

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 342

Introduced by Coash, 27.

Read first time January 18, 2013

Committee: Judiciary

A BILL

1 FOR AN ACT relating to parental rights; to amend sections 43-247,
2 43-279.01, 43-284, 43-284.01, 43-1411.01, and 43-2930,
3 Reissue Revised Statutes of Nebraska, and sections
4 42-364, 43-245, 43-253, and 43-272.01, Revised Statutes
5 Cumulative Supplement, 2012; to define terms; to
6 eliminate obsolete provisions; to change right to counsel
7 and procedure provisions in abuse and neglect and
8 termination of parental rights proceedings; to harmonize
9 provisions; and to repeal the original sections.

10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 42-364, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 42-364 (1)(a) In an action under Chapter 42 involving
4 child support, child custody, parenting time, visitation, or other
5 access, the parties and their counsel, if represented, shall develop
6 a parenting plan as provided in the Parenting Act. If the parties and
7 counsel do not develop a parenting plan, the complaint shall so
8 indicate as provided in section 42-353 and ~~before July 1, 2010, the~~
9 ~~case may be referred to mediation, specialized alternative dispute~~
10 ~~resolution, or other alternative dispute resolution process and on or~~
11 ~~after such date~~ the case shall be referred to mediation or
12 specialized alternative dispute resolution as provided in the
13 Parenting Act. For good cause shown and (i) when both parents agree
14 and such parental agreement is bona fide and not asserted to avoid
15 the purposes of the Parenting Act, or (ii) when mediation or
16 specialized alternative dispute resolution is not possible without
17 undue delay or hardship to either parent, the mediation or
18 specialized alternative dispute resolution requirement may be waived
19 by the court. In such a case where waiver of the mediation or
20 specialized alternative dispute resolution is sought, the court shall
21 hold an evidentiary hearing and the burden of proof for the party or
22 parties seeking waiver is by clear and convincing evidence.

23 (b) The decree in an action involving the custody of a
24 minor child shall include the determination of legal custody and
25 physical custody based upon the best interests of the child, as

1 defined in the Parenting Act, and child support. Such determinations
2 shall be made by incorporation into the decree of (i) a parenting
3 plan developed by the parties, if approved by the court, or (ii) a
4 parenting plan developed by the court based upon evidence produced
5 after a hearing in open court if no parenting plan is developed by
6 the parties or the plan developed by the parties is not approved by
7 the court. The decree shall conform to the Parenting Act.

8 (c) The social security number of each parent and the
9 minor child shall be furnished to the clerk of the district court but
10 shall not be disclosed or considered a public record.

11 (2) In determining legal custody or physical custody, the
12 court shall not give preference to either parent based on the sex of
13 the parent and, except as provided in section 43-2933, no presumption
14 shall exist that either parent is more fit or suitable than the
15 other. Custody shall be determined on the basis of the best interests
16 of the child, as defined in the Parenting Act. Unless parental rights
17 are terminated, both parents shall continue to have the rights stated
18 in section 42-381.

19 (3) Custody of a minor child may be placed with both
20 parents on a joint legal custody or joint physical custody basis, or
21 both, (a) when both parents agree to such an arrangement in the
22 parenting plan and the court determines that such an arrangement is
23 in the best interests of the child or (b) if the court specifically
24 finds, after a hearing in open court, that joint physical custody or
25 joint legal custody, or both, is in the best interests of the minor

1 child regardless of any parental agreement or consent.

2 (4) In determining the amount of child support to be paid
3 by a parent, the court shall consider the earning capacity of each
4 parent and the guidelines provided by the Supreme Court pursuant to
5 section 42-364.16 for the establishment of child support obligations.
6 Upon application, hearing, and presentation of evidence of an abusive
7 disregard of the use of child support money or cash medical support
8 paid by one party to the other, the court may require the party
9 receiving such payment to file a verified report with the court, as
10 often as the court requires, stating the manner in which child
11 support money or cash medical support is used. Child support money or
12 cash medical support paid to the party having physical custody of the
13 minor child shall be the property of such party except as provided in
14 section 43-512.07. The clerk of the district court shall maintain a
15 record, separate from all other judgment dockets, of all decrees and
16 orders in which the payment of child support, cash medical support,
17 or spousal support has been ordered, whether ordered by a district
18 court, county court, separate juvenile court, or county court sitting
19 as a juvenile court. Orders for child support or cash medical support
20 in cases in which a party has applied for services under Title IV-D
21 of the federal Social Security Act, as amended, shall be reviewed as
22 provided in sections 43-512.12 to 43-512.18.

23 (5) Whenever termination of parental rights is placed in
24 issue: ~~(a) The~~ the court shall transfer jurisdiction to a juvenile
25 court established pursuant to the Nebraska Juvenile Code unless a

1 showing is made that the county court or district court is a more
2 appropriate forum. In making such determination, the court may
3 consider such factors as cost to the parties, undue delay, congestion
4 of dockets, and relative resources available for investigative and
5 supervisory assistance. A determination that the county court or
6 district court is a more appropriate forum shall not be a final order
7 for the purpose of enabling an appeal. If no such transfer is made,
8 the court shall ~~appoint an attorney as guardian ad litem to protect~~
9 ~~the interests of any minor child. The court may terminate the~~
10 ~~parental rights of one or both parents after notice and hearing when~~
11 ~~the court finds such action to be in the best interests of the minor~~
12 ~~child, as defined in the Parenting Act, and it appears by the~~
13 ~~evidence that one or more of the grounds for termination of parental~~
14 ~~rights stated in section 43-292 exist; and~~ conduct the termination of
15 parental rights proceeding as provided in the Nebraska Juvenile Code.

16 (b) ~~The court shall inform a parent who does not have~~
17 ~~legal counsel of the parent's right to retain counsel and of the~~
18 ~~parent's right to retain legal counsel at county expense if such~~
19 ~~parent is unable to afford legal counsel. If such parent is unable to~~
20 ~~afford legal counsel and requests the court to appoint legal counsel,~~
21 ~~the court shall immediately appoint an attorney to represent the~~
22 ~~parent in the termination proceedings. The court shall order the~~
23 ~~county to pay the attorney's fees and all reasonable expenses~~
24 ~~incurred by the attorney in protecting the rights of the parent. At~~
25 ~~such hearing, the guardian ad litem shall take all action necessary~~

1 ~~to protect the interests of the minor child. The court shall fix the~~
2 ~~fees and expenses of the guardian ad litem and tax the same as costs~~
3 ~~but may order the county to pay on finding the responsible party~~
4 ~~indigent and unable to pay.~~

5 (6) Modification proceedings relating to support,
6 custody, parenting time, visitation, other access, or removal of
7 children from the jurisdiction of the court shall be commenced by
8 filing a complaint to modify. Modification of a parenting plan is
9 governed by the Parenting Act. Proceedings to modify a parenting plan
10 shall be commenced by filing a complaint to modify. Such actions ~~may~~
11 ~~be referred to mediation, specialized alternative dispute resolution,~~
12 ~~or other alternative dispute resolution process before July 1, 2010,~~
13 ~~and on and after such date shall be referred to mediation or~~
14 specialized alternative dispute resolution as provided in the
15 Parenting Act. For good cause shown and (a) when both parents agree
16 and such parental agreement is bona fide and not asserted to avoid
17 the purposes of the Parenting Act, or (b) when mediation or
18 specialized alternative dispute resolution is not possible without
19 undue delay or hardship to either parent, the mediation or
20 specialized alternative dispute resolution requirement may be waived
21 by the court. In such a case where waiver of the mediation or
22 specialized alternative dispute resolution is sought, the court shall
23 hold an evidentiary hearing and the burden of proof for the party or
24 parties seeking waiver is by clear and convincing evidence. Service
25 of process and other procedure shall comply with the requirements for

1 a dissolution action.

2 (7) In any proceeding under this section relating to
3 custody of a child of school age, certified copies of school records
4 relating to attendance and academic progress of such child are
5 admissible in evidence.

6 Sec. 2. Section 43-245, Revised Statutes Cumulative
7 Supplement, 2012, is amended to read:

8 43-245 For purposes of the Nebraska Juvenile Code, unless
9 the context otherwise requires:

10 (1) Age of majority means nineteen years of age;

11 (2) Approved center means a center that has applied for
12 and received approval from the Director of the Office of Dispute
13 Resolution under section 25-2909;

14 (3) Civil citation means a noncriminal notice which
15 cannot result in a criminal record and is described in section
16 43-248.02;

17 (4) Cost or costs means (a) the sum or equivalent
18 expended, paid, or charged for goods or services, or expenses
19 incurred, or (b) the contracted or negotiated price;

20 (5) Criminal street gang means a group of three or more
21 people with a common identifying name, sign, or symbol whose group
22 identity or purposes include engaging in illegal activities;

23 (6) Criminal street gang member means a person who
24 willingly or voluntarily becomes and remains a member of a criminal
25 street gang;

1 (7) Custodian means a nonparental caretaker having
2 physical custody of the juvenile and includes an appointee described
3 in section 43-294;

4 (8) Guardian means a person, other than a parent, who has
5 qualified by law as the guardian of a juvenile pursuant to
6 testamentary or court appointment, but excludes a person who is
7 merely a guardian ad litem;

8 ~~(7)~~(9) Juvenile means any person under the age of
9 eighteen;

10 ~~(8)~~(10) Juvenile court means the separate juvenile court
11 where it has been established pursuant to sections 43-2,111 to
12 43-2,127 and the county court sitting as a juvenile court in all
13 other counties. Nothing in the Nebraska Juvenile Code shall be
14 construed to deprive the district courts of their habeas corpus,
15 common-law, or chancery jurisdiction or the county courts and
16 district courts of jurisdiction of domestic relations matters as
17 defined in section 25-2740;

18 ~~(9)~~(11) Juvenile detention facility has the same meaning
19 as in section 83-4,125;

20 (12) Legal custody has the same meaning as in section
21 43-2922;

22 ~~(10)~~(13) Mediator for juvenile offender and victim
23 mediation means a person who (a) has completed at least thirty hours
24 of training in conflict resolution techniques, neutrality, agreement
25 writing, and ethics set forth in section 25-2913, (b) has an

1 additional eight hours of juvenile offender and victim mediation
2 training, and (c) meets the apprenticeship requirements set forth in
3 section 25-2913;

4 ~~(11)~~—(14) Mental health facility means a treatment
5 facility as defined in section 71-914 or a government, private, or
6 state hospital which treats mental illness;

7 ~~(12)~~—(15) Nonoffender means a juvenile who is subject to
8 the jurisdiction of the juvenile court for reasons other than legally
9 prohibited conduct, including, but not limited to, juveniles
10 described in subdivision (3)(a) of section 43-247;

11 ~~(13)~~—(16) Nonsecure detention means detention
12 characterized by the absence of restrictive hardware, construction,
13 and procedure. Nonsecure detention services may include a range of
14 placement and supervision options, such as home detention, electronic
15 monitoring, day reporting, drug court, tracking and monitoring
16 supervision, staff secure and temporary holdover facilities, and
17 group homes;

18 ~~(14)~~—(17) Parent means one or both parents or a
19 ~~stepparent~~—stepparents when ~~such~~—the stepparent is married to the
20 ~~eustodial~~—a parent who has physical custody of the juvenile as of the
21 filing of the petition;

22 ~~(15)~~—(18) Parties means the juvenile as described in
23 section 43-247 and his or her parent, guardian, or custodian;

24 (19) Physical custody has the same meaning as in section
25 43-2922;

1 ~~(16)~~(20) Except in proceedings under the Nebraska Indian
2 Child Welfare Act, relative means father, mother, grandfather,
3 grandmother, brother, sister, stepfather, stepmother, stepbrother,
4 stepsister, uncle, aunt, first cousin, nephew, or niece;

5 ~~(17)~~(21) Seal a record means that a record shall not be
6 available to the public except upon the order of a court upon good
7 cause shown;

8 ~~(18)~~(22) Secure detention means detention in a highly
9 structured, residential, hardware-secured facility designed to
10 restrict a juvenile's movement;

11 ~~(19)~~(23) Status offender means a juvenile who has been
12 charged with or adjudicated for conduct which would not be a crime if
13 committed by an adult, including, but not limited to, juveniles
14 charged under subdivision (3)(b) of section 43-247 and sections
15 53-180.01 and 53-180.02; and

16 ~~(20)~~(24) Traffic offense means any nonfelonious act in
17 violation of a law or ordinance regulating vehicular or pedestrian
18 travel, whether designated a misdemeanor or a traffic infraction.

19 Sec. 3. Section 43-247, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 43-247 The juvenile court shall have exclusive original
22 jurisdiction as to any juvenile defined in subdivision (1) of this
23 section who is under the age of sixteen, as to any juvenile defined
24 in subdivision (3) of this section, and as to the parties and
25 proceedings provided in subdivisions (5), (6), and ~~(8)~~(7) of this

1 section. As used in this section, all references to the juvenile's
2 age shall be the age at the time the act which occasioned the
3 juvenile court action occurred. The juvenile court shall have
4 concurrent original jurisdiction with the district court as to any
5 juvenile defined in subdivision (2) of this section. The juvenile
6 court shall have concurrent original jurisdiction with the district
7 court and county court as to any juvenile defined in subdivision (1)
8 of this section who is age sixteen or seventeen, any juvenile defined
9 in subdivision (4) of this section, and any proceeding under
10 subdivision ~~(7)~~(6) or ~~(11)~~(10) of this section. The juvenile court
11 shall have concurrent original jurisdiction with the county court as
12 to any proceeding under subdivision ~~(9)~~(8) or ~~(10)~~(9) of this
13 section. Notwithstanding any disposition entered by the juvenile
14 court under the Nebraska Juvenile Code, the juvenile court's
15 jurisdiction over any individual adjudged to be within the provisions
16 of this section shall continue until the individual reaches the age
17 of majority or the court otherwise discharges the individual from its
18 jurisdiction.

19 The juvenile court in each county as herein provided
20 shall have jurisdiction of:

21 (1) Any juvenile who has committed an act other than a
22 traffic offense which would constitute a misdemeanor or an infraction
23 under the laws of this state, or violation of a city or village
24 ordinance;

25 (2) Any juvenile who has committed an act which would

1 constitute a felony under the laws of this state;

2 (3) Any juvenile (a) who is homeless or destitute, or
3 without proper support through no fault of his or her parent,
4 guardian, or custodian; who is abandoned by his or her parent,
5 guardian, or custodian; who lacks proper parental care by reason of
6 the fault or habits of his or her parent, guardian, or custodian;
7 whose parent, guardian, or custodian neglects or refuses to provide
8 proper or necessary subsistence, education, or other care necessary
9 for the health, morals, or well-being of such juvenile; whose parent,
10 guardian, or custodian is unable to provide or neglects or refuses to
11 provide special care made necessary by the mental condition of the
12 juvenile; or who is in a situation or engages in an occupation
13 dangerous to life or limb or injurious to the health or morals of
14 such juvenile, (b) who, by reason of being wayward or habitually
15 disobedient, is uncontrolled by his or her parent, guardian, or
16 custodian; who deports himself or herself so as to injure or endanger
17 seriously the morals or health of himself, herself, or others; or who
18 is habitually truant from home or school, or (c) who is mentally ill
19 and dangerous as defined in section 71-908;

20 (4) Any juvenile who has committed an act which would
21 constitute a traffic offense as defined in section 43-245;

22 (5) The parent, guardian, or custodian of any juvenile
23 described in this section;

24 (6) The proceedings for termination of parental rights;
25 ~~as provided in the Nebraska Juvenile Code;~~

1 ~~(7) The proceedings for termination of parental rights as~~
2 ~~provided in section 42-364;~~

3 ~~(8)~~—(7) Any juvenile who has been voluntarily
4 relinquished, pursuant to section 43-106.01, to the Department of
5 Health and Human Services or any child placement agency licensed by
6 the Department of Health and Human Services;

7 ~~(9)~~—(8) Any juvenile who was a ward of the juvenile court
8 at the inception of his or her guardianship and whose guardianship
9 has been disrupted or terminated;

10 ~~(10)~~—(9) The adoption or guardianship proceedings for a
11 child over which the juvenile court already has jurisdiction under
12 another provision of the Nebraska Juvenile Code; and

13 ~~(11)~~—(10) The paternity or custody determination for a
14 child over which the juvenile court already has jurisdiction.

15 Notwithstanding the provisions of the Nebraska Juvenile
16 Code, the determination of jurisdiction over any Indian child as
17 defined in section 43-1503 shall be subject to the Nebraska Indian
18 Child Welfare Act; and the district court shall have exclusive
19 jurisdiction in proceedings brought pursuant to section 71-510.

20 Sec. 4. Section 43-253, Revised Statutes Cumulative
21 Supplement, 2012, is amended to read:

22 43-253 (1) Upon delivery to the probation officer of a
23 juvenile who has been taken into temporary custody under section
24 29-401, 43-248, or 43-250, the probation officer shall immediately
25 investigate the situation of the juvenile and the nature and

1 circumstances of the events surrounding his or her being taken into
2 custody. Such investigation may be by informal means when
3 appropriate.

4 (2) The probation officer's decision to release the
5 juvenile from custody or place the juvenile in secure or nonsecure
6 detention shall be based upon the results of the standardized
7 juvenile detention screening instrument described in section
8 43-260.01.

9 (3) No juvenile who has been taken into temporary custody
10 under subdivision (1)(c) of section 43-250 shall be detained in any
11 secure detention facility for longer than twenty-four hours,
12 excluding nonjudicial days, after having been taken into custody
13 unless such juvenile has appeared personally before a court of
14 competent jurisdiction for a hearing to determine if continued
15 detention is necessary. If continued secure detention is ordered,
16 such detention shall be in a juvenile detention facility, except that
17 a juvenile charged with a felony as an adult in county or district
18 court may be held in an adult jail as set forth in subdivision (1)(c)
19 (v) of section 43-250.

20 (4) When the probation officer deems it to be in the best
21 interests of the juvenile, the probation officer shall immediately
22 release such juvenile to the custody of his or her parent. If the
23 juvenile has both a eustodial parent who has legal and physical
24 custody and a noncustodial parent who has only legal custody and the
25 probation officer deems that release of the juvenile to the eustodial

1 parent who has physical custody is not in the best interests of the
2 juvenile, the probation officer shall, if it is deemed to be in the
3 best interests of the juvenile, attempt to contact the ~~noncustodial~~
4 parent, if any, who has legal custody only of the juvenile and to
5 release the juvenile to such ~~noncustodial~~ parent. If such release is
6 not possible or not deemed to be in the best interests of the
7 juvenile, the probation officer may release the juvenile to the
8 custody of a legal guardian, a responsible relative, or another
9 responsible person.

10 (5) The court may admit such juvenile to bail by bond in
11 such amount and on such conditions and security as the court, in its
12 sole discretion, shall determine, or the court may proceed as
13 provided in section 43-254. In no case shall the court or probation
14 officer release such juvenile if it appears that further detention or
15 placement of such juvenile is a matter of immediate and urgent
16 necessity for the protection of such juvenile or the person or
17 property of another or if it appears that such juvenile is likely to
18 flee the jurisdiction of the court.

19 Sec. 5. Section 43-272.01, Revised Statutes Cumulative
20 Supplement, 2012, is amended to read:

21 43-272.01 (1) A guardian ad litem as provided for in
22 subsections (2) and (3) of section 43-272 shall be appointed when a
23 child is removed from his or her surroundings pursuant to subdivision
24 (2) or (3) of section 43-248, subsection (2) of section 43-250, or
25 section 43-251. If removal has not occurred, a guardian ad litem

1 shall be appointed at the commencement of all cases brought under
2 subdivision (3)(a) or ~~(8)~~(7) of section 43-247 and section 28-707.

3 (2) In the course of discharging duties as guardian ad
4 litem, the person so appointed shall consider, but not be limited to,
5 the criteria provided in this subsection. The guardian ad litem:

6 (a) Is appointed to stand in lieu of a parent for a
7 protected juvenile who is the subject of a juvenile court petition,
8 shall be present at all hearings before the court in such matter
9 unless expressly excused by the court, and may enter into such
10 stipulations and agreements concerning adjudication and disposition
11 deemed by him or her to be in the juvenile's best interests;

12 (b) Is not appointed to defend the parents or other
13 custodian of the protected juvenile but shall defend the legal and
14 social interests of such juvenile. Social interests shall be defined
15 generally as the usual and reasonable expectations of society for the
16 appropriate parental custody and protection and quality of life for
17 juveniles without regard to the socioeconomic status of the parents
18 or other custodians of the juvenile;

19 (c) May at any time after the filing of the petition move
20 the court of jurisdiction to provide medical or psychological
21 treatment or evaluation as set out in section 43-258. The guardian ad
22 litem shall have access to all reports resulting from any examination
23 ordered under section 43-258, and such reports shall be used for
24 evaluating the status of the protected juvenile;

25 (d) Shall make every reasonable effort to become familiar

1 with the needs of the protected juvenile which (i) shall include
2 consultation with the juvenile within two weeks after the appointment
3 and once every six months thereafter and inquiry of the most current
4 caseworker, foster parent, or other custodian and (ii) may include
5 inquiry of others directly involved with the juvenile or who may have
6 information or knowledge about the circumstances which brought the
7 juvenile court action or related cases and the development of the
8 juvenile, including biological parents, physicians, psychologists,
9 teachers, and clergy members;

10 (e) May present evidence and witnesses and cross-examine
11 witnesses at all evidentiary hearings. In any proceeding under this
12 section relating to a child of school age, certified copies of school
13 records relating to attendance and academic progress of such child
14 are admissible in evidence;

15 (f) Shall be responsible for making recommendations to
16 the court regarding the temporary and permanent placement of the
17 protected juvenile and shall submit a written report to the court at
18 every dispositional or review hearing, or in the alternative, the
19 court may provide the guardian ad litem with a checklist that shall
20 be completed and presented to the court at every dispositional or
21 review hearing;

22 (g) Shall consider such other information as is warranted
23 by the nature and circumstances of a particular case; and

24 (h) May file a petition in the juvenile court on behalf
25 of the juvenile, including a supplemental petition as provided in

1 section 43-291.

2 (3) Nothing in this section shall operate to limit the
3 discretion of the juvenile court in protecting the best interests of
4 a juvenile who is the subject of a juvenile court petition.

5 (4) For purposes of subdivision (2)(d) of this section,
6 the court may order the expense of such consultation, if any, to be
7 paid by the county in which the juvenile court action is brought or
8 the court may, after notice and hearing, assess the cost of such
9 consultation, if any, in whole or in part to the parents of the
10 juvenile. The ability of the parents to pay and the amount of the
11 payment shall be determined by the court by appropriate examination.

12 Sec. 6. Section 43-279.01, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 43-279.01 (1) When the petition alleges the juvenile to
15 be within the provisions of subdivision (3)(a) of section 43-247 or
16 when termination of parental rights is sought pursuant to subdivision
17 (6) ~~or (7)~~ of section 43-247 and the parent, ~~or~~ custodian, or
18 guardian appears with or without counsel, the court shall inform the
19 parties of the:

20 (a) Nature of the proceedings and the possible
21 consequences or dispositions pursuant to sections 43-284, 43-285, and
22 43-288 to 43-295;

23 (b) Right of the parent to engage counsel of their choice
24 at their own expense or to have counsel appointed if the parent is
25 unable to afford to hire a lawyer;

1 (c) Right of a stepparent, custodian, or guardian to
2 engage counsel of their choice and, if there are allegations against
3 the stepparent, custodian, or guardian or when the petition is
4 amended to include such allegations, to have counsel appointed if the
5 stepparent, custodian, or guardian is unable to afford to hire a
6 lawyer;

7 ~~(e)~~(d) Right to remain silent as to any matter of
8 inquiry if the testimony sought to be elicited might tend to prove
9 the ~~parent or custodian party~~ guilty of any crime;

10 ~~(d)~~ (e) Right to confront and cross-examine witnesses;

11 ~~(e)~~(f) Right to testify and to compel other witnesses to
12 attend and testify;

13 ~~(f)~~(g) Right to a speedy adjudication hearing; and

14 ~~(g)~~(h) Right to appeal and have a transcript or record
15 of the proceedings for such purpose.

16 (2) The court shall not appoint counsel for a person who
17 is not a party to the proceeding. If counsel is appointed, failure of
18 the party to maintain contact with their court-appointed counsel or
19 to keep such counsel advised of the party's current address can
20 result in the counsel being discharged by the court.

21 ~~(2)~~(3) After giving the parties the information
22 prescribed in subsection (1) of this section, the court may accept an
23 in-court admission, an answer of no contest, or a denial from any
24 parent, ~~or~~custodian, or guardian as to all or any part of the
25 allegations in the petition. The court shall ascertain a factual

1 basis for an admission or an answer of no contest.

2 ~~(3)~~(4) In the case of a denial, the court shall allow a
3 reasonable time for preparation if needed and then proceed to
4 determine the question of whether the juvenile falls under the
5 provisions of section 43-247 as alleged. After hearing the evidence,
6 the court shall make a finding and adjudication to be entered on the
7 records of the court as to whether the allegations in the petition
8 have been proven by a preponderance of the evidence in cases under
9 subdivision (3)(a) of section 43-247 or by clear and convincing
10 evidence in proceedings to terminate parental rights. If an Indian
11 child is involved, the standard of proof shall be in compliance with
12 the Nebraska Indian Child Welfare Act, if applicable.

13 ~~(4)~~(5) If the court shall find that the allegations of
14 the petition or motion have not been proven by the requisite standard
15 of proof, it shall dismiss the case or motion. If the court sustains
16 the petition or motion, it shall allow a reasonable time for
17 preparation if needed and then proceed to inquire into the matter of
18 the proper disposition to be made of the juvenile.

19 Sec. 7. Section 43-284, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 43-284 When any juvenile is adjudged to be under
22 subdivision (3), (4), or ~~(9)~~(8) of section 43-247, the court may
23 permit such juvenile to remain in his or her own home subject to
24 supervision or may make an order committing the juvenile to (1) the
25 care of some suitable institution, (2) inpatient or outpatient

1 treatment at a mental health facility or mental health program, (3)
2 the care of some reputable citizen of good moral character, (4) the
3 care of some association willing to receive the juvenile embracing in
4 its objects the purpose of caring for or obtaining homes for such
5 juveniles, which association shall have been accredited as provided
6 in section 43-296, (5) the care of a suitable family, or (6) the care
7 and custody of the Department of Health and Human Services.

8 Under subdivision (1), (2), (3), (4), or (5) of this
9 section, upon a determination by the court that there are no
10 parental, private, or other public funds available for the care,
11 custody, education, and maintenance of a juvenile, the court may
12 order a reasonable sum for the care, custody, education, and
13 maintenance of the juvenile to be paid out of a fund which shall be
14 appropriated annually by the county where the petition is filed until
15 suitable provisions may be made for the juvenile without such
16 payment.

17 The amount to be paid by a county for education pursuant
18 to this section shall not exceed the average cost for education of a
19 public school student in the county in which the juvenile is placed
20 and shall be paid only for education in kindergarten through grade
21 twelve.

22 The court may enter a dispositional order removing a
23 juvenile from his or her home upon a written determination that
24 continuation in the home would be contrary to the health, safety, or
25 welfare of such juvenile and that reasonable efforts to preserve and

1 reunify the family have been made if required under section
2 43-283.01.

3 Sec. 8. Section 43-284.01, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 43-284.01 Any juvenile adjudged to be under subdivision
6 ~~(8)~~ (7) of section 43-247 shall remain in the custody of the
7 Department of Health and Human Services or the licensed child
8 placement agency to whom the juvenile has been relinquished unless
9 the court finds by clear and convincing evidence that the best
10 interests of the juvenile require that an alternative disposition be
11 made. If the court makes such finding, then alternative disposition
12 may be made as provided under section 43-284. Such alternative
13 disposition shall relieve the department or licensed child placement
14 agency of all responsibility with regard to such juvenile.

15 Sec. 9. Section 43-1411.01, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 43-1411.01 (1) An action for paternity or parental
18 support under sections 43-1401 to 43-1418 may be initiated by filing
19 a complaint with the clerk of the district court as provided in
20 section 25-2740. Such proceeding may be heard by the county court or
21 the district court as provided in section 25-2740. A paternity
22 determination under sections 43-1411 to 43-1418 may also be decided
23 in a county court or separate juvenile court if the county court or
24 separate juvenile court already has jurisdiction over the child whose
25 paternity is to be determined.

1 (2) Whenever termination of parental rights is placed in
2 issue in any case arising under sections 43-1401 to 43-1418,
3 ~~subsection (5) of section 42-364 the Nebraska Juvenile Code~~ and the
4 Parenting Act shall apply to such proceedings.

5 Sec. 10. Section 43-2930, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 43-2930 (1) Each party to a contested proceeding for a
8 temporary order relating to parenting functions or custody, parenting
9 time, visitation, or other access shall offer a child information
10 affidavit as an exhibit at the hearing before the court. The child
11 information affidavit shall be verified to the extent known or
12 reasonably discoverable by the filing party or parties and may
13 include the following:

14 (a) The name, address, and length of residence with any
15 adults with whom each child has lived for the preceding twelve
16 months; except that the address shall only include the county and
17 state for a parent who is living in an undisclosed location because
18 of safety concerns;

19 (b) The performance by each parent or person acting as
20 parent for the preceding twelve months of the parenting functions
21 relating to the daily needs of the child;

22 (c) A description of the work and child care schedules
23 for the preceding twelve months of any person seeking custody,
24 parenting time, visitation, or other access and any expected changes
25 to these schedules in the near future;

1 (d) A description of the current proposed work and child
2 care schedules; and

3 (e) A description of the child's school and
4 extracurricular activities, including who is responsible for
5 transportation of the child.

6 The child information affidavit may also state any
7 circumstances of child abuse or neglect, domestic intimate partner
8 abuse, or unresolved parental conflict that are likely to pose a risk
9 to the child and that warrant limitation on the award of temporary
10 custody, parenting time, visitation, or other access to the child
11 pending entry of a permanent parenting plan, including any
12 restraining orders, protection orders, or criminal no-contact orders
13 against either parent or a person acting as a parent by case number
14 and jurisdiction.

15 (2) After a contested hearing by live testimony or
16 affidavit, the court shall enter a temporary parenting order that
17 includes:

18 (a) Provision for temporary legal custody;

19 (b) Provisions for temporary physical custody, which
20 shall include either:

21 (i) A parenting time, visitation, or other access
22 schedule that designates in which home each child will reside on
23 given days of the year; or

24 (ii) A formula or method for determining such a schedule
25 in sufficient detail that, if necessary, the schedule can be enforced

1 in subsequent proceedings by the court;

2 (c) Designation of a temporary residence for the child;

3 (d) Reference to any existing restraining orders,
4 protection orders, or criminal no-contact orders as well as
5 provisions for safety and a transition plan, consistent with any
6 court's finding of child abuse or neglect, domestic intimate partner
7 abuse, or unresolved parental conflict in order to provide for the
8 safety of a child and ~~eustodial~~a parent who has physical custody of
9 the child necessary for the best interests of the child; and

10 (e) If appropriate, a requirement that a parent complete
11 a program of intervention for perpetrators of domestic violence, a
12 program for drug or alcohol abuse, or a program designed to correct
13 another factor as a condition of parenting time.

14 (3) A party may move for an order to show cause, and the
15 court may enter a modified temporary parenting order.

16 (4) The State Court Administrator's office shall create a
17 form that may be used by the parties to create a child information
18 affidavit setting forth the elements identified in this section.

19 (5) Provisions for temporary support for the child and
20 other financial matters may be included in the temporary parenting
21 order.

22 Sec. 11. Original sections 43-247, 43-279.01, 43-284,
23 43-284.01, 43-1411.01, and 43-2930, Reissue Revised Statutes of
24 Nebraska, and sections 42-364, 43-245, 43-253, and 43-272.01, Revised
25 Statutes Cumulative Supplement, 2012, are repealed.