

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1032

Introduced by DeBoer, 10.

Read first time January 14, 2026

Committee:

1 A BILL FOR AN ACT relating to adoptions; to amend sections 43-107,
2 43-110, 43-116, 43-117, 43-117.02, 43-292, 43-1312, 43-1312.01,
3 43-1314, 43-1501, 43-1503, 43-1505, 43-1506, and 43-1507, Reissue
4 Revised Statutes of Nebraska, and sections 43-102, 43-104, 43-108,
5 43-109, 43-146.01, 43-246.01, and 43-292.02, Revised Statutes
6 Cumulative Supplement, 2024; to provide for recognition and
7 enforcement of tribal customary adoptions; to define and redefine
8 terms; to change provisions relating to adoptions, the Nebraska
9 Indian Child Welfare Act, termination of parental rights, and the
10 Foster Care Review Act; to harmonize provisions; and to repeal the
11 original sections.
12 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 43-102, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 43-102 (1) ~~Any Except as otherwise provided in the Nebraska Indian~~
4 ~~Child Welfare Act,~~ any person or persons desiring to adopt a minor child
5 or an adult child shall file a petition for adoption signed and sworn to
6 by the person or persons desiring to adopt. The following shall be filed
7 prior to the hearing required under section 43-103:

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

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

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

14 (d) The completed and signed affidavit described in section
15 43-104.09 if required by such section;

16 (e) The completed and signed affidavit described in section
17 43-104.16 if required by such section; and

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

20 (2) The county court of the county in which the person or persons
21 desiring to adopt a child reside has jurisdiction of adoption
22 proceedings, except that if a juvenile court already has jurisdiction
23 over the child to be adopted under the Nebraska Juvenile Code, such
24 juvenile court has concurrent jurisdiction with the county court in such
25 adoption proceeding. If a child to be adopted is a ward of any court or a
26 ward of the state at the time of placement and at the time of filing an
27 adoption petition, the person or persons desiring to adopt shall not be
28 required to be residents of Nebraska. The petition and all other court
29 filings for an adoption proceeding shall be filed with the clerk of the
30 county court. The party shall state in the petition whether such party
31 requests that the proceeding be heard by the county court or, in cases in

1 which a juvenile court already has jurisdiction over the child to be
2 adopted under the Nebraska Juvenile Code, such juvenile court. Such
3 proceeding is considered a county court proceeding even if heard by a
4 juvenile court judge and an order of the juvenile court in such adoption
5 proceeding has the force and effect of a county court order. The
6 testimony in an adoption proceeding heard before a juvenile court judge
7 shall be preserved as in any other juvenile court proceeding.

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

10 **Sec. 2.** Section 43-104, Revised Statutes Cumulative Supplement,
11 2024, is amended to read:

12 43-104 (1) Except as otherwise provided in this section and in the
13 Nebraska Indian Child Welfare Act, no adoption shall be decreed unless
14 written consents thereto are filed in the county court of the county in
15 which the person or persons desiring to adopt reside or in the county
16 court in which the juvenile court having jurisdiction over the custody of
17 the child is located and the written consents are executed by:

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

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

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

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

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

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

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

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

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

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

7 (d) Who is incapable of consenting.

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

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

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

18 (6) Consent shall not be required of an acknowledged or adjudicated
19 father who has failed to timely file a petition pursuant to section
20 43-104.05 for the adjudication of such notice and a determination of
21 whether his consent to the adoption is required and the mother of the
22 child has timely executed a valid relinquishment and consent to the
23 adoption pursuant to such section.

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

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

29 (9)(a) In private adoptions not involving relinquishment of a child
30 to the state or to a licensed child placement agency, a parent or parents
31 who relinquish a child for adoption shall be provided legal counsel of

1 their choice independent from that of the adoptive parent or parents.
2 Such counsel shall be provided at the expense of the adoptive parent or
3 parents prior to the execution of a written relinquishment and consent to
4 adoption or execution of a communication and contact agreement under
5 section 43-166, unless specifically waived in writing.

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

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

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

19 43-107 ~~(1)(a) For adoption placements occurring or in effect prior~~
20 ~~to January 1, 1994, upon the filing of a petition for adoption, the~~
21 ~~county judge shall, except in the adoption of children by stepparents~~
22 ~~when the requirement of an investigation is discretionary, request the~~
23 ~~Department of Health and Human Services or any child placement agency~~
24 ~~licensed by the department to examine the allegations set forth in the~~
25 ~~petition and to ascertain any other facts relating to such minor child~~
26 ~~and the person or persons petitioning to adopt such child as may be~~
27 ~~relevant to the propriety of such adoption, except that the county judge~~
28 ~~shall not be required to request such an examination if the judge~~
29 ~~determines that information compiled in a previous examination or study~~
30 ~~is sufficiently current and comprehensive. Upon the request being made,~~
31 ~~the department or other licensed agency shall conduct an investigation~~

1 ~~and report its findings to the county judge in writing at least one week~~
2 ~~prior to the date set for hearing.~~

3 ~~(1)(a) A (b)(i)~~ For adoption placements occurring on or after
4 January 1, 1994, a preplacement adoptive home study shall be filed with
5 the court prior to the hearing required in section 43-103, which study is
6 completed by the Department of Health and Human Services or a licensed
7 child placement agency within one year before the date on which the
8 adoptee is placed with the petitioner or petitioners and indicates that
9 the placement of a child for the purpose of adoption would be safe and
10 appropriate.

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

30 ~~(c) (iii)~~ The placement of a child for foster care made by or
31 facilitated by the department or a licensed child placement agency in the

1 home of a person who later petitions the court to adopt the child shall
2 be exempt from the requirements of a preplacement adoptive home study.
3 The petitioner or petitioners who meet such criteria shall have a
4 postplacement adoptive home study completed by the department or a
5 licensed child placement agency and filed with the court at least one
6 week prior to the hearing for adoption.

7 (d) ~~(iv)~~ A voluntary placement for purposes other than adoption made
8 by a parent or guardian of a child without assistance from an attorney,
9 physician, or other individual or agency which later results in a
10 petition for the adoption of the child shall be exempt from the
11 requirements of a preplacement adoptive home study. The petitioner or
12 petitioners who meet such criteria shall have a postplacement adoptive
13 home study completed by the department or a licensed child placement
14 agency and filed with the court at least one week prior to the hearing
15 for adoption.

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

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

28 (g) ~~(vii)~~ The preplacement or postplacement adoptive home study
29 shall be performed as prescribed in rules and regulations of the
30 department and shall include at a minimum an examination into the facts
31 relating to the petitioner or petitioners as may be relevant to the

1 propriety of such adoption. Such rules and regulations shall require an
2 adoptive home study to include a national criminal history record
3 information check and a check of the central registry created in section
4 28-718 for any history of the petitioner or petitioners of behavior
5 injurious to or which may endanger the health or morals of a child.

6 (2) Upon the filing of a petition for adoption, the judge shall
7 require that a complete medical history be provided on the child, except
8 that in the adoption of a child by a stepparent, biological grandparent,
9 or step-grandparent who is married to the biological grandparent at the
10 time of the adoption if both are adopting the child, the provision of a
11 medical history shall be discretionary. ~~The On and after August 27, 2011,~~
12 ~~the~~ complete medical history or histories required under this subsection
13 shall include the race, ethnicity, nationality, Indian tribe when
14 applicable and in compliance with the Nebraska Indian Child Welfare Act,
15 or other cultural history of both biological parents, if available. A
16 medical history shall be provided, if available, on the biological mother
17 and father and their biological families, including, but not limited to,
18 siblings, parents, grandparents, aunts, and uncles, unless the child is
19 foreign born or was abandoned. The medical history or histories shall be
20 reported on a form provided by the department and filed along with the
21 report of adoption as provided by section 71-626. If the medical history
22 or histories do not accompany the report of adoption, the department
23 shall inform the court and the State Court Administrator. The medical
24 history or histories shall be made part of the court record. After the
25 entry of a decree of adoption, the court shall retain a copy and forward
26 the original medical history or histories to the department. This
27 subsection shall only apply when the relinquishment or consent for an
28 adoption is given on or after September 1, 1988.

29 (3) After the filing of a petition for adoption and before the entry
30 of a decree of adoption for a child who is committed to the Department of
31 Health and Human Services, the person or persons petitioning to adopt the

1 child shall be given the opportunity to read the case file on the child
2 maintained by the department or its duly authorized agent. The department
3 shall not include in the case file to be read any information or
4 documents that the department determines cannot be released based upon
5 state statute, federal statute, federal rule, or federal regulation. The
6 department shall provide a document for such person's or persons'
7 signatures verifying that he, she, or they have been given an opportunity
8 to read the case file and are aware that he, she, or they can review the
9 child's file at any time following finalization of the adoption upon
10 making a written request to the department. The department shall file
11 such document with the court prior to the entry of a decree of adoption
12 in the case.

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

15 **Sec. 4.** Section 43-108, Revised Statutes Cumulative Supplement,
16 2024, is amended to read:

17 43-108 (1) The minor child to be adopted, unless such child is over
18 fourteen years of age, and the person or persons desiring to adopt the
19 child must appear in person before the judge at the time of hearing,
20 except that when the petitioners are married and one of them is present
21 in court, the court, in its discretion, may accept the affidavit of an
22 absent spouse who is in the armed forces of the United States and it
23 appears to the court the absent spouse will not be able to be present in
24 court for more than a year because of his or her military assignment,
25 which affidavit sets forth that the absent spouse favors the adoption.

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

28 **Sec. 5.** Section 43-109, Revised Statutes Cumulative Supplement,
29 2024, is amended to read:

30 43-109 (1) Except as otherwise provided in the Nebraska Indian Child
31 Welfare Act, if If, upon the hearing, the court finds that such adoption

1 is for the best interests of such minor child or such adult child, a
2 decree of adoption shall be entered. No decree of adoption shall be
3 entered unless:

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

8 (b) The medical histories required by subsection (2) of section
9 43-107 have been made a part of the court record;

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

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

17 (ii) Given an explanation of the effects of filing or not filing the
18 nonconsent form; and

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

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

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

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

28 43-110 Except as otherwise provided in the Nebraska Indian Child
29 Welfare Act, after After a decree of adoption is entered, the usual
30 relation of parent and child and all the rights, duties and other legal
31 consequences of the natural relation of child and parent shall thereafter

1 exist between such adopted child and the person or persons adopting such
2 child and his, her or their kindred.

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

5 43-116 ~~(1)~~ When any court in the State of Nebraska ~~has~~ shall ~~(1)~~
6 ~~have~~ entered of record a decree of adoption prior to August 27, 1949, it
7 shall be conclusively presumed that such adoption and all instruments and
8 proceedings in connection therewith are valid in all respects
9 notwithstanding some defect or defects may appear on the face of the
10 record, or the absence of any record of such court, unless an action
11 shall be brought within two years from August 27, 1949, attacking its
12 validity.

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

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

24 43-117 (1) The Department of Health and Human Services may make
25 payments as needed, after the legal completion of an adoption, including
26 a tribal customary adoption as defined in section 43-1503, on behalf of a
27 child who immediately preceding the adoption was (a) a ward of the
28 department with special needs or (b) the subject of a state-subsidized
29 guardianship. Such payments to adoptive parents may include maintenance
30 costs, medical and surgical expenses, and other costs incidental to the
31 care of the child. Payments for maintenance and medical care shall

1 terminate on or before the child's twentieth birthday.

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

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

15 (b) If such child is an Indian child to be adopted through a tribal
16 customary adoption, the Indian child's tribe, or tribe's designee in
17 consultation with the tribe, may conduct the medical assessment of the
18 mental and physical needs of the child. The results of such medical
19 assessment shall be shared with the department prior to the entry of the
20 tribal customary adoption order or judgment.

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

23 43-117.02 The Department of Health and Human Services may make a
24 payment of up to two thousand dollars on behalf of a child with special
25 needs after the legal completion of the child's adoption, including a
26 tribal customary adoption as defined in section 43-1503. The payment to
27 the adoptive parents shall be a reimbursement for nonrecurring adoption
28 expenses, including reasonable and necessary adoption fees, court costs,
29 attorney's fees, and other expenses which are directly related to the
30 legal adoption of the child, which are not incurred in violation of law,
31 and which have not been reimbursed from any other source or funds.

1 **Sec. 10.** Section 43-146.01, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 43-146.01 (1) Sections 43-106.02, 43-121, 43-123.01, and 43-146.02
4 to 43-146.16 shall provide the procedures for gaining access to
5 information concerning an adopted person when a relinquishment or consent
6 for an adoption is given on or after September 1, 1988.

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

10 (3) Except as otherwise provided in the Nebraska Indian Child
11 Welfare Act, subsection (2) of section 43-107, and subsection (4) of this
12 section: Sections 43-101 to 43-118, 43-143 to 43-146, 43-146.17, 71-626,
13 71-626.01, and 71-627.02 shall apply to all adoptions.

14 (4) Sections 43-143 to 43-146 shall not apply to adopted persons for
15 whom a relinquishment or consent for adoption was given on and after July
16 20, 2002.

17 **Sec. 11.** Section 43-246.01, Revised Statutes Cumulative Supplement,
18 2024, is amended to read:

19 43-246.01 (1) The juvenile court shall have exclusive original
20 jurisdiction as to:

21 (a) Any juvenile described in subdivision (3) or (11) of section
22 43-247;

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

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

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

31 (2)(a) The juvenile court shall also have exclusive original

1 jurisdiction as to:

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

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

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

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

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

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

16 (iii) Any juvenile described in subdivision (1)(a)(ii) of section
17 29-1816.

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

20 (4) The juvenile court shall have the authority to grant temporary
21 concurrent jurisdiction to the tribal court of an Indian child's tribe
22 for purposes of effectuating, modifying, or enforcing a tribal customary
23 adoption as provided in sections 22 to 26 of this act.

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

26 43-292 Except as otherwise provided in the Nebraska Indian Child
27 Welfare Act, the The court may terminate all parental rights between the
28 parents or the mother of a juvenile born out of wedlock and such juvenile
29 when the court finds such action to be in the best interests of the
30 juvenile and it appears by the evidence that one or more of the following
31 conditions exist:

1 (1) The parents have abandoned the juvenile for six months or more
2 immediately prior to the filing of the petition;

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

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

12 (4) The parents are unfit by reason of debauchery, habitual use of
13 intoxicating liquor or narcotic drugs, or repeated lewd and lascivious
14 behavior, which conduct is found by the court to be seriously detrimental
15 to the health, morals, or well-being of the juvenile;

16 (5) The parents are unable to discharge parental responsibilities
17 because of mental illness or mental deficiency and there are reasonable
18 grounds to believe that such condition will continue for a prolonged
19 indeterminate period;

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

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

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

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

1 (10) The parent has (a) committed murder of another child of the
2 parent, (b) committed voluntary manslaughter of another child of the
3 parent, (c) aided or abetted, attempted, conspired, or solicited to
4 commit murder, or aided or abetted voluntary manslaughter of the juvenile
5 or another child of the parent, or (d) committed a felony assault that
6 resulted in serious bodily injury to the juvenile or another minor child
7 of the parent; or

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

11 **Sec. 13.** Section 43-292.02, Revised Statutes Cumulative Supplement,
12 2024, is amended to read:

13 43-292.02 (1) Except as otherwise provided in the Nebraska Indian
14 Child Welfare Act, a A petition shall be filed on behalf of the state to
15 terminate the parental rights of the juvenile's parents or, if such a
16 petition has been filed by another party, the state shall join as a party
17 to the petition, and the state shall concurrently identify, recruit,
18 process, and approve a qualified family for an adoption of the juvenile,
19 if:

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

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

1 (2) A petition shall not be filed on behalf of the state to
2 terminate the parental rights of the juvenile's parents or, if such a
3 petition has been filed by another party, the state shall not join as a
4 party to the petition if the sole factual basis for the petition is that
5 (a) the parent or parents of the juvenile are financially unable to
6 provide health care for the juvenile or (b) the parent or parents of the
7 juvenile are incarcerated. The fact that a qualified family for an
8 adoption of the juvenile has been identified, recruited, processed, and
9 approved shall have no bearing on whether parental rights shall be
10 terminated.

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

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

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

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

24 (4) Except as otherwise provided in the Nebraska Indian Child
25 Welfare Act, if a child is conceived by the victim of a sexual assault, a
26 petition for termination of parental rights of the perpetrator shall be
27 granted if such termination is in the best interests of the child and (a)
28 the perpetrator has been convicted of or pled guilty or nolo contendere
29 to sexual assault of the child's birth parent under section 28-319 or
30 28-320 or a law in another jurisdiction similar to either section 28-319
31 or 28-320 or (b) the perpetrator has fathered the child or given birth to

1 the child as a result of such sexual assault.

2 (5) A petition shall not be filed on behalf of the state to
3 terminate the parental rights of the juvenile's parents or, if such a
4 petition has been filed by another party, the state shall not join as a
5 party to the petition if the juvenile is an Indian child who may be
6 eligible for a tribal customary adoption as defined in section 43-1503,
7 unless and until the court has determined under section 43-1312 that a
8 tribal customary adoption would not be an appropriate permanency plan and
9 would not be in the best interests of the Indian child as defined in
10 section 43-1503.

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

13 43-1312 (1) Following the investigation conducted pursuant to
14 section 43-1311 and immediately following the initial placement of the
15 child, the person or court in charge of the child shall cause to be
16 established a safe and appropriate plan for the child. The plan shall
17 contain at least the following:

18 (a) The purpose for which the child has been placed in foster care;

19 (b) The estimated length of time necessary to achieve the purposes
20 of the foster care placement;

21 (c) A description of the services which are to be provided in order
22 to accomplish the purposes of the foster care placement;

23 (d) The person or persons who are directly responsible for the
24 implementation of such plan;

25 (e) A complete record of the previous placements of the foster
26 child;

27 (f) The name of the school the child shall attend as provided in
28 section 43-1311; and

29 (g) The efforts made to involve and engage the child in the
30 development of such plan as provided in the Nebraska Strengthening
31 Families Act.

1 (2)(a) Subject to subdivision (2)(b) of this section, if ~~(2)~~ If the
2 return of the child to his or her parents is not likely based upon facts
3 developed as a result of the investigation, the Department of Health and
4 Human Services shall recommend termination of parental rights and
5 referral for adoption, guardianship, placement with a relative, or, as a
6 last resort, and only in the case of a child who has attained sixteen
7 years of age, another planned permanent living arrangement. If the child
8 is removed from his or her home, the department shall make reasonable
9 efforts to accomplish joint-sibling placement or sibling visitation or
10 ongoing interaction between the siblings as provided in section
11 43-1311.02.

12 (b) In the case of an Indian child who may be eligible for a tribal
13 customary adoption as defined in section 43-1503, the department:

14 (i) May recommend referral for a tribal customary adoption; and

15 (ii) Shall not recommend termination of parental rights, unless and
16 until the court has determined that a tribal customary adoption would not
17 be an appropriate permanency plan and would not be in the best interests
18 of the Indian child as defined in section 43-1503.

19 (3) Each child in foster care under the supervision of the state
20 shall have a permanency hearing by a court, no later than twelve months
21 after the date the child enters foster care and annually thereafter
22 during the continuation of foster care. The court's order shall include
23 the determinations required by section 43-4711 and a finding regarding
24 the appropriateness of the permanency plan determined for the child and
25 shall include whether, and if applicable when, the child will be:

26 (a) Returned to the parent;

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

29 (c) Placed for adoption, including tribal customary adoption;

30 (d) Referred for guardianship; or

31 (e) In cases where the state agency has documented to the court a

1 compelling reason for determining that it would not be in the best
2 interests of the child to return home, (i) referred for termination of
3 parental rights, (ii) placed for adoption with a fit and willing
4 relative, or (iii) placed with a guardian.

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

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

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

17 (c) The court shall:

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

20 (ii) Make a determination explaining why, as of the date of the
21 hearing, another planned permanent living arrangement is the best
22 permanency plan for the child and the compelling reasons why it continued
23 to not be in the best interests of the child to return home, be placed
24 for adoption, be placed with a legal guardian, or be placed with a fit
25 and willing relative; and

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

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

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

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

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

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

13 (d) The guardian:

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

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

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

22 (iv) Agrees to give notice of any changes in his or her residential
23 address or the residence of the child by filing a written document in the
24 juvenile court file of the child.

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

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

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

31 (c) May specify the frequency and nature of family time or contact

1 between the child and his or her siblings, if appropriate; and

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

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

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

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

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

31 (7) A guardianship established under this section does not terminate

1 the parent-child relationship, including:

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

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

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

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

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

11 43-1314 (1) Except as otherwise provided in the Nebraska Indian
12 Child Welfare Act, notice of the court review or hearing and the right of
13 participation in all court reviews and hearings pertaining to a child in
14 a foster care placement shall be provided by the court having
15 jurisdiction over such child for the purposes of foster care placement.
16 The Department of Health and Human Services or contract agency shall have
17 the contact information for all child placements available for all courts
18 to comply with the notification requirements found in this section. The
19 department or contract agency shall each have one telephone number by
20 which any court seeking to provide notice may obtain up-to-date contact
21 information of all persons listed in subdivisions (2)(a) through (h) of
22 this section. All contact information shall be up-to-date within seventy-
23 two hours of any placement change.

24 (2) Notice shall be provided to all of the following parties that
25 are applicable to the case: (a) The person charged with the care of such
26 child; (b) the child's parents or guardian unless the parental rights of
27 the parents have been terminated by court action as provided in section
28 43-292 or 43-297; (c) the foster child if age fourteen or over; (d) the
29 foster parent or parents of the foster child; (e) the guardian ad litem
30 of the foster child; (f) the office and designated local board; (g) the
31 preadoptive parent, including a preadoptive parent of a tribal customary

1 adoption as defined in section 43-1503; and (h) the relative providing
2 care for the child. Notice of all court reviews and hearings shall be
3 mailed or personally delivered to the counsel or party, if the party is
4 not represented by counsel, five full days prior to the review or
5 hearing. The use of ordinary mail shall constitute sufficient compliance.
6 Notice to the foster parent, preadoptive parent, or relative providing
7 care shall not be construed to require that such foster parent,
8 preadoptive parent, or relative is a necessary party to the review or
9 hearing.

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

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

15 43-1501 Sections 43-1501 to 43-1517 and sections 22 to 29 of this
16 act shall be known and may be cited as the Nebraska Indian Child Welfare
17 Act.

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

20 43-1503 For purposes of the Nebraska Indian Child Welfare Act,
21 except as may be specifically provided otherwise:

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

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

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

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

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

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

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

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

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

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

29 (a) Using practices in compliance with the federal Indian Child
30 Welfare Act, the Nebraska Indian Child Welfare Act, and other applicable
31 laws that are designed to prevent the Indian child's voluntary or

1 involuntary out-of-home placement; and

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

9 (3) Child custody proceeding shall mean and include:

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

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

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

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

22 (ii) Prior to a tribal customary adoption placement;

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

27 (e) Voluntary foster care placement which shall mean a non-court-
28 involved proceeding in which the department or the state is facilitating
29 a voluntary foster care placement or in-home services to families at risk
30 of entering the foster care system. An Indian child, parent, or tribe
31 involved in a voluntary foster care placement shall only be provided

1 protections as provided in subsection (4) of section 43-1505 and sections
2 43-1506 and 43-1508.

3 Such term or terms shall not include a placement based upon an act
4 which, if committed by an adult, would be deemed a crime or upon an
5 award, in a divorce proceeding, of custody to one of the parents;

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

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

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

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

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

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

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

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

5 (12) Indian organization shall mean any group, association,
6 partnership, limited liability company, corporation, or other legal
7 entity owned or controlled by Indians or a majority of whose members are
8 Indians;

9 (13) Indian tribe shall mean any Indian tribe, band, nation, or
10 other organized group or community of Indians recognized as eligible for
11 the services provided to Indians by the secretary because of their status
12 as Indians, including any Alaska Native village as defined in section
13 3(c) of the Alaska Native Claims Settlement Act, as amended, 43 U.S.C.
14 1602(c);

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

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

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

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

29 (c) A lay expert witness that possesses substantial experience in
30 the delivery of child and family services to Indians and extensive
31 knowledge of prevailing social and cultural standards and childrearing

1 practices within the Indian child's tribe or tribes;

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

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

8 (16) Reservation shall mean Indian country as defined in 18 U.S.C.
9 1151 and any lands, not covered under such section, title to which is
10 either held by the United States in trust for the benefit of any Indian
11 tribe or individual or held by any Indian tribe or individual subject to
12 a restriction by the United States against alienation or a federally
13 designated or established service area which means a geographic area
14 designated by the United States where federal services and benefits
15 furnished to Indians and Indian tribes are provided or which is otherwise
16 designated to constitute an area on or near a reservation;

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

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

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

28 (20) (19) Tribal service area shall mean a geographic area, as
29 defined by the applicable Indian tribe or tribes, in which tribal
30 services and programs are provided to Indians.

31 **Sec. 19.** Section 43-1505, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 43-1505 (1) In any involuntary proceeding in a state court, when the
3 court knows or has reason to know that an Indian child is involved, the
4 party seeking the foster care placement of, or termination of parental
5 rights to, an Indian child shall send a notice conforming to the
6 requirements of 25 C.F.R. 23.11 to the parents, the Indian custodian, and
7 the Indian child's tribe or tribes, by registered mail with return
8 receipt requested, of the pending proceedings and of their right of
9 intervention. If the identity or location of the parent or Indian
10 custodian and the tribe or tribes cannot be determined, such notice shall
11 be given to the secretary in like manner, who may provide the requisite
12 notice to the parent or Indian custodian and the tribe or tribes. No
13 foster care placement or termination of parental rights proceedings shall
14 be held until at least ten days after receipt of notice by the parent or
15 Indian custodian and the tribe or tribes or the secretary. The parent or
16 Indian custodian or the tribe or tribes shall, upon request, be granted
17 up to twenty additional days to prepare for such proceeding.

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

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

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

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

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

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

27 (b) Makes a determination, in the case of an Indian child that may
28 be eligible for a tribal customary adoption, that such adoption would not
29 be an appropriate permanency plan and would not be in the best interests
30 of the Indian child.

31 **Sec. 20.** Section 43-1506, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 43-1506 (1) When any parent or Indian custodian voluntarily consents
3 (a) to a foster care placement or (b) to relinquishment or termination of
4 parental rights, such consent shall not be valid unless executed in
5 writing and recorded before a judge of a court of competent jurisdiction
6 and accompanied by the presiding judge's certificate that the terms and
7 consequences of the consent were fully explained in detail and were fully
8 understood by the parent or Indian custodian. The court shall also
9 certify that either the parent or Indian custodian fully understood the
10 explanation in English or that it was interpreted into a language that
11 the parent or Indian custodian understood. Any consent given prior to, or
12 within ten days after, birth of the Indian child shall not be valid.

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

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

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

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

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

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

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

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

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

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

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

31 (h) The details, if any, of an enforceable communication or contact

1 agreement authorized by section 43-162.

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

7 (7) {6} Any parent or Indian custodian may withdraw consent to a
8 foster care or voluntary foster care placement under state law at any
9 time and, upon such withdrawal, the child shall be returned to the parent
10 or Indian custodian.

11 (8) {7} In any voluntary proceedings for termination of parental
12 rights to, or adoptive placement of, an Indian child, the consent of the
13 parent may be withdrawn for any reason at any time prior to the entry of
14 a final decree of termination or adoption, as the case may be, and the
15 child shall be returned to the parent.

16 (9) {8} After the entry of a final decree of adoption of an Indian
17 child in any state court, the parent may withdraw consent thereto upon
18 the grounds that consent was obtained through fraud or duress and may
19 petition the court to vacate such decree. Upon a finding that such
20 consent was obtained through fraud or duress, the court shall vacate such
21 decree and return the child to the parent. No adoption which has been
22 effective for at least two years may be invalidated under the provisions
23 of this subsection unless otherwise permitted under state law.

24 **Sec. 21.** Section 43-1507, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 43-1507 Any Indian child who is the subject of any action for foster
27 care placement or termination of parental rights under state law, any
28 parent or Indian custodian from whose custody such child was removed, and
29 the Indian child's primary tribe may petition any court of competent
30 jurisdiction to invalidate such action upon a showing that such action
31 violated any provision of sections 43-1504 to 43-1506 or sections 22 to

1 29 of this act.

2 **Sec. 22.** (1) If a state court finds that tribal customary adoption
3 is an appropriate permanency plan under section 43-1312 and is in the
4 best interests of an Indian child and the Indian child's tribe consents
5 in writing to the tribal customary adoption, the state court shall grant
6 temporary concurrent jurisdiction to the tribal court of the Indian
7 child's tribe for the sole purpose of finalizing a tribal customary
8 adoption according to the custom, traditions, and laws of such tribe.

9 (2) Upon the granting of temporary concurrent jurisdiction under
10 subsection (1) of this section, the department shall:

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

12 (i) The elements that an order or judgment for tribal customary
13 adoption must include to be accepted by the state court as described in
14 subdivision (2)(a) of section 25 of this act;

15 (ii) The documents, reports, or other information that must be filed
16 with the state court upon transfer back to the state court for accepting
17 the order or judgment for tribal customary adoption as described in
18 subdivision (2)(b) of section 25 of this act;

19 (iii) The tribe's right to conduct, or designate another to conduct,
20 the adoptive home study as described in section 23 of this act; and

21 (iv) The tribe's right to conduct, or designate another to conduct,
22 the medical assessment of the child as described in subdivision (3)(b) of
23 section 43-117; and

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

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

30 (ii) The child's educational information, developmental history, and
31 medical background, including all known diagnostic information, current

1 medical reports, and psychological evaluations.

2 **Sec. 23.** (1) An Indian tribe participating in a tribal customary
3 adoption may conduct the adoptive home study required by section 43-107,
4 or designate another party to conduct such study in consultation with the
5 tribe, so long as the study meets the nationally accepted standards for
6 tribal licensing and approval.

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

11 **Sec. 24.** The tribe of an Indian child who is subject to a pending
12 tribal customary adoption may work in consultation with the department as
13 the department works with the proposed tribal customary adoptive parents
14 to finalize the written adoption assistance agreement as described in
15 section 43-118.02 in order to ensure that the Indian child has access to
16 all available state, federal, and tribal resources for which such child
17 is or will be eligible after the decree of adoption, including, but not
18 limited to, services through the Indian Health Service.

19 **Sec. 25.** (1) When a tribal court has completed proceedings to
20 finalize an order or judgment of tribal customary adoption, the tribal
21 court shall transfer proceedings back to the state court and provide the
22 state court with a copy of such order or judgment.

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

25 (a) The order or judgment:

26 (i) Includes a description of:

27 (A) The modification of the legal relationship of the Indian child's
28 biological parents or Indian custodian and the child, including contact,
29 if any, between the child and the biological parents or Indian custodian;

30 (B) Responsibilities of the biological parents or Indian custodian;

31 (C) The rights of inheritance of the biological parents and child;

1 and

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

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

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

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

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

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

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

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

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

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

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

29 (4) Any parental rights or obligations not specifically retained by
30 the Indian child's biological parents in the decree of adoption are
31 conclusively presumed to transfer to the tribal customary adoptive

1 parents.

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

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

6 (7) After the decree of adoption is entered, the tribal customary
7 adoption is legally complete.

8 **Sec. 26.** (1) The terms of a decree for tribal customary adoption
9 under section 25 of this act, including terms relating to the parental
10 rights or obligations retained by the Indian child's biological parents
11 or Indian custodian, may be enforced or modified by a civil action. Such
12 civil action shall be filed in the county court of the county where the
13 decree of adoption was entered.

14 (2) Upon the initiation of a proceeding to enforce or modify the
15 terms of the adoption, the court in which the civil action is filed shall
16 notify the tribe who entered the initial order or judgment for tribal
17 customary adoption of the proceeding in writing, within five days. Such
18 notice shall include:

19 (a) A statement that a proceeding to enforce or modify the terms of
20 the adoption has been filed;

21 (b) The name of the Indian child, biological parents or Indian
22 custodian, and tribal customary adoptive parents at issue in the
23 adoption;

24 (c) A statement that the tribe has the right to intervene in the
25 proceeding at any point in time;

26 (d) A statement that the tribe has the right to request temporary
27 concurrent jurisdiction for the limited purpose of modifying the terms of
28 the adoption;

29 (e) A statement that if temporary concurrent jurisdiction to the
30 tribe is not requested and granted, the tribe has the right to consent in
31 writing to the modification before it is finalized by the state court;

1 (f) A copy of the decree of adoption at issue; and

2 (g) A copy of the filing that initiated the proceeding to enforce or
3 modify the terms of the adoption.

4 (3)(a) No proceedings to enforce or modify the terms of the decree
5 of adoption shall be held until at least ten days after the Indian
6 child's tribe receives the notice under subsection (2) of this section,
7 unless good cause is shown as to why it would be in the child's best
8 interests to enter a temporary order of enforcement or modification.

9 (b) The Indian child's tribe shall, upon request, be granted up to
10 twenty additional days to prepare for the proceedings.

11 (4) The tribe that entered the initial order or judgment for tribal
12 customary adoption shall have the right to intervene at any point in the
13 proceedings regardless of whether the tribe is represented by legal
14 counsel. The tribe shall not be required to associate with local counsel
15 or pay a fee to appear pro hac vice. Any representatives from the tribe
16 have the right to fully participate in such proceedings.

17 (5) The state court in which the civil action is filed shall grant
18 temporary jurisdiction to the tribal court that entered the initial order
19 or judgment for tribal customary adoption for the limited purpose of
20 modifying the terms of the decree of adoption, upon petition by such
21 tribe, absent good cause to the contrary.

22 (6) If such temporary jurisdiction is granted, upon completion of
23 the proceedings to modify the terms of the adoption, the tribe shall
24 transfer the proceedings back to the state court and provide the state
25 court with a copy of the final modified order or judgment for tribal
26 customary adoption.

27 (7) The state court shall accept such modified order or judgment and
28 give it full faith and credit so long as the order or judgment:

29 (a) Includes a description of:

30 (i) Any modification of the legal relationship of the Indian child's
31 biological parents or Indian custodian and the child, including contact,

1 if any, between the child and the biological parents or Indian custodian;
2 (ii) Responsibilities of the biological parents or Indian custodian;
3 (iii) The rights of inheritance of the biological parents and child;
4 and
5 (iv) A description of the Indian child's legal relationship with the
6 tribe; and
7 (b) Does not include any child support obligation from the Indian
8 child's biological parents or Indian custodian.
9 (8) If the state court accepts such modified order or judgment, the
10 state court shall enter a modified decree of adoption. Such modified
11 decree shall include:
12 (a) A description of any parental rights or obligations retained by
13 the Indian child's biological parents or Indian custodian, including
14 contact to be maintained, if any, and rights of inheritance of the child,
15 as specified within the tribal customary adoption order or judgment;
16 (b) A statement that any parental rights or obligations not
17 specified in the tribal customary adoption order or judgment are
18 transferred to the tribal customary adoptive parents; and
19 (c) A description of the Indian child's legal relationship with the
20 tribe.
21 (9)(a) If temporary jurisdiction is not transferred to a tribal
22 court as provided in this section, the state court in which the civil
23 action is filed may modify the terms of the decree of adoption if:
24 (i) The modification is in the best interests of the Indian child;
25 (ii) Notice of the proposed modification is provided in writing to
26 the Indian child's tribe and the tribe provides a written consent to such
27 modification; and
28 (iii) Exceptional circumstances have arisen since the decree was
29 entered that justify such modification.
30 (b) The Indian child's tribe shall be presumed to have consented to
31 the modification if written notice is provided under subdivision (9)(a)

1 (ii) of this section and the tribe does not respond within thirty days
2 after receiving such notice.

3 **Sec. 27.** Nothing in sections 22 to 26 of this act is intended to
4 prevent the transfer of proceedings to a tribal court when transfer is
5 otherwise permitted under applicable law.

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

11 **Sec. 29.** (1) The department may adopt and promulgate rules and
12 regulations to carry out sections 22 to 28 of this act and the changes to
13 other sections made by this legislative bill.

14 (2) The Supreme Court may adopt rules and forms to assist in the
15 carrying out of sections 22 to 28 of this act and the changes to other
16 sections made by this legislative bill.

17 **Sec. 30.** Original sections 43-107, 43-110, 43-116, 43-117,
18 43-117.02, 43-292, 43-1312, 43-1312.01, 43-1314, 43-1501, 43-1503,
19 43-1505, 43-1506, and 43-1507, Reissue Revised Statutes of Nebraska, and
20 sections 43-102, 43-104, 43-108, 43-109, 43-146.01, 43-246.01, and
21 43-292.02, Revised Statutes Cumulative Supplement, 2024, are repealed.