
SUBSTITUTE HOUSE BILL 1126

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. The department shall ensure that the fatality review team
20 is made up of individuals who had no previous involvement in the
21 case.

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

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

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

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

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

33 (5) The child fatality review committee shall coordinate with
34 local law enforcement to ensure that the fatality or near fatality
35 review does not interfere with any ongoing or potential criminal
36 investigation.

37 (6)(a) A child fatality or near fatality review completed
38 pursuant to this section is subject to discovery in a civil or
39 administrative proceeding, but may not be admitted into evidence or

1 otherwise used in a civil or administrative proceeding except
2 pursuant to this section.

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

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

8 (ii) The incident under review;

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

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

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

36 (d) The restrictions in this section do not apply in a licensing
37 or disciplinary proceeding arising from an agency's effort to revoke
38 or suspend the license of any licensed professional based in whole or
39 in part upon allegations of wrongdoing in connection with a minor's

1 death or near fatality reviewed by a child fatality or near fatality
2 review team.

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

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

7 (1) The department of social and health services and the
8 department of early learning shall:

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

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

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

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

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

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

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