

## ENGROSSED LEGISLATIVE BILL 1032

Introduced by DeBoer, 10; DeKay, 40; Conrad, 46.

A BILL FOR AN ACT relating to adoptions; to amend sections 43-107, 43-110, 43-116, 43-117, 43-117.02, 43-292, 43-1312, 43-1312.01, 43-1314, 43-1501, 43-1503, 43-1505, 43-1506, and 43-1507, Reissue Revised Statutes of Nebraska, and sections 43-102, 43-104, 43-108, 43-109, 43-146.01, 43-246.01, and 43-292.02, Revised Statutes Cumulative Supplement, 2024; to provide for recognition and enforcement of tribal customary adoptions; to define and redefine terms; to change provisions relating to adoptions, the Nebraska Indian Child Welfare Act, termination of parental rights, and the Foster Care Review Act; to harmonize provisions; and to repeal the original sections.

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

**Section 1.** Section 43-102, Revised Statutes Cumulative Supplement, 2024, is amended to read:

43-102 (1) Any person or persons desiring to adopt a minor child or an adult child shall file a petition for adoption signed and sworn to by the person or persons desiring to adopt. The following shall be filed prior to the hearing required under section 43-103:

(a) The consent or consents required by sections 43-104 and 43-105 or section 43-104.07;

(b) The documents required by section 43-104.07 or the documents required by sections 43-104.08 to 43-104.24;

(c) A completed preplacement adoptive home study if required by section 43-107;

(d) The completed and signed affidavit described in section 43-104.09 if required by such section;

(e) The completed and signed affidavit described in section 43-104.16 if required by such section; and

(f) When a consent is not required under subdivision (4)(c) of section 43-104, a certified copy of the termination order.

(2) The county court of the county in which the person or persons desiring to adopt a child reside has jurisdiction of adoption proceedings, except that if a juvenile court already has jurisdiction over the child to be adopted under the Nebraska Juvenile Code, such juvenile court has concurrent jurisdiction with the county court in such adoption proceeding. If a child to be adopted is a ward of any court or a ward of the state at the time of placement and at the time of filing an adoption petition, the person or persons desiring to adopt shall not be required to be residents of Nebraska. The petition and all other court filings for an adoption proceeding shall be filed with the clerk of the county court. The party shall state in the petition whether such party requests that the proceeding be heard by the county court or, in cases in which a juvenile court already has jurisdiction over the child to be adopted under the Nebraska Juvenile Code, such juvenile court. Such proceeding is considered a county court proceeding even if heard by a juvenile court judge and an order of the juvenile court in such adoption proceeding has the force and effect of a county court order. The testimony in an adoption proceeding heard before a juvenile court judge shall be preserved as in any other juvenile court proceeding.

(3) This section does not apply to the extent otherwise provided for in the Nebraska Indian Child Welfare Act.

**Sec. 2.** Section 43-104, Revised Statutes Cumulative Supplement, 2024, is amended to read:

43-104 (1) Except as otherwise provided in this section and in the Nebraska Indian Child Welfare Act, no adoption shall be decreed unless written consents thereto are filed in the county court of the county in which the person or persons desiring to adopt reside or in the county court in which the juvenile court having jurisdiction over the custody of the child is located and the written consents are executed by:

(a) The minor child, if over fourteen years of age; and

(b) Both parents of a child born in lawful wedlock if living, the surviving parent of a child born in lawful wedlock, the mother of a child born out of wedlock, or both the mother and father of a child born out of wedlock as determined pursuant to sections 43-104.08 to 43-104.24.

(2) A written consent or relinquishment for adoption under this section shall not be valid unless signed at least forty-eight hours after the birth of the child.

(3) A petition for adoption shall attest that, at the time of filing:

(a) There were no pending motions in any other court having jurisdiction over the minor child; and

(b) If a juvenile court has jurisdiction over the child, that adoption is the permanency goal in proceedings in juvenile court.

(4) Consent shall not be required of any parent:

(a) Who relinquished the child for adoption by a written instrument;

(b) Who abandoned the child for at least six months next preceding the filing of the adoption petition;

(c) Whose parental rights to such child have been terminated by the order of any court of competent jurisdiction; or

(d) Who is incapable of consenting.

(5) Consent shall not be required of a putative father who has failed to timely file:

(a) A Notice of Objection to Adoption and Intent to Obtain Custody pursuant to section 43-104.02 and, with respect to the absence of such filing, a certificate has been filed pursuant to section 43-104.04; or

(b) A petition pursuant to section 43-104.05 for the adjudication of such father's objection to the adoption and a determination of whether his consent to the adoption is required and the mother of the child has timely executed a valid relinquishment and consent to the adoption pursuant to such section.

(6) Consent shall not be required of an acknowledged or adjudicated father who has failed to timely file a petition pursuant to section 43-104.05 for the adjudication of such notice and a determination of whether his consent to the

adoption is required and the mother of the child has timely executed a valid relinquishment and consent to the adoption pursuant to such section.

(7) Consent shall not be required of an acknowledged father, an adjudicated father, or a putative father who is not required to consent to the adoption pursuant to section 43-104.05 or 43-104.22.

(8) The validity of a relinquishment and consent for adoption is not affected by the fact that a relinquishing person is a minor.

(9)(a) In private adoptions not involving relinquishment of a child to the state or to a licensed child placement agency, a parent or parents who relinquish a child for adoption shall be provided legal counsel of their choice independent from that of the adoptive parent or parents. Such counsel shall be provided at the expense of the adoptive parent or parents prior to the execution of a written relinquishment and consent to adoption or execution of a communication and contact agreement under section 43-166, unless specifically waived in writing.

(b) In private adoptions and adoptions involving relinquishment of a child to a licensed child placement agency other than the state, a parent or parents contemplating relinquishment of a child for adoption shall be offered, at the expense of the adoptive parent or parents or the agency, at least three hours of professional counseling prior to executing a written relinquishment of parental rights or written consent to adoption. Such relinquishment or consent shall state whether the relinquishing parent or parents received or declined counseling.

(10) In the case of a tribal customary adoption as defined in section 43-1503, no consent shall be required except for that of the Indian child's tribe.

**Sec. 3.** Section 43-107, Reissue Revised Statutes of Nebraska, is amended to read:

43-107 (1)(a) A preplacement adoptive home study shall be filed with the court prior to the hearing required in section 43-103, which study is completed by the Department of Health and Human Services or a licensed child placement

agency within one year before the date on which the adoptee is placed with the petitioner or petitioners and indicates that the placement of a child for the purpose of adoption would be safe and appropriate.

(b) An adoptive home study shall not be required when the petitioner is a stepparent of the adoptee unless required by the court. An adoptive home study may be waived by the court upon a showing of good cause by the petitioner when the petitioner is a biological grandparent or a step-grandparent who is married to the biological grandparent at the time of the adoption if both are adopting the child. For all petitions filed on or after January 1, 1994, the judge shall order the petitioner or his or her attorney to request the Nebraska State Patrol to file a national criminal history record information check by submitting the request accompanied by two sets of fingerprint cards or an equivalent electronic submission and the appropriate fee to the Nebraska State Patrol for a Federal Bureau of Investigation background check and to request the department to conduct and file a check of the central registry created in section 28-718 for any history of the petitioner of behavior injurious to or which may endanger the health or morals of a child. An adoption decree shall not be issued until such records are on file with the court. The petitioner shall pay the cost of the national criminal history record information check and the check of the central registry.

(c) The placement of a child for foster care made by or facilitated by the department or a licensed child placement agency in the home of a person who later petitions the court to adopt the child shall be exempt from the requirements of a preplacement adoptive home study. The petitioner or petitioners who meet such criteria shall have a postplacement adoptive home study completed by the department or a licensed child placement agency and filed with the court at least one week prior to the hearing for adoption.

(d) A voluntary placement for purposes other than adoption made by a parent or guardian of a child without assistance from an attorney, physician, or other individual or agency which later results in a petition for the adoption of the child shall be exempt from the requirements of a preplacement

adoptive home study. The petitioner or petitioners who meet such criteria shall have a postplacement adoptive home study completed by the department or a licensed child placement agency and filed with the court at least one week prior to the hearing for adoption.

(e) The adoption of an adult child as provided in subsection (2) of section 43-101 shall be exempt from the requirements of an adoptive home study unless the court specifically orders otherwise. The court may order an adoptive home study, a background investigation, or both if the court determines that such would be in the best interests of the adoptive party or the person to be adopted.

(f) Any adoptive home study required by this section shall be conducted by the department or a licensed child placement agency at the expense of the petitioner or petitioners unless such expenses are waived by the department or licensed child placement agency. The department or licensed agency shall determine the fee or rate for the adoptive home study.

(g) The preplacement or postplacement adoptive home study shall be performed as prescribed in rules and regulations of the department and shall include at a minimum an examination into the facts relating to the petitioner or petitioners as may be relevant to the propriety of such adoption. Such rules and regulations shall require an adoptive home study to include a national criminal history record information check and a check of the central registry created in section 28-718 for any history of the petitioner or petitioners of behavior injurious to or which may endanger the health or morals of a child.

(2) Upon the filing of a petition for adoption, the judge shall require that a complete medical history be provided on the child, except that in the adoption of a child by a stepparent, biological grandparent, or step-grandparent who is married to the biological grandparent at the time of the adoption if both are adopting the child, the provision of a medical history shall be discretionary. The complete medical history or histories required under this subsection shall include the race, ethnicity, nationality, Indian tribe when applicable and in compliance with the Nebraska Indian Child Welfare

Act, or other cultural history of both biological parents, if available. A medical history shall be provided, if available, on the biological mother and father and their biological families, including, but not limited to, siblings, parents, grandparents, aunts, and uncles, unless the child is foreign born or was abandoned. The medical history or histories shall be reported on a form provided by the department and filed along with the report of adoption as provided by section 71-626. If the medical history or histories do not accompany the report of adoption, the department shall inform the court and the State Court Administrator. The medical history or histories shall be made part of the court record. After the entry of a decree of adoption, the court shall retain a copy and forward the original medical history or histories to the department. This subsection shall only apply when the relinquishment or consent for an adoption is given on or after September 1, 1988.

(3) After the filing of a petition for adoption and before the entry of a decree of adoption for a child who is committed to the Department of Health and Human Services, the person or persons petitioning to adopt the child shall be given the opportunity to read the case file on the child maintained by the department or its duly authorized agent. The department shall not include in the case file to be read any information or documents that the department determines cannot be released based upon state statute, federal statute, federal rule, or federal regulation. The department shall provide a document for such person's or persons' signatures verifying that he, she, or they have been given an opportunity to read the case file and are aware that he, she, or they can review the child's file at any time following finalization of the adoption upon making a written request to the department. The department shall file such document with the court prior to the entry of a decree of adoption in the case.

(4) This section does not apply to the extent otherwise provided for in the Nebraska Indian Child Welfare Act.

**Sec. 4.** Section 43-108, Revised Statutes Cumulative Supplement, 2024, is amended to read:

43-108 (1) The minor child to be adopted, unless such child is over fourteen years of age, and the person or persons desiring to adopt the child must appear in person before the judge at the time of hearing, except that when the petitioners are married and one of them is present in court, the court, in its discretion, may accept the affidavit of an absent spouse who is in the armed forces of the United States and it appears to the court the absent spouse will not be able to be present in court for more than a year because of his or her military assignment, which affidavit sets forth that the absent spouse favors the adoption.

(2) This section does not apply to the extent otherwise provided for in the Nebraska Indian Child Welfare Act.

**Sec. 5.** Section 43-109, Revised Statutes Cumulative Supplement, 2024, is amended to read:

43-109 (1) Except as otherwise provided in the Nebraska Indian Child Welfare Act, if, upon the hearing, the court finds that such adoption is for the best interests of such minor child or such adult child, a decree of adoption shall be entered. No decree of adoption shall be entered unless:

(a) It appears that the child has resided with the person or persons petitioning for such adoption for at least six months next preceding the entering of the decree of adoption, except that such residency requirement shall not apply in an adoption of an adult child;

(b) The medical histories required by subsection (2) of section 43-107 have been made a part of the court record;

(c) The court record includes an affidavit or affidavits signed by the relinquishing biological parent, or parents if both are available, in which it is affirmed that, pursuant to section 43-106.02, prior to the relinquishment of the child for adoption, the relinquishing parent was, or parents if both are available were:

(i) Presented a copy or copies of the nonconsent form provided for in section 43-146.06; and

(ii) Given an explanation of the effects of filing or not filing the

nonconsent form; and

(d) If the child to be adopted is committed to the Department of Health and Human Services, the document required by subsection (3) of section 43-107 is a part of the court record.

(2) If the adopted child was born out of wedlock, that fact shall not appear in the decree of adoption.

(3) The court may decree such change of name for the adopted child as the petitioner or petitioners may request.

**Sec. 6.** Section 43-110, Reissue Revised Statutes of Nebraska, is amended to read:

43-110 Except as otherwise provided in the Nebraska Indian Child Welfare Act, after a decree of adoption is entered, the usual relation of parent and child and all the rights, duties and other legal consequences of the natural relation of child and parent shall thereafter exist between such adopted child and the person or persons adopting such child and his, her or their kindred.

**Sec. 7.** Section 43-116, Reissue Revised Statutes of Nebraska, is amended to read:

43-116 (1) When any court in the State of Nebraska has entered of record a decree of adoption prior to August 27, 1949, it shall be conclusively presumed that such adoption and all instruments and proceedings in connection therewith are valid in all respects notwithstanding some defect or defects may appear on the face of the record, or the absence of any record of such court, unless an action shall be brought within two years from August 27, 1949, attacking its validity.

(2) Except as otherwise provided in the Nebraska Indian Child Welfare Act, when any court in the State of Nebraska has entered of record a decree of adoption, it shall in like manner be conclusively presumed that the adoption and all instruments and proceedings in connection therewith are valid in all respects notwithstanding some defect or defects may appear on the face of the record, or the absence of any record of such court, unless an action is brought within two years from the entry of such decree of adoption attacking its

validity.

**Sec. 8.** Section 43-117, Reissue Revised Statutes of Nebraska, is amended to read:

43-117 (1) The Department of Health and Human Services may make payments as needed, after the legal completion of an adoption, including a tribal customary adoption as defined in section 43-1503, on behalf of a child who immediately preceding the adoption was (a) a ward of the department with special needs or (b) the subject of a state-subsidized guardianship. Such payments to adoptive parents may include maintenance costs, medical and surgical expenses, and other costs incidental to the care of the child. Payments for maintenance and medical care shall terminate on or before the child's twentieth birthday.

(2) The Department of Health and Human Services shall pay the treatment costs for the care of an adopted minor child which are the result of an illness or condition if within three years after the decree of adoption is entered the child is diagnosed as having a physical or mental illness or condition which predates the adoption and the child was adopted through the department, the department did not inform the adopting parents of such condition prior to the adoption, and the condition is of such nature as to require medical, psychological, or psychiatric treatment and is more extensive than ordinary childhood illness.

(3) The Department of Health and Human Services shall conduct a medical assessment of the mental and physical needs of any child to be adopted through the department, including a tribal customary adoption.

**Sec. 9.** Section 43-117.02, Reissue Revised Statutes of Nebraska, is amended to read:

43-117.02 The Department of Health and Human Services may make a payment of up to two thousand dollars on behalf of a child with special needs after the legal completion of the child's adoption, including a tribal customary adoption as defined in section 43-1503. The payment to the adoptive parents shall be a reimbursement for nonrecurring adoption expenses, including reasonable and

necessary adoption fees, court costs, attorney's fees, and other expenses which are directly related to the legal adoption of the child, which are not incurred in violation of law, and which have not been reimbursed from any other source or funds.

**Sec. 10.** Section 43-146.01, Revised Statutes Cumulative Supplement, 2024, is amended to read:

43-146.01 (1) Sections 43-106.02, 43-121, 43-123.01, and 43-146.02 to 43-146.16 shall provide the procedures for gaining access to information concerning an adopted person when a relinquishment or consent for an adoption is given on or after September 1, 1988.

(2) Sections 43-119 to 43-142 shall remain in effect for a relinquishment or consent for an adoption which is given prior to September 1, 1988.

(3) Except as otherwise provided in the Nebraska Indian Child Welfare Act, subsection (2) of section 43-107, and subsection (4) of this section: Sections 43-101 to 43-118, 43-143 to 43-146, 43-146.17, 71-626, 71-626.01, and 71-627.02 shall apply to all adoptions.

(4) Sections 43-143 to 43-146 shall not apply to adopted persons for whom a relinquishment or consent for adoption was given on and after July 20, 2002.

**Sec. 11.** Section 43-246.01, Revised Statutes Cumulative Supplement, 2024, is amended to read:

43-246.01 (1) The juvenile court shall have exclusive original jurisdiction as to:

(a) Any juvenile described in subdivision (3) or (11) of section 43-247;

(b) Any juvenile who was under sixteen years of age at the time the alleged offense was committed and the offense falls under subdivision (1) of section 43-247;

(c) A party or proceeding described in subdivision (5) or (7) of section 43-247; and

(d) Any juvenile who was under fourteen years of age at the time the alleged offense was committed and the offense falls under subdivision (2) of section 43-247.

(2)(a) The juvenile court shall also have exclusive original jurisdiction as to:

(i) Any juvenile who is alleged to have committed an offense under subdivision (1) of section 43-247 and who was sixteen years of age or seventeen years of age at the time the alleged offense was committed; and

(ii) Any juvenile who was fourteen years of age or older at the time the alleged offense was committed and the offense falls under subdivision (2) of section 43-247 except offenses enumerated in subdivision (1)(a)(ii) of section 29-1816.

(b) Proceedings initiated under subsection (2) of this section may be transferred as provided in section 43-274.

(3)(a) The juvenile court shall have concurrent original jurisdiction with the county court or district court as to:

(i) Any juvenile described in subdivision (4) of section 43-247;

(ii) Any proceeding under subdivision (6), (8), (9), or (10) of section 43-247; and

(iii) Any juvenile described in subdivision (1)(a)(ii) of section 29-1816.

(b) Proceedings initiated under subsection (3) of this section may be transferred as provided in section 43-274.

(4) The juvenile court shall have the authority to grant temporary concurrent jurisdiction to the tribal court of an Indian child's tribe for the sole purpose of finalizing a tribal customary adoption as provided in sections 23 to 26 of this act.

**Sec. 12.** Section 43-292, Reissue Revised Statutes of Nebraska, is amended to read:

43-292 Except as otherwise provided in the Nebraska Indian Child Welfare Act, the court may terminate all parental rights between the parents or the mother of a juvenile born out of wedlock and such juvenile when the court finds such action to be in the best interests of the juvenile and it appears by the evidence that one or more of the following conditions exist:

(1) The parents have abandoned the juvenile for six months or more

immediately prior to the filing of the petition;

(2) The parents have substantially and continuously or repeatedly neglected and refused to give the juvenile or a sibling of the juvenile necessary parental care and protection;

(3) The parents, being financially able, have willfully neglected to provide the juvenile with the necessary subsistence, education, or other care necessary for his or her health, morals, or welfare or have neglected to pay for such subsistence, education, or other care when legal custody of the juvenile is lodged with others and such payment ordered by the court;

(4) The parents are unfit by reason of debauchery, habitual use of intoxicating liquor or narcotic drugs, 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 juvenile;

(5) The 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;

(6) Following a determination that the juvenile is one as described in subdivision (3)(a) of section 43-247, reasonable efforts to preserve and reunify the family if required under section 43-283.01, under the direction of the court, have failed to correct the conditions leading to the determination;

(7) The juvenile has been in an out-of-home placement for fifteen or more months of the most recent twenty-two months;

(8) The parent has inflicted upon the juvenile, by other than accidental means, serious bodily injury;

(9) The parent of the juvenile has subjected the juvenile or another minor child to aggravated circumstances, including, but not limited to, abandonment, torture, chronic abuse, or sexual abuse;

(10) The parent has (a) committed murder of another child of the parent, (b) committed voluntary manslaughter of another child of the parent, (c) aided or abetted, attempted, conspired, or solicited to commit murder, or aided or abetted voluntary manslaughter of the juvenile or another child of the parent,

or (d) committed a felony assault that resulted in serious bodily injury to the juvenile or another minor child of the parent; or

(11) One parent has been convicted of felony sexual assault of the other parent under section 28-319.01 or 28-320.01 or a comparable crime in another state.

**Sec. 13.** Section 43-292.02, Revised Statutes Cumulative Supplement, 2024, is amended to read:

43-292.02 (1) Except as otherwise provided in the Nebraska Indian Child Welfare Act, a petition shall be filed on behalf of the state to terminate the parental rights of the juvenile's parents or, if such a petition has been filed by another party, the state shall join as a party to the petition, and the state shall concurrently identify, recruit, process, and approve a qualified family for an adoption of the juvenile, if:

(a) A juvenile has been in foster care under the responsibility of the state for fifteen or more months of the most recent twenty-two months; or

(b) A court of competent jurisdiction has determined the juvenile to be an abandoned infant or has made a determination that the parent has committed murder of another child of the parent, committed voluntary manslaughter of another child of the parent, aided or abetted, attempted, conspired, or solicited to commit murder, or aided or abetted voluntary manslaughter of the juvenile or another child of the parent, or committed a felony assault that has resulted in serious bodily injury to the juvenile or another minor child of the parent. For purposes of this subdivision, infant means a child eighteen months of age or younger.

(2) A petition shall not be filed on behalf of the state to terminate the parental rights of the juvenile's parents or, if such a petition has been filed by another party, the state shall not join as a party to the petition if the sole factual basis for the petition is that (a) the parent or parents of the juvenile are financially unable to provide health care for the juvenile or (b) the parent or parents of the juvenile are incarcerated. The fact that a qualified family for an adoption of the juvenile has been identified,

recruited, processed, and approved shall have no bearing on whether parental rights shall be terminated.

(3) The petition is not required to be filed on behalf of the state or if a petition is filed the state shall not be required to join in a petition to terminate parental rights or to concurrently find a qualified family to adopt the juvenile under this section if:

(a) The child is being cared for by a relative;

(b) The Department of Health and Human Services has documented in the case plan or permanency plan, which shall be available for court review, a compelling reason for determining that filing such a petition would not be in the best interests of the juvenile; or

(c) The family of the juvenile has not had a reasonable opportunity to avail themselves of the services deemed necessary in the case plan or permanency plan approved by the court if reasonable efforts to preserve and reunify the family are required under section 43-283.01.

(4) Except as otherwise provided in the Nebraska Indian Child Welfare Act, if a child is conceived by the victim of a sexual assault, a petition for termination of parental rights of the perpetrator shall be granted if such termination is in the best interests of the child and (a) the perpetrator has been convicted of or pled guilty or nolo contendere to sexual assault of the child's birth parent under section 28-319 or 28-320 or a law in another jurisdiction similar to either section 28-319 or 28-320 or (b) the perpetrator has fathered the child or given birth to the child as a result of such sexual assault.

(5) A petition for termination of parental rights is not required to be filed on behalf of the state or, if a petition is filed, the state shall not be required to join in the petition, if the juvenile is an Indian child who may be eligible for a tribal customary adoption as defined in section 43-1503.

**Sec. 14.** Section 43-1312, Reissue Revised Statutes of Nebraska, is amended to read:

43-1312 (1) Following the investigation conducted pursuant to section

43-1311 and immediately following the initial placement of the child, the person or court in charge of the child shall cause to be established a safe and appropriate plan for the child. The plan shall contain at least the following:

- (a) The purpose for which the child has been placed in foster care;
- (b) The estimated length of time necessary to achieve the purposes of the foster care placement;
- (c) A description of the services which are to be provided in order to accomplish the purposes of the foster care placement;
- (d) The person or persons who are directly responsible for the implementation of such plan;
- (e) A complete record of the previous placements of the foster child;
- (f) The name of the school the child shall attend as provided in section 43-1311; and
- (g) The efforts made to involve and engage the child in the development of such plan as provided in the Nebraska Strengthening Families Act.

(2)(a) Subject to subdivision (2)(b) of this section, if the return of the child to his or her parents is not likely based upon facts developed as a result of the investigation, the Department of Health and Human Services shall recommend termination of parental rights and referral for adoption, guardianship, placement with a relative, or, as a last resort, and only in the case of a child who has attained sixteen years of age, another planned permanent living arrangement. If the child is removed from his or her home, the department shall make reasonable efforts to accomplish joint-sibling placement or sibling visitation or ongoing interaction between the siblings as provided in section 43-1311.02.

(b) In the case of an Indian child who may be eligible for a tribal customary adoption as defined in section 43-1503, the department may recommend referral for a tribal customary adoption. If the department makes such a recommendation, the department shall not recommend termination of parental rights.

(3) Each child in foster care under the supervision of the state shall

have a permanency hearing by a court, no later than twelve months after the date the child enters foster care and annually thereafter during the continuation of foster care. The court's order shall include the determinations required by section 43-4711 and a finding regarding the appropriateness of the permanency plan determined for the child and shall include whether, and if applicable when, the child will be:

(a) Returned to the parent;

(b) Referred to the state for filing of a petition for termination of parental rights;

(c) Placed for adoption, including tribal customary adoption as defined in section 43-1503;

(d) Referred for guardianship; or

(e) In cases where the state agency has documented to the court a compelling reason for determining that it would not be in the best interests of the child to return home, (i) referred for termination of parental rights, (ii) placed for adoption with a fit and willing relative, or (iii) placed with a guardian.

(4) As provided in the Nebraska Strengthening Families Act, in the case of any child age sixteen years of age or older for whom another planned permanent living arrangement is the recommended or court-approved permanency plan:

(a) The permanency plan shall include the identification of significant, supportive connections with identified adults willing to be consistently involved in the child's life as the child transitions to adulthood;

(b) The department shall document the intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made by the department to return the child home or secure a placement for the child with a fit and willing relative, a legal guardian, or an adoptive parent; and

(c) The court shall:

(i) Ask the child about the desired permanency outcome for the child;

(ii) Make a determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for

the child and the compelling reasons why it continued to not be in the best interests of the child to return home, be placed for adoption, be placed with a legal guardian, or be placed with a fit and willing relative; and

(iii) Make a determination that the department has met the requirements in subdivisions (a) and (b) of this subsection before approving a permanency plan of another planned permanent living arrangement for a child sixteen years of age or older.

**Sec. 15.** Section 43-1312.01, Reissue Revised Statutes of Nebraska, is amended to read:

43-1312.01 (1) If the permanency plan for a child established pursuant to section 43-1312 does not recommend return of the child to his or her parent or that the child be placed for adoption, including a tribal customary adoption as defined in section 43-1503, the juvenile court may place the child in a guardianship in a relative home as defined in section 71-1901, in a kinship home as defined in section 71-1901, or with an individual as provided in section 43-285 if:

(a) The child is a juvenile who has been adjudged to be under subdivision (3)(a) of section 43-247;

(b) The child has been in the placement for at least six months;

(c) The child consents to the guardianship, if the child is ten years of age or older; and

(d) The guardian:

(i) Is suitable and able to provide a safe and permanent home for the child;

(ii) Has made a commitment to provide for the financial, medical, physical, and emotional needs of the child until the child reaches the age of majority or until the termination of extended guardianship assistance payments and medical care pursuant to section 43-4511;

(iii) Has made a commitment to prepare the child for adulthood and independence; and

(iv) Agrees to give notice of any changes in his or her residential

address or the residence of the child by filing a written document in the juvenile court file of the child.

(2) In the order granting guardianship, the juvenile court:

(a) Shall grant to the guardian such powers, rights, and duties with respect to the care, maintenance, and treatment of the child as the biological or adoptive parent of the child would have;

(b) May specify the frequency and nature of family time or contact between the child and his or her parents, if appropriate;

(c) May specify the frequency and nature of family time or contact between the child and his or her siblings, if appropriate; and

(d) Shall require that the guardian not return the child to the physical care and custody of the person from whom the child was removed without prior approval of the court.

(3) The juvenile court shall retain jurisdiction over the child for modification or termination of the guardianship order. The court shall discontinue permanency reviews and case reviews and shall relieve the Department of Health and Human Services of the responsibility of supervising the placement of the child. Notwithstanding the retention of juvenile court jurisdiction, the guardianship placement shall be considered permanent for the child.

(4) The child shall remain in the custody of the guardian unless the order creating the guardianship is modified by the court.

(5) Guardianships established under this section shall terminate on the child's nineteenth birthday unless the child is eligible for continued guardianship assistance payments under section 43-4511 and an agreement is signed by the Department of Health and Human Services, the guardian, and the young adult, as defined in section 43-4503, to continue the guardianship assistance. The guardian shall ensure that any guardianship assistance funds provided by the department and received by the guardian for the purpose of an extended guardianship shall be used for the benefit of the young adult. The department shall adopt and promulgate rules and regulations defining services

and supports encompassed by such benefit.

(6) Upon the child's nineteenth birthday regardless of the existence of an agreement to extend the guardianship until the child's twenty-first birthday, the guardian shall no longer have the legal authority to make decisions on behalf of the child and shall have no more authority over the person or property of the child than a biological or adoptive parent would have over his or her child, absent consent from the child.

(7) A guardianship established under this section does not terminate the parent-child relationship, including:

(a) The right of the child to inherit from his or her parents;

(b) The right of the biological parents to consent to the child's adoption; and

(c) The responsibility of the parents to provide financial, medical, or other support as ordered by the court.

(8) The Department of Health and Human Services shall adopt and promulgate rules and regulations for the administration of this section.

**Sec. 16.** Section 43-1314, Reissue Revised Statutes of Nebraska, is amended to read:

43-1314 (1) Except as otherwise provided in the Nebraska Indian Child Welfare Act, notice of the court review or hearing and the right of participation in all court reviews and hearings pertaining to a child in a foster care placement shall be provided by the court having jurisdiction over such child for the purposes of foster care placement. The Department of Health and Human Services or contract agency shall have the contact information for all child placements available for all courts to comply with the notification requirements found in this section. The department or contract agency shall each have one telephone number by which any court seeking to provide notice may obtain up-to-date contact information of all persons listed in subdivisions (2) (a) through (h) of this section. All contact information shall be up-to-date within seventy-two hours of any placement change.

(2) Notice shall be provided to all of the following parties that are

applicable to the case: (a) The person charged with the care of such child; (b) the child's parents or guardian unless the parental rights of the parents have been terminated by court action as provided in section 43-292 or 43-297; (c) the foster child if age fourteen or over; (d) the foster parent or parents of the foster child; (e) the guardian ad litem of the foster child; (f) the office and designated local board; (g) the preadoptive parent, including a preadoptive parent of a tribal customary adoption as defined in section 43-1503; and (h) the relative providing care for the child. Notice of all court reviews and hearings shall be mailed or personally delivered to the counsel or party, if the party is not represented by counsel, five full days prior to the review or hearing. The use of ordinary mail shall constitute sufficient compliance. Notice to the foster parent, preadoptive parent, or relative providing care shall not be construed to require that such foster parent, preadoptive parent, or relative is a necessary party to the review or hearing.

(3) The court shall inquire into the well-being of the foster child by asking questions, if present at the hearing, of any willing foster parent, preadoptive parent, or relative providing care for the child.

**Sec. 17.** Section 43-1501, Reissue Revised Statutes of Nebraska, is amended to read:

43-1501 Sections 43-1501 to 43-1517 and sections 20 and 23 to 29 of this act shall be known and may be cited as the Nebraska Indian Child Welfare Act.

**Sec. 18.** Section 43-1503, Reissue Revised Statutes of Nebraska, is amended to read:

43-1503 For purposes of the Nebraska Indian Child Welfare Act, except as may be specifically provided otherwise:

(1) Active efforts shall mean and include, but not be limited to:

(a) A concerted level of casework, both prior to and after the removal of an Indian child, exceeding the level that is required under reasonable efforts to preserve and reunify the family described in section 43-283.01 in a manner consistent with the prevailing social and cultural conditions and way of life of the Indian child's tribe or tribes to the extent possible under the

circumstances;

(b) A request to the Indian child's tribe or tribes and extended family known to the department or the state to convene traditional and customary support and services;

(c) Actively engaging, assisting, and monitoring the family's access to and progress in culturally appropriate and available resources of the Indian child's extended family members, tribal service area, Indian tribe or tribes, and individual Indian caregivers;

(d) Identification of and provision of information to the Indian child's extended family members known to the department or the state concerning appropriate community, state, and federal resources that may be able to offer housing, financial, and transportation assistance and actively assisting the family in accessing such community, state, and federal resources;

(e) Identification of and attempts to engage tribally designated Nebraska Indian Child Welfare Act representatives;

(f) Consultation with extended family members known to the department or the state, or a tribally designated Nebraska Indian Child Welfare Act representative if an extended family member cannot be located, to identify family or tribal support services that could be provided by extended family members or other tribal members if extended family members cannot be located;

(g) Exhaustion of all available tribally appropriate family preservation alternatives; and

(h) When the department or the state is involved in a proceeding under the act, the department or the state shall provide a written report of its attempt to provide active efforts to the court at every hearing involving an Indian child. This report shall be sent to the Indian child's tribe or tribes within three days after being filed with the court and shall be deemed to be admissible evidence of active efforts in proceedings conducted under the act;

(2) Best interests of the Indian child shall include:

(a) Using practices in compliance with the federal Indian Child Welfare Act, the Nebraska Indian Child Welfare Act, and other applicable laws that are

designed to prevent the Indian child's voluntary or involuntary out-of-home placement; and

(b) Whenever an out-of-home placement is necessary, placing the child, to the greatest extent possible, in a foster home, adoptive placement, or other type of custodial placement that reflects the unique values of the Indian child's tribal culture and is best able to assist the child in establishing, developing, and maintaining a political, cultural, and social relationship with the Indian child's tribe or tribes and tribal community;

(3) Child custody proceeding shall mean and include:

(a) Foster care placement which shall mean any action removing an Indian child from his or her parent or Indian custodian for temporary or emergency placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

(b) Termination of parental rights which shall mean any action resulting in the termination of the parent-child relationship;

(c) Preadoptive placement which shall mean the temporary placement of an Indian child in a foster home or institution:

(i) After the termination of parental rights, but prior to or in lieu of adoptive placement; or

(ii) Prior to a tribal customary adoption placement;

(d) Adoptive placement which shall mean the permanent placement of an Indian child for adoption. This includes any action resulting in a final decree of adoption, including a tribal customary adoption; and

(e) Voluntary foster care placement which shall mean a non-court-involved proceeding in which the department or the state is facilitating a voluntary foster care placement or in-home services to families at risk of entering the foster care system. An Indian child, parent, or tribe involved in a voluntary foster care placement shall only be provided protections as provided in subsection (4) of section 43-1505 and sections 43-1506 and 43-1508.

Such term or terms shall not include a placement based upon an act which,

if committed by an adult, would be deemed a crime or upon an award, in a divorce proceeding, of custody to one of the parents;

(4) The department or the state shall mean the applicable state social services entity that is involved with the provision of services to Indian children, specifically the Department of Health and Human Services and the Office of Probation Administration in certain cases;

(5) Extended family member shall be as defined by the law or custom of the Indian child's primary tribe or, in the absence of such laws or customs of the primary tribe, the law or custom of the Indian child's other tribes or, in the absence of such law or custom, shall mean a person who has reached the age of eighteen and who is the Indian child's parent, grandparent, aunt or uncle, clan member, band member, sibling, brother-in-law or sister-in-law, niece or nephew, cousin, or stepparent;

(6) Federal Indian Child Welfare Act shall mean the federal Indian Child Welfare Act of 1978, 25 U.S.C. 1901 et seq.;

(7) Indian shall mean any person who is a member of an Indian tribe, or who is an Alaska Native and a member of a regional corporation defined in section 7 of the Alaska Native Claims Settlement Act, 43 U.S.C. 1606;

(8) Indian child shall mean any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe;

(9) Indian child's primary tribe shall mean, in the case of an Indian child that is a member or eligible for membership in multiple tribes, the tribe determined by the procedure enumerated in subsection (4) of section 43-1504;

(10) Indian child's tribe or tribes shall mean the Indian tribe or tribes in which an Indian child is a member or eligible for membership;

(11) Indian custodian shall mean any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the parent of such child;

(12) Indian organization shall mean any group, association, partnership,

limited liability company, corporation, or other legal entity owned or controlled by Indians or a majority of whose members are Indians;

(13) Indian tribe shall mean any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the secretary because of their status as Indians, including any Alaska Native village as defined in section 3(c) of the Alaska Native Claims Settlement Act, as amended, 43 U.S.C. 1602(c);

(14) Parent means any biological parent or parents of an Indian child or any person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include the unwed father when paternity has not been acknowledged or established;

(15) Qualified expert witness shall mean one of the following persons, in descending priority order although a court may assess the credibility of individual witnesses:

(a) A member of the Indian child's tribe or tribes who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family and childrearing practices;

(b) A member of another tribe who is recognized to be a qualified expert witness by the Indian child's tribe or tribes based on his or her knowledge of the delivery of child and family services to Indians and the Indian child's tribe or tribes;

(c) A lay expert witness that possesses substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and childrearing practices within the Indian child's tribe or tribes;

(d) A professional person having substantial education and experience in the area of his or her specialty who can demonstrate knowledge of the prevailing social and cultural standards and childrearing practices within the Indian child's tribe or tribes; or

(e) Any other professional person having substantial education in the area of his or her specialty;

(16) Reservation shall mean Indian country as defined in 18 U.S.C. 1151 and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation or a federally designated or established service area which means a geographic area designated by the United States where federal services and benefits furnished to Indians and Indian tribes are provided or which is otherwise designated to constitute an area on or near a reservation;

(17) Secretary shall mean the Secretary of the United States Department of the Interior;

(18) Tribal court shall mean a court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings;

(19) Tribal customary adoption means the adoption of an Indian child, by and through the tribal custom, traditions, and law of the child's tribe, and which may be effected without the termination of parental rights; and

(20) Tribal service area shall mean a geographic area, as defined by the applicable Indian tribe or tribes, in which tribal services and programs are provided to Indians.

**Sec. 19.** Section 43-1505, Reissue Revised Statutes of Nebraska, is amended to read:

43-1505 (1) In any involuntary proceeding in a state court, when the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall send a notice conforming to the requirements of 25 C.F.R. 23.11 to the parents, the Indian custodian, and the Indian child's tribe or tribes, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention. If the identity or location of the parent or Indian custodian and the tribe or tribes cannot be determined, such notice

shall be given to the secretary in like manner, who may provide the requisite notice to the parent or Indian custodian and the tribe or tribes. No foster care placement or termination of parental rights proceedings shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or tribes or the secretary. The parent or Indian custodian or the tribe or tribes shall, upon request, be granted up to twenty additional days to prepare for such proceeding.

(2) In any case in which the court determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination proceeding. The court may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best interests of the Indian child. When state law makes no provision for appointment of counsel in such proceedings, the court shall promptly notify the secretary upon appointment of counsel and request from the secretary, upon certification of the presiding judge, payment of reasonable attorney's fees out of funds which may be appropriated.

(3) Each party to a foster care placement or termination of parental rights proceeding under state law involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to such action may be based.

(4) Any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under state law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family or unite the parent or Indian custodian with the Indian child and that these efforts have proved unsuccessful. Any written evidence showing that active efforts have been made shall be admissible in a proceeding under the Nebraska Indian Child Welfare Act. Prior to the court ordering placement of the child in foster care or the termination of parental rights, the court shall make a determination that active efforts have been provided or that the party seeking placement or termination has demonstrated that attempts were made to provide

active efforts to the extent possible under the circumstances.

(5) The court shall not order foster care placement under this section in the absence of a determination by the court, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(6) The court shall not order termination of parental rights of an Indian child under this section unless and until the court:

(a) Makes a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child; and

(b) Makes a determination, in the case of an Indian child that may be eligible for a tribal customary adoption, that such adoption would not be an appropriate permanency plan and would not be in the best interests of the Indian child. It shall be sufficient justification to find that a tribal customary adoption would not be an appropriate permanency plan and would not be in the best interests of the Indian child if:

(i) Notice was provided to the tribe of the Indian child as provided in section 20 of this act; and

(ii) By the time of the initial appearance of the parties on the termination of parental rights, the tribe did not file an objection with the court stating its belief that tribal customary adoption would be appropriate for the child and in the best interests of the Indian child.

**Sec. 20.** (1)(a) For any recommendation or request that the court change an Indian child's permanency plan to anything other than returning the child to the parent or home, the requestor or movant shall send notice of such recommendation or request to the Indian child's tribe.

(b) The notice required by this subsection shall:

(i) Conform to the requirements of 25 C.F.R. 23.11;

(ii) Be sent by registered mail with return receipt requested;

(iii) Be sent at least twenty days prior to the hearing on the change in permanency plan; and

(iv) State that the tribe has the right to file an objection with the court by the time of the hearing stating the tribe's belief that tribal customary adoption is an appropriate permanency plan for the child and in the best interests of the Indian child.

(c) If the court receives such an objection from the Indian child's tribe by the time of the hearing, the court shall deny such recommendation or request and maintain the child's permanency plan as tribal customary adoption, or change it to be tribal customary adoption, unless the court finds that maintaining the child's permanency plan as tribal customary adoption or changing it to tribal customary adoption is not in the best interests of the Indian child.

(2)(a) Any person seeking to terminate the parental rights to an Indian child under state law shall send notice of such intent to the Indian child's tribe.

(b) The notice required by this subsection shall:

(i) Conform to the requirements of 25 C.F.R. 23.11;

(ii) Be sent by registered mail with return receipt requested;

(iii) Be sent at least twenty days prior to the initial appearance of the parties on termination; and

(iv) State that the tribe has the right to file an objection with the court by the time of the initial appearance of the parties stating the tribe's belief that tribal customary adoption is an appropriate permanency plan for the child and in the best interests of the Indian child.

**Sec. 21.** Section 43-1506, Reissue Revised Statutes of Nebraska, is amended to read:

43-1506 (1) When any parent or Indian custodian voluntarily consents (a) to a foster care placement or (b) to relinquishment or termination of parental rights, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the

presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid.

(2) When the department or the state offers the parent, Indian child, or Indian custodian services through a voluntary foster care placement or in-home services and the department or the state knows or has reason to know that an Indian child is involved, the department or the state shall notify the parent or Indian custodian and the Indian child's tribe or tribes, by telephone call, facsimile transmission, email, or registered mail with return receipt requested, of the provision of services and any pending child custody proceeding. If the identity or location of the parent or Indian custodian and the tribe or tribes cannot be determined, such notice shall be given to the secretary and the appropriate area director listed in 25 C.F.R. 23.11 in like manner who may provide the requisite notice to the parent or Indian custodian and the tribe or tribes. Notice shall be provided within five days after the initiation of voluntary services.

(3) When the department or the state offers the parent or Indian custodian services through a voluntary foster care placement or in-home services, the Indian custodian of the child and the Indian child's tribe or tribes have a right to participate in, provide, or consult with the department or the state regarding the provision of voluntary services.

(4) When the department or the state offers the parent or Indian custodian services through a voluntary foster care placement or in-home services, the department or the state shall provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family or unite the parent or Indian custodian with the Indian child until these efforts have proved unsuccessful.

(5) Prior to any voluntary relinquishment or termination of parental rights proceeding in which the department or the state is a party or was providing assistance to a parent or Indian custodian, the department or the state or its designee shall submit the following information, in writing, to the court if it has not previously been provided:

(a) The jurisdictional authority of the court in the proceeding;

(b) The date of the Indian child's birth and the date of any voluntary consent to relinquishment or termination;

(c) The age of the Indian child at the time voluntary consent was given;

(d) The date the parent appeared in court and was informed by the judge of the terms and consequences of any voluntary consent to relinquishment or termination;

(e) The parent fully understood the explanation of such terms and consequences in English or, when necessary, the explanation was interpreted into a language that the parent understood and the parent fully understood the explanation of such terms and consequences in the language into which such terms and consequences were translated;

(f) The name and address of any prospective adoptive parent whose identity is known to the consenting parent;

(g) The promises, if any, made to the parent, as a condition of the parent's consent, including promises regarding the tribal affiliation or health, ethnic, religious, economic, or other personal characteristics of any adoptive family with which the child would be placed; and

(h) The details, if any, of an enforceable communication or contact agreement authorized by section 43-162.

(6) In the case of an Indian child who may be eligible for a tribal customary adoption, the court shall not order termination of parental rights under this section unless and until the court determines that such adoption would not be an appropriate permanency plan and would not be in the best interests of the Indian child. It shall be sufficient justification to find that a tribal customary adoption would not be an appropriate permanency plan

and would not be in the best interests of the Indian child if:

(a) Notice was provided to the tribe of the Indian child as provided in section 20 of this act; and

(b) By the time of the initial appearance of the parties on the termination of parental rights, the tribe did not file an objection with the court stating its belief that tribal customary adoption would be appropriate for the child and in the best interests of the Indian child.

(7) Any parent or Indian custodian may withdraw consent to a foster care or voluntary foster care placement under state law at any time and, upon such withdrawal, the child shall be returned to the parent or Indian custodian.

(8) In any voluntary proceedings for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

(9) After the entry of a final decree of adoption of an Indian child in any state court, the parent may withdraw consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate such decree and return the child to the parent. No adoption which has been effective for at least two years may be invalidated under the provisions of this subsection unless otherwise permitted under state law.

**Sec. 22.** Section 43-1507, Reissue Revised Statutes of Nebraska, is amended to read:

43-1507 Any Indian child who is the subject of any action for foster care placement or termination of parental rights under state law, any parent or Indian custodian from whose custody such child was removed, and the Indian child's primary tribe may petition any court of competent jurisdiction to invalidate such action upon a showing that such action violated any provision of sections 43-1504 to 43-1506 or sections 20 and 23 to 29 of this act.

**Sec. 23.** (1) If a state court finds that tribal customary adoption is an appropriate permanency plan under section 43-1312 and is in the best interests of an Indian child and the Indian child's tribe consents in writing to the tribal customary adoption, the state court shall grant temporary concurrent jurisdiction to the tribal court of the Indian child's tribe for the sole purpose of finalizing a tribal customary adoption according to the custom, traditions, and laws of such tribe and the best interests of the Indian child.

(2) Within thirty days after the granting of temporary concurrent jurisdiction under subsection (1) of this section, the department shall:

(a) Provide written notice to the Indian child's tribe describing:

(i) The elements that an order or judgment for tribal customary adoption must include to be accepted by the state court as described in subdivision (2) (a) of section 26 of this act;

(ii) The documents, reports, or other information that must be filed with the state court upon transfer back to the state court for accepting the order or judgment for tribal customary adoption as described in subdivision (2)(b) of section 26 of this act; and

(iii) The tribe's right to conduct, or designate another to conduct, the adoptive home study as described in section 24 of this act;

(b) Provide the Indian child's tribe and proposed tribal customary adoptive parents with a written report on the Indian child. Such report shall include, to the extent not otherwise prohibited by state or federal law:

(i) The medical background and tribal affiliations, if known, of the child's biological parents; and

(ii) The child's educational information, developmental history, and medical background, including all known diagnostic information, current medical reports, and psychological evaluations; and

(c) Provide the Indian child's tribe a copy of all court filings, including attachments and exhibits, from the state court proceeding, to the extent not otherwise prohibited by state or federal law.

**Sec. 24.** (1) An Indian tribe participating in a tribal customary adoption

may conduct the adoptive home study required by section 43-107, or designate another party to conduct such study in consultation with the tribe, so long as the study meets the nationally accepted standards for tribal licensing and approval.

(2) The state court shall accept such home study if the study uses the prevailing social and cultural standards of the Indian child's tribe as the standards to evaluate the proposed tribal customary adoptive placement.

**Sec. 25.** The tribe of an Indian child who is subject to a pending tribal customary adoption may work in consultation with the department as the department works with the proposed tribal customary adoptive parents to finalize the written adoption assistance agreement as described in section 43-118.02 in order to ensure that the Indian child has access to all available state, federal, and tribal resources for which such child is or will be eligible after the decree of adoption, including, but not limited to, services through the Indian Health Service.

**Sec. 26.** (1)(a) Within one hundred twenty days after receiving notice of the transfer of concurrent jurisdiction under section 23 of this act, the tribal court shall:

- (i) Finalize the order or judgment of tribal customary adoption;
- (ii) Transfer proceedings back to state court; and
- (iii) Provide the state court with a copy of such final order or judgment.

(b) If the requirements of subdivision (1)(a) of this section are not met within the one-hundred-twenty-day deadline, the grant of concurrent jurisdiction to the tribal court shall expire and the proceedings shall transfer back to the state court, unless the state court finds that the Indian child's tribe has demonstrated good cause for an extension. Extensions under this subdivision may be granted in increments of no more than sixty days.

(2) The state court shall accept such order or judgment and give it full faith and credit so long as:

- (a) The order or judgment:
  - (i) Includes a description of:

(A) Any rights retained by the Indian child's biological parents or Indian custodian, including contact to be maintained, if any, and the rights of inheritance of the child; and

(B) The Indian child's legal relationship with the tribe;

(ii) Does not include any child support obligation from the Indian child's biological parents or Indian custodian; and

(iii) If applicable and appropriate, has the findings required to ensure the Indian child is eligible to receive Title IV-E or Nebraska adoption assistance payments; and

(b) Unless otherwise exempted, all documents and records required by sections 43-102, 43-107, and 43-109 have been filed with the court, as well as:

(i) A record of the Indian child and the biological parents' tribal membership and affiliations; and

(ii) The most recently filed cumulative active efforts report as described by subdivision (1)(h) of section 43-1503.

(3) If the state court accepts such order or judgment, the state court shall enter a decree of adoption. Such decree shall include:

(a) A description of any rights retained by the Indian child's biological parents or Indian custodian, including contact to be maintained, if any, and rights of inheritance of the child, as specified within the tribal customary adoption order or judgment;

(b) A statement that any parental rights or obligations not specified in the tribal customary adoption order or judgment are transferred to the tribal customary adoptive parents;

(c) A description of the Indian child's legal relationship with the tribe; and

(d) If applicable and appropriate, the findings required to ensure the Indian child is eligible to receive Title IV-E or Nebraska adoption assistance payments.

(4)(a) Any parental rights or obligations not specifically retained by the Indian child's biological parents in the decree of adoption are conclusively

presumed to transfer to the tribal customary adoptive parents.

(b) The retention of any rights by the Indian child's biological parents or Indian custodian, including contact to be maintained and rights of inheritance of the child, as specified within the tribal customary adoption order or judgment, shall not be grounds for challenging or terminating the adoption on the basis that the biological parent or Indian custodian retained any parental or custodial rights, responsibilities, or benefits.

(5) A prospective tribal customary adoptive parent is not required to file a petition for adoption under section 43-102.

(6) Consent by the Indian child or their biological parents is not required to enter a decree of adoption under this section.

(7) After the decree of adoption is entered, the tribal customary adoption is legally complete and the juvenile court shall terminate its jurisdiction over the Indian child.

**Sec. 27.** Nothing in sections 23 to 26 of this act is intended to prevent the transfer of proceedings to a tribal court when transfer is otherwise permitted under applicable law.

**Sec. 28.** A tribal customary adoption shall be accorded full faith and credit by the courts of this state and shall be treated in all respects as any other adoption for all other purposes under Nebraska law, except to the extent otherwise provided for in the Nebraska Indian Child Welfare Act.

**Sec. 29.** (1) The department may adopt and promulgate rules and regulations to carry out sections 20 and 23 to 28 of this act and the changes to other sections made by this legislative bill.

(2) The Supreme Court may adopt rules and forms to assist in the carrying out of sections 20 and 23 to 28 of this act and the changes to other sections made by this legislative bill.

**Sec. 30.** Original sections 43-107, 43-110, 43-116, 43-117, 43-117.02, 43-292, 43-1312, 43-1312.01, 43-1314, 43-1501, 43-1503, 43-1505, 43-1506, and 43-1507, Reissue Revised Statutes of Nebraska, and sections 43-102, 43-104, 43-108, 43-109, 43-146.01, 43-246.01, and 43-292.02, Revised Statutes

Cumulative Supplement, 2024, are repealed.

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**PRESIDENT OF THE LEGISLATURE**

*THIS IS TO CERTIFY that the within LB 1032 was passed by the One Hundred Ninth Legislature of Nebraska at its Second Session on the ..... day of ..... 20.....*

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**CLERK OF THE LEGISLATURE**

**Approved:**

..... 20....., ..... o'clock .....M.

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**GOVERNOR**