

LEGISLATIVE BILL 1113

Approved by the Governor April 13, 2006

Introduced by Bourne, 8; Mines, 18

AN ACT relating to civil and criminal regulation; to amend sections 2-3290, 2-3296, 2-3297, 18-1755, 28-311.04, 28-813, 42-364, 42-364.13, 42-1103, 43-256, 43-271, 43-408, 43-1412, 43-3001, 43-3342.05, 47-619, 47-620, 83-192, 83-1,114, and 83-1,115, Reissue Revised Statutes of Nebraska, sections 2-3202, 20-504, 23-1824, 28-311.02, 28-311.03, 28-728, 28-729, 28-730, 29-4101, 29-4102, 29-4104, 29-4106, 29-4107, and 86-291, Revised Statutes Cumulative Supplement, 2004, and sections 29-4126, 47-623, 47-624, and 47-625, Revised Statutes Supplement, 2005; to change and provide provisions relating to foreign national minors, recreational use of land, racial profiling, autopsies, stalking, child abuse and neglect, obscene literature or material, the DNA Detection of Sexual and Violent Offenders Act, DNA testing, references to social security numbers in court documents, domestic relations orders, detention of juveniles, the State Disbursement and Child Support Advisory Commission, the Community Corrections Act, release on parole, and court-ordered interception of communications; to state intent; to define and redefine terms; to provide duties for the Department of Health and Human Services, cities, villages, the Supreme Court, and the Board of Parole; to eliminate duties; to provide penalties; to harmonize provisions; and to repeal the original sections.

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

Section 1. (1) The purpose of sections 1 to 12 of this act is to protect foreign national minors or minors holding dual citizenship within the State of Nebraska.

(2) The Legislature recognizes that:

(a) Foreign national minors and minors holding dual citizenship are essential to the maintenance of their culture, traditions, and values;

(b) The governments of foreign countries have a duty to care for the interests of their nationals and citizens abroad, particularly foreign national minors and minors holding dual citizenship;

(c) The governments of foreign countries have the right to information and access in all cases involving minors who are children of foreign nationals and minors holding dual citizenship; and

(d) The state should be able to identify foreign national minors and minors holding dual citizenship and their families in order to provide services for them.

Sec. 2. For purposes of sections 1 to 12 of this act:

(1) Agency means the agency in a foreign country charged with ensuring the welfare of minors who are nationals of that country or who hold dual citizenship in that country and the United States;

(2) Custodian means the nonparental caretaker of a foreign national minor or minor holding dual citizenship who has been entrusted by the parent of the minor with the day-to-day care of the minor;

(3) Department means the Department of Health and Human Services;

(4) Foreign national minor means an unmarried person who is under the age of eighteen years and was born in a country other than the United States; and

(5) Minor holding dual citizenship means an unmarried person who is under the age of eighteen years and who holds citizenship simultaneously in the United States and one other country.

Sec. 3. The department, in conjunction with the appropriate consulate, shall provide a method of early identification of foreign national minors and minors holding dual citizenship and their families in order to provide services which assure all the protections afforded by all applicable treaties and laws.

Sec. 4. (1) When a court makes a minor a ward of the department, the department shall determine whether the minor is a foreign national minor or a minor holding dual citizenship. If such minor is a foreign national minor or a minor holding dual citizenship, the department shall provide such minor and his or her parent or custodian with the following information:

(a) Written information in English and the minor's native language, explaining the juvenile court process and the rights of the minor and his or her parents or custodian; and

(b) The address and telephone number of the nearest consulate

servicing the minor.

(2) The department shall notify the appropriate consulate in writing within ten working days after (a) the initial date the department takes custody of a foreign national minor or a minor holding dual citizenship or the date the department learns that a minor in its custody is a foreign national minor or a minor holding dual citizenship, whichever occurs first, (b) the parent of a foreign national minor or a minor holding dual citizenship has requested that the consulate be notified, or (c) the department determines that a noncustodial parent of a foreign national minor or a minor holding dual citizenship in its custody resides in the country represented by the consulate.

(3) The department shall provide the consulate with the name and date of birth of the foreign national minor or the minor holding dual citizenship, the name of his or her parent or custodian, and the name and telephone number of the departmental caseworker directly responsible for the case.

(4) If the consulate needs additional specific information regarding the case of the foreign national minor or the minor holding dual citizenship, the consulate may contact the department and the department may release any information not required to be kept confidential under the Nebraska Juvenile Code or other state or federal statutes.

Sec. 5. A consular representative may interview a foreign national minor or minor holding dual citizenship who is a citizen of the country represented by the consulate. The consular representative shall contact the department to arrange for an interview of a foreign national minor or a minor holding dual citizenship.

Sec. 6. If a court makes a foreign national minor or a minor holding dual citizenship a ward of the department and the minor has become eligible for special immigrant juvenile status as defined in 8 U.S.C. 1101(a)(27)(J), the consulate will assist the department in obtaining the necessary documentation for completion of the application for special immigrant juvenile status.

Sec. 7. The department may obtain a birth certificate from the appropriate country for a foreign national minor or a minor holding dual citizenship in the custody of the department. The department may request the assistance of the consulate in obtaining the necessary documentation to complete the application for a birth certificate under this section.

Sec. 8. (1) Upon notification to a consulate pursuant to section 4 of this act, the department shall request that the consulate obtain through the agency the appropriate home studies of potential families in such country who may be involved in the case and forward the information to the departmental caseworker directly responsible for the case.

(2) When a foreign national minor is placed in his or her country or a minor holding dual citizenship is placed in the country other than the United States in which he or she holds citizenship, the department shall take all steps necessary to obtain the cooperation of the consulate and the agency to ensure the minor's welfare and provide whatever services are needed. The department shall request copies of the monitoring reports prepared by the agency concerning the welfare of the minor.

Sec. 9. The department will request the cooperation of the appropriate consulate in order to notify a person who resides in a foreign country and is required to appear in a court in this state regarding the case of a foreign national minor or a minor holding dual citizenship.

Sec. 10. The Director of Health and Human Services or his or her designee shall meet as necessary with consular officials to discuss, clarify, and coordinate activities, ideas and concerns of a high-profile nature, timely media attention, and joint prevention efforts regarding the protection and well-being of foreign national minors and minors holding dual citizenship and families.

Sec. 11. The department may adopt and promulgate rules and regulations to carry out sections 1 to 10 of this act.

Sec. 12. Nothing in sections 1 to 11 of this act shall be construed as a waiver of immunities to which a consulate and its consular agents are entitled under international law, the Foreign Sovereign Immunities Act of 1976, 28 U.S.C. 1602 et seq., and international treaties in force between the United States and foreign countries.

Sec. 13. Section 2-3202, Revised Statutes Cumulative Supplement, 2004, is amended to read:

2-3202 For purposes of Chapter 2, article 32, and section 14 of this act, unless the context otherwise requires:

(1) Commission means the Nebraska Natural Resources Commission;

(2) Natural resources district or district means a natural resources

district operating pursuant to Chapter 2, article 32;

(3) Board means the board of directors of a district;

(4) Director means a member of the board;

(5) Other special-purpose districts means rural water districts, drainage districts, reclamation districts, and irrigation districts;

(6) Manager means the chief executive hired by a majority vote of the board to be the supervising officer of the district; and

(7) Department means the Department of Natural Resources.

Sec. 14. (1) A district shall permit public use of those portions of a water project located on lands owned by the district and on land over which the district has a lease or an easement permitting use thereof for public recreational purposes. All recreational users of such portions of a water project shall abide by the applicable rules and regulations adopted and promulgated by the board.

(2) The district shall provide public access for recreational use at designated access points at any water project. Recreational users, whether public or private, shall abide by all applicable rules and regulations for use of the water project adopted and promulgated by the district or the political subdivision in which the water project is located. Public recreational users may only access the water project through such designated access points. Nothing in this subsection shall require public access when the portion of the project cost paid by the natural resources district with public funds does not exceed twenty percent of the total cost of the project.

(3) For purposes of this section water project means a project with cooperators or others, as authorized in section 2-3235, that results in construction of a reservoir or other body of water having a permanent pool suitable for recreational purposes greater than one hundred fifty surface acres, the construction of which commenced after the effective date of this act. Water project shall not mean soil conservation projects, wetlands projects, or other district projects with cooperators or others that do not have a recreational purpose.

Sec. 15. Section 2-3290, Reissue Revised Statutes of Nebraska, is amended to read:

2-3290 A Except as otherwise provided in section 14 of this act, a district which owns, leases, or has an easement on land may allow the land to be used by the public for land or has a lease or an easement permitting the use of land for public recreational purposes and may adopt and promulgate rules and regulations governing the use of such land as provided in sections 2-3292 to 2-32,100, unless the district does not have the right to use such land for recreational purposes. For purposes of sections 2-3234.01 and 2-3290 to 2-32,101, unless the context otherwise requires, recreation area shall mean land owned or leased by a district, or on which a district has an easement, which the district authorizes to be used by the public for recreational purposes means land owned by the district or over which a district has a lease or an easement permitting the use thereof for public recreational purposes which the board authorizes to be used for such purposes.

In addition to the authority provided in section 2-3292 to establish and collect fees, a district may establish and collect permit fees for public access to such land.

Sec. 16. Section 2-3296, Reissue Revised Statutes of Nebraska, is amended to read:

2-3296 (1) A Except as otherwise provided in section 14 of this act, a district may permit and regulate swimming, bathing, boating, wading, waterskiing, the use of any floatation device, or any other water-related recreational activity in all or any portion of a recreation area and may provide for special conditions to apply to specific swimming, bathing, boating, wading, or waterskiing areas. Any special conditions shall be posted on appropriate signs in the areas to which they apply.

(2) Any person who swims, bathes, boats, wades, water-skis, uses any floatation device, or engages in any other water-related recreational activity in a recreation area when not permitted by a district shall be guilty of a Class V misdemeanor.

Sec. 17. Section 2-3297, Reissue Revised Statutes of Nebraska, is amended to read:

2-3297 (1) A district may provide for the protection, use, or removal of any public real or personal property in a recreation area and may regulate or prohibit the construction or installation of any privately owned structure in a recreation area. A Except as otherwise provided in section 14 of this act, a district may close all or any portion of a recreation area to any form of public use or access with the erection of appropriate signs, without the adoption and promulgation of formal written rules and regulations.

(2) Any person who, without the permission of the district, damages,

destroys, uses, or removes any public real or personal property in a recreation area, constructs or installs any privately owned structure in a recreation area, or enters or remains upon all or any portion of a recreation area when appropriate signs or public notices prohibiting such activity have been erected or displayed shall be guilty of a Class V misdemeanor.

Sec. 18. Section 18-1755, Reissue Revised Statutes of Nebraska, is amended to read:

18-1755 A city of the metropolitan, primary, first, or second class or village acquiring an interest in real property by purchase or eminent domain shall do so only after the governing body has authorized the acquisition by action taken in a public meeting after notice and public hearing. The city or village shall provide to the public a right of access for recreational use to the real property acquired for public recreational purposes. Such access shall be at designated access points and shall be equal to the right of access for recreational use held by adjacent landowners. The right of access granted to the public for recreational use shall meet or exceed such right held by a private landowner adjacent to the real property.

Sec. 19. Section 20-504, Revised Statutes Cumulative Supplement, 2004, is amended to read:

20-504 (1) On or before January 1, 2002, the Nebraska State Patrol, the county sheriffs, all city and village police departments, and any other law enforcement agency in this state shall adopt a written policy that prohibits the detention of any person or a motor vehicle stop when such action is motivated by racial profiling and the action would constitute a violation of the civil rights of the person.

(2) With respect to a motor vehicle stop, on and after January 1, 2002, and until January 1, ~~2006~~ 2010, the Nebraska State Patrol, the county sheriffs, all city and village police departments, and any other law enforcement agency in this state shall record and retain the following information using the form developed and promulgated pursuant to section 20-505:

(a) The number of motor vehicle stops;

(b) The characteristics of race or ethnicity of the person stopped. The identification of such characteristics shall be based on the observation and perception of the law enforcement officer responsible for reporting the motor vehicle stop and the information shall not be required to be provided by the person stopped;

(c) If the stop is for a law violation, the nature of the alleged law violation that resulted in the motor vehicle stop;

(d) Whether a warning or citation was issued, an arrest made, or a search conducted as a result of the motor vehicle stop. Search does not include a search incident to arrest or an inventory search; and

(e) Any additional information that the Nebraska State Patrol, the county sheriffs, all city and village police departments, or any other law enforcement agency in this state, as the case may be, deems appropriate.

(3) The Nebraska Commission on Law Enforcement and Criminal Justice may develop a uniform system for receiving allegations of racial profiling. The Nebraska State Patrol, the county sheriffs, all city and village police departments, and any other law enforcement agency in this state shall provide to the commission (a) a copy of each allegation of racial profiling received and (b) written notification of the review and disposition of such allegation. No information revealing the identity of the law enforcement officer involved in the stop shall be used, transmitted, or disclosed in violation of any collective bargaining agreement provision or personnel rule under which such law enforcement officer is employed. No information revealing the identity of the complainant shall be used, transmitted, or disclosed in the form alleging racial profiling.

(4) Any law enforcement officer who in good faith records information on a motor vehicle stop pursuant to this section shall not be held civilly liable for the act of recording such information unless the law enforcement officer's conduct was unreasonable or reckless or in some way contrary to law.

(5) On or before October 1, 2002, and annually thereafter until January 1, ~~2006~~ 2010, the Nebraska State Patrol, the county sheriffs, all city and village police departments, and all other law enforcement agencies in this state shall provide to the commission, in such form as the commission prescribes, a summary report of the information recorded pursuant to subsection (2) of this section.

(6) On and after January 1, 2002, and until April 1, ~~2006~~ 2010, the commission may, within the limits of its existing appropriations, provide for a review of the prevalence and disposition of motor vehicle stops based on racial profiling and allegations reported pursuant to this section. The

results of such review shall be reported annually to the Governor and the Legislature beginning on or before April 1, 2004, until April 1, ~~2006~~ 2010.

Sec. 20. Section 23-1824, Revised Statutes Cumulative Supplement, 2004, is amended to read:

23-1824 (1) The county coroner or coroner's physician shall perform, at county expense, an autopsy on any person less than nineteen years of age who dies a sudden death, except that no autopsy needs to be performed if (a) the death was caused by a readily recognizable disease or the death occurred due to trauma resulting from an accident and (b) the death did not occur under suspicious circumstances. The Attorney General shall create, by July 1, 2007, guidelines for county coroners or coroner's physicians regarding autopsies on persons less than nineteen years of age.

(2) The county coroner or coroner's physician shall attempt to establish, by a reasonable degree of medical certainty, the cause or causes of the death, and shall thereafter certify the cause or causes of death to the county attorney. No cause of death shall be certified as sudden infant death syndrome unless an autopsy, a death scene investigation, and a review of the child's medical history reveal no other possible cause.

(3) A county may request reimbursement of up to fifty percent of the cost of an autopsy from the Attorney General. Reimbursement requests may include, but not be limited to, costs for expert witnesses and complete autopsies, including toxicology screens and tissue sample tests. The Attorney General shall place an emphasis on autopsies of children five years of age and younger.

Sec. 21. Section 28-311.02, Revised Statutes Cumulative Supplement, 2004, is amended to read:

28-311.02 (1) It is the intent of the Legislature to enact laws dealing with stalking offenses which will protect victims from being willfully harassed, intentionally terrified, threatened, or intimidated by individuals who intentionally follow, detain, stalk, or harass them or impose any restraint on their personal liberty and which will not prohibit constitutionally protected activities.

(2) For purposes of sections 28-311.02 to 28-311.05, 28-311.09, and 28-311.10:

(a) Harass means to engage in a knowing and willful course of conduct directed at a specific person which seriously terrifies, threatens, or intimidates the person and which serves no legitimate purpose; and

(b) Course of conduct means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including a series of acts of following, detaining, restraining the personal liberty of, or stalking the person or telephoning, contacting, or otherwise communicating with the person;

(c) Family or household member means a spouse or former spouse of the victim, children of the victim, a person presently residing with the victim or who has resided with the victim in the past, a person who had a child in common with the victim, other persons related to the victim by consanguinity or affinity, or any person presently involved in a dating relationship with the victim or who has been involved in a dating relationship with the victim. For purposes of this subdivision, dating relationship means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement but does not include a casual relationship or an ordinary association between persons in a business or social context; and

(d) Substantially conforming criminal violation means a guilty plea, a nolo contendere plea, or a conviction for a violation of any federal law or law of another state or any county, city, or village ordinance of this state or another state substantially similar to section 28-311.03. Substantially conforming is a question of law to be determined by the court.

Sec. 22. Section 28-311.03, Revised Statutes Cumulative Supplement, 2004, is amended to read:

28-311.03 Any person who willfully harasses another person or a family or household member of such person with the intent to injure, terrify, threaten, or intimidate commits the offense of stalking.

Sec. 23. Section 28-311.04, Reissue Revised Statutes of Nebraska, is amended to read:

28-311.04 Any (1) Except as provided in subsection (2) of this section, any person convicted of violating section 28-311.03 shall be is guilty of a Class I misdemeanor.

(2) Any ~~7~~ ~~except that~~ any person convicted of violating such section 28-311.03 is guilty of a Class IV felony if:

(a) The person ~~who~~ has a prior conviction under such section or a substantially conforming criminal violation within the last seven years; ~~for~~

acts committed against the same victim shall be guilty of a Class IV felony.

(b) The victim is under sixteen years of age;

(c) The person possessed a deadly weapon at any time during the violation;

(d) The person was also in violation of section 28-311.09, 42-924, or 42-925 at any time during the violation; or

(e) The person has been convicted of any felony in this state or has been convicted of a crime in another jurisdiction which, if committed in this state, would constitute a felony and the victim or a family or household member of the victim was also the victim of such previous felony.

Sec. 24. Section 28-728, Revised Statutes Cumulative Supplement, 2004, is amended to read:

28-728 (1) The Legislature finds that child abuse and neglect are community problems requiring a cooperative complementary response by law enforcement, child advocacy centers, prosecutors, the Department of Health and Human Services, child protective services division, and other agencies or entities designed to protect children. It is the intent of the Legislature to create a child abuse and neglect investigation team in each county or contiguous group of counties and to create a child abuse and neglect treatment team in each county or contiguous group of counties.

(2) Each county or contiguous group of counties will be assigned by the Department of Health and Human Services to a child advocacy center. The purpose of a child advocacy center is to provide a child-focused response to support the physical, emotional, and psychological needs of children who are victims of abuse or neglect. Each child advocacy center shall meet accreditation criteria set forth by the National Children's Alliance. Nothing in this section shall prevent a child from receiving treatment or other services at a child advocacy center which has received or is in the process of receiving accreditation.

~~(2)~~ The child abuse and neglect investigation team shall develop

(3) Each county attorney or the county attorney representing a contiguous group of counties is responsible for convening the child abuse and neglect investigation team and ensuring that protocols are established and implemented. A representative of the child advocacy center assigned to the team shall assist the county attorney in facilitating case review, developing and updating protocols, and arranging training opportunities for the team. Each team must have protocols which, at a minimum, shall include procedures for:

(a) Conducting joint investigations of child abuse and other child abuse and neglect matters which the team deems necessary;

(b) Ensuring that a law enforcement agency will participate in the investigation;

(c) Conducting joint investigations of other child abuse and neglect matters which the team deems necessary;

(d) Arranging for a videotaped forensic interview at a child advocacy center for children sixteen years of age or younger who are alleging sexual abuse or serious physical abuse or neglect or who have witnessed a violent crime, been removed from a clandestine drug lab, or been recovered from a kidnapping;

(e) Reducing the risk of harm to child abuse and neglect victims;

~~(f)~~ (f) Ensuring that the child is in safe surroundings, including removing the perpetrator when necessary;

~~(g)~~ (g) Sharing of case information; and

~~(h)~~ (h) How and when the team will meet; and -

(i) Responding to drug-endangered children.

~~(3)~~ The child abuse and neglect treatment team shall develop

(4) Each county attorney or the county attorney representing a contiguous group of counties is responsible for convening the child abuse and neglect treatment team and ensuring that protocols are established and implemented. A representative of the child advocacy center appointed to the team shall assist the county attorney in facilitating case review, developing and updating protocols, and arranging training opportunities for the team. Each team must have protocols which, at a minimum, shall include procedures for:

(a) Case coordination and assistance, including the location of services available within the area;

(b) Case staffings and the coordination, development, implementation, and monitoring of treatment plans;

(c) Reducing the risk of harm to child abuse and neglect victims;

(d) Assisting those child abuse and neglect victims who are abused and neglected by perpetrators who do not reside in their homes; and

(e) How and when the team will meet; and -

~~(4)~~ The child abuse and neglect teams may develop protocols which

~~include procedures for working~~ (f) Working with multiproblem delinquent youth.

Sec. 25. Section 28-729, Revised Statutes Cumulative Supplement, 2004, is amended to read:

28-729 (1) A child abuse and neglect investigation team shall include a representative from the county attorney's office, a child protective services representative from the Department of Health and Human Services, a representative from each law enforcement agency which has jurisdiction within the county or contiguous group of counties, a representative from the child advocacy center, and representatives from such other agencies as determined by the team.

(2) A child abuse and neglect treatment team shall include a child protective services representative from the Department of Health and Human Services, a juvenile probation officer, a representative from the mental health profession or medical profession actively practicing within the county or contiguous group of counties, a representative from each school district which provides services within the county or contiguous group of counties, a representative from the child advocacy center, and representatives from such other agencies as determined by the team. For purposes of this subsection, more than one school district may be represented by the same individual.

(3) The teams established pursuant to this section and section 28-728 shall be encouraged to expand their membership to include the various relevant disciplines which exist within the county or contiguous group of counties. The additional members shall have the requisite experience necessary as determined by the core members of the teams. Consistent with requirements set out by the teams, all members of both teams shall attend child abuse and neglect training on an annual basis. Such training shall be no less than eight hours annually and consist of the following components:

(a) Child abuse and neglect investigation procedures as provided by law enforcement standards;

(b) Legal requirements and procedures for successful prosecution of child abuse and neglect cases;

(c) Roles and responsibilities of child protective services, law enforcement agencies, county attorneys, the Attorney General, and judges;

(d) Characteristics of child development and family dynamics;

(e) Recognition of various types of abuse and neglect;

(f) Duty of public and private individuals and agencies, including schools, governmental agencies, physicians, and child advocates, to report suspected or known child abuse;

(g) Multidisciplinary approaches to providing services to children; and

(h) Weaknesses in the current child protection system.

(4) ~~The representative of the county attorney shall establish each of the teams and report the name and address of each team member to the Nebraska Commission on Law Enforcement and Criminal Justice. If more than one county is part of a team, the representative of the participating county attorneys shall jointly and cooperatively establish the respective teams and report their results to the commission.~~

(5) Each team shall meet at a location agreed to by the team. The number of meetings of the team shall be secondary to the caseload of the team, but each team shall meet at least quarterly. ~~Each team~~ The representative from the child advocacy center assigned to the team shall annually report to the commission the number of times the team met within a calendar year and any changes in team membership. Each team shall select a chairperson annually in the first quarter of each calendar year. Each team may substitute a telephone conference call among team members in lieu of meeting in person. If a team fails to convene, the commission shall notify the Child Protection Division of the office of the Attorney General and the division shall appoint the team members or convene the team pursuant to sections 28-728 to 28-730. Nothing in this section shall relieve the county attorney from ensuring that the teams meet as required by this section.

Sec. 26. Section 28-730, Revised Statutes Cumulative Supplement, 2004, is amended to read:

28-730 (1) Notwithstanding any other provision of law regarding the confidentiality of records and when not prohibited by the federal Privacy Act of 1974, as amended, juvenile court records and any other pertinent information that may be in the possession of school districts, law enforcement agencies, county attorneys, the Attorney General, the Department of Health and Human Services, child advocacy centers, and other team members concerning a child whose case is being investigated or discussed by a child abuse and neglect investigation team or a child abuse and neglect treatment team shall be shared with the respective team members as part of the discussion and coordination of efforts for investigative or treatment purposes. Upon request

by a team, any individual or agency with information or records concerning a particular child shall share all relevant information or records with the team as determined by the team pursuant to the appropriate team protocol. Only a team which has accepted the child's case for investigation or treatment shall be entitled to access to such information.

(2) All information acquired by a team member or other individuals pursuant to protocols developed by the team shall be confidential and shall not be disclosed except to the extent necessary to perform case consultations, to carry out a treatment plan or recommendations, or for use in a legal proceeding instituted by a county attorney or the Child Protection Division of the office of the Attorney General. Information, documents, or records otherwise available from the original sources shall not be immune from discovery or use in any civil or criminal action merely because the information, documents, or records were presented during a case consultation if the testimony sought is otherwise permissible and discoverable. Any person who presented information before the team or who is a team member shall not be prevented from testifying as to matters within the person's knowledge.

(3) Each team may review any case arising under the Nebraska Criminal Code when a child is a victim or any case arising under the Nebraska Juvenile Code. A member of a team who participates in good faith in team discussion or any person who in good faith cooperates with a team by providing information or records about a child whose case has been accepted for investigation or treatment by a team shall be immune from any civil or criminal liability. The provisions of this subsection or any other section granting or allowing the grant of immunity from liability shall not be extended to any person alleged to have committed an act of child abuse or neglect.

(4) A member of a team who publicly discloses information regarding a case consultation in a manner not consistent with sections 28-728 to 28-730 shall be guilty of a Class III misdemeanor.

Sec. 27. Section 28-813, Reissue Revised Statutes of Nebraska, is amended to read:

28-813 (1) It shall be unlawful for a person knowingly to (a) print, copy, manufacture, prepare, produce, or reproduce obscene material for the purpose of sale or distribution, (b) publish, circulate, sell, rent, lend, transport in interstate commerce, distribute, or exhibit any obscene material, (c) have in his or her possession with intent to sell, rent, lend, transport, or distribute any obscene material, or (d) promote any obscene material or performance.

(2) It shall be unlawful for a person to place an order for any advertising promoting the sale or distribution of material represented or held out to be obscene, whether or not such material exists in fact or is obscene. In all cases in which a charge ~~is~~ for a violation of this section is brought against a person who cannot be found in this state, the executive authority of this state may demand extradition of such person from the executive authority of the state in which such person may be found.

(3) A person commits an offense of promoting obscene material if knowing its content and character he or she (a) disseminates for monetary consideration any obscene material, (b) produces, presents, or directs obscene performances for monetary consideration, or (c) participates for monetary consideration in that part of a performance which makes it obscene.

(4) Any person who violates this section shall be guilty of a Class I misdemeanor.

Sec. 28. Section 29-4101, Revised Statutes Cumulative Supplement, 2004, is amended to read:

29-4101 Sections 29-4101 to 29-4115 and section 31 of this act shall be known and may be cited as the DNA Detection of Sexual and Violent Offenders Act.

Sec. 29. Section 29-4102, Revised Statutes Cumulative Supplement, 2004, is amended to read:

29-4102 The Legislature finds that DNA data banks are an important tool in criminal investigations, in the exclusion of individuals who are the subject of criminal investigations or prosecutions, ~~and~~ in deterring and detecting recidivist acts, and in locating and identifying missing persons and human remains. Several states have enacted laws requiring persons convicted of certain crimes, especially sex offenses, to provide genetic samples for DNA typing tests. Moreover, it is the policy of this state to assist federal, state, and local criminal justice and law enforcement agencies in the identification and detection of individuals in criminal investigations and in locating and identifying missing persons and human remains. It is in the best interest of this state to establish a State DNA Data Base for DNA records and a State DNA Sample Bank as a repository for DNA samples from individuals

convicted of felony sex offenses and other specified offenses.

Sec. 30. Section 29-4104, Revised Statutes Cumulative Supplement, 2004, is amended to read:

29-4104 The State DNA Data Base is established. The Nebraska State Patrol shall administer the State DNA Data Base and shall provide DNA records to the Federal Bureau of Investigation for storage and maintenance in the Combined DNA Index System. The patrol shall provide for liaison with the Federal Bureau of Investigation and other law enforcement agencies in regard to the state's participation in the Combined DNA Index System. The State DNA Data Base shall store and maintain DNA records related to:

- (1) Forensic casework;
- (2) Convicted offenders required to provide a DNA sample under the DNA Detection of Sexual and Violent Offenders Act; and
- (3) Anonymous DNA records used for research or quality control; and
- (4) Missing persons, relatives of missing persons, and unidentified human remains.

Sec. 31. A person required to submit a DNA sample pursuant to section 29-4106 shall be given the choice of having the sample collected by a blood draw or a buccal cell collection kit. Any person who collects a DNA sample pursuant to section 29-4106 shall honor the choice of collection method made by the person providing the DNA sample. If the person required to submit the DNA sample does not indicate a preference as to the method of collection, either method may be used to collect the sample.

Sec. 32. Section 29-4106, Revised Statutes Cumulative Supplement, 2004, is amended to read:

29-4106 (1) A person who is convicted of a felony sex offense or other specified offense on or after September 13, 1997, shall have a DNA sample ~~drawn~~ collected:

(a) Upon intake to a prison, jail, or other detention facility or institution to which such person is sentenced. If the person is already confined at the time of sentencing, the person shall have a DNA sample ~~drawn~~ collected immediately after the sentencing. Such DNA samples shall be ~~drawn~~ collected at the place of incarceration or confinement. Such person shall not be released unless and until a DNA sample has been ~~drawn~~ collected; or

(b) As a condition for any sentence which will not involve an intake into a prison, jail, or other detention facility or institution. Such DNA samples shall be ~~drawn~~ collected at a detention facility or institution as specified by the court. Such person shall not be released unless and until a DNA sample has been ~~drawn~~ collected.

(2) A person who has been convicted of a felony sex offense or other specified offense before September 13, 1997, and who is still serving a term of confinement for such offense on September 13, 1997, shall not be released prior to the expiration of his or her maximum term of confinement unless and until a DNA sample has been ~~drawn~~ collected.

Sec. 33. Section 29-4107, Revised Statutes Cumulative Supplement, 2004, is amended to read:

29-4107 (1) Only individuals (a) who are physicians or registered nurses, (b) who are trained to withdraw human blood for scientific or medical purposes and are obtaining blood specimens while working under orders of or protocols and procedures approved by a physician, registered nurse, or other independent health care practitioner licensed to practice by the state if the scope of practice of that practitioner permits the practitioner to obtain blood specimens, or (c) who are both employed by a licensed institution or facility and have been trained to withdraw human blood for scientific or medical purposes shall draw a DNA blood sample under the DNA Detection of Sexual and Violent Offenders Act. Withdrawal of blood shall be performed in a medically approved manner using a collection kit provided or accepted by the Nebraska State Patrol. The collection of buccal cell samples shall be performed by any person approved or designated by the Nebraska State Patrol and using a collection kit provided or accepted by the Nebraska State Patrol. In addition to the DNA sample, one thumb print or fingerprint shall be taken from the person from whom the DNA sample is being ~~drawn~~ collected for the exclusive purpose of verifying the identity of such person. The DNA sample and the thumb print or fingerprint shall be delivered to the Nebraska State Patrol within five working days after ~~drawing~~ collecting the sample.

(2) A person authorized to ~~draw~~ collect DNA samples under this section is not criminally liable for ~~drawing~~ collecting a DNA sample and transmitting DNA records pursuant to the act if he or she performs these activities in good faith and is not civilly liable for such activities if he or she performed such activities in a reasonable manner according to generally accepted medical and other professional practices standards for blood samples or in accordance with the collection kit and procedures approved by the

Nebraska State Patrol for tissue samples.

Sec. 34. Section 29-4126, Revised Statutes Supplement, 2005, is amended to read:

29-4126 Notwithstanding any other provision of law:

(1) No DNA sample shall be obtained from any person for any law enforcement purpose in connection with an investigation of a crime without probable cause, a court order, or voluntary consent as described in subdivision (2) of this section;

(2) In the absence of probable cause, if any person is requested by a law enforcement person or agency to consent to the taking of a DNA sample in connection with a law enforcement investigation of a particular crime, such consent shall be deemed voluntary only if:

(a) The sample is knowingly and voluntarily given in connection with the investigation of a particular crime;

(b) The person was informed by a written advisory prepared by the law enforcement agency that the request may be refused and that such refusal does not provide probable cause or reasonable suspicion to believe that the person has committed a crime, and the person signs the advisory; and

(c) No threat, pressure, duress, or coercion of any kind was employed, whether (i) direct or indirect, (ii) express or implied, or (iii) physical or psychological;

(3) Any DNA sample obtained in violation of this section is not admissible in any proceeding for any purpose whatsoever;

(4) A person shall be notified in writing by the law enforcement agency immediately upon the determination that he or she has not been implicated by his or her DNA sample in the commission of the particular crime in connection with which the DNA sample was obtained;

(5) ~~Such~~ Except as authorized in subdivision (7) of this section, such sample and all identifying information pertaining to the person shall be delivered to the person within ten days after the notification required by subdivision (4) of this section with a written explanation that the materials are being turned over in compliance with this section;

(6) ~~The~~ Except as authorized in subdivision (7) of this section, the law enforcement agency shall purge all records and identifiable information pertaining to the person specified in subdivisions (4) and (5) of this section;

(7) An accredited laboratory authorized to perform DNA testing under section 29-4105 shall be allowed to maintain the minimum records and supporting documentation of DNA tests that it has performed as needed for the sole purpose of complying with the laboratory accreditation standards as set forth by a national accrediting body or public agency;

(8) No record authorized for retention under subdivision (7) of this section shall be transferred, shared, or otherwise provided to any national, state, county, or local law enforcement agency unless such person has been implicated in the case by his or her DNA sample;

~~(7)~~ (9) Any aggrieved person may file an action in district court against any person, including any law enforcement agency, to enjoin such person or law enforcement agency from violating this section; and

~~(8)~~ (10) Any person aggrieved by a knowing violation of this section may bring an action in district court for damages. A person found by the court to be aggrieved by a violation of this section shall receive damages of not less than one thousand dollars and may recover reasonable costs and attorney's fees.

For purposes of this section, DNA means deoxyribonucleic acid.

Sec. 35. Section 42-364, Reissue Revised Statutes of Nebraska, is amended to read:

42-364 (1) When dissolution of a marriage or legal separation is decreed, the court may include a parenting plan developed under the Parenting Act, if a parenting plan has been so developed, and such orders in relation to any minor child and the child's maintenance as are justified, including placing the minor child in the custody of the court or third parties or terminating parental rights pursuant to this section if the best interests of the minor child require such orders. Custody and time spent with each parent shall be determined on the basis of the best interests of the minor child with the objective of maintaining the ongoing involvement of both parents in the minor child's life. ~~A decree of dissolution of a marriage or legal separation shall include the social security number of each party. The social security number of each parent and the minor child shall be furnished to the clerk of the district court.~~

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

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

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

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

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

(3) In determining custody arrangements and the time to be spent with each parent, the court shall not give preference to either parent based on the sex of the parent and no presumption shall exist that either parent is more fit or suitable than the other.

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

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

(6) In determining the amount of child support to be paid by a parent, the court shall consider the earning capacity of each parent and the guidelines provided by the Supreme Court pursuant to section 42-364.16 for the establishment of child support obligations. Upon application, hearing, and presentation of evidence of an abusive disregard of the use of child support money paid by one party to the other, the court may require the party receiving such payment to file a verified report with the court, as often as the court requires, stating the manner in which such money is used. Child support paid to the party having custody of the minor child shall be the property of such party except as provided in section 43-512.07. The clerk of the district court shall maintain a record, separate from all other judgment dockets, of all decrees and orders in which the payment of child support or spousal support has been ordered, whether ordered by a district court, county court, separate juvenile court, or county court sitting as a juvenile court. Orders for child support in cases in which a party has applied for services under Title IV-D of the federal Social Security Act, as amended, shall be reviewed as provided in sections 43-512.12 to 43-512.18.

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

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

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

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

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

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

(9) Modification proceedings relating to support, custody, visitation, or removal of children from the jurisdiction of the court shall be commenced by filing a complaint to modify. Modification of a parenting plan is governed by the Parenting Act. Proceedings to modify a parenting plan shall be commenced by filing a complaint to modify. Service of process and other procedure shall comply with the requirements for a dissolution action.

Sec. 36. Section 42-364.13, Reissue Revised Statutes of Nebraska, is amended to read:

42-364.13 (1) Any order for support entered by the court shall specifically provide that any person ordered to pay a judgment shall be required to furnish to the clerk of the district court his or her address, telephone number, and social security number, the name of his or her employer, whether or not such person has access to employer-related health insurance coverage and, if so, the health insurance policy information, and any other information the court deems relevant until such judgment is paid in full. The person shall also be required to advise the clerk of any changes in such information between the time of entry of the decree and the payment of the judgment in full. If both parents are parties to the action, such order shall provide that each be required to furnish to the clerk of the district court all of the information required by this subsection. Failure to comply with this section shall be punishable by contempt.

(2) All support orders entered by the court shall include the birthdate and ~~social security number~~ of any child for whom the order requires the provision of support.

(3) Until the Title IV-D Division has operative the statewide automated data processing and retrieval system necessary for centralized collection and disbursement of support order payments:

(a) If any case contains an order or judgment for child, medical, or spousal support, the order shall include the following statements:

In the event that the (plaintiff or defendant) fails to pay any child, medical, or spousal support payment, as such failure is certified each month by the district court clerk in cases in which court-ordered support is delinquent in an amount equal to the support due and payable for a one-month period of time, he or she shall be subject to income withholding and may be required to appear in court on a date to be determined by the court and show cause why such payment was not made. In the event that the (plaintiff or defendant) fails to pay and appear as ordered, a warrant shall be issued for his or her arrest.

(b) If the court orders income withholding regardless of whether or not payments are in arrears pursuant to section 43-1718.01 or 43-1718.02, the statement in this subsection may be altered to read as follows:

In the event that the (plaintiff or defendant) fails to pay any child, medical, or spousal support payment, as such failure is certified each month by the district court clerk in cases in which court-ordered support is delinquent in an amount equal to the support due and payable for a one-month period of time, he or she may be required to appear in court on a date to be determined by the court and show cause why such payment was not made. In the event that the (plaintiff or defendant) fails to pay and appear as ordered, a warrant shall be issued for his or her arrest.

(4) When the Title IV-D Division has operative the statewide automated data processing and retrieval system necessary for centralized collection and disbursement of support order payments:

(a) If any case contains an order or judgment for child, medical, or spousal support, the order shall include the following statements:

In the event that the (plaintiff or defendant) fails to pay any child, medical, or spousal support payment, as such failure is certified each month by the State Disbursement Unit in cases in which court-ordered support is delinquent in an amount equal to the support due and payable for a one-month period of time, he or she shall be subject to income withholding and

may be required to appear in court on a date to be determined by the court and show cause why such payment was not made. In the event that the (plaintiff or defendant) fails to pay and appear as ordered, a warrant shall be issued for his or her arrest.

(b) If the court orders income withholding regardless of whether or not payments are in arrears pursuant to section 43-1718.01 or 43-1718.02, the statement in this subsection may be altered to read as follows:

In the event that the (plaintiff or defendant) fails to pay any child, medical, or spousal support payment, as such failure is certified each month by the State Disbursement Unit in cases in which court-ordered support is delinquent in an amount equal to the support due and payable for a one-month period of time, he or she may be required to appear in court on a date to be determined by the court and show cause why such payment was not made. In the event that the (plaintiff or defendant) fails to pay and appear as ordered, a warrant shall be issued for his or her arrest.

Sec. 37. Section 42-1103, Reissue Revised Statutes of Nebraska, is amended to read:

42-1103 A domestic relations order is a qualified domestic relations order only if such order or accompanying document:

(1) Clearly specifies the following:

(a) The name, social security number, and last-known mailing address, if any, of the member;

(b) The name, social security number, and last-known mailing address, if any, of the alternate payee covered by the order;

(c) The statewide public retirement system or systems to which the order applies;

(d) The number of payments or period to which such order applies; and

(e) The amount or percentage of the member's benefits to be paid by each statewide public retirement system to each alternate payee or the manner in which such amount or percentage is determined;

(2) Does not require a statewide public retirement system to provide any type or form of benefit, or any option, not otherwise provided under the plan;

(3) Does not require a statewide public retirement system to provide increased benefits determined on the basis of actuarial value;

(4) Does not require a statewide public retirement system to pay to an alternate payee benefits which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order; and

(5) Does not require the payment of benefits to an alternate payee before the earliest retirement date of a member.

Sec. 38. Section 43-256, Reissue Revised Statutes of Nebraska, is amended to read:

43-256 When the court enters an order continuing placement or detention pursuant to section 43-253, upon request of the juvenile, or his or her parent, guardian, or attorney, the court shall hold a hearing within a ~~reasonable time~~ forty-eight hours, at which hearing the burden of proof shall be upon the state to show probable cause that such juvenile is within the jurisdiction of the court. Strict rules of evidence shall not apply at the probable cause hearing. The juvenile shall be released if probable cause is not shown. At the option of the court, it may hold the adjudication hearing provided in section 43-279 as soon as possible instead of the probable cause hearing if held within a reasonable period of time. This section and section 43-255 shall not apply to a juvenile (1) who has escaped from a commitment or (2) who has been taken into custody for his or her own protection as provided in subdivision (3) of section 43-248 in which case the juvenile shall be held on order of the court with jurisdiction for a reasonable period of time.

Sec. 39. Section 43-271, Reissue Revised Statutes of Nebraska, is amended to read:

43-271 (1)(a) A juvenile taken into custody pursuant to sections 43-248, 43-250, and 43-253 shall be brought before the court for adjudication as soon as possible after the petition is filed. On the return of the summons or other process, or mailing of the notice in lieu of summons, or as soon thereafter as legally may be, the court shall proceed to hear and dispose of the case as provided in section 43-279.

(b) The hearing as to a juvenile in custody of the probation officer or the court shall be held as soon as possible but, in all cases, within a six-month period after the petition is filed, and as to a juvenile not in such custody as soon as practicable but, in all cases, within a six-month period after the petition is filed. The computation of the six-month period provided for in this section shall be made as provided in section 29-1207, as

applicable.

(2) Any juvenile taken into custody pursuant to sections 43-248, 43-250, and 43-253 may request a detention review hearing. The detention review hearing shall be conducted within forty-eight hours after the request.

Sec. 40. Section 43-408, Reissue Revised Statutes of Nebraska, is amended to read:

43-408 (1) Whenever any juvenile is committed under any provision of law to the Office of Juvenile Services, to any facility operated by the Office of Juvenile Services, or to the custody of the Administrator of the Office of Juvenile Services, a superintendent of a facility, or an administrator of a program, the juvenile is deemed committed to the Office of Juvenile Services. Juveniles committed to the Office of Juvenile Services shall also be considered committed to the care and custody of the Department of Health and Human Services for the purpose of obtaining health care and treatment services.

(2) The committing court shall order the initial level of treatment for a juvenile committed to the Office of Juvenile Services. Prior to determining the initial level of treatment for a juvenile, the court may solicit a recommendation regarding the initial level of treatment from the Office of Juvenile Services. Under this section, the committing court shall not order a specific placement for a juvenile. The court shall continue to maintain jurisdiction over any juvenile committed to the Office of Juvenile Services until such time that the juvenile is discharged from the Office of Juvenile Services. The court shall conduct review hearings every six months, or at the request of the juvenile, for any juvenile committed to the Office of Juvenile Services who is placed outside his or her home, except for a juvenile residing at a youth rehabilitation and treatment center. The court shall determine whether an out-of-home placement made by the Office of Juvenile Services is in the best interests of the juvenile, with due consideration being given by the court to public safety. If the court determines that the out-of-home placement is not in the best interests of the juvenile, the court may order other treatment services for the juvenile.

(3) After the initial level of treatment is ordered by the committing court, the Office of Juvenile Services shall provide treatment services which conform to the court's level of treatment determination. Within thirty days after making an actual placement, the Office of Juvenile Services shall provide the committing court with written notification of where the juvenile has been placed. At least once every six months thereafter, until the juvenile is discharged from the care and custody of the Office of Juvenile Services, the office shall provide the committing court with written notification of the juvenile's actual placement and the level of treatment that the juvenile is receiving.

(4) For transfer hearings, the burden of proof to justify the transfer is on the Office of Juvenile Services, the standard of proof is clear and convincing evidence, and the strict rules of evidence do not apply. Transfers of juveniles from one place of treatment to another are subject to section 43-251.01 and to the following:

(a) Except as provided in subdivision (b) of this subsection, if the Office of Juvenile Services proposes to transfer the juvenile from a less restrictive to a more restrictive place of treatment, a plan outlining the proposed change and the reasons for the proposed change shall be presented to the court which committed the juvenile. Such change shall occur only after a hearing and a finding by the committing court that the change is in the best interests of the juvenile, with due consideration being given by the court to public safety. At the hearing, the juvenile has the right to be represented by counsel;

(b) The Office of Juvenile Services may make an immediate temporary change without prior approval by the committing court only if the juvenile is in a harmful or dangerous situation, is suffering a medical emergency, is exhibiting behavior which warrants temporary removal, or has been placed in a non-state-owned facility and such facility has requested that the juvenile be removed. Approval of the committing court shall be sought within fifteen days of making an immediate temporary change, at which time a hearing shall occur before the court. The court shall determine whether it is in the best interests of the juvenile to remain in the new place of treatment, with due consideration being given by the court to public safety. At the hearing, the juvenile has the right to be represented by counsel; and

(c) If the proposed change seeks to transfer the juvenile from a more restrictive to a less restrictive place of treatment or to transfer the juvenile from the juvenile's current place of treatment to another which has the same level of restriction as the current place of treatment, the Office of Juvenile Services shall notify the juvenile, the juvenile's parents,

custodian, or legal guardian, the committing court, the county attorney, the counsel for the juvenile, and the guardian ad litem of the proposed change. The juvenile has fifteen days after the date of the notice to request an administrative hearing with the Office of Juvenile Services, at which time the Office of Juvenile Services shall determine whether it is in the best interests of the juvenile for the proposed change to occur, with due consideration being given by the office to public safety. The juvenile may be represented by counsel at the juvenile's own expense. If the juvenile is aggrieved by the administrative decision of the Office of Juvenile Services, the juvenile may appeal that decision to the committing court within fifteen days after the Office of Juvenile Services' decision. At the hearing before the committing court, the juvenile has the right to be represented by counsel.

(5) If a juvenile is placed in detention after the initial level of treatment is determined by the committing court, the committing court shall hold a hearing every fourteen days to review the status of the juvenile. Placement of a juvenile in detention shall not be considered as a treatment service.

~~(5)~~ (6) The committing court's review of a change of place of treatment pursuant to this section does not apply to parole revocation hearings.

Sec. 41. Section 43-1412, Reissue Revised Statutes of Nebraska, is amended to read:

43-1412 (1) The method of trial shall be the same as that in other civil proceedings, except that the trial shall be by the court without a jury unless a jury is requested (a) by the alleged father, in a proceeding instituted by the mother or the guardian or next friend, or (b) by the mother, in a proceeding instituted by the alleged father. It being contrary to public policy that such proceedings should be open to the general public, no one but the parties, their counsel, and others having a legitimate interest in the controversy shall be admitted to the courtroom during the trial of the case. The alleged father and the mother shall be competent to testify. The uncorroborated testimony (i) of the mother, in a proceeding instituted by the mother or the guardian or next friend, or (ii) of the alleged father, in a proceeding instituted by the alleged father, shall not alone be sufficient to support a verdict or finding that the alleged father is actually the father. Refusal by the alleged father to comply with an order of the court for genetic testing shall be deemed corroboration of the allegation of paternity. A signed and notarized acknowledgment of paternity or a certified copy or certified reproduction thereof shall be admissible in evidence in any proceeding to establish paternity without the need for foundation testimony or other proof of authenticity or accuracy.

If it is determined in this proceeding that the alleged father is actually the father of the child, a judgment shall be entered declaring the alleged father to be the father of the child.

(2) A default judgment shall be entered upon a showing of service and failure of the defendant to answer or otherwise appear.

(3) If a judgment is entered under this section declaring the alleged father to be the father of the child, the court shall retain jurisdiction of the cause and enter such order of support, including the amount, if any, of any court costs and attorney's fees which the court in its discretion deems appropriate to be paid by the father, as may be proper under the procedure and in the manner specified in section 43-512.04. If it is not determined in the proceeding that the alleged father is actually the father of the child, the court shall, if it finds that the action was frivolous, award court costs and attorney's fees incurred by the alleged father, with such costs and fees to be paid by the plaintiff.

(4) All judgments under this section declaring the alleged father to be the father of the child shall include the father's social security number. The social security number of the declared father of the child shall be furnished to the clerk of the district court in a document accompanying the judgment.

Sec. 42. Section 43-3001, Reissue Revised Statutes of Nebraska, is amended to read:

43-3001 (1) Notwithstanding any other provision of law regarding the confidentiality of records and when not prohibited by the federal Privacy Act of 1974, as amended, juvenile court records and any other pertinent information that may be in the possession of school districts, county attorneys, the Attorney General, law enforcement agencies, child advocacy centers, state probation personnel, state parole personnel, youth detention facilities, medical personnel, treatment or placement programs, the Department of Health and Human Services, the Department of Correctional Services, the State Foster Care Review Board, child abuse and neglect investigation teams,

child abuse and neglect treatment teams, or other multidisciplinary teams for abuse, neglect, or delinquency concerning a child who is in the custody of the state may be shared with individuals and agencies who have been identified in a court order authorized by this section.

(2) In any judicial proceeding concerning a child who is currently, or who may become at the conclusion of the proceeding, a ward of the court or state or under the supervision of the court, an order may be issued which identifies individuals and agencies who shall be allowed to receive otherwise confidential information concerning the juvenile child for legitimate and official purposes. The individuals and agencies who may be identified in the court order are the child's attorney or guardian ad litem, the parents' attorney, foster parents, appropriate school personnel, county attorneys, the Attorney General, authorized court personnel, law enforcement agencies, state probation personnel, state parole personnel, youth detention facilities, medical personnel, treatment or placement programs, the Department of Health and Human Services, the Office of Juvenile Services, the Department of Correctional Services, the State Foster Care Review Board, child abuse and neglect investigation teams, child abuse and neglect treatment teams, and other multidisciplinary teams for abuse, neglect, or delinquency. Unless the order otherwise states, the order shall be effective until the child leaves the custody of the state or until a new order is issued.

(3) All information acquired by an individual or agency pursuant to this section shall be confidential and shall not be disclosed except to other persons who have a legitimate and official interest in the information and are identified in the court order issued pursuant to this section with respect to the child in question. A person who receives such information or who cooperates in good faith with other individuals and agencies identified in the appropriate court order by providing information or records about a child shall be immune from any civil or criminal liability. The provisions of this section granting immunity from liability shall not be extended to any person alleged to have committed an act of child abuse or neglect.

(4) Any person who publicly discloses information received pursuant to this section shall be guilty of a Class III misdemeanor.

Sec. 43. Section 43-3342.05, Reissue Revised Statutes of Nebraska, is amended to read:

43-3342.05 (1) The State Disbursement and Child Support Advisory Commission is created. Commission members shall include:

(a) Two district court judges whose jurisdiction includes domestic relations, to be appointed by the Supreme Court;

(b) One member of the Nebraska State Bar Association who practices primarily in the area of domestic relations;

(c) One county attorney who works in child support;

(d) One professional who works in the field of economics or mathematics or another field of expertise relevant to child support;

~~(e) Two members of the Legislature;~~

~~(f) (e) One custodial parent who has a court order to receive child support;~~

~~(g) (f) One noncustodial parent who is under a support order to pay child support;~~

(g) The chairperson of the Judiciary Committee of the Legislature, who shall serve as the chairperson of the commission;

(h) The chairperson of the Health and Human Services Committee of the Legislature;

~~(h) (i) The venter operating the State Disbursement Unit State Treasurer or his or her designee; as an ex officio member;~~

~~(i) (j) The State Court Administrator or his or her designee; as an ex officio member; and~~

~~(j) (k) The director of the Title IV-D Division or his or her designee, as an ex officio member.~~

(2) (a) ~~The terms of all members on the State Disbursement Advisory Commission, as established by Laws 2000, LB 972, shall terminate on June 30, 2002. The Executive Board of the Legislative Council shall appoint the members of the State Disbursement and Child Support Advisory Commission under subdivisions (1)(a) through (1)(g) of this section. Members shall serve terms of two years, except that the initial terms of members appointed for terms commencing on July 1, 2002, under subdivisions (1)(f) and (1)(g) of this section shall be one year to provide for staggered terms for commission members. In the case of a vacancy, a successor shall be appointed for the unexpired term by the Executive Board of the Legislative Council. Members whose terms have expired shall continue to serve until their successors have been appointed. The commission shall select a chairperson, annually, from its membership. A chairperson may serve more than one year. The Supreme Court~~

shall notify the Executive Board of the Legislative Council of its intent to review the child support guidelines pursuant to section 42-364.16. Following such notification, the chairperson of the commission shall call a meeting of the commission.

(b) Each time the commission meets pursuant to subdivision (2)(a) of this section, the Supreme Court shall make appointments to fill the membership under subdivision (1)(a) of this section and the chairperson of the Executive Board shall make appointments to fill each membership under subdivisions (1)(b) through (f) of this section. The terms of these members shall expire after the commission has fulfilled its duties pursuant to subsection (3) of this section.

(c) Members shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties as provided in sections 81-1174 to 81-1177.

~~(b) (d) If determined to be necessary to perform the duties of the commission, the commission may hire, contract, or otherwise obtain the services of consultants, researchers, aides, and other necessary support staff with prior approval of the chairperson of the Executive Board, of the Legislative Council.~~

~~(e) (e) For administrative purposes, the commission shall be managed and administered by the Legislative Council.~~

~~(3) The commission shall meet at least quarterly.~~ The duties of the commission shall include, but are not limited to:

~~(a) Recommending to the department, if appropriate, ways to improve or enhance the effectiveness of the State Disbursement Unit and the Customer Service Unit;~~

~~(b) Recommending performance indicators for the State Disbursement Unit and the Customer Service Unit;~~

~~(c) Recommending legislation which would clarify and improve state law regarding support for children as it relates to the State Disbursement Unit;~~

~~(d) Addressing any child support issues generally as such issues effect the State of Nebraska and its citizens;~~

~~(e) (a) Reviewing the child support guidelines adopted by the Supreme Court and recommending, if appropriate, any amendments changes to the guidelines. Whenever practicable, the commission shall base its recommendations on economic data and statistics collected in the State of Nebraska. In reviewing the guidelines and formulating recommendations, the commission may conduct public hearings around the state; and~~

~~(f) Monitoring federal legislation and making recommendations for changing state law as needed; and~~

~~(g) (b) Presenting reports, as deemed necessary, of its activities and recommendations to the Supreme Court and the Executive Board, of the Legislative Council.~~

(4) The Supreme Court shall review the commission's reports. The Supreme Court may amend the child support guidelines established pursuant to section 42-364.16 based upon the commission's recommendations.

Sec. 44. Section 47-619, Reissue Revised Statutes of Nebraska, is amended to read:

47-619 Sections 47-619 to 47-633 and section 48 of this act shall be known and may be cited as the Community Corrections Act.

Sec. 45. Section 47-620, Reissue Revised Statutes of Nebraska, is amended to read:

47-620 It is the intent of the Legislature that the Community Corrections Act:

(1) Provide for the development and establishment of community-based facilities and programs in Nebraska for adult ~~felons~~ offenders and encourage the use of such facilities and programs by sentencing courts and the Board of Parole as alternatives to incarceration or reincarceration, in order to reduce prison overcrowding and enhance offender supervision in the community; and

(2) Serve the interests of society by promoting the rehabilitation of offenders and deterring offenders from engaging in further criminal activity, by making community-based facilities and programs available to ~~probationers and parolees~~ adult offenders while emphasizing offender culpability, offender accountability, and public safety and reducing reliance upon incarceration as a means of managing nonviolent offenders.

Sec. 46. Section 47-623, Revised Statutes Supplement, 2005, is amended to read:

47-623 (1) The council shall include the following voting members:

(a) The executive director of the Nebraska Commission on Law Enforcement and Criminal Justice;

(b) The Director of Correctional Services;

(c) The chairperson of the Board of Parole;
 (d) The Parole Administrator; and
 (e) ~~Seven~~ Nine members appointed by the Governor with the approval of a majority of the Legislature, consisting of: One representative from a list of persons nominated by the Nebraska Criminal Defense Attorneys Association; one representative from a list of persons nominated by the Nebraska County Attorneys Association; one full-time officer or employee of a law enforcement agency; one mental health and substance abuse professional; ~~and from each congressional district, one provider of community-based behavioral health services; and two at-large members.~~

(2) The council shall include the following nonvoting members:
 (a) The State Court Administrator;
 (b) The probation administrator;
 (c) Two members of the Legislature, appointed by the Executive Board of the Legislative Council;
 (d) Two judges of the district court, appointed by the Chief Justice of the Supreme Court; and
 (e) The Director of Health and Human Services or his or her designee.

(3) The terms of office for members initially appointed under subdivision (1)(e) of this section shall be three years. Upon completion of the initial terms of such members, the Governor shall appoint (a) a representative from law enforcement, and a mental health and substance abuse professional, and one at-large member for terms of one year, (b) a representative of the Nebraska Criminal Defense Attorneys Association, one provider of community-based behavioral health services from the first congressional district, ~~and one provider of community-based behavioral health services from the third congressional district,~~ and one at-large member for terms of two years, and (c) a representative of the Nebraska County Attorneys Association and a provider of community-based behavioral health services from the second congressional district for terms of three years. Succeeding appointees shall be appointed for terms of three years. An appointee to a vacancy occurring from an unexpired term shall serve out the term of his or her predecessor. Members whose terms have expired shall continue to serve until their successors have been appointed and qualified.

(4) The council shall by majority vote elect a chairperson from among the members of the council.

(5) The members of the council shall be reimbursed for their actual and necessary expenses incurred while engaged in the performance of their official duties as provided in sections 81-1174 to 81-1177.

Sec. 47. Section 47-624, Revised Statutes Supplement, 2005, is amended to read:

47-624 The council shall:

(1) Develop standards for eligible community correctional facilities and programs in which offenders can participate, taking into consideration the following factors:

- (a) Qualifications of staff;
- (b) Suitability of programs;
- (c) Offender needs;
- (d) Probation population;
- (e) Parole population; and
- (f) Other applicable criminal justice data;

(2) Develop and implement a plan to establish statewide operation and use of a continuum of community correctional facilities and programs;

(3) Develop, in consultation with the probation administrator and the Parole Administrator, standards for the use of community correctional facilities and programs by the Nebraska Probation System and the parole system;

(4) Develop, recommend, and review sentencing guidelines for adoption by the Supreme Court as set forth in section 47-630;

(5) Analyze and mandate the consistent use of offender risk assessment tools;

(6) Develop standards for eligibility of probationers and parolees in certain community correctional facilities and programs;

(7) Educate the courts and the Board of Parole about the availability and use of community correctional facilities and programs;

(8) Enter into contracts, if necessary, for carrying out the purposes of the Community Corrections Act;

(9) In order to ensure adequate funding for substance abuse treatment programs for probationers, consult with the probation administrator as provided in section 29-2262.07 and develop or assist with the development of programs as provided in subdivision (14) of section 29-2252;

(10) In order to ensure adequate funding for substance abuse treatment programs for parolees, consult with the Office of Parole Administration as provided in section 83-1,107.02 and develop or assist with the development of programs as provided in subdivision (8) of section 83-1,102;

(11) If necessary to perform the duties of the council, hire, contract for, or otherwise obtain the services of consultants, researchers, aides, and other necessary support staff;

(12) Study substance abuse treatment services in and related to the criminal justice system, recommend improvements, and evaluate the implementation of improvements;

(13) Study, develop, and implement minimum standards for the development and use of community correctional facilities and programs;

(14) Develop and implement a plan for statewide use of community correctional facilities and programs; and

(15) Grant funds to entities including local governmental agencies, nonprofit organizations, and behavioral health services which will support the intent of the act; and

~~(15)~~ (16) Perform such other duties as may be necessary to carry out the policy of the state established in the act.

Sec. 48. For a local entity to receive funds under the Community Corrections Act, the council shall ensure there is a local advisory committee made up of a broad base of community members concerned with the justice system. Submission of a detailed plan including a budget, program standards, and policies as developed by the local advisory committee will be required as set forth by the council. Such funds shall be used for the implementation of the recommendations of the council, the expansion of sentencing options, the education of the public, the provision of supplemental community-based corrections programs, and the promotion of coordination between state and county community-based corrections programs.

Sec. 49. Section 47-625, Revised Statutes Supplement, 2005, is amended to read:

47-625 (1) The Governor shall appoint the director of the council.

(2) The director shall:

(a) Supervise, develop, and oversee the actions and proceedings of the council;

(b) Ensure, by working in consultation with the council, consistency between sentencing guidelines and the availability of community correctional facilities and programs; and

(c) Administer contracts entered into by the council with community correctional facilities or programs; and ~~-~~

(d) Establish and administer grants, projects, and programs for the operation of the council.

Sec. 50. Section 83-192, Reissue Revised Statutes of Nebraska, is amended to read:

83-192 (1) The Board of Parole shall:

(a) Determine the time of release on parole of committed offenders eligible for such release;

(b) Fix the conditions of parole, revoke parole, issue or authorize the issuance of warrants for the arrest of parole violators, and impose other sanctions short of revocation for violation of conditions of parole;

(c) Determine the time of discharge from parole;

(d) Visit and inspect any facility, state or local, for the detention of persons charged with or convicted of an offense and for the safekeeping of such other persons as may be remanded to such facility in accordance with law;

(e) ~~Within two years after July 1, 1994, implement objective parole risk-assessment criteria which shall be used by the members of the board as additional considerations in determining whether to grant or deny parole to any particular offender who is eligible for parole. For purposes of this subdivision, objective parole risk-assessment criteria shall mean criteria which statistically have been shown to be good predictors of risk to society of release on parole.~~ 2006, implement the utilization of a validated risk and needs assessment in coordination with the Department of Correctional Services and the Office of Parole Administration. The assessment shall be prepared and completed by the department or the office for use by the board in determining release on parole;

(f) Review the record of every committed offender as follows:

(i) If a committed offender has a parole eligibility date within five years of his or her date of incarceration, his or her record shall be reviewed annually;

(ii) If a committed offender has a parole eligibility date which

is more than five but not more than ten years from his or her date of incarceration, his or her record shall be reviewed during the first year of incarceration, and when he or she is within three years of his or her earliest parole eligibility date, his or her record shall be reviewed annually;

(iii) If a committed offender has a parole eligibility date which is more than ten but not more than thirty years from his or her date of incarceration, his or her record shall be reviewed during the first year of incarceration, every five years thereafter until he or she is within five years of his or her earliest parole eligibility date, and annually thereafter;

(iv) If a committed offender has a parole eligibility date which is more than thirty years from his or her date of incarceration, his or her record shall be reviewed during his or her first, tenth, and twentieth year of incarceration, and when he or she is within five years of his or her earliest parole eligibility date, his or her record shall be reviewed annually; and

(v) If a committed offender is serving a minimum life sentence, his or her record shall be reviewed during the first year of incarceration and every ten years thereafter until such time as the sentence is commuted. If such sentence is commuted, the committed offender's record shall be reviewed annually when he or she is within five years of his or her earliest parole eligibility date.

Such review shall include the circumstances of the offense, the presentence investigation report, the committed offender's previous social history and criminal record, his or her conduct, employment, and attitude during commitment, and the reports of such physical and mental examinations as have been made. The board shall meet with such committed offender and counsel him or her concerning his or her progress and prospects for future parole.

The review schedule shall be based on court-imposed sentences or statutory minimum sentences, whichever are greater. Nothing in such schedule shall prohibit the board from reviewing a committed offender's case at any time;

(g) Appoint and remove all employees of the board as prescribed by the State Personnel System and delegate appropriate powers and duties to them; and

(h) Exercise all powers and perform all duties necessary and proper in carrying out its responsibilities of the board under the Nebraska Treatment and Corrections Act.

(2) The chairperson of the board shall:

(a) Supervise the administration and operation of the board;

(b) Serve in an advisory capacity to the director in administering parole services within any facility and in the community;

(c) Interpret the parole program to the public with a view toward developing a broad base of public support;

(d) Conduct research for the purpose of evaluating and improving the effectiveness of the parole system;

(e) Recommend parole legislation to the Governor;

(f) Adopt and promulgate rules and regulations for the administration and operation of the board; and

(g) Exercise all other powers and perform all other duties necessary and proper in carrying out his or her responsibilities as chairperson.

(3) The provisions of this section shall not prohibit a committed offender from requesting that the board review his or her record, except that the board shall not be required to review a committed offender's record more than once a year.

Sec. 51. Section 83-1,114, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,114 (1) Whenever the Board of Parole considers the release of a committed offender who is eligible for release on parole, it shall order his or her release unless it is of the opinion that his or her release should be deferred because:

(a) There is a substantial risk that he or she will not conform to the conditions of parole;

(b) His or her release would depreciate the seriousness of his or her crime or promote disrespect for law;

(c) His or her release would have a substantially adverse effect on institutional discipline; or

(d) His or her continued correctional treatment, medical care, or vocational or other training in the facility will substantially enhance his or her capacity to lead a law-abiding life when released at a later date.

(2) In making its determination regarding a committed offender's release on parole, the Board of Parole shall take into account each of the following factors:

(a) The offender's personality, including his or her maturity,

stability, and sense of responsibility and any apparent development in his or her personality which may promote or hinder his or her conformity to law;

- (b) The adequacy of the offender's parole plan;
- (c) The offender's ability and readiness to assume obligations and undertake responsibilities;
- (d) The offender's intelligence and training;
- (e) The offender's family status and whether he or she has relatives who display an interest in him or her or whether he or she has other close and constructive associations in the community;
- (f) The offender's employment history, his or her occupational skills, and the stability of his or her past employment;
- (g) The type of residence, neighborhood, or community in which the offender plans to live;
- (h) The offender's past use of narcotics, or past habitual and excessive use of alcohol;
- (i) The offender's mental or physical makeup, including any disability or handicap which may affect his or her conformity to law;
- (j) The offender's prior criminal record, including the nature and circumstances, recency, and frequency of previous offenses;
- (k) The offender's attitude toward law and authority;
- (l) The offender's conduct in the facility, including particularly whether he or she has taken advantage of the opportunities for self-improvement, whether he or she has been punished for misconduct within six months prior to his or her hearing or reconsideration for parole release, whether any reductions of term have been forfeited, and whether such reductions have been restored at the time of hearing or reconsideration;
- (m) The offender's behavior and attitude during any previous experience of probation or parole and the recency of such experience; and
- (n) The risk and needs assessment completed pursuant to section 83-192; and

~~(n)~~ (o) Any other factors the board determines to be relevant.

Sec. 52. Section 83-1,115, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,115 Before making a determination regarding a committed offender's release on parole, the Board of Parole shall consider the following:

- (1) A report prepared by the institutional caseworkers relating to his or her personality, social history, and adjustment to authority, and including any recommendations which the staff of the facility may make;
- (2) All official reports of his or her prior criminal record, including reports and records of earlier probation and parole experiences;
- (3) The presentence investigation report;
- (4) Recommendations regarding his or her parole made at the time of sentencing by the sentencing judge;
- (5) The reports of any physical, mental, and psychiatric examinations of the offender;
- (6) Any relevant information which may be submitted by the offender, his or her attorney, the victim of his or her crime, or by other persons; and
- (7) The risk and needs assessment completed pursuant to section 83-192; and

~~(7)~~ (8) Such other relevant information concerning the offender as may be reasonably available.

Sec. 53. Section 86-291, Revised Statutes Cumulative Supplement, 2004, is amended to read:

86-291 The Attorney General or any county attorney may make application to any district court of this state for an order authorizing or approving the interception of wire, electronic, or oral communications, and such court may grant, subject to sections 86-271 to 86-295, an order authorizing or approving the interception of wire, electronic, or oral communications by law enforcement officers having responsibility for the investigation of the offense as to which application is made, when such interception may provide or has provided evidence of the commission of the offense of murder, kidnapping, robbery, bribery, extortion, dealing in narcotic or other dangerous drugs, sexual assault of a child or a vulnerable adult, visual depiction or possessing a visual depiction of sexually explicit conduct of a child, or child enticement by means of a computer, or any conspiracy to commit any such offenses offense.

At the same time a county attorney first makes application to the district court for an initial order authorizing or approving the interception of wire, electronic, or oral communications, the county attorney shall submit the application to the Attorney General or his or her designated deputy or assistant. Within twenty-four hours of receipt by the office of the Attorney

General of the application from the county attorney, the Attorney General or his or her designated deputy or assistant, as the case may be, shall state to the district court where the order is sought his or her recommendation as to whether the order should be granted. The court shall not issue the order until it has received the recommendation or until seventy-two hours after receipt of the application from the county attorney, whichever is sooner, unless the court finds exigent circumstances existing which necessitate the immediate issuance of the order. The court may issue the order and disregard the recommendation of the Attorney General or his or her designated deputy or assistant.

Sec. 54. Original sections 2-3290, 2-3296, 2-3297, 18-1755, 28-311.04, 28-813, 42-364, 42-364.13, 42-1103, 43-256, 43-271, 43-408, 43-1412, 43-3001, 43-3342.05, 47-619, 47-620, 83-192, 83-1,114, and 83-1,115, Reissue Revised Statutes of Nebraska, sections 2-3202, 20-504, 23-1824, 28-311.02, 28-311.03, 28-728, 28-729, 28-730, 29-4101, 29-4102, 29-4104, 29-4106, 29-4107, and 86-291, Revised Statutes Cumulative Supplement, 2004, and sections 29-4126, 47-623, 47-624, and 47-625, Revised Statutes Supplement, 2005, are repealed.