

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 554**

Introduced by Flood, 19; Ashford, 20

Read first time January 17, 2007

Committee: Judiciary

A BILL

1 FOR AN ACT relating to children; to amend sections 25-2911,  
2 25-2914, 25-2916, 33-106.03, 33-107.02, 42-347, 42-351,  
3 42-353, 42-358.01, 42-358.03, 42-358.04, 42-358.05,  
4 42-358.06, 42-358.07, 42-358.08, 42-359, 42-364.14,  
5 42-364.15, 42-369, 42-934, 43-104.13, 43-158, 43-2,113,  
6 43-512.03, 43-512.04, 43-512.08, 43-1407, 43-1720,  
7 43-3342.01, and 70-101, Reissue Revised Statutes of  
8 Nebraska, and sections 42-358, 42-358.02, 42-364,  
9 42-371, 60-484, 77-27,119, and 84-205, Revised Statutes  
10 Cumulative Supplement, 2006; to repeal the Parenting  
11 Act; to adopt the Parenting Act; to change and eliminate  
12 provisions relating to child custody, visitation, child  
13 support, paternity support, and parenting; to create a  
14 fund; to increase certain fees; to harmonize provisions;

1           to provide a duty for the Revisor of Statutes; to provide  
2           an operative date; to repeal the original sections;  
3           and to outright repeal sections 42-349.01, 42-364.01,  
4           42-364.02, 42-364.03, 42-364.04, 42-364.05, 42-364.06,  
5           42-364.07, 42-364.08, 42-364.09, 42-364.10, 42-364.11,  
6           42-364.12, 43-2901, 43-2902, 43-2903, 43-2904, 43-2905,  
7           43-2906, 43-2907, 43-2908, 43-2909, 43-2910, 43-2911,  
8           43-2912, 43-2913, 43-2914, 43-2915, 43-2916, 43-2917,  
9           43-2917.01, 43-2918, and 43-2919, Reissue Revised  
10          Statutes of Nebraska.  
11    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  
5 any proceeding under Chapter 30, 42, or 43 involving custody,  
6 parenting time, visitation, or other access with a child and that  
7 the parenting plan establish specific individual responsibility  
8 for performing such parenting functions as are necessary and  
9 appropriate for the care and healthy development of each child  
10 affected by the 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 Each child must learn to develop healthy relationships and resolve  
18 conflict in appropriate and peaceful ways.

19           In any proceeding under Chapter 30, 42, or 43 involving  
20 a child, the best interests of the child shall be the standard  
21 by which the court adjudicates and establishes the individual  
22 responsibilities, including consideration in any custody, parenting  
23 time, visitation, or other access determinations as well as  
24 resolution of conflicts affecting each child. The state presumes  
25 the critical importance of the parent-child relationship in the

1 welfare and development of the child and that the relationship  
2 between the child and each parent should be fostered unless it is  
3 contrary to the best interests of the child.

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

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

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

24 (2) Best interests of the child means the determination  
25 made taking into account the requirements stated in section 4 of

1 this act;

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

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

5 (5) Custody includes legal custody and physical custody;

6 (6) Domestic intimate partner abuse means:

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

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

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

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

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

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

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

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

15           (10) Mediation means a method of nonjudicial intervention  
16 in which a trained, neutral third-party mediator provides a  
17 structured process in which individuals and families in conflict  
18 work through parenting and other related family issues with the  
19 goal of achieving a voluntary, mutually agreeable parenting plan or  
20 related resolution;

21           (11) Office of Dispute Resolution means the office  
22 established under section 25-2904;

23           (12) Parenting functions means those aspects of the  
24 relationship in which a parent or person in the parenting role  
25 makes fundamental decisions and performs fundamental functions

1 necessary for the care and development of a child. Parenting  
2 functions include, but are not limited to:

3 (a) Maintaining a safe, stable, consistent, and nurturing  
4 relationship with the child;

5 (b) Attending to the ongoing developmental needs of the  
6 child as he or she develops, including feeding, clothing, physical  
7 care and grooming, health and medical needs, emotional stability,  
8 supervision, and appropriate conflict resolution skills and  
9 engaging in other activities appropriate to the healthy development  
10 of the child within the social and economic circumstances of the  
11 family;

12 (c) Attending to adequate education for the child,  
13 including remedial or other special education essential to the  
14 best interests of the child;

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

20 (e) Minimizing the child's exposure to harmful parental  
21 conflict;

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

24 (g) Exercising appropriate support for social, academic,  
25 athletic, or other special interests and abilities of the child

1 within the social and economic circumstances of the family;

2 (13) Parenting plan means a plan for parenting the child  
3 in consideration of the parenting functions;

4 (14) Parenting time, visitation, or other access means  
5 communication or time spent between the child and parent, the child  
6 and a court-appointed guardian, or the child and another family  
7 member or members;

8 (15) Physical custody means authority and responsibility  
9 regarding the child's place of residence and the exertion of  
10 continuous parenting time for significant periods of time;

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

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

21 (18) Specialized alternative dispute resolution means a  
22 method of nonjudicial intervention in high conflict or domestic  
23 intimate partner abuse cases in which a specially trained mediator  
24 facilitates voluntary mutual development of and agreement to a  
25 structured parenting plan, safety plan, transition plan, or other

1 related resolution between the parties as provided in section 18 of  
2 this act;

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

7 (20) Unresolved parental conflict means persistent  
8 conflict in which parents are unable to resolve disputes about  
9 parenting functions which has a potentially harmful impact on a  
10 child or conflicts between parents that create risks that may  
11 warrant limitation on the time spent between the child and a  
12 parent regarding temporary or permanent custody or parenting time,  
13 visitation, or other access with the child.

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

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

18 (b) That the child's families and those serving in  
19 parenting roles remain appropriately active and involved in  
20 parenting with safe, appropriate, continuing quality contact  
21 between parents and their families when they have shown the ability  
22 to act in the best interests of the child and have shared in the  
23 responsibilities of raising the child;

24 (c) That even when parents have voluntarily negotiated or  
25 mutually mediated and agreed upon a parenting plan, the court shall

1 determine whether it is in the best interests of the child for  
2 parents to maintain continued communications with each other and  
3 to make joint decisions in performing parenting functions as are  
4 necessary for the care and healthy development of the child; and

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

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

23 (i) The absence or relocation is of short duration and  
24 the court finds that, during the period of absence or relocation,  
25 the party has demonstrated an interest in maintaining custody,

1 parenting time, visitation, or other access, the party maintains,  
2 or makes reasonable efforts to maintain, regular contact with the  
3 child, and the party's behavior demonstrates no intent to abandon  
4 the child; or

5 (ii) The party is absent or relocates because of an act  
6 or acts of actual or threatened abuse by the other party.

7 (b) This subsection does not apply to:

8 (i) A party against whom a protection order, restraining  
9 order, or criminal no-contact order has been issued excluding  
10 the party from the dwelling of the other party or the child or  
11 otherwise enjoining the party from assault or harassment against  
12 the other party or the child; or

13 (ii) A party who abandons a child as provided in section  
14 28-705.

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

21 Sec. 5. (1) The Parenting Act applies to proceedings or  
22 modifications in which parenting functions for or the parenting of  
23 a child is in issue under Chapter 30, 42, or 43, including, but not  
24 limited to, proceedings or modification of orders for dissolution  
25 of marriage, child custody, paternity, grandparent visitation, and

1 guardianship.

2 (2) The Parenting Act does not apply in any action  
3 filed by a county attorney or authorized attorney pursuant to  
4 his or her duties under section 42-358, 43-512 to 43-512.18, or  
5 43-1401 to 43-1418, the Income Withholding for Child Support Act,  
6 the Revised Uniform Reciprocal Enforcement of Support Act before  
7 January 1, 1994, or the Uniform Interstate Family Support Act for  
8 purposes of the establishment of paternity and the establishment  
9 and enforcement of child and medical support. A county attorney or  
10 authorized attorney shall not participate in the development of or  
11 court review of a parenting plan under the Parenting Act.

12 Sec. 6. (1) In any proceeding in which the parenting of a  
13 child is at issue under the Parenting Act, subsequent to the filing  
14 of such proceeding all parties shall receive from the clerk of the  
15 court information regarding:

16 (a) The litigation process;

17 (b) A dissolution or separation process timeline;

18 (c) Healthy parenting approaches during and after the  
19 proceeding;

20 (d) The parenting plan;

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

23 (f) Mediation, specialized alternative dispute  
24 resolution, and other alternative dispute resolution processes  
25 available through court-based conciliation programs, mediation

1 centers approved by the Office of Dispute Resolution, and other  
2 court-connected alternative dispute resolution services;

3 (g) Resource materials identifying the availability of  
4 services for victims of child abuse or neglect and domestic  
5 intimate partner abuse; and

6 (h) Intervention programs for batterers or abusers.

7 (2) The clerk of the court and counsel for represented  
8 parties shall file documentation of compliance with this section.  
9 Development of these informational materials and the implementation  
10 of this section shall be accomplished through the State Court  
11 Administrator.

12 Sec. 7. The State Court Administrator shall create an  
13 information sheet for parties in a proceeding in which the  
14 parenting of a child is at issue under the Parenting Act that  
15 includes information regarding child custody, parenting time,  
16 visitation, and other access and that informs the parties that  
17 they are required to attend a basic level parenting education  
18 course. The information sheet shall also state that the parties  
19 have the right to agree to a parenting plan arrangement, that if  
20 they do not agree, before July 1, 2009, they may be required and  
21 on and after July 1, 2009, they shall be required to participate  
22 in parenting plan mediation, and that if mediation does not result  
23 in an agreement, the court will be required to make a determination  
24 on the custody issues. The information sheet shall also provide  
25 information on how to obtain assistance in resolving a custody

1 case, including, but not limited to, information on finding an  
2 attorney, information on accessing court-based self-help services  
3 if they are available, information about domestic violence service  
4 agencies, and information regarding other sources of assistance  
5 in developing a parenting plan. The State Court Administrator  
6 shall adopt this information sheet as a statewide form and take  
7 reasonable steps to ensure that it is distributed statewide and  
8 made available to parties in parenting matters.

9           Sec. 8. (1) Judges, attorneys, court-appointed attorneys,  
10 court-appointed guardians, and mediators involved in proceedings  
11 under the Parenting Act matters shall participate in training  
12 approved by the State Court Administrator to recognize child  
13 abuse or neglect, domestic intimate partner abuse, and unresolved  
14 parental conflict and its impact upon children and families.

15           (2) Screening guidelines and safety procedures for cases  
16 involving child abuse or neglect or domestic intimate partner  
17 abuse shall be devised by the State Court Administrator. Such  
18 screening shall be conducted by mediators by using State Court  
19 Administrator-approved screening tools, and mediators under the  
20 Parenting Act shall have access to and consider public records  
21 such as current or expired protection orders, criminal domestic  
22 violence cases, and child abuse or neglect proceedings in screening  
23 for child abuse or neglect, domestic intimate partner abuse, and  
24 unresolved parental conflict and to determine appropriate dispute  
25 resolution methods.

1           (3) Such screening shall be conducted by each mediator  
2 for each case referred to mediation under the Parenting Act  
3 prior to setting the case for mediation to determine whether to  
4 proceed in mediation or a form of specialized alternative dispute  
5 resolution;

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

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

20           Sec. 9. (1) The court shall order all parties to a  
21 proceeding under the Parenting Act to attend a basic level  
22 parenting education course. Participation in the course may be  
23 delayed or waived by the court for good cause shown. Failure or  
24 refusal by any party to participate in such a course as ordered by  
25 the court shall not delay the entry of a final judgment or an order

1 modifying a final judgment in such action by more than six months  
2 and shall in no case be punished by incarceration.

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

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

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

16 (5) The basic level parenting education course pursuant  
17 to this section shall be designed to educate the parties about the  
18 impact of the pending court action upon the child and appropriate  
19 application of parenting functions. The course shall include,  
20 but not be limited to, information on the developmental stages  
21 of children, adjustment of a child to parental separation, the  
22 litigation and court process, alternative dispute resolution,  
23 conflict management, stress reduction, guidelines for parenting  
24 time, visitation, or other access, safety plans and transition  
25 plans, and information about parents and children affected by child

1 abuse or neglect, domestic intimate partner abuse, and unresolved  
2 parental conflict.

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

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

23 Sec. 10. (1) In any proceeding under Chapter 30, 42,  
24 or 43 involving a child, a parenting plan shall be developed and  
25 submitted to the court by the parties or their counsel, or in the

1 case of a court-based mediation program, by that program. If no  
2 plan has been submitted to the court, the court shall create the  
3 parenting plan in accordance with the Parenting Act. Such parenting  
4 plan shall serve the best interests of the child pursuant to  
5 section 42-364 and section 4 of this act and shall:

6 (a) Assist in developing a restructured family that  
7 serves the best interests of the child by accomplishing the  
8 parenting functions; and

9 (b) Include, but not be limited to, determinations of the  
10 following:

11 (i) Legal custody and physical custody of the child;

12 (ii) Apportionment of parenting time, visitation, or  
13 other access by each party with the child, including, but not  
14 limited to, specified religious and secular holidays, birthdays,  
15 Mother's Day, Father's Day, school and family vacations, and other  
16 special occasions, specifying dates and times for the same;

17 (iii) Residence of the child during the week and weekend  
18 and given days during the year;

19 (iv) Parenting time transition process, including the  
20 time and places for transfer of the child, method of communication  
21 or amount and type of contact between the parties during transfers,  
22 and duties related to transportation of the child during transfers;

23 (v) Appropriate times and numbers for telephone access;

24 (vi) Apportionment of health care, extracurricular  
25 activity, educational, and extraordinary expenses of the child;

1           (vii) Calculation of child support obligations;  
2           (viii) Provisions for a remediation process regarding  
3 future modifications to such plan; and  
4           (ix) Provisions to maximize the safety of all parties and  
5 the child.

6           (2) When safe and appropriate for the best interests of  
7 the child, the parenting plan may encourage mutual discussion of  
8 major decisions regarding the child's education, health care, and  
9 spiritual or religious upbringing, except where a prior factual  
10 determination of child abuse or neglect, domestic intimate partner  
11 abuse, or unresolved parental conflict has been made.

12           (3) Regardless of the custody determinations in the  
13 parenting plan, either party may authorize emergency medical  
14 procedures in situations affecting the immediate health of the  
15 child, and, unless parental rights are terminated, both parents  
16 shall continue to have the rights stated in section 42-381.

17           (4) Each party shall establish procedures for making  
18 decisions regarding the day-to-day care and control of the child  
19 while the child is residing with that party, consistent with the  
20 major decisions made by the parent or parents who have legal  
21 custody.

22           (5) In the development of a parenting plan, consideration  
23 shall be given to the child's age, the child's developmental needs,  
24 the best interests of the child, and the child's perspective, as  
25 well as consideration of enhancing healthy relationships between

1 the child and each party.

2 (6) The parenting plan shall include a transition plan,  
3 safety plan, or both when credible evidence of child abuse and  
4 neglect, domestic intimate partner abuse, unresolved parental  
5 conflict, or criminal activity is found which is directly harmful  
6 to a child.

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 an affidavit  
10 of proposed temporary parenting plan. Every party contesting the  
11 proposed temporary parenting plan shall file and serve an affidavit  
12 of response to the proposed parenting plan. Any party may move  
13 to have a proposed temporary parenting plan entered as part of a  
14 temporary order. The parties may move jointly to have an agreed  
15 temporary parenting plan developed through informal or formal  
16 negotiation or mediation entered at any time as part of a temporary  
17 order. The proposed temporary parenting plan shall be verified to  
18 the extent known or reasonably discoverable by the filing party or  
19 parties and shall state, at a minimum, the following:

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

25 (b) The performance by each parent or person acting as

1 parent for the preceding twelve months of the parenting functions  
2 relating to the daily needs of the child;

3 (c) A description of the work and child-care schedules  
4 for the preceding twelve months of any person seeking custody,  
5 parenting time, visitation, or other access and any expected  
6 changes to these schedules in the near future;

7 (d) A description of the current proposed work and  
8 child-care schedules in light of the proposed temporary parenting  
9 plan;

10 (e) A description of the child's school and  
11 extracurricular activities, including who is responsible for  
12 transportation of the child; and

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

21 (2) After a hearing, the court shall enter a temporary  
22 parenting order incorporating a temporary parenting plan that  
23 includes:

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

1           (b) Provisions for temporary physical custody, which  
2 shall include either:

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

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

9           (c) Designation of a temporary residence for the child;  
10 and

11           (d) Reference to any existing restraining orders,  
12 protection orders, or criminal no-contact orders and provisions  
13 that shall include a safety plan and a transition plan consistent  
14 with any court's finding of child abuse or neglect, domestic  
15 intimate partner abuse, or unresolved parental conflict to provide  
16 for the safety of a child and custodial parent necessary for the  
17 best interests of the child.

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

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

25           (5) Provisions for temporary support for the child and

1 other financial matters may be proposed in the temporary parenting  
2 plan.

3           Sec. 12. (1) Every party seeking a judicial allocation of  
4 parenting functions, including custody, parenting time, visitation,  
5 or other access under the Parenting Act, shall file and serve an  
6 affidavit of proposed final parenting plan with the court. Parties  
7 may file a joint plan developed through negotiation or mediation.  
8 A proposed final plan shall be verified and, to the extent known  
9 or reasonably discoverable by the filing party or parties, shall  
10 conform to the Parenting Act and state at a minimum the following:

11           (a) The name, address, and length of residence of any  
12 adults with whom any child has lived for one year or more, or in  
13 the case of a child less than one year old, any adults with whom  
14 the child has lived since the child's birth; except that for a  
15 parent who is living in an undisclosed location because of safety  
16 concerns, only the county and state are required to be entered;

17           (b) The name and address of each of the child's parents  
18 and any other individuals with standing to participate in the  
19 proceeding; except that for a parent who is living in an  
20 undisclosed location because of safety concerns, only the county  
21 and state are required to be entered;

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

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

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

8           (f) Any circumstances of child abuse or neglect, domestic  
9 intimate partner abuse, or unresolved parental conflict that are  
10 likely to pose a risk to the child and that warrant limitation  
11 on the award to any person seeking custody, parenting time,  
12 visitation, or other access, including any restraining orders,  
13 protection orders, or criminal no-contact orders against either  
14 parent or person acting as parent by case number and jurisdiction.  
15 If these are present, a safety plan and transition plan shall be  
16 included that provide for the safety of the child and addresses the  
17 needs and responsibilities of each parent; and

18           (g) A description of the known areas of agreement and  
19 disagreement with any other parenting plan submitted in the case.

20           (2) A parenting plan may require that a parent notify  
21 the other parent if the parent plans to change the residence  
22 of the child for more than thirty days, unless there is prior  
23 written agreement to the removal. The notice shall be given before  
24 the contemplated move, by mail, return receipt requested, postage  
25 prepaid, to the last-known address of the parent to be notified.

1 A copy of the notice shall also be sent to that parent's counsel  
2 of record. To the extent feasible, the notice shall be provided  
3 within a minimum of forty-five days before the proposed change of  
4 residence so as to allow time for mediation of a new agreement  
5 concerning custody.

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

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

11 (i) Has committed child abuse or neglect;

12 (ii) Has committed child abandonment under section  
13 28-705;

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (x) Any other constraints or conditions deemed necessary  
25 to provide for the safety of the child, a child's parent, or any

1 person whose safety immediately affects the child's welfare.

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

11 Sec. 14. (1) No parent shall be required by the  
12 parenting plan to have only supervised custody, parenting time,  
13 visitation, or other access or be denied custody, parenting time,  
14 visitation, or other access, and no custody, parenting time,  
15 visitation, or other access shall be limited solely because the  
16 parent (a) lawfully reported suspected sexual abuse of the child,  
17 (b) otherwise acted lawfully, based on a reasonable belief, to  
18 determine if his or her child was the victim of sexual abuse, or  
19 (c) sought treatment for the child from a licensed mental health  
20 professional for suspected sexual abuse. The parenting plan may  
21 require supervised time or limit a parent's custody, parenting  
22 time, visitation, or other access if clear and convincing evidence  
23 is found that the parent, with the intent to interfere with the  
24 other parent's lawful contact with the child, made a report of  
25 child sexual abuse that he or she knew was false at the time it

1 was made, during a child custody proceeding or at any other time.  
2 Any limitation of custody, parenting time, visitation, or other  
3 access, including an order for supervised custody, parenting time,  
4 visitation, or other access shall be imposed only after the court  
5 has determined that the limitation is necessary to protect the best  
6 interests of the child, and the court has considered the state's  
7 policy of assuring that children have frequent and continuing  
8 contact with both parents.

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

19 (b) No person shall be granted custody of, or  
20 unsupervised parenting time, visitation, or other access with, a  
21 child if anyone residing in the person's household is required to  
22 register as a sex offender under the Sex Offender Registration Act  
23 as a result of a felony conviction in which the victim was a minor  
24 or for an offense that would make it contrary to the best interests  
25 of the child for such access, unless the court finds there is no

1 significant risk to the child and states its reasons in writing  
2 or on the record.

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

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

20 (4) No person shall be granted custody of, or  
21 unsupervised parenting time, visitation, or other access with, a  
22 child if the person has been convicted of murder in the first  
23 degree, as defined in section 28-303, and the victim of the murder  
24 was the other parent of the child who is the subject of the order,  
25 unless the court finds that there is no risk to the child and it is

1 in the child's best interest to grant such custody and states the  
2 reasons for its finding in writing or on the record. In making its  
3 finding, the court may consider, among other things:

4 (a) The wishes of the child, if the child is of  
5 sufficient age and capacity to reason so as to form an intelligent  
6 preference;

7 (b) Credible evidence that the convicted parent was a  
8 victim of abuse, as defined in section 42-903, committed by the  
9 deceased parent; and

10 (c) Testimony of an expert witness that the convicted  
11 parent was a victim of abuse, as defined in section 42-903.

12 Unless and until a custody, parenting time, visitation,  
13 or other access with each parent order is issued, no person shall  
14 permit or cause the child to spend time with or remain in the  
15 custody of the convicted parent without the consent of the child's  
16 custodian or legal guardian.

17 (5) A change in circumstances relating to subsection (2),  
18 (3), or (4) of this section is sufficient grounds for modification  
19 of a previous order.

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

25 (a) The custody, parenting time, visitation, or other

1 access order cannot be made consistent with the restraining order,  
2 protection order, or criminal no-contact order; and

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

5 (2) Whenever custody, parenting time, visitation, or  
6 other access is granted to a parent in a case in which abuse,  
7 as defined in section 42-903, is alleged and a restraining order,  
8 protection order, or criminal no-contact order has been issued,  
9 the custody, parenting time, visitation, or other access order or  
10 parenting plan shall specify the time, day, place, and manner of  
11 transfer of the child for custody, parenting time, visitation, or  
12 other access to limit the child's exposure to potential domestic  
13 conflict or violence and to ensure the safety of all family  
14 members. If the court finds a party is staying in a place  
15 designated as a shelter for victims of domestic abuse or other  
16 confidential location, the time, day, place, and manner of transfer  
17 of the child for custody, parenting time, visitation, or other  
18 access shall be designed to prevent disclosure of the location of  
19 the shelter or other confidential location.

20 (3) When making an order or parenting plan for custody,  
21 parenting time, visitation, or other access in a case in which  
22 domestic abuse is alleged and a restraining order, protection  
23 order, or criminal no-contact order has been issued, the court  
24 shall consider whether the best interests of the child, based  
25 upon the circumstances of the case, requires that any custody,

1 parenting time, visitation, or other access arrangement be limited  
2 to situations in which a third person, specified by the court, is  
3 present, or whether custody, parenting time, visitation, or other  
4 access should be suspended or denied.

5           Sec. 16. (1) After a hearing on the record, the court  
6 shall determine whether the submitted parenting plan meets all of  
7 the requirements of the Parenting Act and is in the best interests  
8 of the child. If the parenting plan lacks any of the elements  
9 required by the act or is not in the child's best interests, the  
10 court shall modify and approve the parenting plan as modified,  
11 reject the parenting plan and order the parties to develop a new  
12 parenting plan, or reject the parenting plan and create a parenting  
13 plan that meets all the required elements and is in the best  
14 interests of the child. The parenting plan shall include, at a  
15 minimum:

16           (a) A provision for legal custody;

17           (b) Provisions for physical custody, which shall include  
18 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) A safety plan and a transition plan consistent with

1 any court's finding of child abuse or neglect, domestic intimate  
2 partner abuse, or unresolved parental conflict to provide for the  
3 safety of a child and custodial parent necessary for the best  
4 interests of the child;

5 (d) 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 a safety plan is in place; and

13 (e) Remedies for violations of the parenting plan.

14 (2) A parenting plan may, at the court's discretion,  
15 contain provisions that address matters that are expected to  
16 arise in the event of a party's relocation or provide for future  
17 modifications in the parenting plan if specified contingencies  
18 occur.

19 Sec. 17. An individual party, a party's attorney, a  
20 guardian ad litem, a social service agency, a court, a domestic  
21 violence serving entity, or another interested entity may refer  
22 a custody, parenting time, visitation, other access, or related  
23 matter to mediation, specialized alternative dispute resolution,  
24 or other alternative dispute resolution process at any time  
25 prior to the filing or after the filing of an action with a

1 court. Upon receipt of such referral, each mediator, court-based  
2 conciliation program, and Office of Dispute Resolution-approved  
3 mediation center shall provide information about mediation and  
4 specialized alternative dispute resolution to each party, and the  
5 mediator shall screen for abuse.

6           Sec. 18. (1) At any time in the proceedings, a court  
7 may refer a case to mediation, specialized alternative dispute  
8 resolution, or other alternative dispute resolution process in  
9 order to attempt resolution of any relevant matter. The court may  
10 state a date for the case to return to court, but such date shall  
11 be no longer than ninety days after the date the order is signed  
12 unless the court grants an extension for cause. If the court refers  
13 a case to mediation, specialized alternative dispute resolution,  
14 or other alternative dispute resolution process, the court may,  
15 if appropriate, order temporary relief, including necessary support  
16 and provision for payment of mediation costs. Court referral may be  
17 to a mediation center approved by the Office of Dispute Resolution  
18 or a conciliation court program approved by the Office of Dispute  
19 Resolution.

20           (2) Prior to July 1, 2009, if there are allegations of  
21 domestic intimate partner abuse or unresolved parental conflict  
22 between the parties in any proceeding, mediation shall not be  
23 required pursuant to the Parenting Act or by local court rule,  
24 unless the court has established a specialized alternative dispute  
25 resolution process approved by the State Court Administrator. The

1 specialized alternative dispute resolution process shall include  
2 a method for court consideration of precluding or disqualifying  
3 parties from participating; provide an opportunity to educate both  
4 parties about the process; require informed consent from both  
5 parties in order to proceed; provide safety protocols, including  
6 separate individual sessions for each participant, informing each  
7 party about the process, and obtaining informed consent from each  
8 party to continue the process; allow support persons to attend  
9 sessions; and establish opt-out-for-cause provisions. On and after  
10 July 1, 2009, all courts shall have an approved specialized  
11 alternative dispute resolution process.

12 (3) On and after July 1, 2009, all parties shall  
13 participate in prehearing mediation or specialized alternative  
14 dispute resolution.

15 Sec. 19. (1) A mediator under the Parenting Act may  
16 be a court-based conciliation court counselor, a court-based  
17 mediator, an Office of Dispute Resolution-approved mediation center  
18 affiliated mediator, or a mediator in private practice.

19 (2) To qualify as a Parenting Act mediator, a person  
20 shall have a minimum of thirty hours of basic mediation training  
21 and thirty hours of family mediation training, approved by the  
22 Office of Dispute Resolution, and shall have served as an  
23 apprentice to a mediator as defined in section 25-2903. The  
24 training shall include, but not be limited to:

25 (a) Knowledge of the court system and procedures used in

1 contested family matters;

2 (b) General knowledge of family law, especially regarding  
3 custody, parenting time, visitation, and other access, and support;

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

6 (d) General knowledge of child development, the effects  
7 of dissolution or parental separation upon children, parents, and  
8 extended families, and the psychology of families;

9 (e) Knowledge of domestic intimate partner abuse and its  
10 impact upon the safety of family members, including knowledge of  
11 safety plans, transition plans, domestic intimate partner abuse  
12 screening protocols, and mediation safety measures; and

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

21 (3) To qualify as a specialized alternative dispute  
22 resolution mediator for parents involved in high conflict and  
23 situations in which abuse is present, the mediator shall be listed  
24 as an approved specialized alternative dispute resolution mediator  
25 on the Office of Dispute Resolution roster. Minimum requirements to

1 be eligible for roster approval include:

2 (a) Affiliation with a court-connected conciliation court  
3 program or a mediation center, all of which shall be approved by  
4 the Office of Dispute Resolution;

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 effects  
15 of domestic violence on the child; the nature and extent of  
16 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 mediative strategies to assist parties in  
20 developing a parenting plan, transition plan, and safety plans, as  
21 necessary and relevant.

22 Sec. 20. (1) A Parenting Act mediator shall, prior to  
23 meeting with the parties in an initial joint session, (a) review  
24 the public records identified in subsection (b) of section 8 of  
25 this act and (2) provide a private pre-session screening with

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

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

1 whether to proceed with that mediator.

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

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

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

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

3           (b) Allegations are made of direct physical or  
4 significant emotional harm to a party or to a child that have not  
5 been heard and ruled upon by the court. Prior to the commencement  
6 of mediation, the parties to mediation shall be notified by the  
7 mediator that evidence of child abuse or neglect or domestic  
8 intimate partner abuse shall be reported to the authorized child  
9 neglect and abuse or domestic intimate partner abuse reporting  
10 agency; or

11           (c) Mediation will otherwise fail to serve the best  
12 interests of the child.

13           (6) Until July 1, 2009, either party may terminate  
14 mediation at any point in the process. On and after July 1, 2009,  
15 a party may terminate mediation at any time after the initial  
16 mediation session with the approval of the court.

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

1           (a) Provision for the best interests of the child and the  
2 safeguarding of the rights of the child in regard to each parent,  
3 consistent with the act;

4           (b) Facilitation of the transition of the family by  
5 detailing factors to be considered in decisions concerning the  
6 child's future;

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

10           (d) Provision for a specialized alternative dispute  
11 resolution process in cases where domestic intimate partner abuse  
12 is present.

13           (2) Mediation under the Parenting Act shall be conducted  
14 in private.

15           (3) Any verbal, written, or electronic communication  
16 made in or in connection with matters referred to mediation  
17 which relates to the controversy or dispute being mediated and  
18 agreements resulting from the mediation, whether made to the  
19 mediator, the staff of an approved mediation center, a conciliation  
20 court program, a party, or any other person attending the  
21 mediation session, shall be confidential, except as provided in  
22 subsection (5) of section 22 of this act. Mediation proceedings  
23 shall be regarded as settlement negotiations, and no admission,  
24 representation, or statement made in mediation, not otherwise  
25 discoverable or obtainable, shall be admissible as evidence

1 or subject to discovery. A mediator shall not be subject to  
2 process requiring the disclosure of any matter discussed during  
3 mediation proceedings unless all the parties consent to a waiver.  
4 Confidential communications and materials are subject to disclosure  
5 when all parties agree in writing to waive confidentiality  
6 regarding specific verbal, written, or electronic communications  
7 relating to the mediation session or the agreement. This section  
8 shall not apply if a party brings an action against the mediator or  
9 mediation center, if the communication was made in furtherance of  
10 a crime or fraud, or if this section conflicts with other legal  
11 requirements. Any disclosure of child abuse or neglect or domestic  
12 intimate partner abuse made during the mediation process shall be  
13 confidential if it has been previously reported. New reports of  
14 child abuse or neglect made during the mediation process shall be  
15 timely reported to the authorized reporting agency.

16 (4) No records, notes, or other documentation, written  
17 or electronic, of the mediation process, except the contents  
18 of a final agreement between the parties, shall be examined in  
19 any judicial or administrative proceeding. Any communications  
20 made confidential by the act which become subject to judicial  
21 or administrative process requiring the disclosure of such  
22 communications shall be disclosed. Unsigned agreements under the  
23 act are not subject to section 25-2935.

24 Sec. 22. (1) A parenting plan developed by the parties as  
25 a result of mediation shall be reported to the court as provided

1 in this section. If the parties do not develop a partial or  
2 total parenting plan as a result of mediation, such fact shall  
3 be reported to the court. Mediation of a parenting plan shall be  
4 subject to the Uniform Mediation Act and the Dispute Resolution  
5 Act, where applicable.

6 (2) If a parenting plan is developed:

7 (a) The parenting plan shall be submitted to a judge for  
8 determination of whether the parenting plan is in the best interest  
9 of the child and if so determined, the parenting plan becomes a  
10 court order. Signed and file-stamped copies of the parenting plan  
11 shall then be mailed to the parties; or

12 (b) If requested by a party, the parenting plan shall  
13 be submitted to the parties' counsels who shall submit it for  
14 consideration of the court. The court may, after a hearing and  
15 based on the best interests of the child, approve the parenting  
16 plan, modify and approve the parenting plan, or reject the  
17 parenting plan and order the parties to develop a new parenting  
18 plan. If a partial parenting plan is developed by the parties in  
19 mediation, the court may consider the partial parenting plan at a  
20 noticed hearing on the issue even if a party fails to appear.

21 (3) If custody of a child is the sole contested issue,  
22 the case shall be given preference over other civil cases, except  
23 matters to which special precedence is given by law, for assigning  
24 a trial date and shall be given an early hearing. If there is  
25 more than one contested issue and one of the issues is custody

1 of a child, the court, as to the issue of custody, shall order a  
2 separate trial. The separate trial shall be given preference over  
3 other civil cases, except matters to which special precedence is  
4 given by law, for assigning a trial date.

5 (4) Except as required in subsection (5) of this section,  
6 a mediator shall not make a report, assessment, evaluation,  
7 recommendation, finding, or other communication regarding a  
8 mediation to a court, administrative agency, or other authority  
9 that may make a ruling on the dispute that is the subject of the  
10 mediation.

11 (5) A mediator may disclose:

12 (a) Whether the mediation occurred or has terminated,  
13 whether a settlement was reached, and attendance;

14 (b) Why mediation was not successful if the reason is  
15 that one or both of the parties (i) failed to schedule a mediation  
16 session, (ii) did not come to the scheduled sessions, or (iii) have  
17 made an allegation of abuse that was reported by the mediator;

18 (c) A mediation communication as permitted under section  
19 25-2935; or

20 (d) A mediation communication evidencing abuse, neglect,  
21 abandonment, or exploitation of an individual to a public agency  
22 responsible for protecting individuals against such mistreatment.

23 (6) A communication made in violation of subsection (5)  
24 of this section may not be considered by a court, administrative  
25 agency, or arbitrator.

1           Sec. 23. The costs of the mediation process shall be paid  
2 by the parties unless waived by the court. All costs shall be paid  
3 according to each party's ability to pay or on a sliding fee scale  
4 as established by court rule.

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

7           (2) The Parenting Act Fund is created. The State Court  
8 Administrator shall use the fund to carry out the Parenting Act.  
9 Any money in the fund available for investment shall be invested  
10 by the state investment officer pursuant to the Nebraska Capital  
11 Expansion Act and the Nebraska State Funds Investment Act.

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

14           25-2911 (1) The following types of cases may be accepted  
15 for dispute resolution at an approved center:

16           (a) Civil claims and disputes, including, but not limited  
17 to, consumer and commercial complaints, disputes between neighbors,  
18 disputes between business associates, disputes between landlords  
19 and tenants, and disputes within communities;

20           (b) Disputes concerning child custody, parenting time,  
21 visitation, or other access and visitation rights and other areas  
22 of domestic relations; and

23           (c) Juvenile offenses and disputes involving juveniles.

24           (2) An approved center may accept cases referred by a  
25 court, an attorney, a law enforcement officer, a social service

1 agency, a school, or any other interested person or agency or  
2 upon the request of the parties involved. A case may be referred  
3 prior to the commencement of formal judicial proceedings or may be  
4 referred as a pending court case. In order for a referral to be  
5 effective, all parties involved must consent to such referral. If a  
6 court refers a case to an approved center, the center shall provide  
7 information to the court as to whether an agreement was reached.  
8 If the court requests a copy of the agreement, the center shall  
9 provide it.

10 Sec. 26. Section 25-2914, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 25-2914 (1) Any verbal, written, or electronic  
13 communication made in or in connection with matters referred  
14 to mediation which relates to the controversy or dispute being  
15 mediated and agreements resulting from the mediation, whether  
16 made to the mediator, the staff of an approved center, a party,  
17 or any other person attending the mediation session, shall be  
18 confidential. Mediation proceedings shall be regarded as settlement  
19 negotiations, and no admission, representation, or statement made  
20 in mediation, not otherwise discoverable or obtainable, shall be  
21 admissible as evidence or subject to discovery. A mediator shall  
22 not be subject to process requiring the disclosure of any matter  
23 discussed during mediation proceedings unless all the parties  
24 consent to a waiver. Confidential communications and materials are  
25 subject to disclosure when all parties agree in writing to waive

1 confidentiality regarding specific verbal, written, or electronic  
2 communications relating to the mediation session or the agreement.

3 (2) The confidentiality of mediation under the Parenting  
4 Act is prescribed in such act.

5 (3) This section shall not apply if a party brings an  
6 action against the mediator or center, if the communication was  
7 made in furtherance of a crime or fraud, or if this section  
8 conflicts with other legal requirements.

9 Sec. 27. Section 25-2916, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 25-2916 (1) If the parties involved in the dispute reach  
12 an agreement, the agreement may be reduced to writing and signed  
13 by the parties. The agreement shall set forth the settlement of  
14 the issues and the future responsibilities of each party. If a  
15 court referred the case, the agreement as signed and approved by  
16 the parties may be presented to the court as a stipulation and,  
17 if approved by the court, shall be enforceable as an order of the  
18 court.

19 (2) Agreements and parenting plans reached by mediation  
20 under the Parenting Act are governed by such act.

21 Sec. 28. Section 33-106.03, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 33-106.03 In addition to the fees provided for in  
24 sections 33-106 and 33-123, the clerk of the court shall collect  
25 an additional ~~twenty-five~~ seventy-five dollars in docket fees for

1 dissolution of marriages. The ~~twenty-five dollar~~ fee shall be  
2 remitted to the State Treasurer ~~for~~ who shall credit twenty-five  
3 dollars to the Nebraska Child Abuse Prevention Fund and fifty  
4 dollars to the Parenting Act Fund.

5 Sec. 29. Section 33-107.02, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

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

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

23 Sec. 30. Section 42-347, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 42-347 For purposes of sections 42-347 to 42-381, unless

1 the context otherwise requires:

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

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

16 (3) Joint legal custody has the meaning in section 3 of  
17 this act;

18 (4) Joint physical custody has the meaning in section 3  
19 of this act;

20 (5) Legal custody has the meaning in section 3 of this  
21 act;

22 ~~(3)~~ (6) Legal separation shall mean means a decree of a  
23 court of competent jurisdiction providing that two persons who have  
24 been legally married shall thereafter live separate and apart and  
25 providing for any necessary adjustment of property, support, and

1 custody rights between the parties but not dissolving the marriage;

2 (7) Physical custody has the meaning in section 3 of this  
3 act;

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

10 ~~(5)~~ (9) State Disbursement Unit has the same meaning as  
11 in section 43-3341; ~~and~~

12 ~~(6)~~ (10) Support order has the same meaning as in section  
13 43-1717; ~~and~~ -

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

16 Sec. 31. Section 42-351, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

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

1 custody proceedings under the Uniform Child Custody Jurisdiction  
2 and Enforcement Act.

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

13 Sec. 32. Section 42-353, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

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

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

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

24 (3) The date and place of marriage;

25 (4) The name and date of birth of each child whose

1 custody or welfare may be affected by the proceedings and whether  
2 (a) a parenting plan as provided in the Parenting Act has been  
3 developed and (b) child custody, parenting time, visitation, or  
4 other access or child support is a contested issue;

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

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

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

12 ~~(6)~~ (8) A statement of the relief sought by the  
13 plaintiff, including adjustment of custody, property, and support  
14 rights; and

15 ~~(7)~~ (9) An allegation that the marriage is irretrievably  
16 broken.

17 Sec. 33. Section 42-358, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19 42-358 ~~(1)~~ The court may appoint an attorney to protect  
20 the interests of any minor children of the parties. Such attorney  
21 shall be empowered to make independent investigations and to cause  
22 witnesses to appear and testify on matters pertinent to the welfare  
23 of the children. The court shall by order fix the fee, including  
24 disbursements, for such attorney, which amount shall be taxed as  
25 costs and paid by the parties as ordered. If the court finds that

1 the party responsible is indigent, the court may order the county  
2 to pay the costs.

3 ~~(2) Following entry of any decree, the court having~~  
4 ~~jurisdiction over the minor children of the parties may at any time~~  
5 ~~appoint an attorney, as friend of the court, to initiate contempt~~  
6 ~~proceedings for failure of any party to comply with an order~~  
7 ~~of the court directing such party to pay temporary or permanent~~  
8 ~~child support. The county attorney or authorized attorney may be~~  
9 ~~appointed by the court for the purposes provided in this section,~~  
10 ~~in which case the county attorney or authorized attorney shall~~  
11 ~~represent the state.~~

12 ~~(3) The clerk of each district court shall maintain~~  
13 ~~records of support orders. The Title IV-D Division shall maintain~~  
14 ~~support order payment records pursuant to section 43-3342.01 and~~  
15 ~~the clerk of each district court shall maintain records of payments~~  
16 ~~received pursuant to sections 42-369 and 43-3342.01. For support~~  
17 ~~orders in all cases issued before September 6, 1991, and for~~  
18 ~~support orders issued or modified on or after September 6, 1991,~~  
19 ~~in cases in which no party has applied for services under Title~~  
20 ~~IV-D of the federal Social Security Act, as amended, each month the~~  
21 ~~Title IV-D Division shall certify all cases in which the support~~  
22 ~~order payment is delinquent in an amount equal to the support~~  
23 ~~due and payable for a one-month period of time. The Title IV-D~~  
24 ~~Division shall provide the case information in electronic format,~~  
25 ~~and upon request in print format, to the judge presiding over~~

1 domestic relations cases and to the county attorney or authorized  
2 attorney. A rebuttable presumption of contempt shall be established  
3 if a prima facie showing is made that the court-ordered child or  
4 spousal support is delinquent. In cases in which one of the parties  
5 receives services under Title IV-D of the federal Social Security  
6 Act, as amended, the Title IV-D Division shall certify all such  
7 delinquent support order payments to the county attorney or the  
8 authorized attorney.

9           In each case certified, if income withholding has not  
10 been implemented it shall be implemented pursuant to the Income  
11 Withholding for Child Support Act. If income withholding is not  
12 feasible and no other action is pending for the collection of  
13 support payments, the court shall appoint an attorney to commence  
14 contempt of court proceedings. If the county attorney or authorized  
15 attorney consents, he or she may be appointed for such purpose. The  
16 contempt proceeding shall be instituted within ten days following  
17 appointment, and the case shall be diligently prosecuted to  
18 completion. The court shall by order fix the fee, including  
19 disbursements, for such attorney, which amount shall be taxed as  
20 costs and paid by the parties as ordered. Any fees allowed for  
21 the services of any county attorney or authorized attorney shall  
22 be paid to the Department of Health and Human Services when there  
23 is an assignment of support to the department pursuant to section  
24 43-512.07 or when an application for child support services is on  
25 file with a county attorney or authorized attorney. If the court

1 finds the party responsible is indigent, the court may order the  
2 county to pay the costs.

3           (4) If, at the hearing, the person owing child or spousal  
4 support is called for examination as an adverse party and such  
5 person refuses to answer upon the ground that his or her testimony  
6 may be incriminating, the court may, upon the motion of the county  
7 attorney or authorized attorney, require the person to answer and  
8 produce the evidence. In such a case the evidence produced shall  
9 not be admissible in any criminal case against such person nor  
10 shall any evidence obtained because of the knowledge gained by such  
11 evidence be so admissible.

12           (5) The court may order access to all revenue information  
13 maintained by the Department of Revenue or other agencies  
14 concerning the income of persons liable or who pursuant to this  
15 section and sections 42-358.08 and 42-821 may be found liable to  
16 pay child or spousal support payments.

17           (6) Any person aggrieved by a determination of the court  
18 may appeal such decision to the Court of Appeals.

19           Sec. 34. Section 42-359, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           42-359 Applications ~~for support~~ and complaints regarding  
22 spousal support, child support, or alimony shall be accompanied by  
23 a statement of the applicant's or complainant's financial condition  
24 and, to the best of the applicant's his or her knowledge, a  
25 statement of the other party's financial condition. Such other

1 party may file his or her statement, if he or she so desires,  
2 and shall do so if ordered by the court. Statements shall be  
3 under oath and shall show income from salary or other sources,  
4 assets, debts and payments thereon, living expenses, and other  
5 relevant information. Required forms for financial statements may  
6 be furnished by the court.

7           Sec. 35. Section 42-364, Revised Statutes Cumulative  
8 Supplement, 2006, is amended to read:

9           42-364 (1) In an action involving support, child custody,  
10 parenting time, visitation, or other access, the parties and their  
11 counsel, if represented, shall develop a parenting plan as provided  
12 in the Parenting Act. If the parties and counsel do not develop  
13 a parenting plan, the complaint shall so indicate as provided in  
14 section 42-353 and before July 1, 2009, the case may be referred  
15 to mediation and on or after such date the case shall be referred  
16 to mediation as provided in the Parenting Act. The decree in  
17 an action involving the custody of a minor child shall include  
18 the determination of legal custody and physical custody and child  
19 support based upon the best interests of the child, as defined  
20 in section 3 of this act. Such determinations shall be made by  
21 incorporation of a parenting plan, if approved by the court, into  
22 the decree as provided in the act or on the basis of evidence  
23 produced after a hearing in open court if no parenting plan is  
24 approved. The decree shall conform to the Parenting Act. The  
25 social security number of each parent and the minor child shall be

1 furnished to the clerk of the district court. When dissolution of  
2 a marriage or legal separation is decreed, the court may include  
3 a parenting plan developed under the Parenting Act, if a parenting  
4 plan has been so developed, and such orders in relation to any  
5 minor child and the child's maintenance as are justified, including  
6 placing the minor child in the custody of the court or third  
7 parties or terminating parental rights pursuant to this section if  
8 the best interests of the minor child require such orders. Custody  
9 and time spent with each parent shall be determined on the basis  
10 of the best interests of the minor child with the objective of  
11 maintaining the ongoing involvement of both parents in the minor  
12 child's life. The social security number of each parent and the  
13 minor child shall be furnished to the clerk of the district court.

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

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

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

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

25           ~~(d) Credible evidence of abuse inflicted on any family~~

1 ~~or household member. For purposes of this subdivision, abuse and~~  
2 ~~family or household member shall have the meanings prescribed in~~  
3 ~~section 42-903.~~

4 ~~(3)~~ (2) In determining custody arrangements legal custody  
5 or physical custody, and the time to be spent with each parent, the  
6 court shall not give preference to either parent based on the sex  
7 of the parent and, except as provided in section 14 of this act, no  
8 presumption shall exist that either parent is more fit or suitable  
9 than the other. Custody shall be determined on the basis of the  
10 best interests of the child, as defined in section 3 of this act,  
11 with the objective of maintaining the ongoing involvement of both  
12 parents in the minor child's life as provided in the Parenting Act.  
13 Unless parental rights are terminated, both parents shall continue  
14 to have the rights stated in section 42-381.

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

22 ~~(5) After a hearing in open court, the court may place~~  
23 ~~the custody~~ (3) Custody of a minor child may be placed with both  
24 parents on a shared or joint custody basis joint legal custody or  
25 joint physical custody basis, or both, when (a) both parents agree

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

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

1 support or spousal support has been ordered, whether ordered by a  
2 district court, county court, separate juvenile court, or county  
3 court sitting as a juvenile court. Orders for child support in  
4 cases in which a party has applied for services under Title IV-D of  
5 the federal Social Security Act, as amended, shall be reviewed as  
6 provided in sections 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 be  
22 in the best interests of the minor child, as defined in section 3  
23 of this 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 a  
10 parenting plan is governed by the Parenting Act. Proceedings to  
11 modify a parenting plan shall be commenced by filing a complaint  
12 to modify. Such actions may be referred to mediation before July  
13 1, 2009, and on and after such date shall be referred to mediation  
14 as provided in the Parenting Act. Service of process and other  
15 procedure shall comply with the requirements for a dissolution  
16 action.

17 Sec. 36. Section 42-364.14, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 42-364.14 Nothing in ~~sections 42-364.01 to the Income~~  
20 Withholding for Child Support Act or section 42-364.13 shall  
21 be construed as prohibiting a parent-employee from consenting  
22 to an order to withhold and transmit earnings as part of a  
23 property settlement agreement incorporated into a decree dissolving  
24 a marriage or by agreement in a proceeding in the district court,  
25 county court, or separate juvenile court in which the payment of

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

7 Sec. 37. Section 42-364.15, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 42-364.15 In any proceeding when a court has ordered  
10 a parent to pay, temporarily or permanently, any amount for the  
11 support of a minor child and in the same proceeding has ordered  
12 ~~visitation~~ parenting time, visitation, or other access with any  
13 minor child on behalf of such parent, the court shall enforce its  
14 visitation orders as follows:

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

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

4           Sec. 38. Section 42-369, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           42-369 (1) All support orders, decrees, or judgments for  
7 temporary or permanent support payments, including child, spousal,  
8 or medical support, and all orders, decrees, or judgments for  
9 alimony, or modification of support payments or alimony shall  
10 direct the payment of such sums to be made commencing on the first  
11 day of each month for the use of the persons for whom the support  
12 payments or alimony have been awarded. Such payments shall be made  
13 to the clerk of the district court (a) when the order, decree, or  
14 judgment is for spousal support, alimony, or maintenance support  
15 and the order, decree, or judgment does not also provide for  
16 child support, and (b) when the payment constitutes child care or  
17 day care expenses, unless payments under ~~subdivisions~~ subdivision  
18 (1)(a) or (1)(b) of this section are ordered to be made directly  
19 to the obligee. All other support order payments shall be made  
20 to the State Disbursement Unit, ~~except payments made pursuant~~  
21 ~~to subdivisions (1)(a) and (1)(b) of this section.~~ In all cases  
22 in which income withholding has been implemented pursuant to the  
23 Income Withholding for Child Support Act, ~~or sections 42-364.01~~  
24 ~~to 42-364.14,~~ support order payments shall be made to the State  
25 Disbursement Unit. The court may order such payment to be in cash

1 or guaranteed funds.

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

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

17 (4) ~~Orders, decrees, and judgments for temporary~~  
18 Temporary or permanent support orders or orders, decrees, and  
19 judgments for alimony shall be filed with the clerk of the district  
20 court and have the force and effect of judgments when entered. The  
21 clerk and the State Disbursement Unit shall disburse all payments  
22 received as directed by the court and as provided in ~~sections~~  
23 ~~42-358.02~~ section 53 of this act and section 43-512.07. Records  
24 shall be kept of all funds received and disbursed by the clerk and  
25 the unit and shall be open to inspection by the parties and their

1 attorneys.

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

6 Sec. 39. Section 42-371, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8 42-371 Under the Uniform Interstate Family Support Act  
9 and sections 42-347 to 42-381, 43-290, 43-512 to 43-512.10, and  
10 43-1401 to 43-1418:

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

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

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

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

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

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

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

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

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

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

23 ~~(5) Whenever a judgment creditor refuses to execute a~~  
24 ~~release of the judgment or subordination of a lien as provided~~  
25 ~~in this section, the person desiring such release or subordination~~

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

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

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

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

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

17 Sec. 40. Section 42-934, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

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

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

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

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

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

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

20 (2) is currently in effect;

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

24 (4) was issued after the respondent was given reasonable  
25 notice and had an opportunity to be heard before the tribunal

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

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

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

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

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

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

17 Sec. 41. Section 43-104.13, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

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

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

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

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

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

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

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

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

1 child.

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

8           Sec. 42. Section 43-158, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

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

1 access with the child between the biological parent or parents. ~~and~~  
2 ~~the child.~~

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

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

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

1 court.

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

11 Sec. 44. Section 43-512.03, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 43-512.03 (1) The county attorney or authorized attorney  
14 shall:

15 (a) On request by the Department of Health and Human  
16 Services as described in subsection (2) of this section or when  
17 the investigation or application filed under section 43-512 or  
18 43-512.02 justifies, file a complaint against a nonsupporting  
19 parent or stepparent in the district, county, or separate juvenile  
20 court praying for an order for child or medical support in cases  
21 when there is no existing child or medical support order. After  
22 notice and hearing, the court shall adjudicate child and medical  
23 support liability of the nonsupporting parent or stepparent and  
24 enter an order accordingly;

25 (b) Enforce child, spousal, and medical support orders by

1 an action for income withholding pursuant to the Income Withholding  
2 for Child Support Act;

3 (c) In addition to income withholding, enforce child,  
4 spousal, and medical support orders by other civil actions or  
5 administrative actions, citing the defendant for contempt, or  
6 filing a criminal complaint;

7 (d) Establish paternity and collect child and medical  
8 support on behalf of children born out of wedlock; and

9 (e) Carry out sections 43-512.12 to 43-512.18.

10 (2) The department may periodically review cases of  
11 individuals receiving enforcement services and make referrals to  
12 the county attorney or authorized attorney.

13 (3) In any action brought by or intervened in by a  
14 county attorney or authorized attorney under the Income Withholding  
15 for Child Support Act, the License Suspension Act, the Uniform  
16 Interstate Family Support Act, or sections 42-347 to 42-381,  
17 43-290, 43-512 to 43-512.10, 43-512.12 to 43-512.18, 43-1401 to  
18 43-1418, and 43-3328 to 43-3339, and sections 50 to 59 of this act,  
19 such attorneys shall represent the State of Nebraska.

20 (4) The State of Nebraska shall be a real party in  
21 interest in any action brought by or intervened in by a county  
22 attorney or authorized attorney for the purpose of establishing  
23 paternity or securing, modifying, suspending, or terminating child  
24 or medical support or in any action brought by or intervened in by  
25 a county attorney or authorized attorney to enforce an order for

1 child, spousal, or medical support.

2 (5) Nothing in this section shall be construed to  
3 interpret representation by a county attorney or an authorized  
4 attorney as creating an attorney-client relationship between the  
5 county attorney or authorized attorney and any party or witness to  
6 the action, other than the State of Nebraska, regardless of the  
7 name in which the action is brought.

8 Sec. 45. Section 43-512.04, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 43-512.04 (1) An action for child support or medical  
11 support may be brought separate and apart from any action for  
12 dissolution of marriage. The complaint initiating the action shall  
13 be filed with the clerk of the district court and may be heard  
14 by the county court or the district court as provided in section  
15 25-2740. Such action for support may be filed on behalf of a child:

16 (a) Whose paternity has been established (i) by prior  
17 judicial order in this state, (ii) by a prior determination of  
18 paternity made by any other state as described in subsection (1) of  
19 section 43-1406, or (iii) by the marriage of his or her parents as  
20 described in section 42-377 or subsection (2) of section 43-1406;  
21 or

22 (b) Whose paternity is presumed as described in section  
23 43-1409 or subsection (2) of section 43-1415.

24 (2) The father, not having entered into a judicially  
25 approved settlement or being in default in the performance of the

1 same, may be made a respondent in such action. The mother of the  
2 child may also be made a respondent in such an action. Such action  
3 shall be commenced by a complaint of the mother of the child,  
4 the father of the child whose paternity has been established, the  
5 guardian or next friend of the child, the county attorney, or an  
6 authorized attorney.

7 (3) The complaint shall set forth the basis on which  
8 paternity was previously established or presumed, if the respondent  
9 is the father, and the fact of nonsupport and shall ask that  
10 the father, the mother, or both parents be ordered to provide  
11 for the support of the child. Summons shall issue against the  
12 father, the mother, or both parents and be served as in other  
13 civil proceedings, except that such summons may be directed to the  
14 sheriff of any county in the state and may be served in any county.  
15 The method of trial shall be the same as in actions formerly  
16 cognizable in equity, and jurisdiction to hear and determine such  
17 actions for support is hereby vested in the district court of  
18 the district or the county court of the county where the child  
19 is domiciled or found or, for cases under the Uniform Interstate  
20 Family Support Act if the child is not domiciled or found in  
21 Nebraska, where the parent of the child is domiciled.

22 (4) In such proceeding, if the defendant is the presumed  
23 father as described in subdivision (1)(b) of this section, the  
24 court shall make a finding whether or not the presumption of  
25 paternity has been rebutted. The presumption of paternity created

1 by acknowledgment as described in section 43-1409 may be rebutted  
2 as part of an equitable proceeding to establish support by genetic  
3 testing results which exclude the alleged father as being the  
4 biological father of the child. A court in such a proceeding may  
5 order genetic testing as provided in sections 43-1414 to 43-1418.

6 (5) If the court finds that the father, the mother,  
7 or both parents have failed adequately to support the child, the  
8 court shall issue a decree directing him, her, or them to do so,  
9 specifying the amount of such support, the manner in which it  
10 shall be furnished, and the amount, if any, of any court costs  
11 and attorney's fees to be paid by the father, the mother, or  
12 both parents. Income withholding shall be ordered pursuant to the  
13 Income Withholding for Child Support Act. The court may require the  
14 furnishing of bond to insure the performance of the decree in the  
15 same manner as is provided for in section ~~42-358.05~~ 56 of this act  
16 or section 43-1405. Failure on the part of the defendant to perform  
17 the terms of such decree shall constitute contempt of court and may  
18 be dealt with in the same manner as other contempts. The court may  
19 also order medical support and the payment of expenses as described  
20 in section 43-1407.

21 Sec. 46. Section 43-512.08, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 43-512.08 The county attorney or authorized attorney,  
24 acting for or on behalf of the State of Nebraska, may intervene  
25 without leave of the court in any proceeding for dissolution

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

11           Sec. 47. Section 43-1407, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           43-1407 The father of a child shall also be is liable for  
14 one-half of the reasonable and necessary medical expenses of (1)  
15 the child associated with the birth of the child and (2) the mother  
16 of such child during the period of her pregnancy, confinement, and  
17 recovery. Such liability shall be determined and enforced in the  
18 same manner as the liability of the father for the support of the  
19 child. In any case qualifying for services under Title IV-D of  
20 the federal Social Security Act, the county attorney or authorized  
21 attorney shall petition the court for a judgment for reasonable  
22 and necessary medical expenses. Any medical expense associated  
23 with the birth of such child that is approved and paid by the  
24 medical assistance program shall be presumed to be reasonable and  
25 necessary. If the father challenges any medical expense that is

1 part of the judgment, he has the burden of proving that the medical  
2 expense should not be paid.

3           Sec. 48. Section 43-1720, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           43-1720 If the Director of Health and Human Services  
6 has previously sent a notice of assignment and opportunity for  
7 hearing on the same support order under section 48-647, the county  
8 attorney, authorized attorney, or the department shall certify  
9 the amount to be withheld from an obligor's disposable income  
10 pursuant to section 43-1722 and shall notify the obligor's employer  
11 or other payor pursuant to section 43-1723. If the director has  
12 not previously sent such notice, and except in cases in which  
13 the court has ordered income withholding pursuant to subsection  
14 (1) of section 43-1718.01 or section 43-1718.02, upon receiving  
15 certification pursuant to section ~~42-358~~ 50 of this act or notice  
16 of delinquent payments of medical support, the county attorney,  
17 the authorized attorney, or the department shall send a notice by  
18 certified mail to the last-known address of the obligor stating:

19           (1) That an assignment of his or her income by means of  
20 income withholding will go into effect within fifteen days after  
21 the date the notice is sent;

22           (2) That the income withholding will continue to apply to  
23 any subsequent employer or other payor of the obligor;

24           (3) The amount of support the obligor owes;

25           (4) The amount of income that will be withheld; and

1           (5) That within the fifteen-day period, the obligor may  
2 request a hearing in the manner specified in the notice to contest  
3 a mistake of fact. For purposes of this subdivision, mistake of  
4 fact shall mean (a) an error in the amount of current or overdue  
5 support, (b) an error in the identity of the obligor, or (c) an  
6 error in the amount to be withheld as provided in section 43-1722.

7           Sec. 49. Section 43-3342.01, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           43-3342.01 (1) The responsibilities of the State  
10 Disbursement Unit shall include the following:

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

15           (b) Accurate identification of payments;

16           (c) Prompt disbursement of the obligee's share of any  
17 payments;

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

21           (e) One location for employers to send income withholding  
22 payments.

23           (2) The Title IV-D Division shall maintain records of  
24 payments for all cases in which support order payments are made  
25 to the central office of the State Disbursement Unit using the

1 statewide automated data processing and retrieval system. The Title  
2 ~~IV-D Division shall not be required to convert and maintain records~~  
3 ~~of support order payments kept by the clerk of the district court~~  
4 ~~before the date that the State Disbursement Unit becomes operative~~  
5 ~~or records of payments received by the clerk pursuant to section~~  
6 ~~42-369.~~

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

18 (4) A copy of support payment records maintained by the  
19 Title IV-D Division shall be considered to be a true copy of  
20 the record when certified by a person designated by the division  
21 pursuant to the rules and regulations adopted and promulgated  
22 pursuant to this section.

23 (5) A copy of support payment records maintained by the  
24 Title IV-D Division shall be considered to be a true copy of  
25 the record when certified by a person designated by the division

1 pursuant to the rules and regulations adopted and promulgated  
2 pursuant to this section.

3           Sec. 50. For purposes of sections 50 to 59 of this act,  
4 authorized attorney means an attorney (1) employed by the county  
5 subject to the approval of the county board, (2) employed by the  
6 Department of Health and Human Services, or (3) appointed by the  
7 court, who is authorized to investigate and prosecute child and  
8 spousal support cases. An authorized attorney shall represent the  
9 state as provided in section 43-512.03.

10           Sec. 51. (1) Following entry of any decree, the court  
11 having jurisdiction over the minor children of the parties may  
12 at any time appoint an attorney, as friend of the court, to  
13 initiate contempt proceedings for failure of any party to comply  
14 with an order of the court directing such party to pay temporary or  
15 permanent child support. The county attorney or authorized attorney  
16 may be appointed by the court for the purposes provided in this  
17 section, in which case the county attorney or authorized attorney  
18 shall represent the state.

19           (2) The clerk of each district court shall maintain  
20 records of support orders. The Title IV-D Division shall maintain  
21 support order payment records pursuant to section 43-3342.01 and  
22 the clerk of each district court shall maintain records of payments  
23 received pursuant to sections 42-369 and 43-3342.01. For support  
24 orders in all cases issued before September 6, 1991, and for  
25 support orders issued or modified on or after September 6, 1991,

1 in cases in which no party has applied for services under Title  
2 IV-D of the federal Social Security Act, as amended, each month the  
3 Title IV-D Division shall certify all cases in which the support  
4 order payment is delinquent in an amount equal to the support  
5 due and payable for a one-month period of time. The Title IV-D  
6 Division shall provide the case information in electronic format,  
7 and upon request in print format, to the judge presiding over  
8 domestic relations cases and to the county attorney or authorized  
9 attorney. A rebuttable presumption of contempt shall be established  
10 if a prima facie showing is made that the court-ordered child or  
11 spousal support is delinquent. In cases in which one of the parties  
12 receives services under Title IV-D of the federal Social Security  
13 Act, as amended, the Title IV-D Division shall certify all such  
14 delinquent support order payments to the county attorney or the  
15 authorized attorney.

16 (3) If, at the hearing, the person owing child or spousal  
17 support is called for examination as an adverse party and such  
18 person refuses to answer upon the ground that his or her testimony  
19 may be incriminating, the court may, upon the motion of the county  
20 attorney or authorized attorney, require the person to answer and  
21 produce the evidence. In such a case the evidence produced shall  
22 not be admissible in any criminal case against such person nor  
23 shall any evidence obtained because of the knowledge gained by such  
24 evidence be so admissible.

25 (4) The court may order access to all revenue information

1 maintained by the Department of Revenue or other agencies  
2 concerning the income of persons liable or who pursuant to this  
3 section, section 59 of this act, and section 42-821 may be found  
4 liable to pay child or spousal support payments.

5 (5) Any person aggrieved by a determination of the court  
6 may appeal such decision to the Court of Appeals.

7 Sec. 52. Section 42-358.01, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 ~~42-358.01~~ Records of delinquencies in support order  
10 payments shall be kept by the Title IV-D Division or by the  
11 clerks of the district courts pursuant to their responsibilities  
12 under law.

13 Sec. 53. Section 42-358.02, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 ~~42-358.02~~ (1) All delinquent child support payments shall  
16 draw interest at the rate specified in section 45-103 in effect on  
17 the date of the most recent order or decree. Such interest shall be  
18 computed as simple interest.

19 (2) All child support payments shall become delinquent  
20 the day after they are due and owing, except that no obligor whose  
21 child support payments are automatically withheld from his or her  
22 paycheck shall be regarded or reported as being delinquent or in  
23 arrears if (a) any delinquency or arrearage is solely caused by a  
24 disparity between the schedule of the obligor's regular pay dates  
25 and the scheduled date the child support is due, (b) the total

1 amount of child support to be withheld from the paychecks of the  
2 obligor and the amount ordered by the support order are the same  
3 on an annual basis, and (c) the automatic deductions for child  
4 support are continuous and occurring. Interest shall not accrue  
5 until thirty days after such payments are delinquent.

6 (3) The court shall order the determination of the amount  
7 of interest due, and such interest shall be payable in the same  
8 manner as the support payments upon which the interest accrues  
9 subject to subsection (2) of this section or unless it is waived  
10 by agreement of the parties. The Title IV-D Division shall compute  
11 interest and identify delinquencies pursuant to this section on  
12 the payments received by the State Disbursement Unit pursuant to  
13 section 42-369. The Title IV-D Division shall provide the case  
14 information in electronic format, and upon request in print format,  
15 to the judge presiding over domestic relations cases and to the  
16 county attorney or authorized attorney.

17 (4) Support order payments shall be credited in the  
18 following manner:

19 (a) First, to the payments due for the current month in  
20 the following order: Child support payments, then spousal support  
21 payments, and lastly medical support payments;

22 (b) Second, toward any payment arrearage owing, in the  
23 following order: Child support payment arrearage, then spousal  
24 support payment arrearage, and lastly medical support payment  
25 arrearage; and

1           (c) Third, toward the interest on any payment arrearage,  
2 in the following order: Child support payment arrearage interest,  
3 then spousal support payment arrearage interest, and lastly medical  
4 support payment arrearage interest.

5           (5) Interest which may have accrued prior to September  
6 6, 1991, shall not be affected or altered by changes to this  
7 section which take effect on such date. All delinquent child  
8 support payments and all decrees entered prior to such date shall  
9 draw interest at the effective rate as prescribed by this section  
10 commencing as of such date.

11           Sec. 54. Section 42-358.03, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           ~~42-358.03~~ Any person found guilty of contempt of court  
14 for failure to pay permanent child support payments and imprisoned  
15 therefor shall be committed to a court-supervised work release  
16 program. Ninety percent of earnings realized from such program  
17 shall be applied to payment of delinquencies in support payments  
18 minus appropriate deductions for the cost of work release.

19           Sec. 55. Section 42-358.04, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           ~~42-358.04~~ Remarriage of the person entitled to collect  
22 under a permanent child support decree shall not work to cut off  
23 delinquent payments due under such decree.

24           Sec. 56. Section 42-358.05, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           ~~42-358.05~~ After a hearing on the issue, the court may  
2 order immediate implementation of income withholding pursuant to  
3 the Income Withholding for Child Support Act or require the posting  
4 of a bond at the time that a temporary or permanent child support  
5 or spousal support decree is issued to insure performance of the  
6 decree.

7           Sec. 57. Section 42-358.06, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           ~~42-358.06~~ A lien upon the property of one who is  
10 delinquent in permanent child or spousal support payments may  
11 be instituted and enforced according to the terms of section  
12 42-371.

13          Sec. 58. Section 42-358.07, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15          ~~42-358.07~~ Any clerk of the district court who fails to  
16 perform his or her duties under sections ~~42-358~~ to 42-358.07 50  
17 to 59 of this act or the Income Withholding for Child Support Act  
18 shall be removed from office after conviction for such offense.

19          Sec. 59. Section 42-358.08, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21          ~~42-358.08~~ Notwithstanding any other provision of law  
22 regarding the confidentiality of records and when not prohibited  
23 by the federal Privacy Act of 1974, Public Law 93-579, as amended,  
24 each department and agency of state, county, and city government  
25 and each employer or other payor as defined in section 43-1709

1 shall, upon request, furnish to any court-appointed individuals,  
2 the county attorney, any authorized attorney, or the Department  
3 of Health and Human Services an absent parent's address, social  
4 security number, amount of income, health insurance information,  
5 and employer's name and address for the exclusive purpose of  
6 establishing and collecting child or spousal support. Information  
7 so obtained shall be used for no other purpose. This section may be  
8 enforced by filing a court action.

9           Sec. 60. Section 60-484, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11           60-484 (1) Except as otherwise provided in the Motor  
12 Vehicle Operator's License Act, no resident of the State of  
13 Nebraska shall operate a motor vehicle upon the alleys or highways  
14 of the State of Nebraska until the person has obtained an  
15 operator's license for that purpose.

16           (2) Application for an operator's license may be made  
17 in a manner prescribed by the Department of Motor Vehicles. Such  
18 application may be made to an examiner in any county. The examiner  
19 shall personally conduct the examination of the applicant and  
20 deliver to each successful applicant an examiner's certificate  
21 containing the statements made pursuant to subsection (3) of this  
22 section.

23           (3) In addition to any other information and questions  
24 necessary to comply with the requirements and purposes of the act,  
25 the applicant (a) shall provide his or her name, age, post office

1 address, place of residence unless the applicant is a program  
 2 participant under the Address Confidentiality Act, date of birth,  
 3 sex, social security number, and brief description of himself or  
 4 herself, (b) may complete the voter registration portion pursuant  
 5 to section 32-308, (c) shall be provided the advisement language  
 6 required by subsection (5) of section 60-6,197, (d) shall answer  
 7 the following:

8 (i) Have you within the last three months (e.g. due  
 9 to diabetes, epilepsy, mental illness, head injury, stroke, heart  
 10 condition, neurological disease, etc.):

11 (A) lost voluntary control or consciousness ... yes ...  
 12 no

13 (B) experienced vertigo or multiple episodes of dizziness  
 14 or fainting ... yes ... no

15 (C) experienced disorientation ... yes ... no

16 (D) experienced seizures ... yes ... no

17 (E) experienced impairment of memory, memory loss ... yes  
 18 ... no

19 Please explain: .....

20 (ii) Do you experience any condition which affects your  
 21 ability to operate a motor vehicle? (e.g. due to loss of, or  
 22 impairment of, foot, leg, hand, arm; neurological or neuromuscular  
 23 disease, etc.) ... yes ... no

24 Please explain: .....

25 (iii) Since the issuance of your last driver's

1 license/permit has your health or medical condition changed or  
2 worsened? ... yes ... no

3 Please explain, including how the above affects your  
4 ability to drive: ....., and (e) may answer the  
5 following:

6 (i) Do you wish to register to vote as part of this  
7 application process?

8 OPTIONAL - YOU ARE NOT REQUIRED TO ANSWER ANY OF THE  
9 FOLLOWING QUESTIONS:

10 (ii) Do you wish to be an organ and tissue donor?

11 (iii) Do you wish to receive any additional specific  
12 information regarding organ and tissue donation and the Donor  
13 Registry of Nebraska?

14 (iv) Do you wish to donate \$1 to promote the Organ and  
15 Tissue Donor Awareness and Education Fund?

16 (4) Application for an operator's license shall be made  
17 under oath or affirmation of the applicant.

18 (5) The social security number shall not be printed on  
19 the operator's license and shall be used only (a) to furnish  
20 driver record information to the United States Selective Service  
21 System under section 60-483, (b) with the permission of the  
22 director in connection with the verification of the status of  
23 an individual's driving record in this state or any other  
24 state, (c) for purposes of child support enforcement pursuant  
25 to section ~~42-358.08~~ 59 of this act or section 43-512.06, or (d)

1 beginning on an implementation date designated by the director,  
2 to furnish information regarding an applicant for or holder of a  
3 commercial driver's license with a hazardous materials endorsement  
4 to the Transportation Security Administration of the United States  
5 Department of Homeland Security or its agent.

6 (6) (a) Except for an individual under the age of eighteen  
7 years, each individual applying for an operator's license or a  
8 state identification card shall furnish proof of date of birth  
9 and identity by a valid Nebraska operator's license, a valid  
10 Nebraska learner's permit, a valid Nebraska school permit, a  
11 valid operator's license from another state or jurisdiction of the  
12 United States, a certified birth certificate, a certified birth  
13 registration, a valid United States passport, a valid United States  
14 military identification card, United States military discharge  
15 papers, other United States-based identification as approved by  
16 the director, or information preserved in the digital system  
17 implemented under section 60-484.01.

18 (b) Any individual under the age of eighteen years  
19 applying for an operator's license or a state identification card  
20 shall provide a certified copy of his or her birth certificate,  
21 a certified birth registration, or other reliable proof of his or  
22 her identity and age accompanied by a certification signed by a  
23 parent or guardian explaining the inability to produce a copy of  
24 such birth certificate. The applicant may be required to furnish  
25 proof to the examiner that the parent or guardian signing the

1 certification is in fact the parent or guardian of such applicant.

2           Sec. 61. Section 70-101, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           70-101 Notwithstanding any other provision of law  
5 regarding confidentiality of records, every district or corporation  
6 organized under Chapter 70 shall, upon request, furnish to any  
7 county attorney, any authorized attorney as defined in section  
8 ~~42-347, 50 of this act,~~ or the Department of Health and Human  
9 Services a utility service subscriber's name, social security  
10 number, and mailing and residence addresses only for the purposes  
11 of establishing and collecting child, spousal, and medical support  
12 and of conducting reviews under sections 43-512.12 to 43-512.18.  
13 Such information shall be used for no other purpose. An action may  
14 be filed in district court to enforce this section. For purposes of  
15 this section, utility service shall mean electrical, gas, water,  
16 telephone, garbage disposal, or waste disposal service.

17           Sec. 62. Section 77-27,119, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           77-27,119 (1) The Tax Commissioner shall administer and  
20 enforce the income tax imposed by sections 77-2714 to 77-27,135,  
21 and he or she is authorized to conduct hearings, to adopt and  
22 promulgate such rules and regulations, and to require such facts  
23 and information to be reported as he or she may deem necessary to  
24 enforce the income tax provisions of such sections, except that  
25 such rules, regulations, and reports shall not be inconsistent with

1 the laws of this state or the laws of the United States. The Tax  
2 Commissioner may for enforcement and administrative purposes divide  
3 the state into a reasonable number of districts in which branch  
4 offices may be maintained.

5 (2) (a) The Tax Commissioner may prescribe the form and  
6 contents of any return or other document required to be filed under  
7 the income tax provisions. Such return or other document shall  
8 be compatible as to form and content with the return or document  
9 required by the laws of the United States. The form shall have a  
10 place where the taxpayer shall designate the high school district  
11 in which he or she lives and the county in which the high school  
12 district is headquartered. The Tax Commissioner shall adopt and  
13 promulgate such rules and regulations as may be necessary to insure  
14 compliance with this requirement.

15 (b) The State Department of Education, with the  
16 assistance and cooperation of the Department of Revenue, shall  
17 develop a uniform system for numbering all school districts in the  
18 state. Such system shall be consistent with the data processing  
19 needs of the Department of Revenue and shall be used for the  
20 school district identification required by subdivision (a) of this  
21 subsection.

22 (c) The proper filing of an income tax return shall  
23 consist of the submission of such form as prescribed by the  
24 Tax Commissioner or an exact facsimile thereof with sufficient  
25 information provided by the taxpayer on the face of the form from

1 which to compute the actual tax liability. Each taxpayer shall  
2 include such taxpayer's correct social security number or state  
3 identification number and the school district identification number  
4 of the school district in which the taxpayer resides on the face of  
5 the form. A filing is deemed to occur when the required information  
6 is provided.

7 (3) The Tax Commissioner, for the purpose of ascertaining  
8 the correctness of any return or other document required to  
9 be filed under the income tax provisions, for the purpose of  
10 determining corporate income, individual income, and withholding  
11 tax due, or for the purpose of making an estimate of taxable income  
12 of any person, shall have the power to examine or to cause to have  
13 examined, by any agent or representative designated by him or her  
14 for that purpose, any books, papers, records, or memoranda bearing  
15 upon such matters and may by summons require the attendance of  
16 the person responsible for rendering such return or other document  
17 or remitting any tax, or any officer or employee of such person,  
18 or the attendance of any other person having knowledge in the  
19 premises, and may take testimony and require proof material for his  
20 or her information, with power to administer oaths or affirmations  
21 to such person or persons.

22 (4) The time and place of examination pursuant to this  
23 section shall be such time and place as may be fixed by the Tax  
24 Commissioner and as are reasonable under the circumstances. In the  
25 case of a summons, the date fixed for appearance before the Tax

1 Commissioner shall not be less than twenty days from the time of  
2 service of the summons.

3 (5) No taxpayer shall be subjected to unreasonable or  
4 unnecessary examinations or investigations.

5 (6) Except in accordance with proper judicial order or  
6 as otherwise provided by law, it shall be unlawful for the Tax  
7 Commissioner, any officer or employee of the Tax Commissioner,  
8 any person engaged or retained by the Tax Commissioner on an  
9 independent contract basis, any person who pursuant to this section  
10 is permitted to inspect any report or return or to whom a copy, an  
11 abstract, or a portion of any report or return is furnished, any  
12 employee of the State Treasurer or the Department of Administrative  
13 Services, or any other person to divulge, make known, or use in  
14 any manner the amount of income or any particulars set forth or  
15 disclosed in any report or return required except for the purpose  
16 of enforcing sections 77-2714 to 77-27,135. The officers charged  
17 with the custody of such reports and returns shall not be required  
18 to produce any of them or evidence of anything contained in them  
19 in any action or proceeding in any court, except on behalf of the  
20 Tax Commissioner in an action or proceeding under the provisions  
21 of the tax law to which he or she is a party or on behalf of  
22 any party to any action or proceeding under such sections when the  
23 reports or facts shown thereby are directly involved in such action  
24 or proceeding, in either of which events the court may require the  
25 production of, and may admit in evidence, so much of such reports

1 or of the facts shown thereby as are pertinent to the action or  
2 proceeding and no more. Nothing in this section shall be construed  
3 (a) to prohibit the delivery to a taxpayer, his or her duly  
4 authorized representative, or his or her successors, receivers,  
5 trustees, personal representatives, administrators, assignees, or  
6 guarantors, if directly interested, of a certified copy of any  
7 return or report in connection with his or her tax, (b) to  
8 prohibit the publication of statistics so classified as to prevent  
9 the identification of particular reports or returns and the items  
10 thereof, (c) to prohibit the inspection by the Attorney General,  
11 other legal representatives of the state, or a county attorney  
12 of the report or return of any taxpayer who brings an action to  
13 review the tax based thereon, against whom an action or proceeding  
14 for collection of tax has been instituted, or against whom an  
15 action, proceeding, or prosecution for failure to comply with the  
16 Nebraska Revenue Act of 1967 is being considered or has been  
17 commenced, (d) to prohibit furnishing to the Nebraska Workers'  
18 Compensation Court the names, addresses, and identification numbers  
19 of employers, and such information shall be furnished on request  
20 of the court, (e) to prohibit the disclosure of information  
21 and records to a collection agency contracting with the Tax  
22 Commissioner pursuant to sections 77-377.01 to 77-377.04, (f)  
23 to prohibit the disclosure of information pursuant to section  
24 77-27,195, 77-4110, or 77-5731, (g) to prohibit the disclosure  
25 to the Public Employees Retirement Board of the addresses of

1 individuals who are members of the retirement systems administered  
2 by the board, and such information shall be furnished to the  
3 board solely for purposes of its administration of the retirement  
4 systems upon written request, which request shall include the name  
5 and social security number of each individual for whom an address  
6 is requested, (h) to prohibit the disclosure to the Department  
7 of Labor of tax return information pertaining to individuals,  
8 corporations, and businesses determined by the Department of Labor  
9 to be delinquent in the payment of combined tax or in the repayment  
10 of benefit overpayments, and such disclosure shall be strictly  
11 limited to information necessary for the administration of the  
12 Employment Security Law, (i) to prohibit the disclosure to the  
13 Department of Motor Vehicles of tax return information pertaining  
14 to individuals, corporations, and businesses determined by the  
15 Department of Motor Vehicles to be delinquent in the payment of  
16 amounts due under agreements pursuant to the International Fuel  
17 Tax Agreement Act, and such disclosure shall be strictly limited  
18 to information necessary for the administration of the act, or  
19 (j) to prohibit the disclosure under section ~~42-358.08~~ 58 of this  
20 act to any court-appointed individuals, the county attorney, any  
21 authorized attorney, or the Department of Health and Human Services  
22 of an absent parent's address, social security number, amount  
23 of income, health insurance information, and employer's name and  
24 address for the exclusive purpose of establishing and collecting  
25 child or spousal support. Information so obtained shall be used for

1 no other purpose. Any person who violates this subsection shall be  
2 guilty of a felony and shall upon conviction thereof be fined not  
3 less than one hundred dollars nor more than five hundred dollars,  
4 or be imprisoned not more than five years, or be both so fined and  
5 imprisoned, in the discretion of the court and shall be assessed  
6 the costs of prosecution. If the offender is an officer or employee  
7 of the state, he or she shall be dismissed from office and be  
8 ineligible to hold any public office in this state for a period of  
9 two years thereafter.

10 (7) Reports and returns required to be filed under income  
11 tax provisions of sections 77-2714 to 77-27,135 shall be preserved  
12 until the Tax Commissioner orders them to be destroyed.

13 (8) Notwithstanding the provisions of subsection (6) of  
14 this section, the Tax Commissioner may permit the Secretary of the  
15 Treasury of the United States or his or her delegates or the proper  
16 officer of any state imposing an income tax, or the authorized  
17 representative of either such officer, to inspect the income tax  
18 returns of any taxpayer or may furnish to such officer or his or  
19 her authorized representative an abstract of the return of income  
20 of any taxpayer or supply him or her with information concerning an  
21 item of income contained in any return or disclosed by the report  
22 of any investigation of the income or return of income of any  
23 taxpayer, but such permission shall be granted only if the statutes  
24 of the United States or of such other state, as the case may be,  
25 grant substantially similar privileges to the Tax Commissioner of

1 this state as the officer charged with the administration of the  
2 income tax imposed by sections 77-2714 to 77-27,135.

3 (9) Notwithstanding the provisions of subsection (6) of  
4 this section, the Tax Commissioner may permit the Postal Inspector  
5 of the United States Postal Service or his or her delegates to  
6 inspect the reports or returns of any person filed pursuant to the  
7 Nebraska Revenue Act of 1967 when information on the reports or  
8 returns is relevant to any action or proceeding instituted or being  
9 considered by the United States Postal Service against such person  
10 for the fraudulent use of the mails to carry and deliver false and  
11 fraudulent tax returns to the Tax Commissioner with the intent to  
12 defraud the State of Nebraska or to evade the payment of Nebraska  
13 state taxes.

14 (10)(a) Notwithstanding the provisions of subsection (6)  
15 of this section, the Tax Commissioner shall, upon written request  
16 by the Auditor of Public Accounts or the Legislative Performance  
17 Audit Committee, make tax returns and tax return information  
18 open to inspection by or disclosure to officers and employees  
19 of the Auditor of Public Accounts or Legislative Performance  
20 Audit Section employees for the purpose of and to the extent  
21 necessary in making an audit of the Department of Revenue pursuant  
22 to section 50-1205 or 84-304. The Auditor of Public Accounts  
23 or Legislative Performance Audit Section shall statistically and  
24 randomly select the tax returns and tax return information to  
25 be audited based upon a computer tape provided by the Department

1 of Revenue which contains only total population documents without  
2 specific identification of taxpayers. The Tax Commissioner shall  
3 have the authority to approve the statistical sampling method used  
4 by the Auditor of Public Accounts or Legislative Performance Audit  
5 Section. Confidential tax returns and tax return information shall  
6 be audited only upon the premises of the Department of Revenue.  
7 All audit workpapers pertaining to the audit of the Department of  
8 Revenue shall be stored in a secure place in the Department of  
9 Revenue.

10 (b) No officer or employee of the Auditor of Public  
11 Accounts or Legislative Performance Audit Section employee shall  
12 disclose to any person, other than another officer or employee of  
13 the Auditor of Public Accounts or Legislative Performance Audit  
14 Section employee whose official duties require such disclosure or  
15 as provided in subsections (2) and (3) of section 50-1213, any  
16 return or return information described in the Nebraska Revenue  
17 Act of 1967 in a form which can be associated with or otherwise  
18 identify, directly or indirectly, a particular taxpayer.

19 (c) Any person who violates the provisions of this  
20 subsection shall be guilty of a Class IV felony and, in the  
21 discretion of the court, may be assessed the costs of prosecution.  
22 The guilty officer or employee shall be dismissed from employment  
23 and be ineligible to hold any position of employment with the State  
24 of Nebraska for a period of two years thereafter. For purposes of  
25 this subsection, officer or employee shall include a former officer

1 or employee of the Auditor of Public Accounts or former Legislative  
2 Performance Audit Section employee.

3 (11) For purposes of subsections (10) through (13) of  
4 this section:

5 (a) Tax returns shall mean any tax or information return  
6 or claim for refund required by, provided for, or permitted  
7 under sections 77-2714 to 77-27,135 which is filed with the Tax  
8 Commissioner by, on behalf of, or with respect to any person  
9 and any amendment or supplement thereto, including supporting  
10 schedules, attachments, or lists which are supplemental to or part  
11 of the filed return;

12 (b) Return information shall mean:

13 (i) A taxpayer's identification number and (A) the  
14 nature, source, or amount of his or her income, payments, receipts,  
15 deductions, exemptions, credits, assets, liabilities, net worth,  
16 tax liability, tax withheld, deficiencies, overassessments, or tax  
17 payments, whether the taxpayer's return was, is being, or will be  
18 examined or subject to other investigation or processing or (B) any  
19 other data received by, recorded by, prepared by, furnished to, or  
20 collected by the Tax Commissioner with respect to a return or the  
21 determination of the existence or possible existence of liability  
22 or the amount of liability of any person for any tax, penalty,  
23 interest, fine, forfeiture, or other imposition or offense; and

24 (ii) Any part of any written determination or any  
25 background file document relating to such written determination;

1 and

2 (c) Disclosures shall mean the making known to any person  
3 in any manner a return or return information.

4 (12) The Auditor of Public Accounts or the Legislative  
5 Auditor of the Legislative Performance Audit Section shall (a)  
6 notify the Tax Commissioner in writing thirty days prior to the  
7 beginning of an audit of his or her intent to conduct an audit, (b)  
8 provide an audit plan, and (c) provide a list of the tax returns  
9 and tax return information identified for inspection during the  
10 audit.

11 (13) The Auditor of Public Accounts or the Legislative  
12 Performance Audit Section shall, as a condition for receiving tax  
13 returns and tax return information: (a) Subject employees involved  
14 in the audit to the same confidential information safeguards  
15 and disclosure procedures as required of Department of Revenue  
16 employees; (b) establish and maintain a permanent system of  
17 standardized records with respect to any request for tax returns  
18 or tax return information, the reason for such request, and the  
19 date of such request and any disclosure of the tax return or  
20 tax return information; (c) establish and maintain a secure area  
21 or place in the Department of Revenue in which the tax returns,  
22 tax return information, or audit workpapers shall be stored; (d)  
23 restrict access to the tax returns or tax return information only  
24 to persons whose duties or responsibilities require access; (e)  
25 provide such other safeguards as the Tax Commissioner determines

1 to be necessary or appropriate to protect the confidentiality of  
2 the tax returns or tax return information; (f) provide a report  
3 to the Tax Commissioner which describes the procedures established  
4 and utilized by the Auditor of Public Accounts or Legislative  
5 Performance Audit Section for insuring the confidentiality of tax  
6 returns, tax return information, and audit workpapers; and (g) upon  
7 completion of use of such returns or tax return information, return  
8 to the Tax Commissioner such returns or tax return information,  
9 along with any copies.

10 (14) The Tax Commissioner may permit other tax officials  
11 of this state to inspect the tax returns and reports filed  
12 under sections 77-2714 to 77-27,135, but such inspection shall be  
13 permitted only for purposes of enforcing a tax law and only to  
14 the extent and under the conditions prescribed by the rules and  
15 regulations of the Tax Commissioner.

16 (15) The Tax Commissioner shall compile the school  
17 district information required by subsection (2) of this section.  
18 Insofar as it is possible, such compilation shall include, but  
19 not be limited to, the total adjusted gross income of each school  
20 district in the state. The Tax Commissioner shall adopt and  
21 promulgate such rules and regulations as may be necessary to insure  
22 that such compilation does not violate the confidentiality of any  
23 individual income tax return nor conflict with any other provisions  
24 of state or federal law.

25 Sec. 63. Section 84-205, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 84-205 The duties of the Attorney General shall be:

3 (1) To appear and defend actions and claims against the  
4 state;

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

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

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

21 (5) At the request of the Governor, head of any executive  
22 department, Secretary of State, State Treasurer, Auditor of Public  
23 Accounts, Board of Educational Lands and Funds, State Department of  
24 Education, or Public Service Commission, to prosecute any official  
25 bond or any contract in which the state is interested which is

1 deposited with any of them and to prosecute or defend for the  
2 state all civil or criminal actions and proceedings relating to  
3 any matter connected with any of such officers' departments if,  
4 after investigation, he or she is convinced there is sufficient  
5 legal merit to justify the proceeding. Such officers shall not  
6 pay or contract to pay from the funds of the state any money for  
7 special attorneys or counselors-at-law unless the employment of  
8 such special counsel is made upon the written authorization of the  
9 Governor or the Attorney General;

10 (6) To enforce the proper application of money  
11 appropriated by the Legislature to the various funds of the state  
12 and prosecute breaches of trust in the administration of such  
13 funds;

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

20 (8) To pay all money received, belonging to the people  
21 of the state, immediately upon receipt thereof, into the state  
22 treasury;

23 (9) To keep a record in proper books provided for that  
24 purpose at the expense of the state, a register of all actions and  
25 demands prosecuted or defended by him or her in behalf of the state

1 and all proceedings had in relation thereto, and deliver the same  
2 to his or her successor in office;

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

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

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

18 (13) To create a Child Protection Division to be staffed  
19 by at least three assistant attorneys general who each have five or  
20 more years of experience in the prosecution or defense of felonies  
21 or misdemeanors, including two years in the prosecution or defense  
22 of crimes against children. Upon the written request of a county  
23 attorney, the division shall provide consultation and advise and  
24 assist in the preparation of the trial of any case involving a  
25 crime against a child, including, but not limited to, the following

1 offenses:

2 (a) Murder as defined in sections 28-303 and 28-304;

3 (b) Manslaughter as defined in section 28-305;

4 (c) Kidnapping as defined in section 28-313;

5 (d) False imprisonment as defined in sections 28-314 and

6 28-315;

7 (e) Child abuse as defined in section 28-707;

8 (f) Pandering as defined in section 28-802;

9 (g) Debauching a minor as defined in section 28-805; and

10 (h) Offenses listed in sections 28-813, 28-813.01, and

11 28-1463.03.

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

1 or initiate the appropriate criminal proceedings in a court of  
2 proper jurisdiction.

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

5 Sec. 64. The Revisor of Statutes shall assign sections 50  
6 to 59 of this act to Chapter 43, article 33.

7 Sec. 65. This act becomes operative on January 1, 2008.

8 Sec. 66. Original sections 25-2911, 25-2914, 25-2916,  
9 33-106.03, 33-107.02, 42-347, 42-351, 42-353, 42-358.01, 42-358.03,  
10 42-358.04, 42-358.05, 42-358.06, 42-358.07, 42-358.08, 42-359,  
11 42-364.14, 42-364.15, 42-369, 42-934, 43-104.13, 43-158, 43-2,113,  
12 43-512.03, 43-512.04, 43-512.08, 43-1407, 43-1720, 43-3342.01, and  
13 70-101, Reissue Revised Statutes of Nebraska, and sections 42-358,  
14 42-358.02, 42-364, 42-371, 60-484, 77-27,119, and 84-205, Revised  
15 Statutes Cumulative Supplement, 2006, are repealed.

16 Sec. 67. The following sections are outright repealed:  
17 Sections 42-349.01, 42-364.01, 42-364.02, 42-364.03, 42-364.04,  
18 42-364.05, 42-364.06, 42-364.07, 42-364.08, 42-364.09, 42-364.10,  
19 42-364.11, 42-364.12, 43-2901, 43-2902, 43-2903, 43-2904, 43-2905,  
20 43-2906, 43-2907, 43-2908, 43-2909, 43-2910, 43-2911, 43-2912,  
21 43-2913, 43-2914, 43-2915, 43-2916, 43-2917, 43-2917.01, 43-2918,  
22 and 43-2919, Reissue Revised Statutes of Nebraska.