

FINAL BILL REPORT

ESHB 1126

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Synopsis as Enacted

Brief Description: Concerning department of early learning fatality reviews.

Sponsors: House Committee on Early Learning & Human Services (originally sponsored by Representatives Kagi, MacEwen, Tarleton, Walsh, Goodman, Senn, Gregerson and Ryu).

House Committee on Early Learning & Human Services
House Committee on Appropriations
Senate Committee on Human Services, Mental Health & Housing
Senate Committee on Ways & Means

Background:

The Department of Early Learning (DEL) licenses child care centers and family home providers in Washington. Licensing requirements are established in statute and in DEL rules. The stated purpose of licensing requirements is to promote the health and safety of children attending child care programs. Licensure components include requirements such as child development trainings, CPR and First Aid trainings, criminal background checks, and health and safety checks.

In 1996 the Legislature established the Office of the Family and Children's Ombuds (OFCO). The OFCO investigates complaints about agency actions or inactions, specifically complaints that involve a child at risk of abuse, neglect, or other harm or a child or parent involved with child protection or child welfare services. The OFCO collaborates with the Department of Health and Social Services (DSHS) and the Children's Administration (CA) to conduct child fatality or near fatality reviews when the cause of the fatality is suspected to involve child abuse or neglect of a minor in the care of the DSHS or a supervising agency. The child fatality reviews offer a systematic evaluation of the events and circumstances surrounding a child fatality or near fatality incident. After completion of a child fatality review, both the CA and the OFCO issue reports and recommendations to the Legislature. The child fatality review process is used to identify gaps in practice and make recommendations on improvements to promote the health and safety of children in the child welfare system.

Summary:

Child Fatality Review.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The DEL must convene a child fatality review committee to conduct a review when a child fatality, or in some cases near fatality, occurs in an early learning program or a licensed child care center or home. In the case of a near child fatality, the DEL must consult with the OFCO to determine if a review should be conducted. The child fatality review committee must be comprised of individuals with appropriate expertise, including but not limited to experts from outside the DEL with knowledge of early learning licensing requirements and program standards, a law enforcement officer with investigative experience, a representative from a county or state health department, and a child advocate with expertise in child fatalities. The DEL must invite one parent or guardian for membership on the committee who had a child die in a child care setting. The DEL must ensure that the committee is made up of individuals who had no previous involvement in the case. While conducting the review, the DEL and the fatality review committee must have access to all relevant records regarding the child that have been produced or retained by the early learning program provider, licensed child care center provider, or licensed family home provider. Nothing in the act creates a duty for the OFCO as related to children in the care of an early learning program, a licensed child care, or a licensed child care home.

Child Fatality Review Report.

When a child fatality or near fatality review is conducted, the DEL must issue a report on the results of the review within 180 days, unless an extension is granted by the Governor. The report must be submitted to the appropriate committees of the Legislature and posted to a public website where all child fatality review reports must be posted and maintained. The DEL may redact confidential information from the public report. The child fatality review committee must develop recommendations to the DEL and the Legislature regarding changes in licensing requirements, practice, or policy to prevent fatalities and strengthen safety and health protections for children in child care.

Civil Proceedings.

The child fatality or near fatality review is subject to discovery in a civil or administrative proceeding, but may not be admitted into evidence. Documents prepared by the child fatality review committee are inadmissible and may not be used in a civil or administrative proceeding. Individuals responsible for conducting the review, including members of the child fatality review committee and DEL employees, may not be examined in a civil or administrative proceeding regarding the following: (1) the work of the child fatality review committee; (2) the incident under review; or (3) employee's or member's statements, deliberations, thoughts, analyses, or impressions relating to the incident under review. A person is not unavailable as a witness merely because he or she was interviewed by the child fatality review committee, but as a witness the person may not be examined regarding interactions with the child fatality review. The civil and administrative proceeding restrictions outlined do not apply in licensing or disciplinary proceedings arising from allegations of wrongdoing in connection with a child fatality or near fatality review.

Votes on Final Passage:

House	86	11	
Senate	49	0	(Senate amended)
House	90	8	(House concurred)

Effective: July 24, 2015