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**SUBSTITUTE SENATE BILL 5643**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senate Human Services (originally sponsored by Senator Christian)

AN ACT Relating to expanding child fatality and near fatality reviews to include those in the care or custody of the department of children, youth, and families pursuant to chapter 13.40 RCW; amending RCW 43.06A.100 and 74.13.640; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that children, youth, and other individuals placed in the state's care and state-licensed facilities through juvenile rehabilitation must be protected from harm. The legislature further finds that fatality reviews provide an important tool for the public to review what improvements may be made for the safety and protection of people placed in juvenile rehabilitation. Therefore, the legislature finds that the department of children, youth, and families shall also conduct fatality reviews over any child, youth, or other individual placed in the department's care.

**Sec.**  RCW 43.06A.100 and 2017 3rd sp.s. c 6 s 810 are each amended to read as follows:

(1) The department of children, youth, and families shall:

(a) Allow the ombuds or the ombuds's designee to communicate privately with any child, youth, or individual in the custody of the department of children, youth, and families, or any child, youth, or individual who is part of a near fatality investigation by the department of children, youth, and families, for the purposes of carrying out its duties under this chapter;

(b) Permit the ombuds or the ombuds designee physical access to state institutions serving children, youth, and individuals, and state licensed facilities or residences for the purpose of carrying out its duties under this chapter;

(c) Upon the ombuds's request, grant the ombuds or the ombuds's designee the right to access, inspect, and copy all relevant information, records, or documents in the possession or control of the department of children, youth, and families that the ombuds considers necessary in an investigation; and

(d) Grant the office of the family and children's ombuds unrestricted online access to the child welfare case management information system, the juvenile rehabilitation case management system, and the department of children, youth, and families data information system for the purpose of carrying out its duties under this chapter.

(2) For the purposes of this section, "near fatality" means an act, including an overdose of any controlled substance under chapter 69.50 RCW, that, as certified by a physician, places the child in serious or critical condition.

(3) Nothing in this section creates a duty for the office of the family and children's ombuds under RCW 43.06A.030 as related to children in the care of an early learning program described in RCW 43.216.500 through 43.216.550, a licensed child care center, or a licensed child care home.

**Sec.**  RCW 74.13.640 and 2018 c 284 s 62 are each amended to read as follows:

(1)(a) The department shall conduct a child fatality review in the event of a fatality suspected to be caused by child abuse or neglect of any ((~~minor~~)) child, youth, or individual who is in the care of the department or receiving services described in this chapter or chapter 13.40 RCW or who has been in the care of the department or received services described in this chapter or chapter 13.40 RCW within one year preceding the ((~~minor's~~)) child's, youth's, or individual's death.

(b) The department shall also conduct a child fatality review in the event of a fatality suspected to be caused by child abuse or neglect of any child, youth, or individual occurring while the child, youth, or individual was residing at a juvenile rehabilitation managed facility.

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

((~~(c)~~)) (d) The department shall ensure that the fatality review team is made up of individuals who had no previous involvement in the case, including individuals whose professional expertise is pertinent to the dynamics of the case.

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

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

(2)(a) In the event of a near fatality of a child, youth, or individual suspected to be caused by child abuse or neglect who is in the care of or receiving services described in this chapter or chapter 13.40 RCW from the department ((~~or~~)), who has been in the care of or received services described in this chapter or chapter 13.40 RCW from the department within one year preceding the near fatality, or was the subject of an investigation by the department for possible abuse or neglect, the department shall promptly notify the office of the family and children's ombuds((~~. The department may~~)) and conduct a review of the near fatality ((~~at its discretion or at the request of the office of the family and children's ombuds~~)).

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

~~(c) "Near fatality" means an act that, as certified by a physician, places the child in serious or critical condition.~~)) The department shall also conduct a near fatality review in the event of a near fatality suspected to be caused by abuse or neglect of any child, youth, or individual occurring while the person was residing at a juvenile rehabilitation managed facility.

(3) In any review of a child fatality or near fatality in which the child, youth, or individual was placed with or received services from an agency pursuant to a contract with the department, the department and the fatality review team shall have access to all records and files regarding the child, youth, or individual or otherwise relevant to the review that have been produced or retained by the agency.

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

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

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

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

(5) For the purposes of this section:

(a) "Abuse or neglect" means sexual abuse, sexual exploitation, female genital mutilation as defined in RCW 18.130.460, or injury of a child, youth, or individual by any person under circumstances which cause harm to the child's, youth's, or individual's health, welfare, or safety, excluding conduct permitted under RCW 9A.16.100; or the negligent treatment or maltreatment of a child, youth, or individual by a person responsible for or providing care to the child, youth, or individual. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(b) "Child, youth, or individual" includes any person in the state's care or in state-licensed facilities or residences and juvenile rehabilitation facilities who is receiving services from the department.

(c) "Near fatality" means an act, including an overdose of any controlled substance under chapter 69.50 RCW, that, as certified by a physician, places the child in serious or critical condition.

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