⁵⁰ Ss. 415.1102(4), 415.1102(5), F.S.

⁵¹ Ss. 415.1102(1), 415.1102(2), F.S.

⁵² Ch. 2020-17, L.O.F.

⁵³ S. 415.1103, F.S. EA-FRTs may include representatives from any of the following entities or persons: law enforcement agencies; the state attorney; the medical examiner; a county court judge; Adult Protective Services; the Area Agency on Aging; the State Long-Term Care Ombudsman Program; the Agency for Health Care Administration; the Office of the Attorney General; the Office of the State Courts Administrator; the clerk of the court; a victim services program; an elder law attorney; emergency services personnel; a certified domestic violence center; an advocacy organization for victims of sexual violence; a funeral home director; a forensic pathologist; a geriatrician; a geriatric nurse; a geriatric psychiatrist or other individual licensed to offer behavioral health services; a hospital discharge planner; a public guardian; and other persons who have knowledge regarding fatal incidents of elder abuse, domestic violence, or sexual violence, including knowledge of research, policy, law, and other matters connected with such incidents or who are recommended for inclusion by the review team.

⁵⁴ See s. 415.102(1), F.S., "Abuse" means any willful act or threatened act by a relative, caregiver, or household member which causes or is likely to cause significant impairment to a vulnerable adult's physical, mental, or emotional health. Abuse includes acts and omissions.

⁵⁵ S. 415.1103(1)(a), F.S. See also, s. 415.102(16), F.S., "Neglect" means the failure or omission on the part of the caregiver to provide the care, supervision, and services necessary to maintain the physical and mental health of the vulnerable adult through a single incident or repeated conduct.

⁵⁶ S. 415.1103(3), F.S.

⁵⁷ S. 415.1103(3), F.S.

Under current law, a state attorney, or his or her designee, is the only entity authorized to initiate an EA-FRT.⁵⁸ The state attorney or designee who initiated the EA-FRT is then responsible for calling the first organizational meeting for the team and referring cases for the EA-FRT's review.⁵⁹ The state attorney assigns closed cases to an EA-FRT, and he or she must redact identifying information from such cases before assignment.⁶⁰ A case is considered closed when it no longer contains active⁶¹ information related to ongoing intelligence gathering, an ongoing investigation, or pending prosecutions or appeals. This means that the only cases turned over by a state attorney to an EA-FRT for review are those cases which are no longer active and are open for public inspection. The statutory directive limits EA-FRTs to reviewing criminal cases which have been opened and investigated by the state attorney's office. This significantly limits the cases which may be reviewed by an EA-FRT, particularly within the context of elder abuse which is widely understood to be underreported.

Membership in an EA-FRT is voluntary; the only party required to participate as a prerequisite for EA-FRT operation is a state attorney. Members of the review team serve without compensation or reimbursement. Current law instructs that EA-FRT members are to serve two-year terms. EA-FRT members are immune from monetary liability and a cause of action may not be brought against them for matters that were in the performance of their duties as an EA-FRT member, such as any discussions by, or deliberations or recommendations of the team or the member. However, this immunity does not apply if the member acted in bad faith, with wanton and willful disregard of human rights, safety, or property. This immunity does not extend to witnesses or other individuals associated with the case review process.

EA-FRT members are not permitted to directly contact a victim's family; however, a victim's family or any other person may voluntarily provide information to an EA-FRT which may then be shared with other EA-FRTs.⁶² There currently is not a public records exemption in place for EA-FRTs; as a result, all records provided to them or created in the course of their reviews are subject to public disclosure.

Each EA-FRT is required to prepare an annual report to be submitted to DOEA by September 1 each year. The annual reports are required to include descriptive statistics of cases reviewed; current policies, procedures, rules, or statutes that the EA-FRT identified as contributing to the incidents, and recommendations for system improvements; and any other recommendations to prevent deaths from elder abuse or neglect.

There are currently two EA-FRTs established by state attorneys in Florida: one in the Fourth Judicial Circuit⁶³ and the other in the Fifth Judicial Circuit.⁶⁴ The 2nd Annual Report from the Fourth Judicial Circuit's EA-FRT included a series of recommendations for changes to the statute governing EA-FRTs with the intent of enabling the review teams to more meaningfully review cases and form comprehensive recommendations.⁶⁵ The recommendations include removing the statutory restrictions on the types of cases which an EA-FRT may review, removing the requirement that EA-FRTs be initiated by a state attorney, and creating public records and meeting exemptions so that EA-FRTs may meaningfully engage in case review.

Effect of the Bill

⁵⁸ S. 415.1103(1)(a), F.S.

⁵⁹ S. 415.1103(1)(e), F.S.

⁶⁰ S. 415.1103(1)(e), F.S.

⁶¹ See s. 119.011(3), F.S.

⁶² S. 415.1103(4)(b), F.S.

⁶³ State Attorney's Office of the 4th Judicial District, Elder Abuse Fatality Review Team (EAFRT). Available at <https://sao4th.com/resources/for-the-public/elder-abuse-fatality-review-team-eaftr/> (last visited March 19, 2023).

⁶⁴ State Attorney's Office of the 5th Judicial District, *State Attorney Creates Elder Abuse Fatality Review Team*. Available at <https://www.sao5.org/State-Attorney-Creates-Elder-Abuse-Fatality-Review-Team-1-9147.html> (last visited March 19, 2023).

⁶⁵ The Fourth Judicial Circuit Elder Abuse Fatality Review Team, Second Annual Report to the Florida Department of Elder Affairs (September 2022). On file with the Children, Families & Seniors Subcommittee.

HB 1567 expands the scope of the existing EA-FRTs to include vulnerable adults. The bill changes the name of the review teams to the Elder and Vulnerable Adult Abuse Review Teams (review teams) to reflect this change.

The bill defines “vulnerable adult” to include a disabled adult and elderly person as those terms are defined in s. 825.101(3) and (4), F.S., respectively:

- “Disabled adult” means a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person’s ability to perform the normal activities of daily living.⁶⁶
- “Elderly person” means a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunctioning, to the extent that the ability of the person to provide adequately for the person’s own care or protection is impaired.⁶⁷

The bill also expands the scope in terms of the types of incidents that can be reviewed; this includes authorizing review teams to review “near fatal” as well as fatal incidents, and incidents which are the result of exploitation in addition to abuse and neglect.

HB 1567 revises the conditions under which a review team can be organized and the jurisdictions in which they can operate. It adds the Agency for Persons with Disabilities and disability rights attorneys to the list of entities which may be represented on the review teams, consistent with the expansion of the scope of the teams to include disabled adults as defined in statute. It also expands the permissible membership to include persons with knowledge about vulnerable adult abuse, disabled adult abuse, and suicide.

The bill removes the requirement that a state attorney be the entity that initiates the team but does not substitute any other government or other specified entity as an authorized team initiator. The bill allows teams to be established at a local, regional, or state level.

HB 1567 deletes the provision that restricted review teams to reviewing only closed cases that have been referred and redacted by the state attorney. The tied bill, HB 1569, allows review teams to access public records. The bill also deletes provisions prohibiting members of a review team from directly contacting members of a deceased elder’s family.

The bill creates provisions protecting individuals interviewed and information collected by review teams from being used in a civil or criminal trial.

The bill makes conforming changes in the remainder of s. 415.1103, F.S., to align with the changes relating to the scope of the review teams.

Taken together with the tied bill, HB 1567 would allow a wide range of individuals to create review teams on their own, without any involvement of a government agency, addressing regions varying in size from a local area to the entire state. These teams would then be permitted to meet in a closed meeting and view confidential and exempt records as well as contact the members of a victim’s family.

The bill provides an effective date of July 1, 2023.

B. SECTION DIRECTORY:

Section 1: Amends s. 415.1103, F.S., relating to elder abuse fatality review teams.

Section 2: Provides an effective date of July 1, 2023.

⁶⁶ S. 825.101(3), F.S.

⁶⁷ S. 825.101(4), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Rulemaking authority is not needed to implement the provisions of the bill. Rulemaking authority is not needed to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES