

AMENDED IN ASSEMBLY JANUARY 4, 2010

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 535

Introduced by Assembly Member Ammiano

February 25, 2009

An act to add ~~Section~~ *Sections 1418.92 and 102336* to the Health and Safety Code, and to amend Section 11174.8 of the Penal Code, relating to elder death review teams.

LEGISLATIVE COUNSEL'S DIGEST

AB 535, as amended, Ammiano. Elder death review teams: information requests.

This bill would require a long-term health care facility to report the death of a resident of the facility who is 65 years of age or older to the elder death review team of the county in which the death occurred within 24 hours of the death. The bill would make violation of this provision a class "B" violation. Because this bill would create a new crime, it would impose a state-mandated local program.

Existing law allows a county to establish an interagency elder death *review* team to assist local agencies in identifying and reviewing suspicious elder deaths. Under existing law, the team may request specified information for ~~their~~ *its* review, subject to prescribed confidentiality requirements.

This bill would allow the elder death *review* team to request and obtain copies of certificates of death from the local registrar of births and deaths, subject to any fee requirements.

Under existing law, deaths are required to be registered with the local registrar of births and deaths in the district in which the death occurs. Existing law requires the State Department of Public Health to enforce the laws pertaining to vital records, including certificates of death. Existing law requires the department to implement an Internet-based electronic death registration system.

~~This bill would require the registrar of births and deaths in a county that elects to authorize the chair, cochair, or an agent of the chair or cochair, of a county elder death team to participate in the Internet-based electronic death registration system to provide access specified information to the chair, cochair, or the agent of the chair or cochair upon request of a county death review team.~~

Under existing law, the State Department of Public Health licenses and regulates health facilities, including long-term health care facilities. The Long-Term Care, Health, Safety, and Security Act of 1973 imposes various requirements on long-term health facilities. Violation of these provisions is punishable through administrative penalties. Willful obstruction of the enforcement of the provisions is a misdemeanor.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1418.92 is added to the Health and Safety
- 2 Code, to read:
- 3 1418.92. (a) A long-term health care facility shall report the
- 4 death of a resident of the facility who is 65 years of age or older
- 5 to the elder death review team of the county in which the death
- 6 occurred.
- 7 (b) The report required by subdivision (a) shall be made within
- 8 24 hours of the death of the resident and shall contain all of the
- 9 following information:
- 10 (1) Place of death.
- 11 (2) Time of death.

1 (3) *Gender of decedent.*
2 (c) *Failure to comply with this section shall constitute a class*
3 *“B” violation.*

4 **SECTION 1.**

5 *SEC. 2.* Section 102336 is added to the Health and Safety Code,
6 to read:

7 102336. Notwithstanding paragraph (2) of subdivision (b) of
8 Section 11174.8 of the Penal Code, ~~upon request, a local registrar~~
9 ~~of births and deaths in a county that elects to the chair, cochair,~~
10 ~~or an agent of the chair or cochair may participate in the~~
11 ~~Internet-based electronic death registration system established~~
12 ~~pursuant to Section 102778 shall provide, from information~~
13 ~~obtained from the death certificates, to the chair, cochair, or any~~
14 ~~agent of the chair or cochair of a county elder death review team~~
15 ~~established pursuant to Article 2.7 (commencing with Section~~
16 ~~1174.4) of Title 1 of Part 4 of the Penal Code access to~~
17 ~~Internet-based electronic death data to obtain all of the following~~
18 ~~information, sorted by any one of the factors: 102778. Access to~~
19 ~~the Internet-based electronic death data shall be exclusively for~~
20 ~~the purpose of obtaining the following information:~~

- 21 (a) Place of death.
- 22 (b) Name, last name followed by first name.
- 23 (c) Date of death.
- 24 (d) Cause of death.

25 ~~SEC. 2.~~

26 *SEC. 3.* Section 11174.8 of the Penal Code is amended to read:

27 11174.8. (a) Each organization represented on an elder death
28 review team may share with other members of the team information
29 in its possession concerning the decedent who is the subject of the
30 review or any person who was in contact with the decedent and
31 any other information deemed by the organization to be pertinent
32 to the review. Any information shared by an organization with
33 other members of a team is confidential. The intent of this
34 subdivision is to permit the disclosure to members of the team of
35 any information deemed confidential, privileged, or prohibited
36 from disclosure by any other provision of law.

37 (b) (1) Written and oral information may be disclosed to an
38 elder death review team established pursuant to this section. The
39 team may make a request in writing for the information sought
40 and any person with information of the kind described in paragraph

1 (3) may rely on the request in determining whether information
2 may be disclosed to the team.

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

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

9 (A) Notwithstanding Section 56.10 of the Civil Code, medical
10 information.

11 (B) Notwithstanding Section 5328 of the Welfare and
12 Institutions Code, mental health information.

13 (C) Notwithstanding Section 15633.5 of the Welfare and
14 Institutions Code, information from elder abuse reports and
15 investigations, except the identity of persons who have made
16 reports, which shall not be disclosed.

17 (D) State summary criminal history information, criminal
18 offender record information, and local summary criminal history
19 information, as defined in Sections 11075, 11105, and 13300.

20 (E) Notwithstanding Section 11163.2, information pertaining
21 to reports by health practitioners of persons suffering from physical
22 injuries inflicted by means of a firearm or of persons suffering
23 physical injury where the injury is a result of assaultive or abusive
24 conduct.

25 (F) Information provided to probation officers in the course of
26 the performance of their duties, including, but not limited to, the
27 duty to prepare reports pursuant to Section 1203.10, as well as the
28 information on which these reports are based.

29 (G) Notwithstanding Section 10825 of the Welfare and
30 Institutions Code, records relating to in-home supportive services,
31 unless disclosure is prohibited by federal law.

32 (H) ~~Electronic copies of~~ *data from* certificates of death from
33 the local registrar of births and deaths, subject to any fee
34 requirements.

35 (c) Written and oral information may be disclosed under this
36 section notwithstanding Sections 2263, 2918, 4982, and 6068 of
37 the Business and Professions Code, the lawyer-client privilege
38 protected by Article 3 (commencing with Section 950) of Chapter
39 4 of Division 8 of the Evidence Code, the physician-patient
40 privilege protected by Article 6 (commencing with Section 990)

1 of Chapter 4 of Division 8 of the Evidence Code, and the
2 psychotherapist-patient privilege protected by Article 7
3 (commencing with Section 1010) of Chapter 4 of Division 8 of
4 the Evidence Code.

5 *SEC. 4. No reimbursement is required by this act pursuant to*
6 *Section 6 of Article XIII B of the California Constitution because*
7 *the only costs that may be incurred by a local agency or school*
8 *district will be incurred because this act creates a new crime or*
9 *infraction, eliminates a crime or infraction, or changes the penalty*
10 *for a crime or infraction, within the meaning of Section 17556 of*
11 *the Government Code, or changes the definition of a crime within*
12 *the meaning of Section 6 of Article XIII B of the California*
13 *Constitution.*