

E AND R AMENDMENTS TO LB 554

Introduced by Enrollment and Review Committee: McGill, 26,
Chairperson

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

3 Section 1. Sections 1 to 24 of this act shall be known
4 and may be cited as the Parenting Act.

5 Sec. 2. The Legislature finds that it is in the best
6 interests of a child that a parenting plan be developed in any
7 proceeding under Chapter 42 involving custody, parenting time,
8 visitation, or other access with a child and that the parenting
9 plan establish specific individual responsibility for performing
10 such parenting functions as are necessary and appropriate for
11 the care and healthy development of each child affected by the
12 parenting plan.

13 The Legislature further finds that it is in the best
14 interests of a child to have a safe, stable, and nurturing
15 environment. The best interests of each child shall be paramount
16 and consideration shall be given to the desires and wishes of the
17 child if of an age of comprehension regardless of chronological
18 age, when such desires and wishes are based on sound reasoning.

19 In any proceeding involving a child, the best interests
20 of the child shall be the standard by which the court adjudicates
21 and establishes the individual responsibilities, including
22 consideration in any custody, parenting time, visitation, or other
23 access determinations as well as resolution of conflicts affecting

1 each child. The state presumes the critical importance of the
2 parent-child relationship in the welfare and development of the
3 child and that the relationship between the child and each parent
4 should be equally considered unless it is contrary to the best
5 interests of the child.

6 Given the potential profound effects on children from
7 witnessing child abuse or neglect or domestic intimate partner
8 abuse, as well as being directly abused, the courts shall recognize
9 the duty and responsibility to keep the child or children safe when
10 presented with a preponderance of the evidence of child abuse or
11 neglect or domestic intimate partner abuse, including evidence of
12 a child being used by the abuser to establish or maintain power
13 and control over the victim. In domestic intimate partner abuse
14 cases, the best interests of each child are often served by keeping
15 the child and the victimized partner safe and not allowing the
16 abuser to continue the abuse. When child abuse or neglect, domestic
17 intimate partner abuse, or unresolved parental conflict prevents
18 the best interests of the child from being served in the parenting
19 arrangement, then the safety and welfare of the child is paramount
20 in the resolution of those conflicts.

21 Sec. 3. For purposes of the Parenting Act:

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

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

27 (3) Best interests of the child means the determination

1 made taking into account the requirements stated in section 4 of
2 this act;

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

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

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

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

9 (8) Domestic intimate partner abuse means:

10 (a) An act of abuse, as defined in section 42-903, and
11 the existence of a pattern or history of such an act without
12 any recency or frequency requirement, including, but not limited
13 to, one or more of the following: Physical assault or sexual
14 assault, threats of physical assault or sexual assault, stalking,
15 harassment, mental cruelty, emotional abuse, intimidation,
16 isolation, economic abuse, or coercion against any current or
17 past intimate partner or an abuser using a child to establish
18 or maintain power and control over any current or past intimate
19 partner. The following acts shall be included within the definition
20 of domestic intimate partner abuse if the acts contributed to
21 coercion or intimidation of the intimate partner:

22 (i) An act of child abuse or neglect or a threat of such
23 act. A finding by a child protection agency shall not be considered
24 res judicata or collateral estoppel regarding such issue and shall
25 not be considered by the court unless each parent is afforded the
26 opportunity to challenge any such determination;

27 (ii) Cruel mistreatment or cruel neglect of an animal, as

1 defined in section 28-1008, or a threat of such act; or

2 (iii) Other acts of abuse, assault, or harassment, or
3 threats of such acts, against other family or household members; or

4 (b) One act of physical violence resulting in serious
5 bodily injury against any current or past intimate partner,
6 excluding any act of self-defense;

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

15 (10) Emotional abuse means a pattern of acts, threats
16 of acts, or coercive tactics, including, but not limited to,
17 threatening or intimidating to gain compliance, destruction of
18 the victim's personal property or threats to do so, violence to
19 an animal or object in the presence of the victim as a way to
20 instill fear, yelling, screaming, name-calling, shaming, mocking,
21 or criticizing the victim, possessiveness, or isolation from
22 friends and family. Emotional abuse can be verbal or nonverbal;

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

27 (12) Joint physical custody means mutual authority and

1 responsibility of the parents regarding the child's place of
2 residence and the exertion of continuous blocks of parenting time
3 by both parents over the child for significant periods of time;

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

7 (14) Mediation means a method of nonjudicial intervention
8 in which a trained, neutral third-party mediator, who has no
9 decision-making authority, provides a structured process in which
10 individuals and families in conflict work through parenting and
11 other related family issues with the goal of achieving a voluntary,
12 mutually agreeable parenting plan or related resolution;

13 (15) Office of Dispute Resolution means the office
14 established under section 25-2904;

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

20 (a) Maintaining a safe, stable, consistent, and nurturing
21 relationship with the child;

22 (b) Attending to the ongoing developmental needs of the
23 child, including feeding, clothing, physical care and grooming,
24 health and medical needs, emotional stability, supervision, and
25 appropriate conflict resolution skills and engaging in other
26 activities appropriate to the healthy development of the child
27 within the social and economic circumstances of the family;

1 (c) Attending to adequate education for the child,
2 including remedial or other special education essential to the
3 best interests of the child;

4 (d) Assisting the child in maintaining a safe, positive,
5 and appropriate relationship with each parent and other family
6 members, including establishing and maintaining the authority and
7 responsibilities of each party with respect to the child and
8 honoring the parenting plan duties and responsibilities;

9 (e) Minimizing the child's exposure to harmful parental
10 conflict;

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

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

16 (17) Parenting plan means a plan for parenting the child
17 in consideration of the parenting functions;

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

22 (19) Physical custody means authority and responsibility
23 regarding the child's place of residence and the exertion of
24 continuous parenting time for significant periods of time;

25 (20) Provisions for safety means a plan developed to
26 reduce risks of harm to children and adults who are victims
27 of child abuse or neglect, domestic intimate partner abuse, or

1 unresolved parental conflict;

2 (21) Remediation process means the method established in
3 the parenting plan which maintains the best interests of the child
4 and provides a means to identify, discuss, and attempt to resolve
5 future circumstantial changes or conflicts regarding the parenting
6 functions and which minimizes repeated litigation and utilizes
7 judicial intervention as a last resort;

8 (22) Specialized alternative dispute resolution means a
9 method of nonjudicial intervention in high conflict or domestic
10 intimate partner abuse cases in which an approved specialized
11 mediator facilitates voluntary mutual development of and agreement
12 to a structured parenting plan, provisions for safety, transition
13 plan, or other related resolution between the parties;

14 (23) Transition plan means a plan developed to reduce
15 exposure of the child and the adult to ongoing unresolved conflict
16 during parenting time, visitation, or other access for the exercise
17 of parental functions; and

18 (24) Unresolved parental conflict means persistent
19 conflict in which parents are unable to resolve disputes about
20 parenting functions which has a potentially harmful impact on a
21 child.

22 Sec. 4. (1) The best interests of the child require:

23 (a) A parenting arrangement and parenting plan or other
24 court-ordered arrangement which provides for a child's safety,
25 emotional growth, health, stability, and physical care;

26 (b) When a preponderance of the evidence indicates
27 domestic intimate partner abuse, a parenting and visitation

1 arrangement that provides for the safety of a victim parent;

2 (c) That the child's families and those serving in
3 parenting roles remain appropriately active and involved in
4 parenting with safe, appropriate, continuing quality contact
5 between parents and their families when they have shown the ability
6 to act in the best interests of the child and have shared in the
7 responsibilities of raising the child;

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

17 (e) That certain principles provide a basis upon which
18 education of parents is delivered and upon which negotiation and
19 mediation of parenting plans are conducted. Such principles shall
20 include: To minimize the potentially negative impact of parental
21 conflict on children; to provide parents the tools they need to
22 reach parenting decisions that are in the best interests of a
23 child; to provide alternative dispute resolution or specialized
24 alternative dispute resolution options that are less adversarial
25 for the child and the family; to ensure that the child's voice
26 is heard and considered in parenting decisions; to maximize the
27 safety of family members through the justice process; and, in

1 cases of domestic intimate partner abuse or child abuse or neglect,
2 to incorporate the principles of victim safety and sensitivity,
3 offender accountability, and community safety in parenting plan
4 decisions.

5 (2) (a) If a party is absent or relocates from the family
6 residence, the court shall not consider the absence or relocation
7 as a factor in determining the best interests of the child if:

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

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

17 (iii) The party is absent or relocates because there is
18 a protection order, restraining order, or criminal no-contact order
19 issued that excludes the party from the dwelling of the other
20 party or the child or otherwise enjoins the party from assault or
21 harassment against the other party or the child.

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

24 (3) A party's absence, relocation, or failure to comply
25 with custody, parenting time, visitation, or other access orders
26 shall not, by itself, be sufficient to justify a modification of
27 an order if the reason for the absence, relocation, or failure to

1 comply is the party's activation to military service and deployment
2 out of state.

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

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

23 Sec. 6. (1) In any proceeding under Chapter 30 or 43
24 in which the parenting functions for a child are at issue, except
25 any proceeding under the Revised Uniform Reciprocal Enforcement
26 of Support Act or the Uniform Interstate Family Support Act,
27 subsequent to the initial filing or upon filing of an application

1 for modification of a decree, the parties shall receive from
2 the clerk of the court information regarding the parenting plan,
3 the mediation process, and resource materials, as well as the
4 availability of mediation through court conciliation programs or
5 approved mediation centers.

6 (2) In any proceeding under Chapter 42 and the Parenting
7 Act in which the parenting functions for a child are at issue,
8 subsequent to the filing of such proceeding all parties shall
9 receive from the clerk of the court information regarding:

10 (a) The litigation process;

11 (b) A dissolution or separation process timeline;

12 (c) Healthy parenting approaches during and after the
13 proceeding;

14 (d) The parenting plan;

15 (e) Information on child abuse or neglect, domestic
16 intimate partner abuse, and unresolved parental conflict;

17 (f) Mediation, specialized alternative dispute
18 resolution, and other alternative dispute resolution processes
19 available through court conciliation programs and approved
20 mediation centers;

21 (g) Resource materials identifying the availability of
22 services for victims of child abuse or neglect and domestic
23 intimate partner abuse; and

24 (h) Intervention programs for batterers or abusers.

25 (3) The clerk of the court and counsel for represented
26 parties shall file documentation of compliance with this section.

27 Development of these informational materials and the implementation

1 of this section shall be accomplished through the State Court
2 Administrator.

3 Sec. 7. The State Court Administrator shall create an
4 information sheet for parties in a proceeding in which parenting
5 functions for a child are at issue under the Parenting Act
6 that includes information regarding child custody, parenting time,
7 visitation, and other access and that informs the parties that they
8 are required to attend a basic level parenting education course.
9 The information sheet shall also state (1) that the parties have
10 the right to agree to a parenting plan arrangement, (2) that before
11 July 1, 2010, if they do not agree, they may be required, and
12 on and after July 1, 2010, if they do not agree, they shall be
13 required to participate in parenting plan mediation, and (3) that
14 if mediation does not result in an agreement, the court will be
15 required to create a parenting plan. The information sheet shall
16 also provide information on how to obtain assistance in resolving
17 a custody case, including, but not limited to, information on
18 finding an attorney, information on accessing court-based self-help
19 services if they are available, information about domestic violence
20 service agencies, information about mediation, and information
21 regarding other sources of assistance in developing a parenting
22 plan. The State Court Administrator shall adopt this information
23 sheet as a statewide form and take reasonable steps to ensure
24 that it is distributed statewide and made available to parties in
25 parenting function matters.

26 Sec. 8. (1) Judges, attorneys, court-appointed attorneys,
27 court-appointed guardians, and mediators involved in proceedings

1 under the Parenting Act shall participate in training approved by
2 the State Court Administrator to recognize child abuse or neglect,
3 domestic intimate partner abuse, and unresolved parental conflict
4 and its potential impact upon children and families.

5 (2) Screening guidelines and safety procedures for cases
6 involving child abuse or neglect or domestic intimate partner
7 abuse shall be devised by the State Court Administrator. Such
8 screening shall be conducted by mediators by using State Court
9 Administrator-approved screening tools, and, when accessible,
10 public records such as current or expired protection orders,
11 criminal domestic violence cases, and child abuse or neglect
12 proceedings may be considered in screening and to determine
13 appropriate dispute resolution methods.

14 (3) Such screening shall be conducted as a part of the
15 individual initial screening session for each case referred to
16 mediation under the Parenting Act prior to setting the case for
17 mediation to determine whether or not it is appropriate to proceed
18 in mediation or to proceed in a form of specialized alternative
19 dispute resolution.

20 (4) Screening for domestic intimate partner abuse shall
21 be conducted by each attorney representing a party or child
22 in any proceeding under the act to determine the existence
23 of domestic intimate partner abuse or other issues in regard
24 to coercion, intimidation, and barriers to safety and full and
25 informed decisionmaking.

26 (5) The State Court Administrator's office, in
27 collaboration with professionals in the fields of domestic abuse

1 services, child and family services, mediation, and law, shall
2 develop and approve curricula for the training required under
3 subsection (1) of this section, as well as develop and approve
4 rules, procedures, and forms for training and screening for child
5 abuse or neglect, domestic intimate partner abuse, and unresolved
6 parental conflict.

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

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

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

26 (4) The State Court Administrator shall approve all
27 parenting and child of divorce education courses under the act.

1 (5) The basic level parenting education course pursuant
2 to this section shall be designed to educate the parties about the
3 impact of the pending court action upon the child and appropriate
4 application of parenting functions. The course shall include,
5 but not be limited to, information on the developmental stages
6 of children, adjustment of a child to parental separation, the
7 litigation and court process, alternative dispute resolution,
8 conflict management, stress reduction, guidelines for parenting
9 time, visitation, or other access, provisions for safety and
10 transition plans, and information about parents and children
11 affected by child abuse or neglect, domestic intimate partner
12 abuse, and unresolved parental conflict.

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

22 (7) Each party shall be responsible for the costs, if
23 any, of attending any court-ordered parenting or child of divorce
24 education course. The court may waive or specifically allocate
25 costs between the parties for their required participation in the
26 course. At the request of any party, or based upon screening or
27 recommendation of a mediator, the parties shall be allowed to

1 attend separate courses or to attend the same course at different
2 times, particularly if child abuse or neglect, domestic intimate
3 partner abuse, or unresolved parental conflict is or has been
4 present in the relationship or one party has threatened the other
5 party.

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

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

19 (b) Include, but not be limited to, determinations of the
20 following:

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

22 (ii) Apportionment of parenting time, visitation, or
23 other access for each child, including, but not limited to,
24 specified religious and secular holidays, birthdays, Mother's Day,
25 Father's Day, school and family vacations, and other special
26 occasions, specifying dates and times for the same, or a formula
27 or method for determining such a schedule in sufficient detail

1 that, if necessary, the schedule can be enforced in subsequent
2 proceedings by the court, and set out appropriate times and numbers
3 for telephone access;

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

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

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

14 (vi) Provisions for a remediation process regarding
15 future modifications to such plan;

16 (vii) Provisions to maximize the safety of all parties
17 and the child; and

18 (viii) 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 a party provide
23 notification if the party plans to change the residence of the
24 child for more than thirty days and the change would affect
25 any other party's custody, parenting time, visitation, or other
26 access. The notice shall be given before the contemplated move, by
27 mail, return receipt requested, postage prepaid, to the last-known

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

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

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

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

1 expenses of the child and calculation of child support obligations.

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

6 Sec. 11. (1) Every party seeking a temporary order
7 relating to parenting functions or custody, parenting time,
8 visitation, or other access shall file and serve an affidavit of
9 a proposed temporary parenting plan. Every party contesting the
10 proposed temporary parenting plan shall file and serve an affidavit
11 of response to the proposed parenting plan. Any party may move
12 to have a proposed temporary parenting plan entered as part of a
13 temporary order. The parties may move jointly to have an agreed
14 temporary parenting plan developed through informal or formal
15 negotiation or mediation entered at any time as part of a temporary
16 order. The proposed temporary parenting plan shall be verified to
17 the extent known or reasonably discoverable by the filing party or
18 parties and shall state, at a minimum, the following:

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

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

27 (c) A description of the work and child care schedules

1 for the preceding twelve months of any person seeking custody,
2 parenting time, visitation, or other access and any expected
3 changes to these schedules in the near future;

4 (d) A description of the current proposed work and child
5 care schedules in light of the proposed temporary parenting plan;

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

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

17 (2) After a hearing, the court shall enter a temporary
18 parenting order incorporating a temporary parenting plan that
19 includes:

20 (a) Provision for temporary legal custody to the parents,
21 if appropriate, or to another;

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

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

27 (ii) A formula or method for determining such a schedule

1 in sufficient detail that, if necessary, the schedule can be
2 enforced in subsequent proceedings by the court;

3 (c) Designation of a temporary residence for the child;
4 and

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

12 (3) A party may move for an order to show cause, and the
13 court may enter a modified temporary order, including a modified
14 temporary parenting plan.

15 (4) The State Court Administrator's office shall create
16 a form to provide to parties filing for a proposed temporary
17 parenting plan, setting forth the elements identified in this
18 section.

19 (5) Provisions for temporary support for the child and
20 other financial matters may be proposed in the temporary parenting
21 plan.

22 Sec. 12. Every party seeking a judicial allocation of
23 parenting functions, including custody, parenting time, visitation,
24 or other access under the Parenting Act, shall file and serve a
25 child information affidavit with the court. The child information
26 affidavit shall be verified and, to the extent known or reasonably
27 discoverable by the filing party or parties, shall state at a

1 minimum the following:

2 (1) The name, address, and length of residence of any
3 adults with whom any child has lived for one year or more, or
4 in the case of a child less than one year old, any adults with
5 whom the child has lived since the child's birth; except that the
6 address shall include only the county and state for an adult who is
7 living in an undisclosed location because of safety concerns;

8 (2) The name and address of each of the child's parents
9 and any other individuals with standing to participate in the
10 proceeding; except that the address shall only include the county
11 and state for a parent who is living in an undisclosed location
12 because of safety concerns;

13 (3) A description of the allocation of parenting
14 functions relating to the daily needs of the child performed by
15 each person named in subdivisions (1) and (2) of this section
16 during the twenty-four months preceding the filing of the action;

17 (4) A description of the work and child-care schedules of
18 any person seeking custody, parenting time, visitation, or other
19 access and any expected changes to these schedules in the near
20 future;

21 (5) A description of the child's school and
22 extracurricular activities, including who is responsible for
23 transportation of the child;

24 (6) Any circumstances of child abuse or neglect, domestic
25 intimate partner abuse, or unresolved parental conflict that are
26 likely to pose a risk to the child and that warrant limitation
27 on the award to any person seeking custody, parenting time,

1 visitation, or other access, including any restraining orders,
2 protection orders, or criminal no-contact orders against either
3 parent or person acting as parent by case number and jurisdiction;
4 and

5 (7) A description of the known areas of agreement and
6 disagreement regarding custody, parenting time, visitation, or
7 other access.

8 Sec. 13. (1) In developing a parenting plan:

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

13 (i) Has committed child abuse or neglect;

14 (ii) Has committed child abandonment under section
15 28-705;

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

17 (iv) Has interfered persistently with the other parent's
18 access to the child, except in the case of actions taken for the
19 purpose of protecting the safety of the child or the interfering
20 parent or another family member, pending adjudication of the facts
21 underlying that belief; and

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

27 (i) An adjustment of the custody of the child, including

1 the allocation of sole legal custody or physical custody to one
2 parent;

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

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

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

9 (v) A requirement that the parent abstain from possession
10 or consumption of alcohol or nonprescribed drugs while exercising
11 custodial responsibility and in a prescribed period immediately
12 preceding such exercise;

13 (vi) Denial of overnight physical custodial
14 responsibility;

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

17 (viii) A requirement that the parent post a bond to
18 secure return of the child following a period in which the parent
19 is exercising physical custodial responsibility or to secure other
20 performance required by the court;

21 (ix) A requirement that the parent complete a program of
22 intervention for perpetrators of domestic violence, a program for
23 drug or alcohol abuse, or a program designed to correct another
24 factor; or

25 (x) Any other constraints or conditions deemed necessary
26 to provide for the safety of the child, a child's parent, or any
27 person whose safety immediately affects the child's welfare.

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

5 (3) If a parent is found to have engaged in any activity
6 specified in subsection (1) of this section, the court shall not
7 order legal or physical custody to be given to that parent without
8 making special written findings that the child and other parent
9 can be adequately protected from harm by such limits as it may
10 impose under such subsection. The parent found to have engaged in
11 the behavior specified in subsection (1) of this section has the
12 burden of proving that legal or physical custody, parenting time,
13 visitation, or other access to that parent will not endanger the
14 child or the other parent.

15 Sec. 14. (1) (a) No person shall be granted custody of,
16 or unsupervised parenting time, visitation, or other access with, a
17 child if the person is required to be registered as a sex offender
18 under the Sex Offender Registration Act for an offense that would
19 make it contrary to the best interests of the child for such access
20 or for an offense in which the victim was a minor or if the
21 person has been convicted under section 28-311, 28-319.01, 28-320,
22 28-320.01, or 28-320.02, unless the court finds that there is no
23 significant risk to the child and states its reasons in writing or
24 on the record.

25 (b) No person shall be granted custody of, or
26 unsupervised parenting time, visitation, or other access with, a
27 child if anyone residing in the person's household is required to

1 register as a sex offender under the Sex Offender Registration Act
2 as a result of a felony conviction in which the victim was a minor
3 or for an offense that would make it contrary to the best interests
4 of the child for such access unless the court finds that there is
5 no significant risk to the child and states its reasons in writing
6 or on the record.

7 (c) The fact that a child is permitted unsupervised
8 contact with a person who is required, as a result of a felony
9 conviction in which the victim was a minor, to be registered as
10 a sex offender under the Sex Offender Registration Act shall be
11 prima facie evidence that the child is at significant risk. When
12 making a determination regarding significant risk to the child,
13 the prima facie evidence shall constitute a presumption affecting
14 the burden of producing evidence. However, this presumption shall
15 not apply if there are factors mitigating against its application,
16 including whether the other party seeking custody, parenting time,
17 visitation, or other access is also required, as the result of a
18 felony conviction in which the victim was a minor, to register as a
19 sex offender under the Sex Offender Registration Act.

20 (2) No person shall be granted custody, parenting time,
21 visitation, or other access with a child if the person has been
22 convicted under section 28-319 and the child was conceived as a
23 result of that violation.

24 (3) A change in circumstances relating to subsection (1)
25 or (2) of this section is sufficient grounds for modification of a
26 previous order.

27 Sec. 15. (1) The court shall not make a custody,

1 parenting time, visitation, or other access order and the parenting
2 plan shall not require anything that is inconsistent with any
3 restraining order, protection order, or criminal no-contact order
4 regarding any party to the proceeding, unless the court finds that:

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

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

10 (2) Whenever custody, parenting time, visitation, or
11 other access is granted to a parent in a case in which domestic
12 intimate partner abuse is alleged and a restraining order,
13 protection order, or criminal no-contact order has been issued,
14 the custody, parenting time, visitation, or other access order or
15 parenting plan shall specify the time, day, place, and manner of
16 transfer of the child for custody, parenting time, visitation, or
17 other access to limit the child's exposure to potential domestic
18 conflict or violence and to ensure the safety of all family
19 members. If the court finds that a party is staying in a place
20 designated as a shelter for victims of domestic abuse or other
21 confidential location, the time, day, place, and manner of transfer
22 of the child for custody, parenting time, visitation, or other
23 access shall be designed to prevent disclosure of the location of
24 the shelter or other confidential location.

25 (3) When making an order or parenting plan for custody,
26 parenting time, visitation, or other access in a case in which
27 domestic abuse is alleged and a restraining order, protection

1 order, or criminal no-contact order has been issued, the court
2 shall consider whether the best interests of the child, based
3 upon the circumstances of the case, require that any custody,
4 parenting time, visitation, or other access arrangement be limited
5 to situations in which a third person, specified by the court, is
6 present, or whether custody, parenting time, visitation, or other
7 access should be suspended or denied.

8 Sec. 16. After a hearing on the record, the court shall
9 determine whether the submitted parenting plan meets all of the
10 requirements of the Parenting Act and is in the best interests of
11 the child. If the parenting plan lacks any of the elements required
12 by the act or is not in the child's best interests, the court
13 shall modify and approve the parenting plan as modified, reject the
14 parenting plan and order the parties to develop a new parenting
15 plan, or reject the parenting plan and create a parenting plan that
16 meets all the required elements and is in the best interests of the
17 child. The court may include in the parenting plan:

18 (1) A provision for resolution of disputes that arise
19 under the parenting plan, including provisions for suspension of
20 parenting time, visitation, and other access when new findings of
21 child abuse or neglect, domestic intimate partner abuse, criminal
22 activity affecting the best interests of a child, or the violation
23 of a protection order, restraining order, or criminal no-contact
24 order occur, until a modified custody order or parenting plan with
25 provisions for safety or a transition plan, or both, is in place;
26 and

27 (2) Consequences for failure to follow parenting plan

1 provisions.

2 Sec. 17. An individual party, a party's attorney, a
3 guardian ad litem, a social service agency, a court, a domestic
4 violence serving entity, or another interested entity may refer
5 a custody, parenting time, visitation, other access, or related
6 matter to mediation, specialized alternative dispute resolution,
7 or other alternative dispute resolution process at any time prior
8 to the filing or after the filing of an action with a court.
9 Upon receipt of such referral, each mediator, court conciliation
10 program, or approved mediation center shall provide information
11 about mediation and specialized alternative dispute resolution to
12 each party.

13 Sec. 18. (1) At any time in the proceedings, a court
14 may refer a case to mediation or specialized alternative dispute
15 resolution in order to attempt resolution of any relevant matter.
16 The court may state a date for the case to return to court, and the
17 court shall not grant an extension of such date except for cause.
18 If the court refers a case to mediation or specialized alternative
19 dispute resolution, the court may, if appropriate, order temporary
20 relief, including necessary support and provision for payment of
21 mediation costs. Court referral may be to an approved mediation
22 center or a court conciliation program.

23 (2) Prior to July 1, 2010, if there are allegations of
24 domestic intimate partner abuse or unresolved parental conflict
25 between the parties in any proceeding, mediation shall not be
26 required pursuant to the Parenting Act or by local court rule,
27 unless the court has established a specialized alternative dispute

1 resolution rule approved by the State Court Administrator. The
2 specialized alternative dispute resolution process shall include
3 a method for court consideration of precluding or disqualifying
4 parties from participating; provide an opportunity to educate both
5 parties about the process; require informed consent from both
6 parties in order to proceed; provide safety protocols, including
7 separate individual sessions for each participant, informing each
8 party about the process, and obtaining informed consent from
9 each party to continue the process; allow support persons to
10 attend sessions; and establish opt-out-for-cause provisions. On and
11 after July 1, 2010, all trial courts shall have a mediation and
12 specialized alternative dispute resolution rule in accordance with
13 the act.

14 (3) On and after July 1, 2010, all parties who have not
15 submitted a parenting plan to the court within the time specified
16 by the court shall be ordered to participate in mediation or
17 specialized alternative dispute resolution at a court conciliation
18 program or an approved mediation center as provided in section 20
19 of this act.

20 Sec. 19. (1) A mediator under the Parenting Act may be a
21 court conciliation program counselor, a court conciliation program
22 mediator, an approved mediation center affiliated mediator, or a
23 mediator in private practice.

24 (2) To qualify as a Parenting Act mediator, a person
25 shall have basic mediation training and family mediation training,
26 approved by the Office of Dispute Resolution, and shall have served
27 as an apprentice to a mediator as defined in section 25-2903. The

1 training shall include, but not be limited to:

2 (a) Knowledge of the court system and procedures used in
3 contested family matters;

4 (b) General knowledge of family law, especially regarding
5 custody, parenting time, visitation, and other access, and support,
6 including calculation of child support using the child support
7 guidelines pursuant to section 42-364.16;

8 (c) Knowledge of other resources in the state to which
9 parties and children can be referred for assistance;

10 (d) General knowledge of child development, the potential
11 effects of dissolution or parental separation upon children,
12 parents, and extended families, and the psychology of families;

13 (e) Knowledge of child abuse or neglect and domestic
14 intimate partner abuse and their potential impact upon the
15 safety of family members, including knowledge of provisions for
16 safety, transition plans, domestic intimate partner abuse screening
17 protocols, and mediation safety measures; and

18 (f) Knowledge in regard to the potential effects of
19 domestic violence on a child; the nature and extent of domestic
20 intimate partner abuse; the social and family dynamics of domestic
21 intimate partner abuse; techniques for identifying and assisting
22 families affected by domestic intimate partner abuse; interviewing,
23 documentation of, and appropriate recommendations for families
24 affected by domestic intimate partner abuse; and availability of
25 community and legal domestic violence resources.

26 (3) To qualify as an approved specialized mediator for
27 parents involved in high conflict and situations in which abuse is

1 present, the mediator shall apply to an approved mediation center
2 or court conciliation program for consideration to be listed as
3 an approved specialized mediator. The approved mediation center
4 or court conciliation program shall submit its list of approved
5 specialized mediators to the Office of Dispute Resolution on an
6 annual basis. Minimum requirements to be listed as an approved
7 specialized mediator include:

8 (a) Affiliation with a court conciliation program or an
9 approved mediation center;

10 (b) Meeting the minimum standards for a Parenting Act
11 mediator under this section;

12 (c) Meeting additional relevant standards and
13 qualifications as determined by the State Court Administrator; and

14 (d) Satisfactorily completing an additional minimum
15 twenty-four-hour specialized alternative dispute resolution
16 domestic mediation training course developed by entities providing
17 domestic abuse services and mediation services for children and
18 families and approved by the State Court Administrator. This
19 course shall include advanced education in regard to the potential
20 effects of domestic violence on the child; the nature and extent
21 of domestic intimate partner abuse; the social and family dynamics
22 of domestic intimate partner abuse; techniques for identifying and
23 assisting families affected by domestic intimate partner abuse;
24 and appropriate and safe mediation strategies to assist parties
25 in developing a parenting plan, provisions for safety, and a
26 transition plan, as necessary and relevant.

27 Sec. 20. (1) A Parenting Act mediator, prior to meeting

1 with the parties in an initial mediation session, shall provide an
2 individual initial screening session with each party to assess the
3 presence of unresolved parental conflict, domestic intimate partner
4 abuse, other forms of intimidation or coercion, or a party's
5 inability to negotiate freely and make informed decisions. If any
6 of these conditions exist, the mediator shall not proceed with the
7 mediation session but shall proceed with a specialized alternative
8 dispute resolution process that addresses safety measures for the
9 parties, if the mediator is on the approved specialized list of an
10 approved mediation center or court conciliation program, or shall
11 refer the parties to a mediator who is so qualified. The mediator
12 has the duty to determine whether to proceed in joint session,
13 individual sessions, or caucus meetings with the parties in order
14 to address safety and freedom to negotiate. In any mediation or
15 specialized alternative dispute resolution, a mediator has the
16 ongoing duty to assess appropriateness of the process and safety of
17 the process upon the parties.

18 (2) No mediator who represents or has represented one
19 or both of the parties or has had either of the parties as a
20 client as an attorney or a counselor shall mediate the case, unless
21 such services have been provided to both participants and mediation
22 shall not proceed in such cases unless the prior relationship has
23 been disclosed, the role of the mediator has been made distinct
24 from the earlier relationship, and the participants have been given
25 the opportunity to fully choose to proceed. All other potential
26 conflicts of interest shall be disclosed and discussed before the
27 parties decide whether to proceed with that mediator.

1 (3) No mediator who is also a licensed attorney may,
2 after completion of the mediation process, represent either party
3 in the role of attorney in the same matter through subsequent legal
4 proceedings.

5 (4) The mediator shall facilitate the mediation process.
6 The mediator shall have access to court files for purposes of
7 mediation under the Parenting Act. The mediator shall be impartial
8 and shall use his or her best efforts to effect an agreement
9 or parenting plan as required under the act. The mediator may
10 interview the child if, in the mediator's opinion, such an
11 interview is necessary or appropriate. The parties shall not
12 bring the child to any sessions with the mediator unless specific
13 arrangements have been made with the mediator in advance of
14 the session. The mediator shall assist the parties in assessing
15 their needs and the best interests of the child involved in the
16 proceeding and may include other persons in the mediation process
17 as necessary or appropriate. The mediator shall advise the parties
18 that they should consult with an attorney.

19 (5) The mediator may terminate mediation if one or more
20 of the following conditions exist:

21 (a) There is no reasonable possibility that mediation
22 will promote the development of an effective parenting plan;

23 (b) Allegations are made of direct physical or
24 significant emotional harm to a party or to a child that have not
25 been heard and ruled upon by the court. Prior to the commencement
26 of mediation, the parties to mediation shall be notified by the
27 mediator that evidence of child abuse or neglect shall be reported

1 to the authorized child neglect and abuse reporting agency; or

2 (c) Mediation will otherwise fail to serve the best
3 interests of the child.

4 (6) Until July 1, 2010, either party may terminate
5 mediation at any point in the process. On and after July 1, 2010,
6 a party may not terminate mediation until after an individual
7 initial screening session and one mediation or specialized
8 alternative dispute resolution session are held. The session after
9 the individual initial screening session shall be an individual
10 specialized alternative dispute resolution session if the screening
11 indicated the existence of any condition specified in subsection
12 (1) of this section.

13 Sec. 21. (1) Mediation of cases under the Parenting Act
14 shall be governed by uniform standards of practice adopted by the
15 State Court Administrator. In adopting the standards of practice,
16 the State Court Administrator shall consider standards developed
17 by recognized associations of mediators and attorneys and other
18 relevant standards governing mediation and other dispute resolution
19 processes of proceedings for the determination of parenting plans
20 or dissolution of marriage. The standards of practice shall
21 include, but not be limited to, all of the following:

22 (a) Provision for the best interests of the child and the
23 safeguarding of the rights of the child in regard to each parent,
24 consistent with the act;

25 (b) Facilitation of the transition of the family by
26 detailing factors to be considered in decisions concerning the
27 child's future;

1 (c) The conducting of negotiations in such a way as to
2 address the relationships between the parties, considering safety
3 and the ability to freely negotiate and make decisions; and

4 (d) Provision for a specialized alternative dispute
5 resolution process in cases where any of the conditions specified
6 in subsection (1) of section 20 of this act exist.

7 (2) Mediation under the Parenting Act shall be conducted
8 in private.

9 Sec. 22. Mediation of a parenting plan shall be subject
10 to the Uniform Mediation Act and the Dispute Resolution Act,
11 to the extent such acts are not in conflict with the Parenting
12 Act. Unsigned mediated agreements under the Parenting Act are not
13 subject to a claim of privilege under subdivision (a) (1) of section
14 25-2935. In addition to disclosures permitted in section 25-2936,
15 a mediator under the Parenting Act may also disclose a party's
16 failure to schedule an individual initial screening session or a
17 mediation session.

18 Sec. 23. The costs of the mediation process shall be paid
19 by the parties. If the court orders the parties to mediation, the
20 costs to the parties shall be charged according to a sliding fee
21 scale as established by the State Court Administrator.

22 Sec. 24. (1) The State Court Administrator shall develop
23 rules to implement the Parenting Act.

24 (2) The Parenting Act Fund is created. The State Court
25 Administrator, through the Office of Dispute Resolution, approved
26 mediation centers, and court conciliation programs, shall use the
27 fund to carry out the Parenting Act. Any money in the fund

1 available for investment shall be invested by the state investment
2 officer pursuant to the Nebraska Capital Expansion Act and the
3 Nebraska State Funds Investment Act.

4 Sec. 25. Section 25-2911, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 25-2911 (1) The following types of cases may be accepted
7 for dispute resolution at an approved center:

8 (a) Civil claims and disputes, including, but not limited
9 to, consumer and commercial complaints, disputes between neighbors,
10 disputes between business associates, disputes between landlords
11 and tenants, and disputes within communities;

12 (b) Disputes concerning child custody, parenting time,
13 visitation, or other access and visitation rights and other areas
14 of domestic relations; and

15 (c) Juvenile offenses and disputes involving juveniles.

16 (2) An approved center may accept cases referred by a
17 court, an attorney, a law enforcement officer, a social service
18 agency, a school, or any other interested person or agency or
19 upon the request of the parties involved. A case may be referred
20 prior to the commencement of formal judicial proceedings or may be
21 referred as a pending court case. In order for a referral to be
22 effective, all parties involved must consent to such referral. If a
23 court refers a case to an approved center, the center shall provide
24 information to the court as to whether an agreement was reached.
25 If the court requests a copy of the agreement, the center shall
26 provide it.

27 Sec. 26. Section 33-106.03, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 33-106.03 In addition to the fees provided for in
3 sections 33-106 and 33-123, the clerk of the court shall collect
4 an additional ~~twenty-five~~ seventy-five dollars in docket fees for
5 dissolution of marriages. The ~~twenty-five dollar~~ fee shall be
6 remitted to the State Treasurer ~~for~~ who shall credit twenty-five
7 dollars to the Nebraska Child Abuse Prevention Fund and fifty
8 dollars to the Parenting Act Fund.

9 Sec. 27. Section 33-107.02, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 33-107.02 (1) A docket fee of ~~fifteen~~ sixty-five dollars
12 shall be collected by the clerk of the county court or the clerk
13 of the district court for each proceeding to modify a decree of
14 dissolution or annulment of marriage, a modification of an award of
15 child support, or a modification of child custody, parenting time,
16 visitation, or other access as defined in section 3 of this act. ~~or~~
17 ~~visitation.~~ Such fees shall be remitted to the State Treasurer on
18 forms prescribed by the State Treasurer within ten days after the
19 close of each month. ~~for credit~~ Fifteen dollars shall be credited
20 to the Legal Aid and Services Fund, and fifty dollars shall be
21 credited to the Parenting Act Fund.

22 (2) Any proceeding filed by a county attorney or an
23 authorized attorney, as defined in section 43-1704, in a case in
24 which services are being provided under Title IV-D of the federal
25 Social Security Act, as amended, shall not be subject to the
26 provisions of this section.

27 Sec. 28. Section 42-347, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 42-347 For purposes of sections 42-347 to 42-381, unless
3 the context otherwise requires:

4 (1) Authorized attorney ~~shall mean~~ means an attorney (a)
5 employed by the county subject to the approval of the county board,
6 (b) employed by the Department of Health and Human Services, or
7 (c) appointed by the court, who is authorized to investigate and
8 prosecute child and spousal support cases. An authorized attorney
9 shall represent the state as provided in section 43-512.03;

10 (2) Custody includes both legal custody and physical
11 custody;

12 ~~(2)~~ (3) Dissolution of marriage shall mean means the
13 termination of a marriage by decree of a court of competent
14 jurisdiction upon a finding that the marriage is irretrievably
15 broken. The term dissolution of marriage shall be considered
16 synonymous with divorce, and whenever the term divorce appears in
17 the statutes it ~~shall mean~~ means dissolution of marriage pursuant
18 to sections 42-347 to 42-381;

19 (4) Joint legal custody has the same meaning as in
20 section 3 of this act;

21 (5) Joint physical custody has the same meaning as in
22 section 3 of this act;

23 (6) Legal custody has the same meaning as in section 3 of
24 this act;

25 ~~(3)~~ (7) Legal separation shall mean means a decree of a
26 court of competent jurisdiction providing that two persons who have
27 been legally married shall thereafter live separate and apart and

1 providing for any necessary adjustment of property, support, and
2 custody rights between the parties but not dissolving the marriage;

3 (8) Physical custody has the same meaning as in section
4 3 of this act;

5 ~~(4)~~ (9) Spousal support, when used in the context of
6 income withholding or any provisions of law which might lead to
7 income withholding, ~~shall mean~~ means alimony or maintenance support
8 for a spouse or former spouse when ordered as a part of an order,
9 decree, or judgment which provides for child support and the child
10 and spouse or former spouse are living in the same household;

11 ~~(5)~~ (10) State Disbursement Unit has the same meaning as
12 in section 43-3341; ~~and~~

13 ~~(6)~~ (11) Support order has the same meaning as in section
14 43-1717; ~~and~~ -

15 (12) Title IV-D Division has the same meaning as in
16 section 43-3341.

17 Sec. 29. Section 42-351, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 42-351 (1) In proceedings under sections 42-347 to
20 42-381, the court shall have jurisdiction to inquire into such
21 matters, make such investigations, and render such judgments and
22 make such orders, both temporary and final, as are appropriate
23 concerning the status of the marriage, the custody and support
24 of minor children, the support of either party, the settlement of
25 the property rights of the parties, and the award of costs and
26 attorney's fees. The court shall determine jurisdiction for child
27 custody proceedings under the Uniform Child Custody Jurisdiction

1 and Enforcement Act.

2 (2) When final orders relating to proceedings governed by
3 sections 42-347 to 42-381 are on appeal and such appeal is pending,
4 the court that issued such orders shall retain jurisdiction to
5 provide for such orders regarding support, custody, parenting time,
6 visitation, or other access, ~~visitation, or support,~~ orders shown
7 to be necessary to allow the use of property or to prevent the
8 irreparable harm to or loss of property during the pendency of
9 such appeal, or other appropriate orders in aid of the appeal
10 process. Such orders shall not be construed to prejudice any party
11 on appeal.

12 Sec. 30. Section 42-353, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 42-353 The pleadings required by sections 42-347 to
15 42-381 shall be governed by the rules of pleading in civil actions
16 promulgated under section 25-801.01. The complaint shall include
17 the following:

18 (1) The name and address of the plaintiff and his or
19 her attorney, except that for a plaintiff who is living in an
20 undisclosed location because of safety concerns, only the county
21 and state of the address are required;

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

23 (3) The date and place of marriage;

24 (4) The name and date of birth of each child whose
25 custody or welfare may be affected by the proceedings and whether
26 (a) a parenting plan as provided in the Parenting Act has been
27 developed and (b) child custody, parenting time, visitation, or

1 other access or child support is a contested issue;

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

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

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

9 ~~(6)~~ (8) A statement of the relief sought by the
10 plaintiff, including adjustment of custody, property, and support
11 rights; and

12 ~~(7)~~ (9) An allegation that the marriage is irretrievably
13 broken.

14 Sec. 31. Section 42-359, Reissue Revised Statutes of
15 Nebraska, is amended to read:

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

27 Sec. 32. Section 42-364, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 42-364 (1) In an action involving child support, child
3 custody, parenting time, visitation, or other access, the parties
4 and their counsel, if represented, shall develop a parenting plan
5 as provided in the Parenting Act. If the parties and counsel do
6 not develop a parenting plan, the complaint shall so indicate as
7 provided in section 42-353 and before July 1, 2010, the case may be
8 referred to mediation, specialized alternative dispute resolution,
9 or other alternative dispute resolution process and on or after
10 such date the case shall be referred to mediation or specialized
11 alternative dispute resolution as provided in the Parenting Act.
12 The decree in an action involving the custody of a minor child
13 shall include the determination of legal custody and physical
14 custody based upon the best interests of the child, as defined
15 in the Parenting Act, and child support. Such determinations shall
16 be made by incorporation into the decree of (a) a parenting plan
17 developed by the parties, if approved by the court, or (b) a
18 parenting plan developed by the court based upon evidence produced
19 after a hearing in open court if no parenting plan is developed by
20 the parties or the plan developed by the parties is not approved
21 by the court. The decree shall conform to the Parenting Act. The
22 social security number of each parent and the minor child shall
23 be furnished to the clerk of the district court but shall not
24 be disclosed or considered a public record. ~~When dissolution of a~~
25 ~~marriage or legal separation is decreed,~~ the court may include a
26 ~~parenting plan developed under the Parenting Act,~~ if a parenting
27 ~~plan has been so developed,~~ and such orders in relation to any

1 minor child and the child's maintenance as are justified, including
2 placing the minor child in the custody of the court or third
3 parties or terminating parental rights pursuant to this section if
4 the best interests of the minor child require such orders. Custody
5 and time spent with each parent shall be determined on the basis
6 of the best interests of the minor child with the objective of
7 maintaining the ongoing involvement of both parents in the minor
8 child's life. The social security number of each parent and the
9 minor child shall be furnished to the clerk of the district court.

10 (2) In determining custody arrangements and the time to
11 be spent with each parent, the court shall consider the best
12 interests of the minor child which shall include, but not be
13 limited to:

14 (a) The relationship of the minor child to each parent
15 prior to the commencement of the action or any subsequent hearing;

16 (b) The desires and wishes of the minor child if of an
17 age of comprehension regardless of chronological age, when such
18 desires and wishes are based on sound reasoning;

19 (c) The general health, welfare, and social behavior of
20 the minor child; and

21 (d) Credible evidence of abuse inflicted on any family
22 or household member. For purposes of this subdivision, abuse and
23 family or household member shall have the meanings prescribed in
24 section 42-903.

25 (3) (2) In determining custody arrangements legal custody
26 or physical custody, and the time to be spent with each parent, the
27 court shall not give preference to either parent based on the sex

1 of the parent and, except as provided in section 14 of this act, no
2 presumption shall exist that either parent is more fit or suitable
3 than the other. Custody shall be determined on the basis of the
4 best interests of the child, as defined in the Parenting Act.
5 Unless parental rights are terminated, both parents shall continue
6 to have the rights stated in section 42-381.

7 ~~(4) Regardless of the custody determination of the court,~~
8 ~~(a) each parent shall continue to have full and equal access to the~~
9 ~~education and medical records of his or her child unless the court~~
10 ~~orders to the contrary and (b) either parent may make emergency~~
11 ~~decisions affecting the health or safety of his or her child while~~
12 ~~the child is in the physical custody of such parent pursuant to a~~
13 ~~visitation order entered by the court.~~

14 ~~(5) After a hearing in open court, the court may place~~
15 ~~the eustody~~ (3) Custody of a minor child may be placed with both
16 parents on a shared or joint custody basis joint legal custody or
17 joint physical custody basis, or both, (a) when both parents agree
18 to such an arrangement. In that event, each parent shall have equal
19 rights to make decisions in the best interests of the minor child
20 in his or her custody. The court may place a minor child in joint
21 custody after conducting a hearing in open court and specifically
22 finding in the parenting plan and the court determines that such
23 an arrangement is in the best interests of the child or (b) if
24 the court specifically finds, after a hearing in open court, that
25 joint eustody physical custody or joint legal custody, or both, is
26 in the best interests of the minor child regardless of any parental
27 agreement or consent.

1 ~~(6)~~ (4) In determining the amount of child support to
2 be paid by a parent, the court shall consider the child support
3 calculations included in the separate financial plan submitted
4 with the parenting plan, the earning capacity of each parent, and
5 the guidelines provided by the Supreme Court pursuant to section
6 42-364.16 for the establishment of child support obligations. Upon
7 application, hearing, and presentation of evidence of an abusive
8 disregard of the use of child support money paid by one party
9 to the other, the court may require the party receiving such
10 payment to file a verified report with the court, as often as
11 the court requires, stating the manner in which such money is
12 used. Child support paid to the party having custody of the minor
13 child shall be the property of such party except as provided in
14 section 43-512.07. The clerk of the district court shall maintain
15 a record, separate from all other judgment dockets, of all decrees
16 and orders in which the payment of child support or spousal
17 support has been ordered, whether ordered by a district court,
18 county court, separate juvenile court, or county court sitting as a
19 juvenile court. Orders for child support in cases in which a party
20 has applied for services under Title IV-D of the federal Social
21 Security Act, as amended, shall be reviewed as provided in sections
22 43-512.12 to 43-512.18.

23 ~~(7)~~ (5) Whenever termination of parental rights is placed
24 in issue: by the pleadings or evidence, the

25 (a) The court shall transfer jurisdiction to a juvenile
26 court established pursuant to the Nebraska Juvenile Code unless
27 a showing is made that the county court or district court

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

15 (a) ~~The minor child has been abandoned by one or both~~
16 ~~parents;~~

17 (b) ~~One parent has or both parents have substantially and~~
18 ~~continuously or repeatedly neglected the minor child and refused to~~
19 ~~give such minor child necessary parental care and protection;~~

20 (c) ~~One parent is or both parents are unfit by reason of~~
21 ~~debauchery, habitual use of intoxicating liquor or narcotic drugs,~~
22 ~~illegal possession or sale of illegal substances, or repeated lewd~~
23 ~~and lascivious behavior, which conduct is found by the court to be~~
24 ~~seriously detrimental to the health, morals, or well-being of the~~
25 ~~minor child; or~~

26 (d) ~~One parent is or both parents are unable to discharge~~
27 ~~parental responsibilities because of mental illness or mental~~

1 deficiency and there are reasonable grounds to believe that such
2 condition will continue for a prolonged indeterminate period.

3 ~~(8)~~ Whenever termination of parental rights is placed
4 in issue, the (b) The court shall inform a parent who does not
5 have legal counsel of the parent's right to retain counsel and
6 of the parent's right to retain legal counsel at county expense
7 if such parent is unable to afford legal counsel. If such parent
8 is unable to afford legal counsel and requests the court to
9 appoint legal counsel, the court shall immediately appoint an
10 attorney to represent the parent in the termination proceedings.
11 The court shall order the county to pay the attorney's fees and
12 all reasonable expenses incurred by the attorney in protecting the
13 rights of the parent. At such hearing, the guardian ad litem shall
14 take all action necessary to protect the interests of the minor
15 child. The court shall fix the fees and expenses of the guardian ad
16 litem and tax the same as costs but may order the county to pay on
17 finding the responsible party indigent and unable to pay.

18 ~~(9)~~ (6) Modification proceedings relating to support,
19 custody, ~~visitation,~~ parenting time, visitation, other access, or
20 removal of children from the jurisdiction of the court shall
21 be commenced by filing a complaint to modify. Modification of
22 a parenting plan is governed by the Parenting Act. Proceedings
23 to modify a parenting plan shall be commenced by filing a
24 complaint to modify. Such actions may be referred to mediation,
25 specialized alternative dispute resolution, or other alternative
26 dispute resolution process before July 1, 2010, and on and after
27 such date shall be referred to mediation or specialized alternative

1 dispute resolution as provided in the Parenting Act. Service of
2 process and other procedure shall comply with the requirements for
3 a dissolution action.

4 Sec. 33. Section 42-364.14, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 42-364.14 Nothing in the Income Withholding for Child
7 Support Act or sections 42-364.01 to 42-364.13 shall be construed
8 as prohibiting a parent-employee from consenting to an order to
9 withhold and transmit earnings as part of a property settlement
10 agreement incorporated into a decree dissolving a marriage or by
11 agreement in a proceeding in the district court, county court, or
12 separate juvenile court in which the payment of child support is
13 an issue. If the parent-employee has consented to such an order,
14 the court shall not be required to hold a separate hearing or make
15 findings as provided in ~~sections 42-364.01 to 42-364.12.~~ the act or
16 such sections. The clerk of the court shall notify the employer, if
17 any, of the parent-employee of any such order by first-class mail
18 and file a record of such mailing in the court.

19 Sec. 34. Section 42-364.15, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 42-364.15 In any proceeding when a court has ordered
22 a parent to pay, temporarily or permanently, any amount for the
23 support of a minor child and in the same proceeding has ordered
24 ~~visitation~~ parenting time, visitation, or other access with any
25 minor child on behalf of such parent, the court shall enforce its
26 ~~visitation~~ orders as follows:

27 (1) Upon the filing of a motion which is accompanied by

1 an affidavit stating that either parent has unreasonably withheld
2 or interfered with the exercise of the court order after notice to
3 the parent and hearing, the court shall enter such orders as are
4 reasonably necessary to enforce rights of either parent including
5 the modification of previous court orders relating to ~~visitation.~~
6 parenting time, visitation, or other access. The court may use
7 contempt powers to enforce its court orders relating to ~~visitation.~~
8 parenting time, visitation, or other access. The court may require
9 either parent to file a bond or otherwise give security to insure
10 his or her compliance with court order provisions; and -

11 (2) Costs, including reasonable attorney's fees, may be
12 taxed against a party found to be in contempt pursuant to this
13 section.

14 Sec. 35. Section 42-369, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 42-369 (1) All support orders, decrees, or judgments for
17 temporary or permanent support payments, including child, spousal,
18 or medical support, and all orders, decrees, or judgments for
19 alimony, or modification of support payments or alimony shall
20 direct the payment of such sums to be made commencing on the first
21 day of each month for the use of the persons for whom the support
22 payments or alimony have been awarded. Such payments shall be made
23 to the clerk of the district court (a) when the order, decree, or
24 judgment is for spousal support, alimony, or maintenance support
25 and the order, decree, or judgment does not also provide for
26 child support, and (b) when the payment constitutes child care or
27 day care expenses, unless payments under ~~subdivisions~~ subdivision

1 (1) (a) or (1) (b) of this section are ordered to be made directly
2 to the obligee. All other support order payments shall be made
3 to the State Disbursement Unit. ~~except payments made pursuant~~
4 ~~to subdivisions (1)(a) and (1)(b) of this section.~~ In all cases
5 in which income withholding has been implemented pursuant to the
6 Income Withholding for Child Support Act or sections 42-364.01
7 to 42-364.14, support order payments shall be made to the State
8 Disbursement Unit. The court may order such payment to be in cash
9 or guaranteed funds.

10 (2) If the person against whom an ~~order, decree, or~~
11 ~~judgment~~ a support order for child support is entered or the
12 custodial parent or guardian has health insurance available to
13 him or her through an employer or organization which may extend
14 to cover any children affected by the support order, ~~decree, or~~
15 ~~judgment~~ the court shall require the option to be exercised or
16 comparable coverage be obtained by either party for additional
17 coverage which favors the best interests of the child or children
18 affected unless the parties have otherwise stipulated in writing or
19 to the court.

20 (3) ~~Such an order, decree, or judgment for support~~ A
21 support order may include the providing of necessary shelter,
22 food, clothing, care, medical support as defined in section 43-512,
23 medical attention, expenses of confinement, education expenses,
24 funeral expenses, and any other expense the court may deem
25 reasonable and necessary.

26 (4) ~~Orders, decrees, and judgments for temporary~~
27 Temporary or permanent support orders or orders, decrees, and

1 judgments for alimony shall be filed with the clerk of the district
2 court and have the force and effect of judgments when entered. The
3 clerk and the State Disbursement Unit shall disburse all payments
4 received as directed by the court and as provided in sections
5 42-358.02 and 43-512.07. Records shall be kept of all funds
6 received and disbursed by the clerk and the unit and shall be open
7 to inspection by the parties and their attorneys.

8 (5) Unless otherwise specified by the court, an equal and
9 proportionate share of any child support awarded shall be presumed
10 to be payable on behalf of each child subject to the order, decree,
11 or judgment for purposes of an assignment under section 43-512.07.

12 Sec. 36. Section 42-371, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 42-371 Under the Uniform Interstate Family Support Act
15 and sections 42-347 to 42-381, 43-290, 43-512 to 43-512.10, and
16 43-1401 to 43-1418:

17 (1) All judgments and orders for payment of money shall
18 be liens, as in other actions, upon real property and any personal
19 property registered with any county office and may be enforced or
20 collected by execution and the means authorized for collection of
21 money judgments; ~~The judgment creditor may execute (a) a partial~~
22 ~~or total release of the judgment or (b) a document subordinating~~
23 ~~the lien of the judgment to any other lien, generally or on~~
24 ~~specific real or personal property. Release of a judgment for child~~
25 ~~support or spousal support or subordination of a lien of a judgment~~
26 ~~for child support or spousal support must be approved by the court~~
27 ~~which rendered the judgment unless all such payments are current,~~

1 in which case a release or subordination document executed by the
2 judgment creditor shall be sufficient to remove or subordinate
3 the lien. A properly executed, notarized release or subordination
4 document, explicitly reciting that all child support payments or
5 spousal support payments are current, shall be prima facie evidence
6 that such payments are in fact current. The judgment debtor may
7 file a motion in the court which rendered the original judgment for
8 an order releasing or subordinating the lien as to specific real or
9 personal property. The court shall grant such order upon a showing
10 by the judgment debtor that sufficient real or personal property or
11 property interests will remain subject to the lien or will maintain
12 priority over other liens sufficient to cover all support due and
13 which may become due;

14 (2) (a) If support order payments are current, a partial
15 or total release of the judgment or subordination of a lien
16 for a support order, generally or on specific real or personal
17 property, may be accomplished by filing (i) a current certified
18 copy of support order payment history from the Title IV-D Division
19 explicitly reciting that all support order payments are current and
20 (ii) a partial or total release of the judgment or subordination
21 document in the county office where the lien is registered.

22 (b) If support order payments are not current, the person
23 desiring such release or subordination may file an application
24 for the relief desired in the court which rendered the original
25 judgment or support order. A copy of the application and a
26 notice of hearing shall be served on the judgment creditor either
27 personally or by registered or certified mail no less than ten days

1 before the date of hearing. If the court finds that the release or
2 subordination is not requested for the purpose of avoiding payment
3 and that the release or subordination will not unduly reduce the
4 security, the court may issue an order for a total or partial
5 release of all or specific real or personal property from the lien
6 or issue an order subordinating the lien. As a condition for such
7 release or subordination, the court may require the posting of a
8 bond with the clerk in an amount fixed by the court, guaranteeing
9 payment of the judgment.

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

14 ~~(2)~~ (3) Full faith and credit shall be accorded to
15 a lien arising by operation of law against real and personal
16 property for amounts ~~of~~ overdue relating to a support order owed
17 by an obligor who resides or owns property in this state when
18 another state agency, party, or other entity seeking to enforce
19 such lien complies with the procedural rules relating to the
20 filing of the lien in this state. The state agency, party, or
21 other entity seeking to enforce such lien shall send a certified
22 copy of the support order with all modifications, the notice of
23 lien prescribed by 42 U.S.C. 652(a)(11) and 42 U.S.C. 654(9)(E),
24 and the appropriate fee to the clerk of the district court in
25 the jurisdiction within this state in which the lien is sought.
26 Upon receiving the appropriate documents and fee, the clerk of
27 the district court shall accept the documents filed and such

1 acceptance shall constitute entry of the foreign support order for
2 purposes of this section only. Entry of a lien arising in another
3 state pursuant to this section shall result in such lien being
4 afforded the same treatment as liens arising in this state. The
5 filing process required by this section shall not be construed as
6 requiring an application, complaint, answer, and hearing as might
7 be required for the filing or registration of foreign judgments
8 under the Nebraska Uniform Enforcement of Foreign Judgments Act or
9 the Uniform Interstate Family Support Act;

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

16 ~~(4)~~ (5) Alimony and property settlement award judgments,
17 if not covered by subdivision ~~(3)~~ (4) of this section, shall cease
18 to be a lien on real or registered personal property ten years
19 from the date (a) the judgment was entered, (b) the most recent
20 payment was made, or (c) the most recent execution was issued to
21 collect the judgment, whichever is latest, and such lien shall not
22 be reinstated;

23 ~~(5) Whenever a judgment creditor refuses to execute a~~
24 ~~release of the judgment or subordination of a lien as provided~~
25 ~~in this section, the person desiring such release or subordination~~
26 ~~may file an application for the relief desired. A copy of the~~
27 ~~application and a notice of hearing shall be served on the judgment~~

1 ~~creditor either personally or by registered or certified mail no~~
2 ~~less than ten days before the date of hearing. If the court finds~~
3 ~~that the release or subordination is not requested for the purpose~~
4 ~~of avoiding payment and that the release or subordination will not~~
5 ~~unduly reduce the security,~~ the court may issue an order releasing
6 ~~real or personal property from the judgment lien or issue an order~~
7 ~~subordinating the judgment lien. As a condition for such release or~~
8 ~~subordination,~~ the court may require the posting of a bond with the
9 ~~clerk in an amount fixed by the court,~~ guaranteeing payment of the
10 ~~judgment;~~

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

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

1 section as the original real property purchase money mortgage or
2 deed of trust to the extent that the amount of the loan refinanced,
3 renewed, or extended does not exceed the amount used to pay the
4 principal and interest on the existing real property purchase money
5 mortgage or deed of trust, plus the costs of the refinancing,
6 renewal, or extension; and

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

13 Sec. 37. Section 42-934, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 42-934 (a) A person authorized by the law of this state
16 to seek enforcement of a protection order may seek enforcement of
17 a valid foreign protection order in a tribunal of this state. The
18 tribunal shall enforce the terms of the order, including terms that
19 provide relief that a tribunal of this state would lack power to
20 provide but for this section. The tribunal shall enforce the order,
21 whether the order was obtained by independent action or in another
22 proceeding, if it is an order issued in response to a complaint,
23 petition, or motion filed by or on behalf of an individual seeking
24 protection. In a proceeding to enforce a foreign protection order,
25 the tribunal shall follow the procedures of this state for the
26 enforcement of protection orders.

27 (b) A tribunal of this state may not enforce a foreign

1 protection order issued by a tribunal of a state that does
2 not recognize the standing of a protected individual to seek
3 enforcement of the order.

4 (c) A tribunal of this state shall enforce the provisions
5 of a valid foreign protection order which govern child custody,
6 parenting time, visitation, or other access, and visitation, if
7 the order was issued in accordance with the applicable federal and
8 state jurisdictional requirements governing the issuance of orders
9 relating to child custody, parenting time, visitation, or other
10 access and visitation orders in the issuing state.

11 (d) A foreign protection order is valid if it:

12 (1) identifies the protected individual and the
13 respondent;

14 (2) is currently in effect;

15 (3) was issued by a tribunal that had jurisdiction over
16 the parties and subject matter under the law of the issuing state;
17 and

18 (4) was issued after the respondent was given reasonable
19 notice and had an opportunity to be heard before the tribunal
20 issued the order or, in the case of an order ex parte, the
21 respondent was given notice and has had or will have an opportunity
22 to be heard within a reasonable time after the order was issued,
23 in a manner consistent with the rights of the respondent to due
24 process.

25 (e) A foreign protection order valid on its face is prima
26 facie evidence of its validity.

27 (f) Absence of any of the criteria for validity of a

1 foreign protection order is an affirmative defense in an action
2 seeking enforcement of the order.

3 (g) A tribunal of this state may enforce provisions of a
4 mutual foreign protection order which favor a respondent only if:

5 (1) the respondent filed a written pleading seeking a
6 protection order from the tribunal of the issuing state; and

7 (2) the tribunal of the issuing state made specific
8 findings in favor of the respondent.

9 Sec. 38. Section 43-104.13, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 43-104.13 The notice sent by the agency or attorney
12 pursuant to section 43-104.12 shall be served sufficiently in
13 advance of the birth of the child, whenever possible, to allow
14 compliance with section 43-104.02 and shall state:

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

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

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

24 (4) That the possible biological father may have certain
25 rights with respect to such child if he is in fact the biological
26 father;

27 (5) That the possible biological father has the right to

1 (a) deny paternity, (b) waive any parental rights he may have, (c)
2 relinquish and consent to adoption of the child, or (d) file a
3 notice of intent to claim paternity and obtain custody of the child
4 pursuant to section 43-104.02;

5 (6) That to deny paternity, to waive his parental rights,
6 or to relinquish and consent to the adoption, the biological
7 father must contact the undersigned agency or attorney representing
8 the biological mother, and that if he wishes to seek custody
9 of the child he should seek legal counsel from his own attorney
10 immediately; and

11 (7) That if he is the biological father and if the child
12 is not relinquished for adoption, he has a duty to contribute to
13 the support and education of the child and to the pregnancy-related
14 expenses of the mother and a right to seek ~~visitation~~ a court
15 order for custody, parenting time, visitation, or other access with
16 the child.

17 The agency or attorney representing the biological mother
18 may enclose with the notice a document which is an admission
19 or denial of paternity and a waiver of rights by the biological
20 father, which the biological father may choose to complete, in
21 the form mandated by section 43-106, and return to the agency or
22 attorney.

23 Sec. 39. Section 43-158, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 43-158 When the department determines that an adoption
26 involving exchange of information would serve a child's best
27 interests, it may enter into agreements with the child's proposed

1 adoptive parent or parents for the exchange of information.
2 The nature of the information promised to be provided shall be
3 specified in an exchange-of-information contract and may include,
4 but shall not be limited to, letters by the adoptive parent
5 or parents at specified intervals providing information regarding
6 the child's development or photographs of the child at specified
7 intervals. Any agreement shall provide that the biological parent
8 or parents keep the department informed of any change in address
9 or telephone number and may include provision for communication by
10 the biological parent or parents indirectly through the department
11 or directly to the adoptive parent or parents. Nothing in sections
12 43-155 to 43-160 shall be interpreted to preclude or allow
13 ~~visitation between~~ court-ordered parenting time, visitation, or
14 other access with the child and the biological parent or parents.
15 ~~and the child.~~

16 Sec. 40. Section 43-2,113, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 43-2,113 (1) In counties where a separate juvenile court
19 is established, the county board of the county shall provide
20 suitable rooms and offices for the accommodation of the judge
21 of the separate juvenile court and the officers and employees
22 appointed by such judge or by the probation administrator pursuant
23 to subsection (4) of section 29-2253. Such separate juvenile court
24 and the judge, officers, and employees of such court shall have
25 the same and exclusive jurisdiction, powers, and duties that are
26 prescribed in the Nebraska Juvenile Code, concurrent jurisdiction
27 under section 83-223, and such other jurisdiction, powers, and

1 duties as specifically provided by law.

2 (2) A juvenile court created in a separate juvenile court
3 judicial district or a county court sitting as a juvenile court in
4 all other counties shall have and exercise jurisdiction within such
5 juvenile court judicial district or county court judicial district
6 with the county court and district court in all matters arising
7 under Chapter 42, article 3, when the care, support, custody,
8 or control of minor children under the age of eighteen years
9 is involved. Such cases shall be filed in the county court and
10 district court and may, with the consent of the juvenile judge, be
11 transferred to the docket of the separate juvenile court or county
12 court.

13 (3) All orders issued by a separate juvenile court or a
14 county court which provide for child support or spousal support as
15 defined in section 42-347 shall be governed by sections 42-347 to
16 42-381 and 43-290 relating to such support. Certified copies of
17 such orders shall be filed by the clerk of the separate juvenile
18 or county court with the clerk of the district court who shall
19 maintain a record as provided in subsection ~~(6)~~ (4) of section
20 42-364. There shall be no fee charged for the filing of such
21 certified copies.

22 Sec. 41. Section 43-512.08, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 43-512.08 The county attorney or authorized attorney,
25 acting for or on behalf of the State of Nebraska, may intervene
26 without leave of the court in any proceeding for dissolution
27 of marriage, paternity, separate maintenance, or child, spousal,

1 or medical support for the purpose of securing an order for
2 child, spousal, or medical support, modifying an order for child
3 or medical support, or modifying an order for child support as
4 the result of a review of such order under sections 43-512.12
5 to 43-512.18. Such proceedings shall be limited only to the
6 determination of child or medical support. Except in cases in which
7 the intervention is the result of a review under such sections, the
8 county attorney or authorized attorney shall so act only when it
9 appears that the children are not otherwise represented by counsel.

10 Sec. 42. Section 43-512.15, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 43-512.15 (1) The county attorney or authorized attorney,
13 upon referral from the Department of Health and Human Services,
14 shall file a complaint to modify a child support order unless the
15 attorney determines in the exercise of independent professional
16 judgment that:

17 (a) The variation from the Supreme Court child support
18 guidelines pursuant to section 42-364.16 is based on material
19 misrepresentation of fact concerning any financial information
20 submitted to the attorney;

21 (b) The variation from the guidelines is due to a
22 voluntary reduction in net monthly income. For purposes of this
23 section, incarceration for a period of six months or more in a
24 county or city jail or a federal or state correctional facility
25 shall be considered an involuntary reduction of income unless the
26 incarceration is a result of a conviction for criminal nonsupport
27 pursuant to section 28-706 or a conviction for a violation of

1 any federal law or law of another state substantially similar to
2 section 28-706; or

3 (c) When the amount of the order is considered with all
4 the other undisputed facts in the case, no variation from the
5 criteria set forth in subdivisions (1) and (2) of section 43-512.12
6 exists.

7 (2) The proceedings to modify a child support order shall
8 comply with section 42-364, and the county attorney or authorized
9 attorney shall represent the state in the proceedings.

10 (3) After a complaint to modify a child support order is
11 filed, any party may choose to be represented personally by private
12 counsel. Any party who retains private counsel shall so notify the
13 county attorney or authorized attorney in writing.

14 Sec. 43. Section 43-1407, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 43-1407 The father of a child shall also be is liable
17 for the reasonable and necessary medical expenses of (1) the child
18 associated with the birth of the child and (2) the mother of
19 such child during the period of her pregnancy, confinement, and
20 recovery. Such liability shall be determined and enforced in the
21 same manner as the liability of the father for the support of the
22 child. In any case qualifying for services under Title IV-D of
23 the federal Social Security Act, the county attorney or authorized
24 attorney shall petition the court for a judgment for reasonable
25 and necessary medical expenses. Any medical expense associated
26 with the birth of such child that is approved and paid by the
27 medical assistance program shall be presumed to be reasonable and

1 necessary. If the father challenges any medical expense that is
2 part of the judgment, he has the burden of proving that the medical
3 expense should not be paid.

4 Sec. 44. Section 43-3342.01, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 43-3342.01 (1) The responsibilities of the State
7 Disbursement Unit shall include the following:

8 (a) Receipt of payments, except payments made pursuant to
9 subdivisions (1) (a) and (1) (b) of section 42-369, and disbursements
10 of such payments to obligees, the department, and the agencies of
11 other states;

12 (b) Accurate identification of payments;

13 (c) Prompt disbursement of the obligee's share of any
14 payments;

15 (d) Furnishing to any obligor or obligee, upon request,
16 timely information on the current status of support order payments;
17 and

18 (e) One location for employers to send income withholding
19 payments.

20 (2) The Title IV-D Division shall maintain records of
21 payments for all cases in which support order payments are made
22 to the central office of the State Disbursement Unit using the
23 statewide automated data processing and retrieval system. The Title
24 IV-D Division shall not be required to convert and maintain records
25 of support order payments kept by the clerk of the district court
26 before the date that the State Disbursement Unit becomes operative
27 or records of payments received by the clerk pursuant to section

1 42-369.

2 (3) A true copy of the record of payments, balances,
3 and arrearages maintained by the Title IV-D Division is prima
4 facie evidence, without further proof or foundation, of the balance
5 of any amount of support order payments that are in arrears
6 ~~on the date the State Disbursement Unit becomes operative~~ and
7 of all payments made and disbursed to the person or agency to
8 whom the support order payment is to be made. after the date
9 ~~the unit becomes operative.~~ Such evidence shall be considered
10 to be satisfactorily authenticated, shall be admitted as prima
11 facie evidence of the transactions shown in such evidence, and is
12 rebuttable only by a specific evidentiary showing to the contrary.

13 (4) A copy of support payment records maintained by the
14 Title IV-D Division shall be considered to be a true copy of
15 the record when certified by a person designated by the division
16 pursuant to the rules and regulations adopted and promulgated
17 pursuant to this section.

18 Sec. 45. Section 84-205, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 84-205 The duties of the Attorney General shall be:

21 (1) To appear and defend actions and claims against the
22 state;

23 (2) To investigate, commence, and prosecute any and all
24 actions resulting from violations of sections 32-1401 to 32-1417;

25 (3) To consult with and advise the county attorneys, when
26 requested by them, in all criminal matters and in matters relating
27 to the public revenue. He or she shall have authority to require

1 aid and assistance of the county attorney in all matters pertaining
2 to the duties of the Attorney General in the county of such county
3 attorney and may, in any case brought to the Court of Appeals or
4 Supreme Court from any county, demand and receive the assistance of
5 the county attorney from whose county such case is brought;

6 (4) To give, when required, without fee, his or her
7 opinion in writing upon all questions of law submitted to him or
8 her by the Governor, head of any executive department, Secretary
9 of State, State Treasurer, Auditor of Public Accounts, Board of
10 Educational Lands and Funds, State Department of Education, Public
11 Service Commission, or Legislature;

12 (5) At the request of the Governor, head of any executive
13 department, Secretary of State, State Treasurer, Auditor of Public
14 Accounts, Board of Educational Lands and Funds, State Department of
15 Education, or Public Service Commission, to prosecute any official
16 bond or any contract in which the state is interested which is
17 deposited with any of them and to prosecute or defend for the
18 state all civil or criminal actions and proceedings relating to
19 any matter connected with any of such officers' departments if,
20 after investigation, he or she is convinced there is sufficient
21 legal merit to justify the proceeding. Such officers shall not
22 pay or contract to pay from the funds of the state any money for
23 special attorneys or counselors-at-law unless the employment of
24 such special counsel is made upon the written authorization of the
25 Governor or the Attorney General;

26 (6) To enforce the proper application of money
27 appropriated by the Legislature to the various funds of the state

1 and prosecute breaches of trust in the administration of such
2 funds;

3 (7) To prepare, when requested by the Governor, Secretary
4 of State, State Treasurer, or Auditor of Public Accounts or any
5 other executive department, proper drafts for contracts, forms, or
6 other writings which may be wanted for the use of the state and
7 report to the Legislature, whenever requested, upon any business
8 pertaining to the duties of his or her office;

9 (8) To pay all money received, belonging to the people
10 of the state, immediately upon receipt thereof, into the state
11 treasury;

12 (9) To keep a record in proper books provided for that
13 purpose at the expense of the state, a register of all actions and
14 demands prosecuted or defended by him or her in behalf of the state
15 and all proceedings had in relation thereto, and deliver the same
16 to his or her successor in office;

17 (10) To appear for the state and prosecute and defend all
18 civil or criminal actions and proceedings in the Court of Appeals
19 or Supreme Court in which the state is interested or a party. When
20 requested by the Governor or the Legislature, the Attorney General
21 shall appear for the state and prosecute or defend any action or
22 conduct any investigation in which the state is interested or a
23 party before any court, officer, board, tribunal, or commission;

24 (11) To prepare and promulgate model rules of procedure
25 appropriate for use by as many agencies as possible. The Attorney
26 General shall add to, amend, or revise the model rules as necessary
27 for the proper guidance of agencies;

1 (12) To include within the budget of the office
2 sufficient funding to assure oversight and representation of the
3 State of Nebraska for district court appeals of administrative
4 license revocation proceedings under section 60-498.04; and

5 (13) To create a Child Protection Division to be staffed
6 by at least three assistant attorneys general who each have five or
7 more years of experience in the prosecution or defense of felonies
8 or misdemeanors, including two years in the prosecution or defense
9 of crimes against children. Upon the written request of a county
10 attorney, the division shall provide consultation and advise and
11 assist in the preparation of the trial of any case involving a
12 crime against a child, including, but not limited to, the following
13 offenses:

- 14 (a) Murder as defined in sections 28-303 and 28-304;
- 15 (b) Manslaughter as defined in section 28-305;
- 16 (c) Kidnapping as defined in section 28-313;
- 17 (d) False imprisonment as defined in sections 28-314 and
18 28-315;
- 19 (e) Child abuse as defined in section 28-707;
- 20 (f) Pandering as defined in section 28-802;
- 21 (g) Debauching a minor as defined in section 28-805; and
- 22 (h) Offenses listed in sections 28-813, 28-813.01, and
23 28-1463.03.

24 Any offense listed in subdivisions (a) through (h) of
25 this subdivision shall include all inchoate offenses pursuant to
26 the Nebraska Criminal Code and compounding a felony pursuant to
27 section 28-301. Such crimes shall not include matters involving

1 dependent and neglected children, infraction violations, custody,
2 parenting time, visitation, or other access ~~or visitation~~ matters,
3 or child support. If the county attorney declines in writing to
4 prosecute a case involving a crime against a child because of an
5 ethical consideration, including the presence or appearance of a
6 conflict of interest, or for any other reason, the division shall,
7 upon the receipt of a written request of the county attorney,
8 the Department of Health and Human Services, the minor child,
9 the parents of the minor child, or any other interested party,
10 investigate the matter and either decline to prosecute the matter
11 or initiate the appropriate criminal proceedings in a court of
12 proper jurisdiction.

13 For purposes of this subdivision, child or children shall
14 mean an individual or individuals sixteen years of age or younger.

15 Sec. 46. This act becomes operative on January 1, 2008.

16 Sec. 47. Original sections 25-2911, 33-106.03, 33-107.02,
17 42-347, 42-351, 42-353, 42-359, 42-364.14, 42-364.15, 42-369,
18 42-934, 43-104.13, 43-158, 43-2,113, 43-512.08, 43-512.15, 43-1407,
19 and 43-3342.01, Reissue Revised Statutes of Nebraska, and sections
20 42-364, 42-371, and 84-205, Revised Statutes Cumulative Supplement,
21 2006, are repealed.

22 Sec. 48. The following sections are outright repealed:
23 Sections 42-349.01, 43-2901, 43-2902, 43-2903, 43-2904, 43-2905,
24 43-2906, 43-2907, 43-2908, 43-2909, 43-2910, 43-2911, 43-2912,
25 43-2913, 43-2914, 43-2915, 43-2916, 43-2917, 43-2917.01, 43-2918,
26 and 43-2919, Reissue Revised Statutes of Nebraska.

27 2. On page 1, strike beginning with line 2 through

1 "77-27,119," in line 9 and insert "33-106.03, 33-107.02, 42-347,
2 42-351, 42-353, 42-359, 42-364.14, 42-364.15, 42-369, 42-934,
3 43-104.13, 43-158, 43-2,113, 43-512.08, 43-512.15, 43-1407, and
4 43-3342.01, Reissue Revised Statutes of Nebraska, and sections
5 42-364, 42-371,".

6 3. On page 2, line 1, strike beginning with the first
7 "to" through the semicolon; and strike beginning with "42-364.01"
8 in line 3 through the first comma in line 6.