

AMENDMENTS TO LB 478

Introduced by Judiciary

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

3           Section 1. Section 43-104, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           43-104 Except as otherwise provided in the Nebraska  
6 Indian Child Welfare Act, no adoption shall be decreed unless  
7 written consents thereto are filed in the county court of the  
8 county in which the person or persons desiring to adopt reside or  
9 in the separate juvenile court having jurisdiction over the custody  
10 of the child, and the written consents are executed by (1) the  
11 minor child, if over fourteen years of age, or the adult child,  
12 (2) any district court, county court, or separate juvenile court in  
13 the State of Nebraska having jurisdiction of the custody of a minor  
14 child by virtue of proceedings had in any district court, county  
15 court, or separate juvenile court in the State of Nebraska or by  
16 virtue of the Uniform Child Custody Jurisdiction and Enforcement  
17 Act and such court's consent shall be determined according to  
18 the standards set in section 43-104.22 and in compliance with  
19 section 43-104.05, where applicable, and shall be binding in all  
20 subsequent proceedings regarding the child, and (3) both parents  
21 of a child born in lawful wedlock if living, the surviving parent  
22 of a child born in lawful wedlock, the mother of a child born out  
23 of wedlock, or both the mother and father of a child born out of

1 wedlock as determined pursuant to sections ~~43-104.08 to 43-104.24,~~  
2 43-104.22 and 43-105, except that consent shall not be required of  
3 any parent who (a) has relinquished the child for adoption by a  
4 written instrument, (b) has abandoned the child for at least six  
5 months next preceding the filing of the adoption petition, (c) has  
6 been deprived of his or her parental rights to such child by the  
7 order of any court of competent jurisdiction, or (d) is incapable  
8 of consenting. On and after April 20, 2002, a written consent or  
9 relinquishment for adoption under this section shall not be valid  
10 unless signed at least forty-eight hours after the birth of the  
11 child.

12           Sec. 2. Section 43-104.01, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           43-104.01 (1) The Department of Health and Human Services  
15 Finance and Support shall establish a biological father registry  
16 which shall record the names and addresses of (a) any person  
17 adjudicated by a court of this state to be the father of a  
18 child born out of wedlock if a certified copy of the court order  
19 is filed with the registry by such person or any other person,  
20 (b) any ~~person~~ claimant-father who has filed with the registry,  
21 prior to notification under sections 43-104.12 to 43-104.16, a  
22 ~~paternity claim for notification purposes~~ Request for Notification  
23 of Intended Adoption for such child, (c) any ~~person~~ claimant-father  
24 who has filed with the registry a ~~notice of intent to claim~~  
25 ~~paternity and obtain custody~~ an Objection to Adoption and Notice  
26 of Intent to Obtain Custody of such child, and (d) any person  
27 adjudicated by a court of another state or territory of the United

1 States to be the father of such child, if a certified copy of the  
2 court order has been filed with the registry by that person or any  
3 other person.

4 (2) A ~~paternity claim for notification purposes or a~~  
5 ~~notice of intent to claim paternity and obtain custody~~ Request for  
6 Notification of Intended Adoption or an Objection to Adoption and  
7 Notice of Intent to Obtain Custody filed with the registry shall  
8 include the ~~claimant's~~ claimant-father's name and address, the name  
9 and last-known address of the mother, and the month and year of the  
10 birth or the expected birth of the child. The person filing the  
11 notice shall notify the registry of any change of address pursuant  
12 to procedures prescribed by regulations of the department.

13 (3) Any person claimant-father filing a ~~paternity claim~~  
14 ~~for notification purposes or a notice of intent to claim paternity~~  
15 ~~and obtain custody~~ a Request for Notification of Intended Adoption  
16 or an Objection to Adoption and Notice of Intent to Obtain Custody  
17 with the biological father registry may revoke such ~~notice,~~ filing,  
18 and upon receipt of such revocation by the registry, the effect  
19 shall be as if no filing had ever been made.

20 (4) The department shall not divulge the names and  
21 addresses of persons listed with the registry to any other person  
22 except as authorized by law or upon order of a court for good cause  
23 shown.

24 (5) The department may develop information about the  
25 registry and may distribute such information, through their  
26 existing publications, to the news media and the public. The  
27 department may provide information about the registry to the

1 Department of Correctional Services, the Department of Health and  
2 Human Services, and the Department of Health and Human Services  
3 Regulation and Licensure, who may distribute such information  
4 through their existing publications.

5 Sec. 3. Section 43-104.02, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 43-104.02 As provided in section 43-104.01, and unless  
8 exempt from filing under section 43-104.05, a person claiming to  
9 be the father of the child and who intends to claim paternity and  
10 obtain custody of the putative father objecting to the adoption  
11 and seeking to obtain custody of a minor child shall file with the  
12 biological father registry maintained by the Department of Health  
13 and Human Services Finance and Support on forms provided by the  
14 department, an Objection to Adoption and Notice of Intent to Obtain  
15 Custody within five business days after the birth of the child, or  
16 if notice is provided after the birth of the child, within five  
17 business days after receipt of the notice contemplated in section  
18 43-104.12, or within five business days after the last date of any  
19 published notice provided pursuant to section 43-104.14, whichever  
20 is later, ~~a notice of intent to claim paternity and obtain custody.~~  
21 first. Such notice shall include the social security number of  
22 the ~~person claiming to be the father.~~ A notice of intent to  
23 ~~claim paternity and obtain custody~~ claimant biological father, and  
24 the case name, court name, and location of any Nebraska court  
25 having jurisdiction over the custody of the child by virtue of  
26 divorce, paternity, guardianship, or juvenile court proceedings in  
27 any district court, county court, or separate juvenile court in the

1 State of Nebraska. An Objection to Adoption and Notice of Intent to  
2 Obtain Custody of the child shall be considered to have been filed  
3 if it is received by the Department of Health and Human Services  
4 Finance and Support or postmarked prior to the end of the fifth  
5 business day ~~contemplated in~~ pursuant to this section.

6           Sec. 4. Section 43-104.03, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           43-104.03 Within three days after the filing of a  
9 ~~paternity claim for notification purposes or a notice of intent~~  
10 ~~to claim paternity and obtain custody~~ Request for Notification of  
11 Intended Adoption or an Objection to Adoption and Notice of Intent  
12 to Obtain Custody with the biological father registry pursuant  
13 to sections 43-104.01 and 43-104.02, the Director of Finance and  
14 Support shall cause a certified copy of such notice to be mailed  
15 by certified mail to (1) the mother or prospective mother of such  
16 child at the last-known address shown on the notice or ~~(2)~~ an agent  
17 specifically designated in writing by the mother or prospective  
18 mother to receive such notice and (2) any Nebraska court identified  
19 by the claimant-father as having jurisdiction over the custody  
20 of the child by virtue of divorce, paternity, guardianship, or  
21 juvenile court proceedings in any district court, county court,  
22 or separate juvenile court in the State of Nebraska. The notice  
23 shall be admissible in any action for paternity, shall estop the  
24 claimant from denying paternity of such child thereafter, and  
25 shall contain language that the claimant acknowledges liability for  
26 contribution to the support and education of the child after birth  
27 and for contribution to the pregnancy-related medical expenses of

1 the mother.

2 Sec. 5. Section 43-104.04, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 43-104.04 ~~If a notice of intent to claim paternity and~~  
5 ~~obtain custody~~ a Request for Notification of Intended Adoption or  
6 an Objection to Adoption and Notice of Intent to Obtain Custody  
7 is not timely filed with the biological father registry pursuant  
8 to section 43-104.02, the mother of a child born out of wedlock  
9 or an agent specifically designated in writing by the mother may  
10 request, and the Department of Health and Human Services Finance  
11 and Support shall supply, a certificate that no ~~notice of intent to~~  
12 ~~claim paternity and obtain custody~~ Objection to Adoption and Notice  
13 of Intent to Obtain Custody has been filed with the biological  
14 father registry and the filing of such certificate pursuant to  
15 section 43-102 shall eliminate the need or necessity of a consent  
16 or relinquishment for adoption by the natural father of such child.

17 Sec. 6. Section 43-104.05, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 43-104.05 (1) If the biological father of a child born  
20 out of wedlock who is the subject of a proposed adoption has been  
21 adjudicated to be the biological father of the child by a Nebraska  
22 district court, county court, or separate juvenile court, the  
23 biological father shall be exempt from the requirements of section  
24 43-102 and subsection (2) of this section, and the issue of whether  
25 his consent to the adoption is required shall be determined by the  
26 Nebraska court with jurisdiction over the custody of the child in a  
27 proceeding required by section 43-104 to obtain the court's consent

1 to the proposed adoption, as set forth in subsection (3) of this  
2 section.

3 (2) If a notice of intent to claim paternity and obtain  
4 custody an Objection to Adoption and Notice of Intent to Obtain  
5 Custody is timely filed with the biological father registry  
6 pursuant to section 43-104.02, either the claimant-father, the  
7 mother, or her agent specifically designated in writing shall,  
8 within thirty days after filing ~~the notice,~~ such document, file  
9 a petition for an adjudication of ~~the claim of paternity and~~  
10 ~~right to custody.~~ the Objection to Adoption and Notice of Intent  
11 to Obtain Custody and a determination of the necessity of the  
12 claimant-father's consent to the proposed adoption. The petition  
13 shall be filed in the county court in the county where such child  
14 was born or, if a separate juvenile court already has jurisdiction  
15 over the child, in the county where such separate juvenile court  
16 is located. If such a petition is not filed within thirty days  
17 after filing ~~the notice,~~ Objection to Adoption and Notice of  
18 Intent to Obtain Custody, the claimant-father's consent to adoption  
19 of the child shall not be required, he is not entitled to any  
20 further notice of the adoption proceedings, and if the mother  
21 of the child irrevocably relinquishes her rights to the child  
22 for purposes of adoption within sixty days of the filing of the  
23 Objection to Adoption and Notice of Intent to Obtain Custody, any  
24 alleged parental rights and responsibilities of the claimant-father  
25 shall not be recognized thereafter in any court. After the filing  
26 of such petition, the court shall set a trial date upon proper  
27 notice to the parties not less than twenty nor more than thirty

1 days after such filing. If the mother contests the claim of  
2 paternity, the court shall ~~take such testimony as shall enable~~  
3 ~~it to determine the facts.~~ The order DNA testing to establish  
4 whether the claimant-father is the biological father. The court  
5 shall assess the costs of such testing between the parties in  
6 an equitable manner. Whether the claimant-father's ~~rights and the~~  
7 custody of the child consent to the adoption is required shall be  
8 determined pursuant to section 43-104.22. The court shall appoint  
9 a guardian ad litem to represent the best interests of the child.  
10 The county court or separate juvenile court, if applicable, shall  
11 have jurisdiction over adjudication of an Objection to Adoption  
12 and Notice of Intent to Obtain Custody and the issues presented  
13 in section 43-104.22 from the time the claimant-father is notified  
14 of the proposed adoption in substantial compliance with section  
15 43-104.12 or 43-104.14, whichever notice is first, until expiration  
16 of the deadlines in section 43-104.02 and this section if an  
17 Objection to Adoption and Notice of Intent to Obtain Custody is  
18 filed, and for thirty days after completion of proceedings under  
19 this section, including appeals, if a petition for adjudication is  
20 filed. If the court determines that the biological father's consent  
21 to the adoption is required under section 43-104.22 and he refuses  
22 to provide his consent, the court shall upon motion of any party  
23 transfer the case to district court for further proceedings on the  
24 matter of custody, visitation, and child support, unless the court  
25 determines there is good cause for the case to remain. Evidence of  
26 a birth mother's relinquishment or consent to the proposed adoption  
27 shall not alter the requirements of this section. If the birth

1 mother does not relinquish or consent to an adoption of the minor  
2 child within thirty days after completion of proceedings under  
3 this section, including appeals, and a petition for adjudication  
4 is filed, the court shall upon motion of any party transfer the  
5 case to the district court for further proceedings on the matter of  
6 custody, visitation, and child support, unless the court determines  
7 there is good cause for the case to remain.

8 (3) If the biological father of a child born out of  
9 wedlock who is the subject of a proposed adoption has been  
10 adjudicated to be the biological father of the child by a Nebraska  
11 district court, county court, or separate juvenile court, the  
12 issue of whether his consent to the adoption is required under  
13 section 43-104.22 shall be determined by the Nebraska court with  
14 jurisdiction over the custody of the child. Unless the adjudicated  
15 biological father relinquishes and consents to the adoption within  
16 sixty days after providing the adjudicated biological father with  
17 notice of the proposed adoption pursuant to sections 43-104.12 to  
18 43-104.14, the mother, the lawful custodian, or his or her agent  
19 shall file in the court with jurisdiction over the child a motion  
20 to obtain the court's consent to the proposed adoption as required  
21 by section 43-104 and shall serve the biological father with notice  
22 of the motion and hearing in the manner for service of process  
23 under state law. The court shall conduct an expedited evidentiary  
24 hearing to determine whether the biological father's consent to the  
25 adoption is required under section 43-104.22 and whether the court  
26 shall grant its consent to the proposed adoption. If the court is  
27 provided evidence that the biological father has executed a valid

1 relinquishment or consent to adoption of the child, the court shall  
2 grant its consent to the proposed adoption.

3           Sec. 7. Section 43-104.09, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           43-104.09 In all cases of adoption of a minor child  
6 born out of wedlock, the biological mother shall complete and  
7 sign an affidavit in writing and under oath. The affidavit shall  
8 be executed by the biological mother before or at the time of  
9 execution of the consent or relinquishment and shall be attached  
10 as an exhibit to any petition to finalize the adoption. If the  
11 biological mother is under the age of nineteen, the affidavit may  
12 be executed by the agency or attorney representing the biological  
13 mother based upon information provided by the biological mother.  
14 The affidavit shall be in substantially the following form:

15           AFFIDAVIT OF IDENTIFICATION

16           I, ....., the mother of a child, state under  
17 oath or affirm as follows:

18           (1) My child was born, or is expected to be born, on the  
19 ..... day of ....., ....., at ....., in  
20 the State of .....

21           (2) I reside at ....., in the City or Village  
22 of ....., County of ....., State of  
23 .....

24           (3) I am of the age of ..... years, and my date of  
25 birth is .....

26           (4) I acknowledge that I have been asked to identify the  
27 father of my child.

1 (5) (CHOOSE ONE)

2 (5A) I know and am identifying the biological father (or  
3 possible biological fathers) as follows:

4 The name of the biological father is .....

5 His last-known home address is .....

6 His last-known work address is .....

7 He is ..... years of age, or he is deceased,  
8 having died on or about the ..... day of .....,  
9 ....., at ....., in the State of  
10 .....

11 He has been adjudicated to be the biological  
12 father by the ..... court of .....  
13 county, State of ....., case  
14 name ....., docket number  
15 .....

16 (For other possible biological fathers, please use  
17 additional sheets of paper as needed.)

18 (5B) I am unwilling or unable to identify the biological  
19 father (or possible biological fathers). I do not wish or I am  
20 unable to name the biological father of the child for the following  
21 reasons:

22 ..... Conception of my child occurred as a result of  
23 sexual assault or incest

24 ..... Providing notice to the biological father of  
25 my child would threaten my safety or the safety of my child for the  
26 following reasons:

27 .....

1                   ..... ~~Other reason:~~ .....

2                   (6) If the biological mother is unable to name the  
3 biological father, the physical description of the biological  
4 father (or possible biological fathers) and other information which  
5 may assist in identifying him, including the city or county and  
6 state where conception occurred:

7                   .....  
8                   .....  
9                   .....

10                  (use additional sheets of paper as needed).

11                  (7) Under penalty of perjury, the undersigned certifies  
12 that the statements set forth in this affidavit are true and  
13 correct.

14                  (8) I have read this affidavit and have had the  
15 opportunity to review and question it. It was explained to me  
16 by .....

17                  I am signing it as my free and voluntary act and  
18 understand the contents and the effect of signing it.

19                  Dated this ..... day of ....., .....

20                  (Acknowledgment)  
21                  .....

22                  (Signature)

23                  Sec. 8. Section 43-104.12, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25                  43-104.12 In order to attempt to inform the biological  
26 father or possible biological fathers of the right to execute a  
27 relinquishment and consent to adoption or a denial of paternity

1 and waiver of rights, the agency or attorney representing the  
2 biological mother shall notify, by registered or certified mail,  
3 restricted delivery, return receipt requested:

4 (1) Any person adjudicated by a court in this state or by  
5 a court in another state or territory of the United States to be  
6 the biological father of the child;

7 (2) Any person who has filed a ~~paternity claim for~~  
8 ~~notification purposes or a notice of intent to claim paternity and~~  
9 ~~obtain custody~~ Request for Notification of Intended Adoption or  
10 an Objection to Adoption and Notice of Intent to Obtain Custody  
11 pursuant to sections 43-104.01 and 43-104.02;

12 (3) Any person who is recorded on the child's birth  
13 certificate as the child's father;

14 (4) Any person who might be the biological father of  
15 the child who was openly living with the child's biological mother  
16 within the twelve months prior to the birth of the child;

17 (5) Any person who has been identified as the biological  
18 father or possible biological father of the child by the child's  
19 biological mother pursuant to section 43-104.09;

20 (6) Any person who was married to the child's biological  
21 mother within six months prior to the birth of the child and prior  
22 to the execution of the relinquishment; and

23 (7) Any other person who the agency or attorney  
24 representing the biological mother may have reason to believe may  
25 be the biological father of the child.

26 Sec. 9. Section 43-104.13, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

1                   43-104.13 The notice sent by the agency or attorney  
2 pursuant to section 43-104.12 shall be served sufficiently in  
3 advance of the birth of the child, whenever possible, to allow  
4 compliance with section 43-104.02 and shall state:

5                   (1) The biological mother's name, the fact that she is  
6 pregnant or has given birth to the child, and the expected or  
7 actual date of delivery;

8                   (2) That the child has been relinquished by the  
9 biological mother, that she intends to execute a relinquishment,  
10 or that the biological mother has joined or plans to join in a  
11 petition for adoption to be filed by her husband;

12                   (3) That the person being notified has been identified as  
13 a possible biological father of the child;

14                   (4) That the possible biological father may have certain  
15 rights with respect to such child if he is in fact the biological  
16 father;

17                   (5) That the possible biological father has the right to  
18 (a) deny paternity, (b) waive any parental rights he may have, (c)  
19 relinquish and consent to adoption of the child, ~~or~~ (d) file a  
20 notice of intent to claim paternity and obtain custody an Objection  
21 to Adoption and Notice of Intent to Obtain Custody of the child  
22 pursuant to section 43-104.02, or (e) object to the adoption in a  
23 proceeding before any Nebraska court having adjudicated him to be  
24 the biological father prior to his receipt of notice;

25                   (6) That to deny paternity, to waive his parental rights,  
26 or to relinquish and consent to the adoption, the biological  
27 father must contact the undersigned agency or attorney representing

1 the biological mother, and that if he wishes to seek custody  
2 of the child he should seek legal counsel from his own attorney  
3 immediately; and

4 (7) That if he is the biological father and if the child  
5 is not relinquished for adoption, he has a duty to contribute to  
6 the support and education of the child and to the pregnancy-related  
7 expenses of the mother and a right to seek visitation.

8 The agency or attorney representing the biological mother  
9 may enclose with the notice a document which is an admission  
10 or denial of paternity and a waiver of rights by the biological  
11 father, which the biological father may choose to complete, in  
12 the form mandated by section 43-106, and return to the agency or  
13 attorney.

14 Sec. 10. Section 43-104.14, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 43-104.14 (1) If the agency or attorney representing the  
17 biological mother is unable through reasonable efforts to locate  
18 and serve notice on the biological father or possible biological  
19 fathers as contemplated in sections 43-104.12 and 43-104.13, the  
20 agency or attorney shall notify the biological father or possible  
21 biological fathers by publication.

22 (2) The publication shall be made once a week for three  
23 consecutive weeks in a legal newspaper of general circulation in  
24 the Nebraska county or county of another state which is most likely  
25 to provide actual notice to the biological father. The publication  
26 shall include:

27 (a) The first name or initials of the father or possible

1 father or the entry "John Doe, real name unknown", if applicable;

2 (b) A description of the father or possible father if his  
3 first name is or initials are unknown;

4 (c) The approximate date of conception of the child and  
5 the city and state in which conception occurred, if known;

6 (d) The date of birth or expected birth of the child;

7 (e) That he has been identified as the biological father  
8 or possible biological father of a child whom the biological mother  
9 currently intends to place for adoption and the approximate date  
10 that placement will occur;

11 (f) That he has the right to (i) deny paternity, (ii)  
12 waive any parental rights he may have, (iii) relinquish and  
13 consent to adoption of the child, ~~or (iv) file a notice of intent~~  
14 ~~to claim paternity and obtain custody of the child within five~~  
15 ~~business days of the birth of the child or within five business~~  
16 ~~days of this notice, whichever is later, pursuant to section~~  
17 ~~43-104.02; (iv) file an Objection to Adoption and Notice of Intent~~  
18 ~~to Obtain Custody pursuant to section 43-104.02, or (v) object~~  
19 ~~to the adoption in a proceeding before any Nebraska court having~~  
20 ~~adjudicated him to be the biological father prior to his receipt of~~  
21 ~~notice; and~~

22 (g) That (i) in order to deny paternity, waive his  
23 parental rights, relinquish and consent to the adoption, or receive  
24 additional information to determine whether he is the father of  
25 the child in question, he must contact the undersigned agency or  
26 attorney representing the biological mother and (ii) if he wishes  
27 to object to the adoption and seek custody of the child, he must

1 seek legal counsel from his own attorney immediately.

2           Sec. 11. Section 43-104.17, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           43-104.17 In all cases of adoption of a minor child  
5 born out of wedlock, the petition to finalize the adoption  
6 shall specifically allege compliance with sections 43-104.08 to  
7 43-104.16, and shall attach as exhibits all documents which are  
8 evidence of such compliance. No notice of the filing of the  
9 petition ~~to finalize~~ or the hearing on the petition shall be  
10 given to a biological father or possible biological father who  
11 (1) executed a valid relinquishment and consent or a valid denial  
12 of paternity and waiver of rights pursuant to section 43-104.11,  
13 ~~or~~ (2) was provided notice under sections 43-104.12 to 43-104.14  
14 and failed to timely file an ~~intent to claim paternity and obtain~~  
15 objection to adoption and notice of intent to obtain  
16 custody pursuant to section 43-104.02 or a timely petition to  
17 adjudicate pursuant to subsection (2) of section 43-104.05, or (3)  
18 is not required to consent to the adoption under section 43-104.22.

19           Sec. 12. Section 43-104.22, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           43-104.22 At any hearing ~~to determine a biological~~  
22 ~~father's parental rights to the child,~~ the court shall receive  
23 evidence with regard to the biological father's actual paternity of  
24 the child and whether he is a fit, proper, and suitable custodial  
25 parent for the child. The to determine whether an actual or  
26 putative biological father's consent is required for an adoption  
27 of a minor child, the court shall determine that the biological

1 father's consent is not required ~~for a valid adoption of the child~~  
2 upon a finding of one or more of the following:

3 (1) The father abandoned or neglected the child after  
4 having knowledge of the child's birth;

5 (2) The father is not a fit, proper, and suitable  
6 custodial parent for the child;

7 (3) The father had knowledge of the child's birth and  
8 failed to provide reasonable financial support for the mother or  
9 child;

10 (4) The father abandoned the mother without reasonable  
11 cause and with knowledge of the pregnancy;

12 (5) The father had knowledge of the pregnancy and failed  
13 to provide reasonable support for the mother during the pregnancy;

14 (6) The child was conceived as a result of a  
15 nonconsensual sex act or an incestual act;

16 (7) Notice was provided pursuant to sections 43-104.12 to  
17 43-104.14 and the father failed to timely file an ~~intent to claim~~  
18 ~~paternity and obtain custody~~ Objection to Adoption and Notice of  
19 Intent to Obtain Custody pursuant to section sections 43-104.02 and  
20 43-104.05;

21 (8) The father failed to timely file a petition to  
22 adjudicate his ~~claim of paternity and right to custody~~ Objection to  
23 Adoption and Notice of Intent to Obtain Custody if required to do  
24 so pursuant to as contemplated in section 43-104.05; ~~or~~

25 (9) Notice was provided through service of process under  
26 applicable state law and the father failed to object to or failed  
27 to appear at the hearing regarding consent to a proposed adoption

1 under subsection (3) of section 43-104.05;

2 (10) The father executed a valid relinquishment or  
3 consent to adoption; or

4 (11) The man is not, in fact, the biological father of  
5 the child.

6 The court shall determine the custody of the child  
7 according to the best interest of the child, weighing the superior  
8 rights of a biological parent who has been found to be a fit,  
9 proper, and suitable parent against any detriment the child would  
10 suffer if removed from the custody of persons with whom the child  
11 has developed a substantial relationship.

12 Sec. 13. Section 43-1411, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 43-1411 A civil proceeding to establish the paternity  
15 of a child may be instituted, in the court of the district  
16 where the child is domiciled or found or, for cases under the  
17 Uniform Interstate Family Support Act, where the alleged father is  
18 domiciled, by (1) the mother or the alleged father of such child,  
19 either during pregnancy or within four years after the child's  
20 birth, ~~unless consent or relinquishment has been made pursuant to~~  
21 ~~sections 43-104.08 to 43-104.24 or section 43-105 for purposes of~~  
22 ~~adoption~~ subject to sections 43-104.05 and 43-104.22 or (2) the  
23 guardian or next friend of such child or the state, either during  
24 pregnancy or within eighteen years after the child's birth. Summons  
25 shall issue and be served as in other civil proceedings, except  
26 that such summons may be directed to the sheriff of any county in  
27 the state and may be served in any county.

1                   Sec. 14. Original sections 43-104, 43-104.01, 43-104.02,  
2 43-104.03, 43-104.04, 43-104.05, 43-104.09, 43-104.12, 43-104.13,  
3 43-104.14, 43-104.17, 43-104.22, and 43-1411, Reissue Revised  
4 Statutes of Nebraska, are repealed.