

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1009

Introduced by Brandt, 32.

Read first time January 12, 2022

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to domestic abuse; to adopt the Domestic Abuse
- 2 Death Review Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 10 shall be known and may be cited as the
2 Domestic Abuse Death Review Act.

3 Sec. 2. (1) The Legislature finds and declares that it is in the
4 best interests of the state, its residents, and especially the families
5 of this state, that the number and causes of death related to domestic
6 abuse be examined. There is a need for a comprehensive integrated review
7 of all domestic abuse deaths in Nebraska and a system for statewide
8 retrospective review of existing records relating to each domestic abuse
9 death.

10 (2) The purpose of the Domestic Abuse Death Review Act is to prevent
11 future domestic abuse deaths by:

12 (a) Providing for the examination of the incidence, causes, and
13 contributing factors of domestic abuse deaths in Nebraska; and

14 (b) Developing recommendations for changes within communities,
15 public and private agencies, institutions, and systems, based on an
16 analysis of these causes and contributing factors which may serve to
17 prevent future domestic abuse deaths.

18 Sec. 3. For purposes of the Domestic Abuse Death Review Act:

19 (1) Associated victim means a family or household member of the
20 decedent victim who also experienced domestic abuse committed by the
21 perpetrator;

22 (2) Decedent victim means a person who died by homicide or suicide
23 as a result of, or related to, domestic abuse;

24 (3) Domestic abuse means abuse as defined in section 42-903;

25 (4) Domestic abuse death means:

26 (a) A homicide that involves, or is a result of, domestic abuse; or

27 (b) When the decedent victim was a member of a law enforcement
28 agency, emergency medical service, or other agency responding to a
29 domestic abuse incident; or

30 (c) When the decedent victim was responding to a domestic abuse
31 incident; or

1 (d) A suicide of a decedent victim if there are circumstances
2 indicating the suicide involves, or is the result of, domestic abuse
3 prior to the suicide, including: (i) The decedent victim had applied for
4 or received a protection order against the perpetrator prior to the
5 suicide; (ii) the decedent victim had received counseling, treatment, or
6 sought other supportive services as a result of the domestic abuse prior
7 to the suicide; or (iii) the decedent victim had reported domestic abuse
8 to law enforcement prior to the suicide;

9 (5) Family or household member has the same meaning as in section
10 42-903;

11 (6) Investigation means a domestic abuse death investigation as
12 described in section 4 of this act;

13 (7) Law enforcement agency means the police department or town
14 marshal in incorporated municipalities, the office of the sheriff in
15 unincorporated areas, and the Nebraska State Patrol;

16 (8) Perpetrator means the person who has been the predominant
17 aggressor of domestic abuse; and

18 (9) Team means the members of the State Domestic Abuse Death Review
19 Team as provided in section 5 of this act.

20 Sec. 4. Domestic abuse death investigation means a review of
21 existing records, documents, and other information regarding the decedent
22 victim and perpetrator from relevant agencies, professionals, providers
23 of health care, and family and household members of the decedent victim
24 or perpetrator. The records to be reviewed may include: Protection
25 orders; dissolution, custody, and support agreements and related court
26 records; medical records; coroner reports; autopsy reports; birth and
27 death certificates; court records; social services records; educational
28 records; emergency medical services records; parole and probation
29 information and records; and law enforcement agency investigative
30 information and reports. Approval by the Attorney General shall be
31 required for any domestic abuse death investigation of a domestic abuse

1 death under active investigation by a law enforcement agency or under
2 criminal prosecution.

3 Sec. 5. (1) The State Domestic Abuse Death Review Team is created.

4 (2) The Attorney General shall appoint the following members to the
5 State Domestic Abuse Death Review Team:

6 (a) At least two survivors of domestic abuse;

7 (b) A representative of a statewide coalition representing nonprofit
8 organizations that have an affiliation agreement with the Department of
9 Health and Human Services to provide services to victims of domestic
10 abuse under the Protection from Domestic Abuse Act;

11 (c) Two representatives of nonprofit organizations that primarily
12 provide services and support to victims of domestic abuse;

13 (d) A representative of child advocacy centers;

14 (e) A representative who is a member of a federally recognized
15 Indian tribe residing within the State of Nebraska with preference given
16 to those with experience in domestic abuse;

17 (f) A licensed physician or nurse with experience in forensics who
18 is knowledgeable concerning domestic abuse injuries and deaths;

19 (g) A licensed mental health professional who is knowledgeable
20 concerning domestic abuse;

21 (h) An officer of a law enforcement agency with experience
22 investigating domestic abuse; and

23 (i) A county attorney experienced in prosecuting domestic abuse
24 cases.

25 (3) The remaining members of the State Domestic Abuse Death Review
26 Team shall be appointed as follows: (a) The Chief Justice of the Supreme
27 Court or designee shall appoint a current or former judicial officer; (b)
28 the Superintendent of Law Enforcement and Public Safety shall appoint an
29 employee representative of the Nebraska State Patrol; (c) the chief
30 executive officer of the Department of Health and Human Services shall
31 appoint an employee representative of the department; and (d) the

1 probation administrator shall appoint an employee representative of the
2 Office of Probation Administration.

3 (4) The Attorney General shall be responsible for the general
4 administration of the activities of the team and shall employ or contract
5 with a team coordinator to provide administrative support of the team.

6 (5) Members of the team appointed by the Attorney General shall
7 serve four-year terms. The remaining members shall serve two-year terms.

8 (6) The team shall not be considered a public body for purposes of
9 the Open Meetings Act. Members of the team shall be reimbursed for
10 expenses as provided in sections 81-1174 to 81-1177.

11 (7) In appointing members to the team, the Attorney General shall
12 consider persons working in and representing communities that are diverse
13 with regard to race, ethnicity, immigration status, and English
14 proficiency and shall include members from differing geographic regions
15 of the state, including both rural and urban areas.

16 Sec. 6. (1) The purpose of the team shall be to prevent future
17 domestic abuse deaths by:

18 (a) Conducting domestic abuse death investigations to understand the
19 contributing factors in domestic abuse deaths;

20 (b) Examining the incidence, causes, and contributing factors of
21 domestic abuse deaths; and

22 (c) Developing recommendations for changes within communities,
23 public and private agencies, institutions, and systems, based on an
24 analysis of these causes and contributing factors of domestic abuse
25 deaths which may serve to prevent future domestic abuse deaths.

26 (2) The team shall:

27 (a) Annually elect a chairperson and other officers, as deemed
28 necessary by the team;

29 (b) Develop protocols for domestic abuse death investigations and to
30 maintain the confidentiality of information made available to the team;

31 (c) Meet a minimum of two times per year and upon the call of the

1 chairperson, the request of a state agency, or as determined by a
2 majority of the team;

3 (d) Provide the Governor, the Legislature, and the Attorney General
4 with an annual electronic report on or before December 31 each year
5 beginning December 31, 2023. The report shall not contain personal
6 identifying information of any decedent victim, associated victim, family
7 or household members of any victim, or perpetrator. The report shall be
8 available to the public and include the following:

9 (i) The causes, manner, and contributing factors of domestic abuse
10 deaths in Nebraska, including trends and patterns and an analysis of
11 information obtained through domestic abuse death investigations; and

12 (ii) Recommendations regarding the prevention of future domestic
13 abuse deaths for changes within communities, public and private agencies,
14 institutions, and systems, based on an analysis of these causes and
15 contributing factors. Such recommendations shall include recommended
16 changes to laws, rules and regulations, policies, training needs, or
17 service gaps to prevent future domestic abuse deaths;

18 (e) When appropriate, advise and consult with relevant agencies and
19 organizations represented on the team or involved in domestic abuse
20 deaths regarding the recommendations to prevent future domestic abuse
21 deaths; and

22 (f) When appropriate, educate the public regarding the incidence of
23 domestic abuse deaths, the public role in preventing domestic abuse
24 deaths, and specific steps the public can take to prevent domestic abuse
25 deaths. The team may enlist the support of civic, philanthropic, and
26 public service organizations in the performance of its educational
27 duties.

28 (3) The team may invite other individuals to participate on the team
29 on an ad-hoc basis for a particular domestic abuse death investigation.
30 Such individuals may include those with expertise that would aid in the
31 investigation, representatives from organizations or agencies that had

1 contact with, or provided services to, the decedent victim, associated
2 victim, or family or household member of any victim. If the domestic
3 abuse death occurred on tribal lands or if the domestic abuse death
4 involves a member of a federally recognized Indian tribe, additional
5 agencies and tribal representatives may be invited to participate on an
6 ad-hoc basis.

7 (4) The team shall require any person appearing before it to sign a
8 confidentiality agreement to ensure that all the confidentiality
9 provisions of section 10 of this act are satisfied.

10 (5) The team shall enter into confidentiality agreements with social
11 service agencies, nonprofit organizations, and private agencies to obtain
12 otherwise confidential information and to ensure that all confidentiality
13 provisions of section 10 of this act are satisfied.

14 (6) The team may enter into consultation agreements with relevant
15 experts to evaluate the information and records collected by the team.
16 All of the confidentiality provisions of section 10 of this act shall
17 apply to the activities of a consulting expert.

18 (7) The team may enter into written agreements with entities to
19 provide for the secure storage of electronic data based on information
20 and records collected by the team as part of a domestic abuse death
21 investigation, including data that contains personal or incident
22 identifiers. Such agreements shall provide for the protection of the
23 security and confidentiality of the information, including access
24 limitations, storage, and destruction of the information. The
25 confidentiality provisions of section 10 of this act shall apply to the
26 activities of the data storage entity.

27 (8) The team may consult and share information with the State Child
28 and Maternal Death Review Team when the decedent victim or associated
29 victim involved in a domestic abuse investigation is also involved in an
30 investigation of child death or investigation of maternal death under the
31 Child and Maternal Death Review Act. The confidentiality provisions of

1 section 10 of this act and section 71-3411 shall apply to the sharing of
2 information between these teams.

3 Sec. 7. (1) The chairperson of the team shall (a) convene and lead
4 meetings of the team and (b) ensure the team provides recommendations to
5 prevent domestic abuse deaths.

6 (2) The team coordinator selected under section 5 of this act shall
7 (a) have the necessary records and information for domestic abuse death
8 investigations made available to the team, (b) ensure timely notification
9 of the team members of upcoming meetings, (c) ensure that all team
10 reporting and data collection requirements are met, (d) oversee adherence
11 to the review process established by the Domestic Abuse Death Review Act
12 and the protocols developed by the team, and (e) perform such other
13 duties as the team deems appropriate.

14 Sec. 8. The team shall conduct domestic abuse death investigations
15 in accordance with best practices and shall review all relevant records
16 and information in a domestic abuse death investigation to understand the
17 relationship between the decedent victim and the perpetrator in order to
18 determine:

19 (1) Whether a correlation exists between certain events in the
20 relationship and any escalation of abuse;

21 (2) The factors that contributed to the domestic abuse death;

22 (3) The public and private systemic response to the decedent victim,
23 associated victim, or the perpetrator; and

24 (4) Recommendations and actions that address the contributing
25 factors in the domestic abuse death for change within communities, public
26 and private agencies, institutions, and systems based on an analysis of
27 the causes and contributing factors of domestic abuse deaths.

28 Sec. 9. (1) For purposes of conducting a domestic abuse death
29 investigation, and as necessary to fulfill the purposes of this act, the
30 team shall be immediately provided the following upon request:

31 (a) Records, documents, or other information maintained by a health

1 care provider or other medical professional, including medical records
2 and emergency medical services records; and

3 (b) All information and records maintained by any state agency,
4 county or local government, political subdivision, school district, or
5 public or private educational institution, including birth and death
6 certificates; protection orders; dissolution, custody, and child support
7 agreements; court records; law enforcement agency investigative
8 information and reports; coroner reports; autopsy reports; educational
9 records; parole and probation information and records; and information
10 and records of any social services agency that provided services to the
11 decedent victim, an associated victim, other family or household members,
12 or the perpetrator.

13 (2) The Attorney General shall have the authority to issue subpoenas
14 to compel production of any of the records and information specified in
15 this section.

16 Sec. 10. (1) All information and records acquired by the team in
17 the exercise of its duties pursuant to the Domestic Abuse Death Review
18 Act shall be confidential and exempt from disclosure except as provided
19 in this section and section 6 of this act. Statistical compilations of
20 data or recommendations made by the team that do not contain any personal
21 identifying information shall be public records.

22 (2) De-identified information and records obtained by the team may
23 be released to a researcher, research organization, university,
24 institution, or governmental agency for the purpose of conducting
25 scientific, medical, or public health research upon proof of identity and
26 execution of a confidentiality agreement as provided in this section and
27 section 6 of this act. Such release shall provide for a written agreement
28 with the Attorney General providing protection of the security of the
29 information, including access limitations, and the storage, destruction,
30 and use of the information. The release of such information pursuant to
31 this subsection shall not make otherwise confidential information a

1 public record.

2 (3) Except as necessary to carry out the team's purposes and duties,
3 members of the team and individuals attending a team meeting shall not
4 disclose any discussion among team members at a meeting and shall not
5 disclose any information prohibited from disclosure by this section.

6 (4) Members of a team and individuals attending a team meeting shall
7 not testify in any civil, administrative, licensure, or criminal
8 proceeding, including depositions, regarding information reviewed in, or
9 an opinion formed as a result of a team meeting. This subsection shall
10 not be construed to prevent a person from testifying to information
11 obtained independently of the team or that is public information.

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