

SENATE No. 92

The Commonwealth of Massachusetts

PRESENTED BY:

Adam Gomez

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to child fatality review.

PETITION OF:

NAME:

Adam Gomez

DISTRICT/ADDRESS:

Hampden

SENATE No. 92

By Mr. Gomez, a petition (accompanied by bill, Senate, No. 92) of Adam Gomez for legislation relative to child fatality review. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to child fatality review.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1: Chapter 18C of the General Laws is hereby amended by adding the
2 following section:

3 Section 15: (a) As used in this section the following words shall, unless the context
4 clearly requires otherwise, have the following meanings:

5 “Child”, a person under the age of 18.

6 “Fatality”, a death of a child.

7 “Local team”, a local child fatality review team established in subsection (c).

8 “Near fatality”, an act that, as certified by a physician, places a child in serious or critical
9 condition.

10 “State team”, the state child fatality review team established in subsection (b).

11 “Team”, the state or a local team.

12 “Office”, the office of the child advocate.

13 (b) There shall be a state child fatality review team within the office. Notwithstanding
14 section 172 of chapter 6, members of the state team shall be subject to criminal offender record
15 checks to be conducted by the colonel of state police on behalf of the child advocate. All
16 members shall serve without compensation for their duties associated with membership on the
17 state team.

18 The state team shall consist of not less than: (i) the child advocate, or designee, who shall
19 serve as co-chair; (ii) the commissioner of public health, or designee, who shall serve as co-
20 chair; (iii) the chief medical examiner, or designee; (iv) the attorney general, or designee; (v) the
21 commissioner of children and families, or designee; (vi) the commissioner of elementary and
22 secondary education, or designee; (vii) a representative selected by the Massachusetts District
23 Attorneys Association; (viii) the colonel of state police, or designee; (ix) the commissioner of
24 mental health, or designee; (x) the commissioner of developmental services, or designee; (xi) the
25 director of the Massachusetts Center for Unexpected Infant and Child Death at Boston Medical
26 Center, or designee; (xii) the commissioner of youth services, or designee; (xiii) the
27 commissioner of early education and care, or designee; (xiv) a representative selected by the
28 Massachusetts chapter of the American Academy of Pediatrics who has experience in diagnosing
29 or treating child abuse and neglect; (xv) a representative selected by the Massachusetts Health
30 and Hospital Association, Inc.; (xvi) the president of the Massachusetts Chiefs of Police
31 Association Incorporated, or designee; and (xvii) any other person, selected by the co-chairs or
32 by majority vote of the members of the state team, with expertise or information relevant to an
33 individual case. The purpose of the state team shall be to decrease the incidence of preventable
34 child fatalities and near fatalities by: (1) developing an understanding of the causes and incidence

35 of child fatalities and near fatalities; and (2) advising the governor, the general court and the
36 public by recommending changes in law, policy and practice to prevent child fatalities and near
37 fatalities. The state team may consult with the chief justice of the juvenile court department of
38 the trial court of the commonwealth on issues with a direct bearing upon the business of the
39 Massachusetts courts.

40 To achieve its purpose, the state team shall: (i) develop model investigative and data
41 collection protocols for local teams; (ii) provide information to local teams and law enforcement
42 agencies for the purpose of protecting children; (iii) provide training and written materials to
43 local teams to assist them in carrying out their duties; (iv) review reports from local teams; (v)
44 study the incidence and causes of child fatalities and near fatalities in the commonwealth; (vi)
45 analyze community, public and private agency involvement with the children and their families
46 prior to and subsequent to fatalities or near fatalities; (vii) develop a protocol for the collection of
47 data regarding fatalities and near fatalities and provide training to local teams on the protocol;
48 (viii) develop and implement rules and procedures necessary for its own operation; and (ix)
49 provide the governor, the general court and the public with annual written reports, subject to
50 confidentiality restrictions, that shall include, but not be limited to, the state team's findings and
51 recommendations.

52 (c) There shall be a local child fatality review team in each district established under
53 section 13 of chapter 12. Notwithstanding section 172 of chapter 6, members of a local team
54 shall be subject to criminal offender record checks to be conducted by the district attorney. All
55 members shall serve without compensation for their duties associated with membership on a
56 local team.

57 Each local team shall include, but not be limited to: (i) the district attorney of the county,
58 who shall serve as chair; (ii) the chief medical examiner or, designee; (iii) the commissioner of
59 children and families or, designee; (iv) a pediatrician with experience in diagnosing or treating
60 child abuse and neglect, appointed by the state team; (v) a local police officer from a
61 municipality where a child fatality or near fatality occurred, appointed by the chief of police of
62 the municipality; (vi) a state law enforcement officer, appointed by the colonel of state police;
63 (vii) the director of the Massachusetts Center for Unexpected Infant and Child Death located at
64 Boston Medical Center or a designee; (viii) at least 1 representative from the department of
65 public health (ix) at least one representative from the office of the child advocate; and (x) any
66 other person with expertise or information relevant to an individual case who may attend
67 meetings, on an ad hoc basis, by agreement of the permanent members of each local team;
68 provided that such person may include, but shall not be limited to, a local or state law
69 enforcement officer, a hospital representative, a medical specialist or subspecialist, or a designee
70 of the commissioners of developmental services, mental health, youth services, education and
71 early education and care.

72 The purpose of each local team shall be to decrease the incidence of preventable child
73 fatalities and near fatalities by: (i) coordinating the collection of information on fatalities and
74 near fatalities; (ii) promoting cooperation and coordination between agencies responding to
75 fatalities and near fatalities and in providing services to family members; (iii) developing an
76 understanding of the causes and incidence of child fatalities and near fatalities in the county; and
77 (iv) advising the state team on changes in law, policy or practice that may affect child fatalities
78 and near fatalities.

79 To achieve its purpose, each local team shall: (i) review, establish and implement model
80 protocols from the state team; (ii) review, subject to the approval of the local district attorney, all
81 individual fatalities and near fatalities in accordance with the established protocols; (iii) meet
82 periodically, not less than 2 times per calendar year, to review the status of fatality and near
83 fatality cases and recommend methods of improving coordination of services between member
84 agencies; (iv) collect, maintain and provide confidential data as required by the state team; and
85 (v) provide law enforcement or other agencies with information to protect children.

86 At the request of the local district attorney, the local team shall be immediately provided
87 with: (i) information and records relevant to the cause of the fatality or near fatality maintained
88 by providers of medical or other care, treatment or services, including dental and mental health
89 care; (ii) information and records relevant to the cause of the fatality or near fatality maintained
90 by any state, county or local government agency including, but not limited to, birth certificates,
91 medical examiner investigative data, parole and probation information records and law
92 enforcement data post-disposition, except that certain law enforcement records may be exempted
93 by the local district attorney; (iii) information and records of any provider of social services,
94 including the department of children and families, relevant to the child or the child's family, that
95 the local team deems relevant to the review; and (iv) demographic information relevant to the
96 child and the child's immediate family, including, but not limited to, address, age, race, gender
97 and economic status. The district attorney may enforce this paragraph by seeking an order of the
98 superior court.

99 (d) Any privilege or restriction on disclosure established pursuant to chapter 66A, section
100 70 of chapter 111, section 11 of chapter 111B, section 18 of chapter 111E, chapter 112, chapter
101 123, section 20B, section 20J or section 20K of chapter 233 or any other law relating to

102 confidential communications shall not prohibit the disclosure of this information to the chair of
103 the state team or a local team. Any information considered to be confidential pursuant to the
104 aforementioned statutes may be submitted for a team's review upon the determination of that
105 team's chair that the review of this information is necessary. The chair shall ensure that no
106 information submitted for a team's review is disseminated to parties outside the team. No
107 member of a team shall violate the confidentiality provisions set forth in the aforementioned
108 statutes.

109 Except as necessary to carry out a team's purpose and duties, members of a team and
110 persons attending a team meeting shall not disclose any information relating to the team's
111 business.

112 Team meetings shall be closed to the public. Information and records acquired by the
113 state team or by a local team pursuant to this chapter shall be confidential, exempt from
114 disclosure under chapter 66 and may only be disclosed as necessary to carry out a team's duties
115 and purposes.

116 Statistical compilations of data that do not contain any information that would permit the
117 identification of any person may be disclosed to the public.

118 (e) Members of a team, persons attending a team meeting and persons who present
119 information to a team shall not be questioned in any civil or criminal proceeding regarding
120 information presented in or opinions formed as a result of a team meeting.

121 (f) Information, documents and records of the state team or of a local team shall not be
122 subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding;
123 provided, however, that information, documents and records otherwise available from any other

124 source shall not be immune from subpoena, discovery or introduction into evidence through
125 these sources solely because they were presented during proceedings of a team or are maintained
126 by a team.

127 (g) Nothing in this section shall limit the powers and duties of the child advocate or
128 district attorneys.

129 SECTION 2. Section 2A of chapter 38 of the General Laws, as so appearing, is hereby
130 repealed.

131 SECTION 3. Section 3 of said chapter 38, as so appearing, is hereby amended by adding
132 the following paragraph:-

133 “The office shall immediately send any notification or report of a death under the
134 circumstances enumerated in clause (15) to the state child fatality review team established by
135 section 15 of chapter 18C, including, but not limited to, the known facts concerning the time,
136 place, manner, circumstances and cause of such death. The chief medical examiner shall provide
137 any additional information related to such notification or report to the state child fatality review
138 team upon request.”