

AMENDMENTS TO LB227

(Amendments to Final Reading copy)

Introduced by Vargas, 7.

1 1. Insert the following new sections:

2 Sec. 61. Section 68-911, Revised Statutes Cumulative Supplement,
3 2022, is amended to read:

4 68-911 (1) Medical assistance shall include coverage for health care
5 and related services as required under Title XIX of the federal Social
6 Security Act, including, but not limited to:

7 (a) Inpatient and outpatient hospital services;

8 (b) Laboratory and X-ray services;

9 (c) Nursing facility services;

10 (d) Home health services;

11 (e) Nursing services;

12 (f) Clinic services;

13 (g) Physician services;

14 (h) Medical and surgical services of a dentist;

15 (i) Nurse practitioner services;

16 (j) Nurse midwife services;

17 (k) Pregnancy-related services;

18 (l) Medical supplies;

19 (m) Mental health and substance abuse services;

20 (n) Early and periodic screening and diagnosis and treatment
21 services for children which shall include both physical and behavioral
22 health screening, diagnosis, and treatment services;

23 (o) Rural health clinic services; and

24 (p) Federally qualified health center services.

25 (2) In addition to coverage otherwise required under this section,
26 medical assistance may include coverage for health care and related

1 services as permitted but not required under Title XIX of the federal
2 Social Security Act, including, but not limited to:

- 3 (a) Prescribed drugs;
- 4 (b) Intermediate care facilities for persons with developmental
5 disabilities;
- 6 (c) Home and community-based services for aged persons and persons
7 with disabilities;
- 8 (d) Dental services;
- 9 (e) Rehabilitation services;
- 10 (f) Personal care services;
- 11 (g) Durable medical equipment;
- 12 (h) Medical transportation services;
- 13 (i) Vision-related services;
- 14 (j) Speech therapy services;
- 15 (k) Physical therapy services;
- 16 (l) Chiropractic services;
- 17 (m) Occupational therapy services;
- 18 (n) Optometric services;
- 19 (o) Podiatric services;
- 20 (p) Hospice services;
- 21 (q) Mental health and substance abuse services;
- 22 (r) Hearing screening services for newborn and infant children; and
- 23 (s) Administrative expenses related to administrative activities,
24 including outreach services, provided by school districts and educational
25 service units to students who are eligible or potentially eligible for
26 medical assistance.

27 (3) No later than July 1, 2009, the department shall submit a state
28 plan amendment or waiver to the federal Centers for Medicare and Medicaid
29 Services to provide coverage under the medical assistance program for
30 community-based secure residential and subacute behavioral health
31 services for all eligible recipients, without regard to whether the

1 recipient has been ordered by a mental health board under the Nebraska
2 Mental Health Commitment Act to receive such services.

3 (4) On or before October 1, 2014, the department, after consultation
4 with the State Department of Education, shall submit a state plan
5 amendment to the federal Centers for Medicare and Medicaid Services, as
6 necessary, to provide that the following are direct reimbursable services
7 when provided by school districts as part of an individualized education
8 program or an individualized family service plan: Early and periodic
9 screening, diagnosis, and treatment services for children; medical
10 transportation services; mental health services; nursing services;
11 occupational therapy services; personal care services; physical therapy
12 services; rehabilitation services; speech therapy and other services for
13 individuals with speech, hearing, or language disorders; and vision-
14 related services.

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

19 (6) On or before October 1, 2023, the department shall seek federal
20 approval for federal matching funds from the federal Centers for Medicare
21 and Medicaid Services through a state plan amendment or waiver to extend
22 postpartum coverage for beneficiaries from sixty days to at least six
23 months. Nothing in this subsection shall preclude the department from
24 submitting a state plan amendment for twelve months.

25 Sec. 79. Sections 79 to 94 of this act shall be known and may be
26 cited as the Overdose Fatality Review Teams Act.

27 Sec. 80. The Legislature finds that:

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

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

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

10 (4) Through a comprehensive and multidisciplinary review, overdose
11 fatality review teams can better understand the individual and population
12 factors and characteristics of potential overdose victims. This provides
13 local authorities with a greater sense of the strategies and multiagency
14 coordination needed to prevent future overdoses and results in the more
15 productive allocation of overdose prevention resources and services
16 within Nebraska communities.

17 Sec. 81. The purposes of the Overdose Fatality Review Teams Act are
18 to:

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

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

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

29 Sec. 82. For purposes of the Overdose Fatality Review Teams Act:

30 (1) De-identified information means information that does not
31 identify an individual and with respect to which there is no reasonable

1 basis to believe that the information can be used to identify an
2 individual;

3 (2) Department means the Department of Health and Human Services;

4 (3) Drug means a substance that produces a physiological effect when
5 ingested or otherwise introduced into the body, and includes both legal
6 and illicit substances. Drug does not include alcohol;

7 (4) Health care provider means any of the following individuals who
8 are licensed, certified, or registered to perform specified health
9 services consistent with state law: A physician, a physician assistant,
10 or an advanced practice registered nurse;

11 (5) Lead organization means a local public health department as
12 defined in section 71-1626;

13 (6) Local team means the multidisciplinary and multiagency drug
14 overdose fatality review team established by a lead organization for such
15 organization's jurisdiction or for a group of cities, counties, or
16 districts, pursuant to an agreement between multiple lead organizations;

17 (7) Mental health provider means:

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

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

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

25 (d) A professional counselor who holds a privilege to practice in
26 Nebraska as a professional counselor under the Licensed Professional
27 Counselors Interstate Compact;

28 (8) Personal identifying information means information that permits
29 the identity of an individual to whom the information applies to be
30 reasonably inferred by either direct or indirect means;

31 (9) Overdose means injury to the body that happens when one or more

1 drugs are taken in excessive amounts. An overdose can be fatal or
2 nonfatal;

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

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

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

20 Sec. 83. (1) A lead organization may establish a local team for the
21 lead organization's jurisdiction or for a group of cities, counties, or
22 districts, pursuant to an agreement between multiple lead organizations.
23 If multiple lead organizations decide to form a local team, only one
24 shall fulfill the role of lead organization. The lead organization shall
25 select the members of the local team.

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

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

30 (b) Behavioral health providers or officials;

31 (c) Law enforcement personnel;

- 1 (d) Representatives of jails or detention centers;
2 (e) The coroner or the coroner's designee;
3 (f) Health care providers who specialize in the prevention,
4 diagnosis, and treatment of substance use disorders;
5 (g) Mental health providers who specialize in substance use
6 disorders;
7 (h) Representatives of emergency medical services providers in the
8 county;
9 (i) The Director of Children and Family Services of the Division of
10 Children and Family Services of the Department of Health and Human
11 Services or the director's designee; and
12 (j) Representatives from the Board of Parole, the Office of
13 Probation Administration, the Division of Parole Supervision, or the
14 Community Corrections Division of the Nebraska Commission on Law
15 Enforcement and Criminal Justice.
16 (3) A local team may also include, either as permanent or temporary
17 members:
18 (a) A local school superintendent or the superintendent's designee;
19 (b) A representative of a local hospital;
20 (c) A health care provider who specializes in emergency medicine;
21 (d) A health care provider who specializes in pain management;
22 (e) A pharmacist with a background in prescription drug misuse and
23 diversion;
24 (f) A substance use disorder treatment provider from a licensed
25 substance use disorder treatment program;
26 (g) A poison control center representative;
27 (h) A mental health provider who is a generalist;
28 (i) A prescription drug monitoring program administrator or such
29 administrator's designee;
30 (j) A representative from a harm reduction provider;
31 (k) A recovery coach, peer support worker, or other representative

1 of the recovery community;

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

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

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

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

12 (b) Facilitate local team meetings and implement the protocols and
13 procedures of the local team;

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

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

22 (e) Ensure that team members receive timely notification of upcoming
23 meetings;

24 (f) Ensure the team fulfills the requirements of section 84 of this
25 act to publish an annual report, including recommendations to prevent
26 future drug overdose deaths;

27 (g) Ensure that all members of the local team and all guest
28 observers and participants sign confidentiality forms as required under
29 section 90 of this act;

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

- 1 (i) Serve as a liaison for the local team; and
2 (j) Perform such other duties as the team deems appropriate.
3 (5) Members of the local team shall not receive compensation for
4 their services as team members.

5 Sec. 84. (1) A local team shall:

- 6 (a) Promote cooperation and coordination among agencies involved in
7 the investigation of drug overdose fatalities;
8 (b) Examine the incidence, causes, and contributing factors of drug
9 overdose deaths in jurisdictions where the local team operates;
10 (c) Develop recommendations for changes within communities, public
11 and private agencies, institutions, and systems, based on an analysis of
12 the causes and contributing factors of drug overdose deaths;
13 (d) Advise local, regional, and state policymakers about potential
14 changes to law, policy, funding, or practices to prevent drug overdoses;
15 (e) Establish and implement protocols and procedures for overdose
16 investigations and to maintain confidentiality;
17 (f) Conduct a multidisciplinary review of information received
18 pursuant to section 87 of this act regarding a person who died of a drug
19 overdose. Such review shall be limited to records and information from
20 which the chairperson has removed all personally identifying information.
21 Such review shall include, but not be limited to:
22 (i) Consideration of the decedent's points of contact with health
23 care systems, social services, educational institutions, child and family
24 services, law enforcement and the criminal justice system, and any other
25 systems with which the decedent had contact prior to death; and
26 (ii) Identification of the specific factors and social determinants
27 of health that put the decedent at risk for an overdose;
28 (g) Recommend prevention and intervention strategies to improve
29 coordination of services and investigations among member agencies and
30 providers to reduce overdose deaths; and
31 (h) Collect, analyze, interpret, and maintain data on local overdose

1 deaths.

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

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

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

10 (ii) The number of fatal drug overdoses investigated by the local
11 team;

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

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

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

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

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

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

1 Sec. 85. (1) Members of a local team and other individuals in
2 attendance at a local team meeting, including, but not limited to,
3 experts, health care professionals, or other observers:

4 (a) Shall sign a confidentiality agreement as provided in section 90
5 of this act;

6 (b) Are bound by all applicable local, state, and federal laws
7 concerning the confidentiality of matters reviewed by the local team, but
8 may discuss confidential matters and share confidential information
9 during such meeting; and

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

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

20 Sec. 86. (1) A local team shall not be considered a public body for
21 purposes of the Open Meetings Act.

22 (2) Except for reports under section 84 of this act, information and
23 records acquired or created by a local team are not public records
24 subject to disclosure pursuant to sections 84-712 to 84-712.09, shall be
25 confidential, shall not be subject to subpoena, shall be privileged and
26 inadmissible in evidence in any legal proceeding of any kind or
27 character, and shall not be disclosed to any other department or agency
28 of the State of Nebraska, except the Department of Health and Human
29 Services as specified in the Overdose Fatality Review Teams Act.

30 Sec. 87. (1) Except as provided in subsection (4) of this section,
31 on written request of the lead organization, and as necessary to carry

1 out the purpose and duties of the local team, the lead organization shall
2 be provided with the following information:

3 (a) Nonprivileged information and records regarding the physical
4 health, mental health, and treatment for any substance use disorder
5 maintained by a health care provider, substance use disorder treatment
6 provider, hospital, or health system for an individual whose death is
7 being reviewed by the local team; and

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

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

20 (a) A coroner;

21 (b) A fire department;

22 (c) A health system;

23 (d) A hospital;

24 (e) A law enforcement agency;

25 (f) A local or state governmental agency, including, but not limited
26 to, the department, local public health authorities, the Attorney
27 General, county attorneys, public defenders, the Commission on Public
28 Advocacy, the Department of Correctional Services, the Office of
29 Probation Administration, and the Division of Parole Supervision;

30 (g) A mental health provider;

31 (h) A health care provider;

1 (i) A substance use disorder treatment provider;

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

4 (k) An emergency medical services provider;

5 (l) A social services provider; and

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

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

12 (4)(a) Compliance with any records request under this section is
13 subject to the federal Health Insurance Portability and Accountability
14 Act of 1996, Public Law 104-191, and regulations promulgated thereunder;
15 42 U.S.C. section 290dd-2; 42 C.F.R. part 2; and the Child Protection and
16 Family Safety Act.

17 (b) The department is not required to comply with a records request
18 under subsection (2) of this section to the extent the information
19 requested:

20 (i) Was obtained by the prescription drug monitoring program created
21 under section 71-2454;

22 (ii) Is covered by section 68-313; or

23 (iii) Is covered by 42 C.F.R. 431.300 et seq.

24 (c) The disclosure or redisclosure of a medical record developed in
25 connection with the provision of substance abuse treatment services,
26 without the authorization of a person in interest, is subject to any
27 limitations that exist under the federal Health Insurance Portability and
28 Accountability Act of 1996, Public Law 104-191, and regulations
29 promulgated thereunder; 42 U.S.C. section 290dd-2; and 42 C.F.R. part 2.

30 (5) Information requested by the lead organization shall be provided
31 within thirty calendar days after receipt of the written request, unless

1 an extension is granted by the chairperson. Written request includes a
2 request submitted via email or facsimile transmission.

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

6 (b) Any willful failure to comply with such a subpoena may be
7 certified by the county attorney or Attorney General to the district
8 court for enforcement or punishment for contempt of court.

9 Sec. 88. A member of the local team may contact, interview, or
10 obtain information by request from a family member or friend of an
11 individual whose death is being reviewed by the local team.

12 Sec. 89. (1) A chairperson may invite other individuals to
13 participate on the local team on an ad hoc basis for a particular
14 investigation. Such individuals may include those with expertise that
15 would aid in the investigation and representatives from organizations or
16 agencies that had contact with, or provided services to, the overdose
17 victim.

18 (2) So long as each individual present at a local team meeting has
19 signed the confidentiality form provided for in section 90 of this act,
20 any otherwise confidential information received by the local team may be
21 shared at a local team meeting with any nonmember attendees.

22 (3) Local team meetings in which confidential information is
23 discussed shall be closed to the public.

24 (4) A lead organization may enter into confidentiality agreements
25 with third-party agencies to obtain otherwise confidential information.

26 (5) A lead organization shall enter into a data-use agreement with
27 the prescription drug monitoring program created under section 71-2454.

28 (6) A local team may enter into consultation agreements with
29 relevant experts to evaluate the information and records collected by the
30 team. All of the confidentiality provisions of the Overdose Fatality
31 Review Teams Act shall apply to the activities of a consulting expert.

1 (7) A lead organization may enter into written agreements with
2 entities to provide for the secure storage of electronic data based on
3 information and records collected in carrying out the local team's
4 duties, including data that contains personal or incident identifiers.
5 Such agreements shall provide for the protection of the security and
6 confidentiality of the information, including access limitations,
7 storage, and destruction of the information. The confidentiality
8 provisions of the Overdose Fatality Review Teams Act shall apply to the
9 activities of the data storage entity.

10 Sec. 90. (1) Each local team member and any nonmember in attendance
11 at a meeting shall sign a confidentiality form and review the purposes
12 and goals of the local team before they may participate in the meeting or
13 review. The form shall set out the requirements for maintaining the
14 confidentiality of any information disclosed during the meeting and the
15 penalties associated with failure to maintain such confidentiality.

16 (2) Except as necessary to carry out the local team's purposes and
17 duties, members of the local team and individuals attending a team
18 meeting shall not disclose any discussion among team members at a meeting
19 and shall not disclose any information prohibited from disclosure by the
20 Overdose Fatality Review Teams Act.

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

31 (4) Members of a local team and individuals attending a team meeting

1 shall not testify in any civil, administrative, licensure, or criminal
2 proceeding, including depositions, regarding information reviewed in or
3 an opinion formed as a result of a team meeting. This subsection shall
4 not be construed to prevent a person from testifying to information
5 obtained independently of the team or that is public information.

6 (5) Conclusions, findings, recommendations, information, documents,
7 and records of a local team shall not be subject to subpoena, discovery,
8 or introduction into evidence in any civil or criminal proceeding, except
9 that conclusions, findings, recommendations, information, documents, and
10 records otherwise available from other sources shall not be immune from
11 subpoena, discovery, or introduction into evidence through those sources
12 solely because they were presented during proceedings of a local team or
13 are maintained by a local team.

14 Sec. 91. Any person that in good faith provides information or
15 records to a local team shall not be subject to civil or criminal
16 liability or any professional disciplinary action as a result of
17 providing the information or record.

18 Sec. 92. A person aggrieved by the intentional or knowing
19 disclosure of confidential information in violation of the Overdose
20 Fatality Review Teams Act by a local team, its members, or a person in
21 attendance at a local team meeting may bring a civil action for
22 appropriate relief against the person who committed such violation.
23 Appropriate relief in an action under this section shall include:

24 (1) Damages;

25 (2) Such preliminary and other equitable or declaratory relief as
26 may be appropriate; and

27 (3) Reasonable attorney's fees and other litigation costs reasonably
28 incurred.

29 Sec. 93. A person who intentionally or knowingly violates the
30 confidentiality requirements of the Overdose Fatality Review Teams Act is
31 guilty of a Class II misdemeanor.

1 Sec. 94. The department may adopt and promulgate such rules and
2 regulations as are necessary to carry out the Overdose Fatality Review
3 Teams Act.

4 Sec. 95. Section 71-3404, Revised Statutes Cumulative Supplement,
5 2022, is amended to read:

6 71-3404 (1) Sections 71-3404 to 71-3411 shall be known and may be
7 cited as the Child and Maternal Death Review Act.

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

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

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

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

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

31 (c) When appropriate, cause referral to be made to those agencies as

1 required in section 28-711 or as otherwise required by state law.

2 Sec. 96. Section 71-3405, Revised Statutes Cumulative Supplement,
3 2022, is amended to read:

4 71-3405 For purposes of the Child and Maternal Death Review Act:

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

6 (2) Investigation of child death means a review of existing records
7 and other information regarding the child or stillbirth from relevant
8 agencies, professionals, and providers of medical, dental, prenatal, and
9 mental health care. The records to be reviewed may include, but not be
10 limited to, medical records, coroner's reports, autopsy reports, social
11 services records, records of alternative response cases under alternative
12 response implemented in accordance with sections 28-710.01, 28-712, and
13 28-712.01, educational records, emergency and paramedic records, and law
14 enforcement reports;

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

22 (4) Maternal death means the death of a woman during pregnancy or
23 the death of a postpartum woman;

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

27 (6) Preventable child death means the death of any child or
28 stillbirth which reasonable medical, social, legal, psychological, or
29 educational intervention may have prevented. Preventable child death
30 includes, but is not limited to, the death of a child or stillbirth
31 resulting from (a) intentional and unintentional injuries, (b) medical

1 misadventures, including untoward results, malpractice, and foreseeable
2 complications, (c) lack of access to medical care, (d) neglect and
3 reckless conduct, including failure to supervise and failure to seek
4 medical care for various reasons, and (e) preventable premature birth;

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

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

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

15 (10) (9) Stillbirth means a spontaneous fetal death which resulted
16 in a fetal death certificate pursuant to section 71-606; and

17 (11) (10) Teams means the State Child Death Review Team and the
18 State Maternal Death Review Team.

19 Sec. 97. Section 71-3407, Revised Statutes Cumulative Supplement,
20 2022, is amended to read:

21 71-3407 (1) The purpose of the teams shall be to (a) develop an
22 understanding of the causes and incidence of child deaths, stillbirths,
23 ~~or~~ maternal deaths, and severe maternal morbidity in this state, (b)
24 develop recommendations for changes within relevant agencies and
25 organizations which may serve to prevent child deaths, stillbirths, ~~or~~
26 maternal deaths, and incidents of severe maternal morbidity and (c)
27 advise the Governor, the Legislature, and the public on changes to law,
28 policy, and practice which will prevent child deaths, stillbirths, ~~or~~
29 maternal deaths, and incidents of severe maternal morbidity.

30 (2) The teams shall:

31 (a) Undertake annual statistical studies of the causes and incidence

1 of child or maternal deaths in this state. The studies shall include, but
2 not be limited to, an analysis of the records of community, public, and
3 private agency involvement with the children, the pregnant or postpartum
4 women, and their families prior to and subsequent to the child or
5 maternal deaths;

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

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

10 (d) Consider training needs, including cross-agency training, and
11 service gaps;

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

15 (f) Educate the public regarding the incidence and causes of child
16 or maternal deaths, the public role in preventing child or maternal
17 deaths, and specific steps the public can undertake to prevent child or
18 maternal deaths. The teams may enlist the support of civic,
19 philanthropic, and public service organizations in the performance of
20 educational duties;

21 (g) Provide the Governor, the Legislature, and the public with
22 annual reports which shall include the teams' findings and
23 recommendations for each of their duties. Each team shall submit an
24 annual report on or before each December 31 to the Legislature
25 electronically; and

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

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

1 (4) The teams may enter into written agreements with entities to
2 provide for the secure storage of electronic data, including data that
3 contains personal or incident identifiers. Such agreements shall provide
4 for the protection of the security and confidentiality of the content of
5 the information, including access limitations, storage of the
6 information, and destruction of the information. All of the
7 confidentiality provisions of section 71-3411 shall apply to the
8 activities of the data storage entity.

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

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

18 Sec. 98. Section 71-3408, Revised Statutes Cumulative Supplement,
19 2022, is amended to read:

20 71-3408 (1) The chairperson of each team shall:

21 (a) Chair meetings of the teams; and

22 (b) Ensure identification of strategies to prevent child or maternal
23 deaths.

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

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

29 (b) Ensure timely notification of the team members of an upcoming
30 meeting;

31 (c) Ensure that all team reporting and data-collection requirements

1 are met;

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

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

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

7 (a) Possess qualifying ~~nursing~~ experience, a demonstrated
8 understanding of child and maternal outcomes, strong professional
9 communication skills, data entry and relevant computer skills, experience
10 in medical record review, flexibility and ability to accomplish tasks in
11 short time frames, appreciation of the community, knowledge of
12 confidentiality laws, the ability to serve as an objective unbiased
13 storyteller, and a demonstrated understanding of social determinants of
14 health;

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

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

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

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

22 Sec. 99. Section 71-3409, Revised Statutes Cumulative Supplement,
23 2022, is amended to read:

24 71-3409 (1)(a) The State Child Death Review Team shall review child
25 deaths in the manner provided in this subsection.

26 (b) The members shall review the death certificate, birth
27 certificate, coroner's report or autopsy report if done, and indicators
28 of child or family involvement with the department. The members shall
29 classify the nature of the death, whether accidental, homicide, suicide,
30 undetermined, or natural causes, determine the completeness of the death
31 certificate, and identify discrepancies and inconsistencies.

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

7 (2)(a) The team may review stillbirths ~~occurring on or after January~~
8 ~~1, 2023,~~ in the manner provided in this subsection.

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

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

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

16 (b) The members shall review the maternal death records in
17 accordance with evidence-based best practices in order to determine: (i)
18 If the death is pregnancy-related; (ii) the cause of death; (iii) if the
19 death was preventable; (iv) the factors that contributed to the death;
20 (v) recommendations and actions that address those contributing factors;
21 and (vi) the anticipated impact of those actions if implemented.

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

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

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

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

5 Sec. 100. Section 71-3410, Revised Statutes Cumulative Supplement,
6 2022, is amended to read:

7 71-3410 (1) Upon request, the teams shall be immediately provided:

8 (a) Information and records maintained by a provider of medical,
9 dental, prenatal, and mental health care, including medical reports,
10 autopsy reports, and emergency and paramedic records; and

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

20 (2) The Department of Health and Human Services shall have the
21 authority to issue subpoenas to compel production of any of the records
22 and information specified in subdivisions (1)(a) and (b) of this section,
23 except records and information on any child death, stillbirth, ~~or~~
24 maternal death, or incident of severe maternal morbidity under active
25 investigation by a law enforcement agency or which is at the time the
26 subject of a criminal prosecution, and shall provide such records and
27 information to the teams.

28 2. On page 2, line 3 after "hospitals" insert "and require
29 submission of a state plan amendment or waiver to extend postpartum
30 coverage"; and in line 16 after the semicolon insert "to adopt the
31 Overdose Fatality Review Teams Act; to provide for the review of

1 incidents of severe maternal morbidity under the Child and Maternal Death
2 Review Act;".

3 3. Correct the operative date and repealer sections so that:

4 a. Sections 61, 95, 96, 97, 98, 99, and 100 added by this amendment
5 become operative three calendar months after the adjournment of this
6 legislative session; and

7 b. Sections 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92,
8 93, and 94 added by this amendment become operative on their effective
9 date with the emergency clause.

10 4. Renumber the remaining sections and correct internal references
11 accordingly.