

AMENDMENTS TO LB1009

Introduced by Judiciary.

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

3 Section 1. Sections 1 to 10 of this act shall be known and may be
4 cited as the Domestic Abuse Death Review Act.

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

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

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

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

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

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

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

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

26 (4) Domestic abuse death means:

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

1 (b) The death of a decedent victim who was a member of a law
2 enforcement agency, emergency medical service, or other agency responding
3 to a domestic abuse incident;

4 (c) The death of a decedent victim who was responding to a domestic
5 abuse incident; or

6 (d) A suicide of a decedent victim if there are circumstances
7 indicating the suicide involved, or was the result of, domestic abuse
8 within two years prior to the suicide, including: (i) The decedent victim
9 had applied for or received a protection order against the perpetrator
10 within two years prior to the suicide; (ii) the decedent victim had
11 received counseling, treatment, or sought other supportive services as a
12 result of the domestic abuse within two years prior to the suicide; or
13 (iii) the decedent victim had reported domestic abuse to law enforcement
14 within two years prior to the suicide;

15 (5) Family or household member has the same meaning as in section
16 42-903;

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

19 (7) Law enforcement agency means the police department or town
20 marshal in incorporated municipalities, the office of the county sheriff,
21 and the Nebraska State Patrol;

22 (8) Perpetrator means the person who has been the predominant
23 aggressor of domestic abuse;

24 (9) Survivor of domestic abuse means a person who is a current or
25 prior victim of domestic abuse; and

26 (10) Team means the State Domestic Abuse Death Review Team as
27 provided in section 5 of this act.

28 Sec. 4. (1) A domestic abuse death investigation shall involve a
29 review of existing records, documents, and other information regarding
30 the decedent victim and perpetrator from relevant agencies,
31 professionals, providers of health care, and family and household members

1 of the decedent victim or perpetrator. The records to be reviewed may
2 include: Protection orders; dissolution, mediation, custody, and support
3 agreements and related court records; medical records; mental health
4 records; therapy records; autopsy reports; birth and death certificates;
5 court records, including juvenile cases and dismissed criminal cases;
6 social services records, including juvenile records; educational records;
7 emergency medical services records; Department of Correctional Services
8 information and records; parole and probation information and records;
9 and law enforcement agency investigative information and reports.

10 (2) Records shall not be made available to the team until the
11 criminal or juvenile legal system response is completed due to:

12 (a) The death of the perpetrator;

13 (b) The criminal conviction or acquittal of the perpetrator and any
14 codefendants;

15 (c) The conclusion of grand jury proceedings resulting in a no true
16 bill;

17 (d) Adjudication in a juvenile court proceeding pursuant to
18 subdivision (1), (2), or (4) of section 43-247;

19 (e) Completion of a criminal investigation in which the county
20 attorney declines to file charges; or

21 (f) Completion of the investigation of the suicide of the decedent
22 victim.

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

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

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

27 (b) A representative who is an employee of a statewide coalition
28 representing nonprofit organizations that have an affiliation agreement
29 with the Department of Health and Human Services to provide services to
30 victims of domestic abuse under the Protection from Domestic Abuse Act;

31 (c) A representative who is an employee of a nonprofit organization

1 that primarily provides services and support to victims of domestic abuse
2 in metropolitan areas;

3 (d) A representative who is an employee of a nonprofit organization
4 that primarily provides services and support to victims of domestic abuse
5 in rural areas;

6 (e) A representative who is an employee of child advocacy centers;

7 (f) A representative who is a member of a federally recognized
8 Indian tribe residing within the State of Nebraska with preference given
9 to a person with experience in domestic abuse;

10 (g) A licensed physician or nurse with experience in forensics who
11 is knowledgeable concerning domestic abuse injuries and deaths in
12 Nebraska;

13 (h) A licensed mental health professional who is knowledgeable
14 concerning domestic abuse in Nebraska;

15 (i) An officer of a law enforcement agency from a metropolitan
16 jurisdiction with experience investigating domestic abuse in Nebraska;

17 (j) An officer of a law enforcement agency from a rural jurisdiction
18 with experience investigating domestic abuse in Nebraska;

19 (k) An active county attorney or active deputy county attorney with
20 experience prosecuting domestic abuse cases in Nebraska;

21 (l) An attorney from the office of the Attorney General; and

22 (m) The team coordinator pursuant to subsection (4) of this section.

23 (3) The remaining members of the State Domestic Abuse Death Review
24 Team shall be appointed as follows: (a) The Superintendent of Law
25 Enforcement and Public Safety or designee shall appoint an employee
26 representative of the Nebraska State Patrol; (b) the chief executive
27 officer of the Department of Health and Human Services shall appoint an
28 employee representative of the department; and (c) the probation
29 administrator shall appoint an employee representative of the Office of
30 Probation Administration.

31 (4) The Attorney General shall be responsible for the general

1 administration of the activities of the team and shall employ or contract
2 with a team coordinator to provide administrative support for the team.

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

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

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

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

15 (a) Conducting investigations to understand the contributing factors
16 in domestic abuse deaths;

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

19 (c) Developing recommendations for changes within communities,
20 public and private agencies, institutions, and systems, based on an
21 analysis of the causes and contributing factors of domestic abuse deaths.

22 (2) The team shall:

23 (a) Develop protocols for investigations and to maintain the
24 confidentiality of information made available to the team;

25 (b) Meet a minimum of four times per year and upon the call of the
26 team coordinator selected under section 5 of this act, the request of a
27 state agency, or as determined by a majority of the team;

28 (c) Provide the Governor, the Legislature, and the Attorney General
29 with an annual electronic report on or before August 15 each year
30 beginning with the fiscal year ending June 30, 2024. The report shall not
31 contain personal identifying information of any decedent victim,

1 associated victim, or perpetrator. The report shall be available to the
2 public and include the following:

3 (i) The causes, manner, and contributing factors of domestic abuse
4 deaths in Nebraska, including trends and patterns and an analysis of
5 information obtained through investigations; and

6 (ii) Recommendations regarding the prevention of future domestic
7 abuse deaths for changes within communities, public and private agencies,
8 institutions, and systems, based on an analysis of such causes and
9 contributing factors. Such recommendations shall include recommended
10 changes to laws, rules and regulations, policies, training needs, or
11 service gaps to prevent future domestic abuse deaths;

12 (d) When appropriate, advise and consult with relevant agencies and
13 organizations represented on the team or involved in domestic abuse
14 deaths regarding the recommendations to prevent future domestic abuse
15 deaths; and

16 (e) When appropriate, educate the public regarding the incidence of
17 domestic abuse deaths, the public role in preventing domestic abuse
18 deaths, and specific steps the public can take to prevent domestic abuse
19 deaths. The team may enlist the support of civic, philanthropic, and
20 public service organizations in the performance of its educational
21 duties.

22 (3) The team may invite other individuals to participate on the team
23 on an ad-hoc basis for a particular investigation. Such individuals may
24 include those with expertise that would aid in the investigation and
25 representatives from organizations or agencies that had contact with, or
26 provided services to, the decedent victim or associated victim. If the
27 domestic abuse death occurred on tribal lands or if the domestic abuse
28 death involves a member of a federally recognized Indian tribe,
29 additional agencies and tribal representatives may be invited to
30 participate.

31 (4) The team shall require any person appearing before it to sign a

1 confidentiality agreement to ensure that all the confidentiality
2 provisions of section 10 of this act are satisfied.

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

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

11 (7) The team may enter into written agreements with entities to
12 provide for the secure storage of electronic data based on information
13 and records collected by the team as part of an investigation, including
14 data that contains personal or incident identifiers. Such agreements
15 shall provide for the protection of the security and confidentiality of
16 the information, including access limitations, storage, and destruction
17 of the information. The confidentiality provisions of section 10 of this
18 act shall apply to the activities of the data storage entity.

19 (8) The team may consult and share information with the State Child
20 Death Review Team and the State Maternal Death Review Team when the
21 decedent victim or any associated victim is also involved in an
22 investigation of a child death or investigation of a maternal death under
23 the Child and Maternal Death Review Act. The confidentiality provisions
24 of section 10 of this act and section 71-3411 shall apply to the sharing
25 of information between these teams.

26 Sec. 7. (1) The team coordinator selected under section 5 of this
27 act shall (a) convene and lead meetings of the team and (b) ensure the
28 team provides recommendations to prevent domestic abuse deaths.

29 (2) The team coordinator shall (a) gather, store, and distribute the
30 necessary records and information for investigations made available to
31 the team, (b) ensure timely notification of the team members of upcoming

1 meetings, (c) ensure that all team reporting and data collection
2 requirements are met, (d) oversee adherence to the review process
3 established by the Domestic Abuse Death Review Act and the protocols
4 developed by the team, and (e) perform such other duties as the team
5 deems appropriate.

6 Sec. 8. The team shall conduct investigations in accordance with
7 best practices and shall review all relevant records and information in
8 an investigation to understand the relationship between the decedent
9 victim and the perpetrator in order to determine:

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

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

13 (3) The public and private systemic response to the decedent victim,
14 an associated victim, and the perpetrator; and

15 (4) Recommendations and actions that address the contributing
16 factors in the domestic abuse death for change within individuals,
17 communities, public and private agencies, institutions, and systems based
18 on an analysis of the causes and contributing factors of domestic abuse
19 deaths.

20 Sec. 9. (1) For purposes of conducting an investigation, and as
21 necessary to fulfill the purposes of the Domestic Abuse Death Review Act,
22 the team shall be immediately provided the following upon request:

23 (a) Records, documents, or other information maintained by a health
24 care provider, mental health provider, or other medical professional,
25 including medical records, mental health records, therapy records, and
26 emergency medical services records; and

27 (b) All information and records maintained by any state agency,
28 county or local government, political subdivision, school district, or
29 public or private educational institution, including birth and death
30 certificates; protection orders; dissolution, mediation, custody, and
31 child support agreements; court records, including juvenile cases and

1 dismissed criminal cases; law enforcement agency investigative
2 information and reports; autopsy reports; educational records; Department
3 of Correctional Services information and records; parole and probation
4 information and records; and information and records of any social
5 services agency, including juvenile records, that provided services to
6 the decedent victim, an associated victim, or the perpetrator.

7 (2) Except as provided in section 4 of this act, the Attorney
8 General shall have the authority to issue subpoenas to compel production
9 of any of the records and information specified in this section.

10 (3) Any failure to respond to such subpoena shall be certified by
11 the Attorney General to the district court of Lancaster County for
12 enforcement or punishment for contempt of court.

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

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

30 (3) Except as necessary to carry out the team's purposes and duties,
31 members of the team and individuals attending a team meeting shall not

1 disclose any discussion among team members at a meeting and shall not
2 disclose any information prohibited from disclosure by this section.

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

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