

SHB 2165 - S COMM AMD

By Committee on Human Services & Corrections

1       Strike everything after the enacting clause and insert the  
2 following:

3       "NEW SECTION.   **Sec. 1.** A new section is added to chapter 43.215  
4 RCW to read as follows:

5       (1)(a) The department shall conduct a child fatality review if a  
6 child fatality occurs in an early learning program described in RCW  
7 43.215.400 through 43.215.450 or a licensed child care center or a  
8 licensed child care home.

9       (b) The department shall convene a child fatality review committee  
10 and determine the membership of the review committee. The committee  
11 shall comprise individuals with appropriate expertise, including but  
12 not limited to experts from outside the department with knowledge of  
13 early learning licensing requirements and program standards. The  
14 department shall ensure that the review committee is made up of  
15 individuals who had no previous involvement in the case. The committee  
16 may consult with experts who are not members of the committee,  
17 including but not limited to the coroner or medical examiner, or his or  
18 her designee, of the county in which the fatality or near fatality  
19 occurred.

20       (c) The primary purpose of the fatality review shall be the  
21 development of recommendations to the department and legislature  
22 regarding changes in licensing requirements, practice, or policy to  
23 prevent fatalities and strengthen safety and health protections for  
24 children.

25       (d) Upon conclusion of a child fatality review required pursuant to  
26 this section, the department shall, within one hundred eighty days  
27 following the fatality, issue a report on the results of the review,  
28 unless an extension has been granted by the governor. Reports must be  
29 distributed to the appropriate committees of the legislature, and the  
30 department shall create a public web site where all child fatality

1 review reports required under this section must be posted and  
2 maintained. A child fatality review report completed pursuant to this  
3 section is subject to public disclosure and must be posted on the  
4 public web site, except that confidential information may be redacted  
5 by the department consistent with the requirements of RCW 13.50.100,  
6 68.50.105, and 74.13.500 through 74.13.525, chapter 42.56 RCW, and  
7 other applicable state and federal laws.

8 (2) The department shall consult with the office of the family and  
9 children's ombuds to determine if a review should be conducted in the  
10 case of a near child fatality that occurs in an early learning program  
11 described in RCW 43.215.400 through 43.215.450 or licensed child care  
12 center or licensed child care home.

13 (3) In any review of a child fatality or near fatality, the  
14 department and the fatality review committee must have access to all  
15 records and files regarding the child or that are otherwise relevant to  
16 the review and that have been produced or retained by the early  
17 education and assistance program provider or licensed child care center  
18 or licensed family home provider.

19 (4)(a) A child fatality or near fatality review completed pursuant  
20 to this section is subject to discovery in a civil or administrative  
21 proceeding, but may not be admitted into evidence or otherwise used in  
22 a civil or administrative proceeding except pursuant to this section.

23 (b) A department employee responsible for conducting a child  
24 fatality or near fatality review, or member of a child fatality or near  
25 fatality review committee, may not be examined in a civil or  
26 administrative proceeding regarding the following:

27 (i) The work of the child fatality or near fatality review  
28 committee;

29 (ii) The incident under review;

30 (iii) The employee's or member's statements, deliberations,  
31 thoughts, analyses, or impressions relating to the work of the child  
32 fatality or near fatality review committee or the incident under  
33 review; or

34 (iv) Statements, deliberations, thoughts, analyses, or impressions  
35 of any other member of the child fatality or near fatality review  
36 committee, or any person who provided information to the child fatality  
37 or near fatality review committee, relating to the work of the child

1 fatality or near fatality review committee or the incident under  
2 review.

3 (c) Documents prepared by or for a child fatality or near fatality  
4 review committee are inadmissible and may not be used in a civil or  
5 administrative proceeding, except that any document that exists before  
6 its use or consideration in a child fatality or near fatality review,  
7 or that is created independently of such review, does not become  
8 inadmissible merely because it is reviewed or used by a child fatality  
9 or near fatality review committee. A person is not unavailable as a  
10 witness merely because the person has been interviewed by or has  
11 provided a statement for a child fatality or near fatality review, but  
12 if called as a witness, a person may not be examined regarding the  
13 person's interactions with the child fatality or near fatality review  
14 committee including, without limitation, whether the person was  
15 interviewed during such review, the questions that were asked during  
16 such review, and the answers that the person provided during such  
17 review. This section may not be construed as restricting a person from  
18 testifying fully in any proceeding regarding his or her knowledge of  
19 the incident under review.

20 (d) The restrictions in this section do not apply in a licensing or  
21 disciplinary proceeding arising from an agency's effort to revoke or  
22 suspend the license of any licensed professional based in whole or in  
23 part upon allegations of wrongdoing in connection with a minor's death  
24 or near fatality reviewed by a child fatality or near fatality review  
25 committee.

26 (5) For the purposes of this section, "near fatality" means an act  
27 that, as certified by a physician, places the child in serious or  
28 critical condition.

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

31 NEW SECTION. **Sec. 2.** This act may be known and cited as the Eve  
32 Uphold act."

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1        On page 1, line 1 of the title, after "reviews;" strike the  
2 remainder of the title and insert "adding a new section to chapter  
3 43.215 RCW; and creating a new section."

EFFECT:    Allows the review committee to consult with the coroner  
or medical examiner in the county in which the fatality or near  
fatality occurred; defines the term "near fatality."

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