

E AND R AMENDMENTS TO LB 712

Introduced by Enrollment and Review Committee: Nordquist, 7,  
Chairperson

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

3           Section 1. Section 25-410, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           25-410 (1) For the convenience of the parties and  
6 witnesses or in the interest of justice, a district court of  
7 any county, the transferor court, may transfer any civil action  
8 to the district court of any other county in this state, the  
9 transferee court. The transfer may occur before or after the entry  
10 of judgment, and there shall be no additional fees required for the  
11 transfer.

12           (2) To transfer a civil action, the transferor court  
13 shall order transfer of the action to the specific transferee court  
14 requested. The clerk of the transferor court shall file with the  
15 transferee court within ten days after the entry of the transfer  
16 order: Certification of the proceedings; all original documents of  
17 the action; certification of the transcript of docket entries; and  
18 certification of the payment records of any judgment in the action  
19 maintained by the transferor court.

20           (3) Upon the filing of such documents by the clerk of the  
21 transferor court, the clerk of the transferee court shall enter any  
22 judgment in the action on the judgment record of the transferee  
23 court. The judgment, once filed and entered on the judgment record

1 of the transferee court, shall be a lien on the property of the  
2 debtor in any county in which such judgment is filed. Transfer of  
3 the action shall not change the obligations of the parties under  
4 any judgment entered in the action regardless of the status of the  
5 transfer.

6 (4) If the transferred civil action involves a support  
7 order that has payment records maintained by the Title IV-D  
8 Division as defined in section 43-3341, the transferor court order  
9 shall notify the division to make the necessary changes in the  
10 support payment records. Support payments shall commence in the  
11 transferee court on the first day of the month following the order  
12 of transfer, payments made prior to such date shall be considered  
13 payment on a judgment entered by the transferor court, and payments  
14 made on and after such date shall be considered payment on a  
15 judgment entered by the transferee court.

16 Sec. 2. Section 25-1625, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 25-1625 (1) In each county of the State of Nebraska there  
19 shall be a jury commissioner.

20 (2) In counties having a population of not more than  
21 fifty thousand inhabitants, the clerk of the district court shall  
22 be jury commissioner ex officio.

23 (3) In counties having a population of more than fifty  
24 thousand, and not more than ~~one~~ two hundred ~~fifty~~ thousand  
25 inhabitants, the jury commissioner shall be a separate office  
26 in the county government or the duties may be performed, when  
27 authorized by the judges of the district court within such

1 counties, by the election commissioner. The jury commissioner  
2 shall receive an annual salary of not less than twelve hundred  
3 dollars.

4 ~~(4) In counties having a population of more than one~~  
5 ~~hundred fifty thousand inhabitants and not more than two hundred~~  
6 ~~thousand inhabitants, the clerk of the district court shall perform~~  
7 ~~the duties of jury commissioner without additional compensation.~~

8 ~~(5)~~ (4) In counties having a population in excess of  
9 two hundred thousand inhabitants, the judges of the district court  
10 within such counties shall determine whether the clerk of the  
11 district court will perform the duties of jury commissioner without  
12 additional compensation or the election commissioner will be jury  
13 commissioner ex officio.

14 ~~(6)~~ (5) In all counties the necessary expenses incurred  
15 in the performance of the duties of jury commissioner shall be  
16 paid by the county board of the county out of the general fund,  
17 upon proper claims approved by one of the district judges in the  
18 judicial district and duly filed with the county board.

19 ~~(7)~~ (6) In all counties the jury commissioner shall  
20 prepare and file the annual inventory statement with the county  
21 board of the county of all county personal property in his or her  
22 custody or possession, as provided in sections 23-346 to 23-350.

23 Sec. 3. Section 25-1628, Revised Statutes Supplement,  
24 2009, is amended to read:

25 25-1628 (1) At least once each calendar year, the  
26 officer having charge of the election records shall furnish to  
27 the jury commissioner a complete list of the names, dates of

1 birth, and addresses, and motor vehicle operator license numbers  
2 or state identification card numbers of all registered electors  
3 nineteen years of age or older in the county. The Department  
4 of Motor Vehicles shall make available to each jury commissioner  
5 each December a list in magnetic, optical, digital, or other  
6 electronic format mutually agreed to by the jury commissioner and  
7 the department containing the names, dates of birth, and addresses,  
8 and motor vehicle operator license numbers or state identification  
9 card numbers of all licensed motor vehicle operators and state  
10 identification card holders nineteen years of age or older in the  
11 county. The jury commissioner may request such a list of licensed  
12 motor vehicle operators and state identification card holders from  
13 the county treasurer if the county treasurer has an automated  
14 procedure for developing such lists. If a jury commissioner  
15 requests similar lists at other times from the department, the  
16 cost of processing such lists shall be paid by the county which the  
17 requesting jury commissioner serves.

18 (2) Upon receipt of both lists described in subsection  
19 (1) of this section, the jury commissioner shall combine the  
20 separate lists and attempt to reduce duplication to the best of  
21 his or her ability to produce a master list. In counties having  
22 a population of ~~three~~ seven thousand inhabitants or more, the  
23 jury commissioner shall produce a master list at least once each  
24 calendar year. In counties having a population of three thousand  
25 inhabitants but less than three seven thousand inhabitants, the  
26 jury commissioner shall produce a master list at least once every  
27 two calendar years. In counties having a population of less than

1 three thousand inhabitants, the jury commissioner shall produce a  
2 master list at least once every five calendar years.

3 (3) The proposed juror list shall be derived by selecting  
4 from the master list the name of the person whose numerical order  
5 on such list corresponds with the key number and each successive  
6 tenth name thereafter. The jury commissioner shall certify that  
7 the proposed juror list has been made in accordance with sections  
8 25-1625 to 25-1637.

9 (4) Any duplication of names on a master list shall not  
10 be grounds for quashing any panel pursuant to section 25-1637 or  
11 for the disqualification of any juror.

12 Sec. 4. Section 25-2720.01, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 25-2720.01 The county court, including the Small Claims  
15 Court and the county court when sitting as a juvenile court, shall  
16 have the power to set aside default judgments and to vacate or  
17 modify its own judgments or orders during or after the term at  
18 which such judgments or orders were made in the same manner as  
19 provided for actions filed in the district court.

20 Sec. 5. Section 25-2803, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 25-2803 (1) Parties in the Small Claims Court may  
23 be individuals, partnerships, limited liability companies,  
24 corporations, unions, associations, or any other kind of  
25 organization or entity.

26 (2) No party shall be represented by an attorney in the  
27 Small Claims Court except as provided in ~~section~~ sections 25-2804

1 and 25-2805.

2 (3) An individual shall represent himself or herself in  
3 the Small Claims Court. A partnership shall be represented by a  
4 partner or one of its employees. A limited liability company shall  
5 be represented by a member, a manager, or one of its employees.  
6 A union shall be represented by a union member or union employee.  
7 A corporation shall be represented by one of its employees. An  
8 association shall be represented by one of its members or by an  
9 employee of the association. Any other kind of organization or  
10 entity shall be represented by one of its members or employees.

11 (4) Only a party, natural or otherwise, who has been a  
12 party to the transaction with the defendant for which the claim is  
13 brought may file and prosecute a claim in the Small Claims Court.

14 (5) No party may file an assigned claim in the Small  
15 Claims Court.

16 (6) No party shall file more than two claims within any  
17 calendar week nor more than ten claims in any calendar year in  
18 the Small Claims Court. This subsection shall not apply to actions  
19 brought pursuant to section 25-21,194.

20 (7) Notwithstanding any other provision of this section,  
21 a personal representative of a decedent's estate, a guardian, or a  
22 conservator may be a party in the Small Claims Court.

23 Sec. 6. Section 25-2804, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 25-2804 (1) Actions in the Small Claims Court shall be  
26 commenced by the filing of a claim, personally or by mail, by  
27 the plaintiff on a form provided by the clerk of a county court.

1 The claim form shall be executed by the plaintiff in the presence  
2 of a judge, a clerk or deputy or assistant clerk of a county  
3 court, or a notary public or other person authorized by law to  
4 take acknowledgments. If not filed in person, the claim form and  
5 appropriate fees shall be mailed by the plaintiff to the court of  
6 proper jurisdiction.

7 (2) At the time of the filing of the claim, the plaintiff  
8 shall pay a fee of six dollars and twenty-five cents to the clerk.  
9 One dollar and twenty-five cents of such fee shall be remitted to  
10 the State Treasurer for credit to the Nebraska Retirement Fund for  
11 Judges.

12 (3) Upon filing of a claim in the Small Claims Court,  
13 the court shall set a time for hearing and shall cause notice to  
14 be served upon the defendant. Notice shall be served not less than  
15 five days before the time set for hearing. Notice shall consist  
16 of a copy of the complaint and a summons directing the defendant  
17 to appear at the time set for hearing and informing the defendant  
18 that if he or she fails to appear, judgment will be entered against  
19 him or her. Notice shall be served in the manner provided for  
20 service of a summons in a civil action. If the notice is to be  
21 served by certified mail, the clerk shall provide the plaintiff  
22 with written instructions, prepared and provided by the State  
23 Court Administrator, regarding the proper procedure for service by  
24 certified mail. The cost of service shall be paid by the plaintiff,  
25 but such cost and filing fee shall be added to any judgment given  
26 the plaintiff.

27 (4) The defendant may file a setoff or counterclaim. Any

1 setoff or counterclaim shall be filed and a copy delivered to  
2 the plaintiff at least two days prior to the time of trial. If  
3 the setoff or counterclaim exceeds the jurisdictional limits of  
4 the Small Claims Court as established pursuant to section 25-2802,  
5 the court shall cause the entire matter to be transferred to the  
6 regular county court docket and set for trial.

7 (5) No prejudgment actions for attachment, garnishment,  
8 replevin, or other provisional remedy may be filed in the Small  
9 Claims Court.

10 (6) All forms required by this section shall be  
11 prescribed by the Supreme Court. The claim form shall provide for  
12 the names and addresses of the plaintiff and defendant, a concise  
13 statement of the nature, amount, and time and place of accruing of  
14 the claim, and an acknowledgment for use by the person in whose  
15 presence the claim form is executed and shall also contain a brief  
16 explanation of the Small Claims Court procedure and methods of  
17 appeal therefrom.

18 ~~(7) Judgments rendered against a defendant in his or her~~  
19 ~~absence may not be set aside but may only be appealed as governed~~  
20 ~~by section 25-2807.~~

21 (7) For a default judgment rendered by a Small Claims  
22 Court (a) the default judgment may be appealed as provided in  
23 section 25-2807, (b) if a motion for a new trial, by the procedure  
24 provided in sections 25-1142, 25-1144, and 25-1144.01, is filed ten  
25 days or less after entry of the default judgment, the court may act  
26 upon the motion without a hearing, or (c) if more than ten days  
27 have passed since the entry of the default judgment, the court may



1 set aside, vacate, or modify the default judgment as provided in  
2 section 25-2720.01. Parties may be represented by attorneys for the  
3 purpose of filing a motion for a new trial or to set aside, vacate,  
4 or modify a default judgment.

5           Sec. 7. Section 28-1006, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           28-1006 (1) It shall be the duty of the sheriff, a police  
8 officer, or the Nebraska State Patrol to make prompt investigation  
9 of and arrest for any violation of section 28-1005.

10           (2) Any animal, equipment, device, or other property  
11 or things involved in any violation of section 28-1005 shall be  
12 subject to seizure, and disposition may be made in accordance  
13 with the method of disposition directed for contraband in ~~section~~  
14 sections 29-818 and 29-820.

15           (3) Any animal involved in any violation of section  
16 28-1005 shall be subject to seizure. Distribution or disposition  
17 ~~may~~ shall be made as provided in section 29-818 and in such manner  
18 as the court may direct. The court may give preference to adoption  
19 alternatives through humane societies or comparable institutions  
20 and to the protection of such animal's welfare. For a humane  
21 society or comparable institution to be considered as an adoption  
22 alternative under this subsection, it must first be licensed by  
23 the Department of Agriculture as having passed the inspection  
24 requirements in the Commercial Dog and Cat Operator Inspection  
25 Act and paid the fee for inspection under the act. The court may  
26 prohibit an adopting or purchasing party from selling such animal  
27 for a period not to exceed one year.

1           (4) In addition to any other sentence given for a  
2 violation of section 28-1005, the sentencing court may order the  
3 defendant to reimburse a public or private agency for expenses  
4 incurred in conjunction with the care, impoundment, or disposal,  
5 including adoption, of an animal involved in the violation of  
6 such section. Whenever the court believes that such reimbursement  
7 may be a proper sentence or the prosecuting attorney requests,  
8 the court shall order that the presentence investigation report  
9 include documentation regarding the nature and amount of the  
10 expenses incurred. The court may order that reimbursement be made  
11 immediately, in specified installments, or within a specified  
12 period of time, not to exceed five years after the date of  
13 judgment.

14           Sec. 8. Section 28-1012, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           28-1012 (1) Any law enforcement officer who has reason  
17 to believe that an animal has been abandoned or is being cruelly  
18 neglected or cruelly mistreated may seek a warrant authorizing  
19 entry upon private property to inspect, care for, or impound the  
20 animal.

21           (2) Any law enforcement officer who has reason to believe  
22 that an animal has been abandoned or is being cruelly neglected or  
23 cruelly mistreated may issue a citation to the owner as prescribed  
24 in sections 29-422 to 29-429.

25           (3) Any animal, equipment, device, or other property or  
26 things involved in a violation of section 28-1009 or 28-1010 shall  
27 be subject to seizure and distribution or disposition ~~may~~ shall

1 be made under section 29-818 and in such manner as the court may  
2 direct.

3 (4) Any animal involved in a violation of section  
4 28-1009 or 28-1010 shall be subject to seizure. Distribution  
5 or disposition ~~may~~ shall be made under section 29-818 and in such  
6 manner as the court may direct. The court may consider adoption  
7 alternatives through humane societies or comparable institutions  
8 and the protection of such animal's welfare. For a humane  
9 society or comparable institution to be considered as an adoption  
10 alternative under this subsection, it must first be licensed by  
11 the Department of Agriculture as having passed the inspection  
12 requirements in the Commercial Dog and Cat Operator Inspection  
13 Act and paid the fee for inspection under the act. The court may  
14 prohibit an adopting or purchasing party from selling such animal  
15 for a period not to exceed one year.

16 (5) Any law enforcement officer acting under this section  
17 shall not be liable for damage to property if such damage is not  
18 the result of the officer's negligence.

19 Sec. 9. Section 28-1019, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 28-1019 (1) (a) If a person is convicted of a Class IV  
22 felony under section 28-1005 or 28-1009, the sentencing court shall  
23 order such person not to own, possess, or reside with any animal  
24 for at least five years after the date of conviction, but such time  
25 restriction shall not exceed fifteen years. Any person violating  
26 such court order shall be guilty of a Class I misdemeanor.

27 (b) If a person is convicted of a Class I misdemeanor

1 under subdivision (2)(a) of section 28-1009 or a Class III  
2 misdemeanor under section 28-1010, the sentencing court may order  
3 such person not to own, possess, or reside with any animal after  
4 the date of conviction, but such time restriction, if any, shall  
5 not exceed five years. Any person violating such court order shall  
6 be guilty of a Class IV misdemeanor.

7 (c) Any animal involved in a violation of a court order  
8 under subdivision (a) or (b) of this subsection shall be subject  
9 to seizure by law enforcement. Distribution or disposition shall be  
10 made under section 29-818.

11 (2) This section shall not apply to any person convicted  
12 under section 28-1005 or 28-1009 if a licensed physician confirms  
13 in writing that ownership or possession of or residence with an  
14 animal is essential to the health of such person.

15 Sec. 10. Section 29-818, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 29-818 ~~Property~~ (1) Except for pet animals or equines  
18 as provided in subsection (2) of this section, property seized  
19 under a search warrant or validly seized without a warrant shall  
20 be safely kept by the officer seizing the same unless otherwise  
21 directed by the judge or magistrate, and shall be so kept so long  
22 as necessary for the purpose of being produced as evidence on any  
23 trial. Property seized may not be taken from the officer having it  
24 in custody by replevin or other writ so long as it is or may be  
25 required as evidence in any trial, nor may it be so taken in any  
26 event where a complaint has been filed in connection with which  
27 the property was or may be used as evidence, and the court in

1 which such complaint was filed shall have exclusive jurisdiction  
2 for disposition of the property or funds and to determine rights  
3 therein, including questions respecting the title, possession,  
4 control, and disposition thereof.

5 (2) (a) Any pet animal or equine seized under a search  
6 warrant or validly seized without a warrant may be kept by the  
7 officer seizing the same on the property of the person who owns,  
8 keeps, harbors, maintains, or controls such pet animal or equine.

9 (b) When any pet animal or equine is seized or held the  
10 court shall provide the person who owns, keeps, harbors, maintains,  
11 or controls such pet animal or equine with notice that a hearing  
12 will be had and specify the date, time, and place of such hearing.  
13 Such notice shall be served by personal or residential service or  
14 by certified mail. If such notice cannot be served by such methods,  
15 service may be made by publication in the county where such pet  
16 animal or equine was seized. Such publication shall be made after  
17 application and order of the court. Unless otherwise determined and  
18 ordered by the court, the date of such hearing shall be no later  
19 than ten days after the seizure.

20 (c) At the hearing, the court shall determine the  
21 disposition of the pet animal or equine, and if the court  
22 determines that any pet animal or equine shall not be returned, the  
23 court shall order the person from whom the pet animal or equine  
24 was seized to pay all expenses for the support and maintenance of  
25 the pet animal or equine, including expenses for shelter, food,  
26 veterinary care, and board, necessitated by the possession of the  
27 pet animal or equine. At the hearing, the court shall also consider

1 the person's ability to pay for the expenses of the pet animal  
2 or equine and the amount of such payments. Payments shall be for  
3 a succeeding thirty-day period with the first payment due on or  
4 before the tenth day following the hearing. Payments for each  
5 subsequent succeeding thirty-day period, if any, shall be due on or  
6 before the tenth day of such period.

7 (d) If a person becomes delinquent in his or her payments  
8 for the expenses of the pet animal or equine, the court shall hold  
9 a hearing to determine the disposition of the seized pet animal or  
10 equine. Notice of such hearing shall be given to the person who  
11 owns, keeps, harbors, maintains, or controls such pet animal or  
12 equine and to any lienholder or security interest holder of record  
13 as provided in subdivision (b) of this subsection.

14 (e) An appeal may be entered within ten days after a  
15 hearing under subdivision (c) or (d) of this subsection. Any person  
16 filing an appeal shall post a bond sufficient to pay all costs of  
17 care of the pet animal or equine for thirty days. Such payment will  
18 be required for each succeeding thirty-day period until the appeal  
19 is final.

20 (f) Should the person be found not guilty, all funds paid  
21 for the expenses of the pet animal or equine shall be returned to  
22 the person.

23 (g) For purposes of this subsection:

24 (i) Pet animal means any domestic dog, domestic cat, mini  
25 pig, domestic rabbit, domestic ferret, domestic rodent, bird except  
26 a bird raised as an agricultural animal and specifically excluding  
27 any bird possessed under a license issued by the State of Nebraska

1 or the United States Fish and Wildlife Service, nonlethal aquarium  
2 fish, nonlethal invertebrate, amphibian, turtle, nonvenomous snake  
3 that will not grow to more than eight feet in length at maturity,  
4 or such other animal as may be specified and for which a permit  
5 shall be issued by an animal control authority after inspection and  
6 approval, except that any animal forbidden to be sold, owned, or  
7 possessed by federal or state law is not a pet animal; and

8 (ii) Equine means a horse, pony, donkey, mule, hinny, or  
9 llama.

10 (h) This section shall not preempt, and shall not be  
11 construed to preempt, any ordinance of a city of the metropolitan  
12 class.

13 Sec. 11. Section 29-1207, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 29-1207 (1) Every person indicted or informed against for  
16 any offense shall be brought to trial within six months, and such  
17 time shall be computed as provided in this section.

18 (2) Such six-month period shall commence to run from the  
19 date the indictment is returned or the information filed, unless  
20 the offense is a misdemeanor offense involving intimate partners,  
21 as that term is defined in section 28-323, in which case the  
22 six-month period shall commence from the date the defendant is  
23 arrested on a complaint filed as part of a warrant for arrest.

24 (3) If a defendant is to be tried again following a  
25 mistrial, an order for a new trial, or an appeal or collateral  
26 attack, such period shall commence to run from the date of the  
27 mistrial, order granting a new trial, or the mandate on remand.

1           (4) The following periods shall be excluded in computing  
2 the time for trial:

3           (a) The period of delay resulting from other proceedings  
4 concerning the defendant, including, but not limited to, an  
5 examination and hearing on competency and the period during which  
6 he or she is incompetent to stand trial; the time from filing until  
7 final disposition of pretrial motions of the defendant, including  
8 motions to suppress evidence, motions to quash the indictment or  
9 information, demurrers and pleas in abatement, and motions for a  
10 change of venue; and the time consumed in the trial of other  
11 charges against the defendant;

12           (b) The period of delay resulting from a continuance  
13 granted at the request or with the consent of the defendant or his  
14 or her counsel. A defendant without counsel shall not be deemed to  
15 have consented to a continuance unless he or she has been advised  
16 by the court of his or her right to a speedy trial and the effect  
17 of his or her consent. A defendant who has sought and obtained a  
18 continuance which is indefinite has an affirmative duty to end the  
19 continuance by giving notice of request for trial or the court can  
20 end the continuance by setting a trial date. When the court ends  
21 an indefinite continuance by setting a trial date, the excludable  
22 period resulting from the indefinite continuance ends on the date  
23 for which trial commences. A defendant is deemed to have waived his  
24 or her right to speedy trial when the period of delay resulting  
25 from a continuance granted at the request of the defendant or  
26 his or her counsel extends the trial date beyond the statutory  
27 six-month period;



1           (c) The period of delay resulting from a continuance  
2 granted at the request of the prosecuting attorney, if:

3           (i) The continuance is granted because of the  
4 unavailability of evidence material to the state's case, when the  
5 prosecuting attorney has exercised due diligence to obtain such  
6 evidence and there are reasonable grounds to believe that such  
7 evidence will be available at the later date; or

8           (ii) The continuance is granted to allow the prosecuting  
9 attorney additional time to prepare the state's case and additional  
10 time is justified because of the exceptional circumstances of the  
11 case;

12           (d) The period of delay resulting from the absence or  
13 unavailability of the defendant;

14           (e) A reasonable period of delay when the defendant is  
15 joined for trial with a codefendant as to whom the time for trial  
16 has not run and there is good cause for not granting a severance.  
17 In all other cases, the defendant shall be granted a severance so  
18 that he or she may be tried within the time limits applicable to  
19 him or her; and

20           (f) Other periods of delay not specifically enumerated in  
21 this section, but only if the court finds that they are for good  
22 cause.

23           Sec. 12. Section 29-1208, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           29-1208 If a defendant is not brought to trial before the  
26 running of the time for trial as provided for in section 29-1207,  
27 as extended by excluded periods, he or she shall be entitled to

1 his or her absolute discharge from the offense charged and for any  
2 other offense required by law to be joined with that offense.

3 Sec. 13. Section 29-2412, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 29-2412 (1) Whenever it is made satisfactorily to appear  
6 to the district court, or to the county judge of the proper county,  
7 after all legal means have been exhausted, that any person who is  
8 subject to being or is confined in jail for any fine or costs of  
9 prosecution for any criminal offense has no estate with which to  
10 pay such fine or costs, it shall be the duty of such court or  
11 judge, on his or her own motion or upon the motion of the person  
12 so confined, to discharge such person from further imprisonment for  
13 such fine or costs, which discharge shall operate as a complete  
14 release of such fine or costs.

15 (2) Nothing in this section shall authorize any person to  
16 be discharged from imprisonment before the expiration of the time  
17 for which he or she may be sentenced to be imprisoned, as part  
18 of his or her punishment, or when such person shall default on a  
19 payment due pursuant to an installment agreement arranged by the  
20 court.

21 (3) Any person held in custody for nonpayment of a fine  
22 or costs or for default on an installment shall be entitled to a  
23 credit on the fine, costs, or installment of ~~sixty~~ ninety dollars  
24 for each day so held. In no case shall a person held in custody  
25 for nonpayment of a fine or costs be held in such custody for more  
26 days than the maximum number to which he or she could have been  
27 sentenced if the penalty set by law includes the possibility of

1 confinement.

2           Sec. 14. Section 30-2322, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           30-2322 A surviving spouse of a decedent who was  
5 domiciled in this state is entitled to a homestead allowance  
6 of seven thousand five hundred dollars for a decedent who dies  
7 before January 1, 2011, and twenty thousand dollars for a decedent  
8 who dies on or after January 1, 2011. If there is no surviving  
9 spouse, each minor child and each dependent child of the decedent  
10 is entitled to a homestead allowance amounting to ~~seven thousand~~  
11 ~~five hundred dollars~~ the amount allowed for a surviving spouse  
12 divided by the number of minor and dependent children of the  
13 decedent. The homestead allowance is exempt from and has priority  
14 over all claims against the estate except for costs and expenses  
15 of administration. Homestead allowance is in addition to any share  
16 passing to the surviving spouse or minor or dependent child by  
17 the will of the decedent unless otherwise provided therein, by  
18 intestate succession or by way of elective share.

19           Sec. 15. Section 30-2323, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           30-2323 (1) In addition to the homestead allowance, the  
22 surviving spouse of a decedent who was domiciled in this state  
23 is entitled from the estate to value not exceeding five thousand  
24 dollars for a decedent who dies before January 1, 2011, and twelve  
25 thousand five hundred dollars for a decedent who dies on or after  
26 January 1, 2011, in excess of any security interests therein  
27 in household furniture, automobiles, furnishings, appliances, and

1 personal effects. If there is no surviving spouse, children of the  
2 decedent are entitled jointly to the same value unless the decedent  
3 has provided in his or her will that one or more of such children  
4 shall be disinherited, in which case only those children not so  
5 disinherited shall be so entitled. For purposes of this section,  
6 disinherited means providing in one's will that a child shall take  
7 nothing or a nominal amount of ten dollars or less from the estate.

8       (2) If encumbered chattels are selected and if the  
9 value in excess of security interests, plus that of other exempt  
10 property, is less than ~~five thousand dollars~~, the amount allowed  
11 under subsection (1) of this section, or if there is not ~~five~~  
12 ~~thousand dollars~~ that amount worth of exempt property in the  
13 estate, the spouse or children are entitled to other assets of  
14 the estate, if any, to the extent necessary to make up the ~~five~~  
15 ~~thousand dollars value~~. amount allowed under subsection (1) of this  
16 section. Rights to exempt property and assets needed to make up a  
17 deficiency of exempt property have priority over all claims against  
18 the estate except for costs and expenses of administration, and  
19 except that the right to any assets to make up a deficiency of  
20 exempt property shall abate as necessary to permit prior payment of  
21 homestead allowance and family allowance.

22       (3) These rights are in addition to any benefit or share  
23 passing to the surviving spouse by the will of the decedent unless  
24 otherwise provided therein, by intestate succession, or by way of  
25 elective share. These rights are in addition to any benefit or  
26 share passing to the surviving children by intestate succession and  
27 are in addition to any benefit or share passing by the will of

1 the decedent to those surviving children not disinherited unless  
2 otherwise provided in the will.

3 Sec. 16. Section 30-2325, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 30-2325 If the estate is otherwise sufficient, property  
6 specifically devised is not used to satisfy rights to homestead and  
7 exempt property. Subject to this restriction, the surviving spouse,  
8 the guardians of the minor children, or children who are adults  
9 may select property of the estate as homestead allowance and exempt  
10 property. After giving such notice as the court may require in a  
11 proceeding initiated under the provisions of section 30-2405, the  
12 personal representative may make these selections if the surviving  
13 spouse, the children or the guardians of the minor children are  
14 unable or fail to do so within a reasonable time or if there are  
15 no guardians of the minor children. The personal representative  
16 may execute an instrument or deed of distribution to establish  
17 the ownership of property taken as homestead allowance or exempt  
18 property. ~~He or she~~ The personal representative may determine the  
19 family allowance in a lump sum not exceeding nine thousand dollars  
20 for a decedent who dies before January 1, 2011, and twenty thousand  
21 dollars for a decedent who dies on or after January 1, 2011, or  
22 periodic installments not exceeding seven hundred fifty dollars per  
23 month for one year for a decedent who dies before January 1, 2011,  
24 and one thousand six hundred sixty-six dollars and sixty-seven  
25 cents per month for one year, and for a decedent who dies on or  
26 after January 1, 2011. The personal representative may disburse  
27 funds of the estate in payment of the family allowance and any

1 part of the homestead allowance payable in cash. The personal  
2 representative or any interested person aggrieved by any selection,  
3 determination, payment, proposed payment, or failure to act under  
4 this section may petition the court for appropriate relief, which  
5 relief may provide a family allowance larger or smaller than  
6 that which the personal representative determined or could have  
7 determined.

8           The homestead allowance, the exempt property, and  
9 the family allowance as finally determined by the personal  
10 representative or by the court, shall vest in the surviving spouse  
11 as of the date of decedent's death, as a vested indefeasible right  
12 of property, shall survive as an asset of the surviving spouse's  
13 estate if unpaid on the date of death of such surviving spouse, and  
14 shall not terminate upon the death or remarriage of the surviving  
15 spouse.

16           Sec. 17. Section 30-2664, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           30-2664 Sections 30-2664 to 30-2672 and section 18 of  
19 this act shall be known and may be cited as the Uniform Durable  
20 Power of Attorney Act.

21           Sec. 18. An agent or attorney in fact under a durable  
22 power of attorney may do the following on behalf of the principal  
23 or with the principal's property only if the durable power of  
24 attorney expressly grants the agent or attorney in fact the  
25 authority and exercise of the authority is not otherwise prohibited  
26 by another agreement or instrument to which the authority or  
27 property is subject:

1           (1) Create or change rights of survivorship; or

2           (2) Create or change a beneficiary designation.

3           Sec. 19. (1) A person who owns a motor vehicle may  
4 provide for the transfer of such vehicle upon his or her death or  
5 the death of the last survivor of a joint tenancy with right of  
6 survivorship by including in the certificate of title a designation  
7 of beneficiary or beneficiaries to whom the vehicle will be  
8 transferred on the death of the owner or the last survivor,  
9 subject to the rights of all lienholders, whether created before,  
10 simultaneously with, or after the creation of the transfer-on-death  
11 interest. A trust may be the beneficiary of a transfer-on-death  
12 certificate of title. The certificate of title shall include the  
13 name of the owner, the name of any tenant-in-common owner or the  
14 name of any joint-tenant-with-right-of-survivorship owner, followed  
15 in substance by the words transfer on death to (name of beneficiary  
16 or beneficiaries or name of trustee if a trust is to be the  
17 beneficiary). The abbreviation TOD may be used instead of the words  
18 transfer on death to.

19           (2) A transfer-on-death beneficiary shall have no  
20 interest in the motor vehicle until the death of the owner or  
21 the last survivor of the joint-tenant-with-right-of-survivorship  
22 owners. A beneficiary designation may be changed at any time by  
23 the owner or by the joint-tenant-with-right-of-survivorship owners  
24 then surviving without the consent of any beneficiary by filing an  
25 application for a subsequent certificate of title.

26           (3) Ownership of a motor vehicle which has a designation  
27 of beneficiary as provided in subsection (1) of this section

1 and for which an application for a subsequent certificate of  
2 title has not been filed shall vest in the designated beneficiary  
3 or beneficiaries on the death of the owner or the last of  
4 the joint-tenant-with-right-of-survivorship owners, subject to the  
5 rights of all lienholders.

6           Sec. 20. Section 30-2715, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           30-2715 (a) A provision for a nonprobate transfer on  
9 death in an insurance policy, contract of employment, bond,  
10 mortgage, promissory note, certificated or uncertificated security,  
11 account agreement, custodial agreement, deposit agreement,  
12 compensation plan, pension plan, individual retirement plan,  
13 employee benefit plan, trust, marital property agreement,  
14 certificate of title, or other written instrument of a similar  
15 nature is nontestamentary. This subsection includes a written  
16 provision that:

17           (1) money or other benefits due to, controlled by, or  
18 owned by a decedent before death must be paid after the decedent's  
19 death to a person whom the decedent designates either in the  
20 instrument or in a separate writing, including a will, executed  
21 either before or at the same time as the instrument, or later;

22           (2) money due or to become due under the instrument  
23 ceases to be payable in the event of death of the promisee or the  
24 promisor before payment or demand; or

25           (3) any property controlled by or owned by the decedent  
26 before death which is the subject of the instrument passes to a  
27 person the decedent designates either in the instrument or in a



1 separate writing, including a will, executed either before or at  
2 the same time as the instrument, or later.

3 (b) This section does not limit rights of creditors under  
4 other laws of this state.

5 Sec. 21. Section 43-512.12, Revised Statutes Supplement,  
6 2009, is amended to read:

7 43-512.12 (1) Child support orders in cases in which  
8 a party has applied for services under Title IV-D of the  
9 federal Social Security Act, as amended, shall be reviewed by  
10 the Department of Health and Human Services to determine whether  
11 to refer such orders to the county attorney or authorized attorney  
12 for filing of an application for modification. An order shall  
13 be reviewed by the department upon its own initiative or at the  
14 request of either parent when such review is required by Title IV-D  
15 of the federal Social Security Act, as amended. After review the  
16 department shall refer an order to a county attorney or authorized  
17 attorney when the verifiable financial information available to the  
18 department indicates:

19 ~~(1)~~ (a) The present child support obligation varies from  
20 the Supreme Court child support guidelines pursuant to section  
21 42-364.16 by more than the percentage, amount, or other criteria  
22 established by Supreme Court rule, and the variation is due to  
23 financial circumstances which have lasted at least three months and  
24 can reasonably be expected to last for an additional six months; or

25 ~~(2)~~ (b) Health care coverage meeting the requirements  
26 of subsection (2) of section 42-369 is available to either party  
27 and the children do not have health care coverage other than

1 the medical assistance program under the Medical Assistance Act. ~~An~~  
2 ~~order~~ Health care coverage cases may be modified within three years  
3 of entry of the order.

4 (2) Orders that are not addressed under subsection (1)  
5 of this section shall not be reviewed by the department if it has  
6 not been three years since the present child support obligation was  
7 ordered. ~~An order shall not be reviewed by the department more than~~  
8 ~~once every three years~~ unless the requesting party demonstrates  
9 a substantial change in circumstances, ~~and an~~ that is expected  
10 to last for the applicable time period established by subdivision  
11 (1)(a) of this section. Such substantial change in circumstances  
12 may include, but is not limited to, change in employment, earning  
13 capacity, or income or receipt of an ongoing source of income from  
14 a pension, gift, or lottery winnings. An order may be reviewed  
15 after one year if the department's determination after the previous  
16 review was not to refer to the county attorney or authorized  
17 attorney for filing of an application for modification because  
18 financial circumstances had not lasted or were not expected to last  
19 for the time periods established by subdivision ~~(1)~~ (1)(a) of this  
20 section.

21 Sec. 22. Section 43-512.15, Revised Statutes Supplement,  
22 2009, is amended to read:

23 43-512.15 (1) The county attorney or authorized attorney,  
24 upon referral from the Department of Health and Human Services,  
25 shall file a complaint to modify a child support order unless the  
26 attorney determines in the exercise of independent professional  
27 judgment that:

1           (a) The variation from the Supreme Court child support  
2 guidelines pursuant to section 42-364.16 is based on material  
3 misrepresentation of fact concerning any financial information  
4 submitted to the attorney;

5           (b) The variation from the guidelines is due to a  
6 voluntary reduction in net monthly income. For purposes of this  
7 section, a person who has been incarcerated for a period of one  
8 year or more in a county or city jail or a federal or state  
9 correctional facility shall be considered to have an involuntary  
10 reduction of income unless (i) the incarceration is a result of  
11 a conviction for criminal nonsupport pursuant to section 28-706  
12 or a conviction for a violation of any federal law or law  
13 of another state substantially similar to section 28-706, (ii)  
14 the incarcerated individual has a documented record of willfully  
15 failing or neglecting to provide proper support which he or  
16 she knew or reasonably should have known he or she was legally  
17 obligated to provide when he or she had sufficient resources to  
18 provide such support, or (iii) the incarceration is a result of a  
19 conviction for a crime in which the child who is the subject of the  
20 child support order was victimized; or

21           (c) When the amount of the order is considered with all  
22 the other undisputed facts in the case, no variation from the  
23 criteria set forth in subdivisions ~~(1) and (2)~~ (1) (a) and (b) of  
24 section 43-512.12 exists.

25           (2) The department, a county attorney, or an authorized  
26 attorney shall not in any case be responsible for reviewing or  
27 filing an application to modify child support for individuals

1 incarcerated as described in subdivision (1)(b) of this section.

2 (3) The proceedings to modify a child support order shall  
3 comply with section 42-364, and the county attorney or authorized  
4 attorney shall represent the state in the proceedings.

5 (4) After a complaint to modify a child support order is  
6 filed, any party may choose to be represented personally by private  
7 counsel. Any party who retains private counsel shall so notify the  
8 county attorney or authorized attorney in writing.

9 Sec. 23. Section 43-1701, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 43-1701 Sections 43-1701 to 43-1743 and section 26 of  
12 this act shall be known and may be cited as the Income Withholding  
13 for Child Support Act.

14 Sec. 24. Section 43-1702, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 43-1702 It is the intent of the Legislature to encourage  
17 the use of all proven techniques for the collection of child,  
18 spousal, and medical support and monetary judgments. While income  
19 withholding is the preferred technique, other techniques such as  
20 liens on property and contempt proceedings should be used when  
21 appropriate. The purpose of the Income Withholding for Child  
22 Support Act is to provide a simplified and relatively automatic  
23 procedure for implementing income withholding in order to guarantee  
24 that child, spousal, and medical support obligations and monetary  
25 judgments are met when income is available for that purpose, to  
26 encourage voluntary withholding by obligors, and to facilitate  
27 the implementation of income withholding based on foreign support

1 orders.

2           Sec. 25. Section 43-1703, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           43-1703 For purposes of the Income Withholding for Child  
5 Support Act, unless the context otherwise requires, the definitions  
6 found in sections 43-1704 to 43-1717 and section 26 of this act  
7 shall be used.

8           Sec. 26. Monetary judgment shall mean a monetary judgment  
9 against an obligor that is unsatisfied and is owed to the federal  
10 or state governmental unit in a case in which services are being  
11 provided under Title IV-D of the federal Social Security Act, as  
12 amended, and the judgment is related to the support of a child.  
13 Monetary judgment includes, but is not limited to, the cost of  
14 genetic testing that the obligor has been ordered to pay by a  
15 court, plus any accumulated interest on the judgment under sections  
16 45-103 to 45-103.04, whether the order was issued prior to, on, or  
17 after the operative date of this section.

18           Sec. 27. Section 43-1717, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           43-1717 Support order shall mean any order, decree, or  
21 judgment for child, spousal, or medical support or for payment  
22 of any arrearage for such support issued by a court or agency  
23 of competent jurisdiction, whether issued prior to, on, or after  
24 November 16, 1985, whether for temporary or permanent support,  
25 whether interlocutory or final, whether or not modifiable, and  
26 whether or not incidental to a proceeding for dissolution of  
27 marriage, judicial or legal separation, separate maintenance,

1 paternity, guardianship, or civil protection or any other action. A  
2 support order may include payment for any monetary judgment.

3 Sec. 28. Section 43-1718.02, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 43-1718.02 (1) In any case in which services are not  
6 provided under Title IV-D of the federal Social Security Act, as  
7 amended, and a support order has been issued or modified on or  
8 after July 1, 1994, the obligor's income shall be subject to income  
9 withholding regardless of whether or not payments pursuant to such  
10 order are in arrears, and the court shall require such income  
11 withholding in its order unless:

12 (a) One of the parties demonstrates and the court  
13 finds that there is good cause not to require immediate income  
14 withholding; or

15 (b) A written agreement between the parties providing an  
16 alternative arrangement is incorporated into the support order.

17 (2) If the court pursuant to subsection (1) of this  
18 section orders income withholding regardless of whether or not  
19 payments are in arrears, the obligor shall prepare a notice  
20 to withhold income. The notice to withhold income shall be  
21 substantially similar to a prototype prepared by the department and  
22 made available by the department to the State Court Administrator  
23 and the clerks of the district courts. The notice to withhold shall  
24 direct:

25 (a) That the employer or other payor shall withhold  
26 from the obligor's disposable income the amount stated in the  
27 notice to withhold for the purpose of satisfying the obligor's

1 ongoing obligation for support payments as they become due, ~~and if~~  
2 there are arrearages, ~~reducing~~ to reduce such arrearages in child,  
3 spousal, or medical support payments arising from the obligor's  
4 failure to fully comply with a support order, and after the  
5 obligor's support obligation is current, to satisfy any monetary  
6 judgment against the obligor;

7 (b) That the employer or other payor shall pay to the  
8 obligor, on his or her regularly scheduled payday, such income then  
9 due which is not required to be withheld as stated on the notice or  
10 pursuant to any court order;

11 (c) That the employer or other payor shall not withhold  
12 more than the maximum amount permitted to be withheld under section  
13 303(b) of the federal Consumer Credit Protection Act, 15 U.S.C.  
14 1673(b)(2)(A) and (B), and the amount withheld, including interest,  
15 to satisfy an arrearage of child, spousal, or medical support or  
16 any monetary judgment when added to the amount withheld to pay  
17 current support and the fee provided for in subdivision (2)(d) of  
18 this section shall not exceed such maximum amount;

19 (d) That the employer or other payor may assess an  
20 additional administrative fee from the obligor's disposable income  
21 not to exceed two dollars and fifty cents in any calendar month  
22 as compensation for the employer's or other payor's reasonable cost  
23 incurred in complying with the notice;

24 (e) That the employer or other payor shall remit, within  
25 seven days after the date the obligor is paid and in the manner  
26 specified in the notice, the income withheld, less the deduction  
27 allowed as an administrative fee by subdivision (2)(d) of this

1 section, to the State Disbursement Unit and shall notify the unit  
2 of the date such income was withheld;

3 (f) That the notice to withhold income shall terminate  
4 with respect to the employer or other payor without any court  
5 action or action by the obligor thirty days after the obligor  
6 ceases employment with or is no longer entitled to income from such  
7 employer or other payor;

8 (g) That the employer or other payor may combine amounts  
9 required to be withheld from the income of two or more obligors in  
10 a single payment to the unit if the portion of the single payment  
11 which is attributable to each individual obligor is separately  
12 identified;

13 (h) That an employer or other payor who fails to withhold  
14 and remit income of an obligor after receiving proper notice or who  
15 discriminates, demotes, disciplines, or terminates an employee or  
16 payee after receiving a notice to withhold income shall be subject  
17 to the penalties prescribed in subsections (4) and (5) of this  
18 section; and

19 (i) That if the employer or other payor receives more  
20 than one notice to withhold income of a single obligor and the  
21 amount of income available to be withheld pursuant to the limits  
22 specified in subdivision (c) of this subsection is insufficient to  
23 satisfy the total support amount ~~certified~~ stated in the notices,  
24 the income available shall first be applied to current support. If  
25 the total amount of income available to be withheld is insufficient  
26 to satisfy the total amount of current support ~~certified~~ stated  
27 by the notices, the employer or other payor shall withhold for



1 each notice the proportion that the amount of the current support  
2 ~~certified~~ stated in such notice bears to the total amount of  
3 current support ~~certified~~ stated in all notices received for  
4 the obligor. Any remaining income available to be withheld after  
5 current support is satisfied for all notices shall be applied to  
6 arrearages. If arrearages are ~~certified~~ stated in more than one  
7 notice, the employer or other payor shall withhold for each notice  
8 the proportion that the amount of the arrearage ~~certified~~ stated in  
9 such notice bears to the total amount of arrearage ~~certified~~ stated  
10 in all notices received for the obligor. Any income available to be  
11 withheld after the obligor's support obligation is current shall be  
12 applied to any monetary judgment. If a monetary judgment is stated  
13 in more than one notice, the employer or other payor shall withhold  
14 for each notice the proportion that the amount of the monetary  
15 judgments stated in such notice bears to the total amount of  
16 monetary judgments stated in all notices received for the obligor.

17 Compliance with the order by the employer or other payor  
18 shall operate as a discharge of the employer's or other payor's  
19 liability to the obligor as to the portion of the obligor's income  
20 withheld.

21 (3) The obligor shall deliver the notice to withhold  
22 income to his or her current employer or other payor and provide a  
23 copy of such notice to the clerk of the district court.

24 (4) Any employer or other payor who fails to withhold and  
25 remit any income of an obligor receiving income from the employer  
26 or other payor, after proper notice as provided in subsection (2)  
27 of this section, shall be required to pay to the unit the amount

1 specified in the notice.

2 ~~(5)~~ (5)(a) An employer or other payor shall not use an  
3 order or notice to withhold income or order or the possibility of  
4 income withholding as a basis for ~~(a)~~ (i) discrimination in hiring,  
5 ~~(b)~~ (ii) demotion of an employee or payee, ~~(c)~~ (iii) disciplinary  
6 action against an employee or payee, or ~~(d)~~ (iv) termination of an  
7 employee or payee.

8 (b) Upon application by the obligor and after a hearing  
9 on the matter, the court may impose a civil fine of up to five  
10 hundred dollars for each violation of this subsection.

11 (c) An employer or other payor who violates this  
12 subsection shall be required to make full restitution to the  
13 aggrieved employee or payee, including reinstatement and backpay.

14 (6) When an obligor ceases employment with or is no  
15 longer entitled to income from an employer or other payor, the  
16 notice to withhold income shall not cease to operate against the  
17 obligor and income withholding shall continue to apply to any  
18 subsequent employment or income of the obligor. The notice to  
19 withhold income shall terminate with respect to the employer or  
20 other payor without any court action or action by the obligor  
21 thirty days after the obligor ceases employment with or is no  
22 longer entitled to income from such employer or other payor. A  
23 notice to withhold income shall also terminate when the child,  
24 spousal, or medical support obligation terminates, and all past-due  
25 support has been paid, and any monetary judgment has been paid, in  
26 which case the obligor shall notify the employer or other payor to  
27 cease withholding income.

1           (7) A notice to withhold income may be modified or  
2           revoked by a court of competent jurisdiction as a result of  
3           modification of the support order. A notice to withhold income may  
4           also be modified or revoked by a court of competent jurisdiction,  
5           for other good cause shown, after notice and a hearing on the  
6           issue.

7           (8) The obligee or obligor may file an action in district  
8           court to enforce this section.

9           (9) If after an order is issued in any case under this  
10          section the case becomes one in which services are provided under  
11          Title IV-D of the federal Social Security Act, as amended, the  
12          county attorney or authorized attorney or the Department of Health  
13          and Human Services shall implement income withholding as otherwise  
14          provided in the Income Withholding for Child Support Act.

15          Sec. 29. Section 43-1720, Reissue Revised Statutes of  
16          Nebraska, is amended to read:

17          43-1720 If the department has previously sent a notice of  
18          assignment and opportunity for hearing on the same support order  
19          under section 48-647, the county attorney, authorized attorney,  
20          or the department shall ~~certify~~ state the amount to be withheld  
21          from an obligor's disposable income pursuant to section 43-1722  
22          and shall notify the obligor's employer or other payor pursuant  
23          to section 43-1723. If the department has not previously sent  
24          such notice, and except in cases in which the court has ordered  
25          income withholding pursuant to subsection (1) of section 43-1718.01  
26          or section 43-1718.02, upon receiving certification pursuant to  
27          section 42-358 or notice of delinquent payments of medical support,

1 the county attorney, the authorized attorney, or the department  
2 shall send a notice by certified mail to the last-known address of  
3 the obligor stating:

4 (1) That an assignment of his or her income by means of  
5 income withholding will go into effect within fifteen days after  
6 the date the notice is sent;

7 (2) That the income withholding will continue to apply to  
8 any subsequent employer or other payor of the obligor;

9 (3) The amount of support and any monetary judgment the  
10 obligor owes;

11 (4) The amount of income that will be withheld; and

12 (5) That within the fifteen-day period, the obligor may  
13 request a hearing in the manner specified in the notice to contest  
14 a mistake of fact. For purposes of this subdivision, mistake of  
15 fact shall mean (a) an error in the amount of current or overdue  
16 support or the amount of any monetary judgment, (b) an error in  
17 the identity of the obligor, or (c) an error in the amount to be  
18 withheld as provided in section 43-1722.

19 Sec. 30. Section 43-1722, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 43-1722 (1) If no hearing is requested by the obligor,  
22 (2) if after a hearing the department determines that the  
23 assignment should go into effect, (3) in cases in which the  
24 court has ordered income withholding pursuant to subsection (1)  
25 of section 43-1718.01, or (4) in cases in which the court has  
26 ordered income withholding pursuant to section 43-1718.02, which  
27 case subsequently becomes one in which services are being provided

1 under Title IV-D of the federal Social Security Act, as amended,  
2 the county attorney, the authorized attorney, or the department  
3 shall ~~certify~~ state the amount to be withheld from the obligor's  
4 disposable income. Such amount shall not in any case exceed the  
5 maximum amount permitted to be withheld under section 303(b) of  
6 the federal Consumer Credit Protection Act, 15 U.S.C. 1673(b) (2) (A)  
7 and (B), and the amount withheld, including interest, to satisfy  
8 an arrearage of child, spousal, or medical support or any monetary  
9 judgment when added to the amount withheld to pay current support  
10 and the fee provided for in section 43-1723 shall not exceed such  
11 maximum amount.

12           Sec. 31. Section 43-1723, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           43-1723 Except as otherwise provided in this section,  
15 the county attorney, the authorized attorney, or the department  
16 shall notify the obligor's employer or other payor, by first-class  
17 mail or by electronic means, within the time determined by the  
18 department which shall comply with the requirements of Title IV-D  
19 of the federal Social Security Act, as amended. The notice shall  
20 specify the basis for the assignment of income and shall direct:

21           (1) That the employer or other payor shall withhold from  
22 the obligor's disposable income the amount ~~certified~~ stated by the  
23 county attorney, the authorized attorney, or the department for  
24 the purpose of reducing and satisfying the obligor's (a) previous  
25 arrearage in child, spousal, or medical support payments arising  
26 from the obligor's failure to fully comply with a support order  
27 previously entered, ~~and~~ (b) ongoing obligation for support payments

1 as they become due, and (c) then any monetary judgment;

2 (2) That the employer or other payor shall implement  
3 income withholding no later than the first pay period that begins  
4 following the date on the notice;

5 (3) That the employer or other payor shall pay to the  
6 obligor, on his or her regularly scheduled payday, such income  
7 then due which is not ~~certified~~ stated to be withheld pursuant to  
8 section 43-1722 or any court order;

9 (4) That the employer or other payor may assess an  
10 additional administrative fee from the obligor's disposable income  
11 not to exceed two dollars and fifty cents in any calendar month  
12 as compensation for the employer's or other payor's reasonable cost  
13 incurred in complying with the notice;

14 (5) That the employer or other payor shall remit, within  
15 seven days after the date the obligor is paid and in the manner  
16 specified in the notice, the income withheld, less the deduction  
17 allowed as an administrative expense by subdivision (4) of this  
18 section, to the State Disbursement Unit as designated in the notice  
19 and shall notify the unit of the date such income was withheld;

20 (6) That the employer or other payor shall notify the  
21 county attorney, the authorized attorney, or the department in  
22 writing of the termination of the employment or income of the  
23 obligor, the last-known address of the obligor, and the name and  
24 address of the obligor's new employer or other payor, if known, and  
25 shall provide such written notification within thirty days after  
26 the termination of employment or income;

27 (7) That income withholding is binding on the employer

1 or other payor until further notice by the county attorney, the  
2 authorized attorney, or the department;

3 (8) That the employer or other payor may combine amounts  
4 required to be withheld from the income of two or more obligors in  
5 a single payment to the unit as designated in an income withholding  
6 notice if the portion of the single payment which is attributable  
7 to each individual obligor is separately identified;

8 (9) That an employer or other payor who fails to withhold  
9 and remit income of an obligor after receiving proper notice or who  
10 discriminates, demotes, disciplines, or terminates an employee or  
11 payee after receiving an income withholding notice shall be subject  
12 to the penalties prescribed in sections 43-1724 and 43-1725; and

13 (10) That if the employer or other payor receives more  
14 than one notice to withhold income of a single obligor and  
15 the amount of income available to be withheld pursuant to the  
16 limits specified in section 43-1722 is insufficient to satisfy  
17 the total support amount ~~certified~~ stated in the notices, the  
18 income available shall first be applied to current support. If the  
19 total amount of income available to be withheld is insufficient  
20 to satisfy the total amount of current support ~~certified~~ stated  
21 by the notices, the employer or other payor shall withhold for  
22 each notice the proportion that the amount of the current support  
23 ~~certified~~ stated in such notice bears to the total amount of  
24 current support ~~certified~~ stated in all notices received for  
25 the obligor. Any remaining income available to be withheld after  
26 current support is satisfied for all notices shall be applied to  
27 arrearages. If arrearages are ~~certified~~ stated in more than one

1 notice, the employer or other payor shall withhold for each notice  
2 the proportion that the amount of the arrearage ~~certified~~ stated in  
3 such notice bears to the total amount of arrearage ~~certified~~ stated  
4 in all notices received for the obligor. Any income available to be  
5 withheld after the obligor's support obligation is current shall be  
6 applied to any monetary judgment. If a monetary judgment is stated  
7 in more than one notice, the employer or other payor shall withhold  
8 for each notice the proportion that the amount of the monetary  
9 judgments stated in such notice bears to the total amount of  
10 monetary judgments stated in all notices received for the obligor.

11 Compliance with the order by the employer or other payor  
12 shall operate as a discharge of the employer's or other payor's  
13 liability to the obligor as to the portion of the obligor's income  
14 withheld. The county attorney, the authorized attorney, or the  
15 department need not notify the Commissioner of Labor as a payor if  
16 the commissioner is withholding for child support from the obligor  
17 under section 48-647 for the same support order.

18 Sec. 32. Section 43-1724, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 43-1724 Any employer or other payor who fails to withhold  
21 and remit any income of an obligor receiving income from the  
22 employer or other payor, after proper notice as provided in  
23 section 43-1723, shall be required to pay the ~~certified~~ stated  
24 amount to the State Disbursement Unit. The county attorney or  
25 authorized attorney may file an action in district court to  
26 enforce this section. The court may sanction an employer or other  
27 payor twenty-five dollars per day, up to five hundred dollars per



1 incident, for failure to comply with proper notice.

2           Sec. 33. Section 43-1726, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           43-1726 When an obligor ceases employment with or is  
5 no longer entitled to income from an employer or other payor,  
6 the notice to withhold income shall not cease to operate against  
7 the obligor and income withholding shall continue to apply to  
8 any subsequent employment or income of the obligor. The notice  
9 to withhold income shall terminate with respect to the employer  
10 or other payor without any court action or action by the county  
11 attorney, the authorized attorney, or the department thirty days  
12 after the obligor ceases employment with or is no longer entitled  
13 to income from such employer or other payor, except that a notice  
14 to withhold income shall not terminate with respect to unemployment  
15 compensation benefits being withheld by the Commissioner of Labor  
16 pursuant to section 48-647. The employer or other payor shall  
17 return a copy of the notice to withhold income to the county  
18 attorney, the authorized attorney, or the department, indicate  
19 that the employment or obligation to pay income has ceased, and  
20 cooperate in providing any known forwarding information. The county  
21 attorney, the authorized attorney, or the department shall notify  
22 the clerk of the appropriate district court that such employment or  
23 obligation to pay income has ceased. A notice to withhold income  
24 shall also terminate when the child, spousal, or medical support  
25 obligation terminates, and all past-due support has been paid, and  
26 any monetary judgments have been paid, in which case the county  
27 attorney, the authorized attorney, or the department shall notify

1 the employer or other payor to cease withholding income.

2           Sec. 34. Section 43-1727, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           43-1727 (1) An income withholding notice may be modified  
5 or revoked by a court of competent jurisdiction or by the county  
6 attorney, the authorized attorney, or the department as a result  
7 of a review conducted pursuant to sections 43-512.12 to 43-512.18.  
8 An income withholding notice may also be modified or revoked by  
9 a court of competent jurisdiction, for other good cause shown,  
10 after notice and a hearing on the issue. An income withholding  
11 notice may also be modified or revoked by the county attorney, the  
12 authorized attorney, or the department as provided in subsection  
13 (2) of this section or for other good cause. Payment by the obligor  
14 of overdue support or any monetary judgment, other than through  
15 income withholding, after receipt of notice of income withholding  
16 shall not by itself constitute good cause for modifying or revoking  
17 an income withholding notice.

18           (2) When income withholding has been implemented and, as  
19 a result, a support delinquency has been eliminated, the Title  
20 IV-D Division or its designee shall notify the county attorney,  
21 the authorized attorney, or the department. Upon receipt of such  
22 notification, the county attorney, the authorized attorney, or the  
23 department shall modify the income withholding notice to require  
24 income withholding for current support ~~only~~ and any monetary  
25 judgments and shall notify the employer or other payor of the  
26 change in the same manner as provided in section 43-1723.

27           Sec. 35. Section 43-3330, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           43-3330 A financial institution shall receive from the  
3 department a listing of obligors to be used in matches within the  
4 financial institution's system. The listing from the department  
5 shall include the name and social security number or taxpayer  
6 identification number of each obligor to be used in matches within  
7 the financial institution's system. The financial institution shall  
8 receive the listing within thirty days after the end of each  
9 calendar quarter subsequent to January 1, 1998, and shall match the  
10 listing to its records of accounts held in one or more individuals'  
11 names which are open accounts and such accounts closed within the  
12 preceding calendar quarter within thirty days after receiving the  
13 listing and provide the department with a match listing of all  
14 matches made within five working days of the match. The match  
15 listing from the financial institution shall include the name,  
16 address, and social security number or taxpayer identification  
17 number of each obligor matched and the balance of each account. The  
18 financial institution shall also provide the names and addresses of  
19 all other owners of accounts in the match listing as reflected on a  
20 signature card or other similar document on file with the financial  
21 institution. The financial institution shall submit all match  
22 listings by disk, magnetic tape, or other medium approved by the  
23 department. Nothing in this section shall (1) require a financial  
24 institution to disclose the account number assigned to the account  
25 of any individual or (2) serve to encumber the ownership interest  
26 of any person in or impact any right of setoff against an account.  
27 The financial institution shall maintain the confidentiality of all

1 records supplied and shall use the records only for the purposes  
2 of this section. To maintain the confidentiality of the listing and  
3 match listing, the department shall implement appropriate security  
4 provisions for the listing and match listing which are as stringent  
5 as those established under the Federal Tax Information Security  
6 Guidelines for federal, state, and local agencies.

7 Sec. 36. Section 49-1501, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 49-1501 Sections 49-1501 to 49-1561 and section 37 of  
10 this act shall be known and may be cited as the Nebraska Short Form  
11 Act.

12 Sec. 37. An agent or attorney in fact under a power of  
13 attorney, whether the power of attorney is durable or nondurable,  
14 may do the following on behalf of the principal or with the  
15 principal's property only if the power of attorney expressly grants  
16 the agent or attorney in fact the authority and exercise of the  
17 authority is not otherwise prohibited by another agreement or  
18 instrument to which the authority or property is subject:

- 19 (1) Create or change rights of survivorship; or  
20 (2) Create or change a beneficiary designation.

21 Sec. 38. An agent or attorney in fact under a power of  
22 attorney, whether the power of attorney is durable or nondurable,  
23 may do the following on behalf of the principal or with the  
24 principal's property only if the power of attorney expressly grants  
25 the agent or attorney in fact the authority and exercise of the  
26 authority is not otherwise prohibited by another agreement or  
27 instrument to which the authority or property is subject:

1           (1) Create or change rights of survivorship; or

2           (2) Create or change a beneficiary designation.

3           Sec. 39. Section 69-2304, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           69-2304 A notice given pursuant to section 69-2303 shall  
6 contain one of the following statements, as appropriate:

7           (1) "If you fail to reclaim the property, it will be  
8 sold at a public sale after notice of the sale has been given  
9 by publication. You have the right to bid on the property at  
10 this sale. After the property is sold and the costs of storage,  
11 advertising, and sale are deducted, the remaining money will  
12 be turned over to the State Treasurer pursuant to the Uniform  
13 Disposition of Unclaimed Property Act. You may claim the remaining  
14 money from the office of the State Treasurer as provided in such  
15 act."; or

16           (2) "Because this property is believed to be worth less  
17 than ~~two hundred fifty~~ one thousand dollars, it may be kept, sold,  
18 or destroyed without further notice if you fail to reclaim it  
19 within the time indicated in this notice."

20           Sec. 40. Section 69-2308, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           69-2308 (1) If the personal property is not released  
23 pursuant to section 69-2307, it shall be sold at public sale  
24 by competitive bidding, except that if the landlord reasonably  
25 believes that the total resale value of the property not released  
26 is less than ~~two hundred fifty~~ one thousand dollars, he or she  
27 may retain such property for his or her own use or dispose of it

1 in any manner he or she chooses. At such time as the decision to  
2 sell or to retain is made, any locked trunk, valise, box, or other  
3 container shall be opened, if practicable, with as little damage as  
4 possible, and its contents evaluated. Nothing in this section shall  
5 be construed to preclude the landlord or the tenant from bidding  
6 on the property at the public sale. The successful bidder's title  
7 shall be subject to ownership rights, liens, and security interests  
8 which have priority by law.

9 (2) Notice of the time and place of the public sale shall  
10 be given by advertisement of the sale published once a week for  
11 two consecutive weeks in a newspaper of general circulation in the  
12 county where the sale is to be held. If there is no newspaper of  
13 general circulation in the county where the sale is to be held,  
14 the advertisement shall be posted no fewer than ten days before the  
15 sale in not less than six conspicuous places in the neighborhood of  
16 the proposed sale. The sale shall be held at the nearest suitable  
17 place to the place where the personal property is held or stored.  
18 The advertisement shall include a description of the goods, the  
19 name of the former tenant, and the time and place of the sale.  
20 The sale shall take place no sooner than ten days after the first  
21 publication. The last publication shall be no less than five days  
22 before the sale is to be held. Notice of sale may be published  
23 before the last of the dates specified for taking possession of the  
24 property in any notice given pursuant to section 69-2303.

25 (3) The notice of the sale shall describe the property to  
26 be sold in a manner reasonably adequate to permit the owner of the  
27 property to identify it. The notice may describe all or a portion

1 of the property, but the limitation of liability provided by  
2 section 69-2309 shall not release the landlord from any liability  
3 arising from the disposition of property not described in the  
4 notice.

5 (4) After deduction of the reasonable costs of storage,  
6 advertising, and sale, any proceeds of the sale not claimed by the  
7 former tenant, an owner other than such tenant, or another person  
8 having an interest in the proceeds shall, not later than thirty  
9 days after the date of sale, be remitted to the State Treasurer  
10 for disposition pursuant to the Uniform Disposition of Unclaimed  
11 Property Act. The former tenant, other owner, or other person  
12 having interest in the proceeds may claim the proceeds by complying  
13 with the act. If the State Treasurer pays the proceeds or any part  
14 thereof to a claimant, neither the State Treasurer nor any employee  
15 thereof shall be liable to any other claimant as to the amount  
16 paid.

17 Sec. 41. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11,  
18 12, 13, 14, 15, 16, 17, 18, 19, 20, 23, 24, 25, 26, 27, 28, 29,  
19 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, and 43 of this act  
20 become operative three calendar months after the adjournment of  
21 this legislative session. The other sections of this act become  
22 operative on their effective date.

23 Sec. 42. Original sections 43-512.12 and 43-512.15,  
24 Revised Statutes Supplement, 2009, are repealed.

25 Sec. 43. Original sections 25-410, 25-1625, 25-2720.01,  
26 25-2803, 25-2804, 28-1006, 28-1012, 28-1019, 29-818, 29-1207,  
27 29-1208, 29-2412, 30-2322, 30-2323, 30-2325, 30-2664, 30-2715,

1 43-1701, 43-1702, 43-1703, 43-1717, 43-1718.02, 43-1720, 43-1722,  
2 43-1723, 43-1724, 43-1726, 43-1727, 43-3330, 49-1501, 69-2304, and  
3 69-2308, Reissue Revised Statutes of Nebraska, and section 25-1628,  
4 Revised Statutes Supplement, 2009, are repealed.

5           Sec. 44. Since an emergency exists, this act takes effect  
6 when passed and approved according to law.

7           2. On page 1, strike beginning with "the" in line 1  
8 through line 6 and insert "legal process; to amend sections  
9 25-410, 25-1625, 25-2720.01, 25-2803, 25-2804, 28-1006, 28-1012,  
10 28-1019, 29-818, 29-1207, 29-1208, 29-2412, 30-2322, 30-2323,  
11 30-2325, 30-2664, 30-2715, 43-1701, 43-1702, 43-1703, 43-1717,  
12 43-1718.02, 43-1720, 43-1722, 43-1723, 43-1724, 43-1726, 43-1727,  
13 43-3330, 49-1501, 69-2304, and 69-2308, Reissue Revised Statutes of  
14 Nebraska, and sections 25-1628, 43-512.12, and 43-512.15, Revised  
15 Statutes Supplement, 2009; to provide for transfer of civil court  
16 actions; to change and eliminate provisions relating to juries; to  
17 change provisions relating to Small Claims Courts, speedy trials,  
18 fines and costs, decedents' estates, and powers of attorney; to  
19 provide for seizure of pet animals and equines as prescribed;  
20 to provide for transfer-on-death motor vehicle certificates of  
21 title; to change provisions relating to support enforcement and  
22 disposition of tenant personal property by landlords; to harmonize  
23 provisions; to provide operative dates; to repeal the original  
24 sections; and to declare an emergency."