

# FINAL BILL REPORT

## SHB 1105

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Synopsis as Enacted

**Brief Description:** Addressing child fatality review in child welfare cases.

**Sponsors:** House Committee on Early Learning & Human Services (originally sponsored by Representatives Kagi, Walsh, Kenney, Maxwell and Roberts; by request of Department of Social and Health Services).

**House Committee on Early Learning & Human Services**  
**Senate Committee on Human Services & Corrections**

### **Background:**

#### Child Fatality Reviews.

State law requires the Department of Social and Health Services (DSHS) to conduct a child fatality review of an unexpected death of a child who, within the last 12 months, had been in the custody of, or receiving services from, the DSHS. At the conclusion of the review, the DSHS must issue a report on the results within 180 days after the date of the child's death. The Governor may extend the due date. The DSHS must distribute the report of the child fatality review to the appropriate legislative committees and post all reports of the review to a public website maintained by the DSHS. In the case of a near fatality, the DSHS may conduct a review; it is not mandatory.

#### The Office of the Family and Children's Ombudsman.

The Office of the Family and Children's Ombudsman (OFCO) was created in 1996 to protect children and parents from harmful agency action or inaction, and to make agency officials and state policy makers aware of system-wide issues in the child protection and child welfare system. The OFCO is part of the Governor's Office and operates independently from the DSHS and other state agencies, acting as a neutral fact-finder, not as an advocate. The OFCO's responsibilities include investigating complaints related to child protective services or child welfare services, monitoring the procedures used by the DSHS in delivering family and children's services, and providing information about the rights and responsibilities of individuals receiving family and children's services and the procedures for providing those services. To perform these duties, the OFCO has authority:

- to interview children in state care;
- to access, inspect, and copy all records, information, or documents in the DSHS's possession that the OFCO considers necessary to conduct an investigation; and

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- to have unrestricted online access to the case and management information system operated by the DSHS.

The OFCO is required to issue an annual report to the Legislature on the implementation of the recommendations from reviews of child fatalities.

The DSHS must notify the OFCO:

- in the event of a near fatality of a child who is, or was within the past 12 months, in the care of or receiving services from the DSHS; and
- whenever a referral of child abuse or neglect constitutes the third founded referral on the same child or family within a 12-month period.

#### Autopsy Report.

Reports of autopsies or postmortem examinations are confidential and are released only by statutory authority. The Secretary of the DSHS is not authorized to receive a report of an autopsy for purposes of conducting a required child fatality review.

#### **Summary:**

#### Child Fatality Reviews.

The DSHS must conduct a child fatality review when a fatality of a child is suspected of being caused by abuse or neglect. The DSHS must consult with the OFCO to determine if a review should be conducted if it is not clear whether a child's death was the result of child abuse or neglect. The DSHS must assure that persons assigned to a child fatality review team have no previous involvement in the child's case.

A child fatality review report is subject to public disclosure and must be posted on the public website. The DSHS is expressly authorized to redact confidential information contained in a review report according to existing state and federal laws protecting the privacy of victims of child abuse and neglect, including laws regarding the confidentiality of postmortem and autopsy reports.

#### Near Child Fatality Reviews.

In the event of a near fatality of a child, the DSHS must promptly notify the OFCO. The DSHS may conduct a review at its discretion or at the request of the OFCO.

#### Access to Files.

The DSHS and the fatality review team must have access to all records and files from a supervising agency that provided services to the child while under contract with the DSHS.

#### Civil or Administrative Proceedings.

A child fatality or near fatality review is subject to discovery in a civil or administrative proceeding. However, any use or admission into evidence is limited as follows:

- Employees of the DSHS may not be questioned in a civil or administrative proceeding relating to the work of the child fatality review team, the incident under review, the employee's statements, thoughts, or impressions or those of the review team members or others who provided information to the review team.

- A witness may not be examined regarding his or her interactions with the child fatality or near fatality review, including whether the person was interviewed during the review, questions asked during the review, and answers provided by the person.
- Documents prepared for a review team are inadmissible in a civil or administrative proceeding. Documents that existed before use or consideration by the review team or that were created independently of a fatality or near fatality review may still be admissible. The limitation also does not apply to licensing or disciplinary proceedings relating to the DSHS's efforts to revoke or suspend a license based on allegations of misconduct or unprofessional conduct connected with a near fatality or a fatality being reviewed.

Autopsy Report.

The Secretary of the DSHS is authorized to receive a report of an autopsy for purposes of conducting a required child fatality review. The information in the autopsy is part of the confidential information that must be redacted when the report is released as a result of a public disclosure request.

**Votes on Final Passage:**

House	97	0
Senate	49	0

**Effective:** July 22, 2011