

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 191**

Introduced by Pansing Brooks, 28.

Read first time January 10, 2017

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to court procedure; to amend sections 42-924,
- 2 42-925, 43-1609, and 43-1611, Reissue Revised Statutes of Nebraska;
- 3 to provide a procedure to renew a protection order; to harmonize
- 4 provisions; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 42-924, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

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

8 (a) Enjoining the respondent from imposing any restraint upon the  
9 petitioner or upon the liberty of the petitioner;

10 (b) Enjoining the respondent from threatening, assaulting,  
11 molesting, attacking, or otherwise disturbing the peace of the  
12 petitioner;

13 (c) Enjoining the respondent from telephoning, contacting, or  
14 otherwise communicating with the petitioner;

15 (d) Removing and excluding the respondent from the residence of the  
16 petitioner, regardless of the ownership of the residence;

17 (e) Ordering the respondent to stay away from any place specified by  
18 the court;

19 (f) Awarding the petitioner temporary custody of any minor children  
20 not to exceed ninety days;

21 (g) Enjoining the respondent from possessing or purchasing a firearm  
22 as defined in section 28-1201; or

23 (h) Ordering such other relief deemed necessary to provide for the  
24 safety and welfare of the petitioner and any designated family or  
25 household member.

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29 protection order may not be withdrawn except upon order of the court.

30 (3)(a) A protection ~~(3) A petition filed pursuant to subsection (1)~~  
31 ~~of this section may not be withdrawn except upon order of the court. An~~

1 order issued pursuant to subsection (1) of this section shall specify  
2 that it is effective for a period of one year and, if the order grants  
3 temporary custody, the number of days of custody granted to the  
4 petitioner unless otherwise modified by the court.

5 (b) Any victim of domestic abuse may file a petition and affidavit  
6 to renew a protection order. Such petition and affidavit for renewal  
7 shall be filed on or after thirty days before the expiration of the  
8 previous protection order. Such renewed order shall specify that it is  
9 effective for a period of one year to commence on the first day following  
10 the expiration of the previous order and, if the court grants temporary  
11 custody, the number of days of custody granted to the petitioner unless  
12 otherwise modified by the court.

13 (4) Any person who knowingly violates a protection order issued  
14 pursuant to subsection (1) of this section or section 42-931 after  
15 service or notice as described in subsection (2) of section 42-926 shall  
16 be guilty of a Class I misdemeanor, except that any person convicted of  
17 violating such order who has a prior conviction for violating a  
18 protection order shall be guilty of a Class IV felony.

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

21 Sec. 2. Section 42-925, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23 42-925 (1) An order issued under subsection (1) of section 42-924  
24 may be issued ex parte to the respondent if it reasonably appears from  
25 the specific facts included in the affidavit that the petitioner will be  
26 in immediate danger of abuse before the matter can be heard on notice. If  
27 an order is issued ex parte, such order is a temporary order and the  
28 court shall forthwith cause notice of the petition and order to be given  
29 to the respondent. The court shall also cause a form to request a show-  
30 cause hearing to be served upon the respondent. If the respondent wishes  
31 to appear and show cause why the order should not remain in effect, he or

1 she shall affix his or her current address, telephone number, and  
2 signature to the form and return it to the clerk of the district court  
3 within five days after service upon him or her. Upon receipt of the  
4 request for a show-cause hearing, the request of the petitioner, or upon  
5 the court's own motion, the court shall immediately schedule a show-cause  
6 hearing to be held within thirty days after the receipt of the request  
7 for a show-cause hearing and shall notify the petitioner and respondent  
8 of the hearing date. If the respondent appears at the hearing and shows  
9 cause why such order should not remain in effect, the court shall rescind  
10 the temporary order. If the respondent does not so appear and show cause,  
11 the temporary order shall be affirmed and shall be deemed the final  
12 protection order. If the respondent has been properly served with the ex  
13 parte order and fails to appear at the hearing, the temporary order shall  
14 be affirmed and the service of the ex parte order shall be notice of the  
15 final protection order for purposes of prosecution under subsection (4)  
16 of section 42-924.

17 (2) If an order under ~~subsection (1) of~~ section 42-924 is not issued  
18 ex parte, the court shall immediately schedule an evidentiary hearing to  
19 be held within fourteen days after the filing of the petition, and the  
20 court shall cause notice of the hearing to be given to the petitioner and  
21 the respondent. If the respondent does not appear at the hearing and show  
22 cause why such order should not be issued, the court shall issue a final  
23 protection order.

24 (3) The court may by rule or order refer or assign all matters  
25 regarding orders issued under ~~subsection (1) of~~ section 42-924 to a  
26 referee for findings and recommendations.

27 (4) An order issued under ~~subsection (1) of~~ section 42-924 shall  
28 remain in effect for the a period provided in subsection (3) of section  
29 42-924 of one year from the date of issuance, unless dismissed or  
30 modified by the court prior to such date. If the order grants temporary  
31 custody, such custody shall not exceed the number of days specified by

1 the court unless the respondent shows cause why the order should not  
2 remain in effect.

3 (5) The court shall also cause the notice created under section  
4 29-2291 to be served upon the respondent notifying the respondent that it  
5 may be unlawful under federal law for a person who is subject to a  
6 protection order to possess or receive any firearm or ammunition.

7 Sec. 3. Section 43-1609, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 43-1609 (1) Child support referees shall be appointed when necessary  
10 by the district courts, separate juvenile courts, and county courts to  
11 meet the requirements of federal law relating to expediting the  
12 establishment, modification, enforcement, and collection of child,  
13 spousal, or medical support and protection orders issued under ~~subsection~~  
14 ~~(1)~~ of section 42-924.

15 (2) Child support referees shall be appointed by order of the  
16 district court, separate juvenile court, or county court. The Supreme  
17 Court shall appoint child support referees to serve more than one  
18 judicial district if the Supreme Court determines it is necessary.

19 (3) To be qualified for appointment as a child support referee, a  
20 person shall be an attorney in good standing admitted to the practice of  
21 law in the State of Nebraska and shall meet any other requirements  
22 imposed by the Supreme Court. A child support referee shall be sworn or  
23 affirmed to well and faithfully hear and examine the cause and to make a  
24 just and true report according to the best of his or her understanding.  
25 The oath or affirmation may be administered by a district, county, or  
26 separate juvenile court judge. A child support referee may be removed at  
27 any time by the appointing court.

28 (4) The Supreme Court may contract with an attorney to perform the  
29 duties of a referee for a specific case or for a specific amount of time  
30 or may direct a judge of the county court to perform such duties.

31 Sec. 4. Section 43-1611, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2       43-1611 A district court, separate juvenile court, or county court  
3 may by rule or order refer or assign any and all matters regarding the  
4 establishment, modification, enforcement, and collection of child,  
5 spousal, or medical support, paternity matters, and protection orders  
6 issued under ~~subsection (1)~~ of section 42-924 to a child support referee  
7 for findings and recommendations.

8       Sec. 5. Original sections 42-924, 42-925, 43-1609, and 43-1611,  
9 Reissue Revised Statutes of Nebraska, are repealed.