

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1126

Chapter 199, Laws of 2015

64th Legislature
2015 Regular Session

EARLY LEARNING--FATALITY REVIEWS

EFFECTIVE DATE: 7/24/2015

Passed by the House April 23, 2015
Yeas 90 Nays 8

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 15, 2015
Yeas 49 Nays 0

BRAD OWEN

President of the Senate

Approved May 8, 2015 9:40 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1126** as passed by House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

May 8, 2015

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1126

AS AMENDED BY THE SENATE

Passed Legislature - 2015 Regular Session

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, a law enforcement officer with investigative experience, a
20 representative from a county or state health department, and a child
21 advocate with expertise in child fatalities. The department shall

1 invite one parent or guardian for membership on the child fatality
2 review committee who has had a child die in a child care setting. The
3 department shall ensure that the fatality review team is made up of
4 individuals who had no previous involvement in the case.

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

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

13 (e) Upon conclusion of a child fatality review required pursuant
14 to this section, the department shall, within one hundred eighty days
15 following the fatality, issue a report on the results of the review,
16 unless an extension has been granted by the governor. Reports must be
17 distributed to the appropriate committees of the legislature, and the
18 department shall create a public web site where all child fatality
19 review reports required under this section must be posted and
20 maintained. A child fatality review report completed pursuant to this
21 section is subject to public disclosure and must be posted on the
22 public web site, except that confidential information may be redacted
23 by the department consistent with the requirements of RCW 13.50.100,
24 68.50.105, and 74.13.500 through 74.13.525, chapter 42.56 RCW, and
25 other applicable state and federal laws.

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

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

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

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

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

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

11 (ii) The incident under review;

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

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

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

39 (d) The restrictions in this section do not apply in a licensing
40 or disciplinary proceeding arising from an agency's effort to revoke

1 or suspend the license of any licensed professional based in whole or
2 in part upon allegations of wrongdoing in connection with a minor's
3 death or near fatality reviewed by a child fatality or near fatality
4 review team.

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

7 (8) Nothing in this section creates a duty for the office of the
8 family and children's ombuds under RCW 43.06A.030 as related to
9 children in the care of an early learning program described in RCW
10 43.215.400 through 43.215.450, a licensed child care center, or a
11 licensed child care home.

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

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

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

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

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

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

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

1 (3) Nothing in this section creates a duty for the office of the
2 family and children's ombuds under RCW 43.06A.030 as related to
3 children in the care of an early learning program described in RCW
4 43.215.400 through 43.215.450, a licensed child care center, or a
5 licensed child care home.

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

Passed by the House April 23, 2015.
Passed by the Senate April 15, 2015.
Approved by the Governor May 8, 2015.
Filed in Office of Secretary of State May 8, 2015.

--- END ---