

Legislature, LB 712 amends Nebraska's adoption laws. Although only a small portion of adoptions in Nebraska are actually contested, the headlines in the news media focus on the Baby Jessica and Baby Richard cases and raise considerable concern as to whether our system of adoption laws is adequate. These cases in other states and recent similar cases in Nebraska illustrate that Nebraska cannot ignore this problem. Concern over the permanence of adoption may, in fact, tend to inhibit or discourage adoption in our society where an increasing percentage of all children are born out of wedlock. If we wish as a society to encourage adoption as a feasible and advantageous alternative, then we must strengthen our laws to meet the constitutional requirements of due process which impose strict requirements on all legal proceedings effecting parental rights. Nebraska actually has been a leader in the development of adoption law in this country. A couple of decades ago this Legislature enacted Section 43-104.02 which had the effect of establishing a registry for the biological fathers of children born out of wedlock. It requires that the father of a child born out of wedlock shall file a notice of intent to claim paternity with the Nebraska Department of Social Services within five days after the birth of the child. It's important to note that this statute was held constitutional by the Nebraska Supreme Court in 1986 in the Shoecraft case but the next year in 1987 in the case of application of SRS, the Nebraska Supreme Court held that Nebraska's five-day registry law was unconstitutional under a different set of facts. We thus have been placed on notice by our own Supreme Court for a number of years that the five-day registry law is constitutionally suspect even though it has worked pretty well in a vast majority of cases in Nebraska. In fact as recently as last December, the Nebraska Court of Appeals had an adoption case and the Court of Appeals acknowledged that the application of Nebraska's five-day statute would be unconstitutional given the facts of that case. In that case the county court, the district court and the Court of Appeals, all three courts ruled that our present five-day statute is unconstitutional under the facts of that case. The essential problem with Nebraska's five-day limitation on the right to file a notice of intent to claim paternity is that it has no provision for requiring notice to the biological father in an adoption proceedings and this in certain cases constitutes a denial of the constitutional right of due process and it imperils the validity of an adoption. LB 712 is 20 pages in length and all it really does is provide a procedure for giving notice to the biological father in an adoption proceeding so