

FINAL BILL REPORT

ESSB 5173

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Synopsis as Enacted

Brief Description: Concerning loss prevention reviews by state agencies.

Sponsors: Senate Committee on State Government (originally sponsored by Senators Chase, Miloscia, Hunt and Hobbs; by request of Department of Enterprise Services).

Senate Committee on State Government

House Committee on State Government, Elections & Information Technology

Background: State Loss Prevention Review Team (LPRT) in General. The Legislature created the LPRT program in 2002.

Agencies are required to immediately report to DES any death, serious injury, or other substantial loss that is alleged or suspected to be caused at least in part by the actions of the agency.

The DES Director must appoint a team of three to five people, including independent consultants, contractors, or state agency employees not involved in the incident to LPRT when the death of a person, serious injury to a person, or other substantial loss is alleged or suspected to be caused at least in part by the actions of a state agency. The director may determine that the incident does not merit review in which case a statement of the reason for the director's decision must be issued and posted on the DES website.

The LPRT must:

- review the circumstances and causes of the incident;
- evaluate its causes; and
- recommend steps an agency should take to reduce the risk of similar incidents.

The LPRT must report its recommendations to the DES Director and the director of the agency involved and will not disclose the contents of any document required by law to be kept confidential.

Final LPRT Report. The final report is subject to discovery in a civil or administrative proceeding. However, the final report, and any documents prepared by or for the LPRT, are not admissible in a civil proceeding except for the purpose of impeaching a witness.

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.

A member of a LPRT may not be examined in a civil proceeding as to the work of the team or the incidents reviewed by the team. A person may testify in a separate civil proceeding even if the person has testified before a review team. However, the person may not be examined as to their interactions with the review team.

An agency must respond to a final report of the loss prevention review team, within 120 days, indicating which of the report's recommendations the agency hopes to implement, whether implementation requires additional funding or legislation, and other information the director may require.

Summary: State agencies are given authority to create loss prevention review teams in consultation with and upon the delegation of DES to review a death of a person, serious injury to a person, or other substantial loss is alleged or suspected to be caused at least in part by the actions of a state agency. DES may also direct agencies to conduct a review after consultation with the agency as to the purpose, scope, necessary resources, and intended outcomes of the loss prevention review.

When the death, injury, or substantial loss is already being investigated by another federal or state agency or by the affected state agency pursuant to federal or state requirements, investigation by an LPRT is not required but such reviews must contain the same elements and comply with the requirements for the LPRT final report and its use to the extent that those provisions do not conflict with the statutes or laws governing those reviews.

An LPRT must consist of at least three persons and no more than half the members may be employees of the affected agency. The LPRT must submit a report to the DES director and the head of the state agency involved which must include:

- the team's findings;
- analysis of the causes, contributing factors, and future risks;
- methods that the agency will use to address and mitigate the risks identified, which may include changes to policies or procedures; and
- any legislative recommendations necessary to address and carry out the risk treatment strategies identified in the report and the manner in which the agency will measure effectiveness of its changes.

The report will not disclose the contents of any documents required by law or regulation to be kept private or confidential, or that are subject to legal privilege or exemption. The report must be made public by the director of DES after review.

DES must submit an annual report to the Legislature with metrics on the effectiveness and efficiency of loss prevention reviews, and a summary of any trends and innovative approaches to mitigating risks.

DES may develop and enact rules that apply to all state agency loss prevention rule teams and may provide guidance to the state agency conducting a loss prevention review, if requested.

Votes on Final Passage:

Senate	49	0	
House	97	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: July 23, 2017