

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 741**

Introduced by DeBoer, 10.

Read first time January 05, 2022

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to the Child and Maternal Death Review Act; to  
2 amend sections 71-3404, 71-3407, 71-3409, and 71-3410, Reissue  
3 Revised Statutes of Nebraska, and section 71-3405, Revised Statutes  
4 Cumulative Supplement, 2020; to define and redefine terms; to  
5 provide for the review of stillbirths; to harmonize provisions; and  
6 to repeal the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-3404, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 71-3404 (1) Sections 71-3404 to 71-3411 shall be known and may be  
4 cited as the Child and Maternal Death Review Act.

5 (2) The Legislature finds and declares that it is in the best  
6 interests of the state, its residents, and especially the children of  
7 this state that the number and causes of death of children, including  
8 stillbirths, in this state be examined. There is a need for a  
9 comprehensive integrated review of all child deaths and stillbirths in  
10 Nebraska and a system for statewide retrospective review of existing  
11 records relating to each child death and stillbirth.

12 (3) The Legislature further finds and declares that it is in the  
13 best interests of the state and its residents that the number and causes  
14 of maternal death in this state be examined. There is a need for a  
15 comprehensive integrated review of all maternal deaths in Nebraska and a  
16 system for statewide retrospective review of existing records relating to  
17 each maternal death.

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

20 (a) Identify trends from the review of past records to prevent  
21 future child deaths, stillbirths, and maternal deaths from similar causes  
22 when applicable;

23 (b) Recommend systematic changes for the creation of a cohesive  
24 method for responding to certain child deaths, stillbirths, and maternal  
25 deaths; and

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

28 Sec. 2. Section 71-3405, Revised Statutes Cumulative Supplement,  
29 2020, is amended to read:

30 71-3405 For purposes of the Child and Maternal Death Review Act:

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

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

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

17           (4) Maternal death means the death of a woman during pregnancy or  
18 the death of a postpartum woman;

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

22           (6) Preventable child or maternal death means the death of any  
23 child, stillbirth, or the death of any pregnant or postpartum woman which  
24 reasonable medical, social, legal, psychological, or educational  
25 intervention may have prevented. Preventable child or maternal death  
26 includes, but is not limited to, the death of a child, stillbirth, or the  
27 death of a pregnant or postpartum woman from (a) intentional and  
28 unintentional injuries, (b) medical misadventures, including untoward  
29 results, malpractice, and foreseeable complications, (c) lack of access  
30 to medical care, (d) neglect and reckless conduct, including failure to  
31 supervise and failure to seek medical care for various reasons, and (e)

1 preventable premature birth;

2 (7) Reasonable means taking into consideration the condition,  
3 circumstances, and resources available;~~and~~

4 (8) Stillbirth means a spontaneous fetal death which occurs at or  
5 after the twentieth week of gestation and before birth; and

6 (9) ~~(8)~~ Team means the State Child and Maternal Death Review Team.

7 Sec. 3. Section 71-3407, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 71-3407 (1) The purposes of the team shall be to (a) develop an  
10 understanding of the causes and incidence of child deaths, stillbirths,  
11 or maternal deaths in this state, (b) develop recommendations for changes  
12 within relevant agencies and organizations which may serve to prevent  
13 child deaths, stillbirths, or maternal deaths, and (c) advise the  
14 Governor, the Legislature, and the public on changes to law, policy, and  
15 practice which will prevent child deaths, stillbirths, or maternal  
16 deaths.

17 (2) The team shall:

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

24 (b) Develop a protocol for retrospective investigation of child or  
25 maternal deaths by the team;

26 (c) Develop a protocol for collection of data regarding child or  
27 maternal deaths by the team;

28 (d) Consider training needs, including cross-agency training, and  
29 service gaps;

30 (e) Include in its annual report recommended changes to any law,  
31 rule, regulation, or policy needed to decrease the incidence of

1 preventable child or maternal deaths;

2 (f) Educate the public regarding the incidence and causes of child  
3 or maternal deaths, the public role in preventing child or maternal  
4 deaths, and specific steps the public can undertake to prevent child or  
5 maternal deaths. The team may enlist the support of civic, philanthropic,  
6 and public service organizations in the performance of its educational  
7 duties;

8 (g) Provide the Governor, the Legislature, and the public with  
9 annual reports which shall include the team's findings and  
10 recommendations for each of its duties. The team shall provide the annual  
11 report on or before each September 15. The reports submitted to the  
12 Legislature shall be submitted electronically; and

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

15 (3) The team may enter into consultation agreements with relevant  
16 experts to evaluate the information and records collected by the team.  
17 All of the confidentiality provisions of section 71-3411 shall apply to  
18 the activities of a consulting expert.

19 (4) The team may enter into written agreements with entities to  
20 provide for the secure storage of electronic data based on information  
21 and records collected by the team, including data that contains personal  
22 or incident identifiers. Such agreements shall provide for the protection  
23 of the security and confidentiality of the content of the information,  
24 including access limitations, storage of the information, and destruction  
25 of the information. All of the confidentiality provisions of section  
26 71-3411 shall apply to the activities of the data storage entity.

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

1 activities of the agent.

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

5 Sec. 4. Section 71-3409, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 71-3409 ~~(1)(a) The team shall review all child deaths occurring on~~  
8 ~~or after January 1, 1993, and before January 1, 2014, in three phases as~~  
9 ~~provided in this subsection.~~

10 ~~(b) Phase one shall be conducted by the core members. The core~~  
11 ~~members shall review the death certificate, birth certificate, coroner's~~  
12 ~~report or autopsy report if done, and indicators of child or family~~  
13 ~~involvement with the Department of Health and Human Services. The core~~  
14 ~~members shall classify the nature of the death, whether accidental,~~  
15 ~~homicide, suicide, undetermined, or natural causes, determine the~~  
16 ~~completeness of the death certificate, and identify discrepancies and~~  
17 ~~inconsistencies. The core members may select cases from phase one for~~  
18 ~~review in phase two.~~

19 ~~(c) Phase two shall be completed by the core members and shall not~~  
20 ~~be conducted on any child death under active investigation by a law~~  
21 ~~enforcement agency or under criminal prosecution. The core members may~~  
22 ~~seek additional records described in section 71-3410. The core members~~  
23 ~~shall identify the preventability of death, the possibility of child~~  
24 ~~abuse or neglect, the medical care issues of access and adequacy, and the~~  
25 ~~nature and extent of interagency communication. The core members may~~  
26 ~~select cases from phase two for review by the team in phase three.~~

27 ~~(d) Phase three shall be a review by the team of those cases~~  
28 ~~selected by the core members for further discussion, review, and~~  
29 ~~analysis.~~

30 (1)(a) ~~(2)(a)~~ The team shall review all child deaths occurring on or  
31 after January 1, 2014, in the manner provided in this subsection.

1 (b) The members shall review the death certificate, birth  
2 certificate, coroner's report or autopsy report if done, and indicators  
3 of child or family involvement with the department. The members shall  
4 classify the nature of the death, whether accidental, homicide, suicide,  
5 undetermined, or natural causes, determine the completeness of the death  
6 certificate, and identify discrepancies and inconsistencies.

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

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

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

18 (3)(a) The team shall review all maternal deaths occurring on or  
19 after January 1, 2014, in the manner provided in this subsection.

20 (b) The members shall review the death certificate, coroner's report  
21 or autopsy report if done, and indicators of the woman's involvement with  
22 the department. The members shall classify the nature of the death,  
23 whether accidental, homicide, suicide, undetermined, or natural causes,  
24 determine the completeness of the death certificate, and identify  
25 discrepancies and inconsistencies.

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

1           Sec. 5. Section 71-3410, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           71-3410 (1) Upon request, the team shall be immediately provided:

4           (a) Information and records maintained by a provider of medical,  
5 dental, prenatal, and mental health care, including medical reports,  
6 autopsy reports, and emergency and paramedic records; and

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

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

23           Sec. 6. Original sections 71-3404, 71-3407, 71-3409, and 71-3410,  
24 Reissue Revised Statutes of Nebraska, and section 71-3405, Revised  
25 Statutes Cumulative Supplement, 2020, are repealed.