

HOUSE No. 162

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Finn

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:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Michael J. Finn</i>	<i>6th Hampden</i>	<i>1/20/2023</i>
<i>John Barrett, III</i>	<i>1st Berkshire</i>	<i>1/24/2023</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>1/25/2023</i>
<i>Carol A. Doherty</i>	<i>3rd Bristol</i>	<i>2/3/2023</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>2/21/2023</i>

HOUSE No. 162

By Representative Finn of West Springfield, a petition (accompanied by bill, House, No. 162) of Michael J. Finn and others for legislation to establish a child fatality review team within the Office of the Child Advocate. 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, as appearing in the 2020 Official
2 Edition, is hereby amended by inserting after section 14 the 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

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

7

8 “Fatality”, a death of a child.

9

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

11

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

14

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

16

17 “Team”, the state or a local team.

18

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

20

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

26

27 The state team shall consist of not less than: (i) the child advocate, or designee, who shall
28 serve as co-chair; (ii) the commissioner of public health, or designee, who shall serve as co-
29 chair; (iii) the chief medical examiner, or designee; (iv) the attorney general, or designee; (v) the

30 commissioner of children and families, or designee; (vi) the commissioner of elementary and
31 secondary education, or designee; (vii) a representative selected by the Massachusetts District
32 Attorneys Association; (viii) the colonel of state police, or designee; (ix) the commissioner of
33 mental health, or designee; (x) the commissioner of developmental services, or designee; (xi) the
34 director of the Massachusetts Center for Unexpected Infant and Child Death at Boston Medical
35 Center, or designee; (xii) the commissioner of youth services, or designee; (xiii) the
36 commissioner of early education and care, or designee; (xiv) a representative selected by the
37 Massachusetts chapter of the American Academy of Pediatrics who has experience in diagnosing
38 or treating child abuse and neglect; (xv) a representative selected by the Massachusetts Health
39 and Hospital Association, Inc.; (xvi) the president of the Massachusetts Chiefs of Police
40 Association Incorporated, or designee; and (xvii) any other person, selected by the co-chairs or
41 by majority vote of the members of the state team, with expertise or information relevant to an
42 individual case. The purpose of the state team shall be to decrease the incidence of preventable
43 child fatalities and near fatalities by: (1) developing an understanding of the causes and incidence
44 of child fatalities and near fatalities; and (2) advising the governor, the general court and the
45 public by recommending changes in law, policy and practice to prevent child fatalities and near
46 fatalities. The state team may consult with the chief justice of the juvenile court department of
47 the trial court of the commonwealth on issues with a direct bearing upon the business of the
48 Massachusetts courts.

49

50 To achieve its purpose, the state team shall: (i) develop model investigative and data
51 collection protocols for local teams; (ii) provide information to local teams and law enforcement
52 agencies for the purpose of protecting children; (iii) provide training and written materials to

53 local teams to assist them in carrying out their duties; (iv) review reports from local teams; (v)
54 study the incidence and causes of child fatalities and near fatalities in the commonwealth; (vi)
55 analyze community, public and private agency involvement with the children and their families
56 prior to and subsequent to fatalities or near fatalities; (vii) develop a protocol for the collection of
57 data regarding fatalities and near fatalities and provide training to local teams on the protocol;
58 (viii) develop and implement rules and procedures necessary for its own operation; and (ix)
59 provide the governor, the general court and the public with annual written reports, subject to
60 confidentiality restrictions, that shall include, but not be limited to, the state team's findings and
61 recommendations.

62

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

68

69 Each local team shall include, but not be limited to: (i) the district attorney of the county,
70 who shall serve as chair; (ii) the chief medical examiner or, designee; (iii) the commissioner of
71 children and families or, designee; (iv) a pediatrician with experience in diagnosing or treating
72 child abuse and neglect, appointed by the state team; (v) a local police officer from a
73 municipality where a child fatality or near fatality occurred, appointed by the chief of police of
74 the municipality; (vi) a state law enforcement officer, appointed by the colonel of state police;

75 (vii) the director of the Massachusetts Center for Unexpected Infant and Child Death located at
76 Boston Medical Center or a designee; (viii) at least 1 representative from the department of
77 public health (ix) at least one representative from the office of the child advocate; and (x) any
78 other person with expertise or information relevant to an individual case who may attend
79 meetings, on an ad hoc basis, by agreement of the permanent members of each local team;
80 provided that such person may include, but shall not be limited to, a local or state law
81 enforcement officer, a hospital representative, a medical specialist or subspecialist, or a designee
82 of the commissioners of developmental services, mental health, youth services, education and
83 early education and care.

84

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

92

93 To achieve its purpose, each local team shall: (i) review, establish and implement model
94 protocols from the state team; (ii) review, subject to the approval of the local district attorney, all
95 individual fatalities and near fatalities in accordance with the established protocols; (iii) meet
96 periodically, not less than 2 times per calendar year, to review the status of fatality and near

97 fatality cases and recommend methods of improving coordination of services between member
98 agencies; (iv) collect, maintain and provide confidential data as required by the state team; and
99 (v) provide law enforcement or other agencies with information to protect children.

100

101 At the request of the local district attorney, the local team shall be immediately provided
102 with: (i) information and records relevant to the cause of the fatality or near fatality maintained
103 by providers of medical or other care, treatment or services, including dental and mental health
104 care; (ii) information and records relevant to the cause of the fatality or near fatality maintained
105 by any state, county or local government agency including, but not limited to, birth certificates,
106 medical examiner investigative data, parole and probation information records and law
107 enforcement data post-disposition, except that certain law enforcement records may be exempted
108 by the local district attorney; (iii) information and records of any provider of social services,
109 including the department of children and families, relevant to the child or the child's family, that
110 the local team deems relevant to the review; and (iv) demographic information relevant to the
111 child and the child's immediate family, including, but not limited to, address, age, race, gender
112 and economic status. The district attorney may enforce this paragraph by seeking an order of the
113 superior court.

114

115 (d) Any privilege or restriction on disclosure established pursuant to chapter 66A, section
116 70 of chapter 111, section 11 of chapter 111B, section 18 of chapter 111E, chapter 112, chapter
117 123, section 20B, section 20J or section 20K of chapter 233 or any other law relating to
118 confidential communications shall not prohibit the disclosure of this information to the chair of

119 the state team or a local team. Any information considered to be confidential pursuant to the
120 aforementioned statutes may be submitted for a team's review upon the determination of that
121 team's chair that the review of this information is necessary. The chair shall ensure that no
122 information submitted for a team's review is disseminated to parties outside the team. No
123 member of a team shall violate the confidentiality provisions set forth in the aforementioned
124 statutes.

125

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

129

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

134

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

137

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

141

142 (f) Information, documents and records of the state team or of a local team shall not be
143 subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding;
144 provided, however, that information, documents and records otherwise available from any other
145 source shall not be immune from subpoena, discovery or introduction into evidence through
146 these sources solely because they were presented during proceedings of a team or are maintained
147 by a team.

148

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

151

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

154

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

157

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