

## LEGISLATIVE BILL 1041

Approved by the Governor April 14, 1998

Introduced by Matzke, 47; Brown, 6; Hillman, 48; D. Pederson, 42; Wesely, 26; Wickersham, 49; Maurstad, 30

AN ACT relating to children; to amend sections 30-2209, 30-2608, 43-108, 43-116, 43-160, 43-532, 43-1307, 43-1308, 43-1311, 43-1312, 43-1314, 43-1315, and 43-1316, Reissue Revised Statutes of Nebraska, sections 43-102, 43-104, 43-104.05, 43-105, 43-162 to 43-164, 43-246, 43-254, 43-285, 43-292, 43-533, 43-1303, 43-1318, and 43-1411, Revised Statutes Supplement, 1996, and sections 24-517, 25-2740, 33-107.01, 43-107, 43-113, 43-138, 43-146.11, 43-245, 43-247, 43-284, 43-2,129, 43-504, and 43-1411.01, Revised Statutes Supplement, 1997; to conform state law to the federal Adoption and Safe Families Act of 1997; to change county court and juvenile court jurisdiction; to change guardianship, adoption, juvenile code, assistance, family policy, and foster care provisions; to provide a grant program for county attorney services; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska.

Section 1. Section 24-517, Revised Statutes Supplement, 1997, is amended to read:

24-517. Each county court shall have the following jurisdiction:

(1) Exclusive original jurisdiction of all matters relating to decedents' estates, including the probate of wills and the construction thereof, except as provided in section 30-2486;

(2) Exclusive original jurisdiction in all matters relating to the guardianship of a person, except if a separate juvenile court already has jurisdiction over a child in need of a guardian, concurrent original jurisdiction with the separate juvenile court in such guardianship;

(3) Exclusive original jurisdiction of all matters relating to ~~guardianship or~~ conservatorship of any person, including (a) original jurisdiction to consent to and authorize a voluntary selection, partition, and setoff of a ward's interest in real estate owned in common with others and to exercise any right of the ward in connection therewith which the ward could exercise if competent and (b) original jurisdiction to license the sale of such real estate for cash or on such terms of credit as shall seem best calculated to produce the highest price subject only to the requirements set forth in section 30-3201;

~~(4)~~ (4) Concurrent jurisdiction with the district court to involuntarily partition a ward's interest in real estate owned in common with others;

~~(5)~~ (5) Concurrent original jurisdiction with the district court in all civil actions of any type when the amount in controversy does not exceed fifteen thousand dollars. When the pleadings or discovery proceedings in a civil action indicate an amount in controversy may exceed fifteen thousand dollars, the county court shall certify the proceedings to the district court as provided in section 25-2706;

~~(6)~~ (6) Concurrent original jurisdiction with the district court in any criminal matter classified as a misdemeanor or for any infraction;

~~(7)~~ (7) Concurrent original jurisdiction with the district court in domestic relations matters as defined in section 25-2740 and with the district court and separate juvenile court in paternity determinations as provided in section 25-2740;

~~(8)~~ (8) Exclusive original jurisdiction in any action based on violation of a city or village ordinance;

~~(9)~~ (9) Exclusive original jurisdiction in ~~all~~ juvenile matters, ~~except~~ in counties which have not established separate juvenile courts;

~~(10)~~ (10) Exclusive original jurisdiction in ~~all~~ matters of adoption, except if a separate juvenile court already has jurisdiction over the child to be adopted, concurrent original jurisdiction with the separate juvenile court; and

~~(11)~~ (11) All other jurisdiction heretofore provided and not specifically repealed by Laws 1972, Legislative Bill 1032, and such other jurisdiction as hereafter provided by law.

Sec. 2. Section 25-2740, Revised Statutes Supplement, 1997, is amended to read:

25-2740. (1) For purposes of this section:

(a) Domestic relations matters means ~~all~~ proceedings under the Conciliation Court Law and sections 42-347 to 42-381 (including dissolution, separation, annulment, custody, and support), section 43-512.04 (including child support or medical support), section 42-924 (including domestic protection orders), sections 43-1401 to 43-1418 (including paternity determinations and parental support), and sections 43-1801 to 43-1803 (including grandparent visitation); and

(b) Paternity determinations means proceedings to establish the paternity of a child under sections 43-1411 to 43-1418.

(2) Except as provided in subsection (4) of this section, in all domestic relations matters, a party shall file his or her petition and all other court filings with the clerk of the district court. The party shall state in the petition whether such party requests that the proceeding be heard by a county court judge or by a district court judge. If the party requests the case be heard by a county court judge, the county court judge assigned to hear cases in the county in which the matter is filed at the time of the hearing is deemed appointed by the district court and the consent of the county court judge is not required. Such proceeding is considered a district court proceeding, even if heard by a county court judge, and an order or judgment of the county court in a domestic relations matter has the force and effect of a district court judgment. The testimony in a domestic relations matter heard before a county court judge shall be preserved as provided in section 25-2732.

(3) Until January 1, 2000, upon motion of a party in a contested action brought under subsection (2) of this section, the proceeding shall be transferred from a county court judge to a district court judge.

(4) In addition to the jurisdiction provided for paternity determinations under subsection (2) of this section, a county court or separate juvenile court which already has jurisdiction over the child whose paternity is to be determined has jurisdiction over such paternity determination.

Sec. 3. Section 30-2209, Reissue Revised Statutes of Nebraska, is amended to read:

30-2209. Subject to additional definitions contained in the subsequent articles which are applicable to specific articles or parts, and unless the context otherwise requires, in the Nebraska Probate Code:

(1) Application means a written request to the registrar for an order of informal probate or appointment under part 3 of Article 24.

(2) Beneficiary, as it relates to trust beneficiaries, includes a person who has any present or future interest, vested or contingent, and also includes the owner of an interest by assignment or other transfer, and as it relates to a charitable trust includes any person entitled to enforce the trust.

(3) Child includes any individual entitled to take as a child under the code by intestate succession from the parent whose relationship is involved and excludes any person who is only a stepchild, a foster child, or a grandchild or any more remote descendant.

(4) Claim, in respect to estates of decedents and protected persons, includes liabilities of the decedent or protected person whether arising in contract, in tort or otherwise, and liabilities of the estate which arise at or after the death of the decedent or after the appointment of a conservator, including funeral expenses and expenses of administration. The term does not include estate or inheritance taxes, demands or disputes regarding title of a decedent or protected person to specific assets alleged to be included in the estate.

(5) Court means the court or branch having jurisdiction in matters relating to the affairs of decedents. This court in this state is known as county court or, for purposes of guardianship of a juvenile over which a separate juvenile court already has jurisdiction, the county court or separate juvenile court.

(6) Conservator means a person who is appointed by a court to manage the estate of a protected person.

(7) Devise, when used as a noun, means a testamentary disposition of real or personal property and, when used as a verb, means to dispose of real or personal property by will.

(8) Devisee means any person designated in a will to receive a devise. In the case of a devise to an existing trust or trustee, or to a trustee on trust described by will, the trust or trustee is the devisee and the beneficiaries are not devisees.

(9) Disability means cause for a protective order as described by section 30-2630.

(10) Disinterested witness to a will means any individual who acts as a witness to a will and is not an interested witness to such will.

(11) Distributee means any person who has received property of a decedent from his or her personal representative other than as a creditor or purchaser. A testamentary trustee is a distributee only to the extent of distributed assets or increment thereto remaining in his or her hands. A beneficiary of a testamentary trust to whom the trustee has distributed property received from a personal representative is a distributee of the personal representative. For purposes of this provision, testamentary trustee includes a trustee to whom assets are transferred by will, to the extent of the devised assets.

(12) Estate includes the property of the decedent, trust, or other person whose affairs are subject to the Nebraska Probate Code as originally constituted and as it exists from time to time during administration.

(13) Exempt property means that property of a decedent's estate which is described in section 30-2323.

(14) Fiduciary includes personal representative, guardian, conservator, and trustee.

(15) Foreign personal representative means a personal representative of another jurisdiction.

(16) Formal proceedings mean those conducted before a judge with notice to interested persons.

(17) Guardian means a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment, but excludes one who is merely a guardian ad litem.

(18) Heirs mean those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

(19) Incapacitated person is as defined in section 30-2601.

(20) Informal proceedings mean those conducted without notice to interested persons by an officer of the court acting as a registrar for probate of a will or appointment of a personal representative.

(21) Interested person includes heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent, ward, or protected person which may be affected by the proceeding. It also includes persons having priority for appointment as personal representative, and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding.

(22) Interested witness to a will means any individual who acts as a witness to a will at the date of its execution and who is or would be entitled to receive any property thereunder if the testator then died under the circumstances existing at the date of its execution, but does not include any individual, merely because of such nomination, who acts as a witness to a will by which he or she is nominated as personal representative, conservator, guardian, or trustee.

(23) Issue of a person means all his or her lineal descendants of all generations, with the relationship of parent and child at each generation being determined by the definitions of child and parent contained in the Nebraska Probate Code.

(24) Lease includes an oil, gas, or other mineral lease.

(25) Letters include letters testamentary, letters of guardianship, letters of administration, and letters of conservatorship.

(26) Minor means an individual under nineteen years of age, but in case any person marries under the age of nineteen years his or her minority ends.

(27) Mortgage means any conveyance, agreement, or arrangement in which property is used as security.

(28) Nonresident decedent means a decedent who was domiciled in another jurisdiction at the time of his or her death.

(29) Notice means compliance with the requirements of notice pursuant to subdivisions (a)(1) and (a)(2) of section 30-2220.

(30) Organization includes a corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, or association, two or more persons having a joint or common interest, or any other legal entity.

(31) Parent includes any person entitled to take, or who would be entitled to take if the child died without a will, as a parent under the Nebraska Probate Code, by intestate succession from the child whose relationship is in question and excludes any person who is only a stepparent, foster parent, or grandparent.

(32) Person means an individual, a corporation, an organization, a limited liability company, or other legal entity.

(33) Personal representative includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.

(34) Petition means a written request to the court for an order after notice.

(35) Proceeding includes action at law and suit in equity, but does not include a determination of inheritance tax under Chapter 77, article 20, or estate tax apportionment as provided in sections 77-2108 to 77-2112.

(36) Property includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

(37) Protected person is as defined in section 30-2601.

(38) Protective proceeding is as defined in section 30-2601.

(39) Registrar refers to the official of the court designated to perform the functions of registrar as provided in section 30-2216.

(40) Relative or relation of a person means all persons who are related to him or her by blood or legal adoption.

(41) Security includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease, collateral-trust certificate, transferable share, voting-trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation, any temporary or interim certificate, receipt, or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing.

(42) Settlement, in reference to a decedent's estate, includes the full process of administration, distribution, and closing.

(43) Special administrator means a personal representative as described by sections 30-2457 to 30-2461.

(44) State includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

(45) Successor personal representative means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

(46) Successors mean those persons, other than creditors, who are entitled to property of a decedent under his or her will or the Nebraska Probate Code.

(47) Supervised administration refers to the proceedings described in Article 24, part 5.

(48) Testacy proceeding means a proceeding to establish a will or determine intestacy.

(49) Testator means the maker of a will.

(50) Trust includes any express trust, private or charitable, with additions thereto, wherever and however created. It also includes a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. Trust excludes other constructive trusts, and it excludes resulting trusts, conservatorships, personal representatives, trust accounts as defined in Article 27, custodial arrangements pursuant to the Nebraska Uniform Transfers to Minors Act, business trusts providing for certificates to be issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind, and any arrangement under which a person is nominee or escrowee for another.

(51) Trustee includes an original, additional, or successor trustee, whether or not appointed or confirmed by court.

(52) Ward is as defined in section 30-2601.

(53) Will means any instrument, including any codicil or other testamentary instrument complying with sections 30-2326 to 30-2338, which disposes of personal or real property, appoints a personal representative, conservator, guardian, or trustee, revokes or revises an earlier executed testamentary instrument, or encompasses any one or more of such objects or purposes.

Sec. 4. Section 30-2608, Reissue Revised Statutes of Nebraska, is amended to read:

30-2608. (a) The father and mother are the natural guardians of their minor children and are duly entitled to their custody and to direct their education, being themselves competent to transact their own business and not otherwise unsuitable. If either dies or is disqualified for acting, or has abandoned his or her family, the guardianship devolves upon the other

except as otherwise provided in this section.

(b) In the appointment of a parent as a guardian when the other parent has died and the child was born out of wedlock, the court shall consider the wishes of the deceased parent as expressed in a valid will executed by the deceased parent. If in such valid will the deceased parent designates someone other than the other natural parent as guardian for the minor children, the court shall take into consideration the designation by the deceased parent. In determining whether or not the natural parent should be given priority in awarding custody, the court shall also consider the natural parent's acknowledgment of paternity, payment of child support, and whether the natural parent is a fit, proper, and suitable custodial parent for the child.

(c) The court may appoint a standby guardian for a minor whose parent is chronically ill or near death. The appointment of a guardian under this subsection does not suspend or terminate the parent's parental rights of custody to the minor. The standby guardian's authority would take effect, if the minor is left without a remaining parent, upon (1) the death of the parent, (2) the mental incapacity of the parent, or (3) the physical debilitation and consent of the parent.

(d) The court may appoint a guardian for a minor if all parental rights of custody have been terminated or suspended by prior or current circumstances or prior court order. A guardian appointed by will as provided in section 30-2606 whose appointment has not been prevented or nullified under section 30-2607 has priority over any guardian who may be appointed by the court but the court may proceed with an appointment upon a finding that the testamentary guardian has failed to accept the testamentary appointment within thirty days after notice of the guardianship proceeding.

Sec. 5. Section 33-107.01, Revised Statutes Supplement, 1997, is amended to read:

33-107.01. A legal services fee of two dollars shall be taxed as costs in each case filed in each separate juvenile court and district court, including appeals to such courts, and on each case filed in each county court except those filed in county court pursuant to its jurisdiction under subdivision ~~44~~ (5) of section 24-517 or section 25-2802. A legal services fee of two dollars shall be taxed as costs for each appeal and original action filed in the Court of Appeals and the Supreme Court. Such fees shall be remitted to the State Treasurer on forms prescribed by the State Treasurer within ten days after the close of each month for credit to the Legal Aid and Services Fund.

Sec. 6. Section 43-102, Revised Statutes Supplement, 1996, is amended to read:

43-102. Except as otherwise provided in the Nebraska Indian Child Welfare Act, any person or persons desiring to adopt a minor child or an adult child of such person's spouse shall file ~~in the county court of the county in which the person or persons desiring to adopt such child reside,~~ a petition for adoption signed and sworn to by the person or persons desiring to adopt. ~~The consent or consents required by sections 43-104 or sections 43-104 and 43-105 or section 43-104.07, the documents required by section 43-104.07 or the documents required by sections 43-104.08 to 43-104.24, and a completed preplacement adoptive home study if required by section 43-107 shall be filed prior to the hearing required in section 43-103.~~

The county court of the county in which the person or persons desiring to adopt the child reside has jurisdiction of adoption proceedings, except that if a separate juvenile court already has jurisdiction over the child to be adopted under the Nebraska Juvenile Code, such separate juvenile court has concurrent jurisdiction with the county court in such adoption proceeding.

Except as set out in subdivisions (1)(b)(ii), (iii), and (iv) of section 43-107, an adoption decree shall not be issued until at least six months after an adoptive home study has been completed by the department or a licensed child placement agency.

Sec. 7. Section 43-104, Revised Statutes Supplement, 1996, is amended to read:

43-104. Except as otherwise provided in the Nebraska Indian Child Welfare Act, no adoption shall be decreed unless ~~the petition therefor is accompanied by~~ written consents thereto ~~are filed in the court of the county in which the person or persons desiring to adopt reside and the written consents are~~ executed by (1) the minor child, if over fourteen years of age, or the adult child of the adopting person's spouse, (2) any district court, county court, or separate juvenile court in the State of Nebraska having jurisdiction of the custody of a minor child by virtue of divorce proceedings had in any district court, county court, or separate juvenile court in the

State of Nebraska or by virtue of section 43-1203, and (3) both parents of a child born in lawful wedlock if living, the surviving parent of a child born in lawful wedlock, the mother of a child born out of wedlock, or both the mother and father of a child born out of wedlock as determined pursuant to sections 43-104.08 to 43-104.24, except that consent shall not be required of any parent who (a) has relinquished the child for adoption by a written instrument, (b) has abandoned the child for at least six months next preceding the filing of the adoption petition, (c) has been deprived of his or her parental rights to such child by the order of any court of competent jurisdiction, or (d) is incapable of consenting.

Sec. 8. Section 43-104.05, Revised Statutes Supplement, 1996, is amended to read:

43-104.05. If a notice of intent to claim paternity and obtain custody is timely filed with the biological father registry pursuant to section 43-104.02, either the claimant-father, the mother, or her agent specifically designated in writing shall, within thirty days after filing the notice, file a petition in the county court in the county where such child is a resident for an adjudication of the claim of paternity and right to custody. If such a petition is not filed within thirty days after filing the notice, the claimant-father's consent to adoption of the child shall not be required and any alleged parental rights of the claimant-father shall not be recognized thereafter in any court. After the filing of such petition, the court shall set a hearing date upon proper notice to the parties not less than ten nor more than twenty days after such filing. If the mother contests the claim of paternity, the court shall take such testimony as shall enable it to determine the facts. The claimant-father's rights and the custody of the child shall be determined pursuant to section 43-104.22. The court shall appoint a guardian ad litem to represent the best interests of the child.

Sec. 9. Section 43-105, Revised Statutes Supplement, 1996, is amended to read:

43-105. If consent is not required of both parents of a child born in lawful wedlock if living, the surviving parent of a child born in lawful wedlock, or the mother or mother and father of a child born out of wedlock, because of the provisions of subdivision (3) of section 43-104, substitute consents shall be filed as follows: (1) Consent to the adoption of a minor child who has been committed to the Department of Health and Human Services may be given by the department or its duly authorized agent in accordance with section 43-906; (2) when a parent has relinquished a minor child for adoption to any child placement agency licensed or approved by the department or its duly authorized agent, consent to the adoption of such child may be given by such agency; and (3) in all other cases when consent cannot be given as provided in subdivision (3) of section 43-104, consent shall be given by the guardian or guardian ad litem of such minor child appointed by a court, which consent shall be authorized by the court having jurisdiction of such guardian or guardian ad litem. Substitute consent provisions of this section do not apply to a biological father whose consent is not required under section 43-104.22.

Sec. 10. Section 43-107, Revised Statutes Supplement, 1997, is amended to read:

43-107. (1)(a) For adoption placements occurring or in effect prior to January 1, 1994, upon the filing of a petition for adoption, the county judge shall, except in the adoption of children by stepparents when the requirement of an investigation is discretionary, request the Department of Health and Human Services or any child placement agency licensed by the department to examine into the allegations set forth in the petition and to ascertain any other facts relating to such minor child and the person or persons petitioning to adopt such child as may be relevant to the propriety of such adoption, except that the county judge shall not be required to request such an examination if the judge determines that information compiled in a previous examination or study is sufficiently current and comprehensive. Upon the request being made, the department or other licensed agency shall conduct an investigation and report its findings to the county judge in writing at least one week prior to the date set for hearing.

(b)(i) For adoption placements occurring on or after January 1, 1994, upon the filing of a petition for adoption, a preplacement adoptive home study shall be filed with the county court prior to the hearing required in section 43-103, which study is completed by the Department of Health and Human Services or a licensed child placement agency within one year before the date on which the adoptee is placed with the petitioner or petitioners and indicates that the placement of a child for the purpose of adoption would be safe and appropriate.

(ii) An adoptive home study shall not be required when the

petitioner is a stepparent of the adoptee unless required by the court, except that for petitions filed on or after January 1, 1994, the county judge shall order the petitioner or his or her attorney to request the Nebraska State Patrol to file a Nebraska criminal history record information check and to request the department to conduct and file a check of the central register created in section 28-718 for any history of the petitioner of behavior injurious to or which may endanger the health or morals of a child. An adoption decree shall not be issued until such records are on file with the court. The petitioner shall pay the cost of the Nebraska criminal history record information check and the check of the central register.

(iii) The placement of a child for foster care made by or facilitated by the department or a licensed child placement agency in the home of a person who later petitions the court to adopt the child shall be exempt from the requirements of a preplacement adoptive home study. The petitioner or petitioners who meet such criteria shall have a postplacement adoptive home study completed by the department or a licensed child placement agency and filed with the county court at least one week prior to the hearing for adoption.

(iv) A voluntary placement for purposes other than adoption made by a parent or guardian of a child without assistance from an attorney, physician, or other individual or agency which later results in a petition for the adoption of the child shall be exempt from the requirements of a preplacement adoptive home study. The petitioner or petitioners who meet such criteria shall have a postplacement adoptive home study completed by the department or a licensed child placement agency and filed with the county court at least one week prior to the hearing for adoption.

(v) Any adoptive home study required by this section shall be conducted by the department or a licensed child placement agency at the expense of the petitioner or petitioners unless such expenses are waived by the department or licensed child placement agency. The department or licensed agency shall determine the fee or rate for the adoptive home study.

(vi) The preplacement or postplacement adoptive home study shall be performed as prescribed in rules and regulations of the department and shall include at a minimum an examination into the facts relating to the petitioner or petitioners as may be relevant to the propriety of such adoption. Such rules and regulations shall require an adoptive home study to include a Nebraska criminal history record information check and a check of the central register created in section 28-718 for any history of the petitioner or petitioners of behavior injurious to or which may endanger the health or morals of a child.

(2) Upon the filing of a petition for adoption, the county judge shall require that a complete medical history be provided on the child, except that in the adoption of a child by a stepparent the provision of a medical history shall be discretionary. A medical history shall be provided, if available, on the biological mother and father and their biological families, including, but not limited to, siblings, parents, grandparents, aunts, and uncles, unless the child is foreign born or was abandoned. The medical history or histories shall be reported on a form provided by the Department of Health and Human Services Finance and Support and filed along with the report of adoption as provided by section 71-626. If the medical history or histories do not accompany the report of adoption, the Department of Health and Human Services Finance and Support shall inform the county court and the State Court Administrator. The medical history or histories shall be made part of the court record. After the entry of a decree of adoption, the court shall retain a copy and forward the original medical history or histories to the Department of Health and Human Services Finance and Support. This subsection shall only apply when the relinquishment or consent for an adoption is given on or after September 1, 1988.

Sec. 11. Section 43-108, Reissue Revised Statutes of Nebraska, is amended to read:

43-108. The minor child to be adopted, unless such child is over fourteen years of age, and the person or persons desiring to adopt the child must appear in person before the county judge at the time of hearing, ~~except~~ ~~7~~ ~~PROVIDED,~~ that when the petitioners are husband and wife and one of them is present in court, the court, in its discretion, may accept the affidavit of an absent spouse who is in the armed forces of the United States and it appears to the court the absent spouse will not be able to be present in court for more than a year because of his or her military assignment, which affidavit sets forth that the absent spouse favors the adoption.

Sec. 12. Section 43-113, Revised Statutes Supplement, 1997, is amended to read:

43-113. Except as otherwise provided in the Nebraska Indian Child

Welfare Act, county court adoption records may not be inspected by the public and shall be permanently retained on microfilm or in their original form in accordance with the Records Management Act. No person shall have access to such records except that:

(1) Access shall be provided on the order of the county judge of the court in which the decree of adoption was entered on good cause shown or as provided in sections 43-138 to 43-140 or 43-146.11 to 43-146.13; or

(2) The clerk of the county court shall provide three certified copies of the decree of adoption to the parents who have adopted a child born in a foreign country and not then a citizen of the United States within three days after the decree of adoption is entered. A court order is not necessary to obtain these copies. Certified copies shall only be provided upon payment of applicable fees.

Sec. 13. Section 43-116, Reissue Revised Statutes of Nebraska, is amended to read:

43-116. When any county court in the State of Nebraska shall (1) have entered of record a decree of adoption prior to August 27, 1949, it shall be conclusively presumed that said such adoption and all instruments and proceedings in connection therewith are valid in all respects notwithstanding some defect or defects may appear on the face of the record, or the absence of any record of such court, unless an action shall be brought within two years from August 27, 1949, attacking its validity, or (2) hereafter enter of record such a decree of adoption, it shall in like manner be conclusively presumed that said the adoption and all instruments and proceedings in connection therewith are valid in all respects notwithstanding some defect or defects may appear on the face of the record, or the absence of any record of such court, unless an action is brought within two years from the entry of such decree of adoption attacking its validity.

Sec. 14. Section 43-138, Revised Statutes Supplement, 1997, is amended to read:

43-138. After being contacted by an adopted person, if no valid nonconsent form, as provided in section 43-132 or 43-143, is on file, the Department of Health and Human Services or agency as the case may be shall apply to the clerk of the county court which issued the adoption decree or the Department of Health and Human Services Finance and Support for any information in the records of the court or the Department of Health and Human Services Finance and Support regarding the adopted person or his or her relatives, including names, locations, and any birth, marriage, divorce, or death certificates. Any information which is available shall be given only to the Department of Health and Human Services or agency. The Department of Health and Human Services or agency shall keep such information confidential and shall not disclose it either directly or indirectly to the adopted person. The provisions of this section shall not apply to persons subject to the Nebraska Indian Child Welfare Act.

Sec. 15. Section 43-146.11, Revised Statutes Supplement, 1997, is amended to read:

43-146.11. After being contacted by an adopted person as provided in section 43-146.10, the Department of Health and Human Services or agency, as the case may be, shall verify with the Department of Health and Human Services Finance and Support that no unrevoked nonconsent form is on file. If an unrevoked nonconsent form is not on file, the Department of Health and Human Services or agency, as the case may be, shall apply to the clerk of the county court which issued the adoption decree or the Department of Health and Human Services Finance and Support for any information in the court or Department of Health and Human Services Finance and Support records regarding the adopted person or his or her relatives, including names, locations, and any birth, marriage, divorce, or death certificates. Any information which is available shall be given by the court or Department of Health and Human Services Finance and Support only to the Department of Health and Human Services or agency. The Department of Health and Human Services or agency shall keep such information confidential.

Sec. 16. Section 43-160, Reissue Revised Statutes of Nebraska, is amended to read:

43-160. The existence of any agreement or agreements of the kind specified in section 43-158 shall not operate to impair the validity of any relinquishment or any decree of adoption entered by a county court of the State of Nebraska. The violation of the terms of any agreement or agreements of the kind specified in section 43-158 shall not operate to impair the validity of any relinquishment or any decree of adoption entered by a court of competent jurisdiction. The parties to an exchange-of-information contract shall have the authority to bring suit in a court of competent jurisdiction for the enforcement of any agreement entered into pursuant to section 43-158.



Sec. 17. Section 43-162, Revised Statutes Supplement, 1996, is amended to read:

43-162. The prospective adoptive parent or parents and the birth parent or parents of a prospective adoptee may enter into an agreement regarding communication or contact after the adoption between or among the prospective adoptee and his or her birth parent or parents if the prospective adoptee is in the custody of the Department of Health and Human Services. Any such agreement shall not be enforceable unless approved by the county court pursuant to section 43-163.

Sec. 18. Section 43-163, Revised Statutes Supplement, 1996, is amended to read:

43-163. (1) Before approving an agreement under section 43-162, the county court shall appoint a guardian ad litem if the prospective adoptee is not already represented by a guardian ad litem, and the guardian ad litem of the prospective adoptee shall represent the best interests of the child concerning such agreement. The county court may enter an order approving the agreement upon motion of one of the prospective adoptee's birth parents or one of the prospective adoptive parents if the terms of the agreement are approved in writing by the prospective adoptive parent or parents and the birth parent or parents and if the court finds, after consideration of the recommendations of the guardian ad litem and the Department of Health and Human Services and other factors, that such communication with the birth parent or parents and the maintenance of birth family history would be in the best interests of the prospective adoptee.

(2) In determining if the agreement is in the best interests of the prospective adoptee, the county court shall consider the following factors as favoring communication with the birth parent or parents: Whether the prospective adoptee and birth parent or parents lived together for a substantial period of time; the prospective adoptee exhibits attachment or bonding to such birth parent or parents; and the adoption is a foster-parent adoption with the birth parent or parents having relinquished the prospective adoptee due to an inability to provide him or her with adequate parenting.

Sec. 19. Section 43-164, Revised Statutes Supplement, 1996, is amended to read:

43-164. Failure to comply with the terms of an order entered pursuant to section 43-163 shall not be grounds for setting aside an adoption decree, for revocation of a written consent to adoption after the consent has been approved by the county court, or for revocation of a relinquishment of parental rights after the relinquishment has been accepted in writing by the Department of Health and Human Services as provided in section 43-106.01.

Sec. 20. Section 43-245, Revised Statutes Supplement, 1997, is amended to read:

43-245. For purposes of the Nebraska Juvenile Code, unless the context otherwise requires:

(1) Age of majority means nineteen years of age;

(2) Cost or costs means (a) the sum or equivalent expended, paid, or charged for goods or services, or expenses incurred, or (b) the contracted or negotiated price;

(3) Juvenile means any person under the age of eighteen;

(4) Juvenile court means the separate juvenile court where it has been established pursuant to sections 43-2,111 to 43-2,127 and the county court sitting as a juvenile court in all other counties. Nothing in the Nebraska Juvenile Code shall be construed to deprive the district courts and, on and after October 1, 1997, the county courts and district courts, of their habeas corpus, common-law, or chancery jurisdiction or jurisdiction acquired in an action for divorce, legal separation, or annulment. the county courts and district courts of jurisdiction of domestic relations matters as defined in section 25-2740;

(5) Mental health facility means a mental health center as defined in section 83-1006 or a government, private, or state hospital which treats mental illness;

(6) Parent means one or both parents or a stepparent when such stepparent is married to the custodial parent as of the filing of the petition;

(7) Parties means the juvenile as described in section 43-247 and his or her parent, guardian, or custodian; and

(8) Except in proceedings under the Nebraska Indian Child Welfare Act, relative means father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece; and

~~(9)~~ (9) Traffic offense means any nonfelonious act in violation of a law or ordinance regulating vehicular or pedestrian travel, whether designated

a misdemeanor or a traffic infraction.

Sec. 21. Section 43-246, Revised Statutes Supplement, 1996, is amended to read:

43-246. Acknowledging the responsibility of the juvenile court to act to preserve the public peace and security, the Nebraska Juvenile Code shall be construed to effectuate the following:

(1) To assure the rights of all juveniles to care and protection and a safe and stable living environment and to development of their capacities for a healthy personality, physical well-being, and useful citizenship and to protect the public interest;

(2) To provide for the intervention of the juvenile court in the interest of any juvenile who is within the provisions of the Nebraska Juvenile Code, with due regard to parental rights and capacities and the availability of nonjudicial resources;

(3) To remove juveniles who are within the Nebraska Juvenile Code from the criminal justice system whenever possible and to reduce the possibility of their committing future law violations through the provision of social and rehabilitative services to such juveniles and their families;

(4) To achieve the foregoing purposes in the juvenile's own home whenever possible, separating the juvenile from his or her parent only when necessary for his or her welfare, the juvenile's health and safety being of paramount concern, or in the interest of public safety and, when temporary separation is necessary, to consider the developmental needs of the individual juvenile in all placements, to consider relatives as a preferred potential placement resource, and to make reasonable efforts to preserve and reunify the family if required under section 24 of this act; to assure every reasonable effort possible to reunite the juvenile and his or her family;

(5) To promote adoption, guardianship, or other permanent arrangements for children in the custody of the Department of Health and Human Services who are unable to return home;

(6) To provide a judicial procedure through which these purposes and goals are accomplished and enforced in which the parties are assured a fair hearing and their constitutional and other legal rights are recognized and enforced; and

(7) To assure compliance, in cases involving Indian children, with the Nebraska Indian Child Welfare Act.

Sec. 22. Section 43-247, Revised Statutes Supplement, 1997, is amended to read:

43-247. The juvenile court shall have exclusive original jurisdiction as to any juvenile defined in subdivision (1) of this section who is under the age of sixteen, as to any juvenile defined in subdivision (3) of this section, and as to the parties and proceedings provided in subdivisions (5), (6), and (8) of this section. As used in this section, all references to the juvenile's age shall be the age at the time the act which occasioned the juvenile court action occurred. The juvenile court shall have concurrent original jurisdiction with the district court as to any juvenile defined in subdivision (2) of this section. The juvenile court shall have concurrent original jurisdiction with the district court and county court as to any juvenile defined in subdivision (1) of this section who is age sixteen or seventeen, and any juvenile defined in subdivision (4) of this section, and any proceeding under subdivision (7) or (10) of this section. The juvenile court shall have concurrent original jurisdiction with the county court as to any proceeding under subdivision (9) of this section. Notwithstanding any disposition entered by the juvenile court under the Nebraska Juvenile Code, the juvenile court's jurisdiction over any individual adjudged to be within the provisions of this section shall continue until the individual reaches the age of majority or the court otherwise discharges the individual from its jurisdiction.

The juvenile court in each county as herein provided shall have jurisdiction of:

(1) Any juvenile who has committed an act other than a traffic offense which would constitute a misdemeanor or an infraction under the laws of this state, or violation of a city or village ordinance;

(2) Any juvenile who has committed an act which would constitute a felony under the laws of this state;

(3) Any juvenile (a) who is homeless or destitute, or without proper support through no fault of his or her parent, guardian, or custodian; who is abandoned by his or her parent, guardian, or custodian; who lacks proper parental care by reason of the fault or habits of his or her parent, guardian, or custodian; whose parent, guardian, or custodian neglects or refuses to provide proper or necessary subsistence, education, or other care necessary for the health, morals, or well-being of such juvenile; whose parent,

guardian, or custodian is unable to provide or neglects or refuses to provide special care made necessary by the mental condition of the juvenile; or who is in a situation or engages in an occupation dangerous to life or limb or injurious to the health or morals of such juvenile, (b) who, by reason of being wayward or habitually disobedient, is uncontrolled by his or her parent, guardian, or custodian; who deports himself or herself so as to injure or endanger seriously the morals or health of himself, herself, or others; or who is habitually truant from home or school, or (c) who is mentally ill and dangerous as defined in section 83-1009;

(4) Any juvenile who has committed an act which would constitute a traffic offense as defined in section 43-245;

(5) The parent, guardian, or custodian who has custody of any juvenile described in this section;

(6) The proceedings for termination of parental rights as provided in the Nebraska Juvenile Code;

(7) The proceedings for termination of parental rights as provided in section 42-364; and

(8) Any juvenile who has been voluntarily relinquished, pursuant to section 43-106.01, to the Department of Health and Human Services or any child placement agency licensed by the Department of Health and Human Services;

(9) The adoption or guardianship proceedings for a child over which the juvenile court already has jurisdiction under another provision of the Nebraska Juvenile Code; and

(10) The paternity determination for a child over which the juvenile court already has jurisdiction.

Notwithstanding the provisions of the Nebraska Juvenile Code, the determination of jurisdiction over any Indian child as defined in section 43-1503 shall be subject to the Nebraska Indian Child Welfare Act.

Sec. 23. Section 43-254, Revised Statutes Supplement, 1996, is amended to read:

43-254. Pending the adjudication of any case, if it appears that the need for placement or further detention exists, the juvenile may be (1) placed or detained a reasonable period of time on order of the court in the temporary custody of either the person having charge of the juvenile or some other suitable person, (2) kept in some suitable place provided by the city or county authorities, (3) placed in any proper and accredited charitable institution, (4) placed in a state institution, except any adult penal institution, when proper facilities are available and the only local facility is a city or county jail, at the expense of the committing county on a per diem basis as determined from time to time by the head of the particular institution, or (5) placed in the temporary care and custody of the Department of Health and Human Services when it does not appear that there is any need for detention in a locked facility. The court may assess the cost of such placement or detention in whole or in part to the parent of the juvenile as provided in section 43-290.

If a juvenile has been removed from his or her parent, guardian, or custodian pursuant to subdivision (3) of section 43-248, the court may enter an order continuing detention or placement only upon a written determination that continuation of the juvenile in his or her home would be contrary to the health, safety, or welfare of such juvenile and that reasonable efforts were made, prior to placement, to prevent or eliminate the need for removal and to make it possible for the juvenile to return to his or her home to preserve and reunify the family if required under subsections (1) through (4) of section 24 of this act.

Sec. 24. (1) In determining whether reasonable efforts have been made to preserve and reunify the family and in making such reasonable efforts, the juvenile's health and safety are the paramount concern.

(2) Except as provided in subsection (4) of this section, reasonable efforts shall be made to preserve and reunify families prior to the placement of a juvenile in foster care to prevent or eliminate the need for removing the juvenile from the juvenile's home and to make it possible for a juvenile to safely return to the juvenile's home.

(3) If continuation of reasonable efforts to preserve and reunify the family is determined to be inconsistent with the permanency plan determined for the juvenile in accordance with a permanency hearing under section 43-1312, efforts shall be made to place the juvenile in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the juvenile.

(4) Reasonable efforts to preserve and reunify the family are not required if a court of competent jurisdiction has determined that:

(a) The parent of the juvenile has subjected the juvenile to aggravated circumstances, including, but not limited to, abandonment, torture,

chronic abuse, or sexual abuse;

(b) The parent of the juvenile has (i) committed first or second degree murder to another child of the parent, (ii) committed voluntary manslaughter to another child of the parent, (iii) aided or abetted, attempted, conspired, or solicited to commit murder, or aided or abetted voluntary manslaughter of the juvenile or another child of the parent, or (iv) committed a felony assault which results in serious bodily injury to the juvenile or another minor child of the parent; or

(c) The parental rights of the parent to a sibling of the juvenile have been terminated involuntarily.

(5) If reasonable efforts to preserve and reunify the family are not required because of a court determination made under subsection (4) of this section, a permanency hearing, as provided in section 43-1312, shall be held for the juvenile within thirty days after the determination, reasonable efforts shall be made to place the juvenile in a timely manner in accordance with the permanency plan, and whatever steps are necessary to finalize the permanent placement of the juvenile shall be made.

(6) Reasonable efforts to place a juvenile for adoption or with a guardian may be made concurrently with reasonable efforts to preserve and reunify the family, but priority shall be given to preserving and reunifying the family as provided in this section.

Sec. 25. Section 43-284, Revised Statutes Supplement, 1997, is amended to read:

43-284. When any juvenile is adjudged to be under subdivision (3) or (4) of section 43-247, the court may permit such juvenile to remain in his or her own home subject to supervision or may make an order committing the juvenile to (1) the care of some suitable institution, (2) inpatient or outpatient treatment at a mental health facility or mental health program, (3) the care of some reputable citizen of good moral character, (4) the care of some association willing to receive the juvenile embracing in its objects the purpose of caring for or obtaining homes for such juveniles, which association shall have been accredited as provided in section 43-296, (5) the care of a suitable family, or (6) the care and custody of the Department of Health and Human Services.

Under subdivision (1), (2), (3), (4), or (5) of this section, upon a determination by the court that there are no parental, private, or other public funds available for the care, custody, education, and maintenance of a juvenile, the court may order a reasonable sum for the care, custody, education, and maintenance of the juvenile to be paid out of a fund which shall be appropriated annually by the county where the petition is filed until suitable provisions may be made for the juvenile without such payment.

The amount to be paid by a county for education pursuant to this section shall not exceed the average cost for education of a public school student in the county in which the juvenile is placed and shall be paid only for education in kindergarten through grade twelve.

The court may enter a dispositional order removing a juvenile from his or her home only upon a written determination that continuation in the home would be contrary to the health, safety, or welfare of such juvenile and that reasonable efforts to preserve and reunify the family have been made to prevent or eliminate the need for removal of the juvenile from his or her home and to make it possible for the juvenile to return if required under section 24 of this act.

Sec. 26. Section 43-285, Revised Statutes Supplement, 1996, is amended to read:

43-285. (1) When the court awards a juvenile to the care of the Department of Health and Human Services, an association, or an individual in accordance with the Nebraska Juvenile Code, the juvenile shall, unless otherwise ordered, become a ward and be subject to the guardianship of the department, association, or individual to whose care he or she is committed. Any such association and the department shall have authority, by and with the assent of the court, to determine the care, placement, medical services, psychiatric services, training, and expenditures on behalf of each juvenile committed to it. Such guardianship shall not include the guardianship of any estate of the juvenile.

(2) Following an adjudication hearing at which a juvenile is adjudged to be under subdivision (3) of section 43-247, the court may order the department to prepare and file with the court a proposed plan for the care, placement, and services, and permanency which are to be provided to such juvenile and his or her family. The health and safety of the juvenile shall be the paramount concern in the proposed plan. The department shall include in the plan for a juvenile who is sixteen years of age or older and subject to the guardianship of the department a written proposal describing programs and

services designed to assist the juvenile in acquiring independent living skills. If any other party, including, but not limited to, the guardian ad litem, parents, county attorney, or custodian, proves by a preponderance of the evidence that the department's plan is not in the juvenile's best interests, the court shall disapprove the department's plan. The court may modify the plan, order that an alternative plan be developed, or implement another plan that is in the juvenile's best interests. In its order the court shall include a finding regarding the appropriateness of the programs and services described in the proposal designed to assist the juvenile in acquiring independent living skills. Rules of evidence shall not apply at the dispositional hearing when the court considers the plan that has been presented. The department or any other party may request a review of the court's order concerning the plan by a juvenile review panel as provided in section 43-287.04.

(3) Within thirty days after an order awarding a juvenile to the care of the department, an association, or an individual and until the juvenile reaches the age of majority, the department, association, or individual shall file with the court a report stating the location of the juvenile's placement and the needs of the juvenile in order to effectuate the purposes of subdivision (1) of section 43-246. The department, association, or individual shall file a report with the court once every six months or at shorter intervals if ordered by the court or deemed appropriate by the department, association, or individual. The department, association, or individual shall file a report and notice of placement change with the court and shall send copies of the notice to all interested parties at least seven days before the placement of the juvenile is changed from what the court originally considered to be a suitable family home or institution to some other custodial situation in order to effectuate the purposes of subdivision (1) of section 43-246. The court, on its own motion or upon the filing of an objection to the change by an interested party, may order a hearing to review such a change in placement and may order that the change be stayed until the completion of the hearing. Nothing in this section shall prevent the court on an ex parte basis from approving an immediate change in placement upon good cause shown. The department may make an immediate change in placement without court approval only if the juvenile is in a harmful or dangerous situation or when the foster parents request that the juvenile be removed from their home. Approval of the court shall be sought within twenty-four hours after making the change in placement or as soon thereafter as possible. The department or any other party may request a review of the change in placement by a juvenile review panel in the manner set out in section 43-287.04. The department shall provide the juvenile's guardian ad litem with a copy of any report filed with the court by the department pursuant to this subsection.

(4) The court shall also hold a permanency hearing if required under section 43-1312.

(5) When the court awards a juvenile to the care of the department, an association, or an individual, then the department, association, or individual shall have standing as a party to file any pleading or motion, to be heard by the court with regard to such filings, and to be granted any review or relief requested in such filings consistent with the Nebraska Juvenile Code.

(6) (6) Whenever a juvenile is in a foster care placement as defined in section 43-1301, the State Foster Care Review Board may participate in proceedings concerning the juvenile as provided in section 43-1313 and notice shall be given as provided in section 43-1314.

(7) Any written findings or recommendations of the State Foster Care Review Board or any designated local foster care review board with regard to a juvenile in a foster care placement submitted to a court having jurisdiction over such juvenile shall be admissible in any proceeding concerning such juvenile if such findings or recommendations have been provided to all other parties of record.

(8) Any member of the State Foster Care Review Board, any of its agents or employees, or any member of any local foster care review board participating in an investigation or making any report pursuant to the Foster Care Review Act or participating in a judicial proceeding pursuant to this section shall be immune from any civil liability that would otherwise be incurred except for false statements negligently made.

Sec. 27. Section 43-292, Revised Statutes Supplement, 1996, is amended to read:

43-292. The court may terminate all parental rights between the parents or the mother of a juvenile born out of wedlock and such juvenile when the court finds such action to be in the best interests of the juvenile and it appears by the evidence that one or more of the following conditions exist:

(1) The parents have abandoned the juvenile for six months or more immediately prior to the filing of the petition;

(2) The parents have substantially and continuously or repeatedly neglected the juvenile and refused to give the juvenile or a sibling of the juvenile necessary parental care and protection;

(3) The parents, being financially able, have willfully neglected to provide the juvenile with the necessary subsistence, education, or other care necessary for his or her health, morals, or welfare or have neglected to pay for such subsistence, education, or other care when legal custody of the juvenile is lodged with others and such payment ordered by the court;

(4) The parents are unfit by reason of debauchery, habitual use of intoxicating liquor or narcotic drugs, or repeated lewd and lascivious behavior, which conduct is found by the court to be seriously detrimental to the health, morals, or well-being of the juvenile;

(5) The parents are unable to discharge parental responsibilities because of mental illness or mental deficiency and there are reasonable grounds to believe that such condition will continue for a prolonged indeterminate period;

(6) Following a determination that the juvenile is one as described in subdivision (3)(a) of section 43-247, reasonable efforts to preserve and reunify the family if required under section 24 of this act, under the direction of the court, have failed to correct the conditions leading to the determination; or

(7) The juvenile has been in an out-of-home placement for eighteen fifteen or more consecutive months of the most recent twenty-two months;

(8) The parent has inflicted upon the juvenile, by other than accidental means, serious bodily injury;

(9) The parent of the juvenile has subjected the juvenile to aggravated circumstances, including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse; or

(10) The parent has (a) committed murder of another child of the parent, (b) committed voluntary manslaughter of another child of the parent, (c) aided or abetted, attempted, conspired, or solicited to commit murder, or aided or abetted voluntary manslaughter of the juvenile or another child of the parent, or (d) committed a felony assault that resulted in serious bodily injury to the juvenile or another minor child of the parent, and the parents have failed to correct the conditions leading to the juvenile's out-of-home placement in spite of reasonable efforts and services to the parents ordered by the court or offered by the Department of Health and Human Services or other designated agency.

In order to determine whether or not to seek termination of the parent-juvenile relationship pursuant to subdivision (7) of this section, the county attorney who filed the petition to place the juvenile in an out-of-home placement shall review the case of the juvenile when the juvenile has been in such out-of-home placement for eighteen consecutive months. The review shall occur no later than thirty days after the last day of such eighteen-month period. Nothing contained in this subdivision shall prevent the filing of an action pursuant to subdivision (6) of this section.

The Department of Health and Human Services shall submit on a timely basis to the county attorney who filed the petition to place the juvenile in an out-of-home placement a list of the name of each such juvenile who has been in an out-of-home placement for eighteen or more consecutive months.

When termination of the parent-juvenile relationship is sought under subdivision (5) of this section, the court shall appoint a guardian ad litem for the alleged incompetent parent. The court may, in any other case, appoint a guardian ad litem, as may be deemed necessary or desirable, for any party. The guardian ad litem shall be paid a reasonable fee set by the court and paid from the general fund of the county.

Sec. 28. When termination of the parent-juvenile relationship is sought under subdivision (5) of section 43-292, the court shall appoint a guardian ad litem for the alleged incompetent parent. The court may, in any other case, appoint a guardian ad litem, as deemed necessary or desirable, for any party. The guardian ad litem shall be paid a reasonable fee set by the court and paid from the general fund of the county.

Sec. 29. (1) A petition shall be filed on behalf of the state to terminate the parental rights of the juvenile's parents or, if such a petition has been filed by another party, the state shall join as a party to the petition, and the state shall concurrently identify, recruit, process, and approve a qualified family for an adoption of the juvenile, if:

(a) A juvenile has been in foster care under the responsibility of the state for fifteen or more months of the most recent twenty-two months; or

(b) A court of competent jurisdiction has determined the juvenile to

be an abandoned infant or has made a determination that the parent has committed murder of another child of the parent, committed voluntary manslaughter of another child of the parent, aided or abetted, attempted, conspired, or solicited to commit murder, or aided or abetted voluntary manslaughter of the juvenile or another child of the parent, or committed a felony assault that has resulted in serious bodily injury to the juvenile or another minor child of the parent. For purposes of this subdivision, infant means a child eighteen months of age or younger.

(2) A petition shall not be filed on behalf of the state to terminate the parental rights of the juvenile's parents or, if such a petition has been filed by another party, the state shall not join as a party to the petition if the sole factual basis for the petition is that (a) the parent or parents of the juvenile are financially unable to provide health care for the juvenile or (b) the parent or parents of the juvenile are incarcerated. The fact that a qualified family for an adoption of the juvenile has been identified, recruited, processed, and approved shall have no bearing on whether parental rights shall be terminated.

(3) The petition is not required to be filed on behalf of the state or if a petition is filed the state shall not be required to join in a petition to terminate parental rights or to concurrently find a qualified family to adopt the juvenile under this section if:

(a) The child is being cared for by a relative;

(b) The Department of Health and Human Services has documented in the case plan or permanency plan, which shall be available for court review, a compelling reason for determining that filing such a petition would not be in the best interests of the juvenile; or

(c) The family of the juvenile has not had a reasonable opportunity to avail themselves of the services deemed necessary in the case plan or permanency plan approved by the court if reasonable efforts to preserve and reunify the family are required under section 24 of this act.

Sec. 30. (1) Within thirty days after the fifteen-month period under subsection (1) of section 29 of this act, the court shall hold a hearing on the record and shall make a determination on the record as to whether there is an exception under subsection (3) of section 29 of this act in this particular case. If there is no exception, the state shall proceed as provided in subsection (1) of section 29 of this act.

(2) The Department of Health and Human Services shall submit on a timely basis, to the court in which the petition to place the juvenile in an out-of-home placement was filed and to the county attorney who filed the petition, a list of the name of each juvenile who has been in an out-of-home placement for fifteen or more months of the most recent twenty-two months.

Sec. 31. Section 43-2,129, Revised Statutes Supplement, 1997, is amended to read:

43-2,129. Sections 43-245 to 43-2,129 and sections 24 and 28 to 30 of this act shall be known and may be cited as the Nebraska Juvenile Code.

Sec. 32. Section 43-504, Revised Statutes Supplement, 1997, is amended to read:

43-504. (1) The term dependent child shall mean a child under the age of nineteen years who is living with a relative or with a caretaker who is the child's legal guardian or conservator in a place of residence maintained by one or more of such relatives or caretakers as his, her, or their own home, or which child has been removed from the home of his or her father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first or second cousin, nephew, or niece as a result of judicial determination to the effect that continuation in the home would be contrary to the safety and welfare of the child and such child has been placed in a foster family home or child care institution as a result of such determination, when the state or any court having jurisdiction of such child is responsible for the care and placement of such child and one of the following conditions exists: (a) Such child received aid from the state in or for the month in which court proceedings leading to such determination were initiated; (b) such child would have received assistance in or for such month if application had been made therefor; or (c) such child had been living with such a relative specified in this subsection at any time within six months prior to the month in which such proceedings were initiated and would have received such aid in or for the month that such proceedings were initiated if in such month the child had been living with, and removed from the home of, such a relative and application had been made therefor.

(2) Except as provided in subdivision (2)(b) of section 68-1724, in awarding aid to dependent children payments, the term dependent child shall include an unborn child but only during the last three months of pregnancy. A pregnant woman may be eligible but only (a) if it has been medically verified

that the child is expected to be born in the month such payments are made or expected to be born within the three-month period following such month of payment and (b) if such child had been born and was living with her in the month of payment, she would be eligible for aid to families with dependent children. As soon as it is medically determined that pregnancy exists, a pregnant woman who meets the other requirements for aid to dependent children shall be eligible for medical assistance.

(3) A physically or medically handicapped child shall mean a child who, by reason of a physical defect or infirmity, whether congenital or acquired by accident, injury, or disease, is or may be expected to be totally or partially incapacitated for education or for remunerative occupation.

Sec. 33. Section 43-532, Reissue Revised Statutes of Nebraska, is amended to read:

43-532. (1) The Legislature finds and declares that children develop their unique potential in relation to a caring social unit, usually the family, and other nurturing environments, especially the schools and the community. The Legislature further finds that the state shall declare a family policy to guide the actions of state government in dealing with problems and crises involving children and families.

(2) When children and families require assistance from a department, agency, institution, committee, or commission of state government, every the health and safety of the child is the paramount concern and reasonable effort efforts shall be made to provide such assistance in the least intrusive and least restrictive method consistent with the needs of the child and to deliver such assistance as close to the home community of the child or family requiring assistance as possible. The policy set forth in this subsection shall be (a) interpreted in conjunction with all relevant laws, rules, and regulations of the state and shall apply to all children and families who have need of services or who, by their circumstances or actions, have violated the laws, rules, or regulations of the state and are found to be in need of treatment or rehabilitation and (b) implemented through the cooperative efforts of state, county, and municipal governments, legislative, judicial, and executive branches of government, and other public and private resources.

(3) The family policy objectives prescribed in sections 43-532 to 43-534 shall not be construed to mean that a child shall be left in the home when it is clearly shown that continued residence in the home places the child at greater risk than removal from the home does and does not make the health and safety of the child of paramount concern.

Sec. 34. Section 43-533, Revised Statutes Supplement, 1996, is amended to read:

43-533. The following principles shall guide the actions of state government and departments, agencies, institutions, committees, courts, and commissions which become involved with families and children in need of assistance or services:

(1) Prevention, early identification of problems, and early intervention shall be guiding philosophies when the state or a department, agency, institution, committee, court, or commission plans or implements services for families or children when such services are in the best interests of the child;

(2) When families or children request assistance, state and local government resources shall be utilized to complement community efforts to help meet the needs of such families or the needs and the safety and best interests of such children. The state shall encourage community involvement in the provision of services to families and children, including as an integral part, local government and public and private group participation, in order to encourage and provide innovative strategies in the development of services for families and children;

(3) To maximize resources the state shall develop methods to coordinate services and resources for families and children. Every child-serving department, agency, institution, committee, court, or commission shall recognize that the jurisdiction of such department, agency, institution, committee, court, or commission in serving multiple-need children is not mutually exclusive;

(4) When children are removed from their home, permanency planning shall be the guiding philosophy. It shall be the policy of the state (a) to make reasonable efforts to reunite the child with his or her family in a timeframe appropriate to the age and developmental needs of the child so long as the best interests of the child, including the health and safety of the child being of paramount concern, and the needs and safety of the child, have been given primary consideration in making a determination whether or not reunification is possible, (b) when a child cannot remain with parents, to give preference to relatives as a placement resource, and (c) to minimize the



number of placement changes for children in out-of-home care so long as the needs, health, safety, and best interests of the child in care, including the needs and safety of the child, are considered; and

(5) When families cannot be reunited and when active parental involvement is absent, adoption shall be aggressively pursued. Absent the possibility of adoption other permanent settings shall be pursued. In either situation, the health, safety, and best interests of the child shall be the overriding concern. Within that context, preference shall be given to relatives for the permanent placement of the child.

Sec. 35. For the purpose of determining the timing of review hearings, permanency hearings, and other requirements under the Foster Care Review Act, a child is deemed to have entered foster care on the earlier of the date of the first judicial finding that the child has been subjected to child abuse or neglect or the date that is sixty days after the date on which the child is removed from the home.

Sec. 36. Section 43-1303, Revised Statutes Supplement, 1996, is amended to read:

43-1303. The state board shall meet at least twice per year. The state board shall establish a statewide register of all foster care placements occurring within the state, and there shall be a monthly report made to the state board registry of all foster care placements by any child-placing agency or court. For each child entering and leaving foster care, such monthly report shall consist of identifying information, placement information, and the plan or permanency plan developed by the person or court in charge of the child pursuant to section 43-1312. Every court and child-placing agency shall report any foster care placement within three working days. The state board shall review the activities of local boards and may adopt and promulgate its own rules and regulations. Such rules and regulations shall provide for the:

(1) Establishment of training programs for local board members which shall include an initial training program and periodic inservice training programs;

(2) Development of procedures for local boards;

(3) Establishment of a central record-keeping facility for all local board files, including individual case reviews;

(4) Accumulation of data and the making of annual reports on children in foster care. Such reports shall include (a) personal data on length of time in foster care, (b) number of placements, (c) frequency and results of court review, and (d) number of children supervised by the foster care programs in the state annually;

(5) To the extent not prohibited by section 43-1310, evaluation of the judicial and administrative data collected on foster care and the dissemination of such data to the judiciary, public and private agencies, the Department of Health and Human Services, and members of the public; and

(6) Manner in which the state board shall determine the appropriateness of requesting a review hearing as provided for in section 43-1313.

The state board, upon completion of a review of local board activities, shall report and make recommendations to the department and county welfare offices. Such reports and recommendations shall include, but not be limited to, the annual judicial and administrative data collected on foster care pursuant to subdivision (4) of this section and the annual evaluation of such data. In addition the state board shall provide copies of such reports and recommendations to each court having the authority to make foster care placements. The state board may visit and observe foster care facilities in order to ascertain whether the individual physical, psychological, and sociological needs of each foster child are being met.

Sec. 37. Section 43-1307, Reissue Revised Statutes of Nebraska, is amended to read:

43-1307. Each court which has placed a child in foster care shall send to the state board or designated local board (1) a copy of the plan or permanency plan, prepared by the person or court in charge of the child in accordance with section 43-1312, to effectuate rehabilitation of the foster child and family unit or permanent placement of the child and (2) a copy of the progress reports as they relate to the plan or permanency plan, including, but not limited to, the court order and the report and recommendations of the guardian ad litem.

Sec. 38. Section 43-1308, Reissue Revised Statutes of Nebraska, is amended to read:

43-1308. (1) Except as otherwise provided in the Nebraska Indian Child Welfare Act, the state board or designated local board shall:

(a) Review at least once every six months the case of each child in a foster care placement to determine what efforts have been made to carry out

the plan or permanency plan for rehabilitation of the foster child and family unit or for permanent placement of such child pursuant to section 43-1312;

(b) Submit to the court having jurisdiction over such child for the purposes of foster care placement, within thirty days after the review, its findings and recommendations regarding the efforts and progress made to carry out the plan or permanency plan established pursuant to section 43-1312 together with any other recommendations it chooses to make regarding the child. The findings and recommendations shall include whether there is a need for continued out-of-home placement, whether the current placement is safe and appropriate, the specific reasons for the findings and recommendations, including factors, opinions, and rationale considered in its review, whether the grounds for termination of parental rights under section 43-292 appear to exist, and the date of the next review by the state board or designated local board;

(c) If the return of the child to his or her parents is not likely, ~~or reasonable grounds exist that indicate adoption is not likely~~, encourage the placement of the child in the most family-like long-term foster care situation possible considering the needs of the child in question recommend referral for adoption and termination of parental rights, guardianship, placement with a relative, or, as a last resort, another planned, permanent living arrangement; and

(d) Promote and encourage stability and continuity in foster care by discouraging unnecessary changes in the placement of foster children and by encouraging the recruitment of foster parents who may be eligible as adoptive parents.

(2) When the state board determines that the interests of a child in a foster care placement would be served thereby, the state board may request a review hearing as provided for in section 43-1313.

Sec. 39. Section 43-1311, Reissue Revised Statutes of Nebraska, is amended to read:

43-1311. Except as otherwise provided in the Nebraska Indian Child Welfare Act, immediately following removal of a child from his or her home pursuant to section 43-284, the person or court in charge of the child shall:

(1) Conduct or cause to be conducted an investigation of the child's circumstances designed to establish an safe and appropriate plan for the rehabilitation of the foster child and family unit or permanent placement of the child;

(2) Require that the child receive a medical examination within two weeks of his or her removal from his or her home; and

(3) Subject the child to such further diagnosis and evaluation as is necessary.

Sec. 40. Section 43-1312, Reissue Revised Statutes of Nebraska, is amended to read:

43-1312. (1) Following the investigation conducted pursuant to section 43-1311 and immediately following the initial placement of the child, the person or court in charge of the child shall cause to be established an safe and appropriate plan for the child. The plan shall contain at least the following:

(1) (a) The purpose for which the child has been placed in foster care;

(2) (b) The estimated length of time necessary to achieve the purposes of the foster care placement;

(3) (c) A description of the services which are to be provided in order to accomplish the purposes of the foster care placement;

(4) (d) The person or persons who are directly responsible for the implementation of such plan; and

(5) (e) A complete record of the previous placements of the foster child.

(2) If the return of the child to his or her parents is not likely based upon facts developed as a result of the investigation, the Department of Health and Human Services shall recommend termination of parental rights and referral for adoption, guardianship, placement with a relative, or, as a last resort, another planned permanent living arrangement.

(3) Each child in foster care under the supervision of the state shall have a permanency hearing by a court, no later than twelve months after the date the child enters foster care and annually thereafter during the continuation of foster care. The court's order shall include a finding regarding the appropriateness of the permanency plan determined for the child and shall include whether, and if applicable when, the child will be:

(a) Returned to the parent;

(b) Referred to the state for filing of a petition for termination of parental rights;

(c) Placed for adoption;

(d) Referred for guardianship; or

(e) In cases where the state agency has documented to the court a compelling reason for determining that it would not be in the best interests of the child to return home, (i) referred for termination of parental rights, (ii) placed for adoption with a fit and willing relative, or (iii) placed with a guardian.

Sec. 41. Section 43-1314, Reissue Revised Statutes of Nebraska, is amended to read:

43-1314. Except as otherwise provided in the Nebraska Indian Child Welfare Act, notice of the court review and the right of participation in all court reviews pertaining to a child in a foster care placement shall be provided by the court having jurisdiction over such child for the purposes of foster care placement either in court, by mail, or in such other manner as the court may direct. Such notice shall be provided to: (1) The person charged with the care of such child; (2) the child's parents or guardian unless the parental rights of the parents have been terminated by court action as provided in section 43-292 or 43-297; (3) the foster child if age fourteen or over; (4) the foster parent or parents of the foster child; (5) the guardian ad litem of the foster child; and (6) the state board. Notice of the court review shall also be provided to the preadoptive parent or relative providing care for the child. Notice to the foster parent, preadoptive parent, or relative providing care shall not be construed to require that such foster parent, preadoptive parent, or relative be made a party to the review solely on the basis of such notice and opportunity to be heard.

Sec. 42. Section 43-1315, Reissue Revised Statutes of Nebraska, is amended to read:

43-1315. In reviewing the foster care status and permanency plan of a child and in determining its order for disposition, the court shall continue ~~disposition~~ placement outside the home only upon a written determination that return of the child to his or her home would be contrary to the welfare of such child and that reasonable efforts to preserve and reunify the family, if required under section 24 of this act, have been made, to make it possible for the child to return to his or her home. In making this determination, the court shall consider the following criteria, including, but not limited to:

(1) ~~The~~ the goals of the foster care placement and the safety and appropriateness of the foster care plan or permanency plan established pursuant to section 43-1312. ↗

(2) ~~The services which have been offered to reunite the family; and~~

(3) ~~When the return of the child to his or her home is not likely, the reasonable efforts which have been made or should be made to provide for other methods of care.~~

Sec. 43. Section 43-1316, Reissue Revised Statutes of Nebraska, is amended to read:

43-1316. The court shall, when reviewing the foster care status of a child, determine whether the individual physical, psychological, and sociological needs of the child are being met. The health and safety of the child are of paramount concern in such review.

Sec. 44. Section 43-1318, Revised Statutes Supplement, 1996, is amended to read:

43-1318. Sections 43-1301 to 43-1318 and section 35 of this act shall be known and may be cited as the Foster Care Review Act.

Sec. 45. Section 43-1411, Revised Statutes Supplement, 1996, is amended to read:

43-1411. A civil proceeding to establish the paternity of a child may be instituted, in ~~any district~~ the court of the district where the child is domiciled or found or, for cases under the Uniform Interstate Family Support Act, where the alleged father is domiciled, by (1) the mother or the alleged father of such child, either during pregnancy or within four years after the child's birth, unless consent or relinquishment has been made pursuant to sections 43-104.08 to 43-104.24 or section 43-105 for purposes of adoption or (2) the guardian or next friend of such child or the state, either during pregnancy or within eighteen years after the child's birth. Summons shall issue and be served as in other civil proceedings, except that such summons may be directed to the sheriff of any county in the state and may be served in any county.

Sec. 46. Section 43-1411.01, Revised Statutes Supplement, 1997, is amended to read:

43-1411.01. An action for paternity or parental support under sections 43-1401 to 43-1418 ~~shall~~ may be initiated by filing a petition with the clerk of the district court as provided in section 25-2740. ~~The~~ Such proceeding may be heard by the county court or the district court as provided

in section 25-2740. A paternity determination under sections 43-1411 to 43-1418 may also be decided in a county court or separate juvenile court if the county court or separate juvenile court already has jurisdiction over the child whose paternity is to be determined.

Sec. 47. A grant program is established to reimburse counties for the personal service costs of deputy county attorneys associated with termination of parental rights actions resulting from this legislative bill. Counties in which a city of the metropolitan class or a city of the primary class is located are eligible for grants under this program. The Department of Health and Human Services Finance and Support shall administer the program. Counties receiving grants shall submit quarterly expenditure reports to the department.

Sec. 48. This act becomes operative on July 1, 1998.

Sec. 49. Original sections 30-2209, 30-2608, 43-108, 43-116, 43-160, 43-532, 43-1307, 43-1308, 43-1311, 43-1312, 43-1314, 43-1315, and 43-1316, Reissue Revised Statutes of Nebraska, sections 43-102, 43-104, 43-104.05, 43-105, 43-162 to 43-164, 43-246, 43-254, 43-285, 43-292, 43-533, 43-1303, 43-1318, and 43-1411, Revised Statutes Supplement, 1996, and sections 24-517, 25-2740, 33-107.01, 43-107, 43-113, 43-138, 43-146.11, 43-245, 43-247, 43-284, 43-2.129, 43-504, and 43-1411.01, Revised Statutes Supplement, 1997, are repealed.

Sec. 50. Since an emergency exists, this act takes effect when passed and approved according to law.