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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)

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

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

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

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

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

(b) The department shall convene a child fatality review committee and determine the membership of the review committee. The committee shall comprise individuals with appropriate expertise, including but not limited to experts from outside the department 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 department shall invite one parent or guardian for membership on the child fatality review committee who has had a child die in a child care setting. The department shall ensure that the fatality review team is made up of individuals who had no previous involvement in the case.

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

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

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

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

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

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

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

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

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

(ii) The incident under review;

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

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

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

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

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

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

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

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

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

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

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

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

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

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