

2 **HB 1269** - S AMD - 313

3 By Senators Long, Hargrove, Deccio and Loveland

4 WITHDRAWN 4/16/97

5 On page 2, after line 19, insert the following:

6 "Sec. 2. RCW 70.05.170 and 1993 c 41 s 1 are each amended to read
7 as follows:

8 (1)(a) The legislature finds that the mortality rate in Washington
9 state among infants and children less than eighteen years of age is
10 unacceptably high, and that such mortality may be preventable. The
11 legislature further finds that, through the performance of child
12 ~~((mortality))~~ death reviews, preventable causes of child mortality can
13 be identified and addressed, thereby reducing the infant and child
14 mortality in Washington state.

15 (b) It is the intent of the legislature ~~((to encourage the
16 performance of child death reviews by local health departments by
17 providing necessary legal protections to))~~ that community-based,
18 multidisciplinary child death review occur and that the confidentiality
19 of the families of children whose deaths are ((studied, local health
20 department officials and employees)) reviewed, using local and state
21 child death review teams, and ((health care professionals
22 participating)) other participants in child ((mortality)) death review
23 ((committee)) activities be legally protected.

24 (2) As used in this section, "child mortality review" means a
25 process authorized by a local health department as such department is
26 defined in RCW 70.05.010 for examining factors that contribute to
27 deaths of children less than eighteen years of age. The process may
28 include a systematic review of medical, clinical, and hospital records;
29 home interviews of parents and caretakers of children who have died;
30 analysis of individual case information; and review of this information
31 by a team of professionals in order to identify modifiable medical,
32 socioeconomic, public health, behavioral, administrative, educational,
33 and environmental factors associated with each death.

34 (3) Until January 1, 1998, local health departments are authorized
35 to conduct child mortality reviews. In conducting such reviews, the
36 following provisions shall apply:

1 (a) All medical records, reports, and statements procured by,
2 furnished to, or maintained by a local health department pursuant to
3 chapter 70.02 RCW for purposes of a child mortality review are
4 confidential insofar as the identity of an individual child and his or
5 her adoptive or natural parents is concerned. Such records may be used
6 solely by local health departments for the purposes of the review.
7 This section does not prevent a local health department from publishing
8 statistical compilations and reports related to the child mortality
9 review, if such compilations and reports do not identify individual
10 cases and sources of information.

11 (b) Any records or documents supplied or maintained for the
12 purposes of a child mortality review are not subject to discovery or
13 subpoena in any administrative, civil, or criminal proceeding related
14 to the death of a child reviewed. This provision shall not restrict or
15 limit the discovery or subpoena from a health care provider of records
16 or documents maintained by such health care provider in the ordinary
17 course of business, whether or not such records or documents may have
18 been supplied to a local health department pursuant to this section.

19 (c) Any summaries or analyses of records, documents, or records of
20 interviews prepared exclusively for purposes of a child mortality
21 review are not subject to discovery, subpoena, or introduction into
22 evidence in any administrative, civil, or criminal proceeding related
23 to the death of a child reviewed.

24 (d) No local health department official or employee, and no members
25 of technical committees established to perform case reviews of selected
26 child deaths may be examined in any administrative, civil, or criminal
27 proceeding as to the existence or contents of documents assembled,
28 prepared, or maintained for purposes of a child mortality review.

29 (e) This section shall not be construed to prohibit or restrict any
30 person from reporting suspected child abuse or neglect under chapter
31 26.44 RCW nor to limit access to or use of any records, documents,
32 information, or testimony in any civil or criminal action arising out
33 of any report made pursuant to chapter 26.44 RCW. The terms and
34 conditions of this section shall remain in full force and effect for
35 all activities related to child mortality review conducted by local
36 health departments prior to January 1, 1998, and are not superseded by
37 chapter 70.-- RCW (sections 3 through 11 of this act).

1 NEW SECTION. **Sec. 3.** The department of health, in cooperation
2 with local health departments and after discussion with the department
3 of social and health services, is authorized to:

4 (1) Consolidate and integrate all child death review activities;

5 (2) Review child deaths, especially sudden, unexpected deaths of
6 children from birth through seventeen years of age;

7 (3) Approve protocols for consistency regarding child death
8 reviews, for child death review teams, developed by local health
9 departments after discussion with the regional office of the department
10 of social and health services;

11 (4) Collect and analyze standard data, including the development of
12 a centralized child death data base;

13 (5) Report strategies to reduce the incidence of unexpected child
14 death;

15 (6) Provide technical assistance and training to state and local
16 child death review teams; and

17 (7) Consider and incorporate, as appropriate, recommendations of
18 state and local teams into agency operating procedures.

19 NEW SECTION. **Sec. 4.** The definitions in this section apply
20 throughout this chapter unless the context clearly requires otherwise.

21 (1) "Aggregate" means statistical compilations, data, and reports
22 that neither reveal the identity of an individual child and his or her
23 adoptive or natural parents nor from which the identity of an
24 individual child and his or her adoptive or natural parents can be
25 determined with reasonable speed and accuracy either directly or by
26 reference to other publicly available information.

27 (2) "Child death review" means a systematic review of data that may
28 include medical, clinical, and hospital records; home interviews of
29 parents and caretakers of children who have died; analysis of
30 individual case information; and review of this information by a
31 multidisciplinary team of professionals in order to identify modifiable
32 medical, socioeconomic, public health, behavioral, administrative,
33 educational, and environmental factors associated with child death.

34 (3) "Child" means a person less than eighteen years of age.

35 (4) "Consistent process" means the use of a standard set of
36 protocols that ensures the comprehensive evaluation of circumstances
37 leading up to and all aspects of the death of a child.

38 (5) "Department" means the department of health.

1 (6) "Local child death review and prevention teams" or "local team"
2 means a multidisciplinary, multiagency team, which may include, but is
3 not limited to, professionals in the area of law enforcement, medicine,
4 mental health, coroners/medical examiners, education, social services,
5 chemical dependency treatment, child welfare, tribal governments,
6 military, public health, and social work and representation from the
7 foster parent community and the general public, who perform a
8 comprehensive evaluation of circumstances leading up to the death of a
9 child.

10 (7) "State child death review and prevention team" or "state team"
11 means that entity which may include, but is not limited to, the state
12 child, youth, and family ombudsman and the state health officer, as
13 well as professionals in the area of law enforcement, medicine, mental
14 health, coroners/medical examiners, education, chemical dependency
15 treatment, social services, military, tribal governments, and public
16 health for the purposes of conducting state child death review
17 activities.

18 (8) "Unexpected death" means a death not resulting from a diagnosed
19 terminal illness or other debilitating or deteriorating illness or
20 condition where death is anticipated.

21 NEW SECTION. **Sec. 5.** (1) Local health departments, after
22 discussion with regional offices of the department of social and health
23 services, have primary responsibility for the assurance that local
24 child death review teams review child deaths, especially unexpected
25 deaths of children, as long as the reviews do not impair or are not
26 concurrent with a law enforcement investigation. Local health
27 departments shall serve as the appointing authority for local child
28 death review teams. The local child death review team shall:

29 (a) Report aggregate data and activities, on an annual basis, in a
30 consistent process to the state child death review team;

31 (b) Identify and refer to the state team those cases requiring
32 further review;

33 (c) Report aggregate findings of child death reviews to appropriate
34 local and state agencies and the state child death review team; and

35 (d) Recommend strategies and solutions to local and state agencies
36 regarding the prevention of unexpected child death.

37 (2) Local teams may access all relevant records, reports, and
38 statements for purposes of conducting child death reviews, including

1 but not limited to: Health care records; mental health records;
2 chemical dependency treatment records; autopsy records; child welfare
3 records; birth records; the birth certificate, including the
4 confidential portion of the birth certificate; and law enforcement
5 records; so long as release of the records does not impair a law
6 enforcement investigation or violate Chapter 42, Code of Federal
7 Regulations, Part 2, which governs the confidentiality of alcohol and
8 drug abuse patient information and records, if applicable. Records
9 accessed by local teams are not subject to public disclosure, but
10 information from the records may be used for statistical purposes.
11 Local teams may also access statistical records in the state child
12 death review data base occurring in their jurisdiction.

13 NEW SECTION. **Sec. 6.** (1) The department shall serve as the
14 appointing authority for the state child death review team. The state
15 child death review team shall coordinate and monitor the activities of
16 local child death review teams and shall:

- 17 (a) Provide consultation and training to local teams as requested;
- 18 (b) Compile and provide aggregate child death review reports;
- 19 (c) Consider the recommendations of local teams;
- 20 (d) Recommend strategies and solutions to state agencies regarding
21 the prevention of unexpected child death; and
- 22 (e) Review cases that have been identified by local teams as
23 needing further review.

24 (2) The state team may access all relevant records, reports, and
25 statements for purposes of conducting child death reviews referred to
26 them by the local child death review teams, including but not limited
27 to: Health care records; mental health records; chemical dependency
28 treatment records; autopsy records; child welfare records; birth
29 records; the birth certificate, including the confidential portion of
30 the birth certificate; and law enforcement records; so long as release
31 of the records does not impair a law enforcement investigation or
32 violate Chapter 42, Code of Federal Regulations, Part 2, which governs
33 the confidentiality of alcohol and drug abuse patient information and
34 records, if applicable. Records accessed by the state team are not
35 subject to public disclosure, but information from the records may be
36 used for statistical purposes.

1 NEW SECTION. **Sec. 7.** Local and state child death review teams are
2 authorized to conduct child death reviews in accordance with this
3 chapter. In conducting the reviews, the following rules apply:

4 (1) All records or documents maintained by local and state teams
5 for purposes of a child death review are confidential and not subject
6 to public disclosure. The records may be used solely by local and
7 state teams for the purposes of review. This section does not prevent
8 a local or state team from publishing statistical compilations and
9 reports related to the child death review, as long as the compilations
10 and reports do not identify individual cases and sources of
11 information.

12 (2) All records or documents maintained by local and state teams
13 for the purposes of a child death review are not subject to discovery
14 or subpoena in any administrative, civil, or criminal proceeding. This
15 subsection does not restrict or limit the discovery or subpoena from a
16 health care provider of records or documents maintained by the health
17 care provider in the ordinary course of business, whether or not the
18 records or documents have been supplied to a local or state team under
19 this section.

20 (3) Any summaries or analyses of records, documents, or records of
21 interviews prepared exclusively for purposes of a child death review
22 are not subject to discovery, subpoena, or introduction into evidence
23 in any administrative, civil, or criminal proceeding related to the
24 death of a child reviewed.

25 (4) Local or state team employees or members of technical
26 committees established to perform case reviews of selected child deaths
27 shall not be examined in any administrative, civil, or criminal
28 proceeding as to any information regarding a child death review or the
29 existence or contents of documents assembled, prepared, or maintained
30 for purposes of a child death review.

31 (5) This section does not prohibit or restrict a person from
32 reporting suspected child abuse or neglect under chapter 26.44 RCW, or
33 limit access to or use of any records, documents, information, or
34 testimony in any civil or criminal action arising out of a report made
35 under chapter 26.44 RCW.

36 NEW SECTION. **Sec. 8.** The department of health may adopt rules as
37 necessary for implementation of this chapter.

1 NEW SECTION. **Sec. 9.** This chapter may be known and cited as the
2 child death review and prevention act.

3 NEW SECTION. **Sec. 10.** This chapter does not supersede local
4 regulations or initiatives that exceed the scope of the activities
5 described in this chapter.

6 NEW SECTION. **Sec. 11.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of this act or the application of the provision to other
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 12.** A new section is added to chapter 42.17 RCW
11 to read as follows:

12 Records compiled, maintained, and used by local and state child
13 death review teams are not subject to public disclosure from local and
14 state child death review teams. This section should not be construed
15 to protect records from public disclosure that ordinarily would be
16 public records disclosable from another governmental entity.

17 NEW SECTION. **Sec. 13.** Sections 3 through 11 of this act
18 constitute a new chapter in Title 70 RCW.

19 NEW SECTION. **Sec. 14.** Sections 3 through 12 of this act take
20 effect January 1, 1998.

21 **Sec. 15.** RCW 43.79.445 and 1995 c 398 s 9 are each amended to read
22 as follows:

23 There is established an account in the state treasury referred to
24 as the "death investigations' account" which shall exist for the
25 purpose of receiving, holding, investing, and disbursing funds
26 appropriated or provided in RCW 70.58.107 and any moneys appropriated
27 or otherwise provided thereafter.

28 Moneys in the death investigations' account shall be disbursed by
29 the state treasurer once every year on December 31 and at any other
30 time determined by the treasurer. The treasurer shall make
31 disbursements to: The state toxicology laboratory, counties for the
32 cost of autopsies, the University of Washington to fund the state
33 forensic pathology fellowship program, the state patrol for providing

1 partial funding for the state dental identification system, the
2 criminal justice training commission for training county coroners,
3 medical examiners and their staff, and the state forensic
4 investigations council. The treasurer shall also make disbursements to
5 the department of health for the purposes of sections 2 through 12,
6 chapter . . . , Laws of 1997 (sections 2 through 12 of this act).

7 The University of Washington and the Washington state forensic
8 investigations council shall jointly determine the yearly amount for
9 the state forensic pathology fellowship program established by RCW
10 28B.20.426.

11 NEW SECTION. **Sec. 16.** The sum of two hundred fifty thousand
12 dollars is appropriated for the biennium ending June 30, 1999, from the
13 death investigations account to the department of health for the
14 purposes of sections 2 through 12 of this act. Funds unexpended on
15 June 30, 1999, revert to the death investigations account. This
16 appropriation is intended to provide one-time funding only and does not
17 obligate the legislature to funding in future fiscal periods."

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20 WITHDRAWN 4/16/97

21 On page 1, beginning on line 1 of the title, after
22 "investigations;" strike the remainder of the title and insert
23 "amending RCW 70.58.107, 70.05.170, and 43.79.445; adding a new section
24 to chapter 42.17 RCW; adding a new chapter to Title 70 RCW; making an
25 appropriation; and providing an effective date."

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