

AMENDMENTS TO LB626

Introduced by Health and Human Services.

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

3 Section 1. 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 from relevant agencies,
9 professionals, and providers of medical, dental, prenatal, and mental
10 health care. The records to be reviewed may include, but not be limited
11 to, medical records, coroner's reports, autopsy reports, social services
12 records, records of alternative response cases under alternative response
13 implemented in accordance with sections 28-710.01, 28-712, and 28-712.01,
14 educational records, emergency and paramedic records, and law enforcement
15 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;

1 (6) Preventable child ~~or maternal~~ death means the death of any child
2 ~~or pregnant or postpartum woman~~ which reasonable medical, social, legal,
3 psychological, or educational intervention may have prevented.
4 Preventable child ~~or maternal~~ death includes, but is not limited to, the
5 death of a child ~~or pregnant or postpartum woman~~ from (a) intentional and
6 unintentional injuries, (b) medical misadventures, including untoward
7 results, malpractice, and foreseeable complications, (c) lack of access
8 to medical care, (d) neglect and reckless conduct, including failure to
9 supervise and failure to seek medical care for various reasons, and (e)
10 preventable premature birth;

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

16 (8) (-7) Reasonable means taking into consideration the condition,
17 circumstances, and resources available; and

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

20 Sec. 2. 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.

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

1 ~~(e) (f)~~ an attorney. ~~The remaining members appointed may be, but shall~~
2 ~~not be limited to, the following: A county attorney; a Federal Bureau of~~
3 ~~Investigation agent responsible for investigations on Native American~~
4 ~~reservations; a social worker; and members of organizations which~~
5 ~~represent hospitals or physicians.~~ The department shall be responsible
6 for the general administration of the activities of the teams ~~team~~ and
7 shall employ or contract with a team coordinators ~~coordinator~~ to provide
8 administrative support for each ~~the~~ team and shall provide a team data
9 abstractor for the teams.

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

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

30 (5) ~~(2)~~ Members shall serve four-year terms with the exception of
31 the permanent members chairperson. Each team shall annually elect a

1 ~~chairperson from among its members~~ In the absence of the chairperson, the
2 chief executive officer may appoint another member of the core team to
3 serve as chairperson.

4 (6) ~~(3)~~ The teams ~~team~~ shall not be considered a public body for
5 purposes of the Open Meetings Act. The teams ~~team~~ shall meet a minimum of
6 four times a year. Members of the teams ~~team~~ shall be reimbursed for
7 expenses as provided in sections 81-1174 to 81-1177.

8 Sec. 3. Section 71-3407, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 71-3407 (1) The purpose ~~purposes~~ of the teams ~~team~~ shall be to (a)
11 develop an understanding of the causes and incidence of child or maternal
12 deaths in this state, (b) develop recommendations for changes within
13 relevant agencies and organizations which may serve to prevent child or
14 maternal deaths, and (c) advise the Governor, the Legislature, and the
15 public on changes to law, policy, and practice which will prevent child
16 or maternal deaths.

17 (2) The teams ~~team~~ shall:

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

24 (b) Develop a protocol for retrospective investigation of child or
25 maternal deaths by the teams ~~team~~;

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

28 (d) Consider training needs, including cross-agency training, and
29 service gaps;

30 (e) Include in its annual report recommended changes to any law,
31 rule, regulation, or policy needed to decrease the incidence of

1 preventable child or maternal deaths;

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

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

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

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

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

28 (5) The teams ~~team~~ may enter into agreements with a local public
29 health department as defined in section 71-1626 to act as the agent of
30 the teams ~~team~~ in conducting all information gathering and investigation
31 necessary for the purposes of the Child and Maternal Death Review Act.

1 All of the confidentiality provisions of section 71-3411 shall apply to
2 the activities of the agent.

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

6 Sec. 4. Section 71-3408, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 71-3408 (1) The chairperson of each ~~the~~ team shall:

9 (a) Chair meetings of the teams ~~team~~; and

10 (b) Ensure identification of strategies to prevent child or maternal
11 deaths.

12 (2) The team coordinator of each team provided under subsection (2)
13 ~~(1)~~ of section 71-3406 shall:

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

17 (b) Ensure timely notification of the team members of an upcoming
18 meeting;

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

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

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

24 (3) The team data abstractor provided under subsection (2) of
25 section 71-3406 shall:

26 (a) Possess qualifying nursing experience, a demonstrated
27 understanding of child and maternal outcomes, strong professional
28 communication skills, data entry and relevant computer skills, experience
29 in medical record review, flexibility and ability to accomplish tasks in
30 short time frames, appreciation of the community, knowledge of
31 confidentiality laws, the ability to serve as an objective unbiased

1 storyteller, and a demonstrated understanding of social determinants of
2 health;

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

5 (c) Upon receipt of such records, review all pertinent records to
6 complete fields in child and maternal death data bases;

7 (d) Summarize findings in a maternal death case summary; and

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

9 Sec. 5. Section 71-3409, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 ~~71-3409 (1)(a) The team shall review all child deaths occurring on~~
12 ~~or after January 1, 1993, and before January 1, 2014, in three phases as~~
13 ~~provided in this subsection.~~

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

23 ~~(c) Phase two shall be completed by the core members and shall not~~
24 ~~be conducted on any child death under active investigation by a law~~
25 ~~enforcement agency or under criminal prosecution. The core members may~~
26 ~~seek additional records described in section 71-3410. The core members~~
27 ~~shall identify the preventability of death, the possibility of child~~
28 ~~abuse or neglect, the medical care issues of access and adequacy, and the~~
29 ~~nature and extent of interagency communication. The core members may~~
30 ~~select cases from phase two for review by the team in phase three.~~

31 ~~(d) Phase three shall be a review by the team of those cases~~

1 ~~selected by the core members for further discussion, review, and~~
2 ~~analysis.~~

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

6 (b) The members shall review the death certificate, birth
7 certificate, coroner's report or autopsy report if done, and indicators
8 of child or family 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 child death under active
13 investigation by a law enforcement agency or under criminal prosecution.
14 The members may seek records described in section 71-3410. The members
15 shall identify the preventability of death, the possibility of child
16 abuse or neglect, the medical care issues of access and adequacy, and the
17 nature and extent of interagency communication.

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

21 (b) The members shall review the maternal death case abstracts in
22 accordance with evidence-based best practices in order to determine: (a)
23 If the death is pregnancy-related; (b) the cause of death; (c) if the
24 death was preventable; (d) the factors that contributed to the death; (e)
25 recommendations and actions that address those contributing factors; and
26 (f) the anticipated impact of those actions if implemented ~~death~~
27 ~~certificate, coroner's report or autopsy report if done, and indicators~~
28 ~~of the woman's involvement with the department. The members shall~~
29 ~~classify the nature of the death, whether accidental, homicide, suicide,~~
30 ~~undetermined, or natural causes, determine the completeness of the death~~
31 ~~certificate, and identify discrepancies and inconsistencies.~~

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

7 Sec. 6. Section 71-3410, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 71-3410 (1) Upon request, the teams ~~team~~ shall be immediately
10 provided:

11 (a) Information and records maintained by a provider of medical,
12 dental, prenatal, and mental health care, including medical reports,
13 autopsy reports, and emergency and paramedic records; and

14 (b) All information and records maintained by any agency of state,
15 county, or local government, any other political subdivision, any school
16 district, or any public or private educational institution, including,
17 but not limited to, birth and death certificates, law enforcement
18 investigative data and reports, coroner investigative data and reports,
19 educational records, parole and probation information and records, and
20 information and records of any social services agency that provided
21 services to the child, the pregnant or postpartum woman, or the family of
22 the child or woman.

23 (2) The Department of Health and Human Services shall have the
24 authority to issue subpoenas to compel production of any of the records
25 and information specified in subdivisions (1)(a) and (b) of this section,
26 except records and information on any child or maternal death under
27 active investigation by a law enforcement agency or which is at the time
28 the subject of a criminal prosecution, and shall provide such records and
29 information to the teams ~~team~~.

30 Sec. 7. Section 71-3411, Reissue Revised Statutes of Nebraska, is
31 amended to read:

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

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

21 (c) De-identified information and records obtained by the teams ~~team~~
22 may be released to the United States Public Health Service or its
23 successor, a government health agency, or a local public health
24 department as defined in section 71-1626 if there is no publication or
25 disclosure of any name or facts that could lead to the identity of any
26 person included in the information or records. Such release shall provide
27 for protection of the security of the content of the information,
28 including access limitations, storage of the information, destruction of
29 the information, and use of the information. The release of such
30 information pursuant to this subdivision shall not make otherwise
31 confidential information a public record.

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

6 (3) Members of the teams ~~a team~~ and persons attending team meetings
7 ~~a team meeting~~ shall not testify in any civil, administrative, licensure,
8 or criminal proceeding, including depositions, regarding information
9 reviewed in or opinions formed as a result of team meetings ~~a team~~
10 ~~meeting~~. This subsection shall not be construed to prevent a person from
11 testifying to information obtained independently of the teams ~~team~~ or
12 which is public information.

13 (4) Information, documents, and records of the teams ~~team~~ shall not
14 be subject to subpoena, discovery, or introduction into evidence in any
15 civil or criminal proceeding, except that information, documents, and
16 records otherwise available from other sources shall not be immune from
17 subpoena, discovery, or introduction into evidence through those sources
18 solely because they were presented during proceedings of the teams ~~team~~
19 or are maintained by the teams ~~team~~.

20 Sec. 8. Original sections 71-3407, 71-3408, 71-3409, 71-3410, and
21 71-3411, Reissue Revised Statutes of Nebraska, and sections 71-3405 and
22 71-3406, Revised Statutes Cumulative Supplement, 2020, are repealed.