

SENATE BILL REPORT

ESHB 1323

As of March 17, 2017

Title: An act relating to loss prevention reviews by state agencies.

Brief Description: Concerning loss prevention reviews by state agencies.

Sponsors: House Committee on State Govt, Elections & IT (originally sponsored by Representatives Wylie, Harris, Nealey, McBride, Stanford and Muri; by request of Department of Enterprise Services).

Brief History: Passed House: 3/01/17, 98-0.

Committee Activity: State Government: 3/17/17.

Brief Summary of Engrossed Substitute Bill

- Allows for state agencies to develop loss prevention review teams (LPRTs) in consultation with and upon the delegation of Department of Enterprise Services (DES).
- Requires the majority of LPRT members to be from agencies other than the affected agency.
- Requires agency LPRTs to submit reports to the head of their agency and the Director of DES.
- Permits DES to adopt rules and provide guidance for state agency LPRTs, if requested.

SENATE COMMITTEE ON STATE GOVERNMENT

Staff: Melissa Van Gorkom (786-7491)

Background: State Loss Prevention Review Team in General. The Legislature created the LPRT program in 2002.

Agencies are required to immediately report to DES any death, serious injury, or other substantial loss that is alleged or suspected to be caused at least in part by the actions of the agency.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Director of DES (Director) must appoint a team of three to five people, including independent consultants, contractors, or state agency employees, not involved in the incident to an LPRT when the death of a person, serious injury to a person, or other substantial loss is alleged or suspected to be caused at least in part by the actions of a state agency. The Director may determine that the incident does not merit review in which case a statement of the reason for the Director's decision must be issued and posted on the DES website.

The LPRT must:

- review the circumstances and causes of the incident;
- evaluate its causes; and
- recommend steps an agency should take to reduce the risk of similar incidents.

The LPRT must report its recommendations to the Director and the director of the agency involved and not disclose the contents of any document required by law to be kept confidential.

Final LPRT Report. The final report is subject to discovery in a civil or administrative proceeding. However, the final report, and any documents prepared by or for the LPRT, are not admissible in a civil proceeding except for the purpose of impeaching a witness.

A member of an LPRT may not be examined in a civil proceeding as to the work of the LPRT or the incidents reviewed by the LPRT. A person may testify in a separate civil proceeding even if the person has testified before an LPRT. However, the person may not be examined as to their interactions with the LPRT.

An agency must respond to a final report of the LPRT, within 120 days, indicating which of the report's recommendations the agency hopes to implement, whether implementation requires additional funding or legislation, and other information the Director may require.

Summary of Bill: State agencies are given authority to create LPRTs in consultation with and upon the delegation of DES to review a death of a person, serious injury to a person, or other substantial loss is alleged or suspected to be caused at least in part by the actions of a state agency. DES may also direct agencies to conduct a review after consultation with the agency as to the purpose, scope, necessary resources, and intended outcomes of the loss prevention review.

When the death, injury, or substantial loss is already being investigated by another federal or state agency or by the affected state agency pursuant to federal or state requirements, investigation by an LPRT is not required but such reviews must contain the same elements and comply with the requirements for the LPRT final report and its use.

An LPRT must consist of at least three persons and the majority of the members must be from agencies other than the affected agency. The LPRT must submit a report to the Director and the head of the state agency involved which must include the following:

- the team's findings;
- analysis of the causes, contributing factors, and future risks;
- methods that the agency will use to address and mitigate the risks identified, which may include changes to policies or procedures; and

- any legislative recommendations necessary to address and carry out the risk treatment strategies identified in the report and the manner in which the agency will measure effectiveness of its changes.

The report will not disclose the contents of any documents required by law or regulation to be kept private or confidential, or that are subject to legal privilege or exemption. The report must be made public by the Director after review.

DES may develop and enact rules that apply to all state agency LPRTs and may provide guidance to the state agency conducting a loss prevention review, if requested.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill provides a more efficient tool for doing reviews within the agencies by reducing duplicative efforts. The goal is for the state to maintain transparency and accountability, manage loss, prevent future harm, and save money for the taxpayers.

OTHER: We want the improvement of reviews but maintain a separate and detailed process of adverse health events system review overseen by Department of Health (DOH). We are working on language to ensure that medical facility reviews can maintain their existing process. We need to ensure that any assessments conducted through the DOH process are robust enough to provide information necessary and that it be available to the public.

Persons Testifying: PRO: Representative Sharon Wylie, Prime Sponsor; Jason Siems, State Risk Manager.

OTHER: Ian Goodhew, UW Medicine Hospitals; Michael Temple, Washington State Association for Justice.

Persons Signed In To Testify But Not Testifying: No one.