

AMENDMENTS TO LB741

Introduced by Health and Human Services.

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 Section 1. Section 71-3404, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 71-3404 (1) Sections 71-3404 to 71-3411 shall be known and may be
6 cited as the Child and Maternal Death Review Act.

7 (2) The Legislature finds and declares that it is in the best
8 interests of the state, its residents, and especially the children of
9 this state that the number and causes of death of children, including
10 stillbirths, in this state be examined. There is a need for a
11 comprehensive integrated review of all child deaths and stillbirths in
12 Nebraska and a system for statewide retrospective review of existing
13 records relating to each child death and stillbirth.

14 (3) The Legislature further finds and declares that it is in the
15 best interests of the state and its residents that the number and causes
16 of maternal death in this state be examined. There is a need for a
17 comprehensive integrated review of all maternal deaths in Nebraska and a
18 system for statewide retrospective review of existing records relating to
19 each maternal death.

20 (4) It is the intent of the Legislature, by creation of the Child
21 and Maternal Death Review Act, to:

22 (a) Identify trends from the review of past records to prevent
23 future child deaths, stillbirths, and maternal deaths from similar causes
24 when applicable;

25 (b) Recommend systematic changes for the creation of a cohesive
26 method for responding to certain child deaths, stillbirths, and maternal
27 deaths; and

1 (c) When appropriate, cause referral to be made to those agencies as
2 required in section 28-711 or as otherwise required by state law.

3 Sec. 2. Section 71-3405, Revised Statutes Cumulative Supplement,
4 2020, is amended to read:

5 71-3405 For purposes of the Child and Maternal Death Review Act:

6 (1) Child means a person from birth to eighteen years of age;

7 (2) Investigation of child death means a review of existing records
8 and other information regarding the child or stillbirth from relevant
9 agencies, professionals, and providers of medical, dental, prenatal, and
10 mental health care. The records to be reviewed may include, but not be
11 limited to, medical records, coroner's reports, autopsy reports, social
12 services records, records of alternative response cases under alternative
13 response implemented in accordance with sections 28-710.01, 28-712, and
14 28-712.01, educational records, emergency and paramedic records, and law
15 enforcement reports;

16 (3) Investigation of maternal death means a review of existing
17 records and other information regarding the woman from relevant agencies,
18 professionals, and providers of medical, dental, prenatal, and mental
19 health care. The records to be reviewed may include, but not be limited
20 to, medical records, coroner's reports, autopsy reports, social services
21 records, educational records, emergency and paramedic records, and law
22 enforcement reports;

23 (4) Maternal death means the death of a woman during pregnancy or
24 the death of a postpartum woman;

25 (5) Postpartum woman means a woman during the period of time
26 beginning when the woman ceases to be pregnant and ending one year after
27 the woman ceases to be pregnant;

28 (6) Preventable child ~~or maternal~~ death means the death of any child
29 or stillbirth ~~pregnant or postpartum woman~~ which reasonable medical,
30 social, legal, psychological, or educational intervention may have
31 prevented. Preventable child ~~or maternal~~ death includes, but is not

1 limited to, the death of a child or stillbirth resulting ~~pregnant or~~
2 ~~postpartum woman~~ from (a) intentional and unintentional injuries, (b)
3 medical misadventures, including untoward results, malpractice, and
4 foreseeable complications, (c) lack of access to medical care, (d)
5 neglect and reckless conduct, including failure to supervise and failure
6 to seek medical care for various reasons, and (e) preventable premature
7 birth;

8 (7) Preventable maternal death means the death of a pregnant or
9 postpartum woman when there was at least some chance of the death being
10 averted by one or more reasonable changes to (a) the patient, (b) the
11 patient's family, (c) the health care provider, facility, or system, or
12 (d) community factors;

13 (8) (-7) Reasonable means taking into consideration the condition,
14 circumstances, and resources available; and

15 (9) Stillbirth means a spontaneous fetal death which (a) occurs at
16 or after the twentieth week of gestation and before birth and (b)
17 resulted in a fetal death certificate pursuant to section 71-606; and

18 (10) Teams (-8) Team means the State Child Death Review Team and the
19 State Maternal Death Review Team.

20 Sec. 3. Section 71-3406, Revised Statutes Cumulative Supplement,
21 2020, is amended to read:

22 71-3406 (1) The chief executive officer of the Department of Health
23 and Human Services shall appoint a minimum of twelve ~~and a maximum of~~
24 ~~fifteen~~ members each to the State Child Death Review Team and the State
25 Maternal Death Review Team. A person seeking appointment shall apply
26 using an application process developed by the chief executive officer.

27 (2) The core members shall serve on both teams and shall be (a) a
28 physician employed by the department, who shall be a permanent member and
29 shall serve as the chairperson of the teams team, (b) a senior staff
30 member with child protective services of the department, (c) a forensic
31 pathologist, (c) (-d) a law enforcement representative, (d) a mental

1 ~~health provider (e) the Inspector General of Nebraska Child Welfare, and~~
2 ~~(e) (f) an attorney. The remaining members appointed may be, but shall~~
3 ~~not be limited to, the following: A county attorney; a Federal Bureau of~~
4 ~~Investigation agent responsible for investigations on Native American~~
5 ~~reservations; a social worker; and members of organizations which~~
6 ~~represent hospitals or physicians.~~

7 (3) Additional required members appointed to the State Child Death
8 Review Team shall include the Inspector General of Nebraska Child Welfare
9 and a senior department staff member with child protective services, who
10 shall be permanent members. The remaining members appointed to the State
11 Child Death Review Team may include, but shall not be limited to, the
12 following: (a) A county attorney; (b) a Federal Bureau of Investigation
13 agent responsible for investigations on Native American reservations; (c)
14 a social worker; and (d) members of organizations which represent
15 hospitals or physicians.

16 (4) The remaining members appointed to the State Maternal Death
17 Review Team may include, but shall not be limited to, the following: (a)
18 County attorneys; (b) representatives of tribal organizations; (c) social
19 workers; (d) medical providers, including, but not limited to, the
20 practice areas of obstetrics, maternal-fetal medicine, and
21 anesthesiology; (e) public health workers; (f) community birth workers;
22 and (g) community advocates. In appointing members to the State Maternal
23 Death Review Team, the chief executive officer of the department shall
24 consider members working in and representing communities that are diverse
25 with regard to race, ethnicity, immigration status, and English
26 proficiency and include members from differing geographic regions in the
27 state, including both rural and urban areas.

28 (5) The department shall be responsible for the general
29 administration of the activities of the ~~teams~~ team and shall employ or
30 contract with a team ~~coordinators~~ coordinator to provide administrative
31 support for each ~~the~~ team and shall provide a team data abstractor for

1 the teams.

2 ~~(6) (2)~~ Members shall serve four-year terms with the exception of
3 the permanent members chairperson. Each team shall annually elect a
4 chairperson from among its members ~~In the absence of the chairperson, the~~
5 ~~chief executive officer may appoint another member of the core team to~~
6 ~~serve as chairperson.~~

7 ~~(7) (3)~~ The teams team shall not be considered a public body for
8 purposes of the Open Meetings Act. The teams team shall meet a minimum of
9 four times a year. Members of the teams team shall be reimbursed for
10 expenses as provided in sections 81-1174 to 81-1177.

11 Sec. 4. Section 71-3407, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 71-3407 (1) The purpose ~~purposes~~ of the teams team shall be to (a)
14 develop an understanding of the causes and incidence of child deaths,
15 stillbirths, or maternal deaths in this state, (b) develop
16 recommendations for changes within relevant agencies and organizations
17 which may serve to prevent child deaths, stillbirths, or maternal deaths,
18 and (c) advise the Governor, the Legislature, and the public on changes
19 to law, policy, and practice which will prevent child deaths,
20 stillbirths, or maternal deaths.

21 (2) The teams team shall:

22 (a) Undertake annual statistical studies of the causes and incidence
23 of child or maternal deaths in this state. The studies shall include, but
24 not be limited to, an analysis of the records of community, public, and
25 private agency involvement with the children, the pregnant or postpartum
26 women, and their families prior to and subsequent to the child or
27 maternal deaths;

28 (b) Develop a protocol for retrospective investigation of child or
29 maternal deaths by the teams team;

30 (c) Develop a protocol for collection of data regarding child or
31 maternal deaths by the teams team;

1 (d) Consider training needs, including cross-agency training, and
2 service gaps;

3 (e) Include in its annual report recommended changes to any law,
4 rule, regulation, or policy needed to decrease the incidence of
5 preventable child or maternal deaths;

6 (f) Educate the public regarding the incidence and causes of child
7 or maternal deaths, the public role in preventing child or maternal
8 deaths, and specific steps the public can undertake to prevent child or
9 maternal deaths. The teams ~~team~~ may enlist the support of civic,
10 philanthropic, and public service organizations in the performance of ~~its~~
11 educational duties;

12 (g) Provide the Governor, the Legislature, and the public with
13 annual reports which shall include the teams' ~~team's~~ findings and
14 recommendations for each of their ~~its~~ duties. Each ~~The~~ team shall submit
15 an ~~provide~~ the annual report on or before each December 31 ~~September 15~~.
16 ~~The reports submitted to the Legislature shall be submitted~~
17 electronically; and

18 (h) When appropriate, make referrals to those agencies as required
19 in section 28-711 or as otherwise required by state law.

20 (3) The teams ~~team~~ may enter into consultation agreements with
21 relevant experts to evaluate the information and records collected ~~by the~~
22 ~~team~~. All of the confidentiality provisions of section 71-3411 shall
23 apply to the activities of a consulting expert.

24 (4) The teams ~~team~~ may enter into written agreements with entities
25 to provide for the secure storage of electronic data ~~based on information~~
26 ~~and records collected by the team~~, including data that contains personal
27 or incident identifiers. Such agreements shall provide for the protection
28 of the security and confidentiality of the content of the information,
29 including access limitations, storage of the information, and destruction
30 of the information. All of the confidentiality provisions of section
31 71-3411 shall apply to the activities of the data storage entity.

1 (5) The teams team may enter into agreements with a local public
2 health department as defined in section 71-1626 to act as the agent of
3 the teams team in conducting all information gathering and investigation
4 necessary for the purposes of the Child and Maternal Death Review Act.
5 All of the confidentiality provisions of section 71-3411 shall apply to
6 the activities of the agent.

7 (6) For purposes of this section, entity means an organization which
8 provides collection and storage of data from multiple agencies but is not
9 solely controlled by the agencies providing the data.

10 Sec. 5. Section 71-3408, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 71-3408 (1) The chairperson of each ~~the~~ team shall:

13 (a) Chair meetings of the teams team; and

14 (b) Ensure identification of strategies to prevent child or maternal
15 deaths.

16 (2) The team coordinator of each team provided under subsection (5)
17 ~~(1)~~ of section 71-3406 shall:

18 (a) Have the necessary information from investigative reports,
19 medical records, coroner's reports, autopsy reports, educational records,
20 and other relevant items made available to the team;

21 (b) Ensure timely notification of the team members of an upcoming
22 meeting;

23 (c) Ensure that all team reporting and data-collection requirements
24 are met;

25 (d) Oversee adherence to the review process established by the Child
26 and Maternal Death Review Act; and

27 (e) Perform such other duties as the team deems appropriate.

28 (3) The team data abstractor provided under subsection (5) of
29 section 71-3406 shall:

30 (a) Possess qualifying nursing experience, a demonstrated
31 understanding of child and maternal outcomes, strong professional

1 communication skills, data entry and relevant computer skills, experience
2 in medical record review, flexibility and ability to accomplish tasks in
3 short time frames, appreciation of the community, knowledge of
4 confidentiality laws, the ability to serve as an objective unbiased
5 storyteller, and a demonstrated understanding of social determinants of
6 health;

7 (b) Request records for identified cases from sources described in
8 section 71-3410;

9 (c) Upon receipt of such records, review all pertinent records to
10 complete fields in child, stillbirth, and maternal death databases;

11 (d) Summarize findings in a case summary; and

12 (e) Report all findings to the team coordinators.

13 Sec. 6. Section 71-3409, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 71-3409 ~~(1)(a) The team shall review all child deaths occurring on~~
16 ~~or after January 1, 1993, and before January 1, 2014, in three phases as~~
17 ~~provided in this subsection.~~

18 ~~(b) Phase one shall be conducted by the core members. The core~~
19 ~~members shall review the death certificate, birth certificate, coroner's~~
20 ~~report or autopsy report if done, and indicators of child or family~~
21 ~~involvement with the Department of Health and Human Services. The core~~
22 ~~members shall classify the nature of the death, whether accidental,~~
23 ~~homicide, suicide, undetermined, or natural causes, determine the~~
24 ~~completeness of the death certificate, and identify discrepancies and~~
25 ~~inconsistencies. The core members may select cases from phase one for~~
26 ~~review in phase two.~~

27 ~~(c) Phase two shall be completed by the core members and shall not~~
28 ~~be conducted on any child death under active investigation by a law~~
29 ~~enforcement agency or under criminal prosecution. The core members may~~
30 ~~seek additional records described in section 71-3410. The core members~~
31 ~~shall identify the preventability of death, the possibility of child~~

1 ~~abuse or neglect, the medical care issues of access and adequacy, and the~~
2 ~~nature and extent of interagency communication. The core members may~~
3 ~~select cases from phase two for review by the team in phase three.~~

4 ~~(d) Phase three shall be a review by the team of those cases~~
5 ~~selected by the core members for further discussion, review, and~~
6 ~~analysis.~~

7 (1)(a) The State Child Death Review Team ~~(2)(a) The team shall~~
8 ~~review all child deaths occurring on or after January 1, 2014, in the~~
9 ~~manner provided in this subsection.~~

10 (b) The members shall review the death certificate, birth
11 certificate, coroner's report or autopsy report if done, and indicators
12 of child or family involvement with the department. The members shall
13 classify the nature of the death, whether accidental, homicide, suicide,
14 undetermined, or natural causes, determine the completeness of the death
15 certificate, and identify discrepancies and inconsistencies.

16 (c) A review shall not be conducted on any child death under active
17 investigation by a law enforcement agency or under criminal prosecution.
18 The members may seek records described in section 71-3410. The members
19 shall identify the preventability of death, the possibility of child
20 abuse or neglect, the medical care issues of access and adequacy, and the
21 nature and extent of interagency communication.

22 (2)(a) The team may review stillbirths occurring on or after January
23 1, 2023, in the manner provided in this subsection.

24 (b) The members may review the death certificates and other
25 documentation which will allow the team to identify preventable causes of
26 stillbirths.

27 (c) Nothing in this subsection shall be interpreted to require
28 review of any stillbirth death.

29 (3)(a) The State Maternal Death Review Team ~~(3)(a) The team shall~~
30 ~~review all maternal deaths occurring on or after January 1, 2014, in the~~
31 ~~manner provided in this subsection.~~

1 (b) The members shall review the maternal death records in
2 accordance with evidence-based best practices in order to determine: (a)
3 If the death is pregnancy-related; (b) the cause of death; (c) if the
4 death was preventable; (d) the factors that contributed to the death; (e)
5 recommendations and actions that address those contributing factors; and
6 (f) the anticipated impact of those actions if implemented death
7 ~~certificate, coroner's report or autopsy report if done, and indicators~~
8 ~~of the woman's involvement with the department. The members shall~~
9 ~~classify the nature of the death, whether accidental, homicide, suicide,~~
10 ~~undetermined, or natural causes, determine the completeness of the death~~
11 ~~certificate, and identify discrepancies and inconsistencies.~~

12 (c) A review shall not be conducted on any maternal death under
13 active investigation by a law enforcement agency or under criminal
14 prosecution. The members may seek records described in section 71-3410.
15 The members shall identify the preventability of death, the possibility
16 of domestic abuse, the medical care issues of access and adequacy, and
17 the nature and extent of interagency communication.

18 Sec. 7. Section 71-3410, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 71-3410 (1) Upon request, the teams ~~team~~ shall be immediately
21 provided:

22 (a) Information and records maintained by a provider of medical,
23 dental, prenatal, and mental health care, including medical reports,
24 autopsy reports, and emergency and paramedic records; and

25 (b) All information and records maintained by any agency of state,
26 county, or local government, any other political subdivision, any school
27 district, or any public or private educational institution, including,
28 but not limited to, birth and death certificates, law enforcement
29 investigative data and reports, coroner investigative data and reports,
30 educational records, parole and probation information and records, and
31 information and records of any social services agency that provided

1 services to the child, the pregnant or postpartum woman, or the family of
2 the child or woman.

3 (2) The Department of Health and Human Services shall have the
4 authority to issue subpoenas to compel production of any of the records
5 and information specified in subdivisions (1)(a) and (b) of this section,
6 except records and information on any child death, stillbirth, or
7 maternal death under active investigation by a law enforcement agency or
8 which is at the time the subject of a criminal prosecution, and shall
9 provide such records and information to the teams ~~team~~.

10 Sec. 8. Section 71-3411, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 71-3411 (1)(a) All information and records acquired by the teams
13 ~~team~~ in the exercise of their ~~its~~ purposes and duties pursuant to the
14 Child and Maternal Death Review Act shall be confidential and exempt from
15 disclosure and may only be disclosed as provided in this section and as
16 provided in section 71-3407. Statistical compilations of data made by the
17 teams ~~team~~ which do not contain any information that would permit the
18 identification of any person to be ascertained shall be public records.

19 (b) De-identified information and records obtained by the teams ~~team~~
20 may be released to a researcher, upon proof of identity and
21 qualifications of the researcher, if the researcher is employed by a
22 research organization, university, institution, or government agency and
23 is conducting scientific, medical, or public health research and if there
24 is no publication or disclosure of any name or facts that could lead to
25 the identity of any person included in the information or records. Such
26 release shall provide for a written agreement with the Department of
27 Health and Human Services providing protection of the security of the
28 content of the information, including access limitations, storage of the
29 information, destruction of the information, and use of the information.
30 The release of such information pursuant to this subdivision shall not
31 make otherwise confidential information a public record.

1 (c) De-identified information and records obtained by the teams team
2 may be released to the United States Public Health Service or its
3 successor, a government health agency, or a local public health
4 department as defined in section 71-1626 if there is no publication or
5 disclosure of any name or facts that could lead to the identity of any
6 person included in the information or records. Such release shall provide
7 for protection of the security of the content of the information,
8 including access limitations, storage of the information, destruction of
9 the information, and use of the information. The release of such
10 information pursuant to this subdivision shall not make otherwise
11 confidential information a public record.

12 (2) Except as necessary to carry out the teams' ~~a team's~~ purposes
13 and duties, members of the teams ~~a team~~ and persons attending a team
14 meetings ~~meeting~~ may not disclose what transpired at the meetings a
15 ~~meeting~~ and shall not disclose any information the disclosure of which is
16 prohibited by this section.

17 (3) Members of the teams ~~a team~~ and persons attending team meetings
18 ~~a team meeting~~ shall not testify in any civil, administrative, licensure,
19 or criminal proceeding, including depositions, regarding information
20 reviewed in or opinions formed as a result of team meetings ~~a team~~
21 ~~meeting~~. This subsection shall not be construed to prevent a person from
22 testifying to information obtained independently of the teams team or
23 which is public information.

24 (4) Information, documents, and records of the teams team shall not
25 be subject to subpoena, discovery, or introduction into evidence in any
26 civil or criminal proceeding, except that information, documents, and
27 records otherwise available from other sources shall not be immune from
28 subpoena, discovery, or introduction into evidence through those sources
29 solely because they were presented during proceedings of the teams team
30 or are maintained by the teams team.

31 Sec. 9. Original sections 71-3404, 71-3407, 71-3408, 71-3409,

1 71-3410, and 71-3411, Reissue Revised Statutes of Nebraska, and sections
2 71-3405 and 71-3406, Revised Statutes Cumulative Supplement, 2020, are
3 repealed.