
SENATE BILL 6204

State of Washington

66th Legislature

2020 Regular Session

By Senators Darneille, Hasegawa, Keiser, Nguyen, Stanford, Das, and Wilson, C.

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1 AN ACT Relating to prisoner fatality and near fatality reviews
2 for persons in the custody of the department of corrections; adding a
3 new section to chapter 72.09 RCW; and adding a new section to chapter
4 43.06C RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 72.09
7 RCW to read as follows:

8 (1)(a) The department shall conduct a prisoner fatality review in
9 the event of a fatality of any person in the custody of the
10 department.

11 (b) The department shall convene a prisoner fatality review team
12 and determine the membership of the review team. The team shall
13 comprise of individuals with appropriate expertise including, but not
14 limited to, individuals whose professional expertise is pertinent to
15 the dynamics of the case, a law enforcement officer with
16 investigative experience, and a representative from a county or state
17 health department. The department shall ensure that the fatality
18 review team is made up of individuals who had no previous involvement
19 in the case.

20 (c) The primary purpose of the fatality review shall be the
21 development of recommendations to the department and legislature

1 regarding changes in practices or policies to prevent fatalities and
2 strengthen safety and health protections for prisoners in the custody
3 of the department.

4 (d) Upon conclusion of a prisoner fatality review required
5 pursuant to this section, the department shall, within one hundred
6 eighty days following the fatality, issue a report on the results of
7 the review, unless an extension has been granted by the governor.
8 Reports must be distributed to the appropriate committees of the
9 legislature, and the department shall create a public web site where
10 all prisoner fatality review reports required under this section must
11 be posted and maintained. A prisoner fatality review report completed
12 pursuant to this section is subject to public disclosure and must be
13 posted on the public web site, except that confidential information
14 may be redacted by the department consistent with the requirements of
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 prisoner in the
19 custody of the department, the department shall promptly notify the
20 office of the corrections ombuds. The department may conduct a review
21 of the near fatality at its discretion or at the request of the
22 office of the corrections ombuds.

23 (b) For purposes of this section, "near fatality" means an act
24 that, as certified by a physician, places the prisoner in serious or
25 critical condition.

26 (3) In any review of a prisoner fatality or near fatality, the
27 department and the fatality review team shall have access to all
28 records and files regarding the person or otherwise relevant to the
29 review that have been produced or retained by the agency.

30 (4)(a) A prisoner fatality or near fatality review completed
31 pursuant to this section is subject to discovery in a civil or
32 administrative proceeding, but may not be admitted into evidence or
33 otherwise used in a civil or administrative proceeding except
34 pursuant to this section.

35 (b) A department employee responsible for conducting a prisoner
36 fatality or near fatality review, or member of a prisoner fatality or
37 near fatality review team, may not be examined in a civil or
38 administrative proceeding regarding (i) the work of the prisoner
39 fatality or near fatality review team; (ii) the incident under
40 review; (iii) his or her statements, deliberations, thoughts,

1 analyses, or impressions relating to the work of the prisoner
2 fatality or near fatality review team or the incident under review;
3 or (iv) the statements, deliberations, thoughts, analyses, or
4 impressions of any other member of the prisoner fatality or near
5 fatality review team, or any person who provided information to the
6 prisoner fatality or near fatality review team relating to the work
7 of the prisoner fatality or near fatality review team or the incident
8 under review.

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

27 (d) The restrictions set forth in this section do not apply in a
28 licensing or disciplinary proceeding arising from an agency's effort
29 to revoke or suspend the license of any licensed professional based
30 in whole or in part upon allegations of wrongdoing in connection with
31 a prisoner's fatality or near fatality reviewed by a prisoner
32 fatality or near fatality review team.

33 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.06C
34 RCW to read as follows:

35 (1) The department shall:

36 (a) Allow the ombuds or the ombuds' designee to communicate
37 privately with any prisoner in the custody of the department, or any
38 prisoner who is part of a near fatality investigation by the

1 department, for the purposes of carrying out its duties under this
2 chapter;

3 (b) Permit the ombuds or the ombuds' designee physical access to
4 state institutions serving prisoners and state-licensed facilities or
5 residences for the purposes of carrying out its duties under this
6 chapter; and

7 (c) Upon the ombuds' request, grant the ombuds or the ombuds'
8 designee the right to access, inspect, and copy all relevant
9 information, records, or documents in the possession or control of
10 the department that the ombuds considers necessary in an
11 investigation.

12 (2) The office shall issue an annual report to the legislature on
13 the status of the implementation of prisoner fatality review
14 recommendations.

15 (3) For purposes of this section, "near fatality" means an act
16 that, as certified by a physician, places the prisoner in serious or
17 critical condition.

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