

AMENDMENTS TO LB 1014

Introduced by Judiciary.

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

3 Section 1. Section 24-301.02, Revised Statutes
4 Supplement, 2007, is amended to read:

5 24-301.02 The State of Nebraska shall be divided into the
6 following twelve district court judicial districts:

7 District No. 1 shall contain the counties of Clay,
8 Nuckolls, Saline, Jefferson, Gage, Thayer, Johnson, Pawnee, Nemaha,
9 Fillmore, and Richardson;

10 District No. 2 shall contain the counties of Sarpy, Cass,
11 and Otoe;

12 District No. 3 shall contain the county of Lancaster;

13 District No. 4 shall contain the county of Douglas;

14 District No. 5 shall contain the counties of Merrick,
15 Platte, Colfax, Boone, Nance, Hamilton, Polk, York, Butler, Seward,
16 and Saunders;

17 District No. 6 shall contain the counties of Dixon,
18 Dakota, Cedar, Burt, Thurston, Dodge, and Washington;

19 District No. 7 shall contain the counties of Knox,
20 Cuming, Antelope, Pierce, Wayne, Madison, and Stanton;

21 District No. 8 shall contain the counties of Cherry,
22 Keya Paha, Brown, Rock, Blaine, Loup, Custer, Boyd, Holt, Garfield,
23 Wheeler, Valley, Greeley, Sherman, and Howard;

1 District No. 9 shall contain the counties of Buffalo and
2 Hall;

3 District No. 10 shall contain the counties of Adams,
4 Phelps, Kearney, Harlan, Franklin, and Webster;

5 District No. 11 shall contain the counties of Hooker,
6 Thomas, Arthur, McPherson, Logan, Keith, Perkins, Lincoln, Dawson,
7 Chase, Hayes, Frontier, Gosper, Dundy, Hitchcock, Red Willow, and
8 Furnas; and

9 District No. 12 shall contain the counties of Sioux,
10 Dawes, Box Butte, Sheridan, Scotts Bluff, Morrill, Garden, Banner,
11 Kimball, Cheyenne, Grant, and Deuel.

12 There shall be at least one district court judgeship in
13 each district court judicial district.

14 In the fourth district there shall be sixteen judges
15 of the district court. In the third district there shall be
16 seven judges of the district court. In the second, fifth, ninth,
17 eleventh, and twelfth districts there shall be four judges of the
18 district court. In the first and sixth districts there shall be
19 three judges of the district court. In the seventh, eighth, and
20 tenth districts there shall be two judges of the district court.

21 Sec. 2. Section 24-303, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 24-303 (1) The judges of the district court shall, the
24 last two months in each year, fix the time of holding terms of
25 court in the counties composing their respective districts during
26 the ensuing year, and cause the same to be published throughout
27 the district, if the same can be done without expense. All jury

1 terms of the district court shall be held at the county seat in
2 the courthouse, or other place provided by the county board, but
3 nothing herein contained shall preclude the district court, or a
4 judge thereof, from rendering a judgment or other final order or
5 from directing the entry thereof in any cause, in any county other
6 than where such cause is pending, where the trial or hearing upon
7 which such judgment or other final order is rendered took place in
8 the county in which such cause is pending. Terms of court may be
9 held at the same time in different counties in the same judicial
10 district, by the judge of the district court thereof, if there be
11 more than one, and upon request of the judge or judges of such
12 court, any term in such district may be held by a judge of the
13 district court of any other district of the state. The Supreme
14 Court may order the assignment of judges of the district court to
15 other districts whenever it shall appear that their services are
16 needed to relieve a congested calendar or to adjust judicial case
17 loads, or on account of the disqualification, absence, disability,
18 or death of a judge, or for other adequate cause. When necessary, a
19 term of the district court sitting in any county may be continued
20 into and held during the time fixed for holding such court in any
21 other county within the district, or may be adjourned and held
22 beyond such time.

23 (2) All nonevidentiary hearings, and any evidentiary
24 hearings approved by the district court and by stipulation of all
25 parties that have filed an appearance, may be heard by the court
26 telephonically or by videoconferencing or similar equipment at any
27 location within the judicial district as ordered by the court and

1 in a manner that ensures the preservation of an accurate record.
2 Such hearings shall not include trials before a jury. Hearings
3 conducted in this manner shall be consistent with the public's
4 access to the courts.

5 Sec. 3. Section 24-312, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 24-312 (1) The district judges may interchange and hold
8 each other's court. Whenever it shall appear by affidavit, to the
9 satisfaction of any district judge in the state, that the judge
10 of any other district is unable to act, on account of sickness,
11 interest, or absence from the district or from any other cause,
12 the judge to whom application may be made shall have power to make
13 any order or do any act relative to any suit, judicial matter, or
14 proceeding or to any special matter arising within the district
15 where such vacancy or disability exists which the judge of such
16 district court could make or do. The order or act shall have the
17 same effect as if made or done by the judge of such district.

18 (2) A district judge may appoint by order a consenting
19 county judge residing in the district to act as a district judge in
20 specific instances on any matter over which the district court has
21 determined that it has jurisdiction over the parties and subject
22 matter, except appeals from the county court. The appointed county
23 judge shall have power to make any order or do any act relative to
24 any suit, judicial matter, or proceeding or to any special matter
25 which the district judge of such district could make or do if (1)
26 all parties have consented to the appointment or (2) no party has
27 objected to the appointment within ten days after service of the

1 order of appointment upon him or her, except that in any ~~matter~~
2 ~~arising under Chapter 42,~~ domestic relations matter as defined in
3 section 25-2740 or Class IV felony case, consent shall not be
4 required and a party shall not have the right to object to the
5 appointment of a county judge to act as a district judge. Any order
6 or act by the county judge after appointment shall have the same
7 effect as if made or done by the district judge of such district. A
8 copy of the order of appointment shall be filed in each action in
9 which a county judge acts as a district judge.

10 (3) In an effort to equalize the caseload, the presiding
11 judges of the district court and county court in each judicial
12 district may assign between the courts cases involving domestic
13 relations matters as defined in section 25-2740 and Class IV felony
14 cases. The presiding judges shall review the caseload of the two
15 benches and create an annual plan on how to assign cases involving
16 domestic relations matters as defined in section 25-2740 and Class
17 IV felony cases. The consent of the parties shall not be required
18 and the cases shall remain filed in the court where they were
19 originally filed. The annual plan on the case assignments shall
20 be sent to the Supreme Court, and, if the presiding judges cannot
21 agree on a plan, the matter shall be forwarded to the Supreme Court
22 for resolution.

23 Sec. 4. Section 24-503, Revised Statutes Supplement,
24 2007, is amended to read:

25 24-503 For the purpose of serving the county courts in
26 each county, twelve county judge districts are hereby created:

27 District No. 1 shall contain the counties of Saline,

1 Jefferson, Gage, Thayer, Johnson, Pawnee, Nemaha, and Richardson;

2 District No. 2 shall contain the counties of Sarpy, Cass,
3 and Otoe;

4 District No. 3 shall contain the county of Lancaster;

5 District No. 4 shall contain the county of Douglas;

6 District No. 5 shall contain the counties of Merrick,
7 Platte, Colfax, Boone, Nance, Hamilton, Polk, York, Butler, Seward,
8 and Saunders;

9 District No. 6 shall contain the counties of Dixon,
10 Dakota, Cedar, Burt, Thurston, Dodge, and Washington;

11 District No. 7 shall contain the counties of Knox,
12 Cuming, Antelope, Pierce, Wayne, Madison, and Stanton;

13 District No. 8 shall contain the counties of Cherry,
14 Keya Paha, Brown, Rock, Blaine, Loup, Custer, Boyd, Holt, Garfield,
15 Wheeler, Valley, Greeley, Sherman, and Howard;

16 District No. 9 shall contain the counties of Buffalo and
17 Hall;

18 District No. 10 shall contain the counties of Fillmore,
19 Adams, Clay, Phelps, Kearney, Harlan, Franklin, Webster, and
20 Nuckolls;

21 District No. 11 shall contain the counties of Hooker,
22 Thomas, Arthur, McPherson, Logan, Keith, Perkins, Lincoln, Dawson,
23 Chase, Hayes, Frontier, Gosper, Dundy, Hitchcock, Red Willow, and
24 Furnas; and

25 District No. 12 shall contain the counties of Sioux,
26 Dawes, Box Butte, Sheridan, Scotts Bluff, Morrill, Garden, Banner,
27 Kimball, Cheyenne, Grant, and Deuel.

1 There shall be at least one county court judgeship in
2 each county court judicial district.

3 ~~District 4 shall have twelve county judges. Districts 3~~
4 ~~and 5 shall have six county judges. Districts 11 and 12 shall have~~
5 ~~five county judges. Districts 2, 6, and 9 shall have four county~~
6 ~~judges. Districts 1, 7, 8, and 10 shall have three county judges.~~

7 Judge of the county court shall include any person
8 appointed to the office of county judge or municipal judge prior
9 to July 1, 1985, pursuant to Article V, section 21, of the
10 Constitution of Nebraska.

11 Any person serving as a municipal judge in district 3 or
12 4 immediately prior to July 1, 1985, shall be a judge of the county
13 court and shall be empowered to hear only those cases as provided
14 in section 24-517 which the presiding judge of the county court
15 for such district, with the concurrence of the Supreme Court, shall
16 direct.

17 Sec. 5. Section 24-508, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 24-508 (1) Clerk magistrates may be assigned by the
20 presiding county judge to perform the duties of a clerk magistrate
21 in any other county within the district.

22 (2) A person shall be eligible for appointment as a clerk
23 magistrate if he or she is a graduate of a high school or holds a
24 certificate of equivalency issued by the State Board of Education.

25 (3) A clerk magistrate shall be ~~permitted to take office~~
26 ~~on the condition that the clerk magistrate will attend the first~~
27 ~~available institute on the duties and functions of the office,~~

1 unless such attendance is specifically waived by the Supreme
2 Court. The Supreme Court shall provide for the establishment of
3 such institute and also shall provide for annual institutes or
4 training courses for all county judges and clerk magistrates. A
5 clerk magistrate shall not be eligible for reappointment if he
6 or she does not have a satisfactory record of attendance at such
7 annual institutes or training courses, unless such attendance is
8 specifically waived by the Supreme Court. comply with the Supreme
9 Court judicial branch education requirements as required by the
10 Supreme Court.

11 (4) All associate county judges holding office on July
12 1, 1986, shall be eligible for appointment as clerk magistrates,
13 and all associate county judges desiring such appointment shall
14 be appointed clerk magistrates. If a county has more than one
15 associate county judge holding office on July 1, 1986, such
16 associate county judges shall be appointed as clerk magistrates
17 for the remainder of the terms for which they were appointed as
18 associate county judges.

19 Sec. 6. Section 24-517, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 24-517 Each county court shall have the following
22 jurisdiction:

23 (1) Exclusive original jurisdiction of all matters
24 relating to decedents' estates, including the probate of wills and
25 the construction thereof, except as provided in subsection (c) of
26 section 30-2464 and section 30-2486;

27 (2) Exclusive original jurisdiction in all matters

1 relating to the guardianship of a person, except if a separate
2 juvenile court already has jurisdiction over a child in need of
3 a guardian, concurrent original jurisdiction with the separate
4 juvenile court in such guardianship;

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

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

18 (5) Concurrent original jurisdiction with the district
19 court in all civil actions of any type when the amount in
20 controversy is forty-five thousand dollars or less through June 30,
21 2005, and as set by the Supreme Court pursuant to subdivision (b)
22 of this subdivision on and after July 1, 2005.

23 (a) When the pleadings or discovery proceedings in a
24 civil action indicate that the amount in controversy is greater
25 than the jurisdictional amount of subdivision (5) of this section,
26 the county court shall, upon the request of any party, certify
27 the proceedings to the district court as provided in section

1 25-2706. An award of the county court which is greater than the
2 jurisdictional amount of subdivision (5) of this section is not
3 void or unenforceable because it is greater than such amount,
4 however, if an award of the county court is greater than the
5 jurisdictional amount, the county court shall tax as additional
6 costs the difference between the filing fee in district court and
7 the filing fee in county court.

8 (b) The Supreme Court shall adjust the jurisdictional
9 amount for the county court every fifth year commencing July
10 1, 2005. The adjusted jurisdictional amount shall be equal to
11 the then current jurisdictional amount adjusted by the average
12 percentage change in the unadjusted Consumer Price Index for
13 All Urban Consumers published by the Federal Bureau of Labor
14 Statistics for the five-year period preceding the adjustment
15 date. The jurisdictional amount shall be rounded to the nearest
16 one-thousand-dollar amount;

17 (6) Concurrent original jurisdiction with the district
18 court in any criminal matter classified as a misdemeanor or for
19 any infraction. The district court shall have exclusive original
20 jurisdiction in any criminal matter classified as a misdemeanor
21 that arises from the same incident as a charged felony;

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

26 (8) Concurrent original jurisdiction with the district
27 court in matters arising under the Nebraska Uniform Trust Code;

1 (9) Exclusive original jurisdiction in any action based
2 on violation of a city or village ordinance;

3 (10) Exclusive original jurisdiction in juvenile matters
4 in counties which have not established separate juvenile courts;

5 (11) Exclusive original jurisdiction in matters of
6 adoption, except if a separate juvenile court already has
7 jurisdiction over the child to be adopted, concurrent original
8 jurisdiction with the separate juvenile court; and

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

12 Sec. 7. Section 24-730, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 24-730 A retired judge holding court pursuant to sections
15 24-729 to 24-733 shall receive, in addition to his or her
16 retirement benefits, for each day of temporary duty an amount
17 established by the Supreme Court. ~~Such amount, when taken together~~
18 ~~with one-twentieth of the judge's monthly retirement benefit, shall~~
19 ~~not exceed one-twentieth of the monthly salary he or she would~~
20 ~~receive if he or she were an active judge of that court.~~

21 Sec. 8. Section 24-809.04, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 24-809.04 For purposes of sections 24-809.05 and 24-810,
24 the date of a final determination of a district, county, or
25 separate juvenile court judicial vacancy shall be:

26 (1) The date a judicial vacancy is determined ~~by the~~
27 ~~Judicial Resources Commission~~ pursuant to section 24-1204; ~~or~~

1 ~~24-1206,~~ or

2 (2) If a determination is made by the ~~commission~~ that a
3 ~~move of a judgeship from one district to another or between county~~
4 ~~and district court,~~ a new judgeship, or a change in number of
5 ~~judicial districts or boundaries is appropriate~~ Supreme Court to
6 implement a recommendation pursuant to section 24-1204 or 24-1205,
7 the date the Governor approves legislation or the Legislature
8 overrides a veto of legislation implementing such recommendation.
9 ~~creating or moving a judicial vacancy.~~

10 Sec. 9. The total number of district, county, and
11 separate juvenile judges in the state shall be one hundred
12 twenty-four. Judges in office on the effective date of this
13 act shall continue to serve in the districts they are serving on
14 such date. On or after such date any judicial vacancy shall be
15 determined as provided in section 24-1204.

16 Sec. 10. Section 24-1204, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 24-1204 (1) In the event of the death, retirement,
19 resignation, or removal of a district, county, or separate juvenile
20 judge or the failure of a district, county, or separate juvenile
21 judge to be retained in office or upon the request of a majority
22 of the members of the Judicial Resources Commission, the commission
23 shall, after holding a public hearing, determine whether a judicial
24 vacancy exists in the affected district or ~~any other~~ in another
25 judicial district and whether the vacancy should become a different
26 type of judgeship. ~~or whether a new judgeship or change in~~
27 number of judicial districts or boundaries is appropriate. If the

1 ~~commission determines a vacancy exists in a district or county~~
2 ~~court district, the commission may also make a recommendation to~~
3 ~~the Supreme Court of the site for a primary office location. The~~
4 public hearing may include videoconferencing, or if the judicial
5 workload statistics compiled pursuant to section 24-1007 indicate
6 a need for a number of judges equal to or greater than the number
7 currently authorized by law, servicing in the affected judicial
8 district, the commission may conduct a hearing by telephone
9 conference. If a telephone conference is used, a recording shall be
10 made of the telephone conference and maintained by the commission
11 for at least one year and the telephone conference shall conform
12 to the requirements of subsection (2) of section 84-1411, ~~and the~~
13 ~~commission shall only determine whether a judicial vacancy exists~~
14 ~~in the affected district and make no other determinations.~~

15 (2) (a) If the commission determines that a judicial
16 vacancy exists in the district where the judgeship was vacated and
17 the vacancy should be the same type of judgeship that was vacated,
18 the commission shall notify the Clerk of the Supreme Court that the
19 vacancy is in the judicial district where the judgeship was vacated
20 and shall be the same type of judgeship as was vacated. The clerk
21 shall proceed pursuant to section 24-810.

22 (b) If the commission determines that a judicial vacancy
23 exists in another judicial district or that the vacancy should
24 become a different type of judgeship than the vacated judgeship,
25 the commission shall report such recommendation to the Supreme
26 Court.

27 (c) If the commission determines that a vacancy exists in

1 a district or county court district, the commission may also make
2 a recommendation to the Supreme Court of the site for a primary
3 office location.

4 (3) Within ninety days after receiving a recommendation
5 from the Judicial Resources Commission pursuant to subdivision
6 (2)(b) of this section, the Supreme Court, by a majority vote,
7 shall determine the location and type of the judicial vacancy. The
8 Supreme Court shall then notify the Clerk of the Supreme Court
9 (a) that the vacancy is in the same judicial district where the
10 judgeship was vacated or is in another judicial district and (b)
11 what type of judgeship the vacancy shall be. The clerk shall
12 proceed pursuant to section 24-810. The determination shall be
13 based on the recommendation of the Judicial Resources Commission
14 and the factors listed in section 24-1206.

15 Sec. 11. Section 24-1205, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 24-1205 (1) By December November 15~~7~~ 1995~~7~~, and of each
18 year, ~~thereafter,~~ the Judicial Resources Commission shall hold
19 a hearing to determine whether ~~(1)~~ to recommend that a new
20 judgeship is appropriate in any judicial district, ~~or~~ a reduction
21 in judgeships is appropriate in any judicial district, ~~or~~ ~~(2)~~ the
22 judicial district boundaries or the number of judicial districts
23 should be changed for the district or county courts. The commission
24 shall also examine current caseload statistics and make any
25 appropriate recommendations for the more balanced use of existing
26 judicial resources. The State Court Administrator shall provide
27 adequate administrative support and information as requested by the

1 commission. A report of this hearing and any recommendations shall
2 be filed by the commission with the Legislature, the Governor, and
3 the Supreme Court on or before December 31 of each year.

4 (2) The Supreme Court shall determine whether or not to
5 implement any recommendations for change reported by the commission
6 pursuant to subsection (1) of this section based upon the
7 recommendation of the commission and the factors listed in section
8 24-1206. The Supreme Court shall recommend to the Legislature any
9 legislative changes needed to implement its determination.

10 Sec. 12. Section 24-1206, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 24-1206 The Judicial Resources Commission's
13 determinations and recommendations and the Supreme Court's
14 determinations pursuant to section 24-1204 or 24-1205 determination
15 of whether a judicial vacancy exists or a new judgeship, a
16 reduction in judgeships, a change in number of judicial districts
17 or boundaries, or the reallocation of a judgeship from a district,
18 county, or separate juvenile court in one judicial district
19 to a district, county, or separate juvenile court in another
20 judicial district is appropriate pursuant to section 24-1204 or
21 24-1205 shall be based upon (1) its analysis of judicial workload
22 statistics compiled pursuant to section 24-1007, (2) whether
23 litigants in the judicial district have adequate access to the
24 courts, (3) the population of the judicial district, (4) other
25 judicial duties and travel time involved within the judicial
26 district, and (5) other factors determined by the Supreme Court to
27 be necessary to assure efficiency and maximum service. The State

1 Court Administrator shall provide adequate administrative support
2 and information as requested, ~~by the commission.~~

3 ~~After making a determination, the commission shall report~~
4 ~~the results to the Legislature and recommend any legislative~~
5 ~~changes which are needed. If no changes in existing law are needed~~
6 ~~and none are recommended by the commission, no legislative action~~
7 ~~shall be necessary to fill any judicial vacancy determined to~~
8 ~~exist. The Legislature shall not create a new judgeship unless~~
9 ~~the commission recommends the creation of a new judgeship in its~~
10 ~~report. If legislative action is required but none is taken in the~~
11 ~~first legislative session commencing after receipt of the report~~
12 ~~by the Legislature, the commission shall hold another hearing on~~
13 ~~the matter and shall determine whether a judicial vacancy exists~~
14 ~~or again recommend legislative changes to the Legislature in its~~
15 ~~report.~~

16 Sec. 13. Section 24-1301, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 24-1301 The Legislature finds and declares that drug use
19 ~~contributes to~~ and other offenses contribute to increased crime
20 in Nebraska, costs millions of dollars in lost productivity, and
21 contributes to the burden placed upon law enforcement, court, and
22 correctional systems in Nebraska.

23 The Legislature also finds and declares that drug court
24 programs and problem solving court programs are effective in
25 reducing recidivism of persons who participate in and complete ~~drug~~
26 ~~court~~ such programs. The Legislature recognizes that a drug court
27 program or a problem solving court program offers a person accused

1 of drug offenses and other offenses an alternative to traditional
2 criminal justice or juvenile justice proceedings.

3 Sec. 14. Section 24-1302, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 24-1302 (1) Drug court programs and problem solving court
6 programs shall be subject to rules which shall be promulgated
7 by the Supreme Court for procedures to be implemented in the
8 administration of such programs.

9 (2) It is the intent of the Legislature that funds
10 be appropriated separately to the Supreme Court for each of the
11 programs, the drug court programs and the problem solving court
12 programs, to carry out sections 24-1301 and 24-1302.

13 Sec. 15. Section 25-534, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 25-534 Whenever in any action or proceeding, any order,
16 motion, notice, or other document, except a summons, is required by
17 statute or rule of the Supreme Court to be served upon or given to
18 any party, the service or delivery shall be made in accordance with
19 the rules of pleading in civil actions promulgated by the Supreme
20 Court pursuant to section 25-801.01. represented by an attorney
21 whose appearance has been noted on the record, or is thus required
22 to be served upon or given to the attorney for any party, such
23 service or notice may be made upon or given to such attorney,
24 unless service upon the party himself or herself is ordered by the
25 court. Service upon such attorney or upon a party shall be made by
26 delivering a copy to him or her or by mailing it to him or her.

27 Delivery of a copy shall mean handing it to the attorney

1 or to the party, or leaving it at his or her office with his or
2 her clerk or other person in charge thereof, or, if the office is
3 closed or the person to be served has no office, leaving it at his
4 or her dwelling house or usual place of abode with some person of
5 suitable age and discretion then residing therein.

6 Every party appearing in an action without an attorney,
7 and every attorney appearing in an action, shall designate on the
8 record an address to which mail addressed to such party or attorney
9 may be sent. Service by mail shall be by ordinary first-class mail
10 addressed to such designated address, or if none is so designated,
11 to the last-known address of such party or attorney. Service by
12 mail is complete upon mailing.

13 Proof of service may be made by certificate of the
14 attorney causing the service to be made. Whenever a party has the
15 right or is required to do some act or take some proceedings within
16 a prescribed period after the service of a notice or other paper
17 upon him or her and the notice or paper is served upon him or her
18 by mail, three days shall be added to the prescribed period.

19 Sec. 16. A court may refer a civil case to mediation
20 or another form of alternative dispute resolution and, unless
21 otherwise ordered following a hearing upon a motion to object
22 to such referral, may state a date for the case to return to
23 court. Such date shall be no longer than ninety days after the
24 date the order was signed unless the court grants an extension
25 upon request of the parties. Any agreement or resolution made
26 in mediation or another form of alternative dispute resolution
27 shall be voluntarily entered into by the parties. An individual

1 trial court, an appellate court, or the Supreme Court on its own
2 initiative may adopt rules of practice governing the procedures
3 for referral of cases to mediation and other forms of dispute
4 resolution. Such services may be provided by approved centers on a
5 sliding scale of fees under the Dispute Resolution Act.

6 Sec. 17. Section 25-1129, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 25-1129 All or any of the issues in the action, whether
9 of fact or law, or both, may be referred ~~7~~ to a referee upon the
10 written consent of the parties ~~7~~ or upon their oral consent in court
11 entered upon the journal.

12 Sec. 18. Section 25-1130, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 25-1130 When the parties do not consent, the court
15 may, upon application of either, or of its own motion, direct a
16 reference ~~(1)~~ where the trial of an issue of fact shall require
17 the examination of mutual accounts ~~7~~ or where the account is on one
18 side only ~~7~~ and it shall be made to appear to the court that it is
19 necessary that the party on the other side should be examined as
20 a witness to prove the account ~~7~~ in which cases the referees may
21 be directed to hear and report upon the whole issue ~~7~~ or upon any
22 specific question of fact involved therein ~~7~~ ~~(2)~~ where the taking
23 of an account shall be necessary for the information of the court
24 before a judgment ~~7~~ in cases which may be determined by the court
25 or for carrying a judgment into effect ~~7~~ or ~~(3)~~ where a question
26 of fact, other than upon the pleadings, shall arise upon motion or
27 otherwise ~~7~~ in any state of an action. in any equity matter to a

1 referee appointed by the court. The court shall direct a reference
2 to a referee only when caseload and time constraints require such
3 reference, and a referee shall not be appointed to conduct any
4 hearing involving an issue of law and not equity that could result
5 in the exercise of the right to a trial before a jury.

6 Sec. 19. Section 25-2704, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 25-2704 (1) In any civil action in county court, the
9 summons, pleadings, and time for filings shall be the same as
10 provided for civil actions in district court. A case shall stand
11 for trial at the earliest available time on the court docket
12 after the issues therein are or, according to the times fixed for
13 pleading, should have been made up.

14 (2) All nonevidentiary hearings, and any evidentiary
15 hearings approved by the county court and by stipulation of all
16 parties that have filed an appearance, may be heard by the court
17 telephonically or by videoconferencing or similar equipment at any
18 location within the judicial district as ordered by the court and
19 in a manner that ensures the preservation of an accurate record.
20 Such hearings shall not include trials before a jury. Conducting
21 hearings in this manner shall be consistent with the public's
22 access to the courts.

23 Sec. 20. Section 25-2733, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 25-2733 (1) In all cases ~~other than appeals from the~~
26 ~~Small Claims Court,~~ the district court shall review the case
27 for error appearing on the record made in the county court. The

1 district court shall render a judgment which may affirm, affirm but
2 modify, or reverse the judgment or final order of the county court.
3 If the district court reverses, it may enter judgment in accordance
4 with its findings or remand the case to the county court for
5 further proceedings consistent with the judgment of the district
6 court. Within two judicial days after the decision of the district
7 court becomes final, the clerk of the district court shall issue a
8 mandate in appeals from the county court and transmit the mandate
9 in appeals to the clerk of the county court on the form prescribed
10 by the Supreme Court together with a copy of such decision.

11 (2) ~~The bill of exceptions, if filed with the clerk at~~
12 ~~or before the hearing, shall be considered admitted in evidence~~
13 ~~on the hearing of the appeal unless the court on objection by a~~
14 ~~party excludes all or part of it.~~ The ordering, preparing, signing,
15 filing, correcting, and amending of the bill of exceptions shall be
16 governed by the rules of practice prescribed by the Supreme Court.

17 (3) The judgment of the district court shall vacate the
18 judgment in the county court. The taxation of costs in the district
19 court shall include the costs in the county court. If a judgment
20 of the county court is affirmed or affirmed but modified, interest
21 on the amount of the judgment in the district court that does not
22 exceed the amount of the judgment in the county court shall run
23 from the date of entry of the judgment appealed from the county
24 court.

25 Sec. 21. Section 25-2740, Revised Statutes Cumulative
26 Supplement, 2006, is amended to read:

27 25-2740 (1) For purposes of this section:

1 (a) Domestic relations matters means proceedings under
2 sections 28-311.09 and 28-311.10 (including harassment protection
3 orders and valid foreign harassment protection orders), the
4 Conciliation Court Law and sections 42-347 to 42-381 (including
5 dissolution, separation, annulment, custody, and support), section
6 43-512.04 (including child support or medical support), section
7 42-924 (including domestic protection orders), sections 43-1401 to
8 43-1418 (including paternity determinations and parental support),
9 and sections 43-1801 to 43-1803 (including grandparent visitation);
10 and

11 (b) Paternity determinations means proceedings to
12 establish the paternity of a child under sections 43-1411 to
13 43-1418.

14 (2) Except as provided in subsection ~~(4)~~ (3) of this
15 section, in domestic relations matters, a party shall file his or
16 her petition or complaint and all other court filings with the
17 clerk of the district court. The party shall state in the petition
18 or complaint whether such party requests that the proceeding be
19 heard by a county court judge or by a district court judge. If
20 the party requests the case be heard by a county court judge, the
21 county court judge assigned to hear cases in the county in which
22 the matter is filed at the time of the hearing is deemed appointed
23 by the district court and the consent of the county court judge
24 is not required. Such proceeding is considered a district court
25 proceeding, even if heard by a county court judge, and an order or
26 judgment of the county court in a domestic relations matter has the
27 force and effect of a district court judgment. The testimony in a

1 domestic relations matter heard before a county court judge shall
2 be preserved as provided in section 25-2732.

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

7 ~~(4)~~ (3) In addition to the jurisdiction provided for
8 paternity determinations under subsection (2) of this section,
9 a county court or separate juvenile court which already has
10 jurisdiction over the child whose paternity is to be determined has
11 jurisdiction over such paternity determination.

12 Sec. 22. There shall be no oral argument in an appeal to
13 the district court in any criminal case where the sole allegation
14 of error is that the sentence imposed was excessive or excessively
15 lenient or the trial court refused to reduce the sentence upon
16 application of the defendant.

17 Sec. 23. Section 29-1816, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 29-1816 The accused shall be arraigned by reading to him
20 or her the indictment or information, unless the reading is waived
21 by the accused when the nature of the charge is made known to him
22 or her. The accused shall then be asked whether he or she is guilty
23 or not guilty of the offense charged. If the accused appears in
24 person and by counsel and goes to trial before a jury regularly
25 impaneled and sworn, he or she shall be deemed to have waived
26 arraignment and a plea of not guilty shall be deemed to have been
27 made.

1 At the time of the arraignment the court shall advise
2 the defendant, if he or she was less than eighteen years of age
3 at the time of the commitment of the alleged crime, that he or
4 she may move the county or district court at any time not later
5 than ~~fifteen days before trial~~ thirty days after arraignment,
6 unless otherwise permitted by the court for good cause shown,
7 to waive jurisdiction in such case to the juvenile court for
8 further proceedings under the Nebraska Juvenile Code. The court
9 shall schedule a hearing on such motion within fifteen days. The
10 customary rules of evidence shall not be followed at such hearing.
11 The county attorney shall present the evidence and reasons why such
12 case should be retained, the defendant shall present the evidence
13 and reasons why the case should be transferred, and both sides
14 shall consider the criteria set forth in section 43-276. After
15 considering all the evidence and reasons presented by both parties,
16 pursuant to section 43-276, the case shall be transferred unless a
17 sound basis exists for retaining the case.

18 In deciding such motion the court shall consider, among
19 other matters, the matters set forth in section 43-276 for
20 consideration by the county attorney when determining the type
21 of case to file.

22 The court shall set forth findings for the reason for
23 its decision, which shall not be a final order for the purpose
24 of enabling an appeal. If the court determines that the child
25 should be transferred to the juvenile court, the complete file in
26 the district court shall be transferred to the juvenile court and
27 the indictment or information may be used in place of a petition

1 therein. The court making a transfer shall order the minor to
2 be taken forthwith to the juvenile court and designate where the
3 minor shall be kept pending determination by the juvenile court.
4 The juvenile court shall then proceed as provided in the Nebraska
5 Juvenile Code.

6 Sec. 24. Section 42-353, Revised Statutes Supplement,
7 2007, is amended to read:

8 42-353 The pleadings required by sections 42-347 to
9 42-381 shall be governed by the rules of pleading in civil actions
10 promulgated under section 25-801.01. The complaint shall include
11 the following:

12 (1) The name and address of the plaintiff and his or
13 her attorney, except that ~~for~~ a plaintiff who is living in an
14 undisclosed location because of safety concerns, ~~only the county~~
15 ~~and state of the address are required,~~ is only required to disclose
16 the county and state of his or her residence, and in such case,
17 shall provide an alternative address for the mailing of notice;

18 (2) The name and address, if known, of the defendant;

19 (3) The date and place of marriage;

20 (4) The name and year of birth of each child whose
21 custody or welfare may be affected by the proceedings and whether
22 (a) a parenting plan as provided in the Parenting Act has been
23 developed and (b) child custody, parenting time, visitation, or
24 other access or child support is a contested issue;

25 (5) If the plaintiff is a party to any other pending
26 action for divorce, separation, or dissolution of marriage, a
27 statement as to where such action is pending;

1 (6) Reference to any existing restraining orders,
2 protection orders, or criminal no-contact orders regarding any
3 party to the proceedings;

4 ~~(7) Financial statements if required by section 42-359;~~

5 ~~(8)~~ (7) A statement of the relief sought by the
6 plaintiff, including adjustment of custody, property, and support
7 rights; and

8 ~~(9)~~ (8) An allegation that the marriage is irretrievably
9 broken.

10 Sec. 25. Section 42-357, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 42-357 The court may order either party to pay to the
13 clerk of the district court or to the State Disbursement Unit,
14 as provided in section 42-369, a sum of money for the temporary
15 support and maintenance of the other party and minor children
16 if any are affected by the action and to enable such party to
17 prosecute or defend the action. The court may make such order
18 after service of process and claim for temporary allowances is
19 made in the complaint or by motion by the plaintiff or by the
20 defendant in a responsive pleading; but no such order shall be
21 entered before three days after notice of hearing has been served
22 on the other party or notice waived. During the pendency of any
23 proceeding under sections 42-347 to 42-381 after the complaint is
24 filed, upon application of either party and if the accompanying
25 affidavit of the party or his or her agent shows to the court
26 that the party is entitled thereto, the court may issue ex parte
27 orders (1) restraining any person from transferring, encumbering,

1 hypothecating, concealing, or in any way disposing of real or
2 personal property except in the usual course of business or for
3 the necessities of life, and the party against whom such order
4 is directed shall upon order of the court account for all unusual
5 expenditures made after such order is served upon him or her,
6 (2) enjoining any party from molesting or disturbing the peace
7 of the other party or any minor children affected by the action,
8 and (3) determining the temporary custody of any minor children
9 of the marriage, except that no restraining order enjoining any
10 party from molesting or disturbing the peace of any minor child
11 shall issue unless, at the same time, the court determines that the
12 party requesting such order shall have temporary custody of such
13 minor child. Ex parte orders issued pursuant to ~~subdivision (1) of~~
14 subdivisions (1) and (3) of this section shall remain in force for
15 no more than ten days or until a hearing is held thereon, whichever
16 is earlier. After motion, notice to the party, and hearing, the
17 court may order either party excluded from the premises occupied
18 by the other upon a showing that physical or emotional harm would
19 otherwise result. Any restraining order issued excluding either
20 party from the premises occupied by the other shall specifically
21 set forth the location of the premises and shall be served upon the
22 adverse party by the sheriff in the manner prescribed for serving
23 a summons, and a return thereof shall be filed in the court. Any
24 person who knowingly violates such an order after service shall
25 be guilty of a Class II misdemeanor. In the event a restraining
26 order enjoining any party from molesting or disturbing the peace
27 of any minor children is issued, upon application and affidavit

1 setting out the reason therefor, the court shall schedule a hearing
2 within seventy-two hours to determine whether the order regarding
3 the minor children shall remain in force. Section 25-1064 shall
4 not apply to the issuance of ex parte orders pursuant to this
5 section. Any judge of the county court or district court may grant
6 a temporary ex parte order in accordance with this section.

7 Sec. 26. Section 42-359, Revised Statutes Supplement,
8 2007, is amended to read:

9 42-359 Applications and ~~complaints~~ regarding spousal
10 ~~support, child support, medical support,~~ for spousal support or
11 alimony shall be accompanied by a statement of the applicant's ~~ex~~
12 ~~complainant's~~ financial condition and, to the best of his or her
13 knowledge, a statement of the other party's financial condition.
14 Such other party may file his or her statement, if he or she so
15 desires, and shall do so if ordered by the court. Statements shall
16 be under oath and shall show income from salary or other sources,
17 assets, debts and payments thereon, living expenses, and other
18 relevant information. Required forms for financial statements may
19 be furnished by the court.

20 Sec. 27. Section 42-364, Revised Statutes Supplement,
21 2007, is amended to read:

22 42-364 (1) In an action under Chapter 42 involving
23 child support, child custody, parenting time, visitation, or other
24 access, the parties and their counsel, if represented, shall
25 develop a parenting plan as provided in the Parenting Act. If
26 the parties and counsel do not develop a parenting plan, the
27 complaint shall so indicate as provided in section 42-353 and

1 before July 1, 2010, the case may be referred to mediation,
2 specialized alternative dispute resolution, or other alternative
3 dispute resolution process and on or after such date the case
4 shall be referred to mediation or specialized alternative dispute
5 resolution as provided in the Parenting Act. The decree in an
6 action involving the custody of a minor child shall include the
7 determination of legal custody and physical custody based upon the
8 best interests of the child, as defined in the Parenting Act, and
9 child support. Such determinations shall be made by incorporation
10 into the decree of (a) a parenting plan developed by the parties,
11 if approved by the court, or (b) a parenting plan developed by the
12 court based upon evidence produced after a hearing in open court if
13 no parenting plan is developed by the parties or the plan developed
14 by the parties is not approved by the court. The decree shall
15 conform to the Parenting Act. The social security number of each
16 parent and the minor child shall be furnished to the clerk of the
17 district court but shall not be disclosed or considered a public
18 record.

19 (2) In determining legal custody or physical custody,
20 the court shall not give preference to either parent based on the
21 sex of the parent and, except as provided in section 43-2933, no
22 presumption shall exist that either parent is more fit or suitable
23 than the other. Custody shall be determined on the basis of the
24 best interests of the child, as defined in the Parenting Act.
25 Unless parental rights are terminated, both parents shall continue
26 to have the rights stated in section 42-381.

27 (3) Custody of a minor child may be placed with both

1 parents on a joint legal custody or joint physical custody basis,
2 or both, (a) when both parents agree to such an arrangement in the
3 parenting plan and the court determines that such an arrangement is
4 in the best interests of the child or (b) if the court specifically
5 finds, after a hearing in open court, that joint physical custody
6 or joint legal custody, or both, is in the best interests of the
7 minor child regardless of any parental agreement or consent.

8 (4) In determining the amount of child support to be
9 paid by a parent, the court shall consider ~~the child support~~
10 ~~calculations included in the separate financial plan submitted~~
11 ~~with the parenting plan,~~ the earning capacity of each parent, and
12 the guidelines provided by the Supreme Court pursuant to section
13 42-364.16 for the establishment of child support obligations. Upon
14 application, hearing, and presentation of evidence of an abusive
15 disregard of the use of child support money paid by one party
16 to the other, the court may require the party receiving such
17 payment to file a verified report with the court, as often as
18 the court requires, stating the manner in which such money is
19 used. Child support paid to the party having custody of the minor
20 child shall be the property of such party except as provided in
21 section 43-512.07. The clerk of the district court shall maintain
22 a record, separate from all other judgment dockets, of all decrees
23 and orders in which the payment of child support or spousal
24 support has been ordered, whether ordered by a district court,
25 county court, separate juvenile court, or county court sitting as a
26 juvenile court. Orders for child support in cases in which a party
27 has applied for services under Title IV-D of the federal Social

1 Security Act, as amended, shall be reviewed as provided in sections
2 43-512.12 to 43-512.18.

3 (5) Whenever termination of parental rights is placed in
4 issue:

5 (a) The court shall transfer jurisdiction to a juvenile
6 court established pursuant to the Nebraska Juvenile Code unless
7 a showing is made that the county court or district court
8 is a more appropriate forum. In making such determination, the
9 court may consider such factors as cost to the parties, undue
10 delay, congestion of dockets, and relative resources available for
11 investigative and supervisory assistance. A determination that the
12 county court or district court is a more appropriate forum shall
13 not be a final order for the purpose of enabling an appeal. If
14 no such transfer is made, the court shall appoint an attorney as
15 guardian ad litem to protect the interests of any minor child.
16 The court may terminate the parental rights of one or both parents
17 after notice and hearing when the court finds such action to be in
18 the best interests of the minor child, as defined in the Parenting
19 Act, and it appears by the evidence that one or more of the grounds
20 for termination of parental rights stated in section 43-292 exist;
21 and

22 (b) The court shall inform a parent who does not have
23 legal counsel of the parent's right to retain counsel and of
24 the parent's right to retain legal counsel at county expense if
25 such parent is unable to afford legal counsel. If such parent
26 is unable to afford legal counsel and requests the court to
27 appoint legal counsel, the court shall immediately appoint an

1 attorney to represent the parent in the termination proceedings.
2 The court shall order the county to pay the attorney's fees and
3 all reasonable expenses incurred by the attorney in protecting the
4 rights of the parent. At such hearing, the guardian ad litem shall
5 take all action necessary to protect the interests of the minor
6 child. The court shall fix the fees and expenses of the guardian ad
7 litem and tax the same as costs but may order the county to pay on
8 finding the responsible party indigent and unable to pay.

9 (6) Modification proceedings relating to support,
10 custody, parenting time, visitation, other access, or removal of
11 children from the jurisdiction of the court shall be commenced
12 by filing a complaint to modify. Modification of a parenting
13 plan is governed by the Parenting Act. Proceedings to modify a
14 parenting plan shall be commenced by filing a complaint to modify.
15 Such actions may be referred to mediation, specialized alternative
16 dispute resolution, or other alternative dispute resolution process
17 before July 1, 2010, and on and after such date shall be referred
18 to mediation or specialized alternative dispute resolution as
19 provided in the Parenting Act. Service of process and other
20 procedure shall comply with the requirements for a dissolution
21 action.

22 (7) In any proceeding under this section relating to
23 custody of a child of school age, certified copies of school
24 records relating to attendance and academic progress of such child
25 are admissible in evidence.

26 Sec. 28. A decree of dissolution, legal separation,
27 or order establishing paternity shall incorporate financial

1 arrangements for each party's responsibility for reasonable and
2 necessary medical, dental, and eye care, medical reimbursements,
3 day care, extracurricular activity, education, and other
4 extraordinary expenses of the child and calculation of child
5 support obligations.

6 Sec. 29. Section 42-364.13, Revised Statutes Supplement,
7 2007, is amended to read:

8 42-364.13 (1) Any order for support entered by the
9 court shall specifically provide that any person ordered to pay a
10 judgment shall be required to furnish to the clerk of the district
11 court his or her address, telephone number, and social security
12 number, the name of his or her employer, whether or not such
13 person has access to employer-related health insurance coverage
14 and, if so, the health insurance policy information, and any other
15 information the court deems relevant until such judgment is paid
16 in full. The person shall also be required to advise the clerk of
17 any changes in such information between the time of entry of the
18 decree and the payment of the judgment in full. If both parents
19 are parties to the action, such order shall provide that each be
20 required to furnish to the clerk of the district court all of the
21 information required by this subsection. Failure to comply with
22 this section shall be punishable by contempt.

23 (2) All support orders entered by the court shall include
24 the ~~birthdate~~ year of birth of any child for whom the order
25 requires the provision of support.

26 (3) Until the Title IV-D Division of the Department of
27 Health and Human Services has operative the statewide automated

1 data processing and retrieval system necessary for centralized
2 collection and disbursement of support order payments:

3 (a) If any case contains an order or judgment for child,
4 medical, or spousal support, the order shall include the following
5 statements:

6 In the event that the (plaintiff or defendant) fails to
7 pay any child, medical, or spousal support payment, as such failure
8 is certified each month by the district court clerk in cases in
9 which court-ordered support is delinquent in an amount equal to
10 the support due and payable for a one-month period of time, he
11 or she shall be subject to income withholding and may be required
12 to appear in court on a date to be determined by the court and
13 show cause why such payment was not made. In the event that the
14 (plaintiff or defendant) fails to pay and appear as ordered, a
15 warrant shall be issued for his or her arrest.

16 (b) If the court orders income withholding regardless
17 of whether or not payments are in arrears pursuant to section
18 43-1718.01 or 43-1718.02, the statement in this subsection may be
19 altered to read as follows:

20 In the event that the (plaintiff or defendant) fails to
21 pay any child, medical, or spousal support payment, as such failure
22 is certified each month by the district court clerk in cases in
23 which court-ordered support is delinquent in an amount equal to the
24 support due and payable for a one-month period of time, he or she
25 may be required to appear in court on a date to be determined by
26 the court and show cause why such payment was not made. In the
27 event that the (plaintiff or defendant) fails to pay and appear as

1 ordered, a warrant shall be issued for his or her arrest.

2 (4) When the Title IV-D Division of the Department of
3 Health and Human Services has operative the statewide automated
4 data processing and retrieval system necessary for centralized
5 collection and disbursement of support order payments:

6 (a) If any case contains an order or judgment for child,
7 medical, or spousal support, the order shall include the following
8 statements:

9 In the event that the (plaintiff or defendant) fails to
10 pay any child, medical, or spousal support payment, as such failure
11 is certified each month by the State Disbursement Unit in cases
12 in which court-ordered support is delinquent in an amount equal
13 to the support due and payable for a one-month period of time, he
14 or she shall be subject to income withholding and may be required
15 to appear in court on a date to be determined by the court and
16 show cause why such payment was not made. In the event that the
17 (plaintiff or defendant) fails to pay and appear as ordered, a
18 warrant shall be issued for his or her arrest.

19 (b) If the court orders income withholding regardless
20 of whether or not payments are in arrears pursuant to section
21 43-1718.01 or 43-1718.02, the statement in this subsection may be
22 altered to read as follows:

23 In the event that the (plaintiff or defendant) fails to
24 pay any child, medical, or spousal support payment, as such failure
25 is certified each month by the State Disbursement Unit in cases
26 in which court-ordered support is delinquent in an amount equal to
27 the support due and payable for a one-month period of time, he or

1 she may be required to appear in court on a date to be determined
2 by the court and show cause why such payment was not made. In the
3 event that the (plaintiff or defendant) fails to pay and appear as
4 ordered, a warrant shall be issued for his or her arrest.

5 Sec. 30. Section 42-371, Revised Statutes Supplement,
6 2007, is amended to read:

7 42-371 Under the Uniform Interstate Family Support Act
8 and sections 42-347 to 42-381, 43-290, 43-512 to 43-512.10, and
9 43-1401 to 43-1418:

10 (1) All judgments and orders for payment of money shall
11 be liens, as in other actions, upon real property and any personal
12 property registered with any county office and may be enforced or
13 collected by execution and the means authorized for collection of
14 money judgments;

15 (2) (a) The judgment creditor may execute a partial or
16 total release of the judgment or a document subordinating the lien
17 of the judgment to any other lien, generally or on specific real or
18 personal property.

19 (b) Release of a judgment for child support or spousal
20 support or subordination of a lien of a judgment for child support
21 or spousal support may, if all such payments are current, be
22 released or subordinated by a release or subordination document
23 executed by the judgment creditor and such document shall be
24 sufficient to remove or subordinate the lien. A properly executed,
25 notarized release or subordination document explicitly reciting
26 that all child support payments or spousal support payments are
27 current is prima facie evidence that such payments are in fact

1 current.

2 (c) Release of a judgment for child support or spousal
3 support or subordination of a lien of a judgment for child support
4 or spousal support shall be approved by the court which rendered
5 the judgment if all such payments are not current. The judgment
6 debtor may file a motion in the court which rendered the original
7 judgment for an order releasing or subordinating the lien as to
8 specific real or personal property. The court shall grant such
9 order upon a showing by the judgment debtor that sufficient real or
10 personal property or property interests will remain subject to the
11 lien or will maintain priority over other liens sufficient to cover
12 all support due and which may become due;

13 (3) Whenever a judgment creditor refuses to execute a
14 release of the judgment or subordination of a lien as provided
15 in this section, the person desiring such release or subordination
16 may file an application for the relief desired. A copy of the
17 application and a notice of hearing shall be served on the judgment
18 creditor either personally or by registered or certified mail no
19 later than ten days before the date of hearing. If the court finds
20 that the release or subordination is not requested for the purpose
21 of avoiding payment and that the release or subordination will not
22 unduly reduce the security, the court may issue an order releasing
23 real or personal property from the judgment lien or issue an order
24 subordinating the judgment lien. As a condition for such release or
25 subordination, the court may require the posting of a bond with the
26 clerk in an amount fixed by the court, guaranteeing payment of the
27 judgment. For purposes of this section, a current certified copy of

1 support order payment history from the Title IV-D Division of the
2 Department of Health and Human Services setting forth evidence that
3 all support payments are current is prima facie evidence that such
4 payments are in fact current and is valid for thirty days after the
5 date of certification;

6 (2)(a) If support order payments are current, a partial
7 or total release of the judgment or subordination of a lien
8 for a support order, generally or on specific real or personal
9 property, may be accomplished by filing (i) a current certified
10 copy of support order payment history from the Title IV-D Division
11 explicitly reciting that all support order payments are current and
12 (ii) a partial or total release of the judgment or subordination
13 document in the county office where the lien is registered.

14 (b) If support order payments are not current, the person
15 desiring such release or subordination may file an application
16 for the relief desired in the court which rendered the original
17 judgment or support order. A copy of the application and a
18 notice of hearing shall be served on the judgment creditor either
19 personally or by registered or certified mail no less than ten days
20 before the date of hearing. If the court finds that the release or
21 subordination is not requested for the purpose of avoiding payment
22 and that the release or subordination will not unduly reduce the
23 security, the court may issue an order for a total or partial
24 release of all or specific real or personal property from the lien
25 or issue an order subordinating the lien. As a condition for such
26 release or subordination, the court may require the posting of a
27 bond with the clerk in an amount fixed by the court, guaranteeing

1 ~~payment of the judgment.~~

2 ~~(c) For purposes of this section, a current certified~~
3 ~~copy of support order payment history from the Title IV-D Division~~
4 ~~explicitly reciting that all support payments are current is valid~~
5 ~~for thirty days after the date of certification;~~

6 ~~(3)~~ (4) Full faith and credit shall be accorded to a lien
7 arising by operation of law against real and personal property for
8 amounts overdue relating to a support order owed by an obligor who
9 resides or owns property in this state when another state agency,
10 party, or other entity seeking to enforce such lien complies with
11 the procedural rules relating to the filing of the lien in this
12 state. The state agency, party, or other entity seeking to enforce
13 such lien shall send a certified copy of the support order with
14 all modifications, the notice of lien prescribed by 42 U.S.C.
15 652(a)(11) and 42 U.S.C. 654(9)(E), and the appropriate fee to
16 the clerk of the district court in the jurisdiction within this
17 state in which the lien is sought. Upon receiving the appropriate
18 documents and fee, the clerk of the district court shall accept the
19 documents filed and such acceptance shall constitute entry of the
20 foreign support order for purposes of this section only. Entry of a
21 lien arising in another state pursuant to this section shall result
22 in such lien being afforded the same treatment as liens arising
23 in this state. The filing process required by this section shall
24 not be construed as requiring an application, complaint, answer,
25 and hearing as might be required for the filing or registration of
26 foreign judgments under the Nebraska Uniform Enforcement of Foreign
27 Judgments Act or the Uniform Interstate Family Support Act;

1 ~~(4)~~ (5) Support order judgments shall cease to be liens
2 on real or registered personal property ten years from the date (a)
3 the youngest child becomes of age or dies or (b) the most recent
4 execution was issued to collect the judgment, whichever is later,
5 and such lien shall not be reinstated;

6 ~~(5)~~ (6) Alimony and property settlement award judgments,
7 if not covered by subdivision ~~(4)~~ (5) of this section, shall cease
8 to be a lien on real or registered personal property ten years
9 from the date (a) the judgment was entered, (b) the most recent
10 payment was made, or (c) the most recent execution was issued to
11 collect the judgment, whichever is latest, and such lien shall not
12 be reinstated;

13 ~~(6)~~ (7) The court may in any case, upon application or
14 its own motion, after notice and hearing, order a person required
15 to make payments to post sufficient security, bond, or other
16 guarantee with the clerk to insure payment of both current and
17 any delinquent amounts. Upon failure to comply with the order, the
18 court may also appoint a receiver to take charge of the debtor's
19 property to insure payment. Any bond, security, or other guarantee
20 paid in cash may, when the court deems it appropriate, be applied
21 either to current payments or to reduce any accumulated arrearage;

22 ~~(7)(a)~~ (8)(a) The lien of a mortgage or deed of trust
23 which secures a loan, the proceeds of which are used to purchase
24 real property, and (b) any lien given priority pursuant to a
25 subordination document under this section shall attach prior to
26 any lien authorized by this section. Any mortgage or deed of trust
27 which secures the refinancing, renewal, or extension of a real

1 property purchase money mortgage or deed of trust shall have the
2 same lien priority with respect to any lien authorized by this
3 section as the original real property purchase money mortgage or
4 deed of trust to the extent that the amount of the loan refinanced,
5 renewed, or extended does not exceed the amount used to pay the
6 principal and interest on the existing real property purchase money
7 mortgage or deed of trust, plus the costs of the refinancing,
8 renewal, or extension; and

9 ~~(8)~~ (9) Any lien authorized by this section against
10 personal property registered with any county consisting of a motor
11 vehicle or mobile home shall attach upon notation of the lien
12 against the motor vehicle or mobile home certificate of title
13 and shall have its priority established pursuant to the terms of
14 section 60-164 or a subordination document executed under this
15 section.

16 Sec. 31. Section 43-247, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 43-247 The juvenile court shall have exclusive original
19 jurisdiction as to any juvenile defined in subdivision (1) of this
20 section who is under the age of sixteen, as to any juvenile defined
21 in subdivision (3) of this section, and as to the parties and
22 proceedings provided in subdivisions (5), (6), and (8) of this
23 section. As used in this section, all references to the juvenile's
24 age shall be the age at the time the act which occasioned the
25 juvenile court action occurred. The juvenile court shall have
26 concurrent original jurisdiction with the district court as to any
27 juvenile defined in subdivision (2) of this section. The juvenile

1 court shall have concurrent original jurisdiction with the district
2 court and county court as to any juvenile defined in subdivision
3 (1) of this section who is age sixteen or seventeen, any juvenile
4 defined in subdivision (4) of this section, and any proceeding
5 under subdivision (7) or (11) of this section. The juvenile court
6 shall have concurrent original jurisdiction with the county court
7 as to any proceeding under subdivision (9) or (10) of this section.
8 Notwithstanding any disposition entered by the juvenile court
9 under the Nebraska Juvenile Code, the juvenile court's jurisdiction
10 over any individual adjudged to be within the provisions of this
11 section shall continue until the individual reaches the age of
12 majority or the court otherwise discharges the individual from its
13 jurisdiction.

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

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

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

22 (3) Any juvenile (a) who is homeless or destitute, or
23 without proper support through no fault of his or her parent,
24 guardian, or custodian; who is abandoned by his or her parent,
25 guardian, or custodian; who lacks proper parental care by reason of
26 the fault or habits of his or her parent, guardian, or custodian;
27 whose parent, guardian, or custodian neglects or refuses to provide

1 proper or necessary subsistence, education, or other care necessary
2 for the health, morals, or well-being of such juvenile; whose
3 parent, guardian, or custodian is unable to provide or neglects
4 or refuses to provide special care made necessary by the mental
5 condition of the juvenile; or who is in a situation or engages
6 in an occupation dangerous to life or limb or injurious to the
7 health or morals of such juvenile, (b) who, by reason of being
8 wayward or habitually disobedient, is uncontrolled by his or her
9 parent, guardian, or custodian; who deports himself or herself
10 so as to injure or endanger seriously the morals or health of
11 himself, herself, or others; or who is habitually truant from home
12 or school, or (c) who is mentally ill and dangerous as defined in
13 section 71-908;

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

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

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

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

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

26 (9) Any juvenile who was a ward of the juvenile court at
27 the inception of his or her guardianship and whose guardianship has

1 been disrupted or terminated;

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

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

7 Notwithstanding the provisions of the Nebraska Juvenile
8 Code, the determination of jurisdiction over any Indian child as
9 defined in section 43-1503 shall be subject to the Nebraska Indian
10 Child Welfare Act; and the district court shall have exclusive
11 jurisdiction in proceedings brought pursuant to section 71-510.

12 Sec. 32. (1) Pending the adjudication of any case,
13 the court may provide the parties the opportunity to address
14 issues involving the child's care and placement, services to
15 the family, and other concerns through facilitated conferencing.
16 Facilitated conferencing may include prehearing conferences and
17 family group conferences. All discussions taking place during
18 such facilitated conferences, including plea negotiations, shall
19 be considered confidential and privileged communications, except
20 communications required by mandatory reporting under section 28-711
21 for new allegations of child abuse or neglect which were not
22 previously known or reported.

23 (2) For purposes of this section:

24 (a) Prehearing conference means a facilitated meeting
25 prior to appearing in court and held to gain the cooperation
26 of the parties, to offer services and treatment, and to develop
27 a problem-solving atmosphere in the best interests of children

1 involved in the juvenile court system; and

2 (b) Family group conference means a facilitated
3 collaborative process in which families work with extended family
4 members and others to make decisions and develop plans for the best
5 interests of children who are under the jurisdiction of the court.

6 Sec. 33. Section 43-272.01, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 43-272.01 (1) A guardian ad litem as provided for in
9 subsections (2) and (3) of section 43-272 shall be appointed
10 when a child is removed from his or her surroundings pursuant
11 to subdivision (3) or (4) of section 43-248, subdivision (4) of
12 section 43-250, or section 43-251. If removal has not occurred, a
13 guardian ad litem shall be appointed at the commencement of all
14 cases brought under subdivision (3)(a) or (8) of section 43-247 and
15 section 28-707.

16 (2) In the course of discharging duties as guardian ad
17 litem, the person so appointed shall consider, but not be limited
18 to, the criteria provided in this subsection. The guardian ad
19 litem:

20 (a) Is appointed to stand in lieu of a parent for a
21 protected juvenile who is the subject of a juvenile court petition,
22 shall be present at all hearings before the court in such matter
23 unless expressly excused by the court, and may enter into such
24 stipulations and agreements concerning adjudication and disposition
25 deemed by him or her to be in the juvenile's best interests;

26 (b) Is not appointed to defend the parents or other
27 custodian of the protected juvenile but shall defend the legal

1 and social interests of such juvenile. Social interests shall
2 be defined generally as the usual and reasonable expectations of
3 society for the appropriate parental custody and protection and
4 quality of life for juveniles without regard to the socioeconomic
5 status of the parents or other custodians of the juvenile;

6 (c) May at any time after the filing of the petition
7 move the court of jurisdiction to provide medical or psychological
8 treatment or evaluation as set out in section 43-258. The guardian
9 ad litem shall have access to all reports resulting from any
10 examination ordered under section 43-258, and such reports shall be
11 used for evaluating the status of the protected juvenile;

12 (d) Shall make every reasonable effort to become
13 familiar with the needs of the protected juvenile which (i) shall
14 include consultation with the juvenile within two weeks after the
15 appointment and once every six months thereafter and inquiry of
16 the most current caseworker, foster parent, or other custodian
17 and (ii) may include inquiry of others directly involved with
18 the juvenile or who may have information or knowledge about the
19 circumstances which brought the juvenile court action or related
20 cases and the development of the juvenile, including biological
21 parents, physicians, psychologists, teachers, and clergy members;

22 (e) May present evidence and witnesses and cross-examine
23 witnesses at all evidentiary hearings. In any proceeding under this
24 section relating to a child of school age, certified copies of
25 school records relating to attendance and academic progress of such
26 child are admissible in evidence;

27 (f) Shall be responsible for making recommendations to

1 the court regarding the temporary and permanent placement of the
2 protected juvenile and shall submit a written report to the court
3 at every dispositional or review hearing, or in the alternative,
4 the court may provide the guardian ad litem with a checklist
5 that shall be completed and presented to the court at every
6 dispositional or review hearing;

7 (g) Shall consider such other information as is warranted
8 by the nature and circumstances of a particular case; and

9 (h) May file a petition in the juvenile court on behalf
10 of the juvenile, including a supplemental petition as provided in
11 section 43-291.

12 (3) Nothing in this section shall operate to limit the
13 discretion of the juvenile court in protecting the best interests
14 of a juvenile who is the subject of a juvenile court petition.

15 (4) For purposes of subdivision (2)(d) of this section,
16 the court may order the expense of such consultation, if any, to be
17 paid by the county in which the juvenile court action is brought
18 or the court may, after notice and hearing, assess the cost of
19 such consultation, if any, in whole or in part to the parents of
20 the juvenile. The ability of the parents to pay and the amount
21 of the payment shall be determined by the court by appropriate
22 examination.

23 Sec. 34. Section 43-276, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 43-276 In cases coming within subdivision (1) of section
26 43-247, when there is concurrent jurisdiction, or subdivision
27 (2) or (4) of section 43-247, when the juvenile is under the

1 age of sixteen years, the county attorney shall, in making
2 the determination whether to file a criminal charge, file a
3 juvenile court petition, offer juvenile pretrial diversion, or
4 offer mediation, consider: (1) The type of treatment such juvenile
5 would most likely be amenable to; (2) whether there is evidence
6 that the alleged offense included violence or was committed in
7 an aggressive and premeditated manner; (3) the motivation for the
8 commission of the offense; (4) the age of the juvenile and the ages
9 and circumstances of any others involved in the offense; (5) the
10 previous history of the juvenile, including whether he or she had
11 been convicted of any previous offenses or adjudicated in juvenile
12 court, and, if so, whether such offenses were crimes against the
13 person or relating to property, and other previous history of
14 antisocial behavior, if any, including any patterns of physical
15 violence; (6) the sophistication and maturity of the juvenile as
16 determined by consideration of his or her home, school activities,
17 emotional attitude and desire to be treated as an adult, pattern
18 of living, and whether he or she has had previous contact with law
19 enforcement agencies and courts and the nature thereof; (7) whether
20 there are facilities particularly available to the juvenile court
21 for treatment and rehabilitation of the juvenile; (8) whether the
22 best interests of the juvenile and the security of the public may
23 require that the juvenile continue in secure detention or under
24 supervision for a period extending beyond his or her minority and,
25 if so, the available alternatives best suited to this purpose;
26 (9) whether the victim agrees to participate in mediation; (10)
27 whether there is a juvenile pretrial diversion program established

1 pursuant to sections 43-260.02 to 43-260.07; ~~and~~ (11) whether the
2 juvenile has been convicted of or has acknowledged unauthorized use
3 or possession of a firearm; (12) whether a juvenile court order has
4 been issued for the juvenile pursuant to section 35 of this act;
5 and (13) such other matters as the county attorney deems relevant
6 to his or her decision.

7 Sec. 35. Any time after the disposition of a juvenile
8 described in subdivision (1), (2), (3)(b), or (4) of section
9 43-247, upon the motion of any party or the court on its own motion
10 a hearing may be held regarding the amenability of the juvenile to
11 the rehabilitative services that can be provided under the Nebraska
12 Juvenile Code. The court may enter an order, based upon evidence
13 presented at the hearing, finding that a juvenile is not amenable
14 to rehabilitative services that can be provided under the Nebraska
15 Juvenile Code. The reasons for such a finding shall be stated in
16 the order. Such an order shall be considered by the county attorney
17 in making a future determination under section 43-276 regarding
18 such juvenile and by the court when considering a future transfer
19 motion under section 29-1816 or 43-261 or any future charge or
20 petition regarding such juvenile.

21 Sec. 36. Section 43-2,119, Revised Statutes Supplement,
22 2007, is amended to read:

23 43-2,119 ~~(1)~~ The number of judges of the separate
24 juvenile court in counties which have established a separate
25 juvenile court shall be:

26 ~~(a) Two judges in counties having seventy-five thousand~~
27 ~~inhabitants but less than two hundred thousand inhabitants;~~

1 ~~(b) Four judges in counties having at least two~~
2 ~~hundred thousand inhabitants but less than four hundred thousand~~
3 ~~inhabitants; and~~

4 ~~(c) Five judges in counties having four hundred thousand~~
5 ~~inhabitants or more.~~

6 ~~(2) The senior judge in point of service as a juvenile~~
7 ~~court judge shall be the presiding judge. The judges shall rotate~~
8 ~~the office of presiding judge every three years unless the judges~~
9 ~~agree to another system.~~

10 Sec. 37. Section 43-2,129, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 43-2,129 Sections 43-245 to 43-2,129 and sections 32 and
13 35 of this act shall be known and may be cited as the Nebraska
14 Juvenile Code.

15 Sec. 38. Section 43-1311, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 43-1311 Except as otherwise provided in the Nebraska
18 Indian Child Welfare Act, immediately following removal of a child
19 from his or her home pursuant to section 43-284, the person or
20 court in charge of the child shall:

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

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

27 (3) Subject the child to such further diagnosis and

1 evaluation as is necessary; and-

2 (4) Require that the child attend the same school as
3 prior to the foster care placement unless the person or court in
4 charge determines that attending such school would not be in the
5 best interests of the child.

6 Sec. 39. Section 43-1312, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 43-1312 (1) Following the investigation conducted
9 pursuant to section 43-1311 and immediately following the initial
10 placement of the child, the person or court in charge of the child
11 shall cause to be established a safe and appropriate plan for the
12 child. The plan shall contain at least the following:

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

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

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

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

22 (e) A complete record of the previous placements of the
23 foster child; and -

24 (f) The name of the school the child shall attend as
25 provided in section 43-1311.

26 (2) If the return of the child to his or her parents
27 is not likely based upon facts developed as a result of the

1 investigation, the Department of Health and Human Services shall
2 recommend termination of parental rights and referral for adoption,
3 guardianship, placement with a relative, or, as a last resort,
4 another planned permanent living arrangement.

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

12 (a) Returned to the parent;

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

15 (c) Placed for adoption;

16 (d) Referred for guardianship; or

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

22 Sec. 40. Section 43-1411.01, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 43-1411.01 (1) An action for paternity or parental
25 support under sections 43-1401 to 43-1418 may be initiated by
26 filing a complaint with the clerk of the district court as provided
27 in section 25-2740. Such proceeding may be heard by the county

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

6 (2) Whenever termination of parental rights is placed
7 in issue in any case arising under sections 43-1401 to 43-1408,
8 subsection (5) of section 42-364 and the Parenting Act shall apply
9 to such proceedings.

10 Sec. 41. An individual may file a complaint for relief
11 and the court may set aside a final judgment, court order,
12 administrative order, obligation to pay child support, or any
13 other legal determination of paternity if a scientifically reliable
14 genetic test performed in accordance with sections 43-1401 to
15 43-1408 establishes the exclusion of the individual named as a
16 father in the legal determination. The court shall appoint a
17 guardian ad litem to represent the interest of the child. The
18 filing party shall pay the costs of such test. A court that sets
19 aside a determination of paternity in accordance with this section
20 shall order completion of a new birth record and may order any
21 other appropriate relief, including setting aside an obligation to
22 pay child support. No support order may be retroactively modified,
23 but may be modified with respect to any period during which there
24 is a pending complaint for relief from a determination of paternity
25 under this section, but only from the date that notice of the
26 complaint was served on the nonfiling party. A court shall not
27 grant relief from determination of paternity if the individual

1 named as father (1) completed a notarized acknowledgement of
2 paternity pursuant to section 43-1408.01, (2) adopted the child,
3 or (3) knew that the child was conceived through artificial
4 insemination.

5 Sec. 42. Section 43-1608, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 43-1608 The Legislature finds that matters relating to
8 the establishment, modification, and enforcement of child, spousal,
9 or medical support should be handled by the district courts,
10 separate juvenile courts, and county courts in an expeditious
11 manner so that parties may obtain needed orders and other action as
12 quickly as possible.

13 Sec. 43. Section 43-1609, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 43-1609 (1) ~~The Supreme Court shall direct the district~~
16 ~~courts to appoint one or more child~~ Child support referees if
17 the Supreme Court determines that child support referees are
18 ~~necessary in order for~~ shall be appointed when necessary by the
19 district courts, separate juvenile courts, and county courts to
20 meet the requirements of federal law relating to expediting the
21 establishment, modification, enforcement, and collection of child,
22 spousal, or medical support.

23 (2) Child support referees shall be appointed by order of
24 the district court, separate juvenile court, or county court. ~~if it~~
25 ~~is determined by the Supreme Court that a child support referee is~~
26 ~~necessary.~~ The Supreme Court shall appoint child support referees
27 to serve more than one judicial district if the Supreme Court

1 determines it is necessary.

2 (3) To be qualified for appointment as a child support
3 referee, a person shall be an attorney in good standing admitted
4 to the practice of law in the State of Nebraska and shall meet any
5 other requirements imposed by the Supreme Court. A child support
6 referee shall be sworn or affirmed to well and faithfully hear and
7 examine the cause and to make a just and true report according to
8 the best of his or her understanding. The oath or affirmation may
9 be administered by a district, county, or separate juvenile court
10 judge. A child support referee may be removed at any time by the
11 appointing court.

12 (4) The Supreme Court may contract with an attorney to
13 perform the duties of a referee for a specific case or for a
14 specific amount of time or may direct a judge of the county court
15 to perform such duties.

16 Sec. 44. Section 43-1610, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 43-1610 Salaries, offices, support staff, equipment,
19 furnishings, and supplies for a child support referee shall be
20 provided by the county and state through funds appropriated by the
21 county and state to the district court, separate juvenile court,
22 and county court. If the Supreme Court ~~determines that~~ appoints
23 a referee ~~shall be appointed~~ to serve in more than one judicial
24 district pursuant to section 43-1609, the salary and necessary
25 travel expenses of the referee shall be paid by funds appropriated
26 by the state to the Supreme Court.

27 Sec. 45. Section 43-1611, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 43-1611 A district court, separate juvenile court, or
3 county court may by rule or order refer or assign any and all
4 matters regarding the establishment, modification, enforcement,
5 and collection of child, spousal, or medical support and
6 paternity matters to a child support referee for findings and
7 recommendations.

8 Sec. 46. Section 43-1612, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 43-1612 (1) A hearing before a child support referee
11 shall be conducted in the same manner as a hearing before
12 the district court, separate juvenile court, or county court.

13 A child support referee shall have the power to summon and
14 enforce the attendance of parties and witnesses, administer all
15 necessary oaths, supervise pretrial preparation pursuant to the
16 rules of discovery adopted pursuant to section 25-1273.01, grant
17 continuations and adjournments, recommend the appointment of
18 counsel for indigent parties, and carry out any other duties
19 permitted by law and assigned by the district court, separate
20 juvenile court, or county court.

21 (2) Testimony in matters heard by a child support referee
22 shall be preserved by tape recording or other prescribed measures
23 and in accordance with prescribed standards. Transcripts of all
24 hearings shall be available upon request and all costs of preparing
25 the transcript shall be paid by the party for whom it is prepared.

26 (3) A child support referee shall, in all cases, announce
27 orally his or her findings and recommendations to the parties or

1 their attorneys and submit a written report to the district court,
2 separate juvenile court, or county court containing findings of
3 fact and recommendations and any and all exceptions.

4 Sec. 47. Section 43-1613, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 43-1613 In any and all cases referred to a child support
7 referee by the district court, separate juvenile court, or county
8 court the parties shall have the right to take exceptions to
9 the findings and recommendations made by the referee and to
10 have a further hearing before ~~the district~~ such court for final
11 disposition. The ~~district~~ court upon receipt of the findings,
12 recommendations, and exceptions shall review the child support
13 referee's report and may accept or reject all or any part of
14 the report and enter judgment based on the ~~district~~ court's own
15 determination.

16 Sec. 48. Section 43-2404.02, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 43-2404.02 (1) There is created a separate and distinct
19 budgetary program within the commission to be known as the County
20 Juvenile Services Aid Program. Funding acquired from participation
21 in the federal act, state General Funds, and funding acquired
22 from other sources which may be used for purposes consistent with
23 the Juvenile Services Act and the federal act shall be used to
24 aid counties in the establishment and provision of community-based
25 services for accused and adjudicated juvenile offenders and to
26 increase capacity for community-based services to juveniles.

27 (2) The annual General Fund appropriation to the County

1 Juvenile Services Aid Program shall be apportioned to the counties
2 as aid in accordance with a formula established in rules and
3 regulations adopted and promulgated by the commission. The formula
4 shall be based on the total number of residents per county who
5 are twelve years of age through eighteen years of age and other
6 relevant factors as determined by the commission. The commission
7 may require a local match of up to forty percent from counties
8 receiving aid under such program. Any local expenditures for
9 community-based programs for juveniles may be applied toward such
10 match requirement.

11 (3) Funds provided to counties under the County Juvenile
12 Services Aid Program shall be used exclusively to assist counties
13 in implementation and operation of programs or services identified
14 in their comprehensive juvenile services plan, including, but not
15 limited to, programs for assessment and evaluation, prevention of
16 delinquent behavior, diversion, shelter care, intensive juvenile
17 probation services, restitution, family support services, and
18 family group conferencing. No funds appropriated or distributed
19 under the County Juvenile Services Aid Program shall be used for
20 construction of secure detention facilities, secure youth treatment
21 facilities, or secure youth confinement facilities. Aid received
22 under this section shall not be used for capital construction or
23 the lease or acquisition of facilities and shall not be used to
24 replace existing funding for programs or services. Any funds not
25 distributed to counties under this subsection shall be retained by
26 the commission to be distributed on a competitive basis under the
27 County Juvenile Services Aid Program.

1 (4) Any county receiving funding under the County
2 Juvenile Services Aid Program shall file an annual report as
3 required by rules and regulations adopted and promulgated by the
4 commission. The report shall include, but not be limited to,
5 information on the total number of juveniles served, the units of
6 service provided, a listing of the county's annual juvenile justice
7 budgeted and actual expenditures, and a listing of expenditures for
8 detention, residential treatment, and nonresidential treatment.

9 (5) The commission shall report annually to the Governor
10 and the Legislature on the distribution and use of funds
11 appropriated under the County Juvenile Services Aid Program.

12 (6) The commission shall adopt and promulgate rules and
13 regulations to implement this section.

14 Sec. 49. Section 43-2922, Revised Statutes Supplement,
15 2007, is amended to read:

16 43-2922 For purposes of the Parenting Act:

17 (1) Appropriate means reflective of the developmental
18 abilities of the child taking into account any cultural traditions
19 that are within the boundaries of state and federal law;

20 (2) Approved mediation center means a mediation center
21 approved by the Office of Dispute Resolution;

22 (3) Best interests of the child means the determination
23 made taking into account the requirements stated in section
24 43-2923;

25 (4) Child means a minor under nineteen years of age;

26 (5) Child abuse or neglect has the same meaning as in
27 section 28-710;

1 (6) Court conciliation program means a court-based
2 conciliation program under the Conciliation Court Law;

3 (7) Custody includes legal custody and physical custody;

4 (8) Domestic intimate partner abuse means+ an act of
5 abuse, as defined in section 42-903, and a pattern or history
6 of abuse evidenced by one or more of the following acts:
7 Physical or sexual assault, threats of physical assault, or sexual
8 assault, stalking, harassment, mental cruelty, emotional abuse,
9 intimidation, isolation, economic abuse, or coercion against any
10 current or past intimate partner, or an abuser using a child to
11 establish or maintain power and control over any current or past
12 intimate partner, and, when they contribute to the coercion or
13 intimidation of an intimate partner, acts of child abuse or neglect
14 or threats of such acts, cruel mistreatment or cruel neglect of an
15 animal, as defined in section 28-1008, or threats of such acts,
16 and other acts of abuse, assault, or harassment, or threats of
17 such acts against other family or household members. A finding by
18 a child protection agency shall not be considered res judicata or
19 collateral estoppel regarding an act of child abuse or neglect or
20 a threat of such act, and shall not be considered by the court
21 unless each parent is afforded the opportunity to challenge any
22 such determination;

23 ~~(a) An act of abuse, as defined in section 42-903, and~~
24 ~~the existence of a pattern or history of such an act without~~
25 ~~any recency or frequency requirement, including, but not limited~~
26 ~~to, one or more of the following: Physical assault or sexual~~
27 ~~assault, threats of physical assault or sexual assault, stalking,~~

1 harassment, mental cruelty, emotional abuse, intimidation,
2 isolation, economic abuse, or coercion against any current or
3 past intimate partner or an abuser using a child to establish
4 or maintain power and control over any current or past intimate
5 partner. The following acts shall be included within the definition
6 of domestic intimate partner abuse if the acts contributed to
7 coercion or intimidation of the intimate partner.

8 (i) An act of child abuse or neglect or a threat of such
9 act. A finding by a child protection agency shall not be considered
10 res judicata or collateral estoppel regarding such issue and shall
11 not be considered by the court unless each parent is afforded the
12 opportunity to challenge any such determination.

13 (ii) Cruel mistreatment or cruel neglect of an animal, as
14 defined in section 28-1008, or a threat of such act, or

15 (iii) Other acts of abuse, assault, or harassment, or
16 threats of such acts, against other family or household members, or

17 (b) One act of physical violence resulting in serious
18 bodily injury against any current or past intimate partner,
19 excluding any act of self-defense.

20 (9) Economic abuse means causing or attempting to cause
21 an individual to be financially dependent by maintaining total
22 control over the individual's financial resources, including, but
23 not limited to, withholding access to money or credit cards,
24 forbidding attendance at school or employment, stealing from or
25 defrauding of money or assets, exploiting the victim's resources
26 for personal gain of the abuser, or withholding physical resources
27 such as food, clothing, necessary medications, or shelter;

1 (10) Emotional abuse means a pattern of acts, threats
2 of acts, or coercive tactics, including, but not limited to,
3 threatening or intimidating to gain compliance, destruction of
4 the victim's personal property or threats to do so, violence to
5 an animal or object in the presence of the victim as a way to
6 instill fear, yelling, screaming, name-calling, shaming, mocking,
7 or criticizing the victim, possessiveness, or isolation from
8 friends and family. Emotional abuse can be verbal or nonverbal;

9 (11) Joint legal custody means mutual authority and
10 responsibility of the parents for making mutual fundamental
11 decisions regarding the child's welfare, including choices
12 regarding education and health;

13 (12) Joint physical custody means mutual authority and
14 responsibility of the parents regarding the child's place of
15 residence and the exertion of continuous blocks of parenting time
16 by both parents over the child for significant periods of time;

17 (13) Legal custody means the authority and responsibility
18 for making fundamental decisions regarding the child's welfare,
19 including choices regarding education and health;

20 (14) Mediation means a method of nonjudicial intervention
21 in which a trained, neutral third-party mediator, who has no
22 decisionmaking authority, provides a structured process in which
23 individuals and families in conflict work through parenting and
24 other related family issues with the goal of achieving a voluntary,
25 mutually agreeable parenting plan or related resolution;

26 (15) Mediator means a mediator meeting the qualifications
27 of section 43-2938 and acting in accordance with the Parenting Act;

1 ~~(15)~~ (16) Office of Dispute Resolution means the office
2 established under section 25-2904;

3 ~~(16)~~ (17) Parenting functions means those aspects of
4 the relationship in which a parent or person in the parenting
5 role makes fundamental decisions and performs fundamental functions
6 necessary for the care and development of a child. Parenting
7 functions include, but are not limited to:

8 (a) Maintaining a safe, stable, consistent, and nurturing
9 relationship with the child;

10 (b) Attending to the ongoing developmental needs of the
11 child, including feeding, clothing, physical care and grooming,
12 health and medical needs, emotional stability, supervision, and
13 appropriate conflict resolution skills and engaging in other
14 activities appropriate to the healthy development of the child
15 within the social and economic circumstances of the family;

16 (c) Attending to adequate education for the child,
17 including remedial or other special education essential to the
18 best interests of the child;

19 (d) Assisting the child in maintaining a safe, positive,
20 and appropriate relationship with each parent and other family
21 members, including establishing and maintaining the authority and
22 responsibilities of each party with respect to the child and
23 honoring the parenting plan duties and responsibilities;

24 (e) Minimizing the child's exposure to harmful parental
25 conflict;

26 (f) Assisting the child in developing skills to maintain
27 safe, positive, and appropriate interpersonal relationships; and

1 (g) Exercising appropriate support for social, academic,
2 athletic, or other special interests and abilities of the child
3 within the social and economic circumstances of the family;

4 ~~(17)~~ (18) Parenting plan means a plan for parenting the
5 child that takes into account parenting functions;

6 ~~(18)~~ (19) Parenting time, visitation, or other access
7 means communication or time spent between the child and parent,
8 the child and a court-appointed guardian, or the child and another
9 family member or members;

10 ~~(19)~~ (20) Physical custody means authority and
11 responsibility regarding the child's place of residence and the
12 exertion of continuous parenting time for significant periods of
13 time;

14 ~~(20)~~ (21) Provisions for safety means a plan developed
15 to reduce risks of harm to children and adults who are victims
16 of child abuse or neglect, domestic intimate partner abuse, or
17 unresolved parental conflict;

18 ~~(21)~~ (22) Remediation process means the method
19 established in the parenting plan which maintains the best
20 interests of the child and provides a means to identify, discuss,
21 and attempt to resolve future circumstantial changes or conflicts
22 regarding the parenting functions and which minimizes repeated
23 litigation and utilizes judicial intervention as a last resort;

24 ~~(22)~~ (23) Specialized alternative dispute resolution
25 means a method of nonjudicial intervention in high conflict
26 or domestic intimate partner abuse cases in which an approved
27 specialized mediator facilitates voluntary mutual development of

1 and agreement to a structured parenting plan, provisions for
2 safety, a transition plan, or other related resolution between the
3 parties;

4 ~~(23)~~ (24) Transition plan means a plan developed to
5 reduce exposure of the child and the adult to ongoing unresolved
6 parental conflict during parenting time, visitation, or other
7 access for the exercise of parental functions; and

8 ~~(24)~~ (25) Unresolved parental conflict means persistent
9 conflict in which parents are unable to resolve disputes about
10 parenting functions which has a potentially harmful impact on a
11 child.

12 Sec. 50. Section 43-2923, Revised Statutes Supplement,
13 2007, is amended to read:

14 43-2923 ~~(1)~~ The best interests of the child require:

15 (a) A parenting arrangement and parenting plan or other
16 court-ordered arrangement which provides for a child's safety,
17 emotional growth, health, stability, and physical care and regular
18 and continuous school attendance and progress for school-age
19 children;

20 (b) When a preponderance of the evidence indicates
21 domestic intimate partner abuse, a parenting and visitation
22 arrangement that provides for the safety of a victim parent;

23 (c) That the child's families and those serving in
24 parenting roles remain appropriately active and involved in
25 parenting with safe, appropriate, continuing quality contact
26 between children and their families when they have shown the
27 ability to act in the best interests of the child and have shared

1 in the responsibilities of raising the child;

2 (d) That even when parents have voluntarily negotiated
3 or mutually mediated and agreed upon a parenting plan, the court
4 shall determine whether it is in the best interests of the child
5 for parents to maintain continued communications with each other
6 and to make joint decisions in performing parenting functions as
7 are necessary for the care and healthy development of the child. If
8 the court rejects a parenting plan, the court shall provide written
9 findings as to why the parenting plan is not in the best interests
10 of the child; and

11 (e) That certain principles provide a basis upon which
12 education of parents is delivered and upon which negotiation and
13 mediation of parenting plans are conducted. Such principles shall
14 include: To minimize the potentially negative impact of parental
15 conflict on children; to provide parents the tools they need to
16 reach parenting decisions that are in the best interests of a
17 child; to provide alternative dispute resolution or specialized
18 alternative dispute resolution options that are less adversarial
19 for the child and the family; to ensure that the child's voice
20 is heard and considered in parenting decisions; to maximize the
21 safety of family members through the justice process; and, in
22 cases of domestic intimate partner abuse or child abuse or neglect,
23 to incorporate the principles of victim safety and sensitivity,
24 offender accountability, and community safety in parenting plan
25 decisions.

26 ~~(2)(a) If a party is absent or relocates from the family~~
27 ~~residence, the court shall not consider the absence or relocation~~

1 as a factor in determining the best interests of the child if:

2 (i) The absence or relocation is of short duration or
3 by agreement of the parties and the court finds that, during the
4 period of absence or relocation, the party has demonstrated an
5 interest in maintaining custody, parenting time, visitation, or
6 other access, the party maintains, or makes reasonable efforts to
7 maintain, regular contact with the child, and the party's behavior
8 demonstrates no intent to abandon the child;

9 (ii) The party is absent or relocates because of an act
10 or acts of actual or threatened abuse by the other party; or

11 (iii) The party is absent or relocates because there is
12 a protection order, restraining order, or criminal no-contact order
13 issued that excludes the party from the dwelling of the other
14 party or the child or otherwise enjoins the party from assault or
15 harassment against the other party or the child.

16 (b) This subsection does not apply to a party who
17 abandons a child as provided in section 28-705.

18 (3) A party's absence, relocation, or failure to comply
19 with custody, parenting time, visitation, or other access orders
20 shall not, by itself, be sufficient to justify a modification of
21 an order if the reason for the absence, relocation, or failure to
22 comply is the party's activation to military service and deployment
23 out of state.

24 Sec. 51. Section 43-2924, Revised Statutes Supplement,
25 2007, is amended to read:

26 43-2924 (1) The Parenting Act shall apply to proceedings
27 or modifications filed on or after January 1, 2008, in which

1 parenting functions for a child are at issue (a) under Chapter
2 42, including, but not limited to, proceedings or modification
3 of orders for dissolution of marriage and child custody and (b)
4 under sections 43-1401 to 43-1418. The Parenting Act may apply to
5 proceedings or modifications in which parenting functions for a
6 child are at issue under Chapter 30 or 43.

7 (2) The Parenting Act does not apply in any action
8 filed by a county attorney or authorized attorney pursuant to
9 his or her duties under section 42-358, 43-512 to 43-512.18, or
10 43-1401 to 43-1418, the Income Withholding for Child Support Act,
11 the Revised Uniform Reciprocal Enforcement of Support Act before
12 January 1, 1994, or the Uniform Interstate Family Support Act for
13 purposes of the establishment of paternity and the establishment
14 and enforcement of child and medical support. A county attorney
15 or authorized attorney shall not participate in the development of
16 or court review of a parenting plan under the Parenting Act. If
17 both parents are parties to a paternity or support action filed by
18 a county attorney or authorized attorney, the parents may proceed
19 with a parenting plan.

20 Sec. 52. Section 43-2927, Revised Statutes Supplement,
21 2007, is amended to read:

22 43-2927 (1) ~~Judges, attorneys, court-appointed attorneys,~~
23 ~~court-appointed guardians, and mediators~~ Mediators involved in
24 proceedings under the Parenting Act shall participate in training
25 approved by the State Court Administrator to recognize child
26 abuse or neglect, domestic intimate partner abuse, and unresolved
27 parental conflict and its potential impact upon children and

1 families.

2 (2) Screening guidelines and safety procedures for cases
3 involving conditions identified in subsection (1) of section
4 43-2939 shall be devised by the State Court Administrator.
5 Such screening shall be conducted by mediators using State Court
6 Administrator-approved screening tools.

7 (3) Such screening shall be conducted as a part of the
8 individual initial screening session for each case referred to
9 mediation under the Parenting Act prior to setting the case for
10 mediation to determine whether or not it is appropriate to proceed
11 in mediation or to proceed in a form of specialized alternative
12 dispute resolution.

13 ~~(4) Screening for domestic intimate partner abuse shall~~
14 ~~be conducted by each attorney representing a party or child~~
15 ~~in any proceeding under the act to determine the existence~~
16 ~~of domestic intimate partner abuse or other issues in regard~~
17 ~~to coercion, intimidation, and barriers to safety and full and~~
18 ~~informed decisionmaking.~~

19 ~~(5)~~ (4) The State Court Administrator's office, in
20 collaboration with professionals in the fields of domestic abuse
21 services, child and family services, mediation, and law, shall
22 develop and approve curricula for the training required under
23 subsection (1) of this section, as well as develop and approve
24 rules, procedures, and forms for training and screening for child
25 abuse or neglect, domestic intimate partner abuse, and unresolved
26 parental conflict.

27 Sec. 53. Section 43-2928, Revised Statutes Supplement,

1 2007, is amended to read:

2 43-2928 (1) The court shall order all parties to a
3 proceeding under the Parenting Act to attend a basic level
4 parenting education course. Participation in the course may be
5 delayed or waived by the court for good cause shown. Failure or
6 refusal by any party to participate in such a course as ordered by
7 the court shall not delay the entry of a final judgment or an order
8 modifying a final judgment in such action by more than six months
9 and shall in no case be punished by incarceration.

10 (2) The court may order parties under the act to attend
11 a second-level parenting education course subsequent to completion
12 of the basic level course when screening or a factual determination
13 of child abuse or neglect, domestic intimate partner abuse, or
14 unresolved parental conflict has been identified.

15 ~~(3) The court may order a child of parties to a~~
16 ~~proceeding under the act to attend a child of divorce education~~
17 ~~course which may include, but is not limited to, information about~~
18 ~~adjustment of a child to parental separation, family and emotional~~
19 ~~well-being, conflict management, problem solving, and resiliency~~
20 ~~skills.~~

21 ~~(4)~~ (3) The State Court Administrator shall approve all
22 parenting and child of divorce education courses under the act.

23 ~~(5)~~ (4) The basic level parenting education course
24 pursuant to this section shall be designed to educate the
25 parties about the impact of the pending court action upon the
26 child and appropriate application of parenting functions. The
27 course shall include, but not be limited to, information on the

1 developmental stages of children, adjustment of a child to parental
2 separation, the litigation and court process, alternative dispute
3 resolution, conflict management, stress reduction, guidelines for
4 parenting time, visitation, or other access, provisions for safety
5 and transition plans, and information about parents and children
6 affected by child abuse or neglect, domestic intimate partner
7 abuse, and unresolved parental conflict.

8 ~~(6)~~ (5) The second-level parenting education course
9 pursuant to this section shall include, but not be limited
10 to, information about development of provisions for safety and
11 transition plans, the potentially harmful impact of domestic
12 intimate partner abuse and unresolved parental conflict on the
13 child, use of effective communication techniques and protocols,
14 resource and referral information for victim and perpetrator
15 services, batterer intervention programs, and referrals for mental
16 health services, substance abuse services, and other community
17 resources.

18 ~~(7)~~ (6) Each party shall be responsible for the costs, if
19 any, of attending any court-ordered parenting ~~or~~ child ~~of~~ divorce
20 education course. ~~The court may waive or specifically allocate~~
21 ~~costs between the parties for their required participation in the~~
22 ~~course.~~ At the request of any party, or based upon screening or
23 recommendation of a mediator, the parties shall be allowed to
24 attend separate courses or to attend the same course at different
25 times, particularly if child abuse or neglect, domestic intimate
26 partner abuse, or unresolved parental conflict is or has been
27 present in the relationship or one party has threatened the other

1 party.

2 Sec. 54. Section 43-2929, Revised Statutes Supplement,
3 2007, is amended to read:

4 43-2929 (1) In any proceeding in which parenting
5 functions for a child are at issue under Chapter 42, a parenting
6 plan shall be developed and shall be approved by the court. Court
7 rule may provide for the parenting plan to be developed by the
8 parties or their counsel, a court conciliation program, an approved
9 mediation center, or a private mediator. When a parenting plan has
10 not been developed and submitted to the court, the court shall
11 create the parenting plan in accordance with the Parenting Act. A
12 parenting plan shall serve the best interests of the child pursuant
13 to sections 42-364 and 43-2923 and shall:

14 (a) Assist in developing a restructured family that
15 serves the best interests of the child by accomplishing the
16 parenting functions; and

17 (b) Include, but not be limited to, determinations of the
18 following:

19 (i) Legal custody and physical custody of each child;

20 (ii) Apportionment of parenting time, visitation, or
21 other access for each child, including, but not limited to,
22 specified religious and secular holidays, birthdays, Mother's Day,
23 Father's Day, school and family vacations, and other special
24 occasions, specifying dates and times for the same, or a formula
25 or method for determining such a schedule in sufficient detail
26 that, if necessary, the schedule can be enforced in subsequent
27 proceedings by the court, and set out appropriate times and numbers

1 for telephone access;

2 (iii) Location of the child during the week, weekend, and
3 given days during the year;

4 (iv) A transition plan, including the time and places for
5 transfer of the child, method of communication or amount and type
6 of contact between the parties during transfers, and duties related
7 to transportation of the child during transfers;

8 (v) Procedures for making decisions regarding the
9 day-to-day care and control of the child consistent with the major
10 decisions made by the person or persons who have legal custody and
11 responsibility for parenting functions;

12 (vi) Provisions for a remediation process regarding
13 future modifications to such plan;

14 (vii) Arrangements to maximize the safety of all parties
15 and the child; and

16 (viii) Provisions to ensure regular and continuous school
17 attendance and progress for school-age children of the parties; and

18 ~~(viii)~~ (ix) Provisions for safety when a preponderance of
19 the evidence establishes child abuse or neglect, domestic intimate
20 partner abuse, unresolved parental conflict, or criminal activity
21 which is directly harmful to a child.

22 (2) A parenting plan shall require that the parties
23 notify each other of a change of address, a party provide
24 notification if the party plans to change the residence of the
25 child for more than thirty days and the change would affect
26 any other party's custody, parenting time, visitation, or other
27 access. The notice shall be given before the contemplated move, by

1 ~~mail, return receipt requested, postage prepaid, to the last-known~~
2 ~~address of the party to be notified, except that the address or~~
3 ~~return address shall only include the county and state for a party~~
4 ~~who is living or moving to an undisclosed location because of~~
5 ~~safety concerns. A copy of the notice shall also be sent to the~~
6 ~~affected party's counsel of record. To the extent feasible, the~~
7 ~~notice shall be provided within a minimum of forty-five days before~~
8 ~~the proposed change of residence so as to allow time for mediation~~
9 ~~of a new agreement concerning custody, parenting time, visitation,~~
10 ~~or other access.~~

11 (3) When safe and appropriate for the best interests of
12 the child, the parenting plan may encourage mutual discussion of
13 major decisions regarding parenting functions including the child's
14 education, health care, and spiritual or religious upbringing.
15 However, when a prior factual determination of child abuse or
16 neglect, domestic intimate partner abuse, or unresolved parental
17 conflict has been made, then consideration shall be given to
18 inclusion of provisions for safety and a transition plan that
19 restrict communication or the amount and type of contact between
20 the parties during transfers.

21 (4) Regardless of the custody determinations in the
22 parenting plan, unless parental rights are terminated, both parents
23 shall continue to have the rights stated in section 42-381.

24 (5) The parenting plan shall be accompanied by
25 a financial plan which shall provide for apportionment of
26 the expenses for medical support, including provisions for
27 medical, dental, and eye care, medical reimbursements, day care,

1 ~~extracurricular activity, education, and other extraordinary~~
2 ~~expenses of the child and calculation of child support obligations.~~

3 ~~(6)~~ (5) In the development of a parenting plan,
4 consideration shall be given to the child's age, the child's
5 developmental needs, and the child's perspective, as well as
6 consideration of enhancing healthy relationships between the child
7 and each party.

8 Sec. 55. Section 43-2930, Revised Statutes Supplement,
9 2007, is amended to read:

10 43-2930 (1) ~~Every party seeking~~ Each party to a contested
11 proceeding for a temporary order relating to parenting functions
12 or custody, parenting time, visitation, or other access shall file
13 and serve offer a child information affidavit as an exhibit at
14 the hearing before the court. The child information affidavit shall
15 be verified to the extent known or reasonably discoverable by the
16 filing party or parties and ~~shall state, at a minimum,~~ may include
17 the following:

18 (a) The name, address, and length of residence with any
19 adults with whom each child has lived for the preceding twelve
20 months; except that the address shall only include the county and
21 state for a parent who is living in an undisclosed location because
22 of safety concerns;

23 (b) The performance by each parent or person acting as
24 parent for the preceding twelve months of the parenting functions
25 relating to the daily needs of the child;

26 (c) A description of the work and child care schedules
27 for the preceding twelve months of any person seeking custody,

1 parenting time, visitation, or other access and any expected
2 changes to these schedules in the near future;

3 (d) A description of the current proposed work and child
4 care schedules; and

5 (e) A description of the child's school and
6 extracurricular activities, including who is responsible for
7 transportation of the child. ~~and~~

8 ~~(f) Any~~ The child information affidavit may also state
9 any circumstances of child abuse or neglect, domestic intimate
10 partner abuse, or unresolved parental conflict that are likely to
11 pose a risk to the child and that warrant limitation on the award
12 of temporary custody, parenting time, visitation, or other access
13 to the child pending entry of a permanent parenting plan, including
14 any restraining orders, protection orders, or criminal no-contact
15 orders against either parent or a person acting as a parent by case
16 number and jurisdiction.

17 (2) After a contested hearing by live testimony or
18 affidavit, the court shall enter a temporary parenting order that
19 includes:

20 (a) Provision for temporary legal custody;

21 (b) Provisions for temporary physical custody, which
22 shall include either:

23 (i) A parenting time, visitation, or other access
24 schedule that designates in which home each child will reside on
25 given days of the year; or

26 (ii) A formula or method for determining such a schedule
27 in sufficient detail that, if necessary, the schedule can be

1 enforced in subsequent proceedings by the court;

2 (c) Designation of a temporary residence for the child;

3 ~~and~~

4 (d) Reference to any existing restraining orders,
5 protection orders, or criminal no-contact orders as well as
6 provisions for safety and a transition plan, consistent with any
7 court's finding of child abuse or neglect, domestic intimate
8 partner abuse, or unresolved parental conflict in order to provide
9 for the safety of a child and custodial parent necessary for the
10 best interests of the child; ~~and-~~

11 (e) If appropriate, a requirement that a parent complete
12 a program of intervention for perpetrators of domestic violence, a
13 program for drug or alcohol abuse, or a program designed to correct
14 another factor as a condition of parenting time.

15 (3) A party may move for an order to show cause, and the
16 court may enter a modified temporary parenting order.

17 (4) The State Court Administrator's office shall create a
18 form ~~for~~ that may be used by the parties to file create a child
19 information affidavit setting forth the elements identified in this
20 section.

21 (5) Provisions for temporary support for the child and
22 other financial matters may be included in the temporary parenting
23 order.

24 Sec. 56. Section 43-2932, Revised Statutes Supplement,
25 2007, is amended to read:

26 43-2932 (1) ~~In developing~~ When the court is required to
27 develop a parenting plan:

1 (a) If ~~any party requests, or if~~ a preponderance of
2 the evidence demonstrates, the court shall determine whether a
3 parent who would otherwise be allocated custody, parenting time,
4 visitation, or other access to the child under a parenting plan:

5 (i) Has committed child abuse or neglect;

6 (ii) Has committed child abandonment under section
7 28-705;

8 (iii) Has committed domestic intimate partner abuse; or

9 (iv) Has interfered persistently with the other parent's
10 access to the child, except in the case of actions taken for the
11 purpose of protecting the safety of the child or the interfering
12 parent or another family member, pending adjudication of the facts
13 underlying that belief; and

14 (b) If a parent is found to have engaged in any activity
15 specified by subdivision (1)(a) of this section, limits shall be
16 imposed that are reasonably calculated to protect the child or
17 child's parent from harm. The limitations may include, but are not
18 limited to:

19 (i) An adjustment of the custody of the child, including
20 the allocation of sole legal custody or physical custody to one
21 parent;

22 (ii) Supervision of the parenting time, visitation, or
23 other access between a parent and the child;

24 (iii) Exchange of the child between parents through an
25 intermediary or in a protected setting;

26 (iv) Restraints on the parent from communication with or
27 proximity to the other parent or the child;

1 (v) A requirement that the parent abstain from possession
2 or consumption of alcohol or nonprescribed drugs while exercising
3 custodial responsibility and in a prescribed period immediately
4 preceding such exercise;

5 (vi) Denial of overnight physical custodial
6 ~~responsibility~~; parenting time;

7 (vii) Restrictions on the presence of specific persons
8 while the parent is with the child;

9 (viii) A requirement that the parent post a bond to
10 secure return of the child following a period in which the parent
11 is exercising physical custodial ~~responsibility~~ parenting time or
12 to secure other performance required by the court; or

13 ~~(ix) A requirement that the parent complete a program of~~
14 ~~intervention for perpetrators of domestic violence, a program for~~
15 ~~drug or alcohol abuse, or a program designed to correct another~~
16 ~~factor; or~~

17 ~~(*)~~ (ix) Any other constraints or conditions deemed
18 necessary to provide for the safety of the child, a child's parent,
19 or any person whose safety immediately affects the child's welfare.

20 (2) A court determination under this section shall not
21 be considered a report for purposes of inclusion in the central
22 register of child protection cases pursuant to the Child Protection
23 Act.

24 (3) If a parent is found to have engaged in any activity
25 specified in subsection (1) of this section, the court shall not
26 order legal or physical custody to be given to that parent without
27 making special written findings that the child and other parent

1 can be adequately protected from harm by such limits as it may
2 impose under such subsection. The parent found to have engaged in
3 the behavior specified in subsection (1) of this section has the
4 burden of proving that legal or physical custody, parenting time,
5 visitation, or other access to that parent will not endanger the
6 child or the other parent.

7 Sec. 57. Section 43-2934, Revised Statutes Supplement,
8 2007, is amended to read:

9 43-2934 ~~(1)~~ The court shall not make a custody,
10 parenting time, visitation, or other access order and the parenting
11 plan shall not require anything that is inconsistent with any
12 restraining order, protection order, or criminal no-contact order
13 regarding any party to the proceeding, unless the court finds that:

14 (a) The custody, parenting time, visitation, or other
15 access order cannot be made consistent with the restraining order,
16 protection order, or criminal no-contact order; and

17 (b) The custody, parenting time, visitation, or other
18 access order is in the best interests of the minor.

19 ~~(2)~~ (1) Whenever custody, parenting time, visitation,
20 or other access is granted to a parent in a case in which
21 domestic intimate partner abuse is alleged and a restraining order,
22 protection order, or criminal no-contact order has been issued, the
23 custody, parenting time, visitation, or other access order shall
24 specify the time, day, place, and manner of transfer of the child
25 for custody, parenting time, visitation, or other access to limit
26 the child's exposure to potential domestic conflict or violence and
27 to ensure the safety of all family members. If the court finds that

1 a party is staying in a place designated as a shelter for victims
2 of domestic abuse or other confidential location, the time, day,
3 place, and manner of transfer of the child for custody, parenting
4 time, visitation, or other access shall be designed to prevent
5 disclosure of the location of the shelter or other confidential
6 location.

7 ~~(3)~~ (2) When making an order or parenting plan for
8 custody, parenting time, visitation, or other access in a case in
9 which domestic abuse is alleged and a restraining order, protection
10 order, or criminal no-contact order has been issued, the court
11 shall consider whether the best interests of the child, based
12 upon the circumstances of the case, require that any custody,
13 parenting time, visitation, or other access arrangement be limited
14 to situations in which a third person, specified by the court, is
15 present, or whether custody, parenting time, visitation, or other
16 access should be suspended or denied.

17 (3) When required by the best interests of the child, the
18 court may enter a custody, parenting time, visitation, or other
19 access order that is inconsistent with an existing restraining
20 order, protection order, or criminal no-contact order. However, it
21 may do so only if it has jurisdiction and authority to do so.

22 (4) If the court lacks jurisdiction or is otherwise
23 unable to modify the restraining order, protection order, or
24 criminal no-contact order, the court shall require that a certified
25 copy of the custody, parenting time, visitation, or other access
26 order be placed in the court file containing the restraining order,
27 protection order, or criminal no-contact order.

1 Sec. 58. Section 43-2936, Revised Statutes Supplement,
2 2007, is amended to read:

3 43-2936 An individual party, a ~~party's attorney~~, a
4 guardian ad litem, or a social service agency, ~~a court~~, ~~an entity~~
5 ~~providing domestic violence services~~, ~~or another interested entity~~
6 may ~~refer~~ request that a custody, parenting time, visitation,
7 other access, or related matter proceed to mediation, specialized
8 alternative dispute resolution, or other alternative dispute
9 resolution process at any time prior to the filing or after the
10 filing of an action with a court. Upon receipt of such ~~referral~~,
11 request, each mediator, court conciliation program, or approved
12 mediation center shall provide information about mediation and
13 specialized alternative dispute resolution to each party.

14 Sec. 59. Section 43-2937, Revised Statutes Supplement,
15 2007, is amended to read:

16 43-2937 (1) ~~At any time in the proceedings~~, a court
17 may In addition to those cases that are mandatorily referred
18 to mediation or specialized alternative dispute resolution under
19 subsection (3) of this section, a court may, at any time in the
20 proceedings upon its own motion or upon the motion of either
21 party, refer a case to mediation or specialized alternative dispute
22 resolution in order to attempt resolution of any relevant matter.
23 The court may state a date for the case to return to court, and
24 the court shall not grant an extension of such date except for
25 cause. If the court refers a case to mediation or specialized
26 alternative dispute resolution, the court may, if appropriate,
27 order temporary relief, including necessary support and provision

1 for payment of mediation costs. Court referral shall be to a
2 mediator agreed to by the parties and approved by the court,
3 an approved mediation center, or a court conciliation program.
4 The State Court Administrator's office shall develop a process to
5 approve mediators under the Parenting Act.

6 (2) Prior to July 1, 2010, if there are allegations of
7 domestic intimate partner abuse or unresolved parental conflict
8 between the parties in any proceeding, mediation shall not be
9 required pursuant to the Parenting Act or by local court rule,
10 unless the court has established a specialized alternative dispute
11 resolution rule approved by the State Court Administrator. The
12 specialized alternative dispute resolution process shall include
13 a method for court consideration of precluding or disqualifying
14 parties from participating; provide an opportunity to educate both
15 parties about the process; require informed consent from both
16 parties in order to proceed; provide safety protocols, including
17 separate individual sessions for each participant, informing each
18 party about the process, and obtaining informed consent from
19 each party to continue the process; allow support persons to
20 attend sessions; and establish opt-out-for-cause provisions. On and
21 after July 1, 2010, all trial courts shall have a mediation and
22 specialized alternative dispute resolution rule in accordance with
23 the act.

24 (3) ~~On and~~ For cases filed on or after July 1, 2010, all
25 parties who have not submitted a parenting plan to the court within
26 the time specified by the court shall be ordered to participate
27 in mediation or specialized alternative dispute resolution ~~at~~ with

1 a mediator, a court conciliation program, or an approved mediation
2 center as provided in section 43-2939.

3 Sec. 60. Section 43-2943, Revised Statutes Supplement,
4 2007, is amended to read:

5 43-2943 (1) The State Court Administrator ~~shall~~ may
6 develop rules to implement the Parenting Act.

7 (2) The Parenting Act Fund is created. The State Court
8 Administrator, through the Office of Dispute Resolution, approved
9 mediation centers, and court conciliation programs, shall use the
10 fund to carry out the Parenting Act. Any money in the fund
11 available for investment shall be invested by the state investment
12 officer pursuant to the Nebraska Capital Expansion Act and the
13 Nebraska State Funds Investment Act.

14 Sec. 61. Section 43-3001, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 43-3001 (1) Notwithstanding any other provision of law
17 regarding the confidentiality of records and when not prohibited by
18 the federal Privacy Act of 1974, as amended, juvenile court records
19 and any other pertinent information that may be in the possession
20 of school districts, county attorneys, the Attorney General, law
21 enforcement agencies, child advocacy centers, state probation
22 personnel, state parole personnel, youth detention facilities,
23 medical personnel, treatment or placement programs, the Department
24 of Health and Human Services, the Department of Correctional
25 Services, the State Foster Care Review Board, child abuse and
26 neglect investigation teams, child abuse and neglect treatment
27 teams, or other multidisciplinary teams for abuse, neglect, or

1 delinquency concerning a child who is in the custody of the
2 state may be shared with individuals and agencies who have been
3 identified in a court order authorized by this section.

4 (2) In any judicial proceeding concerning a child who is
5 currently, or who may become at the conclusion of the proceeding,
6 a ward of the court or state or under the supervision of the
7 court, an order may be issued which identifies individuals and
8 agencies who shall be allowed to receive otherwise confidential
9 information concerning the child for legitimate and official
10 purposes. The individuals and agencies who may be identified in
11 the court order are the child's attorney or guardian ad litem, the
12 parents' attorney, foster parents, appropriate school personnel,
13 county attorneys, the Attorney General, authorized court personnel,
14 law enforcement agencies, state probation personnel, state parole
15 personnel, youth detention facilities, medical personnel, treatment
16 or placement programs, the Department of Health and Human Services,
17 the Office of Juvenile Services, the Department of Correctional
18 Services, the State Foster Care Review Board, child abuse and
19 neglect investigation teams, child abuse and neglect treatment
20 teams, and other multidisciplinary teams for abuse, neglect, or
21 delinquency. Unless the order otherwise states, the order shall be
22 effective until the child leaves the custody of the state or until
23 a new order is issued.

24 (3) All information acquired by an individual or agency
25 pursuant to this section shall be confidential and shall not
26 be disclosed except to other persons who have a legitimate and
27 official interest in the information and are identified in the

1 court order issued pursuant to this section with respect to the
2 child in question. A person who receives such information or
3 who cooperates in good faith with other individuals and agencies
4 identified in the appropriate court order by providing information
5 or records about a child shall be immune from any civil or criminal
6 liability. The provisions of this section granting immunity from
7 liability shall not be extended to any person alleged to have
8 committed an act of child abuse or neglect.

9 (4) Any In any proceeding under this section relating to
10 a child of school age, certified copies of school records relating
11 to attendance and academic progress of such child are admissible in
12 evidence.

13 (5) Except as provided in subsection (4) of this section,
14 any person who publicly discloses information received pursuant to
15 this section shall be guilty of a Class III misdemeanor.

16 Sec. 62. Section 79-215, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 79-215 (1) Except as otherwise provided in this section,
19 a student is a resident of the school district where he or she
20 resides or any school district where at least one of his or her
21 parents reside and shall be admitted to any such school district
22 upon request without charge.

23 (2) A school board shall admit any homeless student that
24 requests admission without charge.

25 (3) A school board may allow a student whose residency
26 in the district ceases during a school year to continue attending
27 school in such district for the remainder of that school year.

1 (4) A school board may admit nonresident students to the
2 school district pursuant to a contract with the district where the
3 student is a resident and shall collect tuition pursuant to the
4 contract.

5 (5) A school board may admit nonresident students to
6 the school district pursuant to the enrollment option program as
7 authorized by sections 79-232 to 79-246, and such admission shall
8 be without charge.

9 (6) A school board may admit a student who is a resident
10 of another state to the school district and collect tuition in
11 advance at a rate determined by the school board.

12 (7) When a student as a ward of the state or as a ward
13 of any court (a) has been placed in a school district other than
14 the district in which he or she resided at the time he or she
15 became a ward and such ward does not reside in a foster family home
16 licensed or approved by the Department of Health and Human Services
17 or a foster home maintained or used pursuant to section 83-108.04
18 or (b) has been placed in any institution which maintains a special
19 education program which has been approved by the State Department
20 of Education and such institution is not owned or operated by
21 the district in which he or she resided at the time he or she
22 became a ward, the cost of his or her education and the required
23 transportation costs associated with the student's education shall
24 be paid by the state, but not in advance, to the receiving
25 school district or approved institution under rules and regulations
26 prescribed by the Department of Health and Human Services and the
27 student shall remain a resident of the district in which he or

1 she resided at the time he or she became a ward. Any student who
2 is a ward of the state or a ward of any court who resides in a
3 foster family home licensed or approved by the Department of Health
4 and Human Services or a foster home maintained or used pursuant
5 to section 83-108.04 shall be deemed a resident of the district
6 in which he or she resided at the time he or she became a foster
7 child, unless it is determined under section 43-1311 or 43-1312
8 that he or she will not attend such district in which case he or
9 she shall be deemed a resident of the district in which the foster
10 family home or foster home is located.

11 (8) When a student is not a ward of the state or
12 a ward of any court and is residing in a residential setting
13 located in Nebraska for reasons other than to receive an education
14 and the residential setting is operated by a service provider
15 which is certified or licensed by the Department of Health and
16 Human Services or is enrolled in the medical assistance program
17 established pursuant to the Medical Assistance Act and Title XIX
18 or XXI of the federal Social Security Act, as amended, the student
19 shall remain a resident of the district in which he or she
20 resided immediately prior to residing in such residential setting.
21 Upon request by a parent or legal guardian, the resident school
22 district shall contract with the district in which such residential
23 setting is located for the provision of all educational services,
24 including all special education services. If the parent or legal
25 guardian has requested that the resident school district contract
26 with the district in which such residential setting is located,
27 the district in which such residential setting is located shall

1 contract with the resident district and provide all educational
2 services, including all special education services, to the student.
3 If the two districts cannot agree on the amount of the contract,
4 the State Department of Education shall determine the amount
5 to be paid by the resident district to the district in which
6 such residential setting is located based on the needs of the
7 student, approved special education rates, the department's general
8 experience with special education budgets, and the cost per student
9 in the district in which such residential setting is located. Once
10 the contract has been entered into, all legal responsibility for
11 special education and related services shall be transferred to the
12 school district in which the residential setting is located. The
13 resident district for a student who is not a ward of the state or a
14 ward of any court does not change when the student moves from one
15 residential setting to another.

16 (9) In the case of any individual eighteen years of
17 age or younger who is a ward of the state or any court and who
18 is placed in a county detention home established under section
19 43-2,110, the cost of his or her education shall be paid by the
20 state, regardless of the district in which he or she resided at
21 the time he or she became a ward, to the agency or institution
22 which: (a) Is selected by the county board with jurisdiction over
23 such detention home; (b) has agreed or contracted with such county
24 board to provide educational services; and (c) has been approved by
25 the State Department of Education pursuant to rules and regulations
26 prescribed by the State Board of Education.

27 (10) No tuition shall be charged for students who may be

1 by law allowed to attend the school without charge.

2 (11) On a form prescribed by the State Department of
3 Education, an adult with legal or actual charge or control of a
4 student shall provide the name of the student, the name of the
5 adult with legal or actual charge or control of the student, the
6 address where the student is residing, and the telephone number
7 and address where the adult may generally be reached during the
8 school day. If the student is homeless or if the adult does not
9 have a telephone number and address where he or she may generally
10 be reached during the school day, those parts of the form may be
11 left blank and a box may be marked acknowledging that these are the
12 reasons these parts of the form were left blank. The adult with
13 legal or actual charge or control of the student shall also sign
14 the form.

15 (12) The department shall adopt and promulgate rules and
16 regulations to carry out the department's responsibilities under
17 this section.

18 Sec. 63. Section 84-917, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 84-917 (1) Any person aggrieved by a final decision in a
21 contested case, whether such decision is affirmative or negative in
22 form, shall be entitled to judicial review under the Administrative
23 Procedure Act. Nothing in this section shall be deemed to prevent
24 resort to other means of review, redress, or relief provided by
25 law.

26 (2) (a) Proceedings for review shall be instituted by
27 filing a petition in the district court of the county where the

1 action is taken within thirty days after the service of the final
2 decision by the agency. All parties of record shall be made parties
3 to the proceedings for review. If an agency's only role in a
4 contested case is to act as a neutral factfinding body, the agency
5 shall not be a party of record. In all other cases, the agency
6 shall be a party of record. Summons shall be served within thirty
7 days of the filing of the petition in the manner provided for
8 service of a summons in section 25-510.02. If the agency whose
9 decision is appealed from is not a party of record, the petitioner
10 shall serve a copy of the petition and a request for preparation
11 of the official record upon the agency within thirty days of the
12 filing of the petition. The court, in its discretion, may permit
13 other interested persons to intervene.

14 (b) A petition for review shall set forth: (i) The
15 name and mailing address of the petitioner; (ii) the name and
16 mailing address of the agency whose action is at issue; (iii)
17 identification of the final decision at issue together with a
18 duplicate copy of the final decision; (iv) identification of the
19 parties in the contested case that led to the final decision; (v)
20 facts to demonstrate proper venue; (vi) the petitioner's reasons
21 for believing that relief should be granted; and (vii) a request
22 for relief, specifying the type and extent of the relief requested.

23 (3) The filing of the petition or the service of summons
24 upon such agency shall not stay enforcement of a decision. The
25 agency may order a stay. The court may order a stay after notice
26 of the application therefor to such agency and to all parties of
27 record. If the agency has found that its action on an application

1 for stay or other temporary remedies is justified to protect
2 against a substantial threat to the public health, safety, or
3 welfare, the court may not grant relief unless the court finds
4 that: (a) The applicant is likely to prevail when the court
5 finally disposes of the matter; (b) without relief, the applicant
6 will suffer irreparable injuries; (c) the grant of relief to
7 the applicant will not substantially harm other parties to the
8 proceedings; and (d) the threat to the public health, safety, or
9 welfare relied on by the agency is not sufficiently serious to
10 justify the agency's action in the circumstances. The court may
11 require the party requesting such stay to give bond in such amount
12 and conditioned as the court may direct.

13 (4) Within thirty days after service of the petition
14 or within such further time as the court for good cause shown
15 may allow, the agency shall prepare and transmit to the court a
16 certified copy of the official record of the proceedings had before
17 the agency. Such official record shall include: (a) Notice of
18 all proceedings; (b) any pleadings, motions, requests, preliminary
19 or intermediate rulings and orders, and similar correspondence to
20 or from the agency pertaining to the contested case; (c) the
21 transcribed record of the hearing before the agency, including all
22 exhibits and evidence introduced during such hearing, a statement
23 of matters officially noticed by the agency during the proceeding,
24 and all proffers of proof and objections and rulings thereon;
25 and (d) the final order appealed from. The agency shall charge
26 the petitioner with the reasonable direct cost or require the
27 petitioner to pay the cost for preparing the official record for

1 transmittal to the court in all cases except when the petitioner is
2 not required to pay a filing fee. The agency may require payment or
3 bond prior to the transmittal of the record.

4 (5) (a) When the petition instituting proceedings for
5 review was filed in the district court before July 1, 1989, the
6 review shall be conducted by the court without a jury on the record
7 of the agency, and review may not be obtained of any issue that
8 was not raised before the agency unless such issue involves one of
9 the grounds for reversal or modification enumerated in subdivision
10 (6) (a) of this section. When the petition instituting proceedings
11 for review is filed in the district court on or after July 1, 1989,
12 the review shall be conducted by the court without a jury de novo
13 on the record of the agency.

14 (b) (i) If the court determines that the interest of
15 justice would be served by the resolution of any other issue not
16 raised before the agency, the court may remand the case to the
17 agency for further proceedings.

18 (ii) The agency shall affirm, modify, or reverse its
19 findings and decision in the case by reason of the additional
20 proceedings and shall file the decision following remand with
21 the reviewing court. The agency shall serve a copy of the
22 decision following remand upon all parties to the district court
23 proceedings. The agency decision following remand shall become
24 final unless a petition for further review is filed with the
25 reviewing court within thirty days after the decision following
26 remand being filed with the district court. The party filing the
27 petition for further review shall serve a copy of the petition for

1 further review upon all parties to the district court proceeding
2 in accordance with ~~section 25-534~~ the rules of pleading in civil
3 actions promulgated by the Supreme Court pursuant to section
4 25-801.01 within thirty days after the petition for further review
5 is filed. Within thirty days after service of the petition for
6 further review or within such further time as the court for good
7 cause shown may allow, the agency shall prepare and transmit to the
8 court a certified copy of the official record of the additional
9 proceedings had before the agency following remand.

10 (6) (a) When the petition instituting proceedings for
11 review was filed in the district court before July 1, 1989, the
12 court may affirm the decision of the agency or remand the case for
13 further proceedings, or it may reverse or modify the decision if
14 the substantial rights of the petitioner may have been prejudiced
15 because the agency decision is:

16 (i) In violation of constitutional provisions;

17 (ii) In excess of the statutory authority or jurisdiction
18 of the agency;

19 (iii) Made upon unlawful procedure;

20 (iv) Affected by other error of law;

21 (v) Unsupported by competent, material, and substantial
22 evidence in view of the entire record as made on review; or

23 (vi) Arbitrary or capricious.

24 (b) When the petition instituting proceedings for review
25 is filed in the district court on or after July 1, 1989, the court
26 may affirm, reverse, or modify the decision of the agency or remand
27 the case for further proceedings.

1 (7) The review provided by this section shall not be
2 available in any case where other provisions of law prescribe the
3 method of appeal.

4 Sec. 64. Section 86-2,107, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 86-2,107 (1)(a) A governmental entity acting under
7 subsection (2) of section 86-2,106 may include in its subpoena or
8 court order a requirement that the provider to whom the request is
9 directed create a backup copy of the contents of the electronic
10 communications sought in order to preserve those communications.
11 Without notifying the subscriber or customer of such subpoena or
12 court order, such provider shall create such backup copy as soon
13 as practicable consistent with its regular business practices and
14 shall confirm to the governmental entity that such backup copy has
15 been made. Such backup copy shall be created within two business
16 days after receipt by the provider of the subpoena or court order.

17 (b) Notice to the subscriber or customer shall be made
18 by the governmental entity within three days after receipt of such
19 confirmation unless such notice is delayed pursuant to section
20 86-2,108.

21 (c) The provider shall not destroy such backup copy until
22 the later of (i) the delivery of the information or (ii) the
23 resolution of any proceedings including appeals of any proceeding
24 concerning the subpoena or court order.

25 (d) The provider shall release such backup copy to the
26 requesting governmental entity no sooner than fourteen days after
27 the governmental entity's notice to the subscriber or customer if

1 such provider (i) has not received notice from the subscriber
2 or customer that the subscriber or customer has challenged
3 the governmental entity's request and (ii) has not initiated
4 proceedings to challenge the request of the governmental entity.

5 (e) A governmental entity may seek to require the
6 creation of a backup copy under subdivision (a) of this subsection
7 if in its sole discretion such entity determines that there is
8 reason to believe that notification under this section and section
9 86-2,106 of the existence of the subpoena or court order may result
10 in destruction of or tampering with evidence. This determination
11 shall not be subject to challenge by the subscriber, customer, or
12 provider.

13 (2)(a) Within fourteen days after notice by the
14 governmental entity to the subscriber or customer under subdivision
15 (1)(b) of this section, such subscriber or customer may file a
16 motion to quash such subpoena or vacate such court order, with
17 copies served upon the governmental entity and with written notice
18 of such challenge to the provider. A motion to vacate a court order
19 shall be filed in the court which issued such order. A motion to
20 quash a subpoena shall be filed in the appropriate court. Such
21 motion or application shall contain an affidavit or sworn statement
22 (i) stating that the applicant is a subscriber to or customer of
23 the service from which the contents of electronic communications
24 maintained for him or her have been sought and (ii) stating the
25 applicant's reasons for believing that the records sought are not
26 relevant to a legitimate law enforcement inquiry or that there has
27 not been substantial compliance with sections 86-2,104 to 86-2,110

1 in some other respect.

2 (b) Service shall be made under this section upon a
3 governmental entity by delivering or mailing by registered or
4 certified mail a copy of the papers to the person, office,
5 or department specified in the notice which the subscriber or
6 customer has received pursuant to sections 86-2,106 to 86-2,108.
7 For purposes of this section, delivery has the same meaning as
8 in section 25-534. means (i) handing a copy to the attorney or
9 to the party or (ii) leaving a copy at the attorney's or party's
10 office with a clerk or other person in charge of the office, or
11 if the office is closed or the attorney or party to be served has
12 no office, leaving it at the attorney's or the party's dwelling
13 house or usual place of abode with some person of suitable age and
14 discretion then residing therein.

15 (c) If the court finds that the subscriber or customer
16 has complied with subdivisions (a) and (b) of this subsection,
17 the court shall order the governmental entity to file a sworn
18 response, which may be filed in camera if the governmental entity
19 includes in its response the reasons which make in camera review
20 appropriate. If the court is unable to determine the motion or
21 application on the basis of the parties' initial allegations and
22 response, the court may conduct such additional proceedings as it
23 deems appropriate. All such proceedings shall be completed and the
24 motion or application decided as soon as practicable after the
25 filing of the governmental entity's response.

26 (d) If the court finds that the applicant is not the
27 subscriber or customer for whom the communications sought by the

1 governmental entity are maintained or that there is reason to
2 believe that the law enforcement inquiry is legitimate and that
3 the communications sought are relevant to that inquiry, it shall
4 deny the motion or application and order such process enforced. If
5 the court finds that the applicant is the subscriber or customer
6 for whom the communications sought by the governmental entity
7 are maintained and that there is not reason to believe that the
8 communications sought are relevant to a legitimate law enforcement
9 inquiry or that there has not been substantial compliance with
10 sections 86-2,104 to 86-2,110, it shall order the process quashed.

11 (e) A court order denying a motion or application under
12 this section shall not be deemed a final order and no interlocutory
13 appeal may be taken therefrom by the subscriber or customer.

14 Sec. 65. Jurors shall be permitted, but not required, to
15 take notes. The notes may be used during the jury's deliberations,
16 but not preserved for review on appeal. The notes shall be treated
17 as confidential between the juror making them and the other jurors.
18 The trial judge shall ensure the confidentiality of the notes
19 during the course of the trial and the jury's deliberations and
20 shall cause the notes to be destroyed immediately upon return of
21 the verdict.

22 Sec. 66. Jurors shall be permitted, but not required, to
23 take notes. The notes may be used during the jury's deliberations,
24 but not preserved for review on appeal. The notes shall be treated
25 as confidential between the juror making them and the other jurors.
26 The trial judge shall ensure the confidentiality of the notes
27 during the course of the trial and the jury's deliberations and

1 shall cause the notes to be destroyed immediately upon return of
2 the verdict.

3 Sec. 67. The Revisor of Statutes shall assign section 22
4 of this act to Chapter 29, article 23; section 35 of this act
5 to Chapter 42, article 3; section 41 of this act within sections
6 43-1401 to 43-1408 and any reference to such sections shall be
7 deemed to include section 41 of this act; section 65 of this act
8 within sections 25-1106 to 25-1118; and section 66 of this act to
9 Chapter 29, article 20.

10 Sec. 68. Sections 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12,
11 17, 18, 19, 20, 21, 22, 36, 42, 43, 44, 45, 46, 47, 70, and 72 of
12 this act become operative on January 1, 2009. Sections 5, 13, 14,
13 15, 16, 23, 31, 32, 33, 34, 35, 37, 38, 39, 48, 61, 62, 63, 64,
14 73, and 75 of this act become operative three calendar months after
15 adjournment of this legislative session. The other sections of this
16 act become operative on their effective date.

17 Sec. 69. If any section in this act or any part of any
18 section is declared invalid or unconstitutional, the declaration
19 shall not affect the validity or constitutionality of the remaining
20 portions.

21 Sec. 70. Original sections 24-303, 24-730, 24-809.04,
22 24-1205, 25-1129, 25-1130, 43-1608, 43-1609, 43-1610, 43-1611,
23 43-1612, and 43-1613, Reissue Revised Statutes of Nebraska,
24 sections 24-312, 24-517, 24-1204, 24-1206, 25-2704, 25-2733, and
25 25-2740, Revised Statutes Cumulative Supplement, 2006, and sections
26 24-301.02, 24-503, and 43-2,119, Revised Statutes Supplement, 2007,
27 are repealed.

1 Sec. 71. Original sections 42-357 and 43-1411.01, Reissue
2 Revised Statutes of Nebraska, and sections 42-353, 42-359, 42-364,
3 42-364.13, 42-371, 43-2922, 43-2923, 43-2924, 43-2927, 43-2928,
4 43-2929, 43-2930, 43-2932, 43-2934, 43-2936, 43-2937, and 43-2943,
5 Revised Statutes Supplement, 2007, are repealed.

6 Sec. 72. Original sections 24-508, 25-534, 29-1816,
7 43-272.01, 43-276, 43-1311, and 43-1312, Reissue Revised Statutes
8 of Nebraska, and sections 24-1301, 24-1302, 43-247, 43-2,129,
9 43-2404.02, 43-3001, 79-215, 84-917, and 86-2,107, Revised Statutes
10 Cumulative Supplement, 2006, are repealed.

11 Sec. 73. The following sections are outright repealed:
12 Sections 25-1133 and 25-2734, Reissue Revised Statutes of Nebraska.

13 Sec. 74. The following sections are outright repealed:
14 Sections 43-2927 and 43-2931, Revised Statutes Supplement, 2007.

15 Sec. 75. The following section is outright repealed:
16 Section 43-261, Reissue Revised Statutes of Nebraska.

17 Sec. 76. Since an emergency exists, this act takes effect
18 when passed and approved according to law.