

AMENDMENTS TO LB227

(Amendments to Final Reading copy)

Introduced by Vargas, 7.

1           1. Insert the following new sections:

2           Sec. 61. Section 68-911, Revised Statutes Cumulative Supplement,  
3   2022, is amended to read:

4           68-911 (1) Medical assistance shall include coverage for health care  
5   and related services as required under Title XIX of the federal Social  
6   Security Act, including, but not limited to:

7           (a) Inpatient and outpatient hospital services;

8           (b) Laboratory and X-ray services;

9           (c) Nursing facility services;

10          (d) Home health services;

11          (e) Nursing services;

12          (f) Clinic services;

13          (g) Physician services;

14          (h) Medical and surgical services of a dentist;

15          (i) Nurse practitioner services;

16          (j) Nurse midwife services;

17          (k) Pregnancy-related services;

18          (l) Medical supplies;

19          (m) Mental health and substance abuse services;

20          (n) Early and periodic screening and diagnosis and treatment  
21   services for children which shall include both physical and behavioral  
22   health screening, diagnosis, and treatment services;

23          (o) Rural health clinic services; and

24          (p) Federally qualified health center services.

25          (2) In addition to coverage otherwise required under this section,  
26   medical assistance may include coverage for health care and related

1 services as permitted but not required under Title XIX of the federal  
2 Social Security Act, including, but not limited to:

3 (a) Prescribed drugs;

4 (b) Intermediate care facilities for persons with developmental  
5 disabilities;

6 (c) Home and community-based services for aged persons and persons  
7 with disabilities;

8 (d) Dental services;

9 (e) Rehabilitation services;

10 (f) Personal care services;

11 (g) Durable medical equipment;

12 (h) Medical transportation services;

13 (i) Vision-related services;

14 (j) Speech therapy services;

15 (k) Physical therapy services;

16 (l) Chiropractic services;

17 (m) Occupational therapy services;

18 (n) Optometric services;

19 (o) Podiatric services;

20 (p) Hospice services;

21 (q) Mental health and substance abuse services;

22 (r) Hearing screening services for newborn and infant children; and

23 (s) Administrative expenses related to administrative activities,  
24 including outreach services, provided by school districts and educational  
25 service units to students who are eligible or potentially eligible for  
26 medical assistance.

27 (3) No later than July 1, 2009, the department shall submit a state  
28 plan amendment or waiver to the federal Centers for Medicare and Medicaid  
29 Services to provide coverage under the medical assistance program for  
30 community-based secure residential and subacute behavioral health  
31 services for all eligible recipients, without regard to whether the

1 recipient has been ordered by a mental health board under the Nebraska  
2 Mental Health Commitment Act to receive such services.

3 (4) On or before October 1, 2014, the department, after consultation  
4 with the State Department of Education, shall submit a state plan  
5 amendment to the federal Centers for Medicare and Medicaid Services, as  
6 necessary, to provide that the following are direct reimbursable services  
7 when provided by school districts as part of an individualized education  
8 program or an individualized family service plan: Early and periodic  
9 screening, diagnosis, and treatment services for children; medical  
10 transportation services; mental health services; nursing services;  
11 occupational therapy services; personal care services; physical therapy  
12 services; rehabilitation services; speech therapy and other services for  
13 individuals with speech, hearing, or language disorders; and vision-  
14 related services.

15 (5) No later than January 1, 2023, the department shall provide  
16 coverage for continuous glucose monitors under the medical assistance  
17 program for all eligible recipients who have a prescription for such  
18 device.

19 (6) On or before October 1, 2023, the department shall seek federal  
20 approval for federal matching funds from the federal Centers for Medicare  
21 and Medicaid Services through a state plan amendment or waiver to extend  
22 postpartum coverage for beneficiaries from sixty days to at least six  
23 months.

24 Sec. 79. Sections 79 to 94 of this act shall be known and may be  
25 cited as the Overdose Fatality Review Teams Act.

26 Sec. 80. The Legislature finds that:

27 (1) Substance use disorders and drug overdoses are major health  
28 problems that affect the lives of many people and multiple services  
29 systems and lead to profound consequences, including permanent injury and  
30 death;

31 (2) Overdoses caused by heroin, fentanyl, other opioids, stimulants,

1 controlled substance analogs, novel psychoactive substances, and other  
2 legal and illegal drugs are a public health crisis that stress and strain  
3 financial, public health, health care, and public safety resources in  
4 Nebraska;

5 (3) Overdose fatality reviews, which are designed to uncover the  
6 who, what, when, where, why, and how of fatal overdoses, allow local  
7 authorities to examine and understand the circumstances leading to a  
8 fatal drug overdose; and

9 (4) Through a comprehensive and multidisciplinary review, overdose  
10 fatality review teams can better understand the individual and population  
11 factors and characteristics of potential overdose victims. This provides  
12 local authorities with a greater sense of the strategies and multiagency  
13 coordination needed to prevent future overdoses and results in the more  
14 productive allocation of overdose prevention resources and services  
15 within Nebraska communities.

16 Sec. 81. The purposes of the Overdose Fatality Review Teams Act are  
17 to:

18 (1) Create a legislative framework for establishing county-level,  
19 multidisciplinary overdose fatality review teams in Nebraska;

20 (2) Provide overdose fatality review teams with duties and  
21 responsibilities to examine and understand the circumstances leading up  
22 to overdoses so that the teams can make recommendations on policy changes  
23 and resource allocation to prevent future overdoses; and

24 (3) Allow overdose fatality review teams to obtain and review  
25 records and other documentation related to overdoses from relevant  
26 agencies, entities, and individuals while remaining compliant with local,  
27 state, and federal confidentiality laws and regulations.

28 Sec. 82. For purposes of the Overdose Fatality Review Teams Act:

29 (1) De-identified information means information that does not  
30 identify an individual and with respect to which there is no reasonable  
31 basis to believe that the information can be used to identify an

1 individual;

2 (2) Department means the Department of Health and Human Services;

3 (3) Drug means a substance that produces a physiological effect when  
4 ingested or otherwise introduced into the body, and includes both legal  
5 and illicit substances. Drug does not include alcohol;

6 (4) Health care provider means any of the following individuals who  
7 are licensed, certified, or registered to perform specified health  
8 services consistent with state law: A physician, a physician assistant,  
9 or an advanced practice registered nurse;

10 (5) Lead organization means a local public health department as  
11 defined in section 71-1626;

12 (6) Local team means the multidisciplinary and multiagency drug  
13 overdose fatality review team established by a lead organization for such  
14 organization's jurisdiction or for a group of cities, counties, or  
15 districts, pursuant to an agreement between multiple lead organizations;

16 (7) Mental health provider means:

17 (a) A psychiatrist licensed to practice under the Medicine and  
18 Surgery Practice Act;

19 (b) A psychologist licensed to engage in the practice of psychology  
20 in this state as provided in section 38-3111 or as provided in similar  
21 provisions of the Psychology Interjurisdictional Compact;

22 (c) A person licensed as an independent mental health practitioner  
23 under the Mental Health Practice Act; or

24 (d) A professional counselor who holds a privilege to practice in  
25 Nebraska as a professional counselor under the Licensed Professional  
26 Counselors Interstate Compact;

27 (8) Personal identifying information means information that permits  
28 the identity of an individual to whom the information applies to be  
29 reasonably inferred by either direct or indirect means;

30 (9) Overdose means injury to the body that happens when one or more  
31 drugs are taken in excessive amounts. An overdose can be fatal or

1 nonfatal;

2 (10) Overdose fatality review means a process in which a local team  
3 performs a series of individual overdose fatality reviews to effectively  
4 identify system gaps and innovative, community-specific overdose  
5 prevention and intervention strategies;

6 (11) Substance use disorder means a pattern of use of alcohol or  
7 other drugs leading to clinical or functional impairment, in accordance  
8 with the definition in the Diagnostic and Statistical Manual of Disorders  
9 (DSM-5) of the American Psychiatric Association, or a subsequent edition  
10 of such manual; and

11 (12) Substance use disorder treatment provider means any individual  
12 or entity who is licensed, registered, or certified within Nebraska to  
13 treat substance use disorders or who has a federal Drug Addiction  
14 Treatment Act of 2000 waiver from the Substance Abuse and Mental Health  
15 Services Administration of the United States Department of Health and  
16 Human Services to treat individuals with substance use disorder using  
17 medications approved for that indication by the United States Food and  
18 Drug Administration.

19 Sec. 83. (1) A lead organization may establish a local team for the  
20 lead organization's jurisdiction or for a group of cities, counties, or  
21 districts, pursuant to an agreement between multiple lead organizations.  
22 If multiple lead organizations decide to form a local team, only one  
23 shall fulfill the role of lead organization. The lead organization shall  
24 select the members of the local team.

25 (2) A local team shall consist of the core members that may include  
26 one or more members from the following backgrounds:

27 (a) Officials from the lead organization or from another local  
28 public health department or such officials' designees;

29 (b) Behavioral health providers or officials;

30 (c) Law enforcement personnel;

31 (d) Representatives of jails or detention centers;

1           (e) The coroner or the coroner's designee;

2           (f) Health care providers who specialize in the prevention,  
3 diagnosis, and treatment of substance use disorders;

4           (g) Mental health providers who specialize in substance use  
5 disorders;

6           (h) Representatives of emergency medical services providers in the  
7 county;

8           (i) The Director of Children and Family Services of the Division of  
9 Children and Family Services of the Department of Health and Human  
10 Services or the director's designee; and

11           (j) Representatives from the Board of Parole, the Office of  
12 Probation Administration, the Division of Parole Supervision, or the  
13 Community Corrections Division of the Nebraska Commission on Law  
14 Enforcement and Criminal Justice.

15           (3) A local team may also include, either as permanent or temporary  
16 members:

17           (a) A local school superintendent or the superintendent's designee;

18           (b) A representative of a local hospital;

19           (c) A health care provider who specializes in emergency medicine;

20           (d) A health care provider who specializes in pain management;

21           (e) A pharmacist with a background in prescription drug misuse and  
22 diversion;

23           (f) A substance use disorder treatment provider from a licensed  
24 substance use disorder treatment program;

25           (g) A poison control center representative;

26           (h) A mental health provider who is a generalist;

27           (i) A prescription drug monitoring program administrator or such  
28 administrator's designee;

29           (j) A representative from a harm reduction provider;

30           (k) A recovery coach, peer support worker, or other representative  
31 of the recovery community;

1           (l) A representative from the local drug court; and

2           (m) Any other individual necessary for the work of the local team.

3           (4) The lead organization shall select a chairperson for the local  
4 team. The chairperson shall be an official of the lead organization or  
5 such official's designee. The chairperson shall:

6           (a) Solicit and recruit members and appoint replacement members to  
7 fill vacancies that may arise on the team. In carrying out this  
8 responsibility, the chairperson shall, at a minimum, attempt to appoint  
9 at least one member from each of the backgrounds or positions described  
10 in subsection (2) of this section;

11           (b) Facilitate local team meetings and implement the protocols and  
12 procedures of the local team;

13           (c) Request and collect the records and information needed for the  
14 local team's case review. The chairperson shall remove all personal  
15 identifying information from any records or information prior to  
16 providing it to the local team;

17           (d) Gather, store, and distribute the necessary records and  
18 information for reviews conducted by the team. The chairperson shall  
19 carry out such duties in compliance with all local, state, and federal  
20 confidentiality laws and regulations;

21           (e) Ensure that team members receive timely notification of upcoming  
22 meetings;

23           (f) Ensure the team fulfills the requirements of section 84 of this  
24 act to publish an annual report, including recommendations to prevent  
25 future drug overdose deaths;

26           (g) Ensure that all members of the local team and all guest  
27 observers and participants sign confidentiality forms as required under  
28 section 90 of this act;

29           (h) Oversee compliance with the Overdose Fatality Review Teams Act  
30 and the protocols developed by the team;

31           (i) Serve as a liaison for the local team; and



1           (j) Perform such other duties as the team deems appropriate.

2           (5) Members of the local team shall not receive compensation for  
3 their services as team members.

4           Sec. 84. (1) A local team shall:

5           (a) Promote cooperation and coordination among agencies involved in  
6 the investigation of drug overdose fatalities;

7           (b) Examine the incidence, causes, and contributing factors of drug  
8 overdose deaths in jurisdictions where the local team operates;

9           (c) Develop recommendations for changes within communities, public  
10 and private agencies, institutions, and systems, based on an analysis of  
11 the causes and contributing factors of drug overdose deaths;

12           (d) Advise local, regional, and state policymakers about potential  
13 changes to law, policy, funding, or practices to prevent drug overdoses;

14           (e) Establish and implement protocols and procedures for overdose  
15 investigations and to maintain confidentiality;

16           (f) Conduct a multidisciplinary review of information received  
17 pursuant to section 87 of this act regarding a person who died of a drug  
18 overdose. Such review shall be limited to records and information from  
19 which the chairperson has removed all personally identifying information.  
20 Such review shall include, but not be limited to:

21           (i) Consideration of the decedent's points of contact with health  
22 care systems, social services, educational institutions, child and family  
23 services, law enforcement and the criminal justice system, and any other  
24 systems with which the decedent had contact prior to death; and

25           (ii) Identification of the specific factors and social determinants  
26 of health that put the decedent at risk for an overdose;

27           (g) Recommend prevention and intervention strategies to improve  
28 coordination of services and investigations among member agencies and  
29 providers to reduce overdose deaths; and

30           (h) Collect, analyze, interpret, and maintain data on local overdose  
31 deaths.

1       (2) A local team shall only review overdose deaths that are not  
2 under active investigation by a law enforcement agency or under criminal  
3 prosecution.

4       (3)(a) On or before June 1, 2024, and on or before each June 1  
5 thereafter, each local team shall submit a report to the department. The  
6 report shall include at least the following for the preceding year:

7       (i) The total number of fatal drug overdoses that occurred within  
8 the jurisdiction of the local team;

9       (ii) The number of fatal drug overdoses investigated by the local  
10 team;

11       (iii) The causes, manner, and contributing factors of drug overdose  
12 deaths in the team's jurisdiction, including trends;

13       (iv) Recommendations regarding the prevention of fatal and nonfatal  
14 drug overdoses for changes within communities, public and private  
15 agencies, institutions, and systems, based on an analysis of such causes  
16 and contributing factors. Such recommendations shall include recommended  
17 changes to laws, rules and regulations, policies, training needs, or  
18 service gaps to prevent future drug overdose deaths; and

19       (v) Follow-up analysis of the implementation of and results from any  
20 recommendations made by the local team, including, but not limited to,  
21 changes in local or state law, policy, or funding made as a result of the  
22 local team's recommendations.

23       (b) The report shall include only de-identified information and  
24 shall not identify any victim, living or dead, of a drug overdose.

25       (c) The report is not confidential and shall be made available to  
26 the public.

27       (d) The department may analyze each annual report submitted pursuant  
28 to this subsection and create a single report containing an aggregate of  
29 the data submitted. The department shall make any such report publicly  
30 available and submit it electronically to the Clerk of the Legislature.

31       Sec. 85. (1) Members of a local team and other individuals in

1 attendance at a local team meeting, including, but not limited to,  
2 experts, health care professionals, or other observers:

3 (a) Shall sign a confidentiality agreement as provided in section 90  
4 of this act;

5 (b) Are bound by all applicable local, state, and federal laws  
6 concerning the confidentiality of matters reviewed by the local team, but  
7 may discuss confidential matters and share confidential information  
8 during such meeting; and

9 (c) Except as otherwise permitted by law, shall not disclose  
10 confidential information outside of the meeting.

11 (2) A member of a local team or an individual in attendance at a  
12 local team meeting shall not be subject to civil or criminal liability or  
13 any professional disciplinary action for the sharing or discussion of any  
14 confidential matter with the local team during a local team meeting. This  
15 immunity does not apply to a local team member or attendee who  
16 intentionally or knowingly discloses confidential information in  
17 violation of the Overdose Fatality Review Teams Act or any state or  
18 federal law.

19 Sec. 86. (1) A local team shall not be considered a public body for  
20 purposes of the Open Meetings Act.

21 (2) Except for reports under section 84 of this act, information and  
22 records acquired or created by a local team are not public records  
23 subject to disclosure pursuant to sections 84-712 to 84-712.09, shall be  
24 confidential, shall not be subject to subpoena, shall be privileged and  
25 inadmissible in evidence in any legal proceeding of any kind or  
26 character, and shall not be disclosed to any other department or agency  
27 of the State of Nebraska, except the Department of Health and Human  
28 Services as specified in the Overdose Fatality Review Teams Act.

29 Sec. 87. (1) Except as provided in subsection (4) of this section,  
30 on written request of the lead organization, and as necessary to carry  
31 out the purpose and duties of the local team, the lead organization shall

1 be provided with the following information:

2 (a) Nonprivileged information and records regarding the physical  
3 health, mental health, and treatment for any substance use disorder  
4 maintained by a health care provider, substance use disorder treatment  
5 provider, hospital, or health system for an individual whose death is  
6 being reviewed by the local team; and

7 (b) Information and records maintained by a state or local  
8 government agency or entity, including, but not limited to, death  
9 investigative information, coroner investigative information, law  
10 enforcement investigative information, emergency medical services  
11 reports, fire department records, prosecutorial records, parole and  
12 probation information and records, court records, school records, and  
13 information and records of a social services agency, including the  
14 department, if the agency or entity provided services to an individual  
15 whose death is being reviewed by the local team.

16 (2) Except as provided in subsection (4) of this section, the  
17 following persons shall comply with a records request by the lead  
18 organization made pursuant to subsection (1) of this section:

19 (a) A coroner;

20 (b) A fire department;

21 (c) A health system;

22 (d) A hospital;

23 (e) A law enforcement agency;

24 (f) A local or state governmental agency, including, but not limited  
25 to, the department, local public health authorities, the Attorney  
26 General, county attorneys, public defenders, the Commission on Public  
27 Advocacy, the Department of Correctional Services, the Office of  
28 Probation Administration, and the Division of Parole Supervision;

29 (g) A mental health provider;

30 (h) A health care provider;

31 (i) A substance use disorder treatment provider;

1       (j) A school, including a public or private elementary, secondary,  
2 or postsecondary institution;

3       (k) An emergency medical services provider;

4       (l) A social services provider; and

5       (m) Any other person who is in possession of records pertinent to  
6 the local team's investigation of an overdose fatality.

7       (3) A person subject to a records request by a lead organization  
8 under subsection (1) of this section may charge the lead organization a  
9 reasonable fee for the service of duplicating any records requested by  
10 the lead organization, not to exceed the actual cost of duplication.

11       (4)(a) Compliance with any records request under this section is  
12 subject to the federal Health Insurance Portability and Accountability  
13 Act of 1996, Public Law 104-191, and regulations promulgated thereunder;  
14 42 U.S.C. section 290dd-2; 42 C.F.R. part 2; and the Child Protection and  
15 Family Safety Act.

16       (b) The department is not required to comply with a records request  
17 under subsection (2) of this section to the extent the information  
18 requested:

19       (i) Was obtained by the prescription drug monitoring program created  
20 under section 71-2454;

21       (ii) Is covered by section 68-313; or

22       (iii) Is covered by 42 C.F.R. 431.300 et seq.

23       (c) The disclosure or redisclosure of a medical record developed in  
24 connection with the provision of substance abuse treatment services,  
25 without the authorization of a person in interest, is subject to any  
26 limitations that exist under the federal Health Insurance Portability and  
27 Accountability Act of 1996, Public Law 104-191, and regulations  
28 promulgated thereunder; 42 U.S.C. section 290dd-2; and 42 C.F.R. part 2.

29       (5) Information requested by the lead organization shall be provided  
30 within thirty calendar days after receipt of the written request, unless  
31 an extension is granted by the chairperson. Written request includes a

1 request submitted via email or facsimile transmission.

2 (6)(a) A county attorney or the Attorney General may, upon request  
3 by a lead organization, issue subpoenas to compel production of any of  
4 the records and information specified in this section.

5 (b) Any willful failure to comply with such a subpoena may be  
6 certified by the county attorney or Attorney General to the district  
7 court for enforcement or punishment for contempt of court.

8 Sec. 88. A member of the local team may contact, interview, or  
9 obtain information by request from a family member or friend of an  
10 individual whose death is being reviewed by the local team.

11 Sec. 89. (1) A chairperson may invite other individuals to  
12 participate on the local team on an ad hoc basis for a particular  
13 investigation. Such individuals may include those with expertise that  
14 would aid in the investigation and representatives from organizations or  
15 agencies that had contact with, or provided services to, the overdose  
16 victim.

17 (2) So long as each individual present at a local team meeting has  
18 signed the confidentiality form provided for in section 90 of this act,  
19 any otherwise confidential information received by the local team may be  
20 shared at a local team meeting with any nonmember attendees.

21 (3) Local team meetings in which confidential information is  
22 discussed shall be closed to the public.

23 (4) A lead organization may enter into confidentiality agreements  
24 with third-party agencies to obtain otherwise confidential information.

25 (5) A lead organization shall enter into a data-use agreement with  
26 the prescription drug monitoring program created under section 71-2454.

27 (6) A local team may enter into consultation agreements with  
28 relevant experts to evaluate the information and records collected by the  
29 team. All of the confidentiality provisions of the Overdose Fatality  
30 Review Teams Act shall apply to the activities of a consulting expert.

31 (7) A lead organization may enter into written agreements with

1 entities to provide for the secure storage of electronic data based on  
2 information and records collected in carrying out the local team's  
3 duties, including data that contains personal or incident identifiers.  
4 Such agreements shall provide for the protection of the security and  
5 confidentiality of the information, including access limitations,  
6 storage, and destruction of the information. The confidentiality  
7 provisions of the Overdose Fatality Review Teams Act shall apply to the  
8 activities of the data storage entity.

9       Sec. 90. (1) Each local team member and any nonmember in attendance  
10 at a meeting shall sign a confidentiality form and review the purposes  
11 and goals of the local team before they may participate in the meeting or  
12 review. The form shall set out the requirements for maintaining the  
13 confidentiality of any information disclosed during the meeting and the  
14 penalties associated with failure to maintain such confidentiality.

15       (2) Except as necessary to carry out the local team's purposes and  
16 duties, members of the local team and individuals attending a team  
17 meeting shall not disclose any discussion among team members at a meeting  
18 and shall not disclose any information prohibited from disclosure by the  
19 Overdose Fatality Review Teams Act.

20       (3) De-identified information and records obtained by a local team  
21 may be released to a researcher, research organization, university,  
22 institution, or governmental agency for the purpose of conducting  
23 scientific, medical, or public health research upon proof of identity and  
24 execution of a confidentiality agreement as provided in this section.  
25 Such release shall provide for a written agreement with the department  
26 providing protection of the security of the information, including access  
27 limitations, and the storage, destruction, and use of the information.  
28 The release of such information pursuant to this subsection shall not  
29 make otherwise confidential information a public record.

30       (4) Members of a local team and individuals attending a team meeting  
31 shall not testify in any civil, administrative, licensure, or criminal

1 proceeding, including depositions, regarding information reviewed in or  
2 an opinion formed as a result of a team meeting. This subsection shall  
3 not be construed to prevent a person from testifying to information  
4 obtained independently of the team or that is public information.

5 (5) Conclusions, findings, recommendations, information, documents,  
6 and records of a local team shall not be subject to subpoena, discovery,  
7 or introduction into evidence in any civil or criminal proceeding, except  
8 that conclusions, findings, recommendations, information, documents, and  
9 records otherwise available from other sources shall not be immune from  
10 subpoena, discovery, or introduction into evidence through those sources  
11 solely because they were presented during proceedings of a local team or  
12 are maintained by a local team.

13 Sec. 91. Any person that in good faith provides information or  
14 records to a local team shall not be subject to civil or criminal  
15 liability or any professional disciplinary action as a result of  
16 providing the information or record.

17 Sec. 92. A person aggrieved by the intentional or knowing  
18 disclosure of confidential information in violation of the Overdose  
19 Fatality Review Teams Act by a local team, its members, or a person in  
20 attendance at a local team meeting may bring a civil action for  
21 appropriate relief against the person who committed such violation.  
22 Appropriate relief in an action under this section shall include:

23 (1) Damages;

24 (2) Such preliminary and other equitable or declaratory relief as  
25 may be appropriate; and

26 (3) Reasonable attorney's fees and other litigation costs reasonably  
27 incurred.

28 Sec. 93. A person who intentionally or knowingly violates the  
29 confidentiality requirements of the Overdose Fatality Review Teams Act is  
30 guilty of a Class II misdemeanor.

31 Sec. 94. The department may adopt and promulgate such rules and



1 regulations as are necessary to carry out the Overdose Fatality Review  
2 Teams Act.

3 Sec. 95. Section 71-3404, Revised Statutes Cumulative Supplement,  
4 2022, is 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 and severe maternal morbidity in this state be  
17 examined. There is a need for a comprehensive integrated review of all  
18 maternal deaths and incidents of severe maternal morbidity in Nebraska  
19 and a system for statewide retrospective review of existing records  
20 relating to each maternal death and incident of severe maternal  
21 morbidity.

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

24 (a) Identify trends from the review of past records to prevent  
25 future child deaths, stillbirths, ~~and~~ maternal deaths, and incidents of  
26 severe maternal morbidity from similar causes when applicable;

27 (b) Recommend systematic changes for the creation of a cohesive  
28 method for responding to certain child deaths, stillbirths, ~~and~~ maternal  
29 deaths, and incidents of severe maternal morbidity; and

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

1           Sec. 96. Section 71-3405, Revised Statutes Cumulative Supplement,  
2 2022, is amended to read:

3           71-3405 For purposes of the Child and Maternal Death Review Act:

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

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

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

21           (4) Maternal death means the death of a woman during pregnancy or  
22 the death of a postpartum woman;

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

26           (6) Preventable child death means the death of any child or  
27 stillbirth which reasonable medical, social, legal, psychological, or  
28 educational intervention may have prevented. Preventable child death  
29 includes, but is not limited to, the death of a child or stillbirth  
30 resulting from (a) intentional and unintentional injuries, (b) medical  
31 misadventures, including untoward results, malpractice, and foreseeable

1 complications, (c) lack of access to medical care, (d) neglect and  
2 reckless conduct, including failure to supervise and failure to seek  
3 medical care for various reasons, and (e) preventable premature birth;

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

9 (8) Reasonable means taking into consideration the condition,  
10 circumstances, and resources available;~~and~~

11 (9) Severe maternal morbidity means the unexpected outcomes of labor  
12 and delivery resulting in significant short- or long-term consequences to  
13 a woman's health;

14 (10) (9) Stillbirth means a spontaneous fetal death which resulted  
15 in a fetal death certificate pursuant to section 71-606; and

16 (11) (10) Teams means the State Child Death Review Team and the  
17 State Maternal Death Review Team.

18 Sec. 97. Section 71-3407, Revised Statutes Cumulative Supplement,  
19 2022, is amended to read:

20 71-3407 (1) The purpose of the teams shall be to (a) develop an  
21 understanding of the causes and incidence of child deaths, stillbirths,  
22 ~~or~~ maternal deaths, and severe maternal morbidity in this state, (b)  
23 develop recommendations for changes within relevant agencies and  
24 organizations which may serve to prevent child deaths, stillbirths, ~~or~~  
25 maternal deaths, and incidents of severe maternal morbidity and (c)  
26 advise the Governor, the Legislature, and the public on changes to law,  
27 policy, and practice which will prevent child deaths, stillbirths, ~~or~~  
28 maternal deaths, and incidents of severe maternal morbidity.

29 (2) The teams shall:

30 (a) Undertake annual statistical studies of the causes and incidence  
31 of child or maternal deaths in this state. The studies shall include, but

1 not be limited to, an analysis of the records of community, public, and  
2 private agency involvement with the children, the pregnant or postpartum  
3 women, and their families prior to and subsequent to the child or  
4 maternal deaths;

5 (b) Develop a protocol for retrospective investigation of child or  
6 maternal deaths by the teams;

7 (c) Develop a protocol for collection of data regarding child or  
8 maternal deaths by the teams;

9 (d) Consider training needs, including cross-agency training, and  
10 service gaps;

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

14 (f) Educate the public regarding the incidence and causes of child  
15 or maternal deaths, the public role in preventing child or maternal  
16 deaths, and specific steps the public can undertake to prevent child or  
17 maternal deaths. The teams may enlist the support of civic,  
18 philanthropic, and public service organizations in the performance of  
19 educational duties;

20 (g) Provide the Governor, the Legislature, and the public with  
21 annual reports which shall include the teams' findings and  
22 recommendations for each of their duties. Each team shall submit an  
23 annual report on or before each December 31 to the Legislature  
24 electronically; and

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

27 (3) The teams may enter into consultation agreements with relevant  
28 experts to evaluate the information and records collected. All of the  
29 confidentiality provisions of section 71-3411 shall apply to the  
30 activities of a consulting expert.

31 (4) The teams may enter into written agreements with entities to

1 provide for the secure storage of electronic data, including data that  
2 contains personal or incident identifiers. Such agreements shall provide  
3 for the protection of the security and confidentiality of the content of  
4 the information, including access limitations, storage of the  
5 information, and destruction of the information. All of the  
6 confidentiality provisions of section 71-3411 shall apply to the  
7 activities of the data storage entity.

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

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

17 Sec. 98. Section 71-3408, Revised Statutes Cumulative Supplement,  
18 2022, is amended to read:

19 71-3408 (1) The chairperson of each team shall:

20 (a) Chair meetings of the teams; and

21 (b) Ensure identification of strategies to prevent child or maternal  
22 deaths.

23 (2) The team coordinator of each team provided under subsection (5)  
24 of section 71-3406 shall:

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

28 (b) Ensure timely notification of the team members of an upcoming  
29 meeting;

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

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

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

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

6 (a) Possess qualifying ~~nursing~~ experience, a demonstrated  
7 understanding of child and maternal outcomes, strong professional  
8 communication skills, data entry and relevant computer skills, experience  
9 in medical record review, flexibility and ability to accomplish tasks in  
10 short time frames, appreciation of the community, knowledge of  
11 confidentiality laws, the ability to serve as an objective unbiased  
12 storyteller, and a demonstrated understanding of social determinants of  
13 health;

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

16 (c) Upon receipt of such records, review all pertinent records to  
17 complete fields in child, stillbirth, ~~and maternal death,~~ and severe  
18 maternal morbidity databases;

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

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

21 Sec. 99. Section 71-3409, Revised Statutes Cumulative Supplement,  
22 2022, is amended to read:

23 71-3409 (1)(a) The State Child Death Review Team shall review child  
24 deaths in the manner provided in this subsection.

25 (b) The members shall review the death certificate, birth  
26 certificate, coroner's report or autopsy report if done, and indicators  
27 of child or family involvement with the department. The members shall  
28 classify the nature of the death, whether accidental, homicide, suicide,  
29 undetermined, or natural causes, determine the completeness of the death  
30 certificate, and identify discrepancies and inconsistencies.

31 (c) A review shall not be conducted on any child death under active

1 investigation by a law enforcement agency or under criminal prosecution.  
2 The members may seek records described in section 71-3410. The members  
3 shall identify the preventability of death, the possibility of child  
4 abuse or neglect, the medical care issues of access and adequacy, and the  
5 nature and extent of interagency communication.

6 (2)(a) The team may review stillbirths ~~occurring on or after January~~  
7 ~~1, 2023,~~ in the manner provided in this subsection.

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

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

13 (3)(a) The State Maternal Death Review Team shall review all  
14 maternal deaths in the manner provided in this subsection.

15 (b) The members shall review the maternal death records in  
16 accordance with evidence-based best practices in order to determine: (i)  
17 If the death is pregnancy-related; (ii) the cause of death; (iii) if the  
18 death was preventable; (iv) the factors that contributed to the death;  
19 (v) recommendations and actions that address those contributing factors;  
20 and (vi) the anticipated impact of those actions if implemented.

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

27 (4)(a) The team may review incidents of severe maternal morbidity in  
28 the manner provided in this subsection and additionally, may use  
29 guidelines published by the Centers for Disease Control and Prevention or  
30 develop its own guidelines for such review.

31 (b) The members may review any records or documents which will allow

1 the team to identify preventable causes of severe maternal morbidity.

2 (c) Nothing in this subsection shall be interpreted to require the  
3 review of any incident of severe maternal morbidity.

4 Sec. 100. Section 71-3410, Revised Statutes Cumulative Supplement,  
5 2022, is amended to read:

6 71-3410 (1) Upon request, the teams shall be immediately provided:

7 (a) Information and records maintained by a provider of medical,  
8 dental, prenatal, and mental health care, including medical reports,  
9 autopsy reports, and emergency and paramedic records; and

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

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

27 2. On page 2, line 3 after "hospitals" insert "and require  
28 submission of a state plan amendment or waiver to extend postpartum  
29 coverage"; and in line 16 after the semicolon insert "to adopt the  
30 Overdose Fatality Review Teams Act; to provide for the review of  
31 incidents of severe maternal morbidity under the Child and Maternal Death



1 Review Act;".

2 3. Correct the operative date and repealer sections so that:

3 a. Sections 61, 95, 96, 97, 98, 99, and 100 added by this amendment  
4 become operative three calendar months after the adjournment of this  
5 legislative session; and

6 b. Sections 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92,  
7 93, and 94 added by this amendment become operative on their effective  
8 date with the emergency clause.

9 4. Renumber the remaining sections and correct internal references  
10 accordingly.