

ESHB 1126 - S COMM AMD

By Committee on Human Services, Mental Health & Housing

ADOPTED 4/15/2015

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

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

12 (b) The department shall convene a child fatality review  
13 committee and determine the membership of the review committee. The  
14 committee shall comprise individuals with appropriate expertise,  
15 including but not limited to experts from outside the department with  
16 knowledge of early learning licensing requirements and program  
17 standards, a law enforcement officer with investigative experience, a  
18 representative from a county or state health department, and a child  
19 advocate with expertise in child fatalities. The department shall  
20 invite one parent or guardian for membership on the child fatality  
21 review committee who has had a child die in a child care setting. The  
22 department shall ensure that the fatality review team is made up of  
23 individuals who had no previous involvement in the case.

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

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

32 (e) Upon conclusion of a child fatality review required pursuant  
33 to this section, the department shall, within one hundred eighty days

1 following the fatality, issue a report on the results of the review,  
2 unless an extension has been granted by the governor. Reports must be  
3 distributed to the appropriate committees of the legislature, and the  
4 department shall create a public web site where all child fatality  
5 review reports required under this section must be posted and  
6 maintained. A child fatality review report completed pursuant to this  
7 section is subject to public disclosure and must be posted on the  
8 public web site, except that confidential information may be redacted  
9 by the department consistent with the requirements of RCW 13.50.100,  
10 68.50.105, and 74.13.500 through 74.13.525, chapter 42.56 RCW, and  
11 other applicable state and federal laws.

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

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

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

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

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

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

37 (ii) The incident under review;

38 (iii) The employee's or member's statements, deliberations,  
39 thoughts, analyses, or impressions relating to the work of the child

1 fatality or near fatality review team or the incident under review;  
2 or

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

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

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

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

34 (8) Nothing in this section creates a duty for the office of the  
35 family and children's ombuds under RCW 43.06A.030 as related to  
36 children in the care of an early learning program described in RCW  
37 43.215.400 through 43.215.450, a licensed child care center, or a  
38 licensed child care home.

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

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

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

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

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

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

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

28       (3) Nothing in this section creates a duty for the office of the  
29 family and children's ombuds under RCW 43.06A.030 as related to  
30 children in the care of an early learning program described in RCW  
31 43.215.400 through 43.215.450, a licensed child care center, or a  
32 licensed child care home.

33       NEW SECTION. **Sec. 3.** This act may be known and cited as the Eve  
34 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 "amending RCW 43.06A.100; adding a  
3 new section to chapter 43.215 RCW; and creating a new section."

EFFECT: It is clarified that nothing in the Act creates a duty for the Office of the Family and Children's Ombuds to respond to complaints regarding children in the care of an early learning program, a licensed child care center, or a licensed child care home.

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