
SENATE BILL 5888

State of Washington

64th Legislature

2015 Regular Session

By Senators O'Ban and Miloscia

Read first time 02/09/15. Referred to Committee on Human Services,
Mental Health & Housing.

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; and adding a new section to chapter 26.44
4 RCW.

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 the department shall promptly notify the office of the family and
33 children's ombuds and the department shall conduct a review of the
34 near fatality.

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

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

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

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

36 (d) The restrictions set forth in this section do not apply in a
37 licensing or disciplinary proceeding arising from an agency's effort
38 to revoke or suspend the license of any licensed professional based
39 in whole or in part upon allegations of wrongdoing in connection with

1 a minor's death or near fatality reviewed by a child fatality or near
2 fatality review team.

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

5 When a social worker or other employee of the child protective
6 services section of the department responds to an allegation of child
7 abuse or neglect and takes no action or does not remove the child
8 from the home and there is a subsequent allegation of abuse or
9 neglect resulting in a near fatality within one year of the initial
10 allegation that is screened in and open for investigation by child
11 protective services, the department is to immediately conduct a
12 review of the social worker's and social worker's supervisor's files
13 and actions taken during the initial report of alleged child abuse or
14 neglect. The purpose of the review is to determine if there were any
15 errors by the employees under department policy, rule, or state
16 statute. If any violations of policy, rule, or statute are found, the
17 department is to conduct a formal employee investigation.

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