

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 532

FINAL READING

Introduced by Cavanaugh, 6; Hunt, 8; Blood, 3.

Read first time January 22, 2019

Committee: Judiciary

1 A BILL FOR AN ACT relating to protection orders; to amend sections
2 28-311.09, 42-924.02, and 42-926, Reissue Revised Statutes of
3 Nebraska, and sections 28-311.11, 42-924, and 42-925, Revised
4 Statutes Cumulative Supplement, 2018; to change provisions relating
5 to harassment protection orders, sexual assault protection orders,
6 and domestic abuse protection orders; to provide an operative date;
7 and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-311.09, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 28-311.09 (1) Any victim who has been harassed as defined by section
4 28-311.02 may file a petition and affidavit for a harassment protection
5 order as provided in subsection (3) of this section. Upon the filing of
6 such a petition and affidavit in support thereof, the court may issue a
7 harassment protection order without bond enjoining the respondent from
8 (a) imposing any restraint upon the person or liberty of the petitioner,
9 (b) harassing, threatening, assaulting, molesting, attacking, or
10 otherwise disturbing the peace of the petitioner, or (c) telephoning,
11 contacting, or otherwise communicating with the petitioner. The
12 harassment protection order shall specify to whom relief under this
13 section was granted.

14 (2) The petition for a harassment protection order shall state the
15 events and dates or approximate dates of acts constituting the alleged
16 harassment, including the most recent and most severe incident or
17 incidents.

18 (3) A petition for a harassment protection order shall be filed with
19 the clerk of the district court, and the proceeding may be heard by the
20 county court or the district court as provided in section 25-2740.

21 (4) A petition for a harassment protection order filed pursuant to
22 subsection (1) of this section may not be withdrawn except upon order of
23 the court. An order issued pursuant to subsection (1) of this section
24 shall specify that it is effective for a period of one year unless
25 otherwise dismissed or modified by the court. Any person, except the
26 petitioner, who knowingly violates an order issued pursuant to subsection
27 (1) of this section after service or notice as described in subdivision
28 (9)(b) (8)(b) of this section shall be guilty of a Class II misdemeanor.

29 (5)(a) Fees to cover costs associated with the filing of a petition
30 for a harassment protection order or the issuance or service of a
31 harassment protection order seeking only the relief provided by this

1 section shall not be charged, except that a court may assess such fees
2 and costs if the court finds, by clear and convincing evidence, that the
3 statements contained in the petition were false and that the harassment
4 protection order was sought in bad faith.

5 (b) A court may also assess costs associated with the filing of a
6 petition for a harassment protection order or the issuance or service of
7 a harassment protection order seeking only the relief provided by this
8 section against the respondent.

9 (6) The clerk of the district court shall make available standard
10 application and affidavit forms for a harassment protection order with
11 instructions for completion to be used by a petitioner. Affidavit forms
12 shall request all relevant information, including, but not limited to: A
13 description of the incidents that are the basis for the application for a
14 harassment protection order, including the most severe incident, and the
15 date or approximate date of such incidents. The clerk and his or her
16 employees shall not provide assistance in completing the forms. The State
17 Court Administrator shall adopt and promulgate the standard application
18 and affidavit forms provided for in this section as well as the standard
19 temporary ex parte and final harassment protection order forms and
20 provide a copy of such forms to all clerks of the district courts in this
21 state. These standard temporary ex parte and final harassment protection
22 order forms shall be the only such forms used in this state.

23 (7) Any order issued under subsection (1) of this section may be
24 issued ex parte without notice to the respondent if it reasonably appears
25 from the specific facts shown by affidavit of the petitioner that
26 irreparable harm, loss, or damage will result before the matter can be
27 heard on notice. If the specific facts included in the affidavit (a) do
28 not show that the petitioner will suffer irreparable harm, loss, or
29 damage or (b) show that, for any other compelling reason, an ex parte
30 order should not be issued, the court may forthwith cause notice of the
31 application to be given to the respondent stating that he or she may show

1 cause, not more than fourteen days after service, why such order should
2 not be entered. Any notice provided to the respondent shall include
3 notification that a court may treat a petition for a harassment
4 protection order as a petition for a sexual assault protection order or a
5 domestic abuse protection order if it appears from the facts that such
6 other protection order is more appropriate and that the respondent shall
7 have an opportunity to show cause as to why such protection order should
8 not be entered. If such ex parte order is issued without notice to the
9 respondent, the court shall forthwith cause notice of the petition and
10 order and a form with which to request a show-cause hearing to be given
11 the respondent stating that, upon service on the respondent, the order
12 shall remain in effect for a period of one year unless the respondent
13 shows cause why the order should not remain in effect for a period of one
14 year. If the respondent wishes to appear and show cause why the order
15 should not remain in effect for a period of one year, he or she shall
16 affix his or her current address, telephone number, and signature to the
17 form and return it to the clerk of the district court within ten business
18 five days after service upon him or her. Upon receipt of a timely the
19 request for a show-cause hearing, the court shall immediately schedule a
20 show-cause hearing to be held within thirty days after the receipt of the
21 request for a show-cause hearing and shall notify the petitioner and
22 respondent of the hearing date. If a petition is dismissed without a
23 hearing, it shall be dismissed without prejudice. The petition and
24 affidavit shall be deemed to have been offered into evidence at any show-
25 cause hearing. The petition and affidavit shall be admitted into evidence
26 unless specifically excluded by the court.

27 (8) A court may treat a petition for a harassment protection order
28 as a petition for a sexual assault protection order or a domestic abuse
29 protection order if it appears from the facts in the petition, affidavit,
30 and evidence presented at a show-cause hearing that such other protection
31 order is more appropriate and if:

1 (a) The court makes specific findings that such other order is more
2 appropriate; or

3 (b) The petitioner has requested the court to so treat the petition.

4 (9)(a) {8}(a) Upon the issuance of any temporary ex parte or final
5 harassment protection order, the clerk of the court shall forthwith
6 provide the petitioner, without charge, with two certified copies of such
7 order. The clerk of the court shall also forthwith provide the local
8 police department or local law enforcement agency and the local sheriff's
9 office, without charge, with one copy each of such order and one copy
10 each of the sheriff's return thereon. The clerk of the court shall also
11 forthwith provide a copy of the harassment protection order to the
12 sheriff's office in the county where the respondent may be personally
13 served together with instructions for service. Upon receipt of the order
14 and instructions for service, such sheriff's office shall forthwith serve
15 the harassment protection order upon the respondent and file its return
16 thereon with the clerk of the court which issued the harassment
17 protection order within fourteen days of the issuance of the harassment
18 protection order. If any harassment protection order is dismissed or
19 modified by the court, the clerk of the court shall forthwith provide the
20 local police department or local law enforcement agency and the local
21 sheriff's office, without charge, with one copy each of the order of
22 dismissal or modification.

23 (b) If the respondent is present at a hearing convened pursuant to
24 this section and the harassment protection order is not dismissed, such
25 respondent shall be deemed to have notice by the court at such hearing
26 that the harassment protection order will be granted and remain in effect
27 and further service of such notice described in this subsection shall not
28 be required for purposes of prosecution under this section.

29 (c) A temporary ex parte harassment protection order shall be
30 affirmed and deemed the final protection order and service of the
31 temporary ex parte order shall be notice of the final protection order if

1 If the respondent has been properly served with the ex parte order and;
2 ~~fails to appear at the hearing, the temporary order shall be deemed to be~~
3 ~~granted and remain in effect and the service of the ex parte order will~~
4 ~~serve as notice required under this section.~~

5 (i) The respondent fails to request a show-cause hearing within ten
6 business days after service upon him or her and no hearing was requested
7 by the petitioner or upon the court's own motion;

8 (ii) The respondent has been properly served with notice of any
9 hearing requested by the respondent or petitioner or upon the court's own
10 motion and the respondent fails to appear at such hearing; or

11 (iii) The respondent has been properly served with notice of any
12 hearing requested by the respondent, the petitioner, or upon the court's
13 own motion and the protection order was not dismissed at the hearing.

14 ~~(10) (9)~~ A peace officer may, with or without a warrant, arrest a
15 person if (a) the officer has probable cause to believe that the person
16 has committed a violation of a harassment protection order issued
17 pursuant to this section or a violation of a valid foreign harassment
18 protection order recognized pursuant to section 28-311.10 and (b) a
19 petitioner under this section provides the peace officer with a copy of a
20 harassment protection order or the peace officer determines that such an
21 order exists after communicating with the local law enforcement agency or
22 a person protected under a valid foreign harassment protection order
23 recognized pursuant to section 28-311.10 provides the peace officer with
24 a copy of such order.

25 ~~(11) (10)~~ A peace officer making an arrest pursuant to subsection
26 ~~(10) (9)~~ of this section shall take such person into custody and take
27 such person before the county court or the court which issued the
28 harassment protection order within a reasonable time. At such time the
29 court shall establish the conditions of such person's release from
30 custody, including the determination of bond or recognizance, as the case
31 may be. The court shall issue an order directing that such person shall

1 have no contact with the alleged victim of the harassment.

2 (12) When provided by the petitioner, the court shall make
3 confidential numeric victim identification information, including social
4 security numbers and dates of birth, available to appropriate criminal
5 justice agencies engaged in protection order enforcement efforts. Such
6 agencies shall maintain the confidentiality of this information except
7 for entry into state and federal data bases for protection order
8 enforcement.

9 Sec. 2. Section 28-311.11, Revised Statutes Cumulative Supplement,
10 2018, is amended to read:

11 28-311.11 (1) Any victim of a sexual assault offense may file a
12 petition and affidavit for a sexual assault protection order as provided
13 in subsection (3) of this section. Upon the filing of such a petition and
14 affidavit in support thereof, the court may issue a sexual assault
15 protection order without bond enjoining the respondent from (a) imposing
16 any restraint upon the person or liberty of the petitioner, (b)
17 harassing, threatening, assaulting, molesting, attacking, or otherwise
18 disturbing the peace of the petitioner, or (c) telephoning, contacting,
19 or otherwise communicating with the petitioner. The sexual assault
20 protection order shall specify to whom relief under this section was
21 granted.

22 (2) The petition for a sexual assault protection order shall state
23 the events and dates or approximate dates of acts constituting the sexual
24 assault offense, including the most recent and most severe incident or
25 incidents.

26 (3) A petition for a sexual assault protection order shall be filed
27 with the clerk of the district court and the proceeding may be heard by
28 the county court or the district court as provided in section 25-2740.

29 (4) A petition for a sexual assault protection order may not be
30 withdrawn except upon order of the court. A sexual assault protection
31 order shall specify that it is effective for a period of one year unless

1 renewed pursuant to subsection (12) ~~(11)~~ of this section or otherwise
2 dismissed or modified by the court. Any person, except the petitioner,
3 who knowingly violates a sexual assault protection order after service or
4 notice as described in subdivision (9)(b) ~~(8)(b)~~ of this section shall be
5 guilty of a Class I misdemeanor, except that for any person convicted of
6 violating such order who has a prior conviction for violating a sexual
7 assault protection order second violation of a sexual assault protection
8 order within a twelve month period, or any third or subsequent violation,
9 whenever committed, such person shall be guilty of a Class IV felony.

10 (5)(a) Fees to cover costs associated with the filing of a petition
11 for issuance or renewal of a sexual assault protection order or the
12 issuance or service of a sexual assault protection order seeking only the
13 relief provided by this section shall not be charged, except that a court
14 may assess such fees and costs if the court finds, by clear and
15 convincing evidence, that the statements contained in the petition were
16 false and that the sexual assault protection order was sought in bad
17 faith.

18 (b) A court may also assess costs associated with the filing of a
19 petition for issuance or renewal of a sexual assault protection order or
20 the issuance or service of a sexual assault protection order seeking only
21 the relief provided by this section against the respondent.

22 (6) The clerk of the district court shall make available standard
23 application and affidavit forms for issuance and renewal of a sexual
24 assault protection order with instructions for completion to be used by a
25 petitioner. Affidavit forms shall request all relevant information,
26 including, but not limited to: A description of the most recent incident
27 that was the basis for the application for a sexual assault protection
28 order and the date or approximate date of the incident and, if there was
29 more than one incident, the most severe incident and the date or
30 approximate date of such incident. The clerk and his or her employees
31 shall not provide assistance in completing the forms. The State Court

1 Administrator shall adopt and promulgate the standard application and
2 affidavit forms provided for in this section as well as the standard
3 temporary ex parte and final sexual assault protection order forms and
4 provide a copy of such forms to all clerks of the district courts in this
5 state. Such standard temporary ex parte and final sexual assault
6 protection order forms shall be the only forms used in this state.

7 (7) A sexual assault protection order may be issued or renewed ex
8 parte without notice to the respondent if it reasonably appears from the
9 specific facts shown by affidavit of the petitioner that irreparable
10 harm, loss, or damage will result before the matter can be heard on
11 notice. If a sexual assault protection order is not issued ex parte ~~If~~
12 ~~the specific facts included in the affidavit (a) do not show that the~~
13 ~~petitioner will suffer irreparable harm, loss, or damage or (b) show~~
14 ~~that, for any other compelling reason, an ex parte order should not be~~
15 ~~issued or renewed, the court shall immediately schedule an evidentiary~~
16 ~~hearing to be held within fourteen days after the filing of the petition,~~
17 ~~and the court shall~~ may forthwith cause notice of the application to be
18 given to the respondent stating that he or she may show cause, ~~not more~~
19 ~~than fourteen days after service,~~ why such order should not be entered.
20 Any notice provided to the respondent shall include notification that a
21 court may treat a petition for a sexual assault protection order as a
22 petition for a harassment protection order or a domestic abuse protection
23 order if it appears from the facts that such other protection order is
24 more appropriate and that the respondent shall have an opportunity to
25 show cause as to why such protection order should not be entered. ~~If such~~
26 ex parte order is issued or renewed without notice to the respondent, the
27 court shall forthwith cause notice of the petition and order and a form
28 with which to request a show-cause hearing to be given the respondent
29 stating that, upon service on the respondent, the order shall remain in
30 effect for a period of one year unless the respondent shows cause why the
31 order should not remain in effect for a period of one year. If the

1 respondent wishes to appear and show cause why the order should not
2 remain in effect for a period of one year, he or she shall affix his or
3 her current address, telephone number, and signature to the form and
4 return it to the clerk of the district court within ten business five
5 days after service upon him or her. Upon receipt of a timely the request
6 for a show-cause hearing, the court shall immediately schedule a show-
7 cause hearing to be held within thirty days after the receipt of the
8 request for a show-cause hearing and shall notify the petitioner and
9 respondent of the hearing date. The petition and affidavit shall be
10 deemed to have been offered into evidence at any show-cause hearing. The
11 petition and affidavit shall be admitted into evidence unless
12 specifically excluded by the court.

13 (8) A court may treat a petition for a sexual assault protection
14 order as a petition for a harassment protection order or a domestic abuse
15 protection order if it appears from the facts in the petition, affidavit,
16 and evidence presented at a show-cause hearing that such other protection
17 order is more appropriate and if:

18 (a) The court makes specific findings that such other order is more
19 appropriate; or

20 (b) The petitioner has requested the court to so treat the petition.

21 (9)(a) ~~(8)(a)~~ Upon the issuance or renewal of any temporary ex parte
22 or final sexual assault protection order, the clerk of the court shall
23 forthwith provide the petitioner, without charge, with two certified
24 copies of such order. The clerk of the court shall also forthwith provide
25 the local police department or local law enforcement agency and the local
26 sheriff's office, without charge, with one copy each of such order and
27 one copy each of the sheriff's return thereon. The clerk of the court
28 shall also forthwith provide a copy of the sexual assault protection
29 order to the sheriff's office in the county where the respondent may be
30 personally served together with instructions for service. Upon receipt of
31 the order and instructions for service, such sheriff's office shall

1 forthwith serve the sexual assault protection order upon the respondent
2 and file its return thereon with the clerk of the court which issued the
3 sexual assault protection order within fourteen days of the issuance of
4 the initial or renewed sexual assault protection order. If any sexual
5 assault protection order is dismissed or modified by the court, the clerk
6 of the court shall forthwith provide the local police department or local
7 law enforcement agency and the local sheriff's office, without charge,
8 with one copy each of the order of dismissal or modification.

9 (b) If the respondent is present at a hearing convened pursuant to
10 this section and the sexual assault protection order is not dismissed,
11 such respondent shall be deemed to have notice by the court at such
12 hearing that the protection order will be granted and remain in effect
13 and further service of such notice described in this subsection shall not
14 be required for purposes of prosecution under this section.

15 ~~(c) A temporary ex parte sexual assault protection order shall be~~
16 ~~affirmed and deemed the final protection order and service of the~~
17 ~~temporary ex parte order shall be notice of the final protection order if~~
18 ~~If the respondent has been properly served with the ex parte order and~~
19 ~~fails to appear at the hearing, the temporary order shall be deemed to be~~
20 ~~granted and remain in effect and the service of the ex parte order will~~
21 ~~serve as notice required under this section.~~

22 ~~(i) The respondent fails to request a show-cause hearing within ten~~
23 ~~business days after service upon him or her and no hearing was requested~~
24 ~~by the petitioner or upon the court's own motion;~~

25 ~~(ii) The respondent has been properly served with notice of any~~
26 ~~hearing requested by the respondent or petitioner or upon the court's own~~
27 ~~motion and the respondent fails to appear at such hearing; or~~

28 ~~(iii) The respondent has been properly served with notice of any~~
29 ~~hearing requested by the respondent, the petitioner, or upon the court's~~
30 ~~own motion and the protection order was not dismissed at the hearing.~~

31 ~~(10) (9) A peace officer shall, with or without a warrant, arrest a~~

1 person if (a) the officer has probable cause to believe that the person
2 has committed a violation of a sexual assault protection order issued
3 pursuant to this section or a violation of a valid foreign sexual assault
4 protection order recognized pursuant to section 28-311.12 and (b) a
5 petitioner under this section provides the peace officer with a copy of
6 such order or the peace officer determines that such an order exists
7 after communicating with the local law enforcement agency.

8 ~~(11)~~ ~~(10)~~ A peace officer making an arrest pursuant to subsection
9 ~~(10)~~ ~~(9)~~ of this section shall take such person into custody and take
10 such person before the county court or the court which issued the sexual
11 assault protection order within a reasonable time. At such time the court
12 shall establish the conditions of such person's release from custody,
13 including the determination of bond or recognizance, as the case may be.
14 The court shall issue an order directing that such person shall have no
15 contact with the alleged victim of the sexual assault offense.

16 ~~(12)(a)~~ ~~(11)~~ An order issued under subsection (1) of this section
17 may be renewed annually. To request renewal of the order, the petitioner
18 shall file a petition for renewal and affidavit in support thereof at any
19 time within least forty-five days prior to the date the order is set to
20 expire, including the date the order expires.

21 (b) A sexual assault protection order may be renewed on the basis of
22 the petitioner's affidavit stating that there has been no material change
23 in relevant circumstances since entry of the order and stating the reason
24 for the requested renewal if:

25 (i) The petitioner seeks no modification of the order; and

26 (ii)(A) The respondent has been properly served with notice of the
27 petition for renewal and notice of hearing and fails to appear at the
28 hearing; or

29 (B) The respondent indicates that he or she does not contest the
30 renewal.

31 (c) The petition for renewal shall state the reasons a renewal is

1 sought and shall be filed with the clerk of the district court, and the
2 proceeding thereon may be heard by the county court or the district court
3 as provided in section 25-2740. A petition for renewal will otherwise be
4 governed in accordance with the procedures set forth in subsections (4)
5 through ~~(11)~~ ~~(10)~~ of this section. The renewed order shall specify that
6 it is effective for one year commencing on the first calendar day after
7 expiration of the previous order or on the calendar day the court grants
8 the renewal if such day is subsequent to the first calendar day after
9 expiration of the previous order.

10 (13) When provided by the petitioner, the court shall make
11 confidential numeric victim identification information, including social
12 security numbers and dates of birth, available to appropriate criminal
13 justice agencies engaged in protection order enforcement efforts. Such
14 agencies shall maintain the confidentiality of this information, except
15 for entry into state and federal data bases for protection order
16 enforcement.

17 ~~(14)~~ ~~(12)~~ For purposes of this section, sexual assault offense
18 means:

19 (a) Conduct amounting to sexual assault under section 28-319 or
20 28-320 or sexual assault of a child under section 28-319.01 or 28-320.01
21 or an attempt to commit any of such offenses; or

22 (b) Subjecting or attempting to subject another person to sexual
23 contact or sexual penetration without his or her consent, as such terms
24 are defined in section 28-318.

25 Sec. 3. Section 42-924, Revised Statutes Cumulative Supplement,
26 2018, is amended to read:

27 42-924 (1)(a) ~~(1)~~ Any victim of domestic abuse may file a petition
28 and affidavit for a protection order as provided in ~~subsections (2) and~~
29 ~~(3)~~ of this section. Upon the filing of such a petition and affidavit in
30 support thereof, the court may issue a protection order without bond
31 granting the following relief:

1 *(i)* ~~(a)~~ Enjoining the respondent from imposing any restraint upon
2 the petitioner or upon the liberty of the petitioner;

3 *(ii)* ~~(b)~~ Enjoining the respondent from threatening, assaulting,
4 molesting, attacking, or otherwise disturbing the peace of the
5 petitioner;

6 *(iii)* ~~(c)~~ Enjoining the respondent from telephoning, contacting, or
7 otherwise communicating with the petitioner;

8 *(iv)* ~~(d)~~ Removing and excluding the respondent from the residence of
9 the petitioner, regardless of the ownership of the residence;

10 *(v)* ~~(e)~~ Ordering the respondent to stay away from any place
11 specified by the court;

12 *(vi)* ~~(f)~~ Awarding the petitioner temporary custody of any minor
13 children not to exceed ninety days;

14 *(vii)* ~~(g)~~ Enjoining the respondent from possessing or purchasing a
15 firearm as defined in section 28-1201; or

16 *(viii)* ~~(h)~~ Ordering such other relief deemed necessary to provide
17 for the safety and welfare of the petitioner and any designated family or
18 household member.

19 (b) The petition for a protection order shall state the events and
20 dates or approximate dates of acts constituting the alleged domestic
21 abuse, including the most recent and most severe incident or incidents.

22 (c) The protection order shall specify to whom relief under this
23 section was granted.

24 (2) Petitions for protection orders shall be filed with the clerk of
25 the district court, and the proceeding may be heard by the county court
26 or the district court as provided in section 25-2740. A petition for a
27 protection order may not be withdrawn except upon order of the court.

28 (3)(a) A protection order shall specify that it is effective for a
29 period of one year and, if the order grants temporary custody, the number
30 of days of custody granted to the petitioner unless otherwise modified by
31 the court.

1 **(b)(i)** ~~(b)~~ Any victim of domestic abuse may file a petition and
2 affidavit to renew a protection order. Such petition and affidavit for
3 renewal shall be filed any time within forty-five on or after thirty days
4 before the expiration of the previous protection order, including the
5 date the order expires.

6 **(ii)** A protection order may be renewed on the basis of the
7 petitioner's affidavit stating that there has been no material change in
8 relevant circumstances since entry of the order and stating the reason
9 for the requested renewal if:

10 **(A)** The petitioner seeks no modification of the order; and

11 **(B)(I)** The respondent has been properly served with notice of the
12 petition for renewal and notice of hearing and fails to appear at the
13 hearing; or

14 **(II)** The respondent indicates that he or she does not contest the
15 renewal.

16 **(iii)** Such renewed order shall specify that it is effective for a
17 period of one year to commence on the first calendar day following the
18 expiration of the previous order or on the calendar day the court grants
19 the renewal if such day is subsequent to the first calendar day after
20 expiration of the previous order and, if the court grants temporary
21 custody, the number of days of custody granted to the petitioner unless
22 otherwise modified by the court.

23 **(4)** Any person, except the petitioner, who knowingly violates a
24 protection order issued pursuant to this section or section 42-931 after
25 service or notice as described in subsection (2) of section 42-926 shall
26 be guilty of a Class I misdemeanor, except that any person convicted of
27 violating such order who has a prior conviction for violating a
28 protection order shall be guilty of a Class IV felony.

29 **(5)** If there is any conflict between sections 42-924 to 42-926 and
30 any other provision of law, sections 42-924 to 42-926 shall govern.

31 Sec. 4. Section 42-924.02, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 42-924.02 The clerk of the district court shall make available
3 standard petition and affidavit forms for all types of protection orders
4 provided by law with instructions for completion to be used by a
5 petitioner. Affidavit forms shall request all relevant information,
6 including, but not limited to: A description of the most recent incident
7 that was the basis for the application for a protection order and the
8 date or approximate date of the incident and, if there was more than one
9 incident, the most severe incident and the date or approximate date of
10 such incident. The clerk and his or her employees shall not provide
11 assistance in completing the forms. The State Court Administrator shall
12 adopt and promulgate the standard petition and affidavit forms provided
13 for in this section as well as the standard temporary ex parte and final
14 protection order forms and provide a copy of such forms to all clerks of
15 the district courts in this state. These standard temporary ex parte and
16 final protection order forms shall be the only such forms used in this
17 state.

18 Sec. 5. Section 42-925, Revised Statutes Cumulative Supplement,
19 2018, is amended to read:

20 42-925 (1) An order issued under section 42-924 may be issued ex
21 parte to the respondent if it reasonably appears from the specific facts
22 included in the affidavit that the petitioner will be in immediate danger
23 of abuse before the matter can be heard on notice. If an order is issued
24 ex parte, such order is a temporary order and the court shall forthwith
25 cause notice of the petition and order to be given to the respondent. The
26 court shall also cause a form to request a show-cause hearing to be
27 served upon the respondent. If the respondent wishes to appear and show
28 cause why the order should not remain in effect, he or she shall affix
29 his or her current address, telephone number, and signature to the form
30 and return it to the clerk of the district court within ten business five
31 days after service upon him or her. Upon receipt of a timely the request

1 for a show-cause hearing, the request of the petitioner, or upon the
2 court's own motion, the court shall immediately schedule a show-cause
3 hearing to be held within thirty days after the receipt of the request
4 for a show-cause hearing and shall notify the petitioner and respondent
5 of the hearing date. The petition and affidavit shall be deemed to have
6 been offered into evidence at any show-cause hearing. The petition and
7 affidavit shall be admitted into evidence unless specifically excluded by
8 the court. If the respondent appears at the hearing and shows cause why
9 such order should not remain in effect, the court shall rescind the
10 temporary order. ~~If the respondent does not so appear and show cause, the~~
11 ~~temporary order shall be affirmed and shall be deemed the final~~
12 ~~protection order. If the respondent has been properly served with the ex~~
13 ~~parte order and fails to appear at the hearing, the temporary order shall~~
14 ~~be affirmed and the service of the ex parte order shall be notice of the~~
15 ~~final protection order for purposes of prosecution under subsection (4)~~
16 ~~of section 42-924.~~

17 (2) A temporary ex parte order shall be affirmed and deemed the
18 final protection order and service of the temporary ex parte order shall
19 be notice of the final protection order if the respondent has been
20 properly served with the temporary ex parte order and:

21 (a) The respondent fails to request a show-cause hearing within ten
22 business days after service upon him or her and no hearing was requested
23 by the petitioner or upon the court's own motion;

24 (b) The respondent has been properly served with notice of any
25 hearing requested by the respondent, the petitioner, or upon the court's
26 own motion and fails to appear at such hearing; or

27 (c) The respondent has been properly served with notice of any
28 hearing requested by the respondent, the petitioner, or upon the court's
29 own motion and the protection order was not dismissed at the hearing.

30 (3) (2) If an order under section 42-924 is not issued ex parte, the
31 court shall immediately schedule an evidentiary hearing to be held within

1 fourteen days after the filing of the petition, and the court shall cause
2 notice of the hearing to be given to the petitioner and the respondent.
3 Any notice provided to the respondent shall include notification that a
4 court may treat a petition for a domestic abuse protection order as a
5 petition for a harassment protection order or a sexual assault protection
6 order if it appears from the facts that such other protection order is
7 more appropriate and that the respondent shall have an opportunity to
8 show cause as to why such protection order should not be entered. If the
9 respondent does not appear at the hearing and show cause why such order
10 should not be issued, the court shall issue a final protection order.

11 ~~(4) (3)~~ The court may by rule or order refer or assign all matters
12 regarding orders issued under section 42-924 to a referee for findings
13 and recommendations.

14 ~~(5) (4)~~ An order issued under section 42-924 shall remain in effect
15 for the period provided in subsection (3) of section 42-924, unless
16 dismissed or modified by the court prior to such date. If the order
17 grants temporary custody, such custody shall not exceed the number of
18 days specified by the court unless the respondent shows cause why the
19 order should not remain in effect.

20 ~~(6) (5)~~ The court shall also cause the notice created under section
21 29-2291 to be served upon the respondent notifying the respondent that it
22 may be unlawful under federal law for a person who is subject to a
23 protection order to possess or receive any firearm or ammunition.

24 (7) A court may treat a petition for a domestic abuse protection
25 order as a petition for a harassment protection order or a sexual assault
26 protection order if it appears from the facts in the petition, affidavit,
27 and evidence presented at a show-cause hearing that such other protection
28 order is more appropriate and if:

29 (a) The court makes specific findings that such other order is more
30 appropriate; or

31 (b) The petitioner has requested the court to so treat the petition.

1 Sec. 6. Section 42-926, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 42-926 (1) Upon the issuance of a temporary ex parte or final
4 protection order under section 42-925, the clerk of the court shall
5 forthwith provide the petitioner, without charge, with two certified
6 copies of such order. The clerk of the court shall also forthwith provide
7 the local police department or local law enforcement agency and the local
8 sheriff's office, without charge, with one copy each of such order and
9 one copy each of the sheriff's return thereon. The clerk of the court
10 shall also forthwith provide a copy of the protection order to the
11 sheriff's office in the county where the respondent may be personally
12 served together with instructions for service. Upon receipt of the order
13 and instructions for service, such sheriff's office shall forthwith serve
14 the protection order upon the respondent and file its return thereon with
15 the clerk of the court which issued the protection order within fourteen
16 days of the issuance of the protection order. If any protection order is
17 dismissed or modified by the court, the clerk of the court shall
18 forthwith provide the local police department or local law enforcement
19 agency and the local sheriff's office, without charge, with one copy each
20 of the order of dismissal or modification. If the respondent has notice
21 as described in subsection (2) of this section, further service under
22 this subsection is unnecessary.

23 (2) If the respondent was present at a hearing convened pursuant to
24 section 42-925 and the protection order was not dismissed, the respondent
25 shall be deemed to have notice by the court at such hearing that the
26 protection order will be granted and remain in effect and further service
27 of notice described in subsection (1) of this section is not required for
28 purposes of prosecution under subsection (4) of section 42-924.

29 (3) When provided by the petitioner, the court shall make
30 confidential numeric victim identification information, including social
31 security numbers and dates of birth, available to appropriate criminal

1 justice agencies engaged in protection order enforcement efforts. Such
2 agencies shall maintain the confidentiality of this information, except
3 for entry into state and federal data bases for protection order
4 enforcement.

5 Sec. 7. This act becomes operative on January 1, 2020.

6 Sec. 8. Original sections 28-311.09, 42-924.02, and 42-926, Reissue
7 Revised Statutes of Nebraska, and sections 28-311.11, 42-924, and 42-925,
8 Revised Statutes Cumulative Supplement, 2018, are repealed.