

## LEGISLATIVE BILL 554

Approved by the Governor May 31, 2007

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

FOR AN ACT relating to domestic relations matters; to amend sections 25-2911, 33-106.03, 33-107.02, 42-347, 42-351, 42-353, 42-359, 42-364.14, 42-364.15, 42-369, 42-934, 43-104.13, 43-158, 43-2,113, 43-512.08, 43-512.15, 43-1407, and 43-3342.01, Reissue Revised Statutes of Nebraska, and sections 42-364, 42-371, and 84-205, Revised Statutes Cumulative Supplement, 2006; to repeal the Parenting Act; to adopt the Parenting Act; to change and eliminate provisions relating to child custody, visitation, child support, paternity support, and parenting; to create a fund; to increase certain fees; to change provisions relating to pleadings and support liens; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 42-349.01, 43-2901, 43-2902, 43-2903, 43-2904, 43-2905, 43-2906, 43-2907, 43-2908, 43-2909, 43-2910, 43-2911, 43-2912, 43-2913, 43-2914, 43-2915, 43-2916, 43-2917, 43-2917.01, 43-2918, and 43-2919, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

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

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

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

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

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

Sec. 3. For purposes of the Parenting Act:

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

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

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

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

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

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

(7) Custody includes legal custody and physical custody;

(8) Domestic intimate partner abuse means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Assisting the child in maintaining a safe, positive, and appropriate relationship with each parent and other family members, including establishing and maintaining the authority and responsibilities of each

party with respect to the child and honoring the parenting plan duties and responsibilities;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The litigation process;

(b) A dissolution or separation process timeline;

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

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

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

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

(g) Intervention programs for batterers or abusers.

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

Sec. 7. The State Court Administrator shall create an information sheet for parties in a proceeding in which parenting functions for a child are at issue under the Parenting Act that includes information regarding parenting plans, child custody, parenting time, visitation, and other access and that informs the parties that they are required to attend a basic level parenting education course. The information sheet shall also state (1) that the parties have the right to agree to a parenting plan arrangement, (2) that before July 1, 2010, if they do not agree, they may be required, and on and after July 1,

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

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

(2) Screening guidelines and safety procedures for cases involving conditions identified in subsection (1) of section 20 of this act shall be devised by the State Court Administrator. Such screening shall be conducted by mediators using State Court Administrator-approved screening tools.

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

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

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

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

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

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

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

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

(6) The second-level parenting education course pursuant to this section shall include, but not be limited to, information about development of provisions for safety and transition plans, the potentially harmful impact of domestic intimate partner abuse and unresolved parental conflict on the

child, use of effective communication techniques and protocols, resource and referral information for victim and perpetrator services, batterer intervention programs, and referrals for mental health services, substance abuse services, and other community resources.

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

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

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

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

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

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

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

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

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

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

(vii) Arrangements to maximize the safety of all parties and the child; and

(viii) Provisions for safety when a preponderance of the evidence establishes child abuse or neglect, domestic intimate partner abuse, unresolved parental conflict, or criminal activity which is directly harmful to a child.

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Provision for temporary legal custody;

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

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

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

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

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

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

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

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

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

(a) The name, address, and length of residence of any adults with whom any child has lived for one year or more, or in the case of a child less

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

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

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

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

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

(f) Any circumstances of child abuse or neglect, domestic intimate partner abuse, or unresolved parental conflict that are likely to pose a risk to the child and that warrant limitation on the award to any person seeking custody, parenting time, visitation, or other access, including any restraining orders, protection orders, or criminal no-contact orders against either parent or person acting as parent by case number and jurisdiction; and

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

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

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

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

(i) Has committed child abuse or neglect;

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

(iii) Has committed domestic intimate partner abuse; or

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

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

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

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

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

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

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

(vi) Denial of overnight physical custodial responsibility;

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

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

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

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

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

(3) If a parent is found to have engaged in any activity specified in subsection (1) of this section, the court shall not order legal or physical custody to be given to that parent without making special written findings



that the child and other parent can be adequately protected from harm by such limits as it may impose under such subsection. The parent found to have engaged in the behavior specified in subsection (1) of this section has the burden of proving that legal or physical custody, parenting time, visitation, or other access to that parent will not endanger the child or the other parent.

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

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

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

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

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

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

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

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

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

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

Sec. 16. After a hearing on the record, the court shall determine whether the submitted parenting plan meets all of the requirements of the

Parenting Act and is in the best interests of the child. If the parenting plan lacks any of the elements required by the act or is not in the child's best interests, the court shall modify and approve the parenting plan as modified, reject the parenting plan and order the parties to develop a new parenting plan, or reject the parenting plan and create a parenting plan that meets all the required elements and is in the best interests of the child. The court may include in the parenting plan:

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

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

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

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

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

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

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

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

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

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

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

(d) General knowledge of child development, the potential effects of dissolution or parental separation upon children, parents, and extended

families, and the psychology of families;

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

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

(3) To qualify as an approved specialized mediator for parents involved in high conflict and situations in which abuse is present, the mediator shall apply to an approved mediation center or court conciliation program for consideration to be listed as an approved specialized mediator. The approved mediation center or court conciliation program shall submit its list of approved specialized mediators to the Office of Dispute Resolution on an annual basis. Minimum requirements to be listed as an approved specialized mediator include:

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

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

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

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

Sec. 20. (1) A Parenting Act mediator, prior to meeting with the parties in an initial mediation session, shall provide an individual initial screening session with each party to assess the presence of child abuse or neglect, unresolved parental conflict, domestic intimate partner abuse, other forms of intimidation or coercion, or a party's inability to negotiate freely and make informed decisions. If any of these conditions exist, the mediator shall not proceed with the mediation session but shall proceed with a specialized alternative dispute resolution process that addresses safety measures for the parties, if the mediator is on the approved specialized list of an approved mediation center or court conciliation program, or shall refer the parties to a mediator who is so qualified. When public records such as current or expired protection orders, criminal domestic violence cases, and child abuse or neglect proceedings are provided to a mediator, such records shall be considered during the individual initial screening session to determine appropriate dispute resolution methods. The mediator has the duty to determine whether to proceed in joint session, individual sessions, or caucus meetings with the parties in order to address safety and freedom to negotiate. In any mediation or specialized alternative dispute resolution, a mediator has the ongoing duty to assess appropriateness of the process and safety of the process upon the parties.

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

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

(4) The mediator shall facilitate the mediation process. Prior to the commencement of mediation, the mediator shall notify the parties that, if the mediator has reasonable cause to believe that a child has been subjected

to child abuse or neglect or if the mediator observes a child being subjected to conditions or circumstances which reasonably would result in child abuse or neglect, the mediator is obligated under section 28-711 to report such information to the authorized child abuse and neglect reporting agency and shall report such information unless the information has been previously reported. The mediator shall have access to court files for purposes of mediation under the Parenting Act. The mediator shall be impartial and shall use his or her best efforts to effect an agreement or parenting plan as required under the act. The mediator may interview the child if, in the mediator's opinion, such an interview is necessary or appropriate. The parties shall not bring the child to any sessions with the mediator unless specific arrangements have been made with the mediator in advance of the session. The mediator shall assist the parties in assessing their needs and the best interests of the child involved in the proceeding and may include other persons in the mediation process as necessary or appropriate. The mediator shall advise the parties that they should consult with an attorney.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Expansion Act and the Nebraska State Funds Investment Act.

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

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

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

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

(c) Juvenile offenses and disputes involving juveniles.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(3)~~ (7) Legal separation ~~shall mean~~ means a decree of a court of competent jurisdiction providing that two persons who have been legally married shall thereafter live separate and apart and providing for any necessary adjustment of property, support, and custody rights between the

parties but not dissolving the marriage;

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

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

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

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

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

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

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

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

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

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

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

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

(3) The date and place of marriage;

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

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

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

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

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

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

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

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

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

42-364 (1) In an action under Chapter 42 involving child support, child custody, parenting time, visitation, or other access, the parties and their counsel, if represented, shall develop a parenting plan as provided in

the Parenting Act. If the parties and counsel do not develop a parenting plan, the complaint shall so indicate as provided in section 42-353 and before July 1, 2010, the case may be referred to mediation, specialized alternative dispute resolution, or other alternative dispute resolution process and on or after such date the case shall be referred to mediation or specialized alternative dispute resolution as provided in the Parenting Act. The decree in an action involving the custody of a minor child shall include the determination of legal custody and physical custody based upon the best interests of the child, as defined in the Parenting Act, and child support. Such determinations shall be made by incorporation into the decree of (a) a parenting plan developed by the parties, if approved by the court, or (b) a parenting plan developed by the court based upon evidence produced after a hearing in open court if no parenting plan is developed by the parties or the plan developed by the parties is not approved by the court. The decree shall conform to the Parenting Act. The social security number of each parent and the minor child shall be furnished to the clerk of the district court but shall not be disclosed or considered a public record. When dissolution of a marriage or legal separation is decreed, the court may include a parenting plan developed under the Parenting Act, if a parenting plan has been so developed, and such orders in relation to any minor child and the child's maintenance as are justified, including placing the minor child in the custody of the court or third parties or terminating parental rights pursuant to this section if the best interests of the minor child require such orders. Custody and time spent with each parent shall be determined on the basis of the best interests of the minor child with the objective of maintaining the ongoing involvement of both parents in the minor child's life. The social security number of each parent and the minor child shall be furnished to the clerk of the district court.

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

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

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

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

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

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

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

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

(6) (4) In determining the amount of child support to be paid by a parent, the court shall consider the child support calculations included in the separate financial plan submitted with the parenting plan, the earning capacity of each parent, and the guidelines provided by the Supreme Court pursuant to section 42-364.16 for the establishment of child support

obligations. Upon application, hearing, and presentation of evidence of an abusive disregard of the use of child support money paid by one party to the other, the court may require the party receiving such payment to file a verified report with the court, as often as the court requires, stating the manner in which such money is used. Child support paid to the party having custody of the minor child shall be the property of such party except as provided in section 43-512.07. The clerk of the district court shall maintain a record, separate from all other judgment dockets, of all decrees and orders in which the payment of child support or spousal support has been ordered, whether ordered by a district court, county court, separate juvenile court, or county court sitting as a juvenile court. Orders for child support in cases in which a party has applied for services under Title IV-D of the federal Social Security Act, as amended, shall be reviewed as provided in sections 43-512.12 to 43-512.18.

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

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

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

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

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

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

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

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

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

42-364.14 Nothing in the Income Withholding for Child Support Act or sections 42-364.01 to 42-364.13 shall be construed as prohibiting a parent-employee from consenting to an order to withhold and transmit earnings



as part of a property settlement agreement incorporated into a decree dissolving a marriage or by agreement in a proceeding in the district court, county court, or separate juvenile court in which the payment of child support is an issue. If the parent-employee has consented to such an order, the court shall not be required to hold a separate hearing or make findings as provided in ~~sections 42-364.01 to 42-364.12, the act or such sections.~~ The clerk of the court shall notify the employer, if any, of the parent-employee of any such order by first-class mail and file a record of such mailing in the court.

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

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

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

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

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

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

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

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

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

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

Sec. 36. Section 42-371, Revised Statutes Cumulative Supplement,

2006, is amended to read:

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

(1) All judgments and orders for payment of money shall be liens, as in other actions, upon real property and any personal property registered with any county office and may be enforced or collected by execution and the means authorized for collection of money judgments; ~~— The judgment creditor may execute (a) a partial or total release of the judgment or (b) a document subordinating the lien of the judgment to any other lien, generally or on specific real or personal property. Release of a judgment for child support or spousal support or subordination of a lien of a judgment for child support or spousal support must be approved by the court which rendered the judgment unless all such payments are current, in which case a release or subordination document executed by the judgment creditor shall be sufficient to remove or subordinate the lien. A properly executed, notarized release or subordination document, explicitly reciting that all child support payments or spousal support payments are current, shall be prima facie evidence that such payments are in fact current. The judgment debtor may file a motion in the court which rendered the original judgment for an order releasing or subordinating the lien as to specific real or personal property. The court shall grant such order upon a showing by the judgment debtor that sufficient real or personal property or property interests will remain subject to the lien or will maintain priority over other liens sufficient to cover all support due and which may become due.~~

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

(b) If support order payments are not current, the person desiring such release or subordination may file an application for the relief desired in the court which rendered the original judgment or support order. A copy of the application and a notice of hearing shall be served on the judgment creditor either personally or by registered or certified mail no less than ten days before the date of hearing. If the court finds that the release or subordination is not requested for the purpose of avoiding payment and that the release or subordination will not unduly reduce the security, the court may issue an order for a total or partial release of all or specific real or personal property from the lien or issue an order subordinating the lien. As a condition for such release or subordination, the court may require the posting of a bond with the clerk in an amount fixed by the court, guaranteeing payment of the judgment.

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

~~(2)~~ (3) Full faith and credit shall be accorded to a lien arising by operation of law against real and personal property for amounts of overdue relating to a support order owed by an obligor who resides or owns property in this state when another state agency, party, or other entity seeking to enforce such lien complies with the procedural rules relating to the filing of the lien in this state. The state agency, party, or other entity seeking to enforce such lien shall send a certified copy of the support order with all modifications, the notice of lien prescribed by 42 U.S.C. 652(a)(11) and 42 U.S.C. 654(9)(E), and the appropriate fee to the clerk of the district court in the jurisdiction within this state in which the lien is sought. Upon receiving the appropriate documents and fee, the clerk of the district court shall accept the documents filed and such acceptance shall constitute entry of the foreign support order for purposes of this section only. Entry of a lien arising in another state pursuant to this section shall result in such lien being afforded the same treatment as liens arising in this state. The filing process required by this section shall not be construed as requiring an application, complaint, answer, and hearing as might be required for the filing or registration of foreign judgments under the Nebraska Uniform Enforcement of Foreign Judgments Act or the Uniform Interstate Family Support Act;

~~(3) Child support and spousal support~~ (4) Support order judgments shall cease to be liens on real or registered personal property ten years from the date (a) the youngest child becomes of age or dies or (b) the most recent execution was issued to collect the judgment, whichever is later, and such

lien shall not be reinstated;

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

~~(5)~~ Whenever a judgment creditor refuses to execute a release of the judgment or subordination of a lien as provided in this section, the person desiring such release or subordination may file an application for the relief desired. A copy of the application and a notice of hearing shall be served on the judgment creditor either personally or by registered or certified mail no less than ten days before the date of hearing. If the court finds that the release or subordination is not requested for the purpose of avoiding payment and that the release or subordination will not unduly reduce the security, the court may issue an order releasing real or personal property from the judgment lien or issue an order subordinating the judgment lien. As a condition for such release or subordination, the court may require the posting of a bond with the clerk in an amount fixed by the court, guaranteeing payment of the judgment;

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

(7) (a) The lien of a mortgage or deed of trust which secures a loan, the proceeds of which are used to purchase real property, and (b) any lien given priority pursuant to a subordination document under this section shall attach prior to any lien authorized by this section. Any mortgage or deed of trust which secures the refinancing, renewal, or extension of a real property purchase money mortgage or deed of trust shall have the same lien priority with respect to any lien authorized by this section as the original real property purchase money mortgage or deed of trust to the extent that the amount of the loan refinanced, renewed, or extended does not exceed the amount used to pay the principal and interest on the existing real property purchase money mortgage or deed of trust, plus the costs of the refinancing, renewal, or extension; and

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

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

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

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

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

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

(1) identifies the protected individual and the respondent;

(2) is currently in effect;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43-2,113 (1) In counties where a separate juvenile court is

established, the county board of the county shall provide suitable rooms and offices for the accommodation of the judge of the separate juvenile court and the officers and employees appointed by such judge or by the probation administrator pursuant to subsection (4) of section 29-2253. Such separate juvenile court and the judge, officers, and employees of such court shall have the same and exclusive jurisdiction, powers, and duties that are prescribed in the Nebraska Juvenile Code, concurrent jurisdiction under section 83-223, and such other jurisdiction, powers, and duties as specifically provided by law.

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

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

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

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

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

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

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

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

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

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

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

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

43-1407 (1) The father of a child shall also be liable for the reasonable expenses of (a) the child that are associated with the birth of the

child and (b) the mother of such child during the period of her pregnancy, confinement, and recovery. Such liability shall be determined and enforced in the same manner as the liability of the father for the support of the child.

(2) In cases in which any medical expenses associated with the birth of the child and the mother of such child during the period of her pregnancy, confinement, and recovery are paid by the medical assistance program, the county attorney or authorized attorney, as defined in section 43-1704, may petition the court for a judgment for all or a portion of the reasonable medical expenses paid by the medical assistance program. Any medical expenses associated with the birth of such child and the mother of such child during the period of her pregnancy, confinement, and recovery that are approved and paid by the medical assistance program shall be presumed to be medically reasonable. If the father challenges any such expenses as not medically reasonable, he has the burden of proving that such expenses were not medically reasonable.

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

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

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

- (a) Receipt of payments, except payments made pursuant to subdivisions (1)(a) and (1)(b) of section 42-369, and disbursements of such payments to obligees, the department, and the agencies of other states;
- (b) Accurate identification of payments;
- (c) Prompt disbursement of the obligee's share of any payments;
- (d) Furnishing to any obligor or obligee, upon request, timely information on the current status of support order payments; and
- (e) One location for employers to send income withholding payments.

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

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

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

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

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

- (1) To appear and defend actions and claims against the state;
- (2) To investigate, commence, and prosecute any and all actions resulting from violations of sections 32-1401 to 32-1417;
- (3) To consult with and advise the county attorneys, when requested by them, in all criminal matters and in matters relating to the public revenue. He or she shall have authority to require aid and assistance of the county attorney in all matters pertaining to the duties of the Attorney General in the county of such county attorney and may, in any case brought to the Court of Appeals or Supreme Court from any county, demand and receive the assistance of the county attorney from whose county such case is brought;
- (4) To give, when required, without fee, his or her opinion in writing upon all questions of law submitted to him or her by the Governor, head of any executive department, Secretary of State, State Treasurer, Auditor of Public Accounts, Board of Educational Lands and Funds, State Department of Education, Public Service Commission, or Legislature;
- (5) At the request of the Governor, head of any executive

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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