

AMENDMENTS TO LB570

Introduced by Health and Human Services.

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

3 Section 1. Sections 1 to 16 of this act shall be known and may be
4 cited as the Overdose Fatality Review Teams Act.

5 Sec. 2. The Legislature finds that:

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

10 (2) Overdoses caused by heroin, fentanyl, other opioids, stimulants,
11 controlled substance analogs, novel psychoactive substances, and other
12 legal and illegal drugs are a public health crisis that stress and strain
13 financial, public health, health care, and public safety resources in
14 Nebraska;

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

19 (4) Through a comprehensive and multidisciplinary review, overdose
20 fatality review teams can better understand the individual and population
21 factors and characteristics of potential overdose victims. This provides
22 local authorities with a greater sense of the strategies and multiagency
23 coordination needed to prevent future overdoses and results in the more
24 productive allocation of overdose prevention resources and services
25 within Nebraska communities.

26 Sec. 3. The purposes of the Overdose Fatality Review Teams Act are
27 to:

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

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

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

11 Sec. 4. For purposes of the Overdose Fatality Review Teams Act:

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

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

16 (3) Health care provider means any of the following individuals who
17 are licensed, certified, or registered to perform specified health
18 services consistent with state law: A physician, a physician assistant,
19 or an advanced practice registered nurse;

20 (4) Lead organization means a local public health department as
21 defined in section 71-1626;

22 (5) Local team means the multidisciplinary and multiagency drug
23 overdose fatality review team established by a lead organization for such
24 organization's jurisdiction or for a group of cities, counties, or
25 districts, pursuant to an agreement between multiple lead organizations;

26 (6) Mental health provider means:

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

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

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

3 (d) A professional counselor who holds a privilege to practice in
4 Nebraska as a professional counselor under the Licensed Professional
5 Counselors Interstate Compact;

6 (7) Overdose means injury to the body that happens when one or more
7 drugs are taken in excessive amounts. An overdose can be fatal or
8 nonfatal;

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

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

18 (10) Substance use disorder treatment provider means any individual
19 or entity who is licensed, registered, or certified within Nebraska to
20 treat substance use disorders or who has a federal Drug Addiction
21 Treatment Act of 2000 waiver from the Substance Abuse and Mental Health
22 Services Administration of the United States Department of Health and
23 Human Services to treat individuals with substance use disorder using
24 medications approved for that indication by the United States Food and
25 Drug Administration.

26 Sec. 5. (1) A lead organization may establish a local team for the
27 lead organization's jurisdiction or for a group of cities, counties, or
28 districts, pursuant to an agreement between multiple lead organizations.
29 If multiple lead organizations decide to form a local team, only one
30 shall fulfill the role of lead organization. The lead organization shall
31 select the members of the local team.

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

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

5 (b) Behavioral health providers or officials;

6 (c) Law enforcement personnel;

7 (d) Representatives of jails or detention centers;

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

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

11 (g) Mental health providers who specialize in substance use
12 disorders;

13 (h) Representatives of emergency medical services providers in the
14 county;

15 (i) The Director of Children and Family Services of the Division of
16 Children and Family Services of the Department of Health and Human
17 Services or the director's designee; and

18 (j) Representatives from the Board of Parole, the Office of
19 Probation Administration, the Division of Parole Supervision, or the
20 Community Corrections Division of the Nebraska Commission on Law
21 Enforcement and Criminal Justice.

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

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

25 (b) A representative of a local hospital;

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

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

28 (e) A pharmacist with a background in prescription drug misuse and
29 diversion;

30 (f) A substance use disorder treatment provider from a licensed
31 substance use disorder treatment program;

1 (g) A poison control center representative;

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

3 (i) A prescription drug monitoring program administrator or such
4 administrator's designee;

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

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

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

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

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

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

18 (b) Facilitate local team meetings and implement the protocols and
19 procedures of the local team;

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

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

28 (e) Ensure that team members receive timely notification of upcoming
29 meetings;

30 (f) Ensure the team fulfills the requirements of section 6 of this
31 act to publish an annual report, including recommendations to prevent

1 future drug overdose deaths;

2 (g) Ensure that all members of the local team and all guest
3 observers and participants sign confidentiality forms as required under
4 section 12 of this act;

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

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

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

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

11 Sec. 6. (1) A local team shall:

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

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

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

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

21 (e) Establish and implement protocols and procedures for overdose
22 investigations and to maintain confidentiality;

23 (f) Conduct a multidisciplinary review of information received
24 pursuant to section 9 of this act regarding a person who died of a drug
25 overdose. Such review shall be limited to records and information from
26 which the chairperson has removed all personally identifying information.
27 Such review shall include, but not be limited to:

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

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

3 (g) Recommend prevention and intervention strategies to improve
4 coordination of services and investigations among member agencies and
5 providers to reduce overdose deaths; and

6 (h) Collect, analyze, interpret, and maintain data on local overdose
7 deaths.

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

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

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

16 (ii) The number of fatal drug overdoses investigated by the local
17 team;

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

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

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

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

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

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

7 Sec. 7. (1) Members of a local team and other individuals in
8 attendance at a local team meeting, including, but not limited to,
9 experts, health care professionals, or other observers:

10 (a) Shall sign a confidentiality agreement as provided in section 12
11 of this act;

12 (b) Are bound by all applicable local, state, and federal laws
13 concerning the confidentiality of matters reviewed by the local team, but
14 may discuss confidential matters and share confidential information
15 during such meeting; and

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

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

26 Sec. 8. (1) A local team shall not be considered a public body for
27 purposes of the Open Meetings Act.

28 (2) Except for reports under section 6 of this act, information and
29 records acquired or created by a local team are not public records
30 subject to disclosure pursuant to sections 84-712 to 84-712.09, shall be
31 confidential, shall not be subject to subpoena, shall be privileged and

1 inadmissible in evidence in any legal proceeding of any kind or
2 character, and shall not be disclosed to any other department or agency
3 of the State of Nebraska, except the Department of Health and Human
4 Services as specified in the Overdose Fatality Review Teams Act.

5 Sec. 9. (1) Except as provided in subsection (4) of this section,
6 on written request of the lead organization, and as necessary to carry
7 out the purpose and duties of the local team, the lead organization shall
8 be provided with the following information:

9 (a) Nonprivileged information and records regarding the physical
10 health, mental health, and treatment for any substance use disorder
11 maintained by a health care provider, substance use disorder treatment
12 provider, hospital, or health system for an individual whose death is
13 being reviewed by the local team; and

14 (b) Information and records maintained by a state or local
15 government agency or entity, including, but not limited to, death
16 investigative information, coroner investigative information, law
17 enforcement investigative information, emergency medical services
18 reports, fire department records, prosecutorial records, parole and
19 probation information and records, court records, school records, and
20 information and records of a social services agency, including the
21 department, if the agency or entity provided services to an individual
22 whose death is being reviewed by the local team.

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

26 (a) A coroner;

27 (b) A fire department;

28 (c) A health system;

29 (d) A hospital;

30 (e) A law enforcement agency;

31 (f) A local or state governmental agency, including, but not limited

1 to, the department, local public health authorities, the Attorney
2 General, county attorneys, public defenders, the Commission on Public
3 Advocacy, the Department of Correctional Services, the Office of
4 Probation Administration, and the Division of Parole Supervision;

5 (g) A mental health provider;

6 (h) A health care provider;

7 (i) A substance use disorder treatment provider;

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

10 (k) An emergency medical services provider;

11 (l) A social services provider;

12 (m) The prescription drug monitoring program created under section
13 71-2454, subject to approval for the release of such information by the
14 Health Information Technology Board created under section 81-6,127; and

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

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

21 (4) The disclosure or redisclosure of a medical record developed in
22 connection with the provision of substance abuse treatment services,
23 without the authorization of a person in interest, is subject to any
24 limitations that exist under 42 U.S.C. section 290dd-2 or 42 C.F.R. part
25 2.

26 (5) Information requested by the lead organization shall be provided
27 within thirty calendar days after receipt of the written request, unless
28 an extension is granted by the chairperson. Written request includes a
29 request submitted via email or facsimile transmission.

30 (6)(a) A person required to provide information or records to a lead
31 organization under this section shall do so without a subpoena or other

1 form of legal compulsion.

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

5 (c) 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. 10. 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. 11. (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 12 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. 12. (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. 13. 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. 14. 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. 15. 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. 16. 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. 17. Section 68-911, Revised Statutes Cumulative Supplement,
4 2022, is amended to read:

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

- 8 (a) Inpatient and outpatient hospital services;
- 9 (b) Laboratory and X-ray services;
- 10 (c) Nursing facility services;
- 11 (d) Home health services;
- 12 (e) Nursing services;
- 13 (f) Clinic services;
- 14 (g) Physician services;
- 15 (h) Medical and surgical services of a dentist;
- 16 (i) Nurse practitioner services;
- 17 (j) Nurse midwife services;
- 18 (k) Pregnancy-related services;
- 19 (l) Medical supplies;
- 20 (m) Mental health and substance abuse services;
- 21 (n) Early and periodic screening and diagnosis and treatment
22 services for children which shall include both physical and behavioral
23 health screening, diagnosis, and treatment services;
- 24 (o) Rural health clinic services; and
- 25 (p) Federally qualified health center services.

26 (2) In addition to coverage otherwise required under this section,
27 medical assistance may include coverage for health care and related
28 services as permitted but not required under Title XIX of the federal
29 Social Security Act, including, but not limited to:

- 30 (a) Prescribed drugs;
- 31 (b) Intermediate care facilities for persons with developmental

1 disabilities;

2 (c) Home and community-based services for aged persons and persons
3 with disabilities;

4 (d) Dental services;

5 (e) Rehabilitation services;

6 (f) Personal care services;

7 (g) Durable medical equipment;

8 (h) Medical transportation services;

9 (i) Vision-related services;

10 (j) Speech therapy services;

11 (k) Physical therapy services;

12 (l) Chiropractic services;

13 (m) Occupational therapy services;

14 (n) Optometric services;

15 (o) Podiatric services;

16 (p) Hospice services;

17 (q) Mental health and substance abuse services;

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

19 (s) Administrative expenses related to administrative activities,
20 including outreach services, provided by school districts and educational
21 service units to students who are eligible or potentially eligible for
22 medical assistance.

23 (3) No later than July 1, 2009, the department shall submit a state
24 plan amendment or waiver to the federal Centers for Medicare and Medicaid
25 Services to provide coverage under the medical assistance program for
26 community-based secure residential and subacute behavioral health
27 services for all eligible recipients, without regard to whether the
28 recipient has been ordered by a mental health board under the Nebraska
29 Mental Health Commitment Act to receive such services.

30 (4) On or before October 1, 2014, the department, after consultation
31 with the State Department of Education, shall submit a state plan

1 amendment to the federal Centers for Medicare and Medicaid Services, as
2 necessary, to provide that the following are direct reimbursable services
3 when provided by school districts as part of an individualized education
4 program or an individualized family service plan: Early and periodic
5 screening, diagnosis, and treatment services for children; medical
6 transportation services; mental health services; nursing services;
7 occupational therapy services; personal care services; physical therapy
8 services; rehabilitation services; speech therapy and other services for
9 individuals with speech, hearing, or language disorders; and vision-
10 related services.

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

15 (6) On or before October 1, 2023, the department shall seek federal
16 approval for federal matching funds from the federal Centers for Medicare
17 and Medicaid Services through a state plan amendment to extend postpartum
18 coverage for beneficiaries from sixty days to twelve months.

19 Sec. 18. Section 71-3404, Revised Statutes Cumulative Supplement,
20 2022, is amended to read:

21 71-3404 (1) Sections 71-3404 to 71-3411 shall be known and may be
22 cited as the Child and Maternal Death Review Act.

23 (2) The Legislature finds and declares that it is in the best
24 interests of the state, its residents, and especially the children of
25 this state that the number and causes of death of children, including
26 stillbirths, in this state be examined. There is a need for a
27 comprehensive integrated review of all child deaths and stillbirths in
28 Nebraska and a system for statewide retrospective review of existing
29 records relating to each child death and stillbirth.

30 (3) The Legislature further finds and declares that it is in the
31 best interests of the state and its residents that the number and causes

1 of maternal death and severe maternal morbidity in this state be
2 examined. There is a need for a comprehensive integrated review of all
3 maternal deaths and incidents of severe maternal morbidity in Nebraska
4 and a system for statewide retrospective review of existing records
5 relating to each maternal death and incident of severe maternal
6 morbidity.

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

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

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

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

17 Sec. 19. Section 71-3405, Revised Statutes Cumulative Supplement,
18 2022, is amended to read:

19 71-3405 For purposes of the Child and Maternal Death Review Act:

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

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

30 (3) Investigation of maternal death means a review of existing
31 records and other information regarding the woman from relevant agencies,

1 professionals, and providers of medical, dental, prenatal, and mental
2 health care. The records to be reviewed may include, but not be limited
3 to, medical records, coroner's reports, autopsy reports, social services
4 records, educational records, emergency and paramedic records, and law
5 enforcement reports;

6 (4) Maternal death means the death of a woman during pregnancy or
7 the death of a postpartum woman;

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

11 (6) Preventable child death means the death of any child or
12 stillbirth which reasonable medical, social, legal, psychological, or
13 educational intervention may have prevented. Preventable child death
14 includes, but is not limited to, the death of a child or stillbirth
15 resulting from (a) intentional and unintentional injuries, (b) medical
16 misadventures, including untoward results, malpractice, and foreseeable
17 complications, (c) lack of access to medical care, (d) neglect and
18 reckless conduct, including failure to supervise and failure to seek
19 medical care for various reasons, and (e) preventable premature birth;

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

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

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

30 (10) (9) Stillbirth means a spontaneous fetal death which resulted
31 in a fetal death certificate pursuant to section 71-606; and

1 (11) ~~(10)~~ Teams means the State Child Death Review Team and the
2 State Maternal Death Review Team.

3 Sec. 20. Section 71-3407, Revised Statutes Cumulative Supplement,
4 2022, is amended to read:

5 71-3407 (1) The purpose of the teams shall be to (a) develop an
6 understanding of the causes and incidence of child deaths, stillbirths,
7 ~~or~~ maternal deaths, and severe maternal morbidity in this state, (b)
8 develop recommendations for changes within relevant agencies and
9 organizations which may serve to prevent child deaths, stillbirths, ~~or~~
10 maternal deaths, and incidents of severe maternal morbidity and (c)
11 advise the Governor, the Legislature, and the public on changes to law,
12 policy, and practice which will prevent child deaths, stillbirths, ~~or~~
13 maternal deaths, and incidents of severe maternal morbidity.

14 (2) The teams shall:

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

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

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

25 (d) Consider training needs, including cross-agency training, and
26 service gaps;

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

30 (f) Educate the public regarding the incidence and causes of child
31 or maternal deaths, the public role in preventing child or maternal

1 deaths, and specific steps the public can undertake to prevent child or
2 maternal deaths. The teams may enlist the support of civic,
3 philanthropic, and public service organizations in the performance of
4 educational duties;

5 (g) Provide the Governor, the Legislature, and the public with
6 annual reports which shall include the teams' findings and
7 recommendations for each of their duties. Each team shall submit an
8 annual report on or before each December 31 to the Legislature
9 electronically; and

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

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

16 (4) The teams may enter into written agreements with entities to
17 provide for the secure storage of electronic data, including data that
18 contains personal or incident identifiers. Such agreements shall provide
19 for the protection of the security and confidentiality of the content of
20 the information, including access limitations, storage of the
21 information, and destruction of the information. All of the
22 confidentiality provisions of section 71-3411 shall apply to the
23 activities of the data storage entity.

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

30 (6) For purposes of this section, entity means an organization which
31 provides collection and storage of data from multiple agencies but is not

1 solely controlled by the agencies providing the data.

2 Sec. 21. Section 71-3408, Revised Statutes Cumulative Supplement,
3 2022, is amended to read:

4 71-3408 (1) The chairperson of each team shall:

5 (a) Chair meetings of the teams; and

6 (b) Ensure identification of strategies to prevent child or maternal
7 deaths.

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

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

13 (b) Ensure timely notification of the team members of an upcoming
14 meeting;

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

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

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

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

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

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

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

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

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

6 Sec. 22. Section 71-3409, Revised Statutes Cumulative Supplement,
7 2022, is amended to read:

8 71-3409 (1)(a) The State Child Death Review Team shall review child
9 deaths in the manner provided in this subsection.

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

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

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

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

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

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

31 (b) The members shall review the maternal death records in

1 accordance with evidence-based best practices in order to determine: (i)
2 If the death is pregnancy-related; (ii) the cause of death; (iii) if the
3 death was preventable; (iv) the factors that contributed to the death;
4 (v) recommendations and actions that address those contributing factors;
5 and (vi) the anticipated impact of those actions if implemented.

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

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

16 (b) The members may review any records or documents which will allow
17 the team to identify preventable causes of severe maternal morbidity.

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

20 Sec. 23. Section 71-3410, Revised Statutes Cumulative Supplement,
21 2022, is amended to read:

22 71-3410 (1) Upon request, the teams shall be immediately provided:

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

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

1 information and records of any social services agency that provided
2 services to the child, the pregnant or postpartum woman, or the family of
3 the child or woman.

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

12 Sec. 24. Sections 17, 18, 19, 20, 21, 22, 23, and 26 of this act
13 become operative three calendar months after the adjournment of this
14 legislative session. The other sections of this act become operative on
15 their effective date.

16 Sec. 25. If any section in this act or any part of any section is
17 declared invalid or unconstitutional, the declaration shall not affect
18 the validity or constitutionality of the remaining portions.

19 Sec. 26. Original sections 68-911, 71-3404, 71-3405, 71-3407,
20 71-3408, 71-3409, and 71-3410, Revised Statutes Cumulative Supplement,
21 2022, are repealed.

22 Sec. 27. Since an emergency exists, this act takes effect when
23 passed and approved according to law.