
SENATE BILL 5043

State of Washington

62nd Legislature

2011 Regular Session

By Senators Stevens, Regala, Roach, and McAuliffe; by request of Department of Social and Health Services

Read first time 01/11/11. Referred to Committee on Human Services & Corrections.

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 a supervising agency or receiving
10 services described in this chapter ((74.13 RCW from the department or
11 a supervising agency)) or who has been in the care of the department or
12 a supervising agency or received services described in this chapter
13 ((74.13 RCW from the department or a supervising agency)) within one
14 year preceding the 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))~~ must be distributed to the appropriate
28 committees of the legislature, and the department shall create a public
29 web site where all child fatality review reports required under this
30 section ~~((shall))~~ must be posted and maintained. A child fatality
31 review completed pursuant to this section is subject to public
32 disclosure and must be posted on the public web site, except that
33 confidential information may be redacted by the department consistent
34 with the requirements of RCW 74.13.500 through 74.13.525 and 13.50.100,
35 chapter 42.56 RCW, and 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 a supervising agency or who has been in the care of or
11 received services described in this chapter from the department or a
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 review completed pursuant
24 to this section is subject to discovery in a civil or administrative
25 proceeding, but may not be admitted into evidence or otherwise used in
26 a civil or administrative proceeding except pursuant to this section.

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

1 of the child fatality or near fatality review team or the incident
2 under review.

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

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

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