

AMENDMENTS TO LB670

(Amendments to Standing Committee amendments, AM2093)

Introduced by Vargas, 7.

1 1. Strike sections 13 and 15 and insert the following new sections:

2 Sec. 6. Section 43-1238, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 43-1238 (a) Except as otherwise provided in section 43-1241, a court
5 of this state has jurisdiction to make an initial child custody
6 determination only if:

7 (1) this state is the home state of the child on the date of the
8 commencement of the proceeding or was the home state of the child within
9 six months before the commencement of the proceeding and the child is
10 absent from this state but a parent or person acting as a parent
11 continues to live in this state;

12 (2) a court of another state does not have jurisdiction under
13 subdivision (a)(1) of this section, or a court of the home state of the
14 child has declined to exercise jurisdiction on the ground that this state
15 is the more appropriate forum under section 43-1244 or 43-1245, and:

16 (A) the child and the child's parents, or the child and at least one
17 parent or a person acting as a parent, have a significant connection with
18 this state other than mere physical presence; and

19 (B) substantial evidence is available in this state concerning the
20 child's care, protection, training, and personal relationships;

21 (3) all courts having jurisdiction under subdivision (a)(1) or (a)
22 (2) of this section have declined to exercise jurisdiction on the ground
23 that a court of this state is the more appropriate forum to determine the
24 custody of the child under section 43-1244 or 43-1245; or

25 (4) no court of any other state would have jurisdiction under the
26 criteria specified in subdivision (a)(1), (a)(2), or (a)(3) of this

1 section.

2 (b) Subsection (a) of this section is the exclusive jurisdictional
3 basis for making a child custody determination by a court of this state.
4 In addition to having jurisdiction to make judicial determinations about
5 the custody and care of the child, a court of this state with exclusive
6 jurisdiction under subsection (a) of this section has jurisdiction and
7 authority to make factual findings regarding (1) the abuse, abandonment,
8 or neglect of the child, (2) the nonviability of reunification with at
9 least one of the child's parents due to such abuse, abandonment, neglect,
10 or a similar basis under state law, and (3) whether it would be in the
11 best interests of such child to be removed from the United States to a
12 foreign country, including the child's country of origin or last habitual
13 residence. If there is sufficient evidence to support such factual
14 findings, the court shall issue an order containing such findings when
15 requested by one of the parties or upon the court's own motion.

16 (c) Physical presence of, or personal jurisdiction over, a party or
17 a child is not necessary or sufficient to make a child custody
18 determination.

19 Sec. 14. Sections 1, 2, 3, 4, 5, 11, 12, 13, and 16 of this act
20 become operative three calendar months after the adjournment of this
21 legislative session. The other sections of this act become operative on
22 their effective date.

23 Sec. 16. Original sections 43-248, 43-250, 43-251.02, and 43-1238,
24 Reissue Revised Statutes of Nebraska, sections 71-1940, 83-4,125, and
25 83-4,134.01, Revised Statutes Cumulative Supplement, 2016, and sections
26 43-246.02 and 43-286, Revised Statutes Supplement, 2017, are repealed.

27 2. Renumber the remaining sections.