

AMENDMENTS TO LB1032

Introduced by Judiciary.

1 1. Strike the original sections and insert the following new
2 sections:

3 **Section 1.** Section 43-102, Revised Statutes Cumulative Supplement,
4 2024, is amended to read:

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

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

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

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

16 (d) The completed and signed affidavit described in section
17 43-104.09 if required by such section;

18 (e) The completed and signed affidavit described in section
19 43-104.16 if required by such section; and

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

22 (2) The county court of the county in which the person or persons
23 desiring to adopt a child reside has jurisdiction of adoption
24 proceedings, except that if a juvenile court already has jurisdiction
25 over the child to be adopted under the Nebraska Juvenile Code, such
26 juvenile court has concurrent jurisdiction with the county court in such
27 adoption proceeding. If a child to be adopted is a ward of any court or a

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

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

16 **Sec. 2.** Section 43-104, Revised Statutes Cumulative Supplement,
17 2024, is amended to read:

18 43-104 (1) Except as otherwise provided in this section and in the
19 Nebraska Indian Child Welfare Act, no adoption shall be decreed unless
20 written consents thereto are filed in the county court of the county in
21 which the person or persons desiring to adopt reside or in the county
22 court in which the juvenile court having jurisdiction over the custody of
23 the child is located and the written consents are executed by:

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

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

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

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

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

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

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

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

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

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

13 (d) Who is incapable of consenting.

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

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

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

24 (6) Consent shall not be required of an acknowledged or adjudicated
25 father who has failed to timely file a petition pursuant to section
26 43-104.05 for the adjudication of such notice and a determination of
27 whether his consent to the adoption is required and the mother of the
28 child has timely executed a valid relinquishment and consent to the
29 adoption pursuant to such section.

30 (7) Consent shall not be required of an acknowledged father, an
31 adjudicated father, or a putative father who is not required to consent

1 to the adoption pursuant to section 43-104.05 or 43-104.22.

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

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

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

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

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

25 43-107 ~~(1)(a) For adoption placements occurring or in effect prior~~
26 ~~to January 1, 1994, upon the filing of a petition for adoption, the~~
27 ~~county judge shall, except in the adoption of children by stepparents~~
28 ~~when the requirement of an investigation is discretionary, request the~~
29 ~~Department of Health and Human Services or any child placement agency~~
30 ~~licensed by the department to examine the allegations set forth in the~~
31 ~~petition and to ascertain any other facts relating to such minor child~~

1 ~~and the person or persons petitioning to adopt such child as may be~~
2 ~~relevant to the propriety of such adoption, except that the county judge~~
3 ~~shall not be required to request such an examination if the judge~~
4 ~~determines that information compiled in a previous examination or study~~
5 ~~is sufficiently current and comprehensive. Upon the request being made,~~
6 ~~the department or other licensed agency shall conduct an investigation~~
7 ~~and report its findings to the county judge in writing at least one week~~
8 ~~prior to the date set for hearing.~~

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

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

1 child. An adoption decree shall not be issued until such records are on
2 file with the court. The petitioner shall pay the cost of the national
3 criminal history record information check and the check of the central
4 registry.

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

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

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

28 (f) ~~(vi)~~ Any adoptive home study required by this section shall be
29 conducted by the department or a licensed child placement agency at the
30 expense of the petitioner or petitioners unless such expenses are waived
31 by the department or licensed child placement agency. The department or

1 licensed agency shall determine the fee or rate for the adoptive home
2 study.

3 (g) ~~(vii)~~ The preplacement or postplacement adoptive home study
4 shall be performed as prescribed in rules and regulations of the
5 department and shall include at a minimum an examination into the facts
6 relating to the petitioner or petitioners as may be relevant to the
7 propriety of such adoption. Such rules and regulations shall require an
8 adoptive home study to include a national criminal history record
9 information check and a check of the central registry created in section
10 28-718 for any history of the petitioner or petitioners of behavior
11 injurious to or which may endanger the health or morals of a child.

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

1 the original medical history or histories to the department. This
2 subsection shall only apply when the relinquishment or consent for an
3 adoption is given on or after September 1, 1988.

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

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

21 **Sec. 4.** Section 43-108, Revised Statutes Cumulative Supplement,
22 2024, is amended to read:

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

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

3 **Sec. 5.** Section 43-109, Revised Statutes Cumulative Supplement,
4 2024, is amended to read:

5 43-109 (1) Except as otherwise provided in the Nebraska Indian Child
6 Welfare Act, if If, upon the hearing, the court finds that such adoption
7 is for the best interests of such minor child or such adult child, a
8 decree of adoption shall be entered. No decree of adoption shall be
9 entered unless:

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

14 (b) The medical histories required by subsection (2) of section
15 43-107 have been made a part of the court record;

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

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

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

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

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

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

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

3 43-110 Except as otherwise provided in the Nebraska Indian Child
4 Welfare Act, after After a decree of adoption is entered, the usual
5 relation of parent and child and all the rights, duties and other legal
6 consequences of the natural relation of child and parent shall thereafter
7 exist between such adopted child and the person or persons adopting such
8 child and his, her or their kindred.

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

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

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

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

30 43-117 (1) The Department of Health and Human Services may make
31 payments as needed, after the legal completion of an adoption, including

1 a tribal customary adoption as defined in section 43-1503, on behalf of a
2 child who immediately preceding the adoption was (a) a ward of the
3 department with special needs or (b) the subject of a state-subsidized
4 guardianship. Such payments to adoptive parents may include maintenance
5 costs, medical and surgical expenses, and other costs incidental to the
6 care of the child. Payments for maintenance and medical care shall
7 terminate on or before the child's twentieth birthday.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 jurisdiction as to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the child as a result of such sexual assault.

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

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

9 43-1312 (1) Following the investigation conducted pursuant to
10 section 43-1311 and immediately following the initial placement of the
11 child, the person or court in charge of the child shall cause to be
12 established a safe and appropriate plan for the child. The plan shall
13 contain at least the following:

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

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

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

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

21 (e) A complete record of the previous placements of the foster
22 child;

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

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

28 (2)(a) Subject to subdivision (2)(b) of this section, if (2) If the
29 return of the child to his or her parents is not likely based upon facts
30 developed as a result of the investigation, the Department of Health and
31 Human Services shall recommend termination of parental rights and

1 referral for adoption, guardianship, placement with a relative, or, as a
2 last resort, and only in the case of a child who has attained sixteen
3 years of age, another planned permanent living arrangement. If the child
4 is removed from his or her home, the department shall make reasonable
5 efforts to accomplish joint-sibling placement or sibling visitation or
6 ongoing interaction between the siblings as provided in section
7 43-1311.02.

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

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

20 (a) Returned to the parent;

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

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

25 (d) Referred for guardianship; or

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

31 (4) As provided in the Nebraska Strengthening Families Act, in the

1 case of any child age sixteen years of age or older for whom another
2 planned permanent living arrangement is the recommended or court-approved
3 permanency plan:

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

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

12 (c) The court shall:

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

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

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

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

27 43-1312.01 (1) If the permanency plan for a child established
28 pursuant to section 43-1312 does not recommend return of the child to his
29 or her parent or that the child be placed for adoption, including a
30 tribal customary adoption as defined in section 43-1503, the juvenile
31 court may place the child in a guardianship in a relative home as defined

1 in section 71-1901, in a kinship home as defined in section 71-1901, or
2 with an individual as provided in section 43-285 if:

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

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

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

8 (d) The guardian:

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

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

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

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

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

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

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

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

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

31 (3) The juvenile court shall retain jurisdiction over the child for

1 modification or termination of the guardianship order. The court shall
2 discontinue permanency reviews and case reviews and shall relieve the
3 Department of Health and Human Services of the responsibility of
4 supervising the placement of the child. Notwithstanding the retention of
5 juvenile court jurisdiction, the guardianship placement shall be
6 considered permanent for the child.

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

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

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

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

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

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

31 (c) The responsibility of the parents to provide financial, medical,

1 or other support as ordered by the court.

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

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

6 43-1314 (1) Except as otherwise provided in the Nebraska Indian
7 Child Welfare Act, notice of the court review or hearing and the right of
8 participation in all court reviews and hearings pertaining to a child in
9 a foster care placement shall be provided by the court having
10 jurisdiction over such child for the purposes of foster care placement.
11 The Department of Health and Human Services or contract agency shall have
12 the contact information for all child placements available for all courts
13 to comply with the notification requirements found in this section. The
14 department or contract agency shall each have one telephone number by
15 which any court seeking to provide notice may obtain up-to-date contact
16 information of all persons listed in subdivisions (2)(a) through (h) of
17 this section. All contact information shall be up-to-date within seventy-
18 two hours of any placement change.

19 (2) Notice shall be provided to all of the following parties that
20 are applicable to the case: (a) The person charged with the care of such
21 child; (b) the child's parents or guardian unless the parental rights of
22 the parents have been terminated by court action as provided in section
23 43-292 or 43-297; (c) the foster child if age fourteen or over; (d) the
24 foster parent or parents of the foster child; (e) the guardian ad litem
25 of the foster child; (f) the office and designated local board; (g) the
26 preadoptive parent, including a preadoptive parent of a tribal customary
27 adoption as defined in section 43-1503; and (h) the relative providing
28 care for the child. Notice of all court reviews and hearings shall be
29 mailed or personally delivered to the counsel or party, if the party is
30 not represented by counsel, five full days prior to the review or
31 hearing. The use of ordinary mail shall constitute sufficient compliance.

1 Notice to the foster parent, preadoptive parent, or relative providing
2 care shall not be construed to require that such foster parent,
3 preadoptive parent, or relative is a necessary party to the review or
4 hearing.

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

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

10 43-1501 Sections 43-1501 to 43-1517 and sections 20 and 23 to 29 of
11 this act shall be known and may be cited as the Nebraska Indian Child
12 Welfare Act.

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

15 43-1503 For purposes of the Nebraska Indian Child Welfare Act,
16 except as may be specifically provided otherwise:

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

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

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

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

31 (d) Identification of and provision of information to the Indian

1 child's extended family members known to the department or the state
2 concerning appropriate community, state, and federal resources that may
3 be able to offer housing, financial, and transportation assistance and
4 actively assisting the family in accessing such community, state, and
5 federal resources;

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

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

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

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

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

24 (a) Using practices in compliance with the federal Indian Child
25 Welfare Act, the Nebraska Indian Child Welfare Act, and other applicable
26 laws that are designed to prevent the Indian child's voluntary or
27 involuntary out-of-home placement; and

28 (b) Whenever an out-of-home placement is necessary, placing the
29 child, to the greatest extent possible, in a foster home, adoptive
30 placement, or other type of custodial placement that reflects the unique
31 values of the Indian child's tribal culture and is best able to assist

1 the child in establishing, developing, and maintaining a political,
2 cultural, and social relationship with the Indian child's tribe or tribes
3 and tribal community;

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

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

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

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

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

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

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

22 (e) Voluntary foster care placement which shall mean a non-court-
23 involved proceeding in which the department or the state is facilitating
24 a voluntary foster care placement or in-home services to families at risk
25 of entering the foster care system. An Indian child, parent, or tribe
26 involved in a voluntary foster care placement shall only be provided
27 protections as provided in subsection (4) of section 43-1505 and sections
28 43-1506 and 43-1508.

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

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

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

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

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

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

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

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

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

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

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

4 (13) Indian tribe shall mean any Indian tribe, band, nation, or
5 other organized group or community of Indians recognized as eligible for
6 the services provided to Indians by the secretary because of their status
7 as Indians, including any Alaska Native village as defined in section
8 3(c) of the Alaska Native Claims Settlement Act, as amended, 43 U.S.C.
9 1602(c);

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

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

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

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

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

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

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

3 (16) Reservation shall mean Indian country as defined in 18 U.S.C.
4 1151 and any lands, not covered under such section, title to which is
5 either held by the United States in trust for the benefit of any Indian
6 tribe or individual or held by any Indian tribe or individual subject to
7 a restriction by the United States against alienation or a federally
8 designated or established service area which means a geographic area
9 designated by the United States where federal services and benefits
10 furnished to Indians and Indian tribes are provided or which is otherwise
11 designated to constitute an area on or near a reservation;

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

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

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

23 (20) ~~(19)~~ Tribal service area shall mean a geographic area, as
24 defined by the applicable Indian tribe or tribes, in which tribal
25 services and programs are provided to Indians.

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

28 43-1505 (1) In any involuntary proceeding in a state court, when the
29 court knows or has reason to know that an Indian child is involved, the
30 party seeking the foster care placement of, or termination of parental
31 rights to, an Indian child shall send a notice conforming to the

1 requirements of 25 C.F.R. 23.11 to the parents, the Indian custodian, and
2 the Indian child's tribe or tribes, by registered mail with return
3 receipt requested, of the pending proceedings and of their right of
4 intervention. If the identity or location of the parent or Indian
5 custodian and the tribe or tribes cannot be determined, such notice shall
6 be given to the secretary in like manner, who may provide the requisite
7 notice to the parent or Indian custodian and the tribe or tribes. No
8 foster care placement or termination of parental rights proceedings shall
9 be held until at least ten days after receipt of notice by the parent or
10 Indian custodian and the tribe or tribes or the secretary. The parent or
11 Indian custodian or the tribe or tribes shall, upon request, be granted
12 up to twenty additional days to prepare for such proceeding.

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

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

27 (4) Any party seeking to effect a foster care placement of, or
28 termination of parental rights to, an Indian child under state law shall
29 satisfy the court that active efforts have been made to provide remedial
30 services and rehabilitative programs designed to prevent the breakup of
31 the Indian family or unite the parent or Indian custodian with the Indian

1 child and that these efforts have proved unsuccessful. Any written
2 evidence showing that active efforts have been made shall be admissible
3 in a proceeding under the Nebraska Indian Child Welfare Act. Prior to the
4 court ordering placement of the child in foster care or the termination
5 of parental rights, the court shall make a determination that active
6 efforts have been provided or that the party seeking placement or
7 termination has demonstrated that attempts were made to provide active
8 efforts to the extent possible under the circumstances.

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

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

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

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

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

30 (ii) By the time of the adjudication hearing on the termination of
31 parental rights, the tribe did not file an objection with the court

1 stating its belief that tribal customary adoption would be appropriate
2 for the child and in the best interests of the Indian child.

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

7 (b) The notice required by this subsection shall:

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

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

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

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

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

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

26 (b) The notice required by this subsection shall:

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

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

29 (iii) Be sent at least twenty days prior to the adjudication hearing
30 on termination; and

31 (iv) State that the tribe has the right to file an objection with

1 the court by the time of the adjudication hearing stating the tribe's
2 belief that tribal customary adoption is an appropriate permanency plan
3 for the child and in the best interests of the Indian child.

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

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

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

31 (3) When the department or the state offers the parent or Indian

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

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

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

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

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

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

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

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

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

31 (g) The promises, if any, made to the parent, as a condition of the

1 parent's consent, including promises regarding the tribal affiliation or
2 health, ethnic, religious, economic, or other personal characteristics of
3 any adoptive family with which the child would be placed; and

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

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

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

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

20 (7) ~~(6)~~ Any parent or Indian custodian may withdraw consent to a
21 foster care or voluntary foster care placement under state law at any
22 time and, upon such withdrawal, the child shall be returned to the parent
23 or Indian custodian.

24 (8) ~~(7)~~ In any voluntary proceedings for termination of parental
25 rights to, or adoptive placement of, an Indian child, the consent of the
26 parent may be withdrawn for any reason at any time prior to the entry of
27 a final decree of termination or adoption, as the case may be, and the
28 child shall be returned to the parent.

29 (9) ~~(8)~~ After the entry of a final decree of adoption of an Indian
30 child in any state court, the parent may withdraw consent thereto upon
31 the grounds that consent was obtained through fraud or duress and may

1 petition the court to vacate such decree. Upon a finding that such
2 consent was obtained through fraud or duress, the court shall vacate such
3 decree and return the child to the parent. No adoption which has been
4 effective for at least two years may be invalidated under the provisions
5 of this subsection unless otherwise permitted under state law.

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

8 43-1507 Any Indian child who is the subject of any action for foster
9 care placement or termination of parental rights under state law, any
10 parent or Indian custodian from whose custody such child was removed, and
11 the Indian child's primary tribe may petition any court of competent
12 jurisdiction to invalidate such action upon a showing that such action
13 violated any provision of sections 43-1504 to 43-1506 or sections 20 and
14 23 to 29 of this act.

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

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

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

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

29 (ii) The documents, reports, or other information that must be filed
30 with the state court upon transfer back to the state court for accepting
31 the order or judgment for tribal customary adoption as described in

1 subdivision (2)(b) of section 26 of this act; and

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

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

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

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

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

16 **Sec. 24.** (1) An Indian tribe participating in a tribal customary
17 adoption may conduct the adoptive home study required by section 43-107,
18 or designate another party to conduct such study in consultation with the
19 tribe, so long as the study meets the nationally accepted standards for
20 tribal licensing and approval.

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

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

1 limited to, services through the Indian Health Service.

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

5 (i) Finalize the order or judgment of tribal customary adoption;

6 (ii) Transfer proceedings back to state court; and

7 (iii) Provide the state court with a copy of such final order or
8 judgment.

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

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

18 (a) The order or judgment:

19 (i) Includes a description of:

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

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

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

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

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

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

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

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

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

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

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

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

19 (4)(a) Any parental rights or obligations not specifically retained
20 by the Indian child's biological parents in the decree of adoption are
21 conclusively presumed to transfer to the tribal customary adoptive
22 parents.

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

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

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

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

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

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

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

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

20 **Sec. 30.** Original sections 43-107, 43-110, 43-116, 43-117,
21 43-117.02, 43-292, 43-1312, 43-1312.01, 43-1314, 43-1501, 43-1503,
22 43-1505, 43-1506, and 43-1507, Reissue Revised Statutes of Nebraska, and
23 sections 43-102, 43-104, 43-108, 43-109, 43-146.01, 43-246.01, and
24 43-292.02, Revised Statutes Cumulative Supplement, 2024, are repealed.