

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 626

Introduced by Vargas, 7.

Read first time January 20, 2021

Committee:

- 1 A BILL FOR AN ACT relating to the Child and Maternal Death Review Act; to
2 amend sections 71-3407, 71-3408, 71-3409, 71-3410, and 71-3411,
3 Reissue Revised Statutes of Nebraska, and sections 71-3405 and
4 71-3406, Revised Statutes Cumulative Supplement, 2020; to define and
5 redefine terms; to change team and team review provisions; to
6 harmonize provisions; and to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-3405, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 71-3405 For purposes of the Child and Maternal Death Review Act:

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

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

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

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

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

26 (6) Preventable child ~~or maternal~~ death means the death of any child
27 ~~or pregnant or postpartum woman~~ which reasonable medical, social, legal,
28 psychological, or educational intervention may have prevented.
29 Preventable child ~~or maternal~~ death includes, but is not limited to, the
30 death of a child ~~or pregnant or postpartum woman~~ from (a) intentional and
31 unintentional injuries, (b) medical misadventures, including untoward

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

5 (7) Preventable maternal death means the death of a pregnant or
6 postpartum woman where 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) (7) Reasonable means taking into consideration the condition,
11 circumstances, and resources available; and

12 (9) Teams (8) Team means the State Child Death Review Team and the
13 State Maternal Death Review Team.

14 Sec. 2. Section 71-3406, Revised Statutes Cumulative Supplement,
15 2020, is amended to read:

16 71-3406 (1) The chief executive officer of the Department of Health
17 and Human Services shall appoint a minimum of twelve and a maximum of
18 fifteen members each to the State Child Death Review Team and the State
19 Maternal Death Review Team.

20 (2) The core members shall serve on both teams and shall be (a) a
21 physician employed by the department, who shall be a permanent member and
22 shall serve as the chairperson of the team, (b) a senior staff member
23 with child protective services of the department, (c) a forensic
24 pathologist, (c) (d) a law enforcement representative, (d) a mental
25 health provider (e) the Inspector General of Nebraska Child Welfare, and
26 (e) (f) an attorney. The remaining members appointed may be, but shall
27 not be limited to, the following: A county attorney; a Federal Bureau of
28 Investigation agent responsible for investigations on Native American
29 reservations; a social worker; and members of organizations which
30 represent hospitals or physicians. The department shall be responsible
31 for the general administration of the activities of the teams team and

1 shall employ or contract with a team coordinators ~~coordinator~~ to provide
2 administrative support for each ~~the~~ team and shall provide a team data
3 abstractor for each team.

4 (3) Additional required members appointed to the State Child Death
5 Review Team shall include the Inspector General of Nebraska Child Welfare
6 and a senior staff member with child protective services of the
7 department. The remaining members appointed to the State Child Death
8 Review Team may include, but shall not be limited to, the following: (a)
9 A county attorney; (b) a Federal Bureau of Investigation agent
10 responsible for investigations on Native American reservations; (c) a
11 social worker; and (d) members of organizations which represent hospitals
12 or physicians.

13 (4) The remaining members appointed to the State Maternal Death
14 Review Team may be, but shall not be limited to, the following: (a)
15 County attorneys; (b) representatives of tribal organizations; (c) social
16 workers; (d) medical providers; and (e) community advocates. In
17 appointing members to the State Maternal Death Review Team, the chief
18 executive officer of the department may appoint a chairperson and shall
19 consider members working in and representing communities that are diverse
20 with regard to race, ethnicity, immigration status, and English
21 proficiency and include members from differing geographic regions in the
22 state, including both rural and urban areas.

23 (5) (2) Members shall serve four-year terms with the exception of
24 the chairperson. In the absence of the chairperson, the chief executive
25 officer may appoint another member of the core team to serve as
26 chairperson.

27 (6) (3) The teams ~~team~~ shall not be considered a public body for
28 purposes of the Open Meetings Act. The teams ~~team~~ shall meet a minimum of
29 four times a year. Members of the teams ~~team~~ shall be reimbursed for
30 expenses as provided in sections 81-1174 to 81-1177.

31 Sec. 3. Section 71-3407, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 71-3407 (1) The purpose ~~purposes~~ of the teams ~~team~~ shall be to (a)
3 develop an understanding of the causes and incidence of child or maternal
4 deaths in this state, (b) develop recommendations for changes within
5 relevant agencies and organizations which may serve to prevent child or
6 maternal deaths, and (c) advise the Governor, the Legislature, and the
7 public on changes to law, policy, and practice which will prevent child
8 or maternal deaths.

9 (2) The teams ~~team~~ shall:

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

16 (b) Develop a protocol for retrospective investigation of child or
17 maternal deaths by the teams ~~team~~;

18 (c) Develop a protocol for collection of data regarding child or
19 maternal deaths by the teams ~~team~~;

20 (d) Consider training needs, including cross-agency training, and
21 service gaps;

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

25 (f) Educate the public regarding the incidence and causes of child
26 or maternal deaths, the public role in preventing child or maternal
27 deaths, and specific steps the public can undertake to prevent child or
28 maternal deaths. The teams ~~team~~ may enlist the support of civic,
29 philanthropic, and public service organizations in the performance of ~~its~~
30 educational duties;

31 (g) Provide the Governor, the Legislature, and the public with

1 annual reports which shall include the teams' ~~team's~~ findings and
2 recommendations for each of their ~~its~~ duties. The core team shall submit
3 an ~~provide~~ the annual report on or before each December 31 ~~September 15~~.
4 ~~The reports submitted to the Legislature shall be submitted~~
5 electronically; and

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

8 (3) The teams ~~team~~ may enter into consultation agreements with
9 relevant experts to evaluate the information and records collected ~~by the~~
10 ~~team~~. All of the confidentiality provisions of section 71-3411 shall
11 apply to the activities of a consulting expert.

12 (4) The teams ~~team~~ may enter into written agreements with entities
13 to provide for the secure storage of electronic data ~~based on information~~
14 ~~and records collected by the team~~, including data that contains personal
15 or incident identifiers. Such agreements shall provide for the protection
16 of the security and confidentiality of the content of the information,
17 including access limitations, storage of the information, and destruction
18 of the information. All of the confidentiality provisions of section
19 71-3411 shall apply to the activities of the data storage entity.

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

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

29 Sec. 4. Section 71-3408, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 71-3408 (1) The chairperson of each ~~the~~ team shall:

1 (a) Chair meetings of the teams team; and

2 (b) Ensure identification of strategies to prevent child or maternal
3 deaths.

4 (2) The team coordinator of each team provided under subsection (2)
5 ~~(1)~~ of section 71-3406 shall:

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

9 (b) Ensure timely notification of the team members of an upcoming
10 meeting;

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

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

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

16 (3) The team data abstractor provided under subsection (2) of
17 section 71-3406 shall:

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

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

28 (c) Upon receipt of such records, review all pertinent records to
29 complete fields in child and maternal death data bases;

30 (d) Summarize findings in a maternal death case summary; and

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

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

3 ~~71-3409 (1)(a) The team shall review all child deaths occurring on~~
4 ~~or after January 1, 1993, and before January 1, 2014, in three phases as~~
5 ~~provided in this subsection.~~

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

15 ~~(c) Phase two shall be completed by the core members and shall not~~
16 ~~be conducted on any child death under active investigation by a law~~
17 ~~enforcement agency or under criminal prosecution. The core members may~~
18 ~~seek additional records described in section 71-3410. The core 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. The core members may~~
22 ~~select cases from phase two for review by the team in phase three.~~

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

26 (1)(a) The State Child Death Review Team ~~(2)(a) The team shall~~
27 ~~review all child deaths occurring on or after January 1, 2014, in the~~
28 ~~manner provided in this subsection.~~

29 (b) The members shall review the death certificate, birth
30 certificate, coroner's report or autopsy report if done, and indicators
31 of child or family involvement with the department. The members shall

1 classify the nature of the death, whether accidental, homicide, suicide,
2 undetermined, or natural causes, determine the completeness of the death
3 certificate, and identify discrepancies and inconsistencies.

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

10 (2)(a) The State Maternal Death Review Team ~~(3)(a) The team~~ shall
11 review all maternal deaths ~~occurring on or after January 1, 2014,~~ in the
12 manner provided in this subsection.

13 (b) The members shall review the maternal death case abstracts in
14 accordance with evidence-based best practices in order to determine: (a)
15 If the death is pregnancy-related; (b) the cause of death; (c) if the
16 death was preventable; (d) the factors that contributed to the death; (e)
17 recommendations and actions that address those contributing factors; and
18 (f) the anticipated impact of those actions if implemented ~~death~~
19 ~~certificate, coroner's report or autopsy report if done, and indicators~~
20 ~~of the woman's involvement with the department. The members shall~~
21 ~~classify the nature of the death, whether accidental, homicide, suicide,~~
22 ~~undetermined, or natural causes, determine the completeness of the death~~
23 ~~certificate, and identify discrepancies and inconsistencies.~~

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

30 Sec. 6. Section 71-3410, Reissue Revised Statutes of Nebraska, is
31 amended to read:

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

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

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

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

22 Sec. 7. Section 71-3411, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 71-3411 (1)(a) All information and records acquired by the teams
25 ~~team~~ in the exercise of their ~~its~~ purposes and duties pursuant to the
26 Child and Maternal Death Review Act shall be confidential and exempt from
27 disclosure and may only be disclosed as provided in this section and as
28 provided in section 71-3407. Statistical compilations of data made by the
29 teams ~~team~~ which do not contain any information that would permit the
30 identification of any person to be ascertained shall be public records.

31 (b) De-identified information and records obtained by the teams ~~team~~

1 may be released to a researcher, upon proof of identity and
2 qualifications of the researcher, if the researcher is employed by a
3 research organization, university, institution, or government agency and
4 is conducting scientific, medical, or public health research and if there
5 is no publication or disclosure of any name or facts that could lead to
6 the identity of any person included in the information or records. Such
7 release shall provide for a written agreement with the Department of
8 Health and Human Services providing protection of the security of the
9 content of the information, including access limitations, storage of the
10 information, destruction of the information, and use of the information.
11 The release of such information pursuant to this subdivision shall not
12 make otherwise confidential information a public record.

13 (c) De-identified information and records obtained by the teams ~~team~~
14 may be released to the United States Public Health Service or its
15 successor, a government health agency, or a local public health
16 department as defined in section 71-1626 if there is no publication or
17 disclosure of any name or facts that could lead to the identity of any
18 person included in the information or records. Such release shall provide
19 for protection of the security of the content of the information,
20 including access limitations, storage of the information, destruction of
21 the information, and use of the information. The release of such
22 information pursuant to this subdivision shall not make otherwise
23 confidential information a public record.

24 (2) Except as necessary to carry out the teams' ~~a team's~~ purposes
25 and duties, members of the teams ~~a team~~ and persons attending a team
26 meetings ~~meeting~~ may not disclose what transpired at the meetings ~~a~~
27 ~~meeting~~ and shall not disclose any information the disclosure of which is
28 prohibited by this section.

29 (3) Members of the teams ~~a team~~ and persons attending team meetings
30 ~~a team meeting~~ shall not testify in any civil, administrative, licensure,
31 or criminal proceeding, including depositions, regarding information

1 reviewed in or opinions formed as a result of team meetings ~~a team~~
2 ~~meeting~~. This subsection shall not be construed to prevent a person from
3 testifying to information obtained independently of the teams ~~team~~ or
4 which is public information.

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

12 Sec. 8. Original sections 71-3407, 71-3408, 71-3409, 71-3410, and
13 71-3411, Reissue Revised Statutes of Nebraska, and sections 71-3405 and
14 71-3406, Revised Statutes Cumulative Supplement, 2020, are repealed.