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**SUBSTITUTE SENATE BILL 5409**

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**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** Senate Committee on Health & Long-Term Care (originally sponsored by Senators Long, Thibaudeau, Kohl, Wojahn, Kline and Winsley; by request of Governor Lowry)

Read first time 02/19/97.

1 AN ACT Relating to child death review and prevention; amending RCW  
2 70.05.170; adding a new section to chapter 42.17 RCW; creating a new  
3 section; adding a new chapter to Title 70 RCW; and providing an  
4 effective date.

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

6 **Sec. 1.** RCW 70.05.170 and 1993 c 41 s 1 are each amended to read  
7 as follows:

8 (1)(a) The legislature finds that the mortality rate in Washington  
9 state among infants and children less than eighteen years of age is  
10 unacceptably high, and that such mortality may be preventable. The  
11 legislature further finds that, through the performance of child  
12 ~~((mortality))~~ death reviews, preventable causes of child mortality can  
13 be identified and addressed, thereby reducing the infant and child  
14 mortality in Washington state.

15 (b) It is the intent of the legislature ~~((to encourage the  
16 performance of child death reviews by local health departments by  
17 providing necessary legal protections to))~~ that community-based,  
18 multidisciplinary child death review occur and that the confidentiality  
19 of the families of children whose deaths are ((studied, local health

1 ~~department officials and employees~~) reviewed, using local and state  
2 child death review teams, and ~~((health care professionals~~  
3 ~~participating))~~ other participants in child ~~((mortality))~~ death review  
4 ~~((committee))~~ activities be legally protected.

5 (2) As used in this section, "child mortality review" means a  
6 process authorized by a local health department as such department is  
7 defined in RCW 70.05.010 for examining factors that contribute to  
8 deaths of children less than eighteen years of age. The process may  
9 include a systematic review of medical, clinical, and hospital records;  
10 home interviews of parents and caretakers of children who have died;  
11 analysis of individual case information; and review of this information  
12 by a team of professionals in order to identify modifiable medical,  
13 socioeconomic, public health, behavioral, administrative, educational,  
14 and environmental factors associated with each death.

15 (3) Until January 1, 1998, local health departments are authorized  
16 to conduct child mortality reviews. In conducting such reviews, the  
17 following provisions shall apply:

18 (a) All medical records, reports, and statements procured by,  
19 furnished to, or maintained by a local health department pursuant to  
20 chapter 70.02 RCW for purposes of a child mortality review are  
21 confidential insofar as the identity of an individual child and his or  
22 her adoptive or natural parents is concerned. Such records may be used  
23 solely by local health departments for the purposes of the review.  
24 This section does not prevent a local health department from publishing  
25 statistical compilations and reports related to the child mortality  
26 review, if such compilations and reports do not identify individual  
27 cases and sources of information.

28 (b) Any records or documents supplied or maintained for the  
29 purposes of a child mortality review are not subject to discovery or  
30 subpoena in any administrative, civil, or criminal proceeding related  
31 to the death of a child reviewed. This provision shall not restrict or  
32 limit the discovery or subpoena from a health care provider of records  
33 or documents maintained by such health care provider in the ordinary  
34 course of business, whether or not such records or documents may have  
35 been supplied to a local health department pursuant to this section.

36 (c) Any summaries or analyses of records, documents, or records of  
37 interviews prepared exclusively for purposes of a child mortality  
38 review are not subject to discovery, subpoena, or introduction into

1 evidence in any administrative, civil, or criminal proceeding related  
2 to the death of a child reviewed.

3 (d) No local health department official or employee, and no members  
4 of technical committees established to perform case reviews of selected  
5 child deaths may be examined in any administrative, civil, or criminal  
6 proceeding as to the existence or contents of documents assembled,  
7 prepared, or maintained for purposes of a child mortality review.

8 (e) This section shall not be construed to prohibit or restrict any  
9 person from reporting suspected child abuse or neglect under chapter  
10 26.44 RCW nor to limit access to or use of any records, documents,  
11 information, or testimony in any civil or criminal action arising out  
12 of any report made pursuant to chapter 26.44 RCW. The terms and  
13 conditions of this section shall remain in full force and effect for  
14 all activities related to child mortality review conducted by local  
15 health departments prior to January 1, 1998, and are not superseded by  
16 chapter 70.-- RCW (sections 2 through 10 of this act).

17 NEW SECTION. **Sec. 2.** The department of health, in cooperation  
18 with local health departments and after discussion with the department  
19 of social and health services, is authorized to:

20 (1) Consolidate and integrate all child death review activities;

21 (2) Review child deaths, especially sudden, unexpected deaths of  
22 children from birth through seventeen years of age;

23 (3) Approve protocols for consistency regarding child death  
24 reviews, for child death review teams, developed by local health  
25 departments after discussion with the regional office of the department  
26 of social and health services;

27 (4) Collect and analyze standard data, including the development of  
28 a centralized child death data base;

29 (5) Report strategies to reduce the incidence of unexpected child  
30 death;

31 (6) Provide technical assistance and training to state and local  
32 child death review teams; and

33 (7) Consider and incorporate, as appropriate, recommendations of  
34 state and local teams into agency operating procedures.

35 NEW SECTION. **Sec. 3.** The definitions in this section apply  
36 throughout this chapter unless the context clearly requires otherwise.

1 (1) "Aggregate" means statistical compilations, data, and reports  
2 that neither reveal the identity of an individual child and his or her  
3 adoptive or natural parents nor from which the identity of an  
4 individual child and his or her adoptive or natural parents can be  
5 determined with reasonable speed and accuracy either directly or by  
6 reference to other publicly available information.

7 (2) "Child death review" means a systematic review of data that may  
8 include medical, clinical, and hospital records; home interviews of  
9 parents and caretakers of children who have died; analysis of  
10 individual case information; and review of this information by a  
11 multidisciplinary team of professionals in order to identify modifiable  
12 medical, socioeconomic, public health, behavioral, administrative,  
13 educational, and environmental factors associated with child death.

14 (3) "Child" means a person less than eighteen years of age.

15 (4) "Consistent process" means the use of a standard set of  
16 protocols that ensures the comprehensive evaluation of circumstances  
17 leading up to and all aspects of the death of a child.

18 (5) "Department" means the department of health.

19 (6) "Local child death review and prevention teams" or "local team"  
20 means a multidisciplinary, multiagency team, which may include, but is  
21 not limited to, professionals in the area of law enforcement, medicine,  
22 mental health, coroners/medical examiners, education, social services,  
23 chemical dependency treatment, child welfare, tribal governments,  
24 military, public health, and social work and representation from the  
25 foster parent community and the general public, who perform a  
26 comprehensive evaluation of circumstances leading up to the death of a  
27 child.

28 (7) "State child death review and prevention team" or "state team"  
29 means that entity which may include, but is not limited to, the state  
30 child, youth, and family ombudsman and the state health officer, as  
31 well as professionals in the area of law enforcement, medicine, mental  
32 health, coroners/medical examiners, education, chemical dependency  
33 treatment, social services, military, tribal governments, and public  
34 health for the purposes of conducting state child death review  
35 activities.

36 (8) "Unexpected death" means a death not resulting from a diagnosed  
37 terminal illness or other debilitating or deteriorating illness or  
38 condition where death is anticipated.

1        NEW SECTION.     **Sec. 4.**     (1) Local health departments, after  
2 discussion with regional offices of the department of social and health  
3 services, have primary responsibility for the assurance that local  
4 child death review teams review child deaths, especially unexpected  
5 deaths of children, as long as the reviews do not impair or are not  
6 concurrent with a law enforcement investigation. Local health  
7 departments shall serve as the appointing authority for local child  
8 death review teams. The local child death review team shall:

9        (a) Report aggregate data and activities, on an annual basis, in a  
10 consistent process to the state child death review team;

11        (b) Identify and refer to the state team those cases requiring  
12 further review;

13        (c) Report aggregate findings of child death reviews to appropriate  
14 local and state agencies and the state child death review team; and

15        (d) Recommend strategies and solutions to local and state agencies  
16 regarding the prevention of unexpected child death.

17        (2) Local teams may access all relevant records, reports, and  
18 statements for purposes of conducting child death reviews, including  
19 but not limited to: Health care records; mental health records;  
20 chemical dependency treatment records; autopsy records; child welfare  
21 records; birth records; the birth certificate, including the  
22 confidential portion of the birth certificate; and law enforcement  
23 records; so long as release of the records does not impair a law  
24 enforcement investigation or violate Chapter 42, Code of Federal  
25 Regulations, Part 2, which governs the confidentiality of alcohol and  
26 drug abuse patient information and records, if applicable. Records  
27 accessed by local teams are not subject to public disclosure, but  
28 information from the records may be used for statistical purposes.  
29 Local teams may also access statistical records in the state child  
30 death review data base occurring in their jurisdiction.

31        NEW SECTION.     **Sec. 5.**     (1) The department shall serve as the  
32 appointing authority for the state child death review team. The state  
33 child death review team shall coordinate and monitor the activities of  
34 local child death review teams and shall:

35        (a) Provide consultation and training to local teams as requested;

36        (b) Compile and provide aggregate child death review reports;

37        (c) Consider the recommendations of local teams;

1 (d) Recommend strategies and solutions to state agencies regarding  
2 the prevention of unexpected child death; and

3 (e) Review cases that have been identified by local teams as  
4 needing further review.

5 (2) The state team may access all relevant records, reports, and  
6 statements for purposes of conducting child death reviews referred to  
7 them by the local child death review teams, including but not limited  
8 to: Health care records; mental health records; chemical dependency  
9 treatment records; autopsy records; child welfare records; birth  
10 records; the birth certificate, including the confidential portion of  
11 the birth certificate; and law enforcement records; so long as release  
12 of the records does not impair a law enforcement investigation or  
13 violate Chapter 42, Code of Federal Regulations, Part 2, which governs  
14 the confidentiality of alcohol and drug abuse patient information and  
15 records, if applicable. Records accessed by the state team are not  
16 subject to public disclosure, but information from the records may be  
17 used for statistical purposes.

18 NEW SECTION. **Sec. 6.** Local and state child death review teams are  
19 authorized to conduct child death reviews in accordance with this  
20 chapter. In conducting the reviews, the following rules apply:

21 (1) All records or documents maintained by local and state teams  
22 for purposes of a child death review are confidential and not subject  
23 to public disclosure. The records may be used solely by local and  
24 state teams for the purposes of review. This section does not prevent  
25 a local or state team from publishing statistical compilations and  
26 reports related to the child death review, as long as the compilations  
27 and reports do not identify individual cases and sources of  
28 information.

29 (2) All records or documents maintained by local and state teams  
30 for the purposes of a child death review are not subject to discovery  
31 or subpoena in any administrative, civil, or criminal proceeding. This  
32 subsection does not restrict or limit the discovery or subpoena from a  
33 health care provider of records or documents maintained by the health  
34 care provider in the ordinary course of business, whether or not the  
35 records or documents have been supplied to a local or state team under  
36 this section.

37 (3) Any summaries or analyses of records, documents, or records of  
38 interviews prepared exclusively for purposes of a child death review

1 are not subject to discovery, subpoena, or introduction into evidence  
2 in any administrative, civil, or criminal proceeding related to the  
3 death of a child reviewed.

4 (4) Local or state team employees or members of technical  
5 committees established to perform case reviews of selected child deaths  
6 shall not be examined in any administrative, civil, or criminal  
7 proceeding as to any information regarding a child death review or the  
8 existence or contents of documents assembled, prepared, or maintained  
9 for purposes of a child death review.

10 (5) This section does not prohibit or restrict a person from  
11 reporting suspected child abuse or neglect under chapter 26.44 RCW, or  
12 limit access to or use of any records, documents, information, or  
13 testimony in any civil or criminal action arising out of a report made  
14 under chapter 26.44 RCW.

15 NEW SECTION. **Sec. 7.** The department of health may adopt rules as  
16 necessary for implementation of this chapter.

17 NEW SECTION. **Sec. 8.** This chapter may be known and cited as the  
18 child death review and prevention act.

19 NEW SECTION. **Sec. 9.** This chapter does not supersede local  
20 regulations or initiatives that exceed the scope of the activities  
21 described in this chapter.

22 NEW SECTION. **Sec. 10.** If any provision of this act or its  
23 application to any person or circumstance is held invalid, the  
24 remainder of the act or the application of the provision to other  
25 persons or circumstances is not affected.

26 NEW SECTION. **Sec. 11.** A new section is added to chapter 42.17 RCW  
27 to read as follows:

28 Records compiled, maintained, and used by local and state child  
29 death review teams are not subject to public disclosure from local and  
30 state child death review teams. This section should not be construed  
31 to protect records from public disclosure that ordinarily would be  
32 public records disclosable from another governmental entity.

1        NEW SECTION.    **Sec. 12.**    Sections 2 through 10 of this act  
2 constitute a new chapter in Title 70 RCW.

3        NEW SECTION.    **Sec. 13.**    Sections 2 through 11 of this act take  
4 effect January 1, 1998.

5        NEW SECTION.    **Sec. 14.**    If specific funding for the purposes of  
6 this act, referencing this act by bill or chapter number, is not  
7 provided by June 30, 1997, in the omnibus appropriations act, this act  
8 is null and void.

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