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ENGROSSED SUBSTITUTE HOUSE BILL 1126

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State of Washington

64th Legislature

2015 Regular Session

By House Early Learning & Human Services (originally sponsored by Representatives Kagi, MacEwen, Tarleton, Walsh, Goodman, Senn, Gregerson, and Ryu)

READ FIRST TIME 02/03/15.

1 AN ACT Relating to department of early learning fatality reviews;  
2 amending RCW 43.06A.100; adding a new section to chapter 43.215 RCW;  
3 and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.215  
6 RCW to read as follows:

7 (1) For the purposes of this section, "near fatality" means an  
8 act that, as certified by a physician, places the child in serious or  
9 critical condition.

10 (2)(a) The department shall conduct a child fatality review if a  
11 child fatality occurs in an early learning program described in RCW  
12 43.215.400 through 43.215.450 or a licensed child care center or a  
13 licensed child care home.

14 (b) The department shall convene a child fatality review  
15 committee and determine the membership of the review committee. The  
16 committee shall comprise individuals with appropriate expertise,  
17 including but not limited to experts from outside the department with  
18 knowledge of early learning licensing requirements and program  
19 standards, a law enforcement officer with investigative experience, a  
20 representative from a county or state health department, and a child  
21 advocate with expertise in child fatalities. The department shall

1 invite one parent or guardian for membership on the child fatality  
2 review committee who has had a child die in a child care setting. The  
3 department shall ensure that the fatality review team is made up of  
4 individuals who had no previous involvement in the case.

5 (c) The department shall allow the parents or guardians whose  
6 child's death is being reviewed to testify before the child fatality  
7 review committee.

8 (d) The primary purpose of the fatality review shall be the  
9 development of recommendations to the department and legislature  
10 regarding changes in licensing requirements, practice, or policy to  
11 prevent fatalities and strengthen safety and health protections for  
12 children.

13 (e) Upon conclusion of a child fatality review required pursuant  
14 to this section, the department shall, within one hundred eighty days  
15 following the fatality, issue a report on the results of the review,  
16 unless an extension has been granted by the governor. Reports must be  
17 distributed to the appropriate committees of the legislature, and the  
18 department shall create a public web site where all child fatality  
19 review reports required under this section must be posted and  
20 maintained. A child fatality review report completed pursuant to this  
21 section is subject to public disclosure and must be posted on the  
22 public web site, except that confidential information may be redacted  
23 by the department consistent with the requirements of RCW 13.50.100,  
24 68.50.105, and 74.13.500 through 74.13.525, chapter 42.56 RCW, and  
25 other applicable state and federal laws.

26 (3) The department shall consult with the office of the family  
27 and children's ombuds to determine if a review should be conducted in  
28 the case of a near child fatality that occurs in an early learning  
29 program described in RCW 43.215.400 through 43.215.450 or licensed  
30 child care center or licensed child care home.

31 (4) In any review of a child fatality or near fatality, the  
32 department and the fatality review team must have access to all  
33 records and files regarding the child or that are otherwise relevant  
34 to the review and that have been produced or retained by the early  
35 education and assistance program provider or licensed child care  
36 center or licensed family home provider.

37 (5) The child fatality review committee shall coordinate with  
38 local law enforcement to ensure that the fatality or near fatality  
39 review does not interfere with any ongoing or potential criminal  
40 investigation.

1 (6)(a) A child fatality or near fatality review completed  
2 pursuant to this section is subject to discovery in a civil or  
3 administrative proceeding, but may not be admitted into evidence or  
4 otherwise used in a civil or administrative proceeding except  
5 pursuant to this section.

6 (b) A department employee responsible for conducting a child  
7 fatality or near fatality review, or member of a child fatality or  
8 near fatality review team, may not be examined in a civil or  
9 administrative proceeding regarding the following:

10 (i) The work of the child fatality or near fatality review team;

11 (ii) The incident under review;

12 (iii) The employee's or member's statements, deliberations,  
13 thoughts, analyses, or impressions relating to the work of the child  
14 fatality or near fatality review team or the incident under review;  
15 or

16 (iv) Statements, deliberations, thoughts, analyses, or  
17 impressions of any other member of the child fatality or near  
18 fatality review team, or any person who provided information to the  
19 child fatality or near fatality review team, relating to the work of  
20 the child fatality or near fatality review team or the incident under  
21 review.

22 (c) Documents prepared by or for a child fatality or near  
23 fatality review team are inadmissible and may not be used in a civil  
24 or administrative proceeding, except that any document that exists  
25 before its use or consideration in a child fatality or near fatality  
26 review, or that is created independently of such review, does not  
27 become inadmissible merely because it is reviewed or used by a child  
28 fatality or near fatality review team. A person is not unavailable as  
29 a witness merely because the person has been interviewed by or has  
30 provided a statement for a child fatality or near fatality review,  
31 but if called as a witness, a person may not be examined regarding  
32 the person's interactions with the child fatality or near fatality  
33 review including, without limitation, whether the person was  
34 interviewed during such review, the questions that were asked during  
35 such review, and the answers that the person provided during such  
36 review. This section may not be construed as restricting a person  
37 from testifying fully in any proceeding regarding his or her  
38 knowledge of the incident under review.

39 (d) The restrictions in this section do not apply in a licensing  
40 or disciplinary proceeding arising from an agency's effort to revoke

1 or suspend the license of any licensed professional based in whole or  
2 in part upon allegations of wrongdoing in connection with a minor's  
3 death or near fatality reviewed by a child fatality or near fatality  
4 review team.

5 (7) The department shall develop and implement procedures to  
6 carry out the requirements of this section.

7 **Sec. 2.** RCW 43.06A.100 and 2013 c 23 s 80 are each amended to  
8 read as follows:

9 (1) The department of social and health services and the  
10 department of early learning shall:

11 ~~((1))~~(a) Allow the ombuds or the ombuds's designee to  
12 communicate privately with any child in the custody of the department  
13 of social and health services, or any child who is part of a near  
14 fatality investigation by the department of early learning, for the  
15 purposes of carrying out its duties under this chapter;

16 ~~((2))~~(b) Permit the ombuds or the ombuds designee physical  
17 access to state institutions serving children, and state licensed  
18 facilities or residences for the purpose of carrying out its duties  
19 under this chapter;

20 ~~((3))~~(c) Upon the ombuds's request, grant the ombuds or the  
21 ombuds's designee the right to access, inspect, and copy all relevant  
22 information, records, or documents in the possession or control of  
23 the department of social and health services or the department of  
24 early learning that the ombuds considers necessary in an  
25 investigation; and

26 ~~((4))~~(d) Grant the office of the family and children's ombuds  
27 unrestricted online access to the child welfare case ((and))  
28 management information system ~~((CAMIS) or any successor)) and the~~  
29 department of early learning data information system for the purpose  
30 of carrying out its duties under this chapter.

31 (2) For the purposes of this section, "near fatality" means an  
32 act that, as certified by a physician, places the child in serious or  
33 critical condition.

34 NEW SECTION. **Sec. 3.** This act may be known and cited as the Eve  
35 Uphold act.

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