

ONE HUNDRED EIGHTH LEGISLATURE - FIRST SESSION - 2023
COMMITTEE STATEMENT (CORRECTED)
LB570

Hearing Date: Thursday February 23, 2023
Committee On: Health and Human Services
Introducer: Vargas
One Liner: Adopt the Overdose Fatality Review Teams Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 7 Senators Ballard, Cavanaugh, M., Day, Hansen, B., Hardin, Riepe, Walz
Nay:
Absent:
Present Not Voting:

Testimony:

Proponents:

Senator Tony Vargas
Patty Falcone
Edward DeSimone
Stephanie Schroeder
Joni Street

Representing:

Introducer
Douglas County Health Dept
Coalition RX
Coalition RX
CHI Health/Nebraska National Assn of Drug
Diversion Investigators

Opponents:

Representing:

Neutral:

Felicia Quintana-Zinn
Jamie Bland

Representing:

DHHS
CyncHealth

* ADA Accommodation Written Testimony

Summary of purpose and/or changes:

LB570 adopts the Overdose Fatality Review Teams Act. With the purpose of establishing county-level multidisciplinary overdose fatality review teams. These teams will be given access to documents and records to examine the who, what, when, where, why of overdoses while remaining compliant to any confidentiality laws or regulations.

SECTION BY SECTION SUMMARY:

Sec 1: Sections 1 to 17 of this act shall be known and may be cited as the Overdose Fatality Review Teams Act

Sec 2: The legislature finds that overdoses are a major health problem. The abuse of legal and illegal drugs is a

public health crisis. Review teams can better understand the societal factors that lead to such deaths of Nebraskans.

Sec 3: The purpose of the act is to:

- (1) Create a legislative framework for establishing county-level, multidisciplinary overdose fatality review teams in Nebraska
- (2) Provide overdose fatality review teams with duties and responsibilities to examine and understand the circumstances leading up to overdoses so that the teams can make recommendations on policy changes and resource allocation to prevent future overdoses; and
- (3) Allow overdose fatality review teams to obtain and review records and other documentation related to overdoses from relevant agencies, entities, and individuals while remaining compliant with local, state, and federal confidentiality laws and regulations.

Sec 4: Definitions:

- (1) Department means the Department of Health and Human Services;
- (2) Drug means a substance which produces a physiological effect when ingested or otherwise introduced into the body, and includes both controlled substances and lawful substances;
- (3) Health care provider means any of the following individuals who are licensed, certified, or registered to perform specified health services consistent with state law: A physician, a physician assistant, or an advanced practice registered nurse;
- (4) Local team means the multidisciplinary and multiagency drug overdose fatality review team established for a county, a group of counties, a tribe, or one or more counties and tribes;
- (5) Mental health provider means:
 - (a) A psychiatrist licensed to practice under the Medicine and Surgery Practice Act;
 - (b) A psychologist licensed to engage in the practice of psychology in this state as provided in section 38-3111 or as provided in similar provisions of the Psychology Interjurisdictional Compact;
 - (c) A person licensed as an independent mental health practitioner under the Mental Health Practice Act;
 - (d) A professional counselor who holds a privilege to practice in Nebraska as a professional counselor under the Licensed Professional Counselors Interstate Compact;
- (6) Next of kin means the person or persons most closely related to a decedent by blood or affinity;
- (7) Overdose fatality review means a process in which a local team performs a series of individual overdose fatality reviews to effectively identify system gaps and innovative, community-specific overdose prevention and intervention strategies;
- (8) Overdose means injury to the body that happens when one or more drugs are taken in excessive amounts. An overdose can be fatal or nonfatal;
- (9) Substance use disorder means a pattern of use of alcohol or other drugs leading to clinical or functional impairment, in accordance with the definition in the Diagnostic and Statistical Manual of Disorders (DSM-5) of the American Psychiatric Association, or a subsequent edition of such manual; and
- (10) Substance use disorder treatment provider means any individual or entity who is licensed, registered, or certified within Nebraska to treat substance use disorders or who has a federal Drug Addiction Treatment Act of 2000 waiver from the Substance Abuse and Mental Health Services Administration to treat individuals with substance use disorder using medications approved for that indication by the United States Food and Drug Administration.

Sec 5: (1) A local team may include one or members from a public health official, Behavioral Health provider, law enforcement, Correction Officer, coroner, health care professional, mental health professional, providers, emergency health, Director of Children and Family Service, Board of Parole, school superintendent, local hospital rep, pain management rep, pharmacist, substance abuse provider, poison control center, Rx drug monitoring rep, recovery coach, drug court rep,

Team members shall elect a chairperson, who shall be a city or county public health official or such official's designee. Chairperson shall recruit, facilitate meetings, request/collect information, store records, ensure fulfillment, ensure confidentiality, ensure compliance, serve as a liaison.

Members shall not receive compensation.

Sec 6: A local team shall coordinate between agencies, examine drug overdose deaths, develop recommendations,

advise policymakers, establish protocols, conduct a multidisciplinary review, consider points of contact with mental health systems, identification of specific factors, recommend prevention and intervention strategies, collect local overdose data

A local team may investigate non-fatal overdoses.

On or before June 1, 2024, and on or before each June 1 thereafter, each local team shall submit a report to the department.

Sec 7: Attendees at a local team meeting shall sign a confidentiality agreement, bound by all confidentiality laws/regs, shall not disclose confidential information. Attendees are not subject to civil or criminal liability or professional disciplinary actions for the sharing or discussion of any confidential matter with the local team during a local team meeting. This immunity does not apply to a local team member or attendee who intentionally or knowingly discloses confidential information

Sec 8: (1) A local team shall not be considered a public body for purposes of the Open Meetings (2) Except for reports published under section of this act, information and records acquired or created by a local team are not public records subject to disclosure pursuant to sections 84-712 to 84-712.09

Sec 9: That local team shall be provided upon written request:

(a) Information and records regarding the physical health, mental health, and treatment for any substance use disorder maintained by a health care provider, substance use disorder treatment provider, hospital, or health system for an individual whose death or near death is being reviewed by the local team; and

(b) Information and records maintained by a state or local government agency or entity, including, but not limited to, death investigative information, medical examiner investigative information, law enforcement investigative information, emergency medical services reports, fire department records, prosecutorial records, parole and probation information and records, court records, school records, and information and records of a social services agency, including the department, if the agency or entity provided services to:

(i) An individual whose death or near death is being reviewed by the local team; or

(ii) The family of a decedent being investigated.

(2) the following persons shall comply with a records request by the local team made pursuant to subsection (1) of this section:

(a) A coroner or medical examiner;

(b) A fire department;

(c) A health system;

(d) A hospital;

(e) A law enforcement agency;

(f) A local or state governmental agency

(g) A mental health provider;

(h) A health care provider;

(i) A substance use disorder treatment provider;

(j) A school, including a public or private elementary, secondary, or post-secondary institution;

(k) An emergency medical services provider;

(l) A social services provider;

(m) The prescription drug monitoring program created under section 71-2454; and

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

A reasonable fee can be charged to the team for the records. All records are subject to 42 U.S.C. section 290dd-2 or 42 C.F.R. Part 2. And shall be provided within 5 business days

Sec 10: The chairperson of a local team or the chairperson's designee may request the individual whose overdose is under review or, if such individual is deceased, the individual's next of kin, to sign a consent form for the release of confidential information.

Sec 11: A member of the local team may contact, interview, or obtain information by request from a family member or friend of an individual whose death is being reviewed by the local teams

Explanation of amendments:

AM 1025 contains changes to LB 570 and the provisions of LB 419 and LB 75

AM 1025 changes LB 570 by adding a new definition and section for Lead Organizations and removes the severability and emergency clause.

LB 419 (see committee statement on General File)

LB 75 (see committee statement on General File)

Ben Hansen, Chairperson