



**Hundredth Legislature - First Session - 2007
Committee Statement
LB 478**

Hearing Date: March 20, 2007

Committee On: Judiciary

Introducer(s): (Johnson)

Title: Change provisions relating to adoption procedures

Roll Call Vote – Final Committee Action:

- Advanced to General File
 - X Advanced to General File with Amendments
 - Indefinitely Postponed
-

Vote Results:

7	Yes	Sen. Ashford, Sen. Lathrop, Sen. McDonald, Sen. McGill, Sen. Pedersen, Sen. Pirsch, Sen. Schimek
	No	
	Present, not voting	
1	Absent	Sen. Chambers

Proponents:

Sen. Johnson
Susan Sapp
Cheryl Murray
Carol Krueger
Kelly Tollefson

Representing:

Introducer
Citizen
Adoption Links Worldwide
Nebraska Children’s Home
Morrow, Pope, Ott& Watermeier / American
Academy of Adoption of Adoption Attorneys

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

Under current law, the procedures for notice and possible objection to adoption by unmarried biological fathers are unclear and need to be modified.

Legislative Bill 478 amends the adoption laws in response to two recent Nebraska Supreme Court decisions, *In re Adoption of Jaden M.*, 272 Neb 789, __N.W.2d__, (2006) and *Bohaboj v.*

Rausch, 272 Neb. 394, 721 N.W.2d 655, (2006). This bill harmonizes the current statutes with the two cases.

Explanation of amendments, if any:

COMMITTEE AMENDMENT

AM 855 is a streamlined version of the green copy of LB 478. Several clean-up provisions were removed from the original bill in the interest of getting the critical changes passed into law this session. The intent of the amendment is to address the urgent need to clarify the procedures for notice and possible objection to adoption by unmarried biological fathers.

Specifically, AM 855 changes the name of the HHS biological father registry form from notice of intent to claim paternity and obtain custody to Objection to Adoption and Notice of Intent to Obtain Custody.

AM 855 provides that if a mother contests a claim of paternity, the court shall order a DNA test and assess the costs between the parties in an equitable manner.

Under AM 855, N.R.S. §43-104.05 is amended to clarify that if a Nebraska court already has custody jurisdiction over the child and a paternity determination has been made in that proceeding, the adjudicated biological father will receive statutory notice of any planned adoption. This provision gives the birth father an opportunity to file an objection to the proposed adoption and ask for a hearing under §43-104.22 in that court. If the adjudicated biological father does not relinquish and consent to the adoption within 60 days of the notice, the party seeking the adoption would then need to file a motion in the court with existing jurisdiction for the court's consent to the adoption and provide notice of the motion and hearing to the birth father through the service of process mechanisms. At the hearing, the court will use the 43-104.22 criteria to determine if the adjudicated biological father's consent is needed.

Furthermore, §43-1411 is amended to harmonize it with the new §43-104.05.

Senator Brad Ashford, Chairperson