

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1085

Introduced by Flood, 19.

Read first time January 22, 2008

Committee: Judiciary

A BILL

1 FOR AN ACT relating to children; to amend sections 42-357 and
2 43-1411.01, Reissue Revised Statutes of Nebraska, and
3 sections 42-353, 42-359, 42-364, 42-371, 43-1411.01,
4 43-2922, 43-2923, 43-2924, 43-2928, 43-2929, 43-2930,
5 43-2932, 43-2934, 43-2936, and 43-2937, Revised Statutes
6 Supplement, 2007; to provide for a paternity proceeding
7 and procedures and requirements for certain decrees;
8 to change support order liens; to change and eliminate
9 provisions of the Parenting Act and domestic relations
10 provisions; to harmonize provisions; to provide for
11 severability; to repeal the original sections; to
12 outright repeal sections 43-2927 and 43-2931, Revised
13 Statutes Supplement, 2007; and to declare an emergency.
14 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 42-353, Revised Statutes Supplement,
2 2007, is amended to read:

3 42-353 The pleadings required by sections 42-347 to
4 42-381 shall be governed by the rules of pleading in civil actions
5 promulgated under section 25-801.01. The complaint shall include
6 the following:

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

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

14 (3) The date and place of marriage;

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

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

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

1 ~~(7) Financial statements if required by section 42-359;~~
2 ~~(8) (7)~~ A statement of the relief sought by the
3 plaintiff, including adjustment of custody, property, and support
4 rights; and
5 ~~(9) (8)~~ An allegation that the marriage is irretrievably
6 broken.

7 Sec. 2. Section 42-357, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 42-357 The court may order either party to pay to the
10 clerk of the district court or to the State Disbursement Unit,
11 as provided in section 42-369, a sum of money for the temporary
12 support and maintenance of the other party and minor children
13 if any are affected by the action and to enable such party to
14 prosecute or defend the action. The court may make such order
15 after service of process and claim for temporary allowances is
16 made in the complaint or by motion by the plaintiff or by the
17 defendant in a responsive pleading; but no such order shall be
18 entered before three days after notice of hearing has been served
19 on the other party or notice waived. During the pendency of any
20 proceeding under sections 42-347 to 42-381 after the complaint is
21 filed, upon application of either party and if the accompanying
22 affidavit of the party or his or her agent shows to the court
23 that the party is entitled thereto, the court may issue ex parte
24 orders (1) restraining any person from transferring, encumbering,
25 hypothecating, concealing, or in any way disposing of real or

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

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

8 Sec. 3. Section 42-359, Revised Statutes Supplement,
9 2007, is amended to read:

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

21 Sec. 4. Section 42-364, Revised Statutes Supplement,
22 2007, is amended to read:

23 42-364 (1) In an action under Chapter 42 involving
24 child support, child custody, parenting time, visitation, or other
25 access, the parties and their counsel, if represented, shall

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

22 (2) In determining legal custody or physical custody,
23 the court shall not give preference to either parent based on the
24 sex of the parent and, except as provided in section 43-2933, no
25 presumption shall exist that either parent is more fit or suitable

1 than the other. Custody shall be determined on the basis of the
2 best interests of the child, as defined in the Parenting Act.
3 Unless parental rights are terminated, both parents shall continue
4 to have the rights stated in section 42-381.

5 (3) Custody of a minor child may be placed with both
6 parents on a joint legal custody or joint physical custody basis,
7 or both, (a) when both parents agree to such an arrangement in the
8 parenting plan and the court determines that such an arrangement is
9 in the best interests of the child or (b) if the court specifically
10 finds, after a hearing in open court, that joint physical custody
11 or joint legal custody, or both, is in the best interests of the
12 minor child regardless of any parental agreement or consent.

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

1 section 43-512.07. The clerk of the district court shall maintain
2 a record, separate from all other judgment dockets, of all decrees
3 and orders in which the payment of child support or spousal
4 support has been ordered, whether ordered by a district court,
5 county court, separate juvenile court, or county court sitting as a
6 juvenile court. Orders for child support in cases in which a party
7 has applied for services under Title IV-D of the federal Social
8 Security Act, as amended, shall be reviewed as provided in sections
9 43-512.12 to 43-512.18.

10 (5) Whenever termination of parental rights is placed in
11 issue:

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

1 Act, and it appears by the evidence that one or more of the grounds
2 for termination of parental rights stated in section 43-292 exist;
3 and

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

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

1 before July 1, 2010, and on and after such date shall be referred
2 to mediation or specialized alternative dispute resolution as
3 provided in the Parenting Act. Service of process and other
4 procedure shall comply with the requirements for a dissolution
5 action.

6 Sec. 5. A decree of dissolution, legal separation,
7 or order establishing paternity shall incorporate financial
8 arrangements for each party's responsibility for reasonable and
9 necessary medical, dental, and eye care, medical reimbursements,
10 day care, extracurricular activity, education, and other
11 extraordinary expenses of the child and calculation of child
12 support obligations.

13 Sec. 6. Section 42-371, Revised Statutes Supplement,
14 2007, is amended to read:

15 42-371 Under the Uniform Interstate Family Support Act
16 and sections 42-347 to 42-381, 43-290, 43-512 to 43-512.10, and
17 43-1401 to 43-1418:

18 (1) All judgments and orders for payment of money shall
19 be liens, as in other actions, upon real property and any personal
20 property registered with any county office and may be enforced or
21 collected by execution and the means authorized for collection of
22 money judgments. The judgment creditor may execute (a) a partial or
23 total release of the judgment or (b) a document subordinating the
24 lien of the judgment to any other lien, generally or on specific
25 real or personal property;

1 (2) (a) If the judgment debtor and creditor agree to
2 release a judgment or subordinate a lien for child support or
3 spousal support and all such support order payments are current,
4 the judgment creditor may release a judgment or subordinate a lien
5 for child support or spousal support by executing a release or
6 subordination document and filing it in the county office where
7 the lien is registered. A properly executed, notarized release or
8 subordination document, explicitly reciting that all child support
9 payments or spousal support payments are current, shall be prima
10 facie evidence that such payments are in fact current.

11 (b) If the judgment debtor and creditor agree to release
12 a judgment or subordinate a lien for child support or spousal
13 support and all such payments are not current, the judgment debtor
14 may file a motion in the court which rendered the original judgment
15 for an order releasing the judgment or subordinating the lien as
16 to specific real or personal property. The court shall grant such
17 order upon a showing by the judgment debtor that sufficient real or
18 personal property or property interests will remain subject to the
19 lien or will maintain priority over other liens sufficient to cover
20 all support due and which may become due;

21 ~~(2)(a)~~ If (3) (a) If the judgment debtor and creditor
22 do not agree to release a judgment or subordinate a lien for
23 child support or spousal support and all such support order
24 payments are current, a partial or total release of the judgment
25 or subordination of a lien for a support order, generally or on

1 ~~specific real or personal property~~, may be accomplished by filing
2 (i) a current certified copy of support order payment history from
3 the Title IV-D Division ~~explicitly reciting that all support order~~
4 ~~payments are current~~ and (ii) a partial or total release of the
5 judgment or subordination document explicitly reciting that all
6 support order payments are current in the county office where the
7 lien is registered.

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

25 (c) For purposes of this section, a current certified

1 copy of support order payment history from the Title IV-D
2 Division ~~explicitly reciting~~ setting forth evidence that all
3 support payments are current is valid for thirty days after
4 the date of certification;

5 ~~(3)~~ (4) Full faith and credit shall be accorded to a lien
6 arising by operation of law against real and personal property for
7 amounts overdue relating to a support order owed by an obligor who
8 resides or owns property in this state when another state agency,
9 party, or other entity seeking to enforce such lien complies with
10 the procedural rules relating to the filing of the lien in this
11 state. The state agency, party, or other entity seeking to enforce
12 such lien shall send a certified copy of the support order with
13 all modifications, the notice of lien prescribed by 42 U.S.C.
14 652(a)(11) and 42 U.S.C. 654(9)(E), and the appropriate fee to
15 the clerk of the district court in the jurisdiction within this
16 state in which the lien is sought. Upon receiving the appropriate
17 documents and fee, the clerk of the district court shall accept the
18 documents filed and such acceptance shall constitute entry of the
19 foreign support order for purposes of this section only. Entry of a
20 lien arising in another state pursuant to this section shall result
21 in such lien being afforded the same treatment as liens arising
22 in this state. The filing process required by this section shall
23 not be construed as requiring an application, complaint, answer,
24 and hearing as might be required for the filing or registration of
25 foreign judgments under the Nebraska Uniform Enforcement of Foreign

1 Judgments Act or the Uniform Interstate Family Support Act;

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

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

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

23 ~~(7)(a)~~ (8)(a) The lien of a mortgage or deed of trust
24 which secures a loan, the proceeds of which are used to purchase
25 real property, and (b) any lien given priority pursuant to a

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

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

19 Sec. 7. Section 43-1411.01, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 43-1411.01 (1) An action for paternity or parental
22 support under sections 43-1401 to 43-1418 may be initiated by
23 filing a complaint with the clerk of the district court as provided
24 in section 25-2740. Such proceeding may be heard by the county
25 court or the district court as provided in section 25-2740. A

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

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

9 Sec. 8. An individual may file a complaint for relief
10 and the court may set aside a final judgment, court order,
11 administrative order, obligation to pay child support, or any
12 other legal determination of paternity if a scientifically reliable
13 genetic test performed in accordance with sections 43-1401 to
14 43-1408 establishes the exclusion of the individual named as a
15 father in the legal determination. The court shall appoint a
16 guardian ad litem to represent the interest of the child. The
17 filing party shall pay the costs of such test. A court that sets
18 aside a determination of paternity in accordance with this section
19 shall order completion of a new birth record and may order any
20 other appropriate relief, including setting aside an obligation to
21 pay child support. No support order may be retroactively modified,
22 but may be modified with respect to any period during which there
23 is a pending complaint for relief from a determination of paternity
24 under this section, but only from the date that notice of the
25 complaint was served on the nonfiling party. A court shall not

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

6 Sec. 9. Section 43-2922, Revised Statutes Supplement,
7 2007, is amended to read:

8 43-2922 For purposes of the Parenting Act:

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

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

14 (3) Best interests of the child means the determination
15 made taking into account the requirements stated in section
16 43-2923;

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

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

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

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

23 (8) Domestic intimate partner abuse means an act of
24 abuse, as defined in section 42-903, and a pattern or history
25 of abuse evidenced by one or more of the following acts:

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

17 ~~(a) An act of abuse, as defined in section 42-903, and~~
18 ~~the existence of a pattern or history of such an act without~~
19 ~~any recency or frequency requirement, including, but not limited~~
20 ~~to, one or more of the following: Physical assault or sexual~~
21 ~~assault, threats of physical assault or sexual assault, stalking,~~
22 ~~harassment, mental cruelty, emotional abuse, intimidation,~~
23 ~~isolation, economic abuse, or coercion against any current or~~
24 ~~past intimate partner or an abuser using a child to establish~~
25 ~~or maintain power and control over any current or past intimate~~

1 partner. The following acts shall be included within the definition
2 of domestic intimate partner abuse if the acts contributed to
3 coercion or intimidation of the intimate partner.

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

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

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

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

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

24 (10) Emotional abuse means a pattern of acts, threats
25 of acts, or coercive tactics, including, but not limited to,

1 threatening or intimidating to gain compliance, destruction of
2 the victim's personal property or threats to do so, violence to
3 an animal or object in the presence of the victim as a way to
4 instill fear, yelling, screaming, name-calling, shaming, mocking,
5 or criticizing the victim, possessiveness, or isolation from
6 friends and family. Emotional abuse can be verbal or nonverbal;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 ~~(17)~~ (18) Parenting plan means a plan for parenting the
7 child that takes into account parenting functions;

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

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

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

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

1 ~~(22)~~ (23) Specialized alternative dispute resolution
2 means a method of nonjudicial intervention in high conflict
3 or domestic intimate partner abuse cases in which an approved
4 specialized mediator facilitates voluntary mutual development of
5 and agreement to a structured parenting plan, provisions for
6 safety, a transition plan, or other related resolution between the
7 parties;

8 ~~(23)~~ (24) Transition plan means a plan developed to
9 reduce exposure of the child and the adult to ongoing unresolved
10 parental conflict during parenting time, visitation, or other
11 access for the exercise of parental functions; and

12 ~~(24)~~ (25) Unresolved parental conflict means persistent
13 conflict in which parents are unable to resolve disputes about
14 parenting functions which has a potentially harmful impact on a
15 child.

16 Sec. 10. Section 43-2923, Revised Statutes Supplement,
17 2007, is amended to read:

18 43-2923 ~~(1)~~ The best interests of the child require:

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

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

25 (c) That the child's families and those serving in

1 parenting roles remain appropriately active and involved in
2 parenting with safe, appropriate, continuing quality contact
3 between children and their families when they have shown the
4 ability to act in the best interests of the child and have shared
5 in the responsibilities of raising the child;

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

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

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

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

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

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

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

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

24 ~~(3) A party's absence, relocation, or failure to comply~~
25 ~~with custody, parenting time, visitation, or other access orders~~

1 shall not, by itself, be sufficient to justify a modification of
2 an order if the reason for the absence, relocation, or failure to
3 comply is the party's activation to military service and deployment
4 out of state.

5 Sec. 11. Section 43-2924, Revised Statutes Supplement,
6 2007, is amended to read:

7 43-2924 (1) The Parenting Act shall apply to proceedings
8 or modifications filed on or after January 1, 2008, in which
9 parenting functions for a child are at issue (a) under Chapter
10 42, including, but not limited to, proceedings or modification
11 of orders for dissolution of marriage and child custody and (b)
12 under sections 43-1401 to 43-1418. The Parenting Act may apply to
13 proceedings or modifications in which parenting functions for a
14 child are at issue under Chapter 30 or 43.

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

1 a county attorney or authorized attorney, the parents may proceed
2 with a parenting plan.

3 Sec. 12. Section 43-2928, Revised Statutes Supplement,
4 2007, is amended to read:

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

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

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

24 ~~(4) (3)~~ The State Court Administrator shall approve all
25 parenting and child of divorce education courses under the act.

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

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

23 ~~(7)~~ (6) Each party shall be responsible for the costs, if
24 any, of attending any court-ordered parenting ~~or child of divorce~~
25 education course. ~~The court may waive or specifically allocate~~

1 ~~costs between the parties for their required participation in the~~
2 ~~course.~~ At the request of any party, or based upon screening or
3 recommendation of a mediator, the parties shall be allowed to
4 attend separate courses or to attend the same course at different
5 times, particularly if child abuse or neglect, domestic intimate
6 partner abuse, or unresolved parental conflict is or has been
7 present in the relationship or one party has threatened the other
8 party.

9 Sec. 13. Section 43-2929, Revised Statutes Supplement,
10 2007, is amended to read:

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

21 (a) Assist in developing a restructured family that
22 serves the best interests of the child by accomplishing the
23 parenting functions; and

24 (b) Include, but not be limited to, determinations of the
25 following:

- 1 (i) Legal custody and physical custody of each child;
- 2 (ii) Apportionment of parenting time, visitation, or
3 other access for each child, including, but not limited to,
4 specified religious and secular holidays, birthdays, Mother's Day,
5 Father's Day, school and family vacations, and other special
6 occasions, specifying dates and times for the same, or a formula
7 or method for determining such a schedule in sufficient detail
8 that, if necessary, the schedule can be enforced in subsequent
9 proceedings by the court, and set out appropriate times and numbers
10 for telephone access;
- 11 (iii) Location of the child during the week, weekend, and
12 given days during the year;
- 13 (iv) A transition plan, including the time and places for
14 transfer of the child, method of communication or amount and type
15 of contact between the parties during transfers, and duties related
16 to transportation of the child during transfers;
- 17 (v) Procedures for making decisions regarding the
18 day-to-day care and control of the child consistent with the major
19 decisions made by the person or persons who have legal custody and
20 responsibility for parenting functions;
- 21 (vi) Provisions for a remediation process regarding
22 future modifications to such plan;
- 23 (vii) Arrangements to maximize the safety of all parties
24 and the child; and
- 25 (viii) Provisions for safety when a preponderance of

1 the evidence establishes child abuse or neglect, domestic intimate
2 partner abuse, unresolved parental conflict, or criminal activity
3 which is directly harmful to a child.

4 (2) A parenting plan shall require that the parties
5 notify each other of a change of address, a party provide
6 notification if the party plans to change the residence of the
7 child for more than thirty days and the change would affect
8 any other party's custody, parenting time, visitation, or other
9 access. The notice shall be given before the contemplated move, by
10 mail, return receipt requested, postage prepaid, to the last-known
11 address of the party to be notified, except that the address or
12 return address shall only include the county and state for a party
13 who is living or moving to an undisclosed location because of
14 safety concerns. A copy of the notice shall also be sent to the
15 affected party's counsel of record. To the extent feasible, the
16 notice shall be provided within a minimum of forty-five days before
17 the proposed change of residence so as to allow time for mediation
18 of a new agreement concerning custody, parenting time, visitation,
19 or other access.

20 (3) When safe and appropriate for the best interests of
21 the child, the parenting plan may encourage mutual discussion of
22 major decisions regarding parenting functions including the child's
23 education, health care, and spiritual or religious upbringing.
24 However, when a prior factual determination of child abuse or
25 neglect, domestic intimate partner abuse, or unresolved parental

1 conflict has been made, then consideration shall be given to
2 inclusion of provisions for safety and a transition plan that
3 restrict communication or the amount and type of contact between
4 the parties during transfers.

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

8 ~~(5) The parenting plan shall be accompanied by~~
9 ~~a financial plan which shall provide for apportionment of~~
10 ~~the expenses for medical support, including provisions for~~
11 ~~medical, dental, and eye care, medical reimbursements, day care,~~
12 ~~extracurricular activity, education, and other extraordinary~~
13 ~~expenses of the child and calculation of child support obligations.~~

14 ~~(6)~~ (5) In the development of a parenting plan,
15 consideration shall be given to the child's age, the child's
16 developmental needs, and the child's perspective, as well as
17 consideration of enhancing healthy relationships between the child
18 and each party.

19 Sec. 14. Section 43-2930, Revised Statutes Supplement,
20 2007, is amended to read:

21 43-2930 (1) ~~Every party seeking~~ Each party to a contested
22 proceeding for a temporary order relating to parenting functions
23 or custody, parenting time, visitation, or other access shall file
24 and serve offer a child information affidavit as an exhibit at
25 the hearing before the court. The child information affidavit shall

1 be verified to the extent known or reasonably discoverable by the
2 filing party or parties and ~~shall state, at a minimum,~~ may include
3 the following:

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

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

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

16 (d) A description of the current proposed work and child
17 care schedules; and

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

21 ~~(f) Any~~ The child information affidavit may also state
22 any circumstances of child abuse or neglect, domestic intimate
23 partner abuse, or unresolved parental conflict that are likely to
24 pose a risk to the child and that warrant limitation on the award
25 of temporary custody, parenting time, visitation, or other access

1 to the child pending entry of a permanent parenting plan, including
2 any restraining orders, protection orders, or criminal no-contact
3 orders against either parent or a person acting as a parent by case
4 number and jurisdiction.

5 (2) After a contested hearing by live testimony or
6 affidavit, the court shall enter a temporary parenting order that
7 includes:

8 (a) Provision for temporary legal custody;

9 (b) Provisions for temporary physical custody, which
10 shall include either:

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

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

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

18 and

19 (d) Reference to any existing restraining orders,
20 protection orders, or criminal no-contact orders as well as
21 provisions for safety and a transition plan, consistent with any
22 court's finding of child abuse or neglect, domestic intimate
23 partner abuse, or unresolved parental conflict in order to provide
24 for the safety of a child and custodial parent necessary for the
25 best interests of the child; and -

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

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

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

11 (5) Provisions for temporary support for the child and
 12 other financial matters may be included in the temporary parenting
 13 order.

14 Sec. 15. Section 43-2932, Revised Statutes Supplement,
 15 2007, is amended to read:

16 43-2932 (1) ~~In developing~~ When the court is required to
 17 develop a parenting plan:

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

22 (i) Has committed child abuse or neglect;

23 (ii) Has committed child abandonment under section
 24 28-705;

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

1 (iv) Has interfered persistently with the other parent's
2 access to the child, except in the case of actions taken for the
3 purpose of protecting the safety of the child or the interfering
4 parent or another family member, pending adjudication of the facts
5 underlying that belief; and

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

11 (i) An adjustment of the custody of the child, including
12 the allocation of sole legal custody or physical custody to one
13 parent;

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

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

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

20 (v) A requirement that the parent abstain from possession
21 or consumption of alcohol or nonprescribed drugs while exercising
22 custodial responsibility and in a prescribed period immediately
23 preceding such exercise;

24 (vi) Denial of overnight physical custodial
25 ~~responsibility,~~ parenting time;

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

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

7 ~~(ix) A requirement that the parent complete a program of~~
8 ~~intervention for perpetrators of domestic violence, a program for~~
9 ~~drug or alcohol abuse, or a program designed to correct another~~
10 ~~factor, or~~

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

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

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

1 visitation, or other access to that parent will not endanger the
2 child or the other parent.

3 Sec. 16. Section 43-2934, Revised Statutes Supplement,
4 2007, is amended to read:

5 43-2934 ~~(1)~~ The court shall not make a custody,
6 parenting time, visitation, or other access order and the parenting
7 plan shall not require anything that is inconsistent with any
8 restraining order, protection order, or criminal no-contact order
9 regarding any party to the proceeding, unless the court finds that:

10 ~~(a)~~ The custody, parenting time, visitation, or other
11 access order cannot be made consistent with the restraining order,
12 protection order, or criminal no-contact order; and

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

15 ~~(2)~~ (1) Whenever custody, parenting time, visitation,
16 or other access is granted to a parent in a case in which
17 domestic intimate partner abuse is alleged and a restraining order,
18 protection order, or criminal no-contact order has been issued, the
19 custody, parenting time, visitation, or other access order shall
20 specify the time, day, place, and manner of transfer of the child
21 for custody, parenting time, visitation, or other access to limit
22 the child's exposure to potential domestic conflict or violence and
23 to ensure the safety of all family members. If the court finds that
24 a party is staying in a place designated as a shelter for victims
25 of domestic abuse or other confidential location, the time, day,

1 place, and manner of transfer of the child for custody, parenting
2 time, visitation, or other access shall be designed to prevent
3 disclosure of the location of the shelter or other confidential
4 location.

5 ~~(3)~~ (2) When making an order or parenting plan for
6 custody, parenting time, visitation, or other access in a case in
7 which domestic abuse is alleged and a restraining order, protection
8 order, or criminal no-contact order has been issued, the court
9 shall consider whether the best interests of the child, based
10 upon the circumstances of the case, require that any custody,
11 parenting time, visitation, or other access arrangement be limited
12 to situations in which a third person, specified by the court, is
13 present, or whether custody, parenting time, visitation, or other
14 access should be suspended or denied.

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

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

1 Sec. 17. Section 43-2936, Revised Statutes Supplement,
2 2007, is amended to read:

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

14 Sec. 18. Section 43-2937, Revised Statutes Supplement,
15 2007, is amended to read:

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

1 dispute resolution, the court may, if appropriate, order temporary
2 relief, including necessary support and provision for payment of
3 mediation costs. Court referral shall be to a mediator agreed to
4 by the parties and approved by the court, an approved mediation
5 center, or a court conciliation program.

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

24 (3) ~~On and~~ For cases filed on or after July 1, 2010, all
25 parties who have not submitted a parenting plan to the court within

1 the time specified by the court shall be ordered to participate
2 in mediation or specialized alternative dispute resolution ~~at~~ with
3 a mediator, a court conciliation program, or an approved mediation
4 center as provided in section 43-2939.

5 Sec. 19. The Revisor of Statutes shall assign section 5
6 of this act to Chapter 42, article 3, and shall assign section 8
7 of this act within sections 43-1401 to 43-1408 and any reference to
8 such sections shall be deemed to include section 8 of this act.

9 Sec. 20. If any section in this act or any part of any
10 section is declared invalid or unconstitutional, the declaration
11 shall not affect the validity or constitutionality of the remaining
12 portions.

13 Sec. 21. Original sections 42-357 and 43-1411.01,
14 Reissue Revised Statutes of Nebraska, and sections 42-353, 42-359,
15 42-364, 42-371, 43-2922, 43-2923, 43-2924, 43-2928, 43-2929,
16 43-2930, 43-2932, 43-2934, 43-2936, and 43-2937, Revised Statutes
17 Supplement, 2007, are repealed.

18 Sec. 22. The following sections are outright repealed:
19 Sections 43-2927 and 43-2931, Revised Statutes Supplement, 2007.

20 Sec. 23. Since an emergency exists, this act takes effect
21 when passed and approved according to law.