

E AND R AMENDMENTS TO LB 1355

Introduced by Ballard, 21, Chairman Enrollment and Review

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

3 Section 1. Section 28-429, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 28-429 (1) There is hereby established in the Nebraska State Patrol
6 a Division of Drug Control. The division shall consist of such personnel
7 as may be designated by the Superintendent of Law Enforcement and Public
8 Safety. It shall be the duty of the division to enforce all of the
9 provisions of the Uniform Controlled Substances Act and any other
10 provisions of the law dealing with controlled substances and to conduct
11 drug education activities as directed by the superintendent. The Nebraska
12 State Patrol shall cooperate with federal agencies, the department, other
13 state agencies, elementary and secondary schools, and County Drug Law
14 Enforcement and Education Fund Boards in discharging their
15 responsibilities concerning traffic in controlled substances, in
16 suppressing the abuse of controlled substances, and in conducting drug
17 education activities. To this end the division is authorized to: (a)
18 Arrange for the exchange of information between governmental officials
19 concerning the use and abuse of controlled substances; (b) coordinate and
20 cooperate in training programs on controlled substance law enforcement
21 and education at the local and state levels; (c) establish a centralized
22 unit which will accept, catalog, file, and collect statistics, including
23 records of drug dependent persons and other controlled substance law
24 offenders within the state, and make such information available for
25 federal, state, and local law enforcement purposes on request; (d)
26 cooperate in locating, eradicating, and destroying wild or illicit growth
27 of plant species from which controlled substances may be extracted, and

1 for these purposes a peace officer is hereby authorized to enter onto
2 property upon which there are no buildings or upon which there are only
3 uninhabited buildings without first obtaining a search warrant or
4 consent; (e) develop a priority program so as to focus the bulk of its
5 efforts on the reduction and elimination of the most damaging drugs
6 including narcotic drugs, depressant and stimulant drugs, and
7 hallucinogenic drugs; ~~and~~ (f) develop and conduct drug education
8 activities in cooperation with elementary and secondary schools in
9 Nebraska and with County Drug Law Enforcement and Education Fund Boards;
10 and (g) carry out duties pursuant to the Opioid Prevention and Treatment
11 Act.

12 (2) There is hereby created the Nebraska State Patrol Drug Control
13 and Education Cash Fund which shall be used for the purposes of (a)
14 obtaining evidence for enforcement of any state law relating to the
15 control of drug abuse and (b) drug education activities conducted
16 pursuant to subsection (1) of this section, except that transfers may be
17 made from the fund to the General Fund at the direction of the
18 Legislature. Any money in the Nebraska State Patrol Drug Control and
19 Education Cash Fund available for investment shall be invested by the
20 state investment officer pursuant to the Nebraska Capital Expansion Act
21 and the Nebraska State Funds Investment Act.

22 (3) For the purpose of establishing and maintaining legislative
23 oversight and accountability, the Appropriations Committee of the
24 Legislature shall formulate record-keeping procedures to be adhered to by
25 the Nebraska State Patrol for all expenditures, disbursements, and
26 transfers of cash from the Nebraska State Patrol Drug Control and
27 Education Cash Fund. Based on these record-keeping procedures, the
28 Nebraska State Patrol shall prepare and electronically deliver to the
29 Clerk of the Legislature at the commencement of each succeeding session a
30 detailed report which shall contain, but not be limited to: (a) Current
31 total in the cash fund; (b) total amount of expenditures; (c) purpose of

1 the expenditures to include: (i) Salaries and any expenses of all agents
2 and informants; (ii) front money for drug purchases; (iii) names of drugs
3 and quantity of purchases; (iv) amount of front money recovered; and (v)
4 drug education activities; (d) total number of informers on payroll; (e)
5 amounts delivered to patrol supervisors for distribution to agents and
6 informants and the method of accounting for such transactions and the
7 results procured through such transactions; and (f) a description of the
8 drug education activities conducted since the date of the previous
9 report. Each member of the Legislature shall receive an electronic copy
10 of such report by making a request for it to the superintendent.

11 (4) The superintendent shall adopt and promulgate rules and
12 regulations to carry out this section.

13 Sec. 2. Section 38-1201, Revised Statutes Cumulative Supplement,
14 2022, is amended to read:

15 38-1201 Sections 38-1201 to 38-1237 and sections 4 and 5 of this act
16 shall be known and may be cited as the Emergency Medical Services
17 Practice Act.

18 Sec. 3. Section 38-1225, Revised Statutes Cumulative Supplement,
19 2022, is amended to read:

20 38-1225 (1) No patient data received or recorded by an emergency
21 medical service or an emergency care provider shall be divulged, made
22 public, or released by an emergency medical service or an emergency care
23 provider, except that patient data may be released (a) for purposes of
24 treatment, payment, and other health care operations as defined and
25 permitted under the federal Health Insurance Portability and
26 Accountability Act of 1996, as such act existed on January 1, 2024, (b)
27 as required by section 4 of this act 2018, or (c) as otherwise permitted
28 by law. Such data shall be provided to the department for public health
29 purposes pursuant to rules and regulations of the department. For
30 purposes of this section, patient data means any data received or
31 recorded as part of the records maintenance requirements of the Emergency

1 Medical Services Practice Act.

2 (2) Patient data received by the department shall be confidential
3 with release only (a) in aggregate data reports created by the department
4 on a periodic basis or at the request of an individual, (b) as case-
5 specific data to approved researchers for specific research projects, (c)
6 as protected health information to a public health authority, as such
7 terms are defined under the federal Health Insurance Portability and
8 Accountability Act of 1996, as such act existed on January 1, 2024 ~~2018~~,
9 and (d) as protected health information, as defined under the federal
10 Health Insurance Portability and Accountability Act of 1996, as such act
11 existed on January 1, 2024 ~~2018~~, to an emergency medical service, to an
12 emergency care provider, or to a licensed health care facility for
13 purposes of treatment. A record may be shared with the emergency medical
14 service or emergency care provider that reported that specific record.
15 Approved researchers shall maintain the confidentiality of the data, and
16 researchers shall be approved in the same manner as described in section
17 81-666. Aggregate reports shall be public documents.

18 (3) No civil or criminal liability of any kind or character for
19 damages or other relief or penalty shall arise or be enforced against any
20 person or organization by reason of having provided patient data pursuant
21 to this section.

22 Sec. 4. (1) An emergency medical service that treats and releases,
23 or transports to a medical facility, an individual experiencing a
24 suspected overdose or an actual overdose shall report the incident to the
25 department. A report of an overdose made under this section shall include
26 the information required by the department for occurrences requiring a
27 response to perceived individual need for medical care.

28 (2) An emergency medical service that reports an overdose under this
29 section shall make best efforts to submit the report within seventy-two
30 hours after responding to the incident.

31 (3) When the department receives a report pursuant to subsection (1)

1 of this section, it shall report such information using the Washington/
2 Baltimore High Intensity Drug Trafficking Area Overdose Mapping and
3 Application Program or other similar secure access information technology
4 platform.

5 (4) Overdose information reported pursuant to subsection (1) or (3)
6 of this section shall not be (a) used for a criminal investigation or
7 prosecution or (b) obtained by a law enforcement officer as part of a
8 criminal investigation or prosecution.

9 (5) An emergency medical service that makes a good faith report
10 under this section shall be immune from civil or criminal liability for
11 making the report.

12 Sec. 5. A pharmacist or retailer may sell fentanyl test strips
13 over-the-counter to the public to test for the presence of fentanyl, a
14 fentanyl analog, or a drug adulterant within a controlled substance. A
15 local public health department, as defined in section 71-1626, may
16 distribute fentanyl test strips at the local public health department
17 facility without a fee.

18 Sec. 6. Section 71-2485, Revised Statutes Cumulative Supplement,
19 2022, is amended to read:

20 71-2485 Sections 71-2485 to 71-2490 and sections 9 and 13 to 17 of
21 this act shall be known and may be cited as the Opioid Prevention and
22 Treatment Act.

23 Sec. 7. Section 71-2486, Revised Statutes Cumulative Supplement,
24 2022, is amended to read:

25 71-2486 The purpose of the Opioid Prevention and Treatment Act is to
26 provide for the use of dedicated revenue for opioid-disorder-related
27 treatment, ~~and~~ prevention, and remediation, including the creation of aid
28 programs.

29 Sec. 8. Section 71-2487, Revised Statutes Cumulative Supplement,
30 2022, is amended to read:

31 71-2487 The Legislature finds that:

1 (1) There is an opioid epidemic occurring in the United States, and
2 Nebraska has been impacted;

3 (2) The opioid epidemic in Nebraska is a serious public health
4 crisis stemming from the rapid increase in the use of prescription and
5 nonprescription opioid drugs;

6 (3) (2) Many states are recovering funds for the management of
7 opioid addiction within their borders;

8 (4) (3) Coordination surrounding and managing opioid addiction and
9 related disorders is critical to the health and safety of all Nebraskans;

10 (5) (4) Funding for prevention and treatment of opioid addiction and
11 related disorders, including those that are co-occurring with other
12 mental health and substance use disorders, is needed in Nebraska;

13 (6) (5) Law enforcement agencies in the State of Nebraska are
14 dealing with the effects of the opioid epidemic daily and are in need of
15 resources for training, education, and interdiction;

16 (7) (6) There is a need to enhance the network of professionals who
17 provide treatment for opioid addiction and related disorders, including
18 co-occurring mental health disorders and other co-occurring substance use
19 disorders;

20 (8) (7) There is a need for education of medical professionals,
21 including training on proper prescription practices and best practices
22 for tapering patients off of prescribed opioids for medical use;

23 (9) (8) Incarcerated individuals in the Nebraska correctional system
24 and other vulnerable populations with opioid use disorder need access to
25 resources that will help address addiction; and

26 (10) (9) The health and safety of all Nebraskans will be improved by
27 ~~the abatement of opioid remediation addiction~~ in the State of Nebraska.

28 Sec. 9. For purposes of the Opioid Prevention and Treatment Act:

29 (1) Department means the Department of Health and Human Services;

30 (2) Opiate or opioid means any drug or other substance having an
31 addiction-forming or addiction-sustaining liability similar to morphine

1 or being capable of conversion into a drug having such addiction-forming
2 or addiction-sustaining liability;

3 (3) Opioid epidemic means the serious public health crisis stemming
4 from the rapid increase in the use of prescription and nonprescription
5 opioid drugs; and

6 (4) Opioid remediation means care, treatment, and other programs and
7 expenditures designed to (a) address the misuse and abuse of opioid
8 products, (b) treat or mitigate opioid use or related disorders, or (c)
9 mitigate other effects of the opioid epidemic, including on those injured
10 as a result of the opioid epidemic.

11 Sec. 10. Section 71-2488, Revised Statutes Cumulative Supplement,
12 2022, is amended to read:

13 71-2488 Any funds appropriated from the Opioid Cash Fund or
14 distributed from the Nebraska Opioid Recovery Trust Fund under the Opioid
15 Prevention and Treatment Act shall not be considered ongoing entitlements
16 or an obligation on the part of the State of Nebraska. The department's
17 administrative cost for the awarding of grants under the act shall not
18 exceed an amount equal to ten percent of the grants awarded. Any funds
19 appropriated or distributed under the Opioid Prevention and Treatment Act
20 act shall be spent in accordance with the Opioid Prevention and Treatment
21 Act and the terms of any verdict, judgment, compromise, or settlement in
22 or out of court, of any case or controversy brought by the Attorney
23 General pursuant to the Consumer Protection Act or the Uniform Deceptive
24 Trade Practices Act.

25 Sec. 11. Section 71-2489, Revised Statutes Cumulative Supplement,
26 2022, is amended to read:

27 71-2489 The department ~~Department of Health and Human Services~~ shall
28 report annually on or before December 15 to the Legislature, the
29 Governor, and the Attorney General regarding the use of funds
30 appropriated and grants awarded under the Opioid Prevention and Treatment
31 Act and the outcomes achieved from such use. The reports submitted to the

1 Legislature shall be submitted electronically.

2 Sec. 12. Section 71-2490, Revised Statutes Cumulative Supplement,
3 2022, is amended to read:

4 71-2490 (1) The Nebraska Opioid Recovery Trust Fund is created. The
5 fund shall include all recoveries received on behalf of the state by the
6 Department of Justice pursuant to the Consumer Protection Act or the
7 Uniform Deceptive Trade Practices Act related to the advertising of
8 opioids. The fund shall include any money, payments, or other things of
9 value in the nature of civil damages or other payment, except criminal
10 penalties, whether such recovery is by way of verdict, judgment,
11 compromise, or settlement in or out of court, of any case or controversy
12 pursuant to such acts. The Department of Justice shall remit any such
13 revenue to the State Treasurer for credit to the Nebraska Opioid Recovery
14 Trust Fund.

15 (2) Any funds appropriated, expended, or distributed from the
16 Nebraska Opioid Recovery Trust Fund shall be spent in accordance with the
17 terms of any verdict, judgment, compromise, or settlement in or out of
18 court, of any case or controversy brought by the Attorney General
19 pursuant to the Consumer Protection Act or the Uniform Deceptive Trade
20 Practices Act. Subject to the terms and conditions of such litigation or
21 settlement, money from the Nebraska Opioid Recovery Trust Fund shall be
22 transferred to the Opioid Cash Fund as provided in section 13 of this
23 act.

24 (3) The Nebraska Opioid Recovery Trust Fund ~~fund~~ shall exclude funds
25 held in a trust capacity where specific benefits accrue to specific
26 individuals, organizations, political subdivisions, or governments. Such
27 excluded funds shall be deposited in the State Settlement Trust Fund
28 pursuant to section 59-1608.05.

29 (4) Any money in the Nebraska Opioid Recovery Trust Fund available
30 for investment shall be invested by the state investment officer pursuant
31 to the Nebraska Capital Expansion Act and the Nebraska State Funds

1 Investment Act.

2 Sec. 13. (1) The Opioid Cash Fund is created. The State Treasurer
3 shall transfer seven million dollars on or before every July 15 from the
4 Nebraska Opioid Recovery Trust Fund to the Opioid Cash Fund, except that
5 such amount shall be reduced by the amount of the unobligated balance in
6 the Opioid Cash Fund at the time the transfer is made. The state
7 investment officer shall advise the State Treasurer on the amounts to be
8 transferred from the Nebraska Opioid Recovery Trust Fund in order to
9 sustain such transfers in perpetuity. The state investment officer shall
10 report electronically to the Legislature on or before October 1 of every
11 even-numbered year on the sustainability of such transfers. Except as
12 otherwise provided by law, no more than the amounts specified in this
13 subsection may be appropriated or transferred from the Opioid Cash Fund
14 in any fiscal year.

15 (2) Any money in the Opioid Cash Fund available for investment shall
16 be invested by the state investment officer pursuant to the Nebraska
17 Capital Expansion Act and the Nebraska State Funds Investment Act.

18 (3) It is the intent of the Legislature to annually appropriate from
19 the Opioid Cash Fund beginning in FY2024-25:

20 (a) Three million five hundred thousand dollars to the department to
21 award grants under the Opioid Prevention and Treatment Act;

22 (b) One million dollars to the Nebraska State Patrol for purposes of
23 sections 15 and 16 of this act; and

24 (c) Two million five hundred thousand dollars to the department for
25 disbursement to regional behavioral health authorities for behavioral
26 health regions established pursuant to section 71-807 for opioid
27 prevention and harm reduction under the Opioid Prevention and Treatment
28 Act as follows:

29 (i) Five and four-hundred-seventy-six thousandths percent to region
30 1;

31 (ii) Five and one-hundred-twelve thousandths percent to region 2;

1 (iii) Ten and eight thousand nine hundred eighty-two ten-thousandths
2 percent to region 3;

3 (iv) Eight and five thousand eight hundred thirty-three ten-
4 thousandths percent to region 4;

5 (v) Twenty-five and seven thousand four hundred twenty-one ten-
6 thousandths percent to region 5; and

7 (vi) Forty-four and one thousand eight hundred sixty-nine ten-
8 thousandths percent to region 6.

9 Sec. 14. (1) The department shall establish a local public health
10 department aid program to provide grants to local public health
11 departments as defined in section 71-1626. A local public health
12 department may apply to the department for a grant:

13 (a) To facilitate prevention efforts, including training on the use
14 of overdose response, syringe access and education, and drug-checking
15 products;

16 (b) For education and training activities related to opioid harm
17 remediation; and

18 (c) For data tracking efforts related to the opioid epidemic.

19 (2) The department shall annually award a minimum of five hundred
20 thousand dollars in grants under the local public health department aid
21 program. The department shall release the grant to the grantee within
22 ninety days after the award of the grant.

23 Sec. 15. (1) Subject to available appropriations, the Division of
24 Drug Control of the Nebraska State Patrol shall:

25 (a) Facilitate prevention efforts, including training on the use of
26 overdose response, syringe access and education, and drug-checking
27 products;

28 (b) Provide for medication distribution and training activities; and

29 (c) Provide for opioid and fentanyl first responder training.

30 (2) It is the intent of the Legislature to appropriate a minimum of
31 five hundred thousand dollars for each fiscal year to the Nebraska State

1 Patrol to carry out this section.

2 Sec. 16. (1) Subject to available appropriations, the Division of
3 Drug Control of the Nebraska State Patrol shall establish a corrections
4 transition and reentry aid program. The program shall include:

5 (a) Supporting individual recovery and rehabilitation related to the
6 opioid epidemic;

7 (b) Peer support specialist assistance related to the opioid
8 epidemic; and

9 (c) Medication-assisted treatment, including buprenorphine and
10 naltrexone, related to the opioid epidemic.

11 (2) It is the intent of the Legislature to appropriate a minimum of
12 five hundred thousand dollars for each fiscal year to the Nebraska State
13 Patrol to carry out the corrections transition and reentry aid program.

14 Sec. 17. (1) The department shall establish a health care facility
15 aid program to provide grants to health care facilities. A health care
16 facility may apply to the department for a grant for:

17 (a) Opioid treatment and response;

18 (b) Data tracking related to the opioid epidemic;

19 (c) Supporting individual recovery and rehabilitation related to the
20 opioid epidemic; and

21 (d) Opioid use prevention and harm reduction.

22 (2) The department shall annually award a minimum of five hundred
23 thousand dollars in grants under the local public health department aid
24 program. The department shall release the grant to the grantee within
25 ninety days after the award of the grant.

26 Sec. 18. Sections 2, 3, 4, 5, and 20 of this act become operative
27 three calendar months after the adjournment of this legislative session.
28 The other sections of this act become operative on their effective date.

29 Sec. 19. Original section 28-429, Reissue Revised Statutes of
30 Nebraska, and sections 71-2485, 71-2486, 71-2487, 71-2488, 71-2489, and
31 71-2490, Revised Statutes Cumulative Supplement, 2022, are repealed.

1 Sec. 20. Original sections 38-1201 and 38-1225, Revised Statutes
2 Cumulative Supplement, 2022, are repealed.

3 Sec. 21. Since an emergency exists, this act takes effect when
4 passed and approved according to law.

5 2. On page 1, strike beginning with "the" in line 1 through line 6
6 and insert "public health and welfare; to amend section 28-429, Reissue
7 Revised Statutes of Nebraska, and sections 38-1201, 38-1225, 71-2485,
8 71-2486, 71-2487, 71-2488, 71-2489, and 71-2490, Revised Statutes
9 Cumulative Supplement, 2022; to provide duties for the Nebraska State
10 Patrol; to provide for release of certain patient data by an emergency
11 medical service; to provide for immunity from civil or criminal
12 liability; to authorize sale or distribution of fentanyl test strips; to
13 restate the purpose and findings of the Opioid Prevention and Treatment
14 Act; to define terms; to create, rename, and provide for distribution of
15 funds; to provide for aid programs; to harmonize provisions; to provide
16 operative dates; to repeal the original sections; and to declare an
17 emergency."