

---

HOUSE BILL 2959

---

State of Washington

61st Legislature

2010 Regular Session

By Representatives Kagi and Kenney

Read first time 01/19/10. Referred to Committee on Early Learning & Children's Services.

1 AN ACT Relating to child fatality review in child welfare cases;  
2 amending RCW 74.13.640; and reenacting and amending RCW 68.50.105.

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

4 **Sec. 1.** RCW 68.50.105 and 2007 c 439 s 1 and 2007 c 156 s 23 are  
5 each reenacted and amended to read as follows:

6 Reports and records of autopsies or post mortems shall be  
7 confidential, except that the following persons may examine and obtain  
8 copies of any such report or record: The personal representative of  
9 the decedent as defined in RCW 11.02.005, any family member, the  
10 attending physician or advanced registered nurse practitioner, the  
11 prosecuting attorney or law enforcement agencies having jurisdiction,  
12 public health officials, (~~or to~~) the department of labor and  
13 industries in cases in which it has an interest under RCW 68.50.103, or  
14 the secretary of the department of social and health services or his or  
15 her designee in cases being reviewed under RCW 74.13.640.

16 The coroner, the medical examiner, or the attending physician  
17 shall, upon request, meet with the family of the decedent to discuss  
18 the findings of the autopsy or post mortem. For the purposes of this  
19 section, the term "family" means the surviving spouse, state registered

1 domestic partner, or any child, parent, grandparent, grandchild,  
2 brother, or sister of the decedent, or any person who was guardian of  
3 the decedent at the time of death.

4 **Sec. 2.** RCW 74.13.640 and 2009 c 520 s 91 are each amended to read  
5 as follows:

6 (1)(a) The department shall conduct a child fatality review in the  
7 event of ~~((an unexpected death))~~ a fatality suspected to be caused by  
8 child abuse or neglect of ~~((a))~~ any minor ~~((in the state))~~ who is in  
9 the care of the department or supervising agency or receiving services  
10 described in chapter 74.13 RCW ~~((from the department or a supervising~~  
11 ~~agency))~~ or who has been in the care of the department or supervising  
12 agency or received services described in chapter 74.13 RCW ~~((from the~~  
13 ~~department or a supervising agency))~~ within one year preceding the  
14 minor's death.

15 ~~((+2))~~ (b) The department shall consult with the office of the  
16 family and children's ombudsman to determine if a child fatality review  
17 should be conducted in any case in which it cannot be determined  
18 whether the child's death is the result of suspected child abuse or  
19 neglect.

20 (c) The department shall ensure that the fatality review team is  
21 made up of individuals who had no previous involvement in the case and  
22 whose professional expertise is pertinent to the dynamics of the case.

23 (d) Upon conclusion of a child fatality review required pursuant to  
24 ~~((subsection (1) of))~~ this section, the department shall within one  
25 hundred eighty days following the fatality issue a report on the  
26 results of the review, unless an extension has been granted by the  
27 governor. Reports shall be distributed to the appropriate committees  
28 of the legislature, and the department shall create a public web site  
29 where all child fatality review reports required under this section  
30 shall be posted and maintained. A child fatality review completed  
31 pursuant to this section and posted on the public web site shall be  
32 subject to public disclosure, except that confidential information may  
33 be redacted by the department consistent with the requirements of RCW  
34 74.13.500 through 74.13.525, RCW 13.50.100, chapter 42.56 RCW, and  
35 other applicable state and federal laws.

36 ~~((+3))~~ (e) The department shall develop and implement procedures

1 to carry out the requirements of (~~subsections (1) and (2) of~~) this  
2 section.

3 ~~((4) In the event a child fatality is the result of apparent abuse  
4 or neglect by the child's parent or caregiver, the department shall  
5 ensure that the fatality review team is comprised of individuals who  
6 had no previous involvement in the case and whose professional  
7 expertise is pertinent to the dynamics of the case.~~

8 ~~(5))~~ (2) In the event of a near((-)) fatality of a child who is in  
9 the care of or receiving services described in this chapter from the  
10 department or supervising agency or who has been in the care of or  
11 received services described in this chapter from the department or  
12 supervising agency within one year preceding the near((-)) fatality,  
13 the department shall promptly notify the office of the family and  
14 children's ombudsman. The department may conduct a review of the near  
15 fatality at its discretion or at the request of the office of the  
16 family and children's ombudsman.

17 (3) In any review of a child fatality or near fatality in which the  
18 child was placed with or received services from a supervising agency  
19 pursuant to a contract with the department, the department and the  
20 fatality review team shall have access to all records and files  
21 regarding the child or otherwise relevant to the review that have been  
22 produced or retained by the supervising agency.

23 (4)(a) A child fatality or near fatality case review completed  
24 pursuant to this section shall be subject to discovery in a civil or  
25 administrative proceeding, but shall not be admitted into evidence or  
26 otherwise used in a civil or administrative proceeding except pursuant  
27 to this section.

28 (b) A department employee responsible for conducting a child  
29 fatality or near fatality review or member of a child fatality or near  
30 fatality review team may not be examined in a civil or administrative  
31 proceeding regarding (i) the work of the child fatality or near  
32 fatality review team, (ii) the incident under review, (iii) his or her  
33 statements, deliberations, thoughts, analyses, or impressions relating  
34 to the work of the child fatality or near fatality review team or the  
35 incident under review, or (iv) the statements, deliberations, thoughts,  
36 analyses, or impressions of any other member of the child fatality or  
37 near fatality review, or any person who provided information to the

1 child fatality or near fatality review team, relating to the work of  
2 the child fatality or near fatality review or the incident under  
3 review.

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

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

--- END ---