

AMENDMENTS TO LB 247

Introduced by Johnson, 37

1 1. Insert the following new sections:

2 Section 1. Section 43-102, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 43-102 Except as otherwise provided in the Nebraska
5 Indian Child Welfare Act, any person or persons desiring to adopt
6 a minor child or an adult child shall file a petition for adoption
7 signed and sworn to by the person or persons desiring to adopt.
8 The consent or consents required by sections 43-104 and 43-105
9 or section 43-104.07, the documents required by section 43-104.07
10 or the documents required by sections 43-104.08 to 43-104.24 and
11 section 15 of this act, and a completed preplacement adoptive home
12 study if required by section 43-107 shall be filed prior to the
13 hearing required in section 43-103.

14 The county court of the county in which the person or
15 persons desiring to adopt ~~the~~ a child reside has jurisdiction of
16 adoption proceedings, except that if a separate juvenile court
17 already has jurisdiction over the child to be adopted under the
18 Nebraska Juvenile Code, such separate juvenile court has concurrent
19 jurisdiction with the county court in such adoption proceeding.
20 If a child to be adopted is a ward of any court or a ward of
21 the state at the time of placement and at the time of filing an
22 adoption petition, the person or persons desiring to adopt shall
23 not be required to be residents of Nebraska. The petition and

1 all other court filings for an adoption proceeding shall be filed
2 with the clerk of the county court. The party shall state in the
3 petition whether such party requests that the proceeding be heard
4 by the county court or, in cases in which a separate juvenile
5 court already has jurisdiction over the child to be adopted under
6 the Nebraska Juvenile Code, such separate juvenile court. Such
7 proceeding is considered a county court proceeding even if heard
8 by a separate juvenile court judge and an order of the separate
9 juvenile court in such adoption proceeding has the force and effect
10 of a county court order. The testimony in an adoption proceeding
11 heard before a separate juvenile court judge shall be preserved
12 as in any other separate juvenile court proceeding. The clerks of
13 the district courts shall transfer all adoption petitions and other
14 adoption filings which were filed with such clerks prior to August
15 28, 1999, to the clerk of the county court where the separate
16 juvenile court which heard the proceeding is situated. The clerk of
17 such county court shall file and docket such petitions and other
18 filings.

19 Except as set out in subdivisions (1)(b)(ii), (iii),
20 (iv), and (v) of section 43-107, an adoption decree shall not be
21 issued until at least six months after an adoptive home study has
22 been completed by the department or a licensed child placement
23 agency.

24 Sec. 2. Section 43-104, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 43-104 (1) Except as otherwise provided in this section
27 and in the Nebraska Indian Child Welfare Act, no adoption shall

1 be decreed unless written consents thereto are filed in the county
2 court of the county in which the person or persons desiring to
3 adopt reside or in the county court in which the separate juvenile
4 court having jurisdiction over the custody of the child is located
5 and the written consents are executed by ~~(1)~~ (a) the minor child,
6 if over fourteen years of age, or the adult child, ~~(2)~~ (b) any
7 district court, county court, or separate juvenile court in the
8 State of Nebraska having jurisdiction of the custody of a minor
9 child by virtue of proceedings had in any district court, county
10 court, or separate juvenile court in the State of Nebraska or by
11 virtue of the Uniform Child Custody Jurisdiction and Enforcement
12 Act, and ~~(3)~~ (c) both parents of a child born in lawful wedlock
13 if living, the surviving parent of a child born in lawful wedlock,
14 the mother of a child born out of wedlock, or both the mother
15 and father of a child born out of wedlock as determined pursuant
16 to sections 43-104.08 to 43-104.24 and section 15 of this act. ~~7~~
17 ~~except that consent~~

18 (2) Consent shall not be required of any parent who (a)
19 has relinquished the child for adoption by a written instrument,
20 (b) has abandoned the child for at least six months next preceding
21 the filing of the adoption petition, (c) has been deprived of his
22 or her parental rights to such child by the order of any court
23 of competent jurisdiction, or (d) is incapable of consenting. On
24 and after April 20, 2002, a written consent or relinquishment for
25 adoption under this section shall not be valid unless signed at
26 least forty-eight hours after the birth of the child.

27 (3) Consent shall not be required of a putative father

1 who has failed to timely file (a) a Notice of Objection to
2 Adoption and Intent to Obtain Custody pursuant to section 43-104.02
3 and, with respect to the absence of such filing, a certificate
4 has been filed pursuant to section 43-104.04 or (b) a petition
5 pursuant to section 43-104.05 for the adjudication of such notice
6 and a determination of whether his consent to the adoption is
7 required and the mother of the child has timely executed a
8 valid relinquishment and consent to the adoption pursuant to such
9 section.

10 (4) Consent shall not be required of an adjudicated or
11 putative father who is not required to consent to the adoption
12 pursuant to section 43-104.22.

13 Sec. 3. Section 43-104.01, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 43-104.01 (1) The Department of Health and Human Services
16 ~~Finance and Support~~ shall establish a biological father registry.
17 The department shall maintain such registry and which shall record
18 the names and addresses of (a) any person adjudicated by a court
19 of this state or by a court of another state or territory of
20 the United States to be the biological father of a child born
21 out of wedlock if a certified copy of the court order is filed
22 with the registry by such person or any other person, (b) any
23 ~~person~~ putative father who has filed with the registry, prior to
24 ~~notification~~ the receipt of notice under sections 43-104.12 to
25 43-104.16, a paternity claim for notification purposes for Request
26 for Notification of Intended Adoption with respect to such child,
27 and (c) any person putative father who has filed with the registry

1 a notice of intent to claim paternity and obtain custody of Notice
2 of Objection to Adoption and Intent to Obtain Custody with respect
3 to such child, ~~7~~ and ~~(d)~~ any person adjudicated by a court of
4 another state or territory of the United States to be the father of
5 such child, ~~7~~ if a certified copy of the court order has been filed
6 with the registry by that person or any other person.

7 (2) A paternity claim for notification purposes or a
8 notice of intent to claim paternity and obtain custody Request
9 for Notification of Intended Adoption or a Notice of Objection to
10 Adoption and Intent to Obtain Custody filed with the registry shall
11 include (a) the claimant's putative father's name, and address,
12 and social security number, (b) the name and last-known address
13 of the mother, and (c) the month and year of the birth or the
14 expected birth of the child, (d) the case name, court name, and
15 location of any Nebraska court having jurisdiction over the custody
16 of the child, and (e) a statement by the putative father that
17 he acknowledges liability for contribution to the support and
18 education of the child after birth and for contribution to the
19 pregnancy-related medical expenses of the mother of the child.
20 The person filing the notice shall notify the registry of any
21 change of address pursuant to procedures prescribed by in rules and
22 regulations of the department.

23 (3) A request or notice filed under this section or
24 section 43-104.02 shall be admissible in any action for paternity
25 and shall estop the putative father from denying paternity of such
26 child thereafter.

27 (4) Any person filing putative father who files a

1 ~~paternity claim for notification purposes or a notice of intent~~
2 ~~to claim paternity and obtain custody~~ Request for Notification of
3 Intended Adoption or a Notice of Objection to Adoption and Intent
4 to Obtain Custody with the biological father registry may revoke
5 such ~~notice,~~ and upon filing. Upon receipt of such revocation by
6 the registry, the effect shall be as if no filing had ever been
7 made.

8 ~~(4)~~ (5) The department shall not divulge the names and
9 addresses of persons listed with the biological father registry to
10 any other person except as authorized by law or upon order of a
11 court of competent jurisdiction for good cause shown.

12 ~~(5)~~ (6) The department may develop information about
13 the registry and may distribute such information, through ~~their~~
14 its existing publications, to the news media and the public.
15 The department may provide information about the registry to the
16 Department of Correctional Services, ~~the Department of Health and~~
17 ~~Human Services,~~ and the Department of Health and Human Services
18 ~~Regulation and Licensure,~~ ~~who~~ which may distribute such information
19 through ~~their~~ its existing publications.

20 (7) A person who has been adjudicated by a Nebraska court
21 of competent jurisdiction to be the biological father of a child
22 born out of wedlock who is the subject of a proposed adoption shall
23 not be construed to be a putative father for purposes of sections
24 43-104.01 to 43-104.05 and shall not be subject to the provisions
25 of such sections as applied to such fathers. Whether such person's
26 consent is required for the proposed adoption shall be determined
27 by the Nebraska court having jurisdiction over the custody of

1 the child pursuant to section 43-104.22, as part of proceedings
2 required under section 43-104 to obtain the court's consent to such
3 adoption.

4 Sec. 4. Section 43-104.02, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 43-104.02 ~~As provided in section 43-104.01, a person~~
7 ~~claiming to be the father of the child and who intends to claim~~
8 ~~paternity and obtain custody of the child shall file with the~~
9 ~~biological father registry maintained by the Department of Health~~
10 ~~and Human Services Finance and Support on forms provided by the~~
11 ~~department, A Notice of Objection to Adoption and Intent to Obtain~~
12 ~~Custody shall be filed with the biological father registry under~~
13 ~~section 43-104.01 on forms provided by the Department of Health and~~
14 ~~Human Services (1) within five business days after the birth of the~~
15 ~~child, or (2) if notice is provided after the birth of the child~~
16 ~~(a) within five business days after receipt of the notice provided~~
17 ~~under section 43-104.12 contemplated in section 43-104.12, or (b)~~
18 ~~within five business days after the last date of any published~~
19 ~~notice provided pursuant to under section 43-104.14, whichever~~
20 ~~notice is later, a notice of intent to claim paternity and obtain~~
21 ~~custody. earlier. Such notice shall include the social security~~
22 ~~number of the person claiming to be the father. A notice of~~
23 ~~intent to claim paternity and obtain custody of the child shall be~~
24 ~~considered to have been filed if it is received by the Department~~
25 ~~of Health and Human Services Finance and Support department or~~
26 ~~postmarked prior to the end of the fifth business day contemplated~~
27 ~~as provided in this section.~~

1 Sec. 5. Section 43-104.03, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-104.03 Within three days after the filing of a
4 ~~paternity claim for notification purposes or a notice of intent~~
5 ~~to claim paternity and obtain custody~~ Request for Notification of
6 Intended Adoption or a Notice of Objection to Adoption and Intent
7 to Obtain Custody with the biological father registry pursuant
8 to sections 43-104.01 and 43-104.02, the ~~Director of Finance and~~
9 ~~Support~~ Department of Health and Human Services shall cause a
10 certified copy of such request or notice to be mailed by certified
11 mail to (1) the mother or prospective mother of such child at the
12 last-known address shown on the request or notice or ~~(2)~~ an agent
13 specifically designated in writing by the mother or prospective
14 mother to receive such request or notice and (2) any Nebraska
15 court identified by the putative father under section 43-104.01
16 as having jurisdiction over the custody of the child. The notice
17 shall be admissible in any action for paternity, shall estop the
18 claimant from denying paternity of such child thereafter, and
19 shall contain language that the claimant acknowledges liability for
20 contribution to the support and education of the child after birth
21 and for contribution to the pregnancy-related medical expenses of
22 the mother.

23 Sec. 6. Section 43-104.04, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 43-104.04 If a notice of intent to claim paternity and
26 ~~obtain custody~~ Notice of Objection to Adoption and Intent to Obtain
27 Custody is not timely filed with the biological father registry

1 pursuant to section 43-104.02, the mother of a child born out
2 of wedlock or an agent specifically designated in writing by the
3 mother may request, and the Department of Health and Human Services
4 ~~Finance and Support~~ shall supply, a certificate that no such notice
5 ~~of intent to claim paternity and obtain custody~~ has been filed
6 with the biological father registry. The and the filing of such
7 certificate pursuant to section 43-102 shall eliminate the need
8 or necessity of a consent or relinquishment for adoption by the
9 ~~natural~~ putative father of such child.

10 Sec. 7. Section 43-104.05, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 43-104.05 (1) ~~If a notice of intent to claim paternity~~
13 ~~and obtain custody~~ Notice of Objection to Adoption and Intent to
14 Obtain Custody is timely filed with the biological father registry
15 pursuant to section 43-104.02, either the ~~claimant-father,~~ putative
16 father, the mother, or her agent specifically designated in writing
17 shall, within thirty days after the filing the of such notice,
18 file a petition for an ~~adjudication of the claim of paternity and~~
19 ~~right to custody.~~ adjudication of the notice and a determination of
20 whether the putative father's consent to the proposed adoption is
21 required. The petition shall be filed in the county court in the
22 county where such child was born or, if a separate juvenile court
23 already has jurisdiction over the custody of the child, in the
24 county court of the county in which such separate juvenile court is
25 located.

26 (2) If such a petition is not filed within thirty days
27 after the filing the of such notice and the mother of the child has

1 executed a valid relinquishment and consent to the adoption within
2 sixty days of the filing of such notice, the ~~claimant-father's~~
3 putative father's consent to adoption of the child shall not be
4 required, he is not entitled to any further notice of the adoption
5 proceedings, and any alleged parental rights ~~of the claimant-father~~
6 and responsibilities of the putative father shall not be recognized
7 thereafter in any court.

8 (3) After the timely filing of such petition, the court
9 shall set a trial date upon proper notice to the parties not
10 less than twenty nor more than thirty days after the date of
11 such filing. If the mother contests the putative father's claim
12 of paternity, the court shall take such testimony as shall enable
13 it to determine the facts. ~~The claimant-father's rights and the~~
14 custody of the child order DNA testing to establish whether the
15 putative father is the biological father. The court shall assess
16 the costs of such testing between the parties in an equitable
17 manner. Whether the putative father's consent to the adoption is
18 required shall be determined pursuant to section 43-104.22. The
19 court shall appoint a guardian ad litem to represent the best
20 interests of the child.

21 (4)(a) The county court of the county where the child
22 was born or the separate juvenile court having jurisdiction over
23 the custody of the child shall have jurisdiction over proceedings
24 under this section from the date of notice provided under section
25 43-104.12 or the last date of published notice under section
26 43-104.14, whichever notice is earlier, until thirty days after the
27 conclusion of adoption proceedings concerning the child, including

1 appeals, unless such jurisdiction is transferred under subdivision
2 (b) of this subsection.

3 (b) Except as otherwise provided in this subdivision, the
4 court shall, upon the motion of any party, transfer the case to the
5 district court for further proceedings on the matters of custody,
6 visitation, and child support with respect to such child if (i)
7 such court determines under section 43-104.22 that the consent of
8 the putative father is required for adoption of the minor child
9 and the putative father refuses such consent or (ii) the mother of
10 the child, within thirty days after the conclusion of proceedings
11 under this section, including appeals, has not executed a valid
12 relinquishment and consent to the adoption. The court, upon its own
13 motion, may retain the case for good cause shown.

14 Sec. 8. Section 43-104.08, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 43-104.08 Whenever a child is claimed to be born out of
17 wedlock and the biological mother contacts an adoption agency or
18 attorney to relinquish her rights to the child, or the biological
19 mother joins in a petition for adoption to be filed by her husband,
20 the agency or attorney contacted shall attempt to establish the
21 identity of the biological father and further attempt to inform
22 the biological father of his right to execute a relinquishment and
23 consent to adoption, or a denial of paternity and waiver of rights,
24 in the form mandated by section 43-106, pursuant to sections
25 43-104.08 to 43-104.24 and section 15 of this act.

26 Sec. 9. Section 43-104.09, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 43-104.09 In all cases of adoption of a minor child
2 born out of wedlock, the biological mother shall complete and
3 sign an affidavit in writing and under oath. The affidavit shall
4 be executed by the biological mother before or at the time of
5 execution of the consent or relinquishment and shall be attached
6 as an exhibit to any petition to finalize the adoption. If the
7 biological mother is under the age of nineteen, the affidavit may
8 be executed by the agency or attorney representing the biological
9 mother based upon information provided by the biological mother.
10 The affidavit shall be in substantially the following form:

11 AFFIDAVIT OF IDENTIFICATION

12 I,, the mother of a child, state under
13 oath or affirm as follows:

14 (1) My child was born, or is expected to be born, on the
15 day of,, at, in
16 the State of

17 (2) I reside at, in the City or Village
18 of, County of, State of
19

20 (3) I am of the age of years, and my date of
21 birth is

22 (4) I acknowledge that I have been asked to identify the
23 father of my child.

24 (5) (CHOOSE ONE)

25 (5A) I know and am identifying the biological father (or
26 possible biological fathers) as follows:

27 The name of the biological father is

1 His last-known home address is

2 His last-known work address is

3 He is years of age, or he is deceased,
4 having died on or about the day of
5, at, in the State of
6

7 He has been adjudicated to be the biological father by
8 the Court of county, State
9 of, case name, docket number
10

11 (For other possible biological fathers, please use
12 additional sheets of paper as needed.)

13 (5B) I am unwilling or unable to identify the biological
14 father (or possible biological fathers). I do not wish or I am
15 unable to name the biological father of the child for the following
16 reasons:

17 Conception of my child occurred as a result of
18 sexual assault or incest

19 Providing notice to the biological father of
20 my child would threaten my safety or the safety of my child

21 Other reason:

22 (6) If the biological mother is unable to name the
23 biological father, the physical description of the biological
24 father (or possible biological fathers) and other information which
25 may assist in identifying him, including the city or county and
26 state where conception occurred:

27

1

2

3 (use additional sheets of paper as needed).

4 (7) Under penalty of perjury, the undersigned certifies
5 that the statements set forth in this affidavit are true and
6 correct.

7 (8) I have read this affidavit and have had the
8 opportunity to review and question it. It was explained to me
9 by

10 I am signing it as my free and voluntary act and
11 understand the contents and the effect of signing it.

12 Dated this day of,

13 (Acknowledgment)

14

15 (Signature)

16 Sec. 10. Section 43-104.12, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 43-104.12 In order to attempt to inform the biological
19 father or possible biological fathers of the right to execute a
20 relinquishment and consent to adoption or a denial of paternity
21 and waiver of rights, the agency or attorney representing the
22 biological mother shall notify, by registered or certified mail,
23 restricted delivery, return receipt requested:

24 (1) Any person adjudicated by a court in this state or by
25 a court in another state or territory of the United States to be
26 the biological father of the child;

27 (2) Any person who has filed a paternity claim for

1 ~~notification purposes or a notice of intent to claim paternity~~
2 ~~and obtain custody~~ Request for Notification of Intended Adoption
3 or a Notice of Objection to Adoption and Intent to Obtain Custody
4 pursuant to sections 43-104.01 and 43-104.02;

5 (3) Any person who is recorded on the child's birth
6 certificate as the child's father;

7 (4) Any person who might be the biological father of
8 the child who was openly living with the child's biological mother
9 within the twelve months prior to the birth of the child;

10 (5) Any person who has been identified as the biological
11 father or possible biological father of the child by the child's
12 biological mother pursuant to section 43-104.09;

13 (6) Any person who was married to the child's biological
14 mother within six months prior to the birth of the child and prior
15 to the execution of the relinquishment; and

16 (7) Any other person who the agency or attorney
17 representing the biological mother may have reason to believe may
18 be the biological father of the child.

19 Sec. 11. Section 43-104.13, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 43-104.13 The notice sent by the agency or attorney
22 pursuant to section 43-104.12 shall be served sufficiently in
23 advance of the birth of the child, whenever possible, to allow
24 compliance with subdivision (1) of section 43-104.02 and shall
25 state:

26 (1) The biological mother's name, the fact that she is
27 pregnant or has given birth to the child, and the expected or

1 actual date of delivery;

2 (2) That the child has been relinquished by the
3 biological mother, that she intends to execute a relinquishment,
4 or that the biological mother has joined or plans to join in a
5 petition for adoption to be filed by her husband;

6 (3) That the person being notified has been identified as
7 a possible biological father of the child;

8 (4) That the possible biological father may have certain
9 rights with respect to such child if he is in fact the biological
10 father;

11 (5) That the possible biological father has the right to
12 (a) deny paternity, (b) waive any parental rights he may have,
13 (c) relinquish and consent to adoption of the child, or (d) file
14 a notice of intent to claim paternity and obtain custody of the
15 child Notice of Objection to Adoption and Intent to Obtain Custody
16 pursuant to section 43-104.02, or (e) object to the adoption in
17 a proceeding before any Nebraska court which has, prior to his
18 receipt of this notice, adjudicated him to be the biological father
19 of the child;

20 (6) That to deny paternity, to waive his parental rights,
21 or to relinquish and consent to the adoption, the biological father
22 must contact the undersigned agency or attorney representing the
23 biological mother, and that if he wishes to object to the adoption
24 and seek custody of the child he should seek legal counsel from his
25 own attorney immediately; and

26 (7) That if he is the biological father and if the child
27 is not relinquished for adoption, he has a duty to contribute to

1 the support and education of the child and to the pregnancy-related
2 expenses of the mother and a right to seek visitation.

3 The agency or attorney representing the biological mother
4 may enclose with the notice a document which is an admission
5 or denial of paternity and a waiver of rights by the biological
6 father, which the biological father may choose to complete, in
7 the form mandated by section 43-106, and return to the agency or
8 attorney.

9 Sec. 12. Section 43-104.14, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 43-104.14 (1) If the agency or attorney representing the
12 biological mother is unable through reasonable efforts to locate
13 and serve notice on the biological father or possible biological
14 fathers as contemplated in sections 43-104.12 and 43-104.13, the
15 agency or attorney shall notify the biological father or possible
16 biological fathers by publication.

17 (2) The publication shall be made once a week for three
18 consecutive weeks in a legal newspaper of general circulation in
19 the Nebraska county or county of another state which is most likely
20 to provide actual notice to the biological father. The publication
21 shall include:

22 (a) The first name or initials of the father or possible
23 father or the entry "John Doe, real name unknown", if applicable;

24 (b) A description of the father or possible father if his
25 first name is or initials are unknown;

26 (c) The approximate date of conception of the child and
27 the city and state in which conception occurred, if known;

1 (d) The date of birth or expected birth of the child;

2 (e) That he has been identified as the biological father
3 or possible biological father of a child whom the biological mother
4 currently intends to place for adoption and the approximate date
5 that placement will occur;

6 (f) That he has the right to (i) deny paternity, (ii)
7 waive any parental rights he may have, (iii) relinquish and
8 consent to adoption of the child, (iv) file a Notice of Objection
9 to Adoption and Intent to Obtain Custody pursuant to section
10 43-104.02, or (v) object to the adoption in a proceeding before
11 any Nebraska court which has adjudicated him to be the biological
12 father of the child prior to his receipt of notice; and ~~or (iv)~~
13 file a notice of intent to claim paternity and obtain custody of
14 the child within five business days of the birth of the child
15 or within five business days of this notice, whichever is later,
16 pursuant to section 43-104.02; and

17 (g) That (i) in order to deny paternity, waive his
18 parental rights, relinquish and consent to the adoption, or receive
19 additional information to determine whether he is the father of
20 the child in question, he must contact the undersigned agency or
21 attorney representing the biological mother and (ii) if he wishes
22 to object to the adoption and seek custody of the child, he must
23 seek legal counsel from his own attorney immediately.

24 Sec. 13. Section 43-104.17, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 43-104.17 In all cases of adoption of a minor child
27 born out of wedlock, the petition to finalize the adoption

1 shall specifically allege compliance with sections 43-104.08 to
2 43-104.16, and shall attach as exhibits all documents which are
3 evidence of such compliance. No notice of the filing of the
4 petition to finalize or the hearing on the petition shall be
5 given to a biological father or ~~possible~~ putative biological father
6 who (1) executed a valid relinquishment and consent or a valid
7 denial of paternity and waiver of rights pursuant to section
8 43-104.11, ~~or~~ (2) was provided notice under sections 43-104.12 to
9 43-104.14 and failed to timely file ~~an intent to claim paternity~~
10 ~~and obtain custody~~ a Notice of Objection to Adoption and Intent to
11 Obtain Custody pursuant to section 43-104.02 or petition pursuant
12 to section 43-104.05, or (3) is not required to consent to the
13 adoption pursuant to proceedings conducted under section 43-104.22.

14 Sec. 14. Section 43-104.22, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 43-104.22 At any hearing to determine a biological
17 ~~father's~~ parental rights to the child, the court shall receive
18 evidence with regard to the biological father's actual paternity of
19 the child and whether he is a fit, proper, and suitable custodial
20 parent for the child. The court shall the parental rights of an
21 adjudicated biological father or putative biological father of a
22 minor child born out of wedlock and whether such father's consent
23 is required for the adoption of such child, the court shall receive
24 evidence with regard to the actual paternity of the child and
25 whether such father is a fit, proper, and suitable custodial parent
26 for the child. The court shall determine that ~~the biological~~ such
27 father's consent is not required for a valid adoption of the child

1 upon a finding of one or more of the following:

2 (1) The father abandoned or neglected the child after
3 having knowledge of the child's birth;

4 (2) The father is not a fit, proper, and suitable
5 custodial parent for the child;

6 (3) The father had knowledge of the child's birth and
7 failed to provide reasonable financial support for the mother or
8 child;

9 (4) The father abandoned the mother without reasonable
10 cause and with knowledge of the pregnancy;

11 (5) The father had knowledge of the pregnancy and failed
12 to provide reasonable support for the mother during the pregnancy;

13 (6) The child was conceived as a result of a
14 nonconsensual sex act or an incestual act;

15 (7) Notice was provided pursuant to sections 43-104.12
16 to 43-104.14 and the putative father failed to timely file an
17 intent to claim paternity and obtain custody a Notice of Objection
18 to Adoption and Intent to Obtain Custody pursuant to section
19 43-104.02;

20 (8) The putative father failed to timely file a petition
21 to adjudicate his claim of paternity and right to custody a Notice
22 of Objection to Adoption and Intent to Obtain Custody pursuant to
23 as contemplated in section 43-104.05; or

24 (9) Notice was provided to an adjudicated biological
25 father through service of process under applicable state law and he
26 failed to object to the adoption or failed to appear at the hearing
27 conducted under section 15 of this act;

1 (10) The father executed a valid relinquishment or
2 consent to adoption; or

3 (11) The man is not, in fact, the biological father of
4 the child.

5 The court shall determine the custody of the child
6 according to the best interest of the child, weighing the superior
7 rights of a biological parent who has been found to be a fit,
8 proper, and suitable parent against any detriment the child would
9 suffer if removed from the custody of persons with whom the child
10 has developed a substantial relationship.

11 Sec. 15. With respect to any person who has been
12 adjudicated by a Nebraska court of competent jurisdiction to
13 be the biological father of a child born out of wedlock who is the
14 subject of a proposed adoption:

15 (1) Such person shall not be construed to be a putative
16 father for purposes of sections 43-104.01 to 43-104.05 and shall
17 not be subject to the provisions of such sections as applied to
18 such fathers; and

19 (2)(a) If the adjudicated biological father has been
20 provided notice in substantial compliance with section 43-104.12
21 or section 43-104.14, whichever notice is earlier, and he has not
22 executed a valid relinquishment or consent to the adoption, the
23 mother or lawful custodian of the child or his or her agent shall
24 file a motion in the court with jurisdiction of the custody of
25 the child for a hearing to determine whether such father's consent
26 to the adoption is required and whether the court shall give its
27 consent to the adoption;

1 (b) Notice of the motion and hearing shall be served
2 on the adjudicated biological father in the manner provided for
3 service of process under applicable state law; and

4 (c) Within thirty days after service of notice under
5 subdivision (b) of this subdivision, the court shall conduct an
6 evidentiary hearing to determine whether the adjudicated biological
7 father's consent to the adoption is required and whether the court
8 shall give its consent to the adoption. Whether such father's
9 consent is required for the proposed adoption shall be determined
10 pursuant to section 43-104.22.

11 Sec. 16. Section 43-906, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 43-906 Except as otherwise provided in the Nebraska
14 Indian Child Welfare Act, the Department of Health and Human
15 Services, or its duly authorized agent, may consent to the adoption
16 of children committed to it upon the order of a juvenile court if
17 the parental rights of the parents or of the mother of a child born
18 out of wedlock have been terminated and if no father of a child
19 born out of wedlock has timely asserted his paternity rights under
20 section 43-104.02, or upon the relinquishment to such department
21 by their parents or the mother and, if required under sections
22 43-104.08 to 43-104.24 and section 15 of this act, the father of
23 a child born out of wedlock. The parental rights of parents of a
24 child born out of wedlock shall be determined pursuant to sections
25 43-104.05 and 43-104.08 to 43-104.24 and section 15 of this act.

26 Sec. 17. Section 43-1411, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 43-1411 A civil proceeding to establish the paternity
2 of a child may be instituted, in the court of the district
3 where the child is domiciled or found or, for cases under the
4 Uniform Interstate Family Support Act, where the alleged father is
5 domiciled, by (1) the mother or the alleged father of such child,
6 either during pregnancy or within four years after the child's
7 birth, ~~unless consent or relinquishment has been made pursuant~~
8 ~~to sections 43-104.08 to 43-104.24 or section 43-105 for purposes~~
9 ~~of adoption~~ (a) a valid consent or relinquishment has been made
10 pursuant to sections 43-104.08 to 43-104.24 and section 15 of this
11 act or section 43-105 for purposes of adoption or (b) a county
12 court or separate juvenile court has jurisdiction over the custody
13 of the child or jurisdiction over an adoption matter with respect
14 to such child pursuant to sections 43-101 to 43-116 or (2) the
15 guardian or next friend of such child or the state, either during
16 pregnancy or within eighteen years after the child's birth. Summons
17 shall issue and be served as in other civil proceedings, except
18 that such summons may be directed to the sheriff of any county in
19 the state and may be served in any county.

20 Sec. 18. The Revisor of Statutes shall assign section 15
21 of this act within sections 43-101 to 43-116.

22 2. Renumber the remaining sections and correct the
23 repealer and internal references accordingly.