

AMENDMENTS TO LB741

(Amendments to Standing Committee amendments, AM1683)

Introduced by DeBoer, 10.

1 1. Insert the following new sections:

2 Section 1. Section 25-307, Revised Statutes Cumulative Supplement,  
3 2020, is amended to read:

4 25-307 Except as provided by the Nebraska Probate Code, section  
5 43-104.05, and sections 43-4801 to 43-4812, the action of an infant shall  
6 be commenced, maintained, and prosecuted by his or her guardian or next  
7 friend. Such actions may be dismissed with or without prejudice by the  
8 guardian or next friend only with approval of the court. When the action  
9 is commenced by his or her next friend, the court has power to dismiss  
10 it, if it is not for the benefit of the infant, or to substitute the  
11 guardian of the infant, or any person, as the next friend. Any action  
12 taken pursuant to this section shall be binding upon the infant.

13 Sec. 2. Section 25-309, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15 25-309 Except as provided by the Nebraska Probate Code and section  
16 43-104.05, the defense of an infant must be by a guardian for the suit,  
17 who may be appointed by the court in which the action is prosecuted, or  
18 by a judge thereof, or by a county judge. The appointment cannot be made  
19 until after service of the summons in the action as directed by this  
20 code.

21 Sec. 3. Section 43-101, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23 43-101 (1) Except as otherwise provided in the Nebraska Indian Child  
24 Welfare Act, any minor child may be adopted by any adult person or  
25 persons and any adult child may be adopted by the spouse of such child's  
26 parent in the cases and subject to sections 43-101 to 43-115, except that

1 no person having a spouse ~~husband or wife~~ may adopt a minor child unless  
2 the spouse ~~husband or wife~~ joins in the petition therefor. If the spouse  
3 ~~husband or wife~~ so joins in the petition therefor, the adoption shall be  
4 by them jointly, except that an adult spouse ~~husband or wife~~ may adopt a  
5 child of the other spouse whether born in or out of wedlock.

6 (2) Any adult child may be adopted by any person or persons subject  
7 to sections 43-101 to 43-115, except that no person having a spouse  
8 ~~husband or wife~~ may adopt an adult child unless the spouse ~~husband or~~  
9 ~~wife~~ joins in the petition therefor. If the spouse ~~husband or wife~~ so  
10 joins the petition therefor, the adoption shall be by them jointly. The  
11 adoption of an adult child by another adult or adults who are not the  
12 stepparent of the adult child may be permitted if the adult child has had  
13 a parent-child relationship with the prospective parent or parents for a  
14 period of at least six months next preceding the adult child's age of  
15 majority and (a) the adult child has no living parents, (b) the adult  
16 child's parent or parents had been deprived of parental rights to such  
17 child by the order of any court of competent jurisdiction, (c) the parent  
18 or parents, if living, have relinquished the adult child for adoption by  
19 a written instrument, (d) the parent or parents had abandoned the child  
20 for at least six months next preceding the adult child's age of majority,  
21 or (e) the parent or parents are incapable of consenting. The substitute  
22 consent provisions of section 43-105 do not apply to adoptions under this  
23 subsection.

24 Sec. 4. For purposes of sections 43-101 to 43-115:

25 (1) Acknowledged father means an individual who has:

26 (a) Executed a valid acknowledgement of paternity; or

27 (b) Acknowledged paternity through establishment of a familial  
28 relationship with the child for a period of at least six months;

29 (2) Adjudicated father means an individual who has been determined  
30 by a court of competent jurisdiction, in this state or in another state  
31 or territory of the United States, to be the biological or legal father

1 of a minor child; and

2 (3) Juvenile court means the separate juvenile court where it has  
3 been established pursuant to sections 43-2,111 to 43-2,127 and the county  
4 court sitting as a juvenile court in all other counties.

5 Sec. 5. Section 43-102, Revised Statutes Cumulative Supplement,  
6 2020, is amended to read:

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

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

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

16 (c) A ~~43-104.25, and a~~ completed preplacement adoptive home study if  
17 required by section 43-107;

18 (d) The completed and signed affidavit described in section  
19 43-104.09 if required by such section;

20 (e) The completed and signed affidavit described in section  
21 43-104.16 if required by such section; and

22 (f) When a consent is not required under subdivision (4)(c) of  
23 section 43-104, a certified copy of the termination order shall be filed  
24 prior to the hearing required in section 43-103.

25 (2) The county court of the county in which the person or persons  
26 desiring to adopt a child reside has jurisdiction of adoption  
27 proceedings, except that if a separate juvenile court already has  
28 jurisdiction over the child to be adopted under the Nebraska Juvenile  
29 Code, such separate juvenile court has concurrent jurisdiction with the  
30 county court in such adoption proceeding. If a child to be adopted is a  
31 ward of any court or a ward of the state at the time of placement and at

1 the time of filing an adoption petition, the person or persons desiring  
2 to adopt shall not be required to be residents of Nebraska. The petition  
3 and all other court filings for an adoption proceeding shall be filed  
4 with the clerk of the county court. The party shall state in the petition  
5 whether such party requests that the proceeding be heard by the county  
6 court or, in cases in which a ~~separate~~ juvenile court already has  
7 jurisdiction over the child to be adopted under the Nebraska Juvenile  
8 Code, such ~~separate~~ juvenile court. Such proceeding is considered a  
9 county court proceeding even if heard by a ~~separate~~ juvenile court judge  
10 and an order of the ~~separate~~ juvenile court in such adoption proceeding  
11 has the force and effect of a county court order. The testimony in an  
12 adoption proceeding heard before a ~~separate~~ juvenile court judge shall be  
13 preserved as in any other ~~separate~~ juvenile court proceeding.

14 ~~Except as set out in subdivisions (1)(b)(ii), (iii), (iv), and (v)~~  
15 ~~of section 43-107, an adoption decree shall not be issued until at least~~  
16 ~~six months after an adoptive home study has been completed by the~~  
17 ~~Department of Health and Human Services or a licensed child placement~~  
18 ~~agency.~~

19 Sec. 6. Section 43-104, Reissue Revised Statutes of Nebraska, is  
20 amended to read:

21 43-104 (1) Except as otherwise provided in this section and in the  
22 Nebraska Indian Child Welfare Act, no adoption shall be decreed unless  
23 written consents thereto are filed in the county court of the county in  
24 which the person or persons desiring to adopt reside or in the county  
25 court in which the ~~separate~~ juvenile court having jurisdiction over the  
26 custody of the child is located and the written consents are executed by:

- 27 (a) The ~~the~~ minor child, if over fourteen years of age; and  
28 (b) Both ~~, or the adult child,~~ (b) ~~any district court, county court,~~  
29 ~~or separate juvenile court in the State of Nebraska having jurisdiction~~  
30 ~~of the custody of a minor child by virtue of proceedings had in any~~  
31 ~~district court, county court, or separate juvenile court in the State of~~

1 ~~Nebraska or by virtue of the Uniform Child Custody Jurisdiction and~~  
2 ~~Enforcement Act, and (c) both~~ parents of a child born in lawful wedlock  
3 if living, the surviving parent of a child born in lawful wedlock, the  
4 mother of a child born out of wedlock, or both the mother and father of a  
5 child born out of wedlock as determined pursuant to sections 43-104.08 to  
6 43-104.24 ~~43-104.25~~.

7 (2) ~~On and after April 20, 2002,~~ a A written consent or  
8 relinquishment for adoption under this section shall not be valid unless  
9 signed at least forty-eight hours after the birth of the child.

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

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

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

16 (4) ~~(2)~~ Consent shall not be required of any parent: ~~who~~

17 (a) Who ~~has~~ relinquished the child for adoption by a written  
18 instrument; ~~τ~~

19 (b) Who ~~has~~ abandoned the child for at least six months next  
20 preceding the filing of the adoption petition; ~~τ~~

21 (c) Whose ~~has been deprived of his or her~~ parental rights to such  
22 child have been terminated by the order of any court of competent  
23 jurisdiction; ~~τ~~ or

24 (d) Who is incapable of consenting.

25 (5) ~~(3)~~ Consent shall not be required of a putative father who has  
26 failed to timely file;

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

30 (b) A ~~a~~ petition pursuant to section 43-104.05 for the adjudication  
31 of such father's objection to the adoption notice ~~notice~~ and a determination of

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

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

10 (7) ~~(4)~~ Consent shall not be required of an acknowledged father, an  
11 adjudicated father, or putative father who is not required to consent to  
12 the adoption pursuant to section 43-104.05 or 43-104.22.

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

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

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

31 Sec. 7. Section 43-104.01, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 43-104.01 (1) The Department of Health and Human Services shall  
3 establish a putative ~~biological~~ father registry. The department shall  
4 maintain such registry and shall record the names and addresses of (a)  
5 any person adjudicated by a court of this state or by a court of another  
6 state or territory of the United States to be the biological father of a  
7 child born out of wedlock if a certified copy of the court order is filed  
8 with the registry by such person or any other person, (b) any putative  
9 father who has filed with the registry, prior to the receipt of notice  
10 under sections 43-104.12 to 43-104.16, a Request for Notification of  
11 Intended Adoption with respect to such child, and (c) any putative father  
12 who has filed with the registry a Notice of Objection to Adoption and  
13 Intent to Obtain Custody with respect to such child.

14 (2) A Request for Notification of Intended Adoption or a Notice of  
15 Objection to Adoption and Intent to Obtain Custody filed with the  
16 registry shall include (a) the putative father's name, address, and  
17 social security number, (b) the name and last-known address of the  
18 mother, (c) the month and year of the birth or the expected birth of the  
19 child, (d) the case name, court name, and location of any Nebraska court  
20 having jurisdiction over the custody of the child, and (e) a statement by  
21 the putative father that he acknowledges liability for contribution to  
22 the support and education of the child after birth and for contribution  
23 to the pregnancy-related medical expenses of the mother of the child. The  
24 person filing the notice shall notify the registry of any change of  
25 address pursuant to procedures prescribed in rules and regulations of the  
26 department.

27 (3) A request or notice filed under this section or section  
28 43-104.02 shall be admissible in any action for paternity and shall estop  
29 the putative father from denying paternity of such child thereafter.

30 (4) Any putative father who files a Request for Notification of  
31 Intended Adoption or a Notice of Objection to Adoption and Intent to

1 Obtain Custody with the putative biological father registry may revoke  
2 such filing. Upon receipt of such revocation by the registry, the effect  
3 shall be as if no filing had ever been made.

4 ~~(5) The department shall not divulge the names and addresses of~~  
5 ~~persons listed with the biological father registry to any other person~~  
6 ~~except as authorized by law or upon order of a court of competent~~  
7 ~~jurisdiction for good cause shown.~~

8 (5) ~~(6)~~ The department may develop information about the registry  
9 and may distribute such information, through its existing publications,  
10 to the news media and the public. The department may provide information  
11 about the registry to the Department of Correctional Services, which may  
12 distribute such information through its existing publications.

13 ~~(7) A person who has been adjudicated by a Nebraska court of~~  
14 ~~competent jurisdiction to be the biological father of a child born out of~~  
15 ~~wedlock who is the subject of a proposed adoption shall not be construed~~  
16 ~~to be a putative father for purposes of sections 43-104.01 to 43-104.05~~  
17 ~~and shall not be subject to the provisions of such sections as applied to~~  
18 ~~such fathers. Whether such person's consent is required for the proposed~~  
19 ~~adoption shall be determined by the Nebraska court having jurisdiction~~  
20 ~~over the custody of the child pursuant to section 43-104.22, as part of~~  
21 ~~proceedings required under section 43-104 to obtain the court's consent~~  
22 ~~to such adoption.~~

23 Sec. 8. Section 43-104.02, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25 43-104.02 (1) A Notice of Objection to Adoption and Intent to  
26 Obtain Custody shall be filed with the putative biological father  
27 registry under section 43-104.01 on forms provided by the Department of  
28 Health and Human Services;

29 (a) At ~~(1) at~~ any time during the pregnancy and no later than ten  
30 ~~five~~ business days after the birth of the child; or

31 (b) If ~~(2) if~~ the notice required by section 43-104.13 is provided



1 after the birth of the child;

2 (i) ~~At (a) at~~ any time during the pregnancy and no later than ten  
3 ~~five~~ business days after receipt of the notice provided under section  
4 43-104.12; or

5 (ii) ~~No (b) no~~ later than ten ~~five~~ business days after the last date  
6 of any published notice provided under section 43-104.14, whichever  
7 notice is earlier.

8 (2) Such notice shall be considered to have been filed if it is  
9 received by the Department of Health and Human Services, Office of Vital  
10 Records, putative father registry ~~department~~ or postmarked prior to the  
11 end of the tenth ~~fifth~~ business day as provided in this section.

12 Sec. 9. Section 43-104.03, Reissue Revised Statutes of Nebraska, is  
13 amended to read:

14 43-104.03 Within three days after the filing of a Request for  
15 Notification of Intended Adoption or a Notice of Objection to Adoption  
16 and Intent to Obtain Custody with the putative biological ~~father~~ registry  
17 pursuant to sections 43-104.01 and 43-104.02, the Department of Health  
18 and Human Services shall cause a certified copy of such request or notice  
19 to be mailed by certified mail to ~~(1)~~ the mother or prospective mother of  
20 such child at the last-known address shown on the request or notice or an  
21 agent specifically designated in writing by the mother or prospective  
22 mother to receive such request or notice ~~and (2) any Nebraska court~~  
23 ~~identified by the putative father under section 43-104.01 as having~~  
24 ~~jurisdiction over the custody of the child.~~

25 Sec. 10. Section 43-104.04, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27 43-104.04 If a Notice of Objection to Adoption and Intent to Obtain  
28 Custody is not timely filed with the putative biological ~~father~~ registry  
29 pursuant to section 43-104.02, the mother of a child born out of wedlock  
30 or an agent specifically designated in writing by the mother may request,  
31 and the Department of Health and Human Services shall supply, a

1 certificate that no such notice has been filed with the putative  
2 ~~biological~~ father registry. The filing of such certificate pursuant to  
3 section 43-102 shall eliminate the need or necessity of a consent or  
4 relinquishment for adoption by the putative father of such child.

5 Sec. 11. Section 43-104.05, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 43-104.05 (1)(a) A putative, acknowledged, or adjudicated father  
8 objecting to a proposed adoption may file a petition objecting to the  
9 adoption and seeking a determination of whether the objecting father's  
10 consent to the proposed adoption is required. A putative father may only  
11 file such petition if he has timely filed ~~(1) If a Notice of Objection to~~  
12 ~~Adoption and Intent to Obtain Custody is timely filed~~ with the putative  
13 ~~biological~~ father registry pursuant to section 43-104.02, ~~either the~~  
14 ~~putative father, the mother, or her agent specifically designated in~~  
15 ~~writing shall, within thirty days after the filing of such notice, file a~~  
16 ~~petition for adjudication of the notice and a determination of whether~~  
17 ~~the putative father's consent to the proposed adoption is required. The~~

18 (b) The petition shall be filed within forty-five days after the  
19 later of the child's birth or the objecting father's receipt of notice  
20 under sections 43-104.12 to 43-104.14.

21 (c)(i) Except as provided in subdivision (1)(c)(ii) of this section,  
22 the petition shall be filed in the county court in the county where such  
23 child was born or, if a separate juvenile court already has jurisdiction  
24 over the custody of the child, in the county court of the county in which  
25 such separate juvenile court is located.

26 (ii) If the child was not born in Nebraska, the petition shall be  
27 filed in the county court of the county where either the biological  
28 mother or objecting father resides.

29 (d) A timely petition objecting to the adoption must be filed by an  
30 objecting putative, acknowledged, or adjudicated father of a minor child  
31 born out of wedlock who is the subject of a proposed adoption.

1           ~~(e) Such petition may be filed by and defended by a minor in the~~  
2     ~~minor's own name.~~

3           (2) If ~~such~~ a petition objecting to a proposed adoption is not filed  
4     within the deadline provided in subdivision (1)(b) of this section,  
5     ~~thirty days after the filing of such notice~~ and the mother of the child  
6     has executed a valid relinquishment and consent to the adoption within  
7     ninety sixty days after the later of the birth of the child or the  
8     objecting father's receipt of notice under sections 43-104.12 to  
9     43-104.14 filing of such notice, the putative, acknowledged, or  
10    adjudicated father's consent to adoption of the child shall not be  
11    required, he is not entitled to any further notice of the adoption  
12    proceedings, his right to object to the adoption and ~~any alleged parental~~  
13    ~~rights and responsibilities of the putative father~~ shall not be  
14    recognized thereafter in any court, and his parental rights to such child  
15    will be terminated upon entry of an adoption decree.

16           (3) After the timely filing of a such petition objecting to a  
17    proposed adoption, the court shall set a trial date upon proper notice to  
18    the parties not less than twenty nor more than thirty days after the date  
19    of such filing. If the mother contests the objecting putative father's  
20    claim of paternity, the court shall order DNA testing to establish  
21    whether the objecting putative father is the biological father. The court  
22    shall assess the costs of such testing between the parties in an  
23    equitable manner. Whether the objecting putative father's consent to the  
24    adoption is required shall be determined pursuant to section 43-104.22,  
25    except that such consent is not required if the objecting father is not  
26    the biological father. The court shall appoint a guardian ad litem to  
27    represent the best interests of the child.

28           (4)(a) The county court ~~of the county where the child was born or~~  
29    ~~the separate~~ juvenile court having jurisdiction over the custody of the  
30    child shall have exclusive jurisdiction over proceedings under this  
31    section from the date of notice provided under section 43-104.12 or the

1 last date of published notice under section 43-104.14, whichever notice  
2 is earlier, until thirty days after the conclusion of ~~adoption~~  
3 proceedings under this section concerning the child, including appeals,  
4 unless such jurisdiction is transferred under subdivision (b) of this  
5 subsection.

6 (b) Except as ~~otherwise~~ provided in ~~this~~ subdivision (4)(c) of this  
7 section, the court shall, upon the motion of any party, transfer the case  
8 to the district court for further proceedings on the matters of custody,  
9 visitation, and child support with respect to such child if:

10 (i) Such ~~such~~ court determines under section 43-104.22 that the  
11 consent of the objecting putative father is required for adoption of the  
12 minor child and the objecting putative father refuses such consent; or

13 (ii) The ~~the~~ mother of the child, within ninety ~~thirty~~ days after  
14 the conclusion of proceedings under this section, including appeals, has  
15 not executed a valid relinquishment and consent to the adoption.

16 (c) The court, upon its own motion, may retain the case for good  
17 cause shown.

18 Sec. 12. Section 43-104.08, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 43-104.08 Whenever a child is claimed to be born out of wedlock and  
21 the biological mother contacts an adoption agency or attorney to  
22 relinquish her rights to the child, or the biological mother joins in a  
23 petition for adoption to be filed by her spouse ~~husband~~, the agency or  
24 attorney contacted shall attempt to establish the identity of the  
25 biological father and further attempt to inform the biological father of  
26 his rights, including the right to object to the adoption and the  
27 procedure and required timing to object, and his right to execute a  
28 relinquishment and consent to adoption, or a denial of paternity and  
29 waiver of rights, in the form mandated by section 43-106, pursuant to  
30 sections 43-104.08 to 43-104.24 ~~43-104.25~~.

31 Sec. 13. Section 43-104.09, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 43-104.09 In all cases of adoption of a minor child born out of  
3 wedlock, the biological mother, or an individual acting on behalf of the  
4 biological mother and who possesses information provided by the  
5 biological mother if the biological mother is unavailable due to death,  
6 incapacity, abandonment, or termination of parental rights, shall  
7 complete and sign an affidavit in writing and under oath. The affidavit  
8 shall be completed and signed ~~executed by the biological mother~~ before or  
9 at the time of execution of the consent or relinquishment and shall be  
10 filed with the court prior to the hearing on the attached as an exhibit  
11 ~~to any petition for to finalize the adoption.~~ If the biological mother is  
12 under the age of nineteen, the biological mother may sign the affidavit  
13 despite her minority or the affidavit may be completed and signed  
14 ~~executed~~ by the agency or attorney representing the biological mother  
15 based upon information provided by the biological mother. The affidavit  
16 shall be in substantially the following form:

17 AFFIDAVIT OF IDENTIFICATION

18 I, ....., the mother of a child, state under oath or  
19 affirm as follows:

20 (1) My child was born, or is expected to be born, on the ..... day  
21 of ....., ....., at ....., in the State  
22 of .....

23 (2) I reside at ....., in the City or Village  
24 of ....., County of ....., State  
25 of .....

26 (3) I am of the age of ..... years, and my date of birth  
27 is .....

28 (4) I acknowledge that I have been asked to identify the father of  
29 my child.

30 (5) (CHOOSE ONE)

31 (5A) I know and am identifying the biological father (or possible

1 biological fathers) as follows:

2 The name of the biological father is .....

3 His last-known home address is .....

4 His last-known work address is .....

5 He is ..... years of age, or he is deceased, having died on or  
6 about the ..... day of ....., .....,  
7 at ....., in the State of .....

8 He has been adjudicated to be the biological father by  
9 the ..... Court of ..... county, State  
10 of ....., case name ....., docket  
11 number .....

12 He ... has ... has not acknowledged paternity in court or in  
13 connection with the child's birth certificate.

14 He ... has ... has not established a familial relationship with the  
15 child.

16 (For other possible biological fathers, please use additional sheets  
17 of paper as needed.)

18 (5B) I am unwilling or unable to identify the biological father (or  
19 possible biological fathers). I do not wish or I am unable to name the  
20 biological father of the child for the following reasons:

21 ..... Conception of my child occurred as a result of sexual  
22 assault or incest

23 ..... Providing notice to the biological father of my child  
24 would threaten my safety or the safety of my child

25 ..... Other reason: .....

26 (6) If the biological mother is unable to name the biological  
27 father, the physical description of the biological father (or possible  
28 biological fathers) and other information which may assist in identifying  
29 him, including the city or county and state where conception occurred:

30 .....

31 .....

1 .....

2 (use additional sheets of paper as needed).

3 (7) Under penalty of perjury, the undersigned certifies that the  
4 statements set forth in this affidavit are true and correct.

5 (8) I have read this affidavit and have had the opportunity to  
6 review and question it. It was explained to me  
7 by .....

8 I am signing it as my free and voluntary act and understand the  
9 contents and the effect of signing it.

10 Dated this ..... day of ....., .....

11 (Acknowledgment)

12 .....

13 (Signature)

14 Sec. 14. Section 43-104.12, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16 43-104.12 In order to attempt to inform the biological father or  
17 possible biological fathers, whether putative, acknowledged, or  
18 adjudicated, of the right to execute a relinquishment and consent to  
19 adoption or a denial of paternity and waiver of rights, the agency or  
20 attorney representing the biological mother shall notify, by personal  
21 service of process or by registered or certified mail, restricted  
22 delivery, return receipt requested:

23 (1) Any acknowledged father or person adjudicated father by a court  
24 in this state or by a court in another state or territory of the United  
25 States to be the biological father of the child;

26 (2) Any person who has filed a Request for Notification of Intended  
27 Adoption or a Notice of Objection to Adoption and Intent to Obtain  
28 Custody pursuant to sections 43-104.01 and 43-104.02;

29 (3) Any person who is recorded on the child's birth certificate as  
30 the child's father;

31 (4) Any person who might be the biological father of the child who

1 was openly living with the child's biological mother within the twelve  
2 months prior to the birth of the child;

3 (5) Any person who has been identified as the biological father or  
4 possible biological father of the child by the child's biological mother  
5 pursuant to section 43-104.09;

6 (6) Any person who was married to the child's biological mother  
7 within six months prior to the birth of the child and prior to the  
8 execution of the relinquishment; and

9 (7) Any other person who the agency or attorney representing the  
10 biological mother may have reason to believe may be the biological father  
11 of the child.

12 Sec. 15. Section 43-104.13, Reissue Revised Statutes of Nebraska, is  
13 amended to read:

14 43-104.13 The notice sent by the agency or attorney pursuant to  
15 section 43-104.12 shall be served sufficiently in advance of the birth of  
16 the child, whenever possible, to allow compliance with subdivision (1)(a)  
17 ~~(1)~~ of section 43-104.02 and shall state:

18 (1) The biological mother's name, the fact that she is pregnant or  
19 has given birth to the child, and the expected or actual date of  
20 delivery;

21 (2) That the child has been relinquished by the biological mother,  
22 that she intends to execute a relinquishment and consent to adoption, or  
23 that the biological mother has joined or plans to join in a petition for  
24 adoption to be filed by her spouse ~~husband~~;

25 (3) That the person being notified has been identified as a possible  
26 biological father of the child, whether putative, acknowledged, or  
27 adjudicated;

28 (4) That the person being notified ~~possible biological father~~ may  
29 have certain rights with respect to such child if he is in fact the  
30 biological father;

31 (5) That the person being notified ~~possible biological father~~ has



1 the right to (a) deny paternity, (b) waive any parental rights he may  
2 have, (c) relinquish and consent to adoption of the child, (d) file a  
3 Notice of Objection to Adoption and Intent to Obtain Custody any time  
4 during the pregnancy or as late as ten business days after birth pursuant  
5 to section 43-104.02 if he is a putative father, and ~~or~~ (e) object to the  
6 adoption in a ~~proceeding before any Nebraska court~~ within forty-five days  
7 after the later of receipt of notice under this section or the birth of  
8 the child if he is an acknowledged or adjudicated father ~~which has, prior~~  
9 ~~to his receipt of this notice, adjudicated him to be the biological~~  
10 ~~father of the child;~~

11 (6) That to deny paternity, to waive his parental rights, or to  
12 relinquish and consent to the adoption, the person being notified  
13 ~~biological father~~ must contact the undersigned agency or attorney  
14 representing the biological mother, and that if he wishes to object to  
15 the adoption and seek custody of the child he should seek legal counsel  
16 from his own attorney immediately; and

17 (7) That if person being notified ~~he~~ is the biological father and if  
18 the child is not relinquished for adoption, he has a duty to contribute  
19 to the support and education of the child and to the pregnancy-related  
20 expenses of the mother and a right to seek a court order for custody,  
21 parenting time, visitation, or other access with the child.

22 The agency or attorney representing the biological mother may  
23 enclose with the notice a document which is an admission or denial of  
24 paternity and a waiver of rights by the person being notified ~~biological~~  
25 ~~father~~, which such person ~~the biological father~~ may choose to complete,  
26 in the form mandated by section 43-106, and return to the agency or  
27 attorney.

28 Sec. 16. Section 43-104.14, Reissue Revised Statutes of Nebraska, is  
29 amended to read:

30 43-104.14 (1) If the agency or attorney representing the biological  
31 mother is unable through reasonable efforts to locate and serve notice on

1 the biological father or possible biological fathers as contemplated in  
2 sections 43-104.12 and 43-104.13, the agency or attorney shall notify the  
3 biological father or possible biological fathers by publication.

4 (2) The publication shall be made once a week for three consecutive  
5 weeks in a legal newspaper of general circulation in the Nebraska county  
6 or county of another state which is most likely to provide actual notice  
7 to the biological father. The publication shall include:

8 (a) The first name or initials of the father or possible father or  
9 the entry "John Doe, real name unknown", if applicable;

10 (b) A description of the father or possible father if his first name  
11 is or initials are unknown;

12 (c) The approximate date of conception of the child and the city and  
13 state in which conception occurred, if known;

14 (d) The date of birth or expected birth of the child;

15 (e) That he has been identified as the biological father or possible  
16 biological father of a child whom the biological mother currently intends  
17 to place for adoption and the approximate date that placement will occur;

18 (f) That he has the right to (i) deny paternity, (ii) waive any  
19 parental rights he may have, (iii) relinquish and consent to adoption of  
20 the child, (iv) file a Notice of Objection to Adoption and Intent to  
21 Obtain Custody any time during the pregnancy or as late as ten business  
22 days after birth pursuant to section 43-104.02 if he is a putative  
23 father, or (v) object to the adoption in a ~~proceeding before any Nebraska~~  
24 ~~court~~ within forty-five days after the later of receipt of notice under  
25 this section or the birth of the child if he is an acknowledged or  
26 adjudicated father which has adjudicated him to be the biological father  
27 of the child prior to his receipt of notice; and

28 (g) That ~~(i)~~ in order to deny paternity, waive his parental rights,  
29 relinquish and consent to the adoption, or receive additional information  
30 to determine whether he is the father of the child in question, he must  
31 contact the undersigned agency or attorney representing the biological

1 mother; and

2 (h) That (ii) if he wishes to object to the adoption and seek  
3 custody of the child, he must seek legal counsel from his own attorney  
4 immediately.

5 Sec. 17. Section 43-104.16, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 43-104.16 In all cases involving the adoption of a minor child born  
8 out of wedlock, the agency or attorney representing the biological mother  
9 shall execute an affidavit stating that due diligence was used to  
10 identify and give actual or constructive notice to the biological father  
11 or possible biological fathers of the child and stating the methods used  
12 to attempt to identify and give actual or constructive notice to those  
13 persons or the reason why no attempts were made to identify and notify  
14 those persons. The affidavit shall be ~~attached to any petition~~ filed in  
15 the an adoption proceeding prior to the hearing on the petition for  
16 adoption.

17 Sec. 18. Section 43-104.17, Reissue Revised Statutes of Nebraska, is  
18 amended to read:

19 43-104.17 In all cases of adoption of a minor child born out of  
20 wedlock, the petition for to finalize the adoption shall specifically  
21 allege compliance with sections 43-104.08 to 43-104.16, and ~~shall attach~~  
22 ~~as exhibits~~ all documents which are evidence of such compliance shall be  
23 filed with the court prior to the hearing on the petition. No notice of  
24 the filing of the petition to finalize or the hearing on the petition  
25 shall be given to a biological father or putative biological father who  
26 (1) executed a valid relinquishment and consent or a valid denial of  
27 paternity and waiver of rights pursuant to section 43-104.11, (2) was a a  
28 putative father provided notice under sections 43-104.12 to 43-104.14 and  
29 who failed to timely file a Notice of Objection to Adoption and Intent to  
30 Obtain Custody pursuant to section 43-104.02 ~~or petition pursuant to~~  
31 ~~section 43-104.05,~~ (3) was a putative, acknowledged, or adjudicated

1 father who failed to timely file a petition objecting to the adoption  
2 under section 43-104.05, or (4) (3) is not required to consent to the  
3 adoption pursuant to proceedings conducted under section 43-104 or  
4 43-104.22.

5 Sec. 19. Section 43-104.18, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 43-104.18 If a petition for ~~to finalize an~~ adoption is filed and  
8 fails to establish substantial compliance with sections 43-104.08 to  
9 43-104.16, the court shall receive evidence by affidavit of the facts and  
10 circumstances of the biological mother's relationship with the biological  
11 father or possible biological fathers at the time of conception of the  
12 child and at the time of the biological mother's relinquishment and  
13 consent to the adoption of the child, including any evidence that  
14 providing notice to a biological father or possible biological father  
15 would be likely to threaten the safety of the biological mother or the  
16 child or that the conception was the result of sexual assault or incest.  
17 If, under the facts and circumstances presented, the court finds that the  
18 agency or attorney representing the biological mother did not exercise  
19 due diligence in complying with sections 43-104.08 to 43-104.16, or if  
20 the court finds that there is no credible evidence that providing notice  
21 to a biological father or possible biological father would be likely to  
22 threaten the safety of the biological mother or the child or that the  
23 conception was the result of sexual assault or incest, the court shall  
24 order the attorney or agency to exercise due diligence in complying with  
25 sections 43-104.08 to 43-104.16. ~~If the attorney or agency fails to~~  
26 ~~exercise due diligence in complying with such sections or at any time~~  
27 ~~upon the petition or application of any interested party the court may~~  
28 ~~appoint a guardian ad litem to represent the interests of the biological~~  
29 ~~father. The guardian ad litem shall be chosen from a qualified pool of~~  
30 ~~local attorneys. The guardian ad litem shall receive reasonable~~  
31 ~~compensation for the representation, the amount to be determined at the~~

1 ~~discretion of the court.~~

2       Sec. 20. Section 43-104.22, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4       43-104.22 At any hearing to determine the parental rights of an  
5 acknowledged father, an adjudicated biological father, or a putative  
6 ~~biological~~ father of a minor child born out of wedlock and whether such  
7 father's consent is required for the adoption of such child, the county  
8 court or juvenile court having jurisdiction shall receive evidence with  
9 regard to the actual paternity of the child, if contested and ~~whether~~  
10 ~~such father is a fit, proper, and suitable custodial parent for the~~  
11 ~~child.~~ The court shall determine that such father's consent is not  
12 required for a valid adoption of the child upon a finding of one or more  
13 of the following:

14       (1) The father abandoned or neglected the child after having  
15 knowledge of the child's birth;

16       (2) The father is not a fit, proper, and suitable custodial parent  
17 for the child;

18       (3) The father had knowledge of the child's birth and failed to  
19 provide reasonable financial support for the mother or child;

20       (4) The father abandoned the mother without reasonable cause and  
21 with knowledge of the pregnancy;

22       (5) The father had knowledge of the pregnancy and failed to provide  
23 reasonable support for the mother during the pregnancy;

24       (6) The child was conceived as a result of a nonconsensual sex act  
25 or an incestual act;

26       (7) Notice was provided pursuant to sections 43-104.12 to 43-104.14  
27 and the putative father failed to timely file a Notice of Objection to  
28 Adoption and Intent to Obtain Custody pursuant to section 43-104.02;

29       (8) The acknowledged father, adjudicated father, or putative father  
30 failed to timely file a petition objecting to the adoption ~~to adjudicate~~  
31 ~~a Notice of Objection to Adoption and Intent to Obtain Custody~~ pursuant

1 to section 43-104.05;

2 ~~(9) Notice was provided to an adjudicated biological father through~~  
3 ~~service of process under applicable state law and he failed to object to~~  
4 ~~the adoption or failed to appear at the hearing conducted under section~~  
5 ~~43-104.25;~~

6 (9) ~~(10)~~ The father executed a valid relinquishment or consent to  
7 adoption; or

8 (10) ~~(11)~~ The man whether an acknowledged father, an adjudicated  
9 father, or a putative father, is not, in fact, the biological father of  
10 the child.

11 The court shall determine the custody of the child according to the  
12 best interest of the child, weighing the superior rights of a biological  
13 parent who has been found to be a fit, proper, and suitable parent  
14 against any detriment the child would suffer if removed from the custody  
15 of persons with whom the child has developed a substantial relationship.

16 Sec. 21. Section 43-104.23, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18 43-104.23 (1) The court shall enter a decree finalizing the  
19 adoption of the child if If, after viewing the evidence submitted to  
20 support a petition for to finalize an adoption or any evidence submitted  
21 by a guardian ad litem if one is appointed, the court determines that:

22 (a) No ~~no~~ biological father can be identified;

23 (b) No ~~or that no~~ identified father can be notified without likely  
24 threat to the safety of the biological mother or the child; ~~or~~

25 (c) That there has been ~~upon a finding of~~ due diligence and  
26 substantial compliance with sections 43-104.08 to 43-104.16 and ~~a finding~~  
27 that no biological father has timely filed under section 43-104.02 or  
28 43-104.05 ~~, the court shall enter an order finalizing the adoption of the~~  
29 ~~child.~~

30 (2) Subject to the disposition of an appeal, upon the expiration of  
31 thirty days after a decree ~~an order~~ is issued under this section, the

1 ~~decree order~~ shall not be reversed, vacated, or modified on the basis of  
2 ~~in any manner or upon any ground including~~ fraud, misrepresentation, or  
3 failure to provide notice under sections 43-104.12 to 43-104.14.

4 Sec. 22. Section 43-105, Reissue Revised Statutes of Nebraska, is  
5 amended to read:

6 43-105 (1) If consent is not required of both parents of a child  
7 born in lawful wedlock if living, the surviving parent of a child born in  
8 lawful wedlock, or the mother or mother and father of a child born out of  
9 wedlock, because of the provisions of subdivision (1)(b) ~~(1)(c)~~ of  
10 section 43-104, substitute consents shall be filed as follows:

11 (a) Consent to the adoption of a minor child who has been committed  
12 to the Department of Health and Human Services may be given by the  
13 department or its duly authorized agent in accordance with section  
14 43-906;

15 (b) When a parent has relinquished a minor child for adoption to any  
16 child placement agency licensed or approved by the department or its duly  
17 authorized agent, consent to the adoption of such child may be given by  
18 such agency; and

19 (c) ~~When In all other cases when~~ consent cannot be given as provided  
20 in ~~subdivision (1)(c)~~ of section 43-104, consent shall be given by the  
21 guardian or guardian ad litem of such minor child appointed by a court,  
22 which consent shall be authorized by the court having jurisdiction of  
23 such guardian or guardian ad litem.

24 (2) Substitute consent provisions of this section do not apply to a  
25 biological father whose consent is not required under section 43-104.22  
26 or subsection (5) or (6) of section 43-104.

27 Sec. 23. Section 43-106, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29 43-106 Relinquishments and consents ~~Consents~~ required to be given  
30 under sections 43-104 and 43-105, ~~except under subdivision (1)(b) of~~  
31 ~~section 43-104,~~ must be acknowledged before an officer authorized to

1 acknowledge deeds in this state and signed in the presence of at least  
2 one witness, in addition to the officer. ~~Consents under subdivision (1)~~  
3 ~~(b) of section 43-104 shall be shown by a duly certified copy of order of~~  
4 ~~the court required to grant such consent.~~

5 Sec. 24. Section 43-108, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 43-108 The minor child to be adopted, unless such child is over  
8 fourteen years of age, and the person or persons desiring to adopt the  
9 child must appear in person before the judge at the time of hearing,  
10 except that when the petitioners are married ~~husband and wife~~ and one of  
11 them is present in court, the court, in its discretion, may accept the  
12 affidavit of an absent spouse who is in the armed forces of the United  
13 States and it appears to the court the absent spouse will not be able to  
14 be present in court for more than a year because of his or her military  
15 assignment, which affidavit sets forth that the absent spouse favors the  
16 adoption.

17 Sec. 25. Section 43-109, Reissue Revised Statutes of Nebraska, is  
18 amended to read:

19 43-109 (1) If, upon the hearing, the court finds that such adoption  
20 is for the best interests of such minor child or such adult child, a  
21 decree of adoption shall be entered. No decree of adoption shall be  
22 entered unless:

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

27 (b) The ~~the~~ medical histories required by subsection (2) of section  
28 43-107 have been made a part of the court record; ~~;~~ ~~;~~

29 (c) The ~~the~~ court record includes an affidavit or affidavits signed  
30 by the relinquishing biological parent, or parents if both are available,  
31 in which it is affirmed that, pursuant to section 43-106.02, prior to the



1 relinquishment of the child for adoption, the relinquishing parent was,  
2 or parents if both are available were: τ

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

5 (ii) Given ~~given~~ an explanation of the effects of filing or not  
6 filing the nonconsent form; τ and

7 (d) If ~~if~~ the child to be adopted is committed to the Department of  
8 Health and Human Services, the document required by subsection (3) of  
9 section 43-107 is a part of the court record. ~~Subdivisions (b) and (c) of~~  
10 ~~this subsection shall only apply when the relinquishment or consent for~~  
11 ~~an adoption is given on or after September 1, 1988.~~

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

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

16 Sec. 26. Section 43-111, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18 43-111 Except as provided in sections 43-101 and section ~~43-106.01~~  
19 and the Nebraska Indian Child Welfare Act, after a decree of adoption has  
20 been entered, the natural parents of the adopted child shall be relieved  
21 of all parental duties toward and all responsibilities for such child and  
22 have no rights over such adopted child or to his or her property by  
23 descent and distribution.

24 Sec. 27. Section 43-111.01, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 43-111.01 Except as otherwise provided in the Nebraska Indian Child  
27 Welfare Act, if, upon a hearing, the court shall deny a petition for  
28 adoption, the court may take custody of the child involved and determine  
29 whether or not it is in the best interests of the child to remain in the  
30 custody of the proposed adopting parents. The court may also, on its own  
31 motion, appoint a legal guardian over the person and property of such

1 minor and make disposition in the best interests of the child without  
2 further notice, relinquishments, or consents as may otherwise be required  
3 by sections 43-102 to 43-112 and section 4 of this act.

4 Sec. 28. Section 43-112, Reissue Revised Statutes of Nebraska, is  
5 amended to read:

6 43-112 An appeal shall be allowed from any final order, judgment, or  
7 decree, rendered under the authority of sections 43-101 to 43-115 and  
8 section 4 of this act, from the county court to the Court of Appeals in  
9 the same manner as an appeal from district court to the Court of Appeals.

10 An appeal may be taken by any party and may also be taken by any  
11 person against whom the final judgment or final order may be made or who  
12 may be affected thereby. The judgment of the Court of Appeals shall not  
13 vacate the judgment of the county court. The judgment of the Court of  
14 Appeals shall be certified without cost to the county court for further  
15 proceedings consistent with the determination of the Court of Appeals.

16 Sec. 29. Section 43-115, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18 43-115 No adoption heretofore lawfully made shall be affected by the  
19 enactment of sections 43-101 to 43-115 and section 4 of this act, but  
20 such adoptions shall continue in effect and operation according to the  
21 terms thereof.

22 Sec. 30. Section 43-146.01, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24 43-146.01 (1) Sections 43-106.02, 43-121, 43-123.01, and 43-146.02  
25 to 43-146.16 shall provide the procedures for gaining access to  
26 information concerning an adopted person when a relinquishment or consent  
27 for an adoption is given on or after September 1, 1988.

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

31 (3) Except as otherwise provided in subsection (2) of section

1 43-107, ~~subdivisions (1)(b), (1)(c), and (1)(d) of section 43-109,~~ and  
2 subsection (4) of this section: Sections 43-101 to 43-118 and section 4  
3 of this act, 43-143 to 43-146, 43-146.17, 71-626, 71-626.01, and  
4 71-627.02 shall apply to all adoptions.

5 (4) Sections 43-143 to 43-146 shall not apply to adopted persons for  
6 whom a relinquishment or consent for adoption was given on and after July  
7 20, 2002.

8 Sec. 31. Section 43-166, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 43-166 (1) The adoptive parent or parents and the parent or parents  
11 relinquishing a child for adoption may enter into a written agreement to  
12 permit continuing communication and contact after the placement of an  
13 adoptee between the adoptive parent or parents and the relinquishing  
14 parent or parents in private or agency adoptions for adoptees not in the  
15 custody of the Department of Health and Human Services as provided under  
16 this section.

17 ~~(2)(a) In private adoptions, a parent or parents who relinquish a~~  
18 ~~child for adoption shall be provided legal counsel of their choice~~  
19 ~~independent from that of the adoptive parent or parents at the expense of~~  
20 ~~the adoptive parent or parents prior to the execution of a written~~  
21 ~~relinquishment and consent to adoption, or a communication and contact~~  
22 ~~agreement under this section, unless specifically waived in writing.~~

23 ~~(b) In private and agency adoptions, a parent or parents~~  
24 ~~contemplating relinquishment of a child for adoption shall be offered, at~~  
25 ~~the expense of the adoptive parent or parents or the agency, at least~~  
26 ~~three hours of professional counseling prior to executing a written~~  
27 ~~relinquishment of parental rights or written consent to adoption. Such~~  
28 ~~relinquishment or consent shall state whether the relinquishing parent or~~  
29 ~~parents received or declined counseling.~~

30 (2) ~~(3)~~ The terms of a communication and contact agreement entered  
31 into under this section may include provisions for (a) future contact or

1 communication between the relinquishing parent or parents and the adoptee  
2 or the adoptive parent or parents, or both, (b) sharing information about  
3 the adoptee, or (c) other matters related to communication or contact  
4 agreed to by the parties.

5 ~~(3) (4)~~ If the adoptee is fourteen years of age or older at the time  
6 of placement, a communication and contact agreement under this section  
7 shall not be valid unless consented to in writing by the adoptee.

8 ~~(4) (5)~~ A court may approve a communication and contact agreement  
9 entered into under this section by incorporating such agreement by  
10 reference and indicating the court's approval of such agreement in the  
11 decree of adoption. Enforceability of a communication and contact  
12 agreement is not contingent on court approval or its incorporation into  
13 the decree of adoption.

14 ~~(5) (6)~~ Neither the existence of, nor the failure of any party to  
15 comply with the terms of, a communication and contact agreement entered  
16 into under this section shall be grounds for (a) setting aside an  
17 adoption decree, (b) revoking a written relinquishment of parental rights  
18 or written consent to adoption, (c) challenging the adoption on the basis  
19 of duress or coercion, or (d) challenging the adoption on the basis that  
20 the agreement retains some aspect of parental rights by the relinquishing  
21 parent or parents.

22 ~~(6) (7)~~ A communication and contact agreement entered into under  
23 this section may be enforced by a civil action. A court in which such  
24 civil action is filed may enforce, modify, or terminate a communication  
25 and contact agreement entered into under this section if the court finds  
26 that (a) enforcing, modifying, or terminating the communication and  
27 contact agreement is necessary to serve the best interests of the  
28 adoptee, (b) the party seeking to enforce, modify, or terminate the  
29 communication and contact agreement participated in, or attempted to  
30 participate in, mediation in good faith or participated in other  
31 appropriate dispute resolution proceedings in good faith to resolve the

1 dispute prior to filing the petition, and (c) when seeking to modify or  
2 terminate the agreement, a material change in circumstances has arisen  
3 since the parties entered into the communication and contact agreement  
4 that justifies modifying or terminating the agreement.

5 (7) ~~(8)~~ If the adoption was through an agency, the agency which  
6 accepted the relinquishment from the relinquishing parent or parents  
7 shall be invited to participate in any mediation or other appropriate  
8 dispute resolution proceedings as provided in subsection (6) ~~(7)~~ of this  
9 section.

10 (8) ~~(9)~~ With any communication and contact agreement entered into  
11 under this section, the following shall appear on the communication and  
12 contact agreement: No adoption shall be set aside due to the failure of  
13 the adoptive parent or parents or the relinquishing parent or parents to  
14 follow the terms of this agreement or a later order modifying or  
15 terminating this agreement. Disagreement between the parties or a  
16 subsequent civil action brought to enforce, modify, or terminate this  
17 agreement shall not affect the validity of the adoption and shall not  
18 serve as a basis for orders affecting the custody of the child. The court  
19 shall not act on a petition to enforce, modify, or terminate this  
20 agreement unless the petitioner has participated in, or attempted to  
21 participate in, mediation in good faith or participated in other  
22 appropriate dispute resolution proceedings in good faith to resolve the  
23 dispute prior to filing the petition.

24 (9) ~~(10)~~ The court shall not award monetary damages as a result of  
25 the filing of a civil action pursuant to subsection (6) ~~(7)~~ of this  
26 section.

27 Sec. 32. Section 43-906, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29 43-906 Except as otherwise provided in the Nebraska Indian Child  
30 Welfare Act, the Department of Health and Human Services, or its duly  
31 authorized agent, may consent to the adoption of children committed to it

1 upon the order of a juvenile court if the parental rights of the parents  
2 or of the mother of a child born out of wedlock have been terminated and  
3 if no father of a child born out of wedlock has timely asserted his  
4 paternity rights under section 43-104.02, or upon the relinquishment to  
5 such department by their parents or the mother and, if required under  
6 sections 43-104.08 to 43-104.24 ~~43-104.25~~, the father of a child born out  
7 of wedlock. The parental rights of parents of a child born out of wedlock  
8 shall be determined pursuant to sections 43-104.05 and 43-104.08 to  
9 43-104.24 ~~43-104.25~~.

10 Sec. 33. Section 43-1411, Revised Statutes Cumulative Supplement,  
11 2020, is amended to read:

12 43-1411 (1) A civil proceeding to establish the paternity of a child  
13 may be instituted, in the court of the district where the child is  
14 domiciled or found or, for cases under the Uniform Interstate Family  
15 Support Act, where the alleged father is domiciled, by:

16 (a) The ~~the~~ mother or the alleged father of such child, either  
17 during pregnancy or within four years after the child's birth, unless:

18 (i) A ~~a~~ valid consent or relinquishment has been made pursuant to  
19 sections 43-104.08 to 43-104.24 ~~43-104.25~~ or section 43-105 for purposes  
20 of adoption; or

21 (ii) A ~~a~~ county court or separate juvenile court has jurisdiction  
22 over the custody of the child or jurisdiction over an adoption matter  
23 with respect to such child pursuant to sections 43-101 to 43-116 and  
24 section 4 of this act; or

25 (b) The ~~the~~ guardian or next friend of such child or the state,  
26 either during pregnancy or within eighteen years after the child's birth.

27 (2) Summons shall issue and be served as in other civil proceedings,  
28 except that such summons may be directed to the sheriff of any county in  
29 the state and may be served in any county.

30 (3) ~~(2)~~ Notwithstanding any other provision of law, a person  
31 claiming to be the biological father of a child over which the juvenile

1 court already has jurisdiction may file a complaint to intervene in such  
2 juvenile proceeding to institute an action to establish the paternity of  
3 the child. The complaint to intervene shall be accompanied by an  
4 affidavit under oath that the affiant believes he is the biological  
5 father of the juvenile. No filing fee shall be charged for filing the  
6 complaint and affidavit. Upon filing of the complaint and affidavit, the  
7 juvenile court shall enter an order pursuant to section 43-1414 to  
8 require genetic testing and to require the juvenile to be made available  
9 for genetic testing. The costs of genetic testing shall be paid by the  
10 intervenor, the county, or the state at the discretion of the juvenile  
11 court. This subsection does not authorize intervention by a person whose  
12 parental rights to such child have been terminated by the order of any  
13 court of competent jurisdiction.

14 Sec. 43. The following sections are outright repealed: Sections  
15 43-104.19, 43-104.20, 43-104.21, and 43-104.25, Reissue Revised Statutes  
16 of Nebraska.

17 2. Correct the repealer and renumber the remaining sections  
18 accordingly.