

2016 Regular Session

HOUSE BILL NO. 494

BY REPRESENTATIVE MORENO

PUBLIC HEALTH: Provides relative to the membership and functions of the La. State Child Death Review Panel

1 AN ACT

2 To amend and reenact R.S. 40:2019(A)(2), (C)(introductory paragraph), (12), and (13),  
3 (D)(2)(b), (E)(1), (F), and (G), and to enact R.S. 40:2019(C)(21) and (22), relative  
4 to the Louisiana State Child Death Review Panel; to revise the membership of the  
5 panel; to authorize functions of the panel and of the Department of Children and  
6 Family Services relative to child death investigations; to authorize sharing of  
7 information, documents, and records between the panel and the Department of  
8 Children and Family Services; to provide limitations relative to use of certain  
9 information obtained by the panel; to specify the age range of children whose deaths  
10 are subject to investigation by the panel; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 40:2019(A)(2), (C)(introductory paragraph), (12), and (13),  
13 (D)(2)(b), (E)(1), (F), and (G) are hereby amended and reenacted and R.S. 40:2019(C)(21)  
14 and (22) are hereby enacted to read as follows:

15 §2019. Child death investigation

16 A. Findings and purpose.

17 \* \* \*

18 (2) The purpose of this Section is to identify the cause of death of children  
19 ~~fourteen years of age and~~ below the age of fifteen, and thereby reduce the incidence  
20 of injury and death to infants and children by requiring that a death investigation be

1 performed in the case of all unexpected deaths of children ~~fourteen years of age and~~  
2 below the age of fifteen, and establishing the Louisiana State Child Death Review  
3 Panel to collect data from such investigations and report to the legislature regarding  
4 the causes of such deaths and share information among local and regional panels,  
5 ~~health care~~ healthcare providers, and state agencies which provide services to  
6 children and families.

7 \* \* \*

8 C. Child Death Review Panel. There is established within the Department  
9 of Health and Hospitals the Louisiana State Child Death Review Panel, hereinafter  
10 referred to as the "state panel" which shall be composed of ~~twenty-five~~ twenty-seven  
11 persons. Members of the panel shall include:

12 \* \* \*

13 (12) ~~A representative of the injury research and prevention section of the~~  
14 ~~office of public health appointed by the assistant secretary of the office of public~~  
15 ~~health~~ The assistant secretary of the office of behavioral health of the Department of  
16 Health and Hospitals or his designee.

17 (13) ~~The executive director of the Louisiana Maternal and Child Health~~  
18 ~~Coalition~~ A representative of the Louisiana Partnership for Children and Families.

19 \* \* \*

20 (21) The state superintendent of education or his designee.

21 (22) The director of the bureau of emergency medical services of the  
22 Department of Health and Hospitals or his designee.

23 D. Functions and duties of panel.

24 \* \* \*

25 (2) The state panel may:

26 \* \* \*

27 (b) Analyze any data available through any state systems that may decrease  
28 the incidence of injury and unexpected death to infants and children below the age  
29 of ~~fourteen~~ fifteen.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 E. Child death investigation.

2 (1) In each unexpected death of a child ~~fourteen years of age and below the~~  
3 age of fifteen, a death investigation shall be performed in accordance with the child  
4 death investigation protocol established by the Louisiana State Child Death Review  
5 Panel which may include, at the discretion of the coroner but not be limited to, a  
6 complete autopsy performed by the coroner of the parish where the death occurred  
7 pursuant to the death investigation procedure established by R.S. 33:1563. The death  
8 investigation findings shall be reported to appropriate authorities including the  
9 police, ~~health care~~ healthcare providers, and the child protective services if  
10 appropriate, within three days of the conclusion of the death investigation.

11 \* \* \*

12 F. Records; confidentiality; prohibited disclosure and discovery.

13 (1) Notwithstanding any other provision of law to the contrary, the state  
14 panel, and any local or regional panel or its agent thereof, shall be authorized to  
15 access medical and vital records in the custody of physicians, hospitals, clinics, and  
16 other ~~health care~~ healthcare providers, and the office of public health, and to any  
17 other information, documents, or records pertaining to the completed investigation  
18 of unexpected deaths of infants and children below the age of ~~fourteen~~ fifteen in the  
19 custody of any law enforcement agency ~~or child protective service agency~~ in order  
20 that it may perform its functions and duties as provided in Subsection D of this  
21 Section.

22 (2) Notwithstanding any other provision of law to the contrary, including but  
23 not limited to the provisions of Ch.C. Art. 615 and R.S. 46:56, all of the following  
24 authorizations shall be effective when an unexpected death of an infant or child  
25 below the age of fifteen has occurred:

26 (a) The state panel, and any local or regional panel or its agent thereof, in  
27 order that it may perform its functions and duties as provided in Subsection D of this  
28 Section, is authorized to have access to any information, documents, or records in the  
29 possession of the Department of Children and Family Services involving a child

1 abuse and neglect investigation which are pertinent to the alleged child abuse or  
2 neglect that led to the death of the child.

3 (b) The Department of Children and Family Services is authorized to have  
4 access to any and all information, documents, or records in the possession of the state  
5 panel, and any local or regional panel or its agent thereof, for use by the department  
6 in any investigation or child in need of care proceeding.

7 (3)(a) All such records obtained by the state panel or any local or regional  
8 panel or its agent in accordance with the provisions of this Subsection, as well as the  
9 results of any child death investigation report, shall be confidential and shall not be  
10 available for subpoena nor shall such information be disclosed, discoverable, or  
11 compelled to be produced in any civil, criminal, administrative, or other proceeding  
12 nor shall such records be deemed admissible as evidence in any civil, criminal,  
13 administrative, or other tribunal or court for any reason.

14 (b) No information, document, or record obtained by the state panel or any  
15 local or regional panel or its agent from the Department of Children and Family  
16 Services involving a report which results in an inconclusive, not justified, or invalid  
17 finding pursuant to Ch.C. Art. 615 shall be included or referenced in any manner in  
18 any report or other document issued or published by or on behalf of the panel.

19 ~~(2)~~ (4) The furnishing of confidential information, documents, and reports  
20 in accordance with this Section by any person, agency, or entity furnishing such  
21 information, documents, and reports shall not expose such person, agency, or entity  
22 to liability and shall not be considered a violation of any privileged or confidential  
23 relationship, provided the participant has acted in good faith in the reporting as  
24 required in this Section.

25 ~~(3)~~ (5) Nothing in this Subsection shall prohibit the publishing by the state  
26 panel of statistical compilations relating to unexpected child deaths of infants and  
27 children ~~fourteen years of age or below~~ the age of fifteen which do not identify  
28 individual cases or individual physicians, hospitals, clinics, or other ~~health care~~  
29 healthcare providers.

1 G. Report. The state panel shall report to the legislature annually concerning  
2 the causes of unexpected deaths of infants and children below the age of ~~fourteen~~  
3 fifteen. The report shall include analysis of factual information obtained through  
4 review of death investigation reports required in Subsection D of this Section.

5 Section 2. This Act shall become effective upon signature by the governor or, if not  
6 signed by the governor, upon expiration of the time for bills to become law without signature  
7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
8 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
9 effective on the day following such approval.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 494 Original

2016 Regular Session

Moreno

**Abstract:** Revises membership of and further authorizes the La. State Child Death Review Panel.

Present law creates the Louisiana State Child Death Review Panel, referred to hereafter as the "panel", within the Department of Health and Hospitals (DHH). Provides for purposes, functions, and duties of the panel relative to child death investigations.

Present law provides that the age range of children whose deaths are subject to investigation by the panel, variably, is under 14 and 14 or below. Proposed law revises present law to provide that the age range of children whose deaths are subject to investigation by the panel is under 15.

Present law provides for membership of the 25-member panel. Proposed law increases the number of panel members to 27 through deleting two members (a representative of the injury research and prevention section of the office of public health and the executive director of the La. Maternal and Child Health Coalition) and adding the following members:

- (1) The assistant secretary of the DHH office of behavioral health or his designee.
- (2) A representative of the La. Partnership for Children and Families.
- (3) The state superintendent of education or his designee.
- (4) The director of the DHH bureau of emergency medical services or his designee.

Present law provides relative to confidentiality of records and prohibits certain disclosure and discovery actions. Proposed law retains present law and provides that notwithstanding any other provision of present law to the contrary, all of the following authorizations shall be effective when an unexpected death of an infant or child below the age of 15 has occurred:

- (1) The state panel, and any local or regional panel or its agent thereof is authorized to have access to any information, documents, or records in the possession of the Department of Children and Family Services (DCFS) involving a child abuse and neglect investigation which are pertinent to the alleged child abuse or neglect that led to the death of the child.
- (2) DCFS is authorized to have access to any and all information, documents, or records in the possession of the state panel, and any local or regional panel or its agent thereof, for use by the department in any investigation or child in need of care proceeding.

Proposed law stipulates that no information, document, or record obtained by the state panel or any local or regional panel or its agent from DCFS involving a report which results in an inconclusive, not justified, or invalid finding pursuant to present law (Ch.C. Art. 615) shall be included or referenced in any manner in any report or other document issued or published by or on behalf of the panel.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 40:2019(A)(2), (C)(intro. para.), (12) and (13), (D)(2)(b), (E)(1), (F), and (G); Adds R.S. 40:2019(C)(21) and (22))