

---

**SUBSTITUTE SENATE BILL 5888**

---

**State of Washington                      64th Legislature                      2015 Regular Session**

**By** Senate Human Services, Mental Health & Housing (originally sponsored by Senators O'Ban and Miloscia)

READ FIRST TIME 02/20/15.

1            AN ACT Relating to near fatality incidents of children who have  
2 received services from the department of social and health services;  
3 amending RCW 74.13.640; adding a new section to chapter 26.44 RCW;  
4 and creating a new section.

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

6            **Sec. 1.** RCW 74.13.640 and 2013 c 23 s 209 are each amended to  
7 read as follows:

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

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

19            (c) The department shall ensure that the fatality review team is  
20 made up of individuals who had no previous involvement in the case,

1 including individuals whose professional expertise is pertinent to  
2 the dynamics of the case.

3 (d) Upon conclusion of a child fatality review required pursuant  
4 to this section, the department shall within one hundred eighty days  
5 following the fatality issue a report on the results of the review,  
6 unless an extension has been granted by the governor. Reports must be  
7 distributed to the appropriate committees of the legislature, and the  
8 department shall create a public web site where all child fatality  
9 review reports required under this section must be posted and  
10 maintained. A child fatality review report completed pursuant to this  
11 section is subject to public disclosure and must be posted on the  
12 public web site, except that confidential information may be redacted  
13 by the department consistent with the requirements of RCW 13.50.100,  
14 68.50.105, 74.13.500 through 74.13.525, chapter 42.56 RCW, and other  
15 applicable state and federal laws.

16 (e) The department shall develop and implement procedures to  
17 carry out the requirements of this section.

18 (2)(a) In the event of a near fatality of a child who is in the  
19 care of or receiving services described in this chapter from the  
20 department or a supervising agency or who has been in the care of or  
21 received services described in this chapter from the department or a  
22 supervising agency within one year preceding the near fatality, the  
23 department shall promptly notify the office of the family and  
24 children's ombuds. The department may conduct a review of the near  
25 fatality at its discretion or at the request of the office of the  
26 family and children's ombuds.

27 (b) In the event of a near fatality of a child who is in the care  
28 of or receiving services described in this chapter from the  
29 department or a supervising agency or who has been in the care of or  
30 received services described in this chapter from the department or a  
31 supervising agency within three months preceding the near fatality,  
32 or was the subject of an investigation by the department for possible  
33 abuse or neglect, the department shall promptly notify the office of  
34 the family and children's ombuds and the department shall conduct a  
35 review of the near fatality.

36 (c) "Near fatality" means an act that, as certified by a  
37 physician, places the child in serious or critical condition.

38 (3) In any review of a child fatality or near fatality in which  
39 the child was placed with or received services from a supervising  
40 agency pursuant to a contract with the department, the department and

1 the fatality review team shall have access to all records and files  
2 regarding the child or otherwise relevant to the review that have  
3 been produced or retained by the supervising agency.

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

9 (b) A department employee responsible for conducting a child  
10 fatality or near fatality review, or member of a child fatality or  
11 near fatality review team, may not be examined in a civil or  
12 administrative proceeding regarding (i) the work of the child  
13 fatality or near fatality review team, (ii) the incident under  
14 review, (iii) his or her statements, deliberations, thoughts,  
15 analyses, or impressions relating to the work of the child fatality  
16 or near fatality review team or the incident under review, or (iv)  
17 the statements, deliberations, thoughts, analyses, or impressions of  
18 any other member of the child fatality or near fatality review team,  
19 or any person who provided information to the child fatality or near  
20 fatality review team, relating to the work of the child fatality or  
21 near fatality review team or the incident under 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 the person  
37 from testifying fully in any proceeding regarding his or her  
38 knowledge of the incident under review.

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

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

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 26.44  
6 RCW to read as follows:

7 (1) When a social worker or other employee of the department  
8 responds to an allegation of child abuse or neglect and there is a  
9 subsequent allegation of abuse or neglect resulting in a near  
10 fatality within one year of the initial allegation that is screened  
11 in and open for investigation, the department is to immediately  
12 conduct a review of the social worker's and social worker's  
13 supervisor's files and actions taken during the initial report of  
14 alleged child abuse or neglect. The purpose of the review is to  
15 determine if there were any errors by the employees under department  
16 policy, rule, or state statute. If any violations of policy, rule, or  
17 statute are found, the department is to conduct a formal employee  
18 investigation.

19 (2) "Near fatality" has the same meaning as in RCW 74.13.640.

20 NEW SECTION. **Sec. 3.** This act may be known and cited as Aiden's  
21 act.

--- END ---