

AMENDMENTS TO LB104

Introduced by Judiciary.

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

3 Section 1. Sections 1 to 19 of this act shall be known and may be
4 cited as the Health Care Surrogacy Act.

5 Sec. 2. (1) It is the intent of the Legislature to establish a
6 process for the designation of a person to make a health care decision
7 for an adult or an emancipated minor who becomes incapable of making such
8 a decision in the absence of a guardian or an advance health care
9 directive.

10 (2) The Legislature does not intend to encourage or discourage any
11 particular health care decision or to create any new right or alter any
12 existing right of competent adults or emancipated minors to make such
13 decisions, but the Legislature does intend through the Health Care
14 Surrogacy Act to allow an adult or an emancipated minor to exercise
15 rights he or she already possesses by means of health care decisions made
16 on his or her behalf by a qualified surrogate.

17 (3) The Health Care Surrogacy Act shall not confer any new rights
18 regarding the provision or rejection of any specific medical treatment
19 and shall not alter any existing law concerning homicide, suicide, or
20 assisted suicide. Nothing in the Health Care Surrogacy Act shall be
21 construed to condone, authorize, or approve purposefully causing, or
22 assisting in causing, the death of any individual, such as by homicide,
23 suicide, or assisted suicide.

24 Sec. 3. For purposes of the Health Care Surrogacy Act:

25 (1) Adult means an individual who is nineteen years of age or older;

26 (2) Advance health care directive means an individual instruction
27 under the Health Care Surrogacy Act, a declaration executed in accordance

1 with the Rights of the Terminally Ill Act, or a power of attorney for
2 health care;

3 (3) Agent means a natural person designated in a power of attorney
4 for health care to make a health care decision on behalf of the natural
5 person granting the power;

6 (4) Capable means (a) able to understand and appreciate the nature
7 and consequences of a proposed health care decision, including the
8 benefits of, risks of, and alternatives to any proposed health care, and
9 (b) able to communicate in any manner such health care decision;

10 (5) Emancipated minor means a minor who is emancipated pursuant to
11 the law of this state or another state, including section 43-2101;

12 (6) Guardian means a judicially appointed guardian or conservator
13 having authority to make a health care decision for a natural person;

14 (7) Health care means any care, treatment, service, procedure, or
15 intervention to maintain, diagnose, cure, care for, treat, or otherwise
16 affect an individual's physical or mental condition;

17 (8)(a) Health care decision means a decision made by an individual
18 or the individual's agent, guardian, or surrogate regarding the
19 individual's health care, including consent, refusal of consent, or
20 withdrawal of consent to health care; and

21 (b) Health care decision includes:

22 (i) Selection and discharge of health care providers, health care
23 facilities, and health care services;

24 (ii) Approval or disapproval of diagnostic tests, surgical
25 procedures, programs of medication, and orders not to resuscitate;

26 (iii) Directions to provide nutrition, hydration, and all other
27 forms of health care;

28 (9) Health care facility means a facility licensed under the Health
29 Care Facility Licensure Act or permitted by law to provide health care in
30 the ordinary course of business;

31 (10) Health care provider means a natural person credentialed under

1 the Uniform Credentialing Act or permitted by law to provide health care
2 in the ordinary course of business or practice of a profession;

3 (11) Health care service means an adult day service, a home health
4 agency, a hospice or hospice service, a respite care service, or a
5 children's day health service licensed under the Health Care Facility
6 Licensure Act or permitted by law to provide health care in the ordinary
7 course of business. Health care service does not include an in-home
8 personal services agency as defined in section 71-6501;

9 (12) Incapable means lacking the ability to understand and
10 appreciate the nature and consequences of a proposed health care
11 decision, including the benefits of, risks of, and alternatives to any
12 proposed health care, or lacking the ability to communicate in any manner
13 such health care decision;

14 (13) Individual means an adult or an emancipated minor for whom a
15 health care decision is to be made;

16 (14) Individual instruction means an individual's direction
17 concerning a health care decision for the individual;

18 (15) Life-sustaining procedure means any medical procedure,
19 treatment, or intervention that (a) uses mechanical or other artificial
20 means to sustain, restore, or supplant a spontaneous vital function and
21 (b) when applied to a person who is in a terminal condition or who is in
22 a persistent vegetative state, serves only to prolong the dying process.
23 Life-sustaining procedure does not include routine care necessary to
24 maintain patient comfort or the usual and typical provision of nutrition
25 and hydration;

26 (16) Persistent vegetative state means a medical condition that, to
27 a reasonable degree of medical certainty as determined in accordance with
28 then current accepted medical standards, is characterized by a total and
29 irreversible loss of consciousness and capacity for cognitive interaction
30 with the environment and no reasonable hope of improvement;

31 (17) Physician means a natural person licensed to practice medicine

1 and surgery or osteopathic medicine under the Uniform Credentialing Act;

2 (18) Power of attorney for health care means the designation of an
3 agent under sections 30-3401 to 30-3432 or a similar law of another state
4 to make health care decisions for the principal;

5 (19) Primary health care provider means (a) a physician designated
6 by an individual or the individual's agent, guardian, or surrogate to
7 have primary responsibility for the individual's health care or, in the
8 absence of a designation or if the designated physician is not reasonably
9 available, a physician who undertakes the responsibility or (b) if there
10 is no such primary physician or such primary physician is not reasonably
11 available, the health care provider who has undertaken primary
12 responsibility for an individual's health care;

13 (20) Principal means a natural person who, when competent, confers
14 upon another natural person a power of attorney for health care;

15 (21) Reasonably available means readily able to be contacted without
16 undue effort and willing and able to act in a timely manner considering
17 the urgency of an individual's health care needs;

18 (22) State means a state of the United States, the District of
19 Columbia, the Commonwealth of Puerto Rico, or a territory or insular
20 possession subject to the jurisdiction of the United States;

21 (23) Surrogate means a natural person who is authorized under
22 section 4 of this act to make a health care decision on behalf of an
23 individual when a guardian or an agent under a power of attorney for
24 health care has not been appointed or otherwise designated for such
25 individual;

26 (24) Terminal condition means a medical condition caused by injury,
27 disease, or physical illness which, to a reasonable degree of medical
28 certainty, will result in death within six months regardless of the
29 continued application of medical treatment, including life-sustaining
30 procedures; and

31 (25) Usual and typical provision of nutrition and hydration means

1 delivery of food and fluids orally, including by cup, eating utensil,
2 bottle, or drinking straw.

3 Sec. 4. (1) A surrogate may make a health care decision for an
4 individual if the individual has been determined to be incapable by the
5 primary health care provider and no agent or guardian has been appointed
6 for the individual. A determination that an individual is incapable of
7 making a health care decision shall not be construed as a finding that
8 the individual is incapable for any other purpose.

9 (2)(a) An individual may designate a natural person to act as
10 surrogate for the individual by personally informing the primary health
11 care provider.

12 (b) If an individual has not designated a surrogate and there is no
13 power of attorney for health care or court-appointed guardian for the
14 individual, any member of the following classes of natural persons, in
15 the following order of priority, may act as surrogate for the individual
16 if such person is reasonably available at the time the health care
17 decision is to be made on behalf of the individual and if such person has
18 not been disqualified under the Health Care Surrogacy Act:

19 (i) The individual's spouse unless legally separated from the
20 individual or unless proceedings are pending for divorce, annulment, or
21 legal separation between the individual and his or her spouse;

22 (ii) A child of the individual who is an adult or an emancipated
23 minor;

24 (iii) A parent of the individual; or

25 (iv) A brother or sister of the individual who is an adult or an
26 emancipated minor.

27 (c) A person in a class with greater priority to serve as a
28 surrogate may decline to serve as surrogate by informing the primary
29 health care provider of that fact. Such fact shall be noted in the
30 individual's medical record.

31 (d) The primary health care provider may use discretion to

1 disqualify a person who would otherwise be eligible to act as a surrogate
2 based on the priority listed in subdivision (b) of this subsection if the
3 provider has documented or otherwise clear and convincing evidence of an
4 abusive relationship or documented or otherwise clear and convincing
5 evidence of another basis for finding that the potential surrogate is not
6 acting on behalf of or in the best interest of the individual. Any
7 evidence so used to disqualify a person from acting as a surrogate shall
8 be documented in full in the individual's medical record.

9 (3) A person who has exhibited special care and concern for the
10 individual, who is familiar with the individual's personal values, and
11 who is reasonably available to act as a surrogate is eligible to act as a
12 surrogate under subsection (2) of this section.

13 (4) A surrogate shall communicate his or her assumption of authority
14 as promptly as possible to the members of the individual's family
15 specified in subsection (2) of this section who can be readily contacted.

16 (5)(a) If more than one member of a class having priority has
17 authority to act as an individual's surrogate, such persons may act as
18 the individual's surrogate and any of such persons may be identified as
19 one of the individual's surrogates by the primary health care provider
20 within the individual's medical record, so long as such persons are in
21 agreement about the health care decision to be made on behalf of the
22 individual and attest to such agreement in a writing signed and dated by
23 all persons claiming the authority and provided to the primary health
24 care provider for inclusion with the individual's medical record.

25 (b)(i) If two or more members of a class having the same priority
26 claim authority to act as an individual's surrogate and such persons are
27 not in agreement about one or more health care decisions to be made on
28 the individual's behalf, the persons claiming authority shall confer with
29 each other for purposes of arriving at consensus regarding the health
30 care decision to be made in light of the individual's known desires about
31 health care, the individual's personal values, the individual's religious

1 or moral beliefs, and the individual's best interests. Each person
2 claiming authority to act as an individual's surrogate shall inform the
3 primary health care provider about his or her claim and priority under
4 the Health Care Surrogacy Act, the claim of any other person within the
5 same class, the nature of the disagreement regarding the health care
6 decision, and the efforts made by such person to reach agreement between
7 and among other persons claiming authority to act as the individual's
8 surrogate.

9 (ii) To the extent possible, the primary health care provider shall
10 seek a consensus of the persons claiming authority to act as the
11 individual's surrogate. The primary health care provider may convene a
12 meeting of such persons with the primary health care provider and, as
13 available and appropriate, other health care personnel involved in the
14 individual's care for purposes of reviewing and discussing the
15 individual's condition, prognosis, and options for treatment, the risks,
16 benefits, or burdens of such options, the individual's known desires
17 about health care, the individual's personal values, the individual's
18 religious or moral beliefs, and the individual's best interests. If
19 reasonably available, the primary health care provider may include
20 members of other classes of priority in such meeting to hear and
21 participate in the discussion.

22 (iii) The primary health care provider, in his or her discretion or
23 at the request of the persons claiming authority as the individual's
24 surrogate, may also seek the assistance of other health care providers or
25 the ethics committee or ethics consultation process of the health care
26 facility or another health care entity to facilitate the meeting.

27 (iv) If a consensus about the health care decisions to be made on
28 behalf of the individual cannot be attained between the persons of the
29 same class of priority claiming authority to act as the individual's
30 surrogate to enable a timely decision to be made on behalf of the
31 individual, then such persons shall be deemed disqualified to make health

1 care decisions on behalf of the individual. The primary health care
2 provider may then confer with other persons in the same class or within
3 the other classes of lower priority consistent with subsection (2) of
4 this section who may be reasonably available to make health care
5 decisions on behalf of the individual.

6 (v) If no other person is reasonably available to act as a surrogate
7 on behalf of the individual, then the primary health care provider may,
8 consistent with the Health Care Surrogacy Act, take actions or decline to
9 take actions determined by the primary health care provider to be
10 appropriate, to be in accordance with the individual's personal values,
11 if known, and moral and religious beliefs, if known, and to be in the
12 best interests of the individual.

13 (6) A surrogate's authority shall continue in effect until the
14 earlier of any of the following:

15 (a) A guardian is appointed for the individual;

16 (b) The primary health care provider determines that the individual
17 is capable of making his or her own health care decision;

18 (c) A person with higher priority to act as a surrogate under
19 subsection (2) of this section becomes reasonably available;

20 (d) The individual is transferred to another health care facility;
21 or

22 (e) The death of the individual.

23 (7)(a) An individual, if able to communicate the same, may
24 disqualify another person from serving as the individual's surrogate,
25 including a member of the individual's family, by a signed and dated
26 writing or by personally informing the primary health care provider and a
27 witness of the disqualification. In order to be a witness under this
28 subdivision, a person shall be an adult or emancipated minor who is not
29 among the persons who may serve as a surrogate under subsection (2) of
30 this section.

31 (b) When the existence of a disqualification under this subsection

1 becomes known, it shall be made a part of the individual's medical record
2 at the health care facility in which the individual is a patient or
3 resides. The disqualification of a person to serve as a surrogate shall
4 not revoke or terminate the authority as to a surrogate who acts in good
5 faith under the surrogacy and without actual knowledge of the
6 disqualification. An action taken in good faith and without actual
7 knowledge of the disqualification of a person to serve as the
8 individual's surrogate under this subsection, unless the action is
9 otherwise invalid or unenforceable, shall bind the individual and his or
10 her heirs, devisees, and personal representatives.

11 (8) A primary health care provider may require a person claiming the
12 right to act as surrogate for an individual to provide a written
13 declaration under penalty of perjury stating facts and circumstances
14 reasonably sufficient to establish that person's claimed authority.

15 (9) The authority of a surrogate shall not supersede any other
16 advance health care directive.

17 Sec. 5. Unless related to the individual by blood, marriage, or
18 adoption, a surrogate may not be an owner, operator, or employee of a
19 health care facility at which the individual is residing or receiving
20 health care or a facility or an institution of the Department of
21 Correctional Services or the Department of Health and Human Services to
22 which the individual has been committed.

23 Sec. 6. (1) A determination that an individual is incapable of
24 making a health care decision shall be made in writing by the primary
25 health care provider and any physician consulted with respect to such
26 determination, and the physician or physicians shall document the cause
27 and nature of the individual's incapability. The determination shall be
28 included in the individual's medical record with the primary health care
29 provider and, when applicable, with the consulting physician and the
30 health care facility in which the individual is a patient or resides.
31 When a surrogate has been designated or determined pursuant to section 4

1 of this act, the surrogate shall be included in the individual's medical
2 record.

3 (2) A physician who has been designated an individual's surrogate
4 shall not make the determination that the individual is incapable of
5 making health care decisions.

6 Sec. 7. Notice of a determination that an individual is incapable
7 of making health care decisions shall be given by the primary health care
8 provider (1) to the individual when there is any indication of the
9 individual's ability to comprehend such notice, (2) to the surrogate, and
10 (3) to the health care facility.

11 Sec. 8. If a dispute arises as to whether the individual is
12 incapable, a petition may be filed with the county court in the county in
13 which the individual resides or is located requesting the court's
14 determination as to whether the individual is incapable of making health
15 care decisions. If such a petition is filed, the court shall appoint a
16 guardian ad litem to represent the individual. The court shall conduct a
17 hearing on the petition within seven days after the court's receipt of
18 the petition. Within seven days after the hearing, the court shall issue
19 its determination. If the court determines that the individual is
20 incapable, the authority, rights, and responsibilities of the
21 individual's surrogate shall become effective. If the court determines
22 that the individual is capable, the authority, rights, and
23 responsibilities of the surrogate shall not become effective.

24 Sec. 9. (1) When the authority conferred on a surrogate under the
25 Health Care Surrogacy Act has commenced, the surrogate, subject to any
26 individual instructions, shall make health care decisions on the
27 individual's behalf, except that the surrogate shall not have authority
28 (a) to consent to any act or omission to which the individual could not
29 consent under law, (b) to make any decision when the individual is known
30 to be pregnant that will result in the death of the individual's unborn
31 child if it is probable that the unborn child will develop to the point

1 of live birth with continued application of health care, or (c) to make
2 decisions regarding withholding or withdrawing a life-sustaining
3 procedure or withholding or withdrawing artificially administered
4 nutrition or hydration except as provided under section 10 of this act.

5 (2) If no agent or guardian has been appointed for the individual,
6 the surrogate shall have priority over any person other than the
7 individual to act for the individual in all health care decisions, except
8 that the surrogate shall not have the authority to make any health care
9 decision unless and until the individual has been determined to be
10 incapable of making health care decisions pursuant to section 6 of this
11 act.

12 (3) A person who would not otherwise be personally responsible for
13 the cost of health care provided to the individual shall not become
14 personally responsible for such cost because he or she has acted as the
15 individual's surrogate.

16 (4) Except to the extent that the right is limited by the
17 individual, a surrogate shall have the same right as the individual to
18 receive information regarding the proposed health care, to receive and
19 review medical and clinical records, and to consent to the disclosures of
20 such records, except that the right to access such records shall not be a
21 waiver of any evidentiary privilege.

22 (5) Notwithstanding a determination pursuant to section 6 of this
23 act that the individual is incapable of making health care decisions,
24 when the individual objects to the determination or to a health care
25 decision made by a surrogate, the individual's objection or decision
26 shall prevail unless the individual is determined by a county court to be
27 incapable of making health care decisions.

28 Sec. 10. (1) In exercising authority under the Health Care
29 Surrogacy Act, a surrogate shall have a duty to consult with medical
30 personnel, including the primary health care provider, and thereupon to
31 make health care decisions (a) in accordance with the individual

1 instructions or the individual's wishes as otherwise made known to the
2 surrogate or (b) if the individual's wishes are not reasonably known and
3 cannot with reasonable diligence be ascertained, in accordance with the
4 individual's best interests, with due regard for the individual's
5 religious and moral beliefs if known.

6 (2) Notwithstanding subdivision (1)(b) of this section, the
7 surrogate shall not have the authority to consent to the withholding or
8 withdrawing of a life-sustaining procedure or artificially administered
9 nutrition or hydration unless (a) the individual is suffering from a
10 terminal condition or is in a persistent vegetative state and such
11 procedure or care would be an extraordinary or disproportionate means of
12 medical treatment to the individual and (b) the individual explicitly
13 grants such authority to the surrogate and the intent of the individual
14 to have life-sustaining procedures or artificially administered nutrition
15 or hydration withheld or withdrawn under such circumstances is
16 established by clear and convincing evidence.

17 (3) In exercising any decision, the surrogate shall have no
18 authority to withhold or withdraw consent to routine care necessary to
19 maintain patient comfort or the usual and typical provision of nutrition
20 and hydration.

21 Sec. 11. Before acting upon a health care decision made by a
22 surrogate, other than those decisions made at or about the time of the
23 initial determination of incapacity, the primary health care provider
24 shall confirm that the individual continues to be incapable. The
25 confirmation shall be stated in writing and shall be included in the
26 individual's medical records. The notice requirements set forth in
27 section 7 of this act shall not apply to the confirmation required by
28 this section.

29 Sec. 12. (1) A petition may be filed for any one or more of the
30 following purposes:

31 (a) To determine whether the authority of a surrogate under the

1 Health Care Surrogacy Act is in effect or has been revoked or terminated;

2 (b) To determine whether the acts or proposed acts of a surrogate
3 are consistent with the individual instruction or the individual's wishes
4 as expressed or otherwise established by clear and convincing evidence
5 or, when the wishes of the individual are unknown, whether the acts or
6 proposed acts of the surrogate are clearly contrary to the best interests
7 of the individual;

8 (c) To declare that the authority of a surrogate is revoked upon a
9 determination by the court that the surrogate made or proposed to make a
10 health care decision for the individual that authorized an illegal act or
11 omission; or

12 (d) To declare that the authority of a surrogate is revoked upon a
13 determination by the court of both of the following: (i) That the
14 surrogate has violated, failed to perform, or is unable to perform the
15 duty to act in a manner consistent with the individual instruction or the
16 wishes of the individual or, when the desires of the individual are
17 unknown, to act in a manner that is in the best interests of the
18 individual; and (ii) that at the time of the determination by the court,
19 the individual is unable to disqualify the surrogate as provided in
20 subsection (7) of section 4 of this act.

21 (2) A petition under this section shall be filed with the county
22 court of the county in which the individual resides or is located.

23 Sec. 13. A petition under section 8 or 12 of this act may be filed
24 by any of the following:

25 (1) The individual;

26 (2) The surrogate;

27 (3) The spouse, parent, sibling, or child of the individual who is
28 an adult or an emancipated minor;

29 (4) A close friend of the individual who is an adult or an
30 emancipated minor;

31 (5) The primary health care provider or another health care

1 provider; or

2 (6) Any other interested party.

3 Sec. 14. (1) A surrogate shall not be guilty of any criminal
4 offense, subject to any civil liability, or in violation of any
5 professional oath or code of ethics or conduct for any action taken in
6 good faith pursuant to the Health Care Surrogacy Act.

7 (2) No primary health care provider, other health care provider, or
8 health care facility shall be subject to criminal prosecution, civil
9 liability, or professional disciplinary action for acting or declining to
10 act in reliance upon the decision made by a person whom the primary
11 health care provider or other health care provider in good faith believes
12 is the surrogate. This subsection does not limit the liability of a
13 primary health care provider, other health care provider, or health care
14 facility for a negligent act or omission in connection with the medical
15 diagnosis, treatment, or care of the individual.

16 Sec. 15. The existence of a surrogate for an individual under the
17 Health Care Surrogacy Act does not waive the right of the individual to
18 routine hygiene, nursing, and comfort care and the usual and typical
19 provision of nutrition and hydration.

20 Sec. 16. In following the decision of a surrogate, a health care
21 provider shall exercise the same independent medical judgment that the
22 health care provider would exercise in following the decision of the
23 individual if the individual were not incapable.

24 Sec. 17. (1) Nothing in the Health Care Surrogacy Act obligates a
25 health care facility to honor a health care decision by a surrogate that
26 the health care facility would not honor if the decision had been made by
27 the individual because the decision is contrary to a formally adopted
28 policy of the health care facility that is expressly based on religious
29 beliefs or sincerely held ethical or moral convictions central to the
30 operating principles of the health care facility. The health care
31 facility may refuse to honor the decision whether made by the individual

1 or by the surrogate if the health care facility has informed the
2 individual or the surrogate of such policy, if reasonably possible. If
3 the surrogate is unable or unwilling to arrange a transfer to another
4 health care facility, the health care facility refusing to honor the
5 decision may intervene to facilitate such a transfer.

6 (2) Nothing in the Health Care Surrogacy Act obligates a health care
7 provider to honor or cooperate with a health care decision by a surrogate
8 that the health care provider would not honor or cooperate with if the
9 decision had been made by the individual because the decision is contrary
10 to the health care provider's religious beliefs or sincerely held moral
11 or ethical convictions. The health care provider shall promptly inform
12 the surrogate and the health care facility of his or her refusal to honor
13 or cooperate with the decision of the surrogate. In such event, the
14 health care facility shall promptly assist in the transfer of the
15 individual to a health care provider selected by the individual or the
16 surrogate.

17 Sec. 18. For purposes of making health care decisions, an attempted
18 suicide by an individual shall not be construed as any indication of his
19 or her wishes with regard to health care.

20 Sec. 19. (1) It shall be a Class II felony for a person to
21 willfully conceal or destroy evidence of any person's disqualification as
22 a surrogate under the Health Care Surrogacy Act with the intent and
23 effect of causing the withholding or withdrawing of life-sustaining
24 procedures or artificially administered nutrition or hydration which
25 hastens the death of the individual.

26 (2) It shall be a Class I misdemeanor for a person without the
27 authorization of the individual to willfully alter, forge, conceal, or
28 destroy evidence of an advance health care directive, appointment of a
29 guardian, appointment of an agent for the individual under a power of
30 attorney for health care, or evidence of disqualification of any person
31 as a surrogate under the Health Care Surrogacy Act.

1 (3) A physician or other health care provider who willfully prevents
2 the transfer of an individual in accordance with section 17 of this act
3 with the intention of avoiding the provisions of the Health Care
4 Surrogacy Act shall be guilty of a Class I misdemeanor.

5 Sec. 20. Section 25-2728, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 25-2728 (1) Any party in a civil case and any defendant in a
8 criminal case may appeal from the final judgment or final order of the
9 county court to the district court of the county where the county court
10 is located. In a criminal case, a prosecuting attorney may obtain review
11 by exception proceedings pursuant to sections 29-2317 to 29-2319.

12 (2) Sections 25-2728 to 25-2738 shall not apply to:

13 (a) Appeals in eminent domain proceedings as provided in sections
14 76-715 to 76-723;

15 (b) Appeals in proceedings in the county court sitting as a juvenile
16 court as provided in sections 43-2,106 and 43-2,106.01;

17 (c) Appeals in matters arising under the Nebraska Probate Code as
18 provided in section 30-1601;

19 (d) Appeals in matters arising under the Nebraska Uniform Trust
20 Code;

21 (e) Appeals in matters arising under the Health Care Surrogacy Act
22 as provided in section 30-1601;

23 (f) ~~(e)~~ Appeals in adoption proceedings as provided in section
24 43-112;

25 (g) ~~(f)~~ Appeals in inheritance tax proceedings as provided in
26 section 77-2023; and

27 (h) ~~(g)~~ Appeals in domestic relations matters as provided in section
28 25-2739.

29 Sec. 21. Section 30-1601, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 30-1601 (1) In all matters arising under the Nebraska Probate Code,

1 ~~and~~ in all matters in county court arising under the Nebraska Uniform
2 Trust Code, and in all matters in county court arising under the Health
3 Care Surrogacy Act, appeals may be taken to the Court of Appeals in the
4 same manner as an appeal from district court to the Court of Appeals.

5 (2) An appeal may be taken by any party and may also be taken by any
6 person against whom the final judgment or final order may be made or who
7 may be affected thereby.

8 (3) When the appeal is by someone other than a personal
9 representative, conservator, trustee, guardian, ~~or~~ guardian ad litem, or
10 surrogate pursuant to the Health Care Surrogacy Act the appealing party
11 shall, within thirty days after the entry of the judgment or final order
12 complained of, deposit with the clerk of the county court a supersedeas
13 bond or undertaking in such sum as the court shall direct, with at least
14 one good and sufficient surety approved by the court, conditioned that
15 the appellant will satisfy any judgment and costs that may be adjudged
16 against him or her, including costs under subsection (6) of this section,
17 unless the court directs that no bond or undertaking need be deposited.
18 If an appellant fails to comply with this subsection, the Court of
19 Appeals on motion and notice may take such action, including dismissal of
20 the appeal, as is just.

21 (4) The appeal shall be a supersedeas for the matter from which the
22 appeal is specifically taken, but not for any other matter. In appeals
23 pursuant to sections 30-2601 to 30-2661, upon motion of any party to the
24 action, the county court may remove the supersedeas or require the
25 appealing party to deposit with the clerk of the county court a bond or
26 other security approved by the court in an amount and conditioned in
27 accordance with sections 30-2640 and 30-2641. Once the appeal is
28 perfected, the court having jurisdiction over the appeal may, upon motion
29 of any party to the action, reimpose or remove the supersedeas or require
30 the appealing party to deposit with the clerk of the court a bond or
31 other security approved by the court in an amount and conditioned in

1 accordance with sections 30-2640 and 30-2641. Upon motion of any
2 interested person or upon the court's own motion, the county court may
3 appoint a special guardian or conservator pending appeal despite any
4 supersedeas order.

5 (5) The judgment of the Court of Appeals shall not vacate the
6 judgment in the county court. The judgment of the Court of Appeals shall
7 be certified without cost to the county court for further proceedings
8 consistent with the determination of the Court of Appeals.

9 (6) If it appears to the Court of Appeals that an appeal was taken
10 vexatiously or for delay, the court shall adjudge that the appellant
11 shall pay the cost thereof, including an attorney's fee, to the adverse
12 party in an amount fixed by the Court of Appeals, and any bond required
13 under subsection (3) of this section shall be liable for the costs.

14 Sec. 22. Section 71-4843, Revised Statutes Cumulative Supplement,
15 2016, is amended to read:

16 71-4843 (a) For purposes of this section:

17 (1) Advance health care directive means a power of attorney for
18 health care or a record signed or authorized by a prospective donor
19 containing the prospective donor's direction concerning a health care
20 decision for the prospective donor;

21 (2) Declaration means a record signed by a prospective donor
22 specifying the circumstances under which life-sustaining treatment may be
23 withheld or withdrawn from the prospective donor; and

24 (3) Health care decision means any decision regarding the health
25 care of the prospective donor.

26 (b) If a prospective donor has a declaration or advance health care
27 directive and the terms of the declaration or directive and the express
28 or implied terms of a potential anatomical gift are in conflict with
29 regard to the administration of measures necessary to ensure the medical
30 suitability of a part for transplantation or therapy, the prospective
31 donor's attending physician and prospective donor shall confer to resolve

1 the conflict. If the prospective donor is incapable of resolving the
2 conflict, an agent acting under the prospective donor's declaration or
3 directive, or, if none or the agent is not reasonably available, a
4 surrogate acting under the Health Care Surrogacy Act or another person
5 authorized by law other than the Revised Uniform Anatomical Gift Act to
6 make health care decisions on behalf of the prospective donor, shall act
7 for the donor to resolve the conflict. The conflict must be resolved as
8 expeditiously as possible. Information relevant to the resolution of the
9 conflict may be obtained from the appropriate procurement organization
10 and any other person authorized to make an anatomical gift for the
11 prospective donor under section 71-4832. Before resolution of the
12 conflict, measures necessary to ensure the medical suitability of the
13 part from a prospective donor may not be administered if it is determined
14 that the administration of those measures would not provide the
15 prospective donor with appropriate end-of-life care or it can be
16 anticipated by reasonable medical judgment that such measures would cause
17 the prospective donor's death other than by the prospective donor's
18 underlying pathology. If the conflict is not resolved expeditiously, the
19 direction of the declaration or advanced directive controls.

20 Sec. 23. Original sections 25-2728 and 30-1601, Reissue Revised
21 Statutes of Nebraska, and section 71-4843, Revised Statutes Cumulative
22 Supplement, 2016, are repealed.