

AMENDMENTS TO LB 35

Introduced by Judiciary.

1 1. Strike the original sections and insert the following
2 sections:

3 Section 1. (1) On application to a court of competent
4 jurisdiction by any judgment creditor of a member or transferee,
5 the court may charge the transferable interest of the judgment
6 debtor in the limited liability company with payment of the
7 unsatisfied amount of the judgment with interest. To the extent of
8 the amounts so charged, the judgment creditor has only the rights
9 of the transferee to receive any distribution to which the judgment
10 debtor would otherwise have been entitled with respect to the
11 interest of the judgment debtor in the limited liability company.

12 (2) A charging order entered pursuant to this section
13 constitutes a lien on the judgment debtor's transferable interest
14 in the limited liability company.

15 (3) This section does not deprive any member or
16 transferee of the benefit of any exemption laws applicable to the
17 member's or transferee's interest in the limited liability company.

18 (4) The entry of a charging order pursuant to this
19 section is the exclusive remedy by which a judgment creditor of a
20 member or transferee may satisfy a judgment out of the judgment
21 debtor's interest in the limited liability company.

22 (5) No creditor of a member of a limited liability
23 company shall have any right to obtain possession of, or otherwise

1 exercise legal or equitable remedies with respect to, the property
2 of the limited liability company.

3 (6) A third party shall not be liable to a judgment
4 creditor for distributions made by such third party directly to the
5 judgment debtor that were made in good faith at the direction of
6 the limited liability company.

7 (7) This section applies to all limited liability
8 companies authorized under the Limited Liability Company Act.

9 Sec. 2. Section 21-2601, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 21-2601 Sections 21-2601 to 21-2653 and section 1 of
12 this act shall be known and may be cited as the Limited Liability
13 Company Act.

14 Sec. 3. Section 23-1205, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 23-1205 ~~In~~ Due to the absence, sickness, ~~or~~ disability,
17 or conflict of interest of the county attorney and his or her
18 deputies, or upon request of the county attorney for good cause,
19 the ~~court~~ Supreme Court, the Court of Appeals, or any district
20 court, separate juvenile court, or county court before which the
21 cause may be heard may appoint an attorney to act as county
22 attorney in any investigation, appearance, or trial, by an order
23 ~~to be~~ entered upon the minutes of the court. Such attorney shall
24 be allowed compensation for such services as the court shall
25 ~~determine,~~ determines, to be paid by order of the county treasurer,
26 upon presenting to the county board the certificate of the judge
27 before whom the cause was tried certifying to services rendered by

1 such attorney and the amount of compensation.

2 Sec. 4. Section 24-301.02, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 24-301.02 The State of Nebraska shall be divided into the
5 following twelve district court judicial districts:

6 District No. 1 shall contain the counties of Clay,
7 Nuckolls, Saline, Jefferson, Gage, Thayer, Johnson, Pawnee, Nemaha,
8 Fillmore, and Richardson;

9 District No. 2 shall contain the counties of Sarpy, Cass,
10 and Otoe;

11 District No. 3 shall contain the county of Lancaster;

12 District No. 4 shall contain the county of Douglas;

13 District No. 5 shall contain the counties of Merrick,
14 Platte, Colfax, Boone, Nance, Hamilton, Polk, York, Butler, Seward,
15 and Saunders;

16 District No. 6 shall contain the counties of Dixon,
17 Dakota, Cedar, Burt, Thurston, Dodge, and Washington;

18 District No. 7 shall contain the counties of Knox,
19 Cuming, Antelope, Pierce, Wayne, Madison, and Stanton;

20 District No. 8 shall contain the counties of Cherry,
21 Keya Paha, Brown, Rock, Blaine, Loup, Custer, Boyd, Holt, Garfield,
22 Wheeler, Valley, Greeley, Sherman, and Howard;

23 District No. 9 shall contain the counties of Buffalo and
24 Hall;

25 District No. 10 shall contain the counties of Adams,
26 Phelps, Kearney, Harlan, Franklin, and Webster;

27 District No. 11 shall contain the counties of Hooker,

1 Thomas, Arthur, McPherson, Logan, Keith, Perkins, Lincoln, Dawson,
2 Chase, Hayes, Frontier, Gosper, Dundy, Hitchcock, Red Willow, and
3 Furnas; and

4 District No. 12 shall contain the counties of Sioux,
5 Dawes, Box Butte, Sheridan, Scotts Bluff, Morrill, Garden, Banner,
6 Kimball, Cheyenne, Grant, and Deuel.

7 In the fourth district there shall be sixteen judges of
8 the district court. In the third district there shall be ~~seven~~
9 eight judges of the district court. In the second, fifth, ninth,
10 eleventh, and twelfth districts there shall be four judges of the
11 district court. In the first and sixth districts there shall be
12 three judges of the district court. In the seventh, eighth, and
13 tenth districts there shall be two judges of the district court.

14 Sec. 5. Section 24-517, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 24-517 Each county court shall have the following
17 jurisdiction:

18 (1) Exclusive original jurisdiction of all matters
19 relating to decedents' estates, including the probate of wills and
20 the construction thereof, except as provided in subsection (c) of
21 section 30-2464 and section 30-2486;

22 (2) Exclusive original jurisdiction in all matters
23 relating to the guardianship of a person, except if a separate
24 juvenile court already has jurisdiction over a child in need of
25 a guardian, concurrent original jurisdiction with the separate
26 juvenile court in such guardianship;

27 (3) Exclusive original jurisdiction of all matters

1 relating to conservatorship of any person, including (a) original
2 jurisdiction to consent to and authorize a voluntary selection,
3 partition, and setoff of a ward's interest in real estate owned
4 in common with others and to exercise any right of the ward in
5 connection therewith which the ward could exercise if competent and
6 (b) original jurisdiction to license the sale of such real estate
7 for cash or on such terms of credit as shall seem best calculated
8 to produce the highest price subject only to the requirements set
9 forth in section 30-3201;

10 (4) Concurrent jurisdiction with the district court to
11 involuntarily partition a ward's interest in real estate owned in
12 common with others;

13 (5) Concurrent original jurisdiction with the district
14 court in all civil actions of any type when the amount in
15 controversy is forty-five thousand dollars or less through June 30,
16 2005, and as set by the Supreme Court pursuant to subdivision (b)
17 of this subdivision on and after July 1, 2005.

18 (a) When the pleadings or discovery proceedings in a
19 civil action indicate that the amount in controversy is greater
20 than the jurisdictional amount of subdivision (5) of this section,
21 the county court shall, upon the request of any party, certify
22 the proceedings to the district court as provided in section
23 25-2706. An award of the county court which is greater than the
24 jurisdictional amount of subdivision (5) of this section is not
25 void or unenforceable because it is greater than such amount,
26 however, if an award of the county court is greater than the
27 jurisdictional amount, the county court shall tax as additional

1 costs the difference between the filing fee in district court and
2 the filing fee in county court.

3 (b) The Supreme Court shall adjust the jurisdictional
4 amount for the county court every fifth year commencing July
5 1, 2005. The adjusted jurisdictional amount shall be equal to
6 the then current jurisdictional amount adjusted by the average
7 percentage change in the unadjusted Consumer Price Index for
8 All Urban Consumers published by the Federal Bureau of Labor
9 Statistics for the five-year period preceding the adjustment
10 date. The jurisdictional amount shall be rounded to the nearest
11 one-thousand-dollar amount;

12 (6) Concurrent original jurisdiction with the district
13 court in any criminal matter classified as a misdemeanor or for
14 any infraction. The district court shall have ~~exclusive~~ concurrent
15 original jurisdiction in any criminal matter classified as a
16 misdemeanor that arises from the same incident as a charged felony;

17 (7) Concurrent original jurisdiction with the district
18 court in domestic relations matters as defined in section 25-2740
19 and with the district court and separate juvenile court in
20 paternity or custody determinations as provided in section 25-2740;

21 (8) Concurrent original jurisdiction with the district
22 court in matters arising under the Nebraska Uniform Trust Code;

23 (9) Exclusive original jurisdiction in any action based
24 on violation of a city or village ordinance;

25 (10) Exclusive original jurisdiction in juvenile matters
26 in counties which have not established separate juvenile courts;

27 (11) Exclusive original jurisdiction in matters of

1 adoption, except if a separate juvenile court already has
2 jurisdiction over the child to be adopted, concurrent original
3 jurisdiction with the separate juvenile court; and

4 (12) All other jurisdiction heretofore provided and not
5 specifically repealed by Laws 1972, Legislative Bill 1032, and such
6 other jurisdiction as hereafter provided by law.

7 Sec. 6. Section 25-505.01, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 25-505.01 (1) Unless otherwise limited by statute or by
10 the court, a plaintiff may elect to have service made by any of the
11 following methods:

12 (a) Personal service which shall be made by leaving the
13 summons with the individual to be served;

14 (b) Residence service which shall be made by leaving the
15 summons at the usual place of residence of the individual to be
16 served, with some person of suitable age and discretion residing
17 therein; ~~or~~

18 (c) Certified mail service which shall be made by (i)
19 within ten days of issuance, sending the summons to the defendant
20 by certified mail with a return receipt requested showing to whom
21 and where delivered and the date of delivery, and (ii) filing with
22 the court proof of service with the signed receipt attached; or-

23 (d) By depositing with a designated delivery service
24 authorized pursuant to 26 U.S.C. 7502(f)(2) a copy of the summons
25 and complaint, addressed to the party to be served, delivering to
26 the addressee, and obtaining a delivery receipt. As used in this
27 subdivision, delivery receipt includes an electronic or facsimile

1 receipt.

2 (2) Failure to make service by the method elected by the
3 plaintiff does not affect the validity of the service.

4 Sec. 7. Section 25-506.01, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 25-506.01 (1) Unless the plaintiff has elected certified
7 mail service, ~~by certified mail~~, the summons shall be served by the
8 sheriff of the county where service is made, by a person authorized
9 by section 25-507 or otherwise authorized by law, or by a person,
10 corporation, partnership, or limited liability company not a party
11 to the action specially appointed by the court for that purpose.

12 (2) ~~Service by certified mail~~ Certified mail service
13 shall be made by plaintiff or plaintiff's attorney.

14 Sec. 8. Section 25-507.01, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 25-507.01 (1) Within twenty days after the date of issue,
17 the person serving the summons, other than by certified mail
18 service, shall make proof of service to the court stating the time,
19 place, including the address if applicable, name of the person with
20 whom the summons was left, and method of service, or return the
21 unserved summons to the court with a statement of the reason for
22 the failure to serve.

23 (2) When service is by certified mail service, the
24 plaintiff or plaintiff's attorney shall file proof of service
25 within ten days after return of the signed receipt.

26 (3) Failure to make proof of service or delay in doing so
27 does not affect the validity of the service.

1 Sec. 9. Section 25-1144, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 25-1144 The application ~~must~~ for a new trial shall be
4 by motion, upon written grounds, filed at the time of making
5 the motion. It shall be sufficient, however, in assigning the
6 grounds of the motion to assign the same in the language of the
7 statute and without further or other particularity. The causes
8 enumerated in subdivisions (2), (3), and (7) of section 25-1142,
9 ~~subdivisions (2), (3) and (7) of this code must~~ shall be sustained
10 by affidavits showing their truth, and may be controverted by
11 affidavits.

12 Sec. 10. Section 25-1628, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 25-1628 (1) At least once each calendar year, the officer
15 having charge of the election records shall furnish to the jury
16 commissioner a complete list of the names, dates of birth, and
17 addresses of all registered electors nineteen years of age or
18 older in the county. The Department of Motor Vehicles shall
19 make available to each jury commissioner each December a list in
20 magnetic, optical, digital, or other electronic format mutually
21 agreed to by the jury commissioner and the department containing
22 the names, dates of birth, and addresses of all licensed motor
23 vehicle operators and state identification card holders nineteen
24 years of age or older in the county. The jury commissioner may
25 request such a list of licensed motor vehicle operators and state
26 identification card holders from the county treasurer if the county
27 treasurer has an automated procedure for developing such lists. If

1 a jury commissioner requests similar lists at other times from the
2 department, the cost of processing such lists shall be paid by the
3 county which the requesting jury commissioner serves.

4 (2) Upon receipt of both lists described in subsection
5 (1) of this section, the jury commissioner shall combine the
6 separate lists and attempt to reduce duplication to the best
7 of his or her ability to produce a master list. In counties
8 having a population of three thousand inhabitants or more, the
9 jury commissioner shall produce a master list at least once each
10 calendar year. In counties having a population of less than three
11 thousand inhabitants, the jury commissioner shall produce a master
12 list at least once every two calendar years.

13 (3) The proposed juror list shall be derived by selecting
14 from the master list the name of the person whose numerical order
15 on such list corresponds with the key number and each successive
16 tenth name thereafter. The jury commissioner shall certify that
17 the proposed juror list has been made in accordance with sections
18 25-1625 to 25-1637.

19 (4) Any duplication of names on a master list shall not
20 be grounds for quashing any panel pursuant to section 25-1637 or
21 for the disqualification of any juror.

22 Sec. 11. Section 25-2405, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 25-2405 Every interpreter, except those certified under
25 the rules of the Supreme Court and who have taken the prescribed
26 oath of office, appointed pursuant to sections 25-2401 to 25-2407,
27 before entering upon his or her duties as such, shall take an oath

1 that he or she will, to the best of his or her skill and judgment,
2 make a true interpretation to such person unable to communicate
3 the English language of all the proceedings in a language which
4 such person understands and that he or she will, in the English
5 language, repeat the statements of such person to the court, jury,
6 or officials before whom such proceeding takes place.

7 Sec. 12. Section 25-2721, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 25-2721 (1) Any person having a judgment rendered by a
10 county court may cause a transcript of the judgment to be filed in
11 the office of the clerk of the county court in any county of this
12 state. ~~When the transcript is so filed, request~~ the clerk of such
13 court may to issue execution on the judgment in the same manner
14 as execution is issued upon other judgments rendered in the county
15 court and direct the execution on the judgment to any county in
16 the state. Such person may request that garnishment, attachment, or
17 any other aid to execution be directed to any county without the
18 necessity of filing a transcript of the judgment in the receiving
19 county and any hearing or proceeding with regard to such execution
20 or aid in execution shall be heard in the court in which the
21 judgment was originally rendered.

22 (2) Any person having a judgment rendered by a county
23 court may cause a transcript thereof to be filed in the office of
24 the clerk of the district court in any county of this state. When
25 the transcript is so filed and entered upon the judgment record,
26 such judgment shall be a lien on real estate in the county where
27 the ~~same~~ transcript is filed, and when the ~~same~~ transcript is so

1 filed and entered upon such judgment record, the clerk of such
2 court may issue execution thereupon in like manner as execution is
3 issued upon judgments rendered in the district court.

4 Sec. 13. Section 25-3007, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 25-3007 The Civil Legal Services Program is created.
7 Appropriations to the program and money in the Civil Legal Services
8 Fund shall be used to provide grants for civil legal services
9 to eligible low-income persons. The ~~State Court Administrator~~
10 Commission on Public Advocacy shall distribute grants pursuant to
11 section 25-3008.

12 Sec. 14. Section 25-3008, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 25-3008 (1) The ~~State Court Administrator~~ Commission
15 on Public Advocacy shall establish guidelines for submission of
16 applications for grants to provide civil legal services to eligible
17 low-income persons. To be eligible for a grant under this section,
18 a civil legal services provider shall:

19 (a) Be a nonprofit organization chartered in Nebraska;

20 (b) Employ or contract with attorneys admitted to
21 practice before the Nebraska Supreme Court and the United States
22 District Courts;

23 (c) Have offices located throughout the state;

24 (d) Have as its principal purpose and mission the
25 delivery of civil legal services to eligible low-income persons
26 who are residents of Nebraska;

27 (e) Distribute its resources equitably throughout the

1 state;

2 (f) Be a recipient of financial assistance for the
3 delivery of civil legal services from the Legal Services
4 Corporation established by the federal Legal Services Corporation
5 Act, 42 U.S.C. 2996 et seq.; and

6 (g) Certify that any grant funds received pursuant to
7 this section will be used to supplement any existing funds used
8 by the applicant and that such funds will not replace other funds
9 appropriated or awarded by a state agency to provide civil legal
10 services to any eligible low-income person.

11 (2) A civil legal services provider seeking a grant
12 under this section shall file an application with the ~~State Court~~
13 ~~Administrator~~ commission on forms provided by the ~~administrator~~.
14 commission. The application shall include a place for the provider
15 to certify to the ~~administrator~~ commission that it will provide
16 free civil legal services to eligible low-income persons upon
17 receipt of a grant under this section.

18 (3) The ~~State Court Administrator~~ commission shall review
19 the applications and determine which civil legal services providers
20 shall receive grants under this section and the amount of the
21 grants. Grant recipients shall use the grant funds to provide free
22 civil legal services to eligible low-income persons.

23 (4) An independent certified public accountant shall
24 annually audit the books and accounts of each grant recipient. The
25 grant recipients shall provide the results of such audit to the
26 ~~State Court Administrator~~ commission.

27 Sec. 15. Section 27-1201, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 27-1201 (1) In any civil action brought by an alleged
3 victim of an unanticipated outcome of medical care, or in any
4 arbitration proceeding related to such civil action, any and all
5 statements, affirmations, gestures, or conduct expressing apology,
6 sympathy, commiseration, condolence, compassion, or a general sense
7 of benevolence which are made by a health care provider or an
8 employee of a health care provider to the alleged victim, a
9 relative of the alleged victim, or a representative of the alleged
10 victim and which relate to the discomfort, pain, suffering, injury,
11 or death of the alleged victim as a result of the unanticipated
12 outcome of medical care shall be inadmissible as evidence of an
13 admission of liability or as evidence of an admission against
14 interest. A statement of fault which is otherwise admissible and
15 is part of or in addition to any such communication shall be
16 admissible.

17 (2) For purposes of this section, unless the context
18 otherwise requires:

19 (a) Health care provider means any person licensed or
20 certified by the State of Nebraska to deliver health care under
21 the ~~Uniform Licensing Law~~ Credentialing Act and any health care
22 facility licensed under the Health Care Facility Licensure Act.
23 Health care provider includes any professional corporation or other
24 professional entity comprised of such health care providers;

25 (b) Relative means a patient's spouse, parent,
26 grandparent, stepfather, stepmother, child, grandchild, brother,
27 sister, stepbrother, stepsister, half brother, half sister, or

1 spouse's parents. Relative includes persons related to the patient
2 through adoptive relationships. Relative also includes any person
3 who has a family-type relationship with the patient;

4 (c) Representative means a legal guardian, attorney,
5 person designated to make health care decisions on behalf of a
6 patient under a power of attorney, or any person recognized in law
7 or custom as a patient's agent; and

8 (d) Unanticipated outcome means the outcome of a medical
9 treatment or procedure that differs from the expected result.

10 Sec. 16. Section 30-2302, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 30-2302 The intestate share of the surviving spouse is:

13 (1) if there is no surviving issue or parent of the
14 decedent, the entire intestate estate;

15 (2) if there is no surviving issue but the decedent
16 is survived by a parent or parents, the first ~~fifty~~ one hundred
17 thousand dollars, plus one-half of the balance of the intestate
18 estate;

19 (3) if there are surviving issue all of whom are issue
20 of the surviving spouse also, the first ~~fifty~~ one hundred thousand
21 dollars, plus one-half of the balance of the intestate estate;

22 (4) if there are surviving issue one or more of whom
23 are not issue of the surviving spouse, one-half of the intestate
24 estate.

25 Sec. 17. Section 30-2485, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 30-2485 (a) All claims against a decedent's estate which

1 arose before the death of the decedent, including claims of
2 the state and any subdivision thereof, whether due or to become
3 due, absolute or contingent, liquidated or unliquidated, founded
4 on contract, tort, or other legal basis, if not barred earlier
5 by other statute of limitations, are barred against the estate,
6 the personal representative, and the heirs and devisees of the
7 decedent, unless presented as follows:

8 (1) Within two months after the date of the first
9 publication of notice to creditors if notice is given in compliance
10 with sections 25-520.01 and 30-2483, except that claims barred by
11 the nonclaim statute at the decedent's domicile before the first
12 publication for claims in this state are also barred in this state.
13 If any creditor has a claim against a decedent's estate which arose
14 before the death of the decedent and which was not presented within
15 the time allowed by this subdivision, including any creditor who
16 did not receive notice, such creditor may apply to the court within
17 sixty days after the expiration date provided in this subdivision
18 for additional time and the court, upon good cause shown, may allow
19 further time not to exceed thirty days;

20 (2) Within three years after the decedent's death if
21 notice to creditors has not been given in compliance with sections
22 25-520.01 and 30-2483.

23 (b) All claims, other than for ~~administration expenses,~~
24 costs and expenses of administration as defined in section
25 30-2487, against a decedent's estate which arise at or after
26 the death of the decedent, including claims of the state and any
27 subdivision thereof, whether due or to become due, absolute or

1 contingent, liquidated or unliquidated, founded on contract, tort,
2 or other legal basis, are barred against the estate, the personal
3 representative, and the heirs and devisees of the decedent, unless
4 presented as follows:

5 (1) A claim based on a contract with the personal
6 representative, within four months after performance by the
7 personal representative is due;

8 (2) Any other claim, within four months after it arises.

9 (c) Nothing in this section affects or prevents:

10 (1) Any proceeding to enforce any mortgage, pledge, or
11 other lien upon property of the estate; or

12 (2) To the limits of the insurance protection only, any
13 proceeding to establish liability of the decedent or the personal
14 representative for which he or she is protected by liability
15 insurance.

16 Sec. 18. Section 30-2487, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 30-2487 (a) If the applicable assets of the estate are
19 insufficient to pay all claims in full, the personal representative
20 shall make payment in the following order:

21 (1) Costs and expenses of administration;

22 (2) Reasonable funeral expenses;

23 (3) Debts and taxes with preference under federal law;

24 (4) Reasonable and necessary medical and hospital
25 expenses of the last illness of the decedent, including
26 compensation of persons attending the decedent and claims filed by
27 the Department of Health and Human Services pursuant to section

1 68-919;

2 (5) Debts and taxes with preference under other laws of
3 this state;

4 (6) All other claims.

5 (b) No preference shall be given in the payment of any
6 claim over any other claim of the same class, and a claim due and
7 payable shall not be entitled to a preference over claims not due.

8 (c) For purposes of this section and section 30-2485,
9 costs and expenses of administration includes expenses incurred in
10 taking possession or control of estate assets and the management,
11 protection, and preservation of the estate assets, expenses related
12 to the sale of estate assets, and expenses in the day-to-day
13 operation and continuation of business interests for the benefit of
14 the estate.

15 Sec. 19. Section 30-24,125, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 30-24,125 (a) Thirty days after the death of a decedent,
18 any person indebted to the decedent or having possession of
19 tangible personal property or an instrument evidencing a debt,
20 obligation, stock, or chose in action belonging to the decedent
21 shall make payment of the indebtedness or deliver the tangible
22 personal property or an instrument evidencing a debt, obligation,
23 stock, or chose in action to a person claiming to be the successor
24 of the decedent upon being presented an affidavit made by or on
25 behalf of the successor stating:

26 (1) the value of all of the personal property in the
27 decedent's estate, wherever located, less liens and encumbrances,

1 does not exceed ~~twenty-five~~ fifty thousand dollars;

2 (2) thirty days have elapsed since the death of the
3 decedent as shown in a certified or authenticated copy of the
4 decedent's death certificate attached to the affidavit;

5 (3) the claiming successor's relationship to the decedent
6 or, if there is no relationship, the basis of the successor's claim
7 to the personal property;

8 (4) the person or persons claiming as successors under
9 the affidavit swear or affirm that all statements in the affidavit
10 are true and material and further acknowledge that any false
11 statement may subject the person or persons to penalties relating
12 to perjury under section 28-915;

13 (5) no application or petition for the appointment of
14 a personal representative is pending or has been granted in any
15 jurisdiction; and

16 (6) the claiming successor is entitled to payment or
17 delivery of the property.

18 (b) A transfer agent of any security shall change the
19 registered ownership on the books of a corporation from the
20 decedent to the successor or successors upon the presentation of an
21 affidavit as provided in subsection (a).

22 (c) In addition to compliance with the requirements of
23 subsection (a), a person seeking a transfer of a certificate
24 of title to a motor vehicle, motorboat, all-terrain vehicle, or
25 minibike shall be required to furnish to the Department of Motor
26 Vehicles an affidavit showing applicability of this section and
27 compliance with the requirements of this section to authorize the

1 department to issue a new certificate of title.

2 Sec. 20. Section 30-24,129, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 30-24,129 (a) Thirty days after the death of a decedent,
5 any person claiming as successor to the decedent's interest in real
6 property in this state may file or cause to be filed on his or her
7 behalf, with the register of deeds office of a county in which the
8 real property of the decedent that is the subject of the affidavit
9 is located, an affidavit describing the real property owned by the
10 decedent and the interest of the decedent in the property. The
11 affidavit shall be signed by all persons claiming as successors or
12 by parties legally acting on their behalf and shall be prima facie
13 evidence of the facts stated in the affidavit. The affidavit shall
14 state:

15 (1) the value of the decedent's interest in all real
16 property in the decedent's estate located in this state does
17 not exceed ~~twenty-five~~ thirty thousand dollars. The value of the
18 decedent's interest shall be determined from the value of the
19 property as shown on the assessment rolls for the year in which the
20 decedent died;

21 (2) thirty days have elapsed since the death of the
22 decedent as shown in a certified or authenticated copy of the
23 decedent's death certificate attached to the affidavit;

24 (3) no application or petition for the appointment of
25 a personal representative is pending or has been granted in any
26 jurisdiction;

27 (4) the claiming successor is entitled to the real

1 property by reason of the homestead allowance, exempt property
2 allowance, or family allowance, by intestate succession, or by
3 devise under the will of the decedent;

4 (5) the claiming successor has made an investigation and
5 has been unable to determine any subsequent will;

6 (6) no other person has a right to the interest of the
7 decedent in the described property;

8 (7) the claiming successor's relationship to the decedent
9 and the value of the entire estate of the decedent; and

10 (8) the person or persons claiming as successors under
11 the affidavit swear or affirm that all statements in the affidavit
12 are true and material and further acknowledge that any false
13 statement may subject the person or persons to penalties relating
14 to perjury under section 28-915.

15 (b) The recorded affidavit and certified or authenticated
16 copy of the decedent's death certificate shall also be recorded
17 by the claiming successor in any other county in this state in
18 which the real property of the decedent that is the subject of the
19 affidavit is located.

20 Sec. 21. Section 33-107.03, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 33-107.03 In addition to all other court costs assessed
23 according to law, a court automation fee of ~~six~~ seven dollars
24 shall be taxed as costs for each case filed in each county court,
25 separate juvenile court, and district court, including appeals to
26 such courts, and for each appeal and original action filed in the
27 Court of Appeals and the Supreme Court. The fees shall be remitted

1 to the State Treasurer on forms prescribed by the State Treasurer
2 within ten days after the end of each month. The State Treasurer
3 shall credit the fees to the Supreme Court Automation Cash Fund.

4 Sec. 22. Section 34-301, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 34-301 When one or more owners of land, the corners and
7 boundaries of which are lost, destroyed, or in dispute, desire
8 to have the same established, they may bring an action in the
9 district court of the county where such lost, destroyed, or
10 disputed corners or boundaries, or part thereof, are situated,
11 against the owners of the other tracts which will be affected by
12 the determination or establishment thereof, to have such corners or
13 boundaries ascertained and permanently established. If any public
14 road is likely to be affected thereby, the proper county shall be
15 made defendant. Notice of such action shall be given as in other
16 cases, and if the defendants or any of them are nonresidents of
17 the state, or unknown, they may be served by publication as is
18 provided by law. The action shall be a special one, and the only
19 necessary pleading therein shall be the ~~petition~~ complaint of the
20 plaintiff describing the land involved, and, so far as may be, the
21 interest of the respective parties and asking that certain corners
22 and boundaries therein described, as accurately as may be, shall be
23 established. Either the plaintiff or defendant may, by proper plea,
24 put in issue the fact that certain alleged boundaries or corners
25 are the true ones, or that such have been recognized and acquiesced
26 in by the parties or their grantors for a period of ten consecutive
27 years, which issue shall be tried before the district court under

1 its equity jurisdiction without the intervention of a jury, and
2 appeals from such proceedings shall be had and taken in conformity
3 with the equity rules.

4 Sec. 23. Section 43-103, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 43-103 Except as otherwise provided in the Nebraska
7 Indian Child Welfare Act, upon the filing of ~~such~~ a petition for
8 adoption the court shall fix a time for hearing the same. The
9 hearing shall be held ⁷ not less than four weeks nor more than
10 eight weeks after the filing of such petition unless any party
11 for good cause shown requests a continuance of the hearing or all
12 parties agree to a continuance. The court may require notice of the
13 hearing to be given to the child, if over fourteen years of age,
14 to the natural parent or parents of the child, and to such other
15 interested persons as the judge may, in the exercise of discretion,
16 deem advisable, in the manner provided for service of a summons
17 in a civil action. If the judge directs notice by publication,
18 such notice shall be published three successive weeks in a legal
19 newspaper of general circulation in such county.

20 Sec. 24. Section 43-1314.02, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 43-1314.02 (1) The court shall provide a caregiver
23 information form or directions on downloading such form from the
24 Supreme Court Internet web site to the foster parent, preadoptive
25 parent, guardian, or relative providing care for the child when
26 giving notice of a court review described in section 43-1314. The
27 form is to be dated and signed by the caregiver and shall, at a

1 minimum, request the following:

2 (a) The child's name, age, and date of birth;

3 (b) The name of the caregiver, his or her telephone
4 number and address, and whether the caregiver is a foster parent,
5 preadoptive parent, guardian, or relative;

6 (c) How long the child has been in the caregiver's care;

7 (d) A current picture of the child;

8 (e) The current status of the child's medical, dental,
9 and general physical condition;

10 (f) The current status of the child's emotional
11 condition;

12 (g) The current status of the child's education;

13 (h) Whether or not the child is a special education
14 student and the date of the last individualized educational plan;

15 (i) A brief description of the child's social skills and
16 peer relationships;

17 (j) A brief description of the child's special interests
18 and activities;

19 (k) A brief description of the child's reactions before,
20 during, and after visits;

21 (l) Whether or not the child is receiving all necessary
22 services;

23 (m) The date and place of each visit by the caseworker
24 with the child;

25 (n) A description of the method by which the guardian ad
26 litem has acquired information about the child; and

27 (o) Whether or not the caregiver can make a permanent

1 commitment to the child if the child does not return home.

2 (2) A caregiver information form shall be developed by
3 the Supreme Court. Such form shall be made a part of the record in
4 each court that reviews the child's foster care proceedings.

5 Sec. 25. Section 43-3001, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 43-3001 (1) Notwithstanding any other provision of law
8 regarding the confidentiality of records and when not prohibited
9 by the federal Privacy Act of 1974, as amended, juvenile court
10 records and any other pertinent information that may be in the
11 possession of school districts, school personnel, county attorneys,
12 the Attorney General, law enforcement agencies, child advocacy
13 centers, state probation personnel, state parole personnel, youth
14 detention facilities, medical personnel, treatment or placement
15 programs, the Department of Health and Human Services, the
16 Department of Correctional Services, the State Foster Care Review
17 Board, child abuse and neglect investigation teams, child abuse
18 and neglect treatment teams, or other multidisciplinary teams for
19 abuse, neglect, or delinquency concerning a child who is in the
20 custody of the state may be shared with individuals and agencies
21 who have been identified in a court order authorized by this
22 section.

23 (2) In any judicial proceeding concerning a child who is
24 currently, or who may become at the conclusion of the proceeding,
25 a ward of the court or state or under the supervision of the
26 court, an order may be issued which identifies individuals and
27 agencies who shall be allowed to receive otherwise confidential

1 information concerning the child for legitimate and official
2 purposes. The individuals and agencies who may be identified in
3 the court order are the child's attorney or guardian ad litem, the
4 parents' attorney, foster parents, appropriate school personnel,
5 county attorneys, the Attorney General, authorized court personnel,
6 law enforcement agencies, state probation personnel, state parole
7 personnel, youth detention facilities, medical personnel, court
8 appointed special advocate volunteers, treatment or placement
9 programs, the Department of Health and Human Services, the Office
10 of Juvenile Services, the Department of Correctional Services,
11 the State Foster Care Review Board, child abuse and neglect
12 investigation teams, child abuse and neglect treatment teams, and
13 other multidisciplinary teams for abuse, neglect, or delinquency,
14 and other individuals and agencies for which the court specifically
15 finds, in writing, that it would be in the best interest of the
16 juvenile to receive such information. Unless the order otherwise
17 states, the order shall be effective until the child leaves the
18 custody of the state or until a new order is issued.

19 (3) All information acquired by an individual or agency
20 pursuant to this section shall be confidential and shall not
21 be disclosed except to other persons who have a legitimate and
22 official interest in the information and are identified in the
23 court order issued pursuant to this section with respect to the
24 child in question. A person who receives such information or
25 who cooperates in good faith with other individuals and agencies
26 identified in the appropriate court order by providing information
27 or records about a child shall be immune from any civil or criminal

1 liability. The provisions of this section granting immunity from
2 liability shall not be extended to any person alleged to have
3 committed an act of child abuse or neglect.

4 (4) In any proceeding under this section relating to a
5 child of school age, certified copies of school records relating to
6 attendance and academic progress of such child are admissible in
7 evidence.

8 (5) Except as provided in subsection (4) of this section,
9 any person who publicly discloses information received pursuant to
10 this section shall be guilty of a Class III misdemeanor.

11 Sec. 26. Section 43-3713, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 43-3713 (1) All government agencies, service providers,
14 professionals, school districts, school personnel, parents, and
15 families shall cooperate with all reasonable requests of the court
16 appointed special advocate volunteer. The volunteer shall cooperate
17 with all government agencies, service providers, professionals,
18 school districts, school personnel, parents, and families.

19 (2) The volunteer shall be notified in a timely manner
20 of all hearings, meetings, and any other proceeding concerning
21 the case to which he or she has been appointed. The court in
22 its discretion may proceed notwithstanding failure to notify the
23 volunteer or failure of the volunteer to appear.

24 Sec. 27. Section 84-917, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 84-917 (1) Any person aggrieved by a final decision in a
27 contested case, whether such decision is affirmative or negative in

1 form, shall be entitled to judicial review under the Administrative
2 Procedure Act. Nothing in this section shall be deemed to prevent
3 resort to other means of review, redress, or relief provided by
4 law.

5 ~~(2)(a)~~ (2)(a)(i) Proceedings for review shall be
6 instituted by filing a petition in the district court of the county
7 where the action is taken within thirty days after the service of
8 the final decision by the agency. All parties of record shall be
9 made parties to the proceedings for review. If an agency's only
10 role in a contested case is to act as a neutral factfinding body,
11 the agency shall not be a party of record. In all other cases, the
12 agency shall be a party of record. Summons shall be served within
13 thirty days of the filing of the petition in the manner provided
14 for service of a summons in section 25-510.02. If the agency whose
15 decision is appealed from is not a party of record, the petitioner
16 shall serve a copy of the petition and a request for preparation
17 of the official record upon the agency within thirty days of the
18 filing of the petition. The court, in its discretion, may permit
19 other interested persons to intervene.

20 (ii) The filing of a petition for review shall vest in a
21 responding party of record the right to a cross-appeal against any
22 other party of record. A respondent shall serve its cross-appeal
23 within thirty days after being served with the summons and petition
24 for review.

25 (b) A petition for review shall set forth: (i) The
26 name and mailing address of the petitioner; (ii) the name and
27 mailing address of the agency whose action is at issue; (iii)

1 identification of the final decision at issue together with a
2 duplicate copy of the final decision; (iv) identification of the
3 parties in the contested case that led to the final decision; (v)
4 facts to demonstrate proper venue; (vi) the petitioner's reasons
5 for believing that relief should be granted; and (vii) a request
6 for relief, specifying the type and extent of the relief requested.

7 (3) The filing of the petition or the service of summons
8 upon such agency shall not stay enforcement of a decision. The
9 agency may order a stay. The court may order a stay after notice
10 of the application therefor to such agency and to all parties of
11 record. If the agency has found that its action on an application
12 for stay or other temporary remedies is justified to protect
13 against a substantial threat to the public health, safety, or
14 welfare, the court may not grant relief unless the court finds
15 that: (a) The applicant is likely to prevail when the court
16 finally disposes of the matter; (b) without relief, the applicant
17 will suffer irreparable injuries; (c) the grant of relief to
18 the applicant will not substantially harm other parties to the
19 proceedings; and (d) the threat to the public health, safety, or
20 welfare relied on by the agency is not sufficiently serious to
21 justify the agency's action in the circumstances. The court may
22 require the party requesting such stay to give bond in such amount
23 and conditioned as the court may direct.

24 (4) Within thirty days after service of the petition
25 or within such further time as the court for good cause shown
26 may allow, the agency shall prepare and transmit to the court a
27 certified copy of the official record of the proceedings had before

1 the agency. Such official record shall include: (a) Notice of
2 all proceedings; (b) any pleadings, motions, requests, preliminary
3 or intermediate rulings and orders, and similar correspondence to
4 or from the agency pertaining to the contested case; (c) the
5 transcribed record of the hearing before the agency, including all
6 exhibits and evidence introduced during such hearing, a statement
7 of matters officially noticed by the agency during the proceeding,
8 and all proffers of proof and objections and rulings thereon;
9 and (d) the final order appealed from. The agency shall charge
10 the petitioner with the reasonable direct cost or require the
11 petitioner to pay the cost for preparing the official record for
12 transmittal to the court in all cases except when the petitioner is
13 not required to pay a filing fee. The agency may require payment or
14 bond prior to the transmittal of the record.

15 (5) (a) When the petition instituting proceedings for
16 review was filed in the district court before July 1, 1989, the
17 review shall be conducted by the court without a jury on the record
18 of the agency, and review may not be obtained of any issue that
19 was not raised before the agency unless such issue involves one of
20 the grounds for reversal or modification enumerated in subdivision
21 (6) (a) of this section. When the petition instituting proceedings
22 for review is filed in the district court on or after July 1, 1989,
23 the review shall be conducted by the court without a jury de novo
24 on the record of the agency.

25 (b) (i) If the court determines that the interest of
26 justice would be served by the resolution of any other issue not
27 raised before the agency, the court may remand the case to the

1 agency for further proceedings.

2 (ii) The agency shall affirm, modify, or reverse its
3 findings and decision in the case by reason of the additional
4 proceedings and shall file the decision following remand with
5 the reviewing court. The agency shall serve a copy of the
6 decision following remand upon all parties to the district court
7 proceedings. The agency decision following remand shall become
8 final unless a petition for further review is filed with the
9 reviewing court within thirty days after the decision following
10 remand being filed with the district court. The party filing the
11 petition for further review shall serve a copy of the petition for
12 further review upon all parties to the district court proceeding in
13 accordance with the rules of pleading in civil actions promulgated
14 by the Supreme Court pursuant to section 25-801.01 within thirty
15 days after the petition for further review is filed. Within thirty
16 days after service of the petition for further review or within
17 such further time as the court for good cause shown may allow, the
18 agency shall prepare and transmit to the court a certified copy of
19 the official record of the additional proceedings had before the
20 agency following remand.

21 (6)(a) When the petition instituting proceedings for
22 review was filed in the district court before July 1, 1989, the
23 court may affirm the decision of the agency or remand the case for
24 further proceedings, or it may reverse or modify the decision if
25 the substantial rights of the petitioner may have been prejudiced
26 because the agency decision is:

27 (i) In violation of constitutional provisions;

1 (ii) In excess of the statutory authority or jurisdiction
2 of the agency;

3 (iii) Made upon unlawful procedure;

4 (iv) Affected by other error of law;

5 (v) Unsupported by competent, material, and substantial
6 evidence in view of the entire record as made on review; or

7 (vi) Arbitrary or capricious.

8 (b) When the petition instituting proceedings for review
9 is filed in the district court on or after July 1, 1989, the court
10 may affirm, reverse, or modify the decision of the agency or remand
11 the case for further proceedings.

12 (7) The review provided by this section shall not be
13 available in any case where other provisions of law prescribe the
14 method of appeal.

15 Sec. 28. Sections 4 and 29 of this act become operative
16 on July 1, 2009. Sections 5, 28, 30, and 33 become operative on
17 their effective date. Sections 13, 14, and 31 become operative on
18 January 1, 2010. The other sections of this act become operative
19 three calendar months after adjournment of this legislative
20 session.

21 Sec. 29. Original section 24-301.02, Reissue Revised
22 Statutes of Nebraska, is repealed.

23 Sec. 30. Original section 24-517, Reissue Revised
24 Statutes of Nebraska, is repealed.

25 Sec. 31. Original sections 25-3007 and 25-3008, Reissue
26 Revised Statutes of Nebraska, are repealed.

27 Sec. 32. Original sections 21-2601, 23-1205, 25-505.01,

1 25-507.01, 25-1144, 25-1628, 25-2405, 25-2721, 27-1201, 30-2302,
2 30-2485, 30-2487, 30-24,129, 33-107.03, 34-301, 43-103, 43-1314.02,
3 43-3001, 43-3713, and 84-917, Reissue Revised Statutes of Nebraska,
4 are repealed.

5 Sec. 33. Since an emergency exists, this act takes effect
6 when passed and approved according to law.