

LEGISLATURE OF NEBRASKA
 ONE HUNDREDTH LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 554

FINAL READING

Introduced by Flood, 19; Ashford, 20; Pedersen, 39; Schimek, 27

Read first time January 17, 2007

Committee: Judiciary

A BILL

1 FOR AN ACT relating to domestic relations matters; to amend
 2 sections 25-2911, 33-106.03, 33-107.02, 42-347, 42-351,
 3 42-353, 42-359, 42-364.14, 42-364.15, 42-369, 42-934,
 4 43-104.13, 43-158, 43-2,113, 43-512.08, 43-512.15,
 5 43-1407, and 43-3342.01, Reissue Revised Statutes of
 6 Nebraska, and sections 42-364, 42-371, and 84-205,
 7 Revised Statutes Cumulative Supplement, 2006; to repeal
 8 the Parenting Act; to adopt the Parenting Act; to change
 9 and eliminate provisions relating to child custody,
 10 visitation, child support, paternity support, and
 11 parenting; to create a fund; to increase certain fees;
 12 to change provisions relating to pleadings and support
 13 liens; to harmonize provisions; to provide operative

1 dates; to repeal the original sections; and to outright
2 repeal sections 42-349.01, 43-2901, 43-2902, 43-2903,
3 43-2904, 43-2905, 43-2906, 43-2907, 43-2908, 43-2909,
4 43-2910, 43-2911, 43-2912, 43-2913, 43-2914, 43-2915,
5 43-2916, 43-2917, 43-2917.01, 43-2918, and 43-2919,
6 Reissue Revised Statutes of Nebraska.
7 Be it enacted by the people of the State of Nebraska,

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

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

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

17 In any proceeding involving a child, the best interests
18 of the child shall be the standard by which the court adjudicates
19 and establishes the individual responsibilities, including
20 consideration in any custody, parenting time, visitation, or other
21 access determinations as well as resolution of conflicts affecting
22 each child. The state presumes the critical importance of the
23 parent-child relationship in the welfare and development of the
24 child and that the relationship between the child and each parent
25 should be equally considered unless it is contrary to the best

1 interests of the child.

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

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

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

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

23 (3) Best interests of the child means the determination
24 made taking into account the requirements stated in section 4 of
25 this act;

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

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

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

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

7 (8) Domestic intimate partner abuse means:

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

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

25 (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

1 regarding education and health;

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

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

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

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

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

22 (a) Maintaining a safe, stable, consistent, and nurturing
23 relationship with the child;

24 (b) Attending to the ongoing developmental needs of the
25 child, including feeding, clothing, physical care and grooming,

1 health and medical needs, emotional stability, supervision, and
2 appropriate conflict resolution skills and engaging in other
3 activities appropriate to the healthy development of the child
4 within the social and economic circumstances of the family;

5 (c) Attending to adequate education for the child,
6 including remedial or other special education essential to the
7 best interests of the child;

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

13 (e) Minimizing the child's exposure to harmful parental
14 conflict;

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

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

20 (17) Parenting plan means a plan for parenting the child
21 that takes into account parenting functions;

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

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

4 (20) Provisions for safety means a plan developed to
5 reduce risks of harm to children and adults who are victims
6 of child abuse or neglect, domestic intimate partner abuse, or
7 unresolved parental conflict;

8 (21) Remediation process means the method established in
9 the parenting plan which maintains the best interests of the child
10 and provides a means to identify, discuss, and attempt to resolve
11 future circumstantial changes or conflicts regarding the parenting
12 functions and which minimizes repeated litigation and utilizes
13 judicial intervention as a last resort;

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

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

24 (24) Unresolved parental conflict means persistent
25 conflict in which parents are unable to resolve disputes about

1 parenting functions which has a potentially harmful impact on a
2 child.

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

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

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

10 (c) That the child's families and those serving in
11 parenting roles remain appropriately active and involved in
12 parenting with safe, appropriate, continuing quality contact
13 between children and their families when they have shown the
14 ability to act in the best interests of the child and have shared
15 in the responsibilities of raising the child;

16 (d) That even when parents have voluntarily negotiated
17 or mutually mediated and agreed upon a parenting plan, the court
18 shall determine whether it is in the best interests of the child
19 for parents to maintain continued communications with each other
20 and to make joint decisions in performing parenting functions as
21 are necessary for the care and healthy development of the child. If
22 the court rejects a parenting plan, the court shall provide written
23 findings as to why the parenting plan is not in the best interests
24 of the child; and

25 (e) That certain principles provide a basis upon which

1 education of parents is delivered and upon which negotiation and
2 mediation of parenting plans are conducted. Such principles shall
3 include: To minimize the potentially negative impact of parental
4 conflict on children; to provide parents the tools they need to
5 reach parenting decisions that are in the best interests of a
6 child; to provide alternative dispute resolution or specialized
7 alternative dispute resolution options that are less adversarial
8 for the child and the family; to ensure that the child's voice
9 is heard and considered in parenting decisions; to maximize the
10 safety of family members through the justice process; and, in
11 cases of domestic intimate partner abuse or child abuse or neglect,
12 to incorporate the principles of victim safety and sensitivity,
13 offender accountability, and community safety in parenting plan
14 decisions.

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

18 (i) The absence or relocation is of short duration or
19 by agreement of the parties and the court finds that, during the
20 period of absence or relocation, the party has demonstrated an
21 interest in maintaining custody, parenting time, visitation, or
22 other access, the party maintains, or makes reasonable efforts to
23 maintain, regular contact with the child, and the party's behavior
24 demonstrates no intent to abandon the child;

25 (ii) The party is absent or relocates because of an act

1 or acts of actual or threatened abuse by the other party; or

2 (iii) The party is absent or relocates because there is
3 a protection order, restraining order, or criminal no-contact order
4 issued that excludes the party from the dwelling of the other
5 party or the child or otherwise enjoins the party from assault or
6 harassment against the other party or the child.

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

9 (3) A party's absence, relocation, or failure to comply
10 with custody, parenting time, visitation, or other access orders
11 shall not, by itself, be sufficient to justify a modification of
12 an order if the reason for the absence, relocation, or failure to
13 comply is the party's activation to military service and deployment
14 out of state.

15 Sec. 5. (1) The Parenting Act shall apply to proceedings
16 or modifications in which parenting functions for a child are
17 at issue under Chapter 42, including, but not limited to,
18 proceedings or modification of orders for dissolution of marriage
19 and child custody. The Parenting Act may apply to proceedings or
20 modifications in which parenting functions for a child are at issue
21 under Chapter 30 or 43.

22 (2) The Parenting Act does not apply in any action
23 filed by a county attorney or authorized attorney pursuant to
24 his or her duties under section 42-358, 43-512 to 43-512.18, or
25 43-1401 to 43-1418, the Income Withholding for Child Support Act,

1 the Revised Uniform Reciprocal Enforcement of Support Act before
2 January 1, 1994, or the Uniform Interstate Family Support Act for
3 purposes of the establishment of paternity and the establishment
4 and enforcement of child and medical support. A county attorney
5 or authorized attorney shall not participate in the development of
6 or court review of a parenting plan under the Parenting Act. If
7 both parents are parties to a paternity or support action filed by
8 a county attorney or authorized attorney, the parents may proceed
9 with a parenting plan.

10 Sec. 6. (1) In any proceeding under Chapter 30 or 43
11 in which the parenting functions for a child are at issue, except
12 any proceeding under the Revised Uniform Reciprocal Enforcement
13 of Support Act or the Uniform Interstate Family Support Act,
14 subsequent to the initial filing or upon filing of an application
15 for modification of a decree, the parties shall receive from
16 the clerk of the court information regarding the parenting plan,
17 the mediation process, and resource materials, as well as the
18 availability of mediation through court conciliation programs or
19 approved mediation centers.

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

24 (a) The litigation process;

25 (b) A dissolution or separation process timeline;

1 (c) Healthy parenting approaches during and after the
2 proceeding;

3 (d) Information on child abuse or neglect, domestic
4 intimate partner abuse, and unresolved parental conflict;

5 (e) Mediation, specialized alternative dispute
6 resolution, and other alternative dispute resolution processes
7 available through court conciliation programs and approved
8 mediation centers;

9 (f) Resource materials identifying the availability of
10 services for victims of child abuse or neglect and domestic
11 intimate partner abuse; and

12 (g) Intervention programs for batterers or abusers.

13 (3) The clerk of the court and counsel for represented
14 parties shall file documentation of compliance with this section.
15 Development of these informational materials and the implementation
16 of this section shall be accomplished through the State Court
17 Administrator.

18 Sec. 7. The State Court Administrator shall create an
19 information sheet for parties in a proceeding in which parenting
20 functions for a child are at issue under the Parenting Act that
21 includes information regarding parenting plans, child custody,
22 parenting time, visitation, and other access and that informs
23 the parties that they are required to attend a basic level
24 parenting education course. The information sheet shall also state
25 (1) that the parties have the right to agree to a parenting

1 plan arrangement, (2) that before July 1, 2010, if they do not
2 agree, they may be required, and on and after July 1, 2010,
3 if they do not agree, they shall be required to participate in
4 parenting plan mediation, and (3) that if mediation does not
5 result in an agreement, the court will be required to create
6 a parenting plan. The information sheet shall also provide
7 information on how to obtain assistance in resolving a custody
8 case, including, but not limited to, information on finding an
9 attorney, information on accessing court-based self-help services
10 if they are available, information about domestic violence service
11 agencies, information about mediation, and information regarding
12 other sources of assistance in developing a parenting plan. The
13 State Court Administrator shall adopt this information sheet as
14 a statewide form and take reasonable steps to ensure that it is
15 distributed statewide and made available to parties in parenting
16 function matters.

17 Sec. 8. (1) Judges, attorneys, court-appointed attorneys,
18 court-appointed guardians, and mediators involved in proceedings
19 under the Parenting Act shall participate in training approved by
20 the State Court Administrator to recognize child abuse or neglect,
21 domestic intimate partner abuse, and unresolved parental conflict
22 and its potential impact upon children and families.

23 (2) Screening guidelines and safety procedures for cases
24 involving conditions identified in subsection (1) of section 20
25 of this act shall be devised by the State Court Administrator.

1 Such screening shall be conducted by mediators using State Court
2 Administrator-approved screening tools.

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

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

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

23 Sec. 9. (1) The court shall order all parties to a
24 proceeding under the Parenting Act to attend a basic level
25 parenting education course. Participation in the course may be

1 delayed or waived by the court for good cause shown. Failure or
2 refusal by any party to participate in such a course as ordered by
3 the court shall not delay the entry of a final judgment or an order
4 modifying a final judgment in such action by more than six months
5 and shall in no case be punished by incarceration.

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

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

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

19 (5) The basic level parenting education course pursuant
20 to this section shall be designed to educate the parties about the
21 impact of the pending court action upon the child and appropriate
22 application of parenting functions. The course shall include,
23 but not be limited to, information on the developmental stages
24 of children, adjustment of a child to parental separation, the
25 litigation and court process, alternative dispute resolution,

1 conflict management, stress reduction, guidelines for parenting
2 time, visitation, or other access, provisions for safety and
3 transition plans, and information about parents and children
4 affected by child abuse or neglect, domestic intimate partner
5 abuse, and unresolved parental conflict.

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

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

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

11 (a) Assist in developing a restructured family that
12 serves the best interests of the child by accomplishing the
13 parenting functions; and

14 (b) Include, but not be limited to, determinations of the
15 following:

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

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

- 1 (iii) Location of the child during the week, weekend, and
2 given days during the year;
- 3 (iv) A transition plan, including the time and places for
4 transfer of the child, method of communication or amount and type
5 of contact between the parties during transfers, and duties related
6 to transportation of the child during transfers;
- 7 (v) Procedures for making decisions regarding the
8 day-to-day care and control of the child consistent with the major
9 decisions made by the person or persons who have legal custody and
10 responsibility for parenting functions;
- 11 (vi) Provisions for a remediation process regarding
12 future modifications to such plan;
- 13 (vii) Arrangements to maximize the safety of all parties
14 and the child; and
- 15 (viii) Provisions for safety when a preponderance of
16 the evidence establishes child abuse or neglect, domestic intimate
17 partner abuse, unresolved parental conflict, or criminal activity
18 which is directly harmful to a child.
- 19 (2) A parenting plan shall require that a party provide
20 notification if the party plans to change the residence of the
21 child for more than thirty days and the change would affect
22 any other party's custody, parenting time, visitation, or other
23 access. The notice shall be given before the contemplated move, by
24 mail, return receipt requested, postage prepaid, to the last-known
25 address of the party to be notified; except that the address or

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

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

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

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

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

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

7 Sec. 11. (1) Every party seeking a temporary order
8 relating to parenting functions or custody, parenting time,
9 visitation, or other access shall file and serve a child
10 information affidavit. The child information affidavit shall be
11 verified to the extent known or reasonably discoverable by the
12 filing party or parties and shall state, at a minimum, the
13 following:

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

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

22 (c) A description of the work and child care schedules
23 for the preceding twelve months of any person seeking custody,
24 parenting time, visitation, or other access and any expected
25 changes to these schedules in the near future;

1 (d) A description of the current proposed work and child
2 care schedules;

3 (e) A description of the child's school and
4 extracurricular activities, including who is responsible for
5 transportation of the child; and

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

14 (2) After a hearing, the court shall enter a temporary
15 parenting order that includes:

16 (a) Provision for temporary legal custody;

17 (b) Provisions for temporary physical custody, which
18 shall include either:

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

22 (ii) A formula or method for determining such a schedule
23 in sufficient detail that, if necessary, the schedule can be
24 enforced in subsequent proceedings by the court;

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

1 and

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

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

11 (4) The State Court Administrator's office shall create
12 a form for parties to file a child information affidavit setting
13 forth the elements identified in this section.

14 (5) Provisions for temporary support for the child and
15 other financial matters may be included in the temporary parenting
16 order.

17 Sec. 12. (1) Every party seeking a final judicial
18 allocation of parenting functions, including custody, parenting
19 time, visitation, or other access under the Parenting Act, shall
20 file and serve a final child information affidavit with the court.
21 The child information affidavit shall be verified and, to the
22 extent known or reasonably discoverable by the filing party or
23 parties, shall state at a minimum the following:

24 (a) The name, address, and length of residence of any
25 adults with whom any child has lived for one year or more, or

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

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

10 (c) A description of the allocation of parenting
11 functions relating to the daily needs of the child performed by
12 each person named in subdivisions (1)(a) and (b) of this section
13 during the twenty-four months preceding the filing of the action;

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

18 (e) A description of the child's school and
19 extracurricular activities, including who is responsible for
20 transportation of the child;

21 (f) Any circumstances of child abuse or neglect, domestic
22 intimate partner abuse, or unresolved parental conflict that are
23 likely to pose a risk to the child and that warrant limitation
24 on the award to any person seeking custody, parenting time,
25 visitation, or other access, including any restraining orders,

1 protection orders, or criminal no-contact orders against either
2 parent or person acting as parent by case number and jurisdiction;
3 and

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

7 (2) The State Court Administrator's office shall create
8 a form for parties to file a final child information affidavit
9 setting forth the elements identified in this section.

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

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

15 (i) Has committed child abuse or neglect;

16 (ii) Has committed child abandonment under section
17 28-705;

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

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

24 (b) If a parent is found to have engaged in any activity
25 specified by subdivision (1)(a) of this section, limits shall be

1 imposed that are reasonably calculated to protect the child or
2 child's parent from harm. The limitations may include, but are not
3 limited to:

4 (i) An adjustment of the custody of the child, including
5 the allocation of sole legal custody or physical custody to one
6 parent;

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

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

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

13 (v) A requirement that the parent abstain from possession
14 or consumption of alcohol or nonprescribed drugs while exercising
15 custodial responsibility and in a prescribed period immediately
16 preceding such exercise;

17 (vi) Denial of overnight physical custodial
18 responsibility;

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

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

25 (ix) A requirement that the parent complete a program of

1 intervention for perpetrators of domestic violence, a program for
2 drug or alcohol abuse, or a program designed to correct another
3 factor; or

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

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

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

21 Sec. 14. (1)(a) No person shall be granted custody of,
22 or unsupervised parenting time, visitation, or other access with, a
23 child if the person is required to be registered as a sex offender
24 under the Sex Offender Registration Act for an offense that would
25 make it contrary to the best interests of the child for such access

1 or for an offense in which the victim was a minor or if the
2 person has been convicted under section 28-311, 28-319.01, 28-320,
3 28-320.01, or 28-320.02, unless the court finds that there is no
4 significant risk to the child and states its reasons in writing or
5 on the record.

6 (b) No person shall be granted custody of, or
7 unsupervised parenting time, visitation, or other access with, a
8 child if anyone residing in the person's household is required to
9 register as a sex offender under the Sex Offender Registration Act
10 as a result of a felony conviction in which the victim was a minor
11 or for an offense that would make it contrary to the best interests
12 of the child for such access unless the court finds that there is
13 no significant risk to the child and states its reasons in writing
14 or on the record.

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

1 felony conviction in which the victim was a minor, to register as a
2 sex offender under the Sex Offender Registration Act.

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

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

10 Sec. 15. (1) The court shall not make a custody,
11 parenting time, visitation, or other access order and the parenting
12 plan shall not require anything that is inconsistent with any
13 restraining order, protection order, or criminal no-contact order
14 regarding any party to the proceeding, unless the court finds that:

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

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

20 (2) Whenever custody, parenting time, visitation, or
21 other access is granted to a parent in a case in which domestic
22 intimate partner abuse is alleged and a restraining order,
23 protection order, or criminal no-contact order has been issued,
24 the custody, parenting time, visitation, or other access order
25 shall specify the time, day, place, and manner of transfer of

1 the child for custody, parenting time, visitation, or other access
2 to limit the child's exposure to potential domestic conflict or
3 violence and to ensure the safety of all family members. If the
4 court finds that a party is staying in a place designated as
5 a shelter for victims of domestic abuse or other confidential
6 location, the time, day, place, and manner of transfer of the child
7 for custody, parenting time, visitation, or other access shall be
8 designed to prevent disclosure of the location of the shelter or
9 other confidential location.

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

20 Sec. 16. After a hearing on the record, the court shall
21 determine whether the submitted parenting plan meets all of the
22 requirements of the Parenting Act and is in the best interests of
23 the child. If the parenting plan lacks any of the elements required
24 by the act or is not in the child's best interests, the court
25 shall modify and approve the parenting plan as modified, reject the

1 parenting plan and order the parties to develop a new parenting
2 plan, or reject the parenting plan and create a parenting plan that
3 meets all the required elements and is in the best interests of the
4 child. The court may include in the parenting plan:

5 (1) A provision for resolution of disputes that arise
6 under the parenting plan, including provisions for suspension of
7 parenting time, visitation, and other access when new findings of
8 child abuse or neglect, domestic intimate partner abuse, criminal
9 activity affecting the best interests of a child, or the violation
10 of a protection order, restraining order, or criminal no-contact
11 order occur, until a modified custody order or parenting plan with
12 provisions for safety or a transition plan, or both, is in place;
13 and

14 (2) Consequences for failure to follow parenting plan
15 provisions.

16 Sec. 17. An individual party, a party's attorney, a
17 guardian ad litem, a social service agency, a court, an entity
18 providing domestic violence services, or another interested entity
19 may refer a custody, parenting time, visitation, other access,
20 or related matter to mediation, specialized alternative dispute
21 resolution, or other alternative dispute resolution process at
22 any time prior to the filing or after the filing of an action
23 with a court. Upon receipt of such referral, each mediator, court
24 conciliation program, or approved mediation center shall provide
25 information about mediation and specialized alternative dispute

1 resolution to each party.

2 Sec. 18. (1) At any time in the proceedings, a court
3 may refer a case to mediation or specialized alternative dispute
4 resolution in order to attempt resolution of any relevant matter.
5 The court may state a date for the case to return to court, and the
6 court shall not grant an extension of such date except for cause.
7 If the court refers a case to mediation or specialized alternative
8 dispute resolution, the court may, if appropriate, order temporary
9 relief, including necessary support and provision for payment of
10 mediation costs. Court referral shall be to an approved mediation
11 center or a court conciliation program.

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

1 attend sessions; and establish opt-out-for-cause provisions. On and
2 after July 1, 2010, all trial courts shall have a mediation and
3 specialized alternative dispute resolution rule in accordance with
4 the act.

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

11 Sec. 19. (1) A mediator under the Parenting Act may be a
12 court conciliation program counselor, a court conciliation program
13 mediator, an approved mediation center affiliated mediator, or a
14 mediator in private practice.

15 (2) To qualify as a Parenting Act mediator, a person
16 shall have basic mediation training and family mediation training,
17 approved by the Office of Dispute Resolution, and shall have served
18 as an apprentice to a mediator as defined in section 25-2903. The
19 training shall include, but not be limited to:

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

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

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

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

6 (e) Knowledge of child abuse or neglect and domestic
7 intimate partner abuse and their potential impact upon the
8 safety of family members, including knowledge of provisions for
9 safety, transition plans, domestic intimate partner abuse screening
10 protocols, and mediation safety measures; and

11 (f) Knowledge in regard to the potential effects of
12 domestic violence on a child; the nature and extent of domestic
13 intimate partner abuse; the social and family dynamics of domestic
14 intimate partner abuse; techniques for identifying and assisting
15 families affected by domestic intimate partner abuse; interviewing,
16 documentation of, and appropriate recommendations for families
17 affected by domestic intimate partner abuse; and availability of
18 community and legal domestic violence resources.

19 (3) To qualify as an approved specialized mediator for
20 parents involved in high conflict and situations in which abuse is
21 present, the mediator shall apply to an approved mediation center
22 or court conciliation program for consideration to be listed as
23 an approved specialized mediator. The approved mediation center
24 or court conciliation program shall submit its list of approved
25 specialized mediators to the Office of Dispute Resolution on an

1 annual basis. Minimum requirements to be listed as an approved
2 specialized mediator include:

3 (a) Affiliation with a court conciliation program or an
4 approved mediation center;

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

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

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

22 Sec. 20. (1) A Parenting Act mediator, prior to meeting
23 with the parties in an initial mediation session, shall provide an
24 individual initial screening session with each party to assess the
25 presence of child abuse or neglect, unresolved parental conflict,

1 domestic intimate partner abuse, other forms of intimidation or
2 coercion, or a party's inability to negotiate freely and make
3 informed decisions. If any of these conditions exist, the mediator
4 shall not proceed with the mediation session but shall proceed
5 with a specialized alternative dispute resolution process that
6 addresses safety measures for the parties, if the mediator is
7 on the approved specialized list of an approved mediation center
8 or court conciliation program, or shall refer the parties to a
9 mediator who is so qualified. When public records such as current
10 or expired protection orders, criminal domestic violence cases, and
11 child abuse or neglect proceedings are provided to a mediator, such
12 records shall be considered during the individual initial screening
13 session to determine appropriate dispute resolution methods. The
14 mediator has the duty to determine whether to proceed in joint
15 session, individual sessions, or caucus meetings with the parties
16 in order to address safety and freedom to negotiate. In any
17 mediation or specialized alternative dispute resolution, a mediator
18 has the ongoing duty to assess appropriateness of the process and
19 safety of the process upon the parties.

20 (2) No mediator who represents or has represented one
21 or both of the parties or has had either of the parties as a
22 client as an attorney or a counselor shall mediate the case, unless
23 such services have been provided to both participants and mediation
24 shall not proceed in such cases unless the prior relationship has
25 been disclosed, the role of the mediator has been made distinct

1 from the earlier relationship, and the participants have been given
2 the opportunity to fully choose to proceed. All other potential
3 conflicts of interest shall be disclosed and discussed before the
4 parties decide whether to proceed with that mediator.

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

9 (4) The mediator shall facilitate the mediation process.
10 Prior to the commencement of mediation, the mediator shall notify
11 the parties that, if the mediator has reasonable cause to believe
12 that a child has been subjected to child abuse or neglect or
13 if the mediator observes a child being subjected to conditions
14 or circumstances which reasonably would result in child abuse
15 or neglect, the mediator is obligated under section 28-711 to
16 report such information to the authorized child abuse and neglect
17 reporting agency and shall report such information unless the
18 information has been previously reported. The mediator shall have
19 access to court files for purposes of mediation under the Parenting
20 Act. The mediator shall be impartial and shall use his or her best
21 efforts to effect an agreement or parenting plan as required under
22 the act. The mediator may interview the child if, in the mediator's
23 opinion, such an interview is necessary or appropriate. The parties
24 shall not bring the child to any sessions with the mediator unless
25 specific arrangements have been made with the mediator in advance

1 of the session. The mediator shall assist the parties in assessing
2 their needs and the best interests of the child involved in the
3 proceeding and may include other persons in the mediation process
4 as necessary or appropriate. The mediator shall advise the parties
5 that they should consult with an attorney.

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

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

10 (b) Allegations are made of direct physical or
11 significant emotional harm to a party or to a child that have not
12 been heard and ruled upon by the court; or

13 (c) Mediation will otherwise fail to serve the best
14 interests of the child.

15 (6) Until July 1, 2010, either party may terminate
16 mediation at any point in the process. On and after July 1, 2010,
17 a party may not terminate mediation until after an individual
18 initial screening session and one mediation or specialized
19 alternative dispute resolution session are held. The session after
20 the individual initial screening session shall be an individual
21 specialized alternative dispute resolution session if the screening
22 indicated the existence of any condition specified in subsection
23 (1) of this section.

24 Sec. 21. (1) Mediation of cases under the Parenting Act
25 shall be governed by uniform standards of practice adopted by the

1 State Court Administrator. In adopting the standards of practice,
2 the State Court Administrator shall consider standards developed
3 by recognized associations of mediators and attorneys and other
4 relevant standards governing mediation and other dispute resolution
5 processes of proceedings for the determination of parenting plans
6 or dissolution of marriage. The standards of practice shall
7 include, but not be limited to, all of the following:

8 (a) Provision for the best interests of the child and the
9 safeguarding of the rights of the child in regard to each parent,
10 consistent with the act;

11 (b) Facilitation of the transition of the family by
12 detailing factors to be considered in decisions concerning the
13 child's future;

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

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

20 (2) Mediation under the Parenting Act shall be conducted
21 in private.

22 Sec. 22. Mediation of a parenting plan shall be subject
23 to the Uniform Mediation Act and the Dispute Resolution Act,
24 to the extent such acts are not in conflict with the Parenting
25 Act. Unsigned mediated agreements under the Parenting Act are not

1 subject to a claim of privilege under subdivision (a) (1) of section
2 25-2935. In addition to disclosures permitted in section 25-2936,
3 a mediator under the Parenting Act may also disclose a party's
4 failure to schedule an individual initial screening session or a
5 mediation session.

6 Sec. 23. The costs of the mediation process shall be paid
7 by the parties. If the court orders the parties to mediation, the
8 costs to the parties shall be charged according to a sliding fee
9 scale as established by the State Court Administrator.

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

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

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

21 25-2911 (1) The following types of cases may be accepted
22 for dispute resolution at an approved center:

23 (a) Civil claims and disputes, including, but not limited
24 to, consumer and commercial complaints, disputes between neighbors,
25 disputes between business associates, disputes between landlords

1 and tenants, and disputes within communities;

2 (b) Disputes concerning child custody, parenting time,
3 visitation, or other access and ~~visitation rights~~ and other areas
4 of domestic relations; and

5 (c) Juvenile offenses and disputes involving juveniles.

6 (2) An approved center may accept cases referred by a
7 court, an attorney, a law enforcement officer, a social service
8 agency, a school, or any other interested person or agency or
9 upon the request of the parties involved. A case may be referred
10 prior to the commencement of formal judicial proceedings or may be
11 referred as a pending court case. In order for a referral to be
12 effective, all parties involved must consent to such referral. If a
13 court refers a case to an approved center, the center shall provide
14 information to the court as to whether an agreement was reached.
15 If the court requests a copy of the agreement, the center shall
16 provide it.

17 Sec. 26. Section 33-106.03, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 33-106.03 In addition to the fees provided for in
20 sections 33-106 and 33-123, the clerk of the court shall collect
21 an additional ~~twenty-five~~ seventy-five dollars in docket fees for
22 dissolution of marriages. The ~~twenty-five dollar~~ fee shall be
23 remitted to the State Treasurer ~~for~~ who shall credit twenty-five
24 dollars to the Nebraska Child Abuse Prevention Fund and fifty
25 dollars to the Parenting Act Fund.

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

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

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

19 Sec. 28. Section 42-347, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 42-347 For purposes of sections 42-347 to 42-381, unless
22 the context otherwise requires:

23 (1) Authorized attorney ~~shall mean~~ means an attorney (a)
24 employed by the county subject to the approval of the county board,
25 (b) employed by the Department of Health and Human Services, or

1 (c) appointed by the court, who is authorized to investigate and
2 prosecute child and spousal support cases. An authorized attorney
3 shall represent the state as provided in section 43-512.03;

4 (2) Custody includes both legal custody and physical
5 custody;

6 ~~(2)~~ (3) Dissolution of marriage shall mean means the
7 termination of a marriage by decree of a court of competent
8 jurisdiction upon a finding that the marriage is irretrievably
9 broken. The term dissolution of marriage shall be considered
10 synonymous with divorce, and whenever the term divorce appears in
11 the statutes it ~~shall mean~~ means dissolution of marriage pursuant
12 to sections 42-347 to 42-381;

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

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

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

19 ~~(3)~~ (7) Legal separation shall mean means a decree of a
20 court of competent jurisdiction providing that two persons who have
21 been legally married shall thereafter live separate and apart and
22 providing for any necessary adjustment of property, support, and
23 custody rights between the parties but not dissolving the marriage;

24 (8) Physical custody has the same meaning as in section
25 3 of this act;

1 ~~(4)~~ (9) Spousal support, when used in the context of
2 income withholding or any provisions of law which might lead to
3 income withholding, ~~shall mean~~ means alimony or maintenance support
4 for a spouse or former spouse when ordered as a part of an order,
5 decree, or judgment which provides for child support and the child
6 and spouse or former spouse are living in the same household;

7 ~~(5)~~ (10) State Disbursement Unit has the same meaning as
8 in section 43-3341; ~~and~~

9 ~~(6)~~ (11) Support order has the same meaning as in section
10 43-1717; ~~and~~ -

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

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

15 42-351 (1) In proceedings under sections 42-347 to
16 42-381, the court shall have jurisdiction to inquire into such
17 matters, make such investigations, and render such judgments and
18 make such orders, both temporary and final, as are appropriate
19 concerning the status of the marriage, the custody and support
20 of minor children, the support of either party, the settlement of
21 the property rights of the parties, and the award of costs and
22 attorney's fees. The court shall determine jurisdiction for child
23 custody proceedings under the Uniform Child Custody Jurisdiction
24 and Enforcement Act.

25 (2) When final orders relating to proceedings governed by

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

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

12 42-353 The pleadings required by sections 42-347 to
13 42-381 shall be governed by the rules of pleading in civil actions
14 promulgated under section 25-801.01. The complaint shall include
15 the following:

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

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

21 (3) The date and place of marriage;

22 (4) The name and date of birth of each child whose
23 custody or welfare may be affected by the proceedings and whether
24 (a) a parenting plan as provided in the Parenting Act has been
25 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, medical support, or alimony shall
18 be accompanied by a statement of the applicant's or complainant's
19 financial condition and, to the best of ~~the applicant's~~ his or her
20 knowledge, a statement of the other party's financial condition.
21 Such other party may file his or her statement, if he or she so
22 desires, and shall do so if ordered by the court. Statements shall
23 be 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

1 be furnished by the court.

2 Sec. 32. Section 42-364, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

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

1 of the district court but shall not be disclosed or considered a
2 public record. When dissolution of a marriage or legal separation
3 is decreed, the court may include a parenting plan developed under
4 the Parenting Act, if a parenting plan has been so developed,
5 and such orders in relation to any minor child and the child's
6 maintenance as are justified, including placing the minor child in
7 the custody of the court or third parties or terminating parental
8 rights pursuant to this section if the best interests of the minor
9 child require such orders. Custody and time spent with each parent
10 shall be determined on the basis of the best interests of the minor
11 child with the objective of maintaining the ongoing involvement of
12 both parents in the minor child's life. The social security number
13 of each parent and the minor child shall be furnished to the clerk
14 of the district court.

15 (2) In determining custody arrangements and the time to
16 be spent with each parent, the court shall consider the best
17 interests of the minor child which shall include, but not be
18 limited to:

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

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

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

1 ~~(d) Credible evidence of abuse inflicted on any family~~
2 ~~or household member. For purposes of this subdivision, abuse and~~
3 ~~family or household member shall have the meanings prescribed in~~
4 ~~section 42-903.~~

5 ~~(3) (2) In determining custody arrangements legal custody~~
6 ~~or physical custody, and the time to be spent with each parent,~~ the
7 court shall not give preference to either parent based on the sex
8 of the parent and, except as provided in section 14 of this act, no
9 presumption shall exist that either parent is more fit or suitable
10 than the other. Custody shall be determined on the basis of the
11 best interests of the child, as defined in the Parenting Act.
12 Unless parental rights are terminated, both parents shall continue
13 to have the rights stated in section 42-381.

14 ~~(4) Regardless of the custody determination of the court,~~
15 ~~(a) each parent shall continue to have full and equal access to the~~
16 ~~education and medical records of his or her child unless the court~~
17 ~~orders to the contrary and (b) either parent may make emergency~~
18 ~~decisions affecting the health or safety of his or her child while~~
19 ~~the child is in the physical custody of such parent pursuant to a~~
20 ~~visitation order entered by the court.~~

21 ~~(5) After a hearing in open court, the court may place~~
22 ~~the custody (3) Custody of a minor child may be placed with both~~
23 ~~parents on a shared or joint custody basis joint legal custody or~~
24 ~~joint physical custody basis, or both, (a) when both parents agree~~
25 ~~to such an arrangement. In that event, each parent shall have equal~~

1 ~~rights to make decisions in the best interests of the minor child~~
2 ~~in his or her custody. The court may place a minor child in joint~~
3 ~~custody after conducting a hearing in open court and specifically~~
4 ~~finding in the parenting plan and the court determines that such~~
5 ~~an arrangement is in the best interests of the child or (b) if~~
6 ~~the court specifically finds, after a hearing in open court, that~~
7 ~~joint ~~custody~~ physical custody or joint legal custody, or both, is~~
8 in the best interests of the minor child regardless of any parental
9 agreement or consent.

10 ~~(6)~~ (4) In determining the amount of child support to
11 be paid by a parent, the court shall consider the child support
12 calculations included in the separate financial plan submitted
13 with the parenting plan, the earning capacity of each parent, and
14 the guidelines provided by the Supreme Court pursuant to section
15 42-364.16 for the establishment of child support obligations. Upon
16 application, hearing, and presentation of evidence of an abusive
17 disregard of the use of child support money paid by one party
18 to the other, the court may require the party receiving such
19 payment to file a verified report with the court, as often as
20 the court requires, stating the manner in which such money is
21 used. Child support paid to the party having custody of the minor
22 child shall be the property of such party except as provided in
23 section 43-512.07. The clerk of the district court shall maintain
24 a record, separate from all other judgment dockets, of all decrees
25 and orders in which the payment of child support or spousal

1 support has been ordered, whether ordered by a district court,
2 county court, separate juvenile court, or county court sitting as a
3 juvenile court. Orders for child support in cases in which a party
4 has applied for services under Title IV-D of the federal Social
5 Security Act, as amended, shall be reviewed as provided in sections
6 43-512.12 to 43-512.18.

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

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

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

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

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

12 ~~(d) One parent is or both parents are unable to discharge~~
13 ~~parental responsibilities because of mental illness or mental~~
14 ~~deficiency and there are reasonable grounds to believe that such~~
15 ~~condition will continue for a prolonged indeterminate period.~~

16 ~~(8) Whenever termination of parental rights is placed~~
17 ~~in issue, the (b) The court shall inform a parent who does not~~
18 ~~have legal counsel of the parent's right to retain counsel and~~
19 ~~of the parent's right to retain legal counsel at county expense~~
20 ~~if such parent is unable to afford legal counsel. If such parent~~
21 ~~is unable to afford legal counsel and requests the court to~~
22 ~~appoint legal counsel, the court shall immediately appoint an~~
23 ~~attorney to represent the parent in the termination proceedings.~~
24 ~~The court shall order the county to pay the attorney's fees and~~
25 ~~all reasonable expenses incurred by the attorney in protecting the~~

1 rights of the parent. At such hearing, the guardian ad litem shall
2 take all action necessary to protect the interests of the minor
3 child. The court shall fix the fees and expenses of the guardian ad
4 litem and tax the same as costs but may order the county to pay on
5 finding the responsible party indigent and unable to pay.

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

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

21 42-364.14 Nothing in the Income Withholding for Child
22 Support Act or sections 42-364.01 to 42-364.13 shall be construed
23 as prohibiting a parent-employee from consenting to an order to
24 withhold and transmit earnings as part of a property settlement
25 agreement incorporated into a decree dissolving a marriage or by

1 agreement in a proceeding in the district court, county court, or
2 separate juvenile court in which the payment of child support is
3 an issue. If the parent-employee has consented to such an order,
4 the court shall not be required to hold a separate hearing or make
5 findings as provided in ~~sections 42-364.01 to 42-364.12.~~ the act or
6 such sections. The clerk of the court shall notify the employer, if
7 any, of the parent-employee of any such order by first-class mail
8 and file a record of such mailing in the court.

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

11 42-364.15 In any proceeding when a court has ordered
12 a parent to pay, temporarily or permanently, any amount for the
13 support of a minor child and in the same proceeding has ordered
14 ~~visitation~~ parenting time, visitation, or other access with any
15 minor child on behalf of such parent, the court shall enforce its
16 ~~visitation~~ orders as follows:

17 (1) Upon the filing of a motion which is accompanied by
18 an affidavit stating that either parent has unreasonably withheld
19 or interfered with the exercise of the court order after notice to
20 the parent and hearing, the court shall enter such orders as are
21 reasonably necessary to enforce rights of either parent including
22 the modification of previous court orders relating to ~~visitation.~~
23 parenting time, visitation, or other access. The court may use
24 contempt powers to enforce its court orders relating to ~~visitation.~~
25 parenting time, visitation, or other access. The court may require

1 either parent to file a bond or otherwise give security to insure
2 his or her compliance with court order provisions; and -

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

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

8 42-369 (1) All orders, decrees, or judgments for
9 temporary or permanent support payments, including child, spousal,
10 or medical support, and all orders, decrees, or judgments for
11 alimony or modification of support payments or alimony shall
12 direct the payment of such sums to be made commencing on the first
13 day of each month for the use of the persons for whom the support
14 payments or alimony have been awarded. Such payments shall be made
15 to the clerk of the district court (a) when the order, decree, or
16 judgment is for spousal support, alimony, or maintenance support
17 and the order, decree, or judgment does not also provide for
18 child support, and (b) when the payment constitutes child care or
19 day care expenses, unless payments under ~~subdivisions~~ subdivision
20 (1)(a) or (1)(b) of this section are ordered to be made directly
21 to the obligee. All other support order payments shall be made
22 to the State Disbursement Unit. - ~~except payments made pursuant~~
23 ~~to subdivisions (1)(a) and (1)(b) of this section.~~ In all cases
24 in which income withholding has been implemented pursuant to the
25 Income Withholding for Child Support Act or sections 42-364.01

1 to 42-364.14, support order payments shall be made to the State
2 Disbursement Unit. The court may order such payment to be in cash
3 or guaranteed funds.

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

13 (3) Such an order, decree, or judgment for support may
14 include the providing of necessary shelter, food, clothing, care,
15 medical support as defined in section 43-512, medical attention,
16 expenses of confinement, education expenses, funeral expenses, and
17 any other expense the court may deem reasonable and necessary.

18 (4) Orders, decrees, and judgments for temporary or
19 permanent support or alimony shall be filed with the clerk of the
20 district court and have the force and effect of judgments when
21 entered. The clerk and the State Disbursement Unit shall disburse
22 all payments received as directed by the court and as provided
23 in sections 42-358.02 and 43-512.07. Records shall be kept of all
24 funds received and disbursed by the clerk and the unit and shall be
25 open to inspection by the parties and their attorneys.

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

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

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

10 (1) All judgments and orders for payment of money shall
11 be liens, as in other actions, upon real property and any personal
12 property registered with any county office and may be enforced or
13 collected by execution and the means authorized for collection of
14 money judgments; ~~— The judgment creditor may execute (a) a partial~~
15 ~~or total release of the judgment or (b) a document subordinating~~
16 ~~the lien of the judgment to any other lien, generally or on~~
17 ~~specific real or personal property. Release of a judgment for child~~
18 ~~support or spousal support or subordination of a lien of a judgment~~
19 ~~for child support or spousal support must be approved by the court~~
20 ~~which rendered the judgment unless all such payments are current,~~
21 ~~in which case a release or subordination document executed by the~~
22 ~~judgment creditor shall be sufficient to remove or subordinate~~
23 ~~the lien. A properly executed, notarized release or subordination~~
24 ~~document, explicitly reciting that all child support payments or~~
25 ~~spousal support payments are current, shall be prima facie evidence~~

1 that such payments are in fact current. The judgment debtor may
2 file a motion in the court which rendered the original judgment for
3 an order releasing or subordinating the lien as to specific real or
4 personal property. The court shall grant such order upon a showing
5 by the judgment debtor that sufficient real or personal property or
6 property interests will remain subject to the lien or will maintain
7 priority over other liens sufficient to cover all support due and
8 which may become due;

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

17 (b) If support order payments are not current, the person
18 desiring such release or subordination may file an application
19 for the relief desired in the court which rendered the original
20 judgment or support order. A copy of the application and a
21 notice of hearing shall be served on the judgment creditor either
22 personally or by registered or certified mail no less than ten days
23 before the date of hearing. If the court finds that the release or
24 subordination is not requested for the purpose of avoiding payment
25 and that the release or subordination will not unduly reduce the

1 security, the court may issue an order for a total or partial
2 release of all or specific real or personal property from the lien
3 or issue an order subordinating the lien. As a condition for such
4 release or subordination, the court may require the posting of a
5 bond with the clerk in an amount fixed by the court, guaranteeing
6 payment of the judgment.

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

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

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

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

15 ~~(4)~~ (5) Alimony and property settlement award judgments,
16 if not covered by subdivision ~~(3)~~ (4) of this section, shall cease
17 to be a lien on real or registered personal property ten years
18 from the date (a) the judgment was entered, (b) the most recent
19 payment was made, or (c) the most recent execution was issued to
20 collect the judgment, whichever is latest, and such lien shall not
21 be reinstated;

22 ~~(5) Whenever a judgment creditor refuses to execute a~~
23 ~~release of the judgment or subordination of a lien as provided~~
24 ~~in this section, the person desiring such release or subordination~~
25 ~~may file an application for the relief desired. A copy of the~~

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

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

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

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

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

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

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

1 petition, or motion filed by or on behalf of an individual seeking
2 protection. In a proceeding to enforce a foreign protection order,
3 the tribunal shall follow the procedures of this state for the
4 enforcement of protection orders.

5 (b) A tribunal of this state may not enforce a foreign
6 protection order issued by a tribunal of a state that does
7 not recognize the standing of a protected individual to seek
8 enforcement of the order.

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

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

17 (1) identifies the protected individual and the
18 respondent;

19 (2) is currently in effect;

20 (3) was issued by a tribunal that had jurisdiction over
21 the parties and subject matter under the law of the issuing state;
22 and

23 (4) was issued after the respondent was given reasonable
24 notice and had an opportunity to be heard before the tribunal
25 issued the order or, in the case of an order ex parte, the

1 respondent was given notice and has had or will have an opportunity
2 to be heard within a reasonable time after the order was issued,
3 in a manner consistent with the rights of the respondent to due
4 process.

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

7 (f) Absence of any of the criteria for validity of a
8 foreign protection order is an affirmative defense in an action
9 seeking enforcement of the order.

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

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

14 (2) the tribunal of the issuing state made specific
15 findings in favor of the respondent.

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

18 43-104.13 The notice sent by the agency or attorney
19 pursuant to section 43-104.12 shall be served sufficiently in
20 advance of the birth of the child, whenever possible, to allow
21 compliance with section 43-104.02 and shall state:

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

25 (2) That the child has been relinquished by the

1 biological mother, that she intends to execute a relinquishment,
2 or that the biological mother has joined or plans to join in a
3 petition for adoption to be filed by her husband;

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

6 (4) That the possible biological father may have certain
7 rights with respect to such child if he is in fact the biological
8 father;

9 (5) That the possible biological father has the right to
10 (a) deny paternity, (b) waive any parental rights he may have, (c)
11 relinquish and consent to adoption of the child, or (d) file a
12 notice of intent to claim paternity and obtain custody of the child
13 pursuant to section 43-104.02;

14 (6) That to deny paternity, to waive his parental rights,
15 or to relinquish and consent to the adoption, the biological
16 father must contact the undersigned agency or attorney representing
17 the biological mother, and that if he wishes to seek custody
18 of the child he should seek legal counsel from his own attorney
19 immediately; and

20 (7) That if he is the biological father and if the child
21 is not relinquished for adoption, he has a duty to contribute to
22 the support and education of the child and to the pregnancy-related
23 expenses of the mother and a right to seek ~~visitation.~~ a court
24 order for custody, parenting time, visitation, or other access with
25 the child.

1 The agency or attorney representing the biological mother
2 may enclose with the notice a document which is an admission
3 or denial of paternity and a waiver of rights by the biological
4 father, which the biological father may choose to complete, in
5 the form mandated by section 43-106, and return to the agency or
6 attorney.

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

9 43-158 When the department determines that an adoption
10 involving exchange of information would serve a child's best
11 interests, it may enter into agreements with the child's proposed
12 adoptive parent or parents for the exchange of information.
13 The nature of the information promised to be provided shall be
14 specified in an exchange-of-information contract and may include,
15 but shall not be limited to, letters by the adoptive parent
16 or parents at specified intervals providing information regarding
17 the child's development or photographs of the child at specified
18 intervals. Any agreement shall provide that the biological parent
19 or parents keep the department informed of any change in address
20 or telephone number and may include provision for communication by
21 the biological parent or parents indirectly through the department
22 or directly to the adoptive parent or parents. Nothing in sections
23 43-155 to 43-160 shall be interpreted to preclude or allow
24 visitation between court-ordered parenting time, visitation, or
25 other access with the child and the biological parent or parents.

1 ~~and the child.~~

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

4 43-2,113 (1) In counties where a separate juvenile court
5 is established, the county board of the county shall provide
6 suitable rooms and offices for the accommodation of the judge
7 of the separate juvenile court and the officers and employees
8 appointed by such judge or by the probation administrator pursuant
9 to subsection (4) of section 29-2253. Such separate juvenile court
10 and the judge, officers, and employees of such court shall have
11 the same and exclusive jurisdiction, powers, and duties that are
12 prescribed in the Nebraska Juvenile Code, concurrent jurisdiction
13 under section 83-223, and such other jurisdiction, powers, and
14 duties as specifically provided by law.

15 (2) A juvenile court created in a separate juvenile court
16 judicial district or a county court sitting as a juvenile court in
17 all other counties shall have and exercise jurisdiction within such
18 juvenile court judicial district or county court judicial district
19 with the county court and district court in all matters arising
20 under Chapter 42, article 3, when the care, support, custody,
21 or control of minor children under the age of eighteen years
22 is involved. Such cases shall be filed in the county court and
23 district court and may, with the consent of the juvenile judge, be
24 transferred to the docket of the separate juvenile court or county
25 court.

1 (3) All orders issued by a separate juvenile court or a
2 county court which provide for child support or spousal support as
3 defined in section 42-347 shall be governed by sections 42-347 to
4 42-381 and 43-290 relating to such support. Certified copies of
5 such orders shall be filed by the clerk of the separate juvenile
6 or county court with the clerk of the district court who shall
7 maintain a record as provided in subsection ~~(6)~~ (4) of section
8 42-364. There shall be no fee charged for the filing of such
9 certified copies.

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

12 43-512.08 The county attorney or authorized attorney,
13 acting for or on behalf of the State of Nebraska, may intervene
14 without leave of the court in any proceeding for dissolution
15 of marriage, paternity, separate maintenance, or child, spousal,
16 or medical support for the purpose of securing an order for
17 child, spousal, or medical support, modifying an order for child
18 or medical support, or modifying an order for child support as
19 the result of a review of such order under sections 43-512.12
20 to 43-512.18. Such proceedings shall be limited only to the
21 determination of child or medical support. Except in cases in which
22 the intervention is the result of a review under such sections, the
23 county attorney or authorized attorney shall so act only when it
24 appears that the children are not otherwise represented by counsel.

25 Sec. 42. Section 43-512.15, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 43-512.15 (1) The county attorney or authorized attorney,
3 upon referral from the Department of Health and Human Services,
4 shall file a complaint to modify a child support order unless the
5 attorney determines in the exercise of independent professional
6 judgment that:

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

11 (b) The variation from the guidelines is due to a
12 voluntary reduction in net monthly income. For purposes of this
13 section, a person who has been incarcerated for a period of one
14 year or more in a county or city jail or a federal or state
15 correctional facility shall be considered to have an involuntary
16 reduction of income unless (i) the incarceration is a result of
17 a conviction for criminal nonsupport pursuant to section 28-706
18 or a conviction for a violation of any federal law or law of
19 another state substantially similar to section 28-706 or (ii)
20 the incarcerated individual has a documented record of willfully
21 failing or neglecting to provide proper support which he or
22 she knew or reasonably should have known he or she was legally
23 obligated to provide when he or she had sufficient resources to
24 provide such support; or

25 (c) When the amount of the order is considered with all

1 the other undisputed facts in the case, no variation from the
2 criteria set forth in subdivisions (1) and (2) of section 43-512.12
3 exists.

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

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

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

13 43-1407 (1) The father of a child shall also be liable
14 for the reasonable expenses of (a) the child that are associated
15 with the birth of the child and (b) the mother of such child
16 during the period of her pregnancy, confinement, and recovery. Such
17 liability shall be determined and enforced in the same manner as
18 the liability of the father for the support of the child.

19 (2) In cases in which any medical expenses associated
20 with the birth of the child and the mother of such child during
21 the period of her pregnancy, confinement, and recovery are paid by
22 the medical assistance program, the county attorney or authorized
23 attorney, as defined in section 43-1704, may petition the court for
24 a judgment for all or a portion of the reasonable medical expenses
25 paid by the medical assistance program. Any medical expenses

1 associated with the birth of such child and the mother of such
2 child during the period of her pregnancy, confinement, and recovery
3 that are approved and paid by the medical assistance program shall
4 be presumed to be medically reasonable. If the father challenges
5 any such expenses as not medically reasonable, he has the burden of
6 proving that such expenses were not medically reasonable.

7 (3) A civil proceeding to recover medical expenses
8 pursuant to this section may be instituted within four years
9 after the child's birth. Summons shall issue and be served as in
10 other civil proceedings, except that such summons may be directed
11 to the sheriff of any county in the state and may be served in any
12 county.

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

15 43-3342.01 (1) The responsibilities of the State
16 Disbursement Unit shall include the following:

17 (a) Receipt of payments, except payments made pursuant to
18 subdivisions (1)(a) and (1)(b) of section 42-369, and disbursements
19 of such payments to obligees, the department, and the agencies of
20 other states;

21 (b) Accurate identification of payments;

22 (c) Prompt disbursement of the obligee's share of any
23 payments;

24 (d) Furnishing to any obligor or obligee, upon request,
25 timely information on the current status of support order payments;

1 and

2 (e) One location for employers to send income withholding
3 payments.

4 (2) The Title IV-D Division shall maintain records of
5 payments for all cases in which support order payments are made
6 to the central office of the State Disbursement Unit using the
7 statewide automated data processing and retrieval system. The Title
8 IV-D Division shall not be required to convert and maintain records
9 of support order payments kept by the clerk of the district court
10 before the date that the State Disbursement Unit becomes operative
11 or records of payments received by the clerk pursuant to section
12 42-369.

13 (3) A true copy of the record of payments, balances,
14 and arrearages maintained by the Title IV-D Division is prima
15 facie evidence, without further proof or foundation, of the balance
16 of any amount of support order payments that are in arrears
17 ~~on the date the State Disbursement Unit becomes operative and~~
18 ~~of all payments made and disbursed to the person or agency to~~
19 ~~whom the support order payment is to be made, after the date~~
20 ~~the unit becomes operative.~~ Such evidence shall be considered
21 to be satisfactorily authenticated, shall be admitted as prima
22 facie evidence of the transactions shown in such evidence, and is
23 rebuttable only by a specific evidentiary showing to the contrary.

24 (4) A copy of support payment records maintained by the
25 Title IV-D Division shall be considered to be a true copy of

1 the record when certified by a person designated by the division
2 pursuant to the rules and regulations adopted and promulgated
3 pursuant to this section.

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

6 84-205 The duties of the Attorney General shall be:

7 (1) To appear and defend actions and claims against the
8 state;

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

11 (3) To consult with and advise the county attorneys, when
12 requested by them, in all criminal matters and in matters relating
13 to the public revenue. He or she shall have authority to require
14 aid and assistance of the county attorney in all matters pertaining
15 to the duties of the Attorney General in the county of such county
16 attorney and may, in any case brought to the Court of Appeals or
17 Supreme Court from any county, demand and receive the assistance of
18 the county attorney from whose county such case is brought;

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

25 (5) At the request of the Governor, head of any executive

1 department, Secretary of State, State Treasurer, Auditor of Public
2 Accounts, Board of Educational Lands and Funds, State Department of
3 Education, or Public Service Commission, to prosecute any official
4 bond or any contract in which the state is interested which is
5 deposited with any of them and to prosecute or defend for the
6 state all civil or criminal actions and proceedings relating to
7 any matter connected with any of such officers' departments if,
8 after investigation, he or she is convinced there is sufficient
9 legal merit to justify the proceeding. Such officers shall not
10 pay or contract to pay from the funds of the state any money for
11 special attorneys or counselors-at-law unless the employment of
12 such special counsel is made upon the written authorization of the
13 Governor or the Attorney General;

14 (6) To enforce the proper application of money
15 appropriated by the Legislature to the various funds of the state
16 and prosecute breaches of trust in the administration of such
17 funds;

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

24 (8) To pay all money received, belonging to the people
25 of the state, immediately upon receipt thereof, into the state

1 treasury;

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

7 (10) To appear for the state and prosecute and defend all
8 civil or criminal actions and proceedings in the Court of Appeals
9 or Supreme Court in which the state is interested or a party. When
10 requested by the Governor or the Legislature, the Attorney General
11 shall appear for the state and prosecute or defend any action or
12 conduct any investigation in which the state is interested or a
13 party before any court, officer, board, tribunal, or commission;

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

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

22 (13) To create a Child Protection Division to be staffed
23 by at least three assistant attorneys general who each have five or
24 more years of experience in the prosecution or defense of felonies
25 or misdemeanors, including two years in the prosecution or defense

1 of crimes against children. Upon the written request of a county
2 attorney, the division shall provide consultation and advise and
3 assist in the preparation of the trial of any case involving a
4 crime against a child, including, but not limited to, the following
5 offenses:

- 6 (a) Murder as defined in sections 28-303 and 28-304;
7 (b) Manslaughter as defined in section 28-305;
8 (c) Kidnapping as defined in section 28-313;
9 (d) False imprisonment as defined in sections 28-314 and
10 28-315;
11 (e) Child abuse as defined in section 28-707;
12 (f) Pandering as defined in section 28-802;
13 (g) Debauching a minor as defined in section 28-805; and
14 (h) Offenses listed in sections 28-813, 28-813.01, and
15 28-1463.03.

16 Any offense listed in subdivisions (a) through (h) of
17 this subdivision shall include all inchoate offenses pursuant to
18 the Nebraska Criminal Code and compounding a felony pursuant to
19 section 28-301. Such crimes shall not include matters involving
20 dependent and neglected children, infraction violations, custody,
21 parenting time, visitation, or other access ~~or visitation~~ matters,
22 or child support. If the county attorney declines in writing to
23 prosecute a case involving a crime against a child because of an
24 ethical consideration, including the presence or appearance of a
25 conflict of interest, or for any other reason, the division shall,

1 upon the receipt of a written request of the county attorney,
2 the Department of Health and Human Services, the minor child,
3 the parents of the minor child, or any other interested party,
4 investigate the matter and either decline to prosecute the matter
5 or initiate the appropriate criminal proceedings in a court of
6 proper jurisdiction.

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

9 Sec. 46. Sections 42 and 48 of this act become operative
10 on July 1, 2008. The other sections of this act become operative on
11 January 1, 2008.

12 Sec. 47. Original sections 25-2911, 33-106.03, 33-107.02,
13 42-347, 42-351, 42-353, 42-359, 42-364.14, 42-364.15, 42-369,
14 42-934, 43-104.13, 43-158, 43-2,113, 43-512.08, 43-1407, and
15 43-3342.01, Reissue Revised Statutes of Nebraska, and sections
16 42-364, 42-371, and 84-205, Revised Statutes Cumulative Supplement,
17 2006, are repealed.

18 Sec. 48. Original section 43-512.15, Reissue Revised
19 Statutes of Nebraska, is repealed.

20 Sec. 49. The following sections are outright repealed:
21 Sections 42-349.01, 43-2901, 43-2902, 43-2903, 43-2904, 43-2905,
22 43-2906, 43-2907, 43-2908, 43-2909, 43-2910, 43-2911, 43-2912,
23 43-2913, 43-2914, 43-2915, 43-2916, 43-2917, 43-2917.01, 43-2918,
24 and 43-2919, Reissue Revised Statutes of Nebraska.