

AMENDMENTS TO LB289

Introduced by Ebke, 32.

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

3           Section 1. Section 25-2740, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5           25-2740 (1) For purposes of this section:

6           (a) Domestic relations matters means proceedings under sections  
7 28-311.09 and 28-311.10 (including harassment protection orders and valid  
8 foreign harassment protection orders), sections 4 and 5 of this act  
9 (including sexual assault protection orders and valid foreign sexual  
10 assault protection orders), the Conciliation Court Law and sections  
11 42-347 to 42-381 (including dissolution, separation, annulment, custody,  
12 and support), section 43-512.04 (including child support or medical  
13 support), section 42-924 (including domestic protection orders), sections  
14 43-1401 to 43-1418 (including paternity determinations and parental  
15 support), and sections 43-1801 to 43-1803 (including grandparent  
16 visitation); and

17           (b) Paternity or custody determinations means proceedings to  
18 establish the paternity of a child under sections 43-1411 to 43-1418 or  
19 proceedings to determine custody of a child under section 42-364.

20           (2) Except as provided in subsection (3) of this section, in  
21 domestic relations matters, a party shall file his or her petition or  
22 complaint and all other court filings with the clerk of the district  
23 court. The party shall state in the petition or complaint whether such  
24 party requests that the proceeding be heard by a county court judge or by  
25 a district court judge. If the party requests the case be heard by a  
26 county court judge, the county court judge assigned to hear cases in the  
27 county in which the matter is filed at the time of the hearing is deemed

1 appointed by the district court and the consent of the county court judge  
2 is not required. Such proceeding is considered a district court  
3 proceeding, even if heard by a county court judge, and an order or  
4 judgment of the county court in a domestic relations matter has the force  
5 and effect of a district court judgment. The testimony in a domestic  
6 relations matter heard before a county court judge shall be preserved as  
7 provided in section 25-2732.

8 (3) In addition to the jurisdiction provided for paternity or  
9 custody determinations under subsection (2) of this section, a county  
10 court or separate juvenile court which already has jurisdiction over the  
11 child whose paternity or custody is to be determined has jurisdiction  
12 over such paternity or custody determination.

13 Sec. 2. Section 28-101, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15 28-101 Sections 28-101 to 28-1357, ~~28-1418.01, 28-1429.03,~~ and  
16 28-1601 to 28-1603 and sections 4 and 5 of this act shall be known and  
17 may be cited as the Nebraska Criminal Code.

18 Sec. 3. Section 28-311.04, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 28-311.04 (1) Except as provided in subsection (2) of this section,  
21 any person convicted of violating section 28-311.03 is guilty of a Class  
22 I misdemeanor.

23 (2) Any person convicted of violating section 28-311.03 is guilty of  
24 a Class IIIA felony if:

25 (a) The person has a prior conviction under such section or a  
26 substantially conforming criminal violation within the last seven years;

27 (b) The victim is under sixteen years of age;

28 (c) The person possessed a deadly weapon at any time during the  
29 violation;

30 (d) The person was also in violation of section 28-311.09, 42-924,  
31 or 42-925 or section 4 of this act, or in violation of a valid foreign

1 harassment protection order recognized pursuant to section 28-311.10 or a  
2 valid foreign sexual assault protection order recognized pursuant to  
3 section 5 of this act at any time during the violation; or

4 (e) The person has been convicted of any felony in this state or has  
5 been convicted of a crime in another jurisdiction which, if committed in  
6 this state, would constitute a felony and the victim or a family or  
7 household member of the victim was also the victim of such previous  
8 felony.

9 Sec. 4. (1) Any victim of a sexual assault offense may file a  
10 petition and affidavit for a sexual assault protection order as provided  
11 in subsection (3) of this section. Upon the filing of such a petition and  
12 affidavit in support thereof, the court may issue a sexual assault  
13 protection order without bond enjoining the respondent from (a) imposing  
14 any restraint upon the person or liberty of the petitioner, (b)  
15 harassing, threatening, assaulting, molesting, attacking, or otherwise  
16 disturbing the peace of the petitioner, or (c) telephoning, contacting,  
17 or otherwise communicating with the petitioner.

18 (2) The petition for a sexual assault protection order shall state  
19 the events and dates of acts constituting the sexual assault offense.

20 (3) A petition for a sexual assault protection order shall be filed  
21 with the clerk of the district court and the proceeding may be heard by  
22 the county court or the district court as provided in section 25-2740.

23 (4) A petition for a sexual assault protection order may not be  
24 withdrawn except upon order of the court. A sexual assault protection  
25 order shall specify that it is effective for a period of one year unless  
26 renewed pursuant to subsection (11) of this section or otherwise  
27 dismissed or modified by the court. Any person who knowingly violates a  
28 sexual assault protection order after service or notice as described in  
29 subdivision (8)(b) of this section shall be guilty of a Class I  
30 misdemeanor except that for any second violation of a sexual assault  
31 protection order within a twelve-month period, or any third or subsequent

1 violation, whenever committed, such person shall be guilty of a Class IV  
2 felony.

3 (5)(a) Fees to cover costs associated with the filing of a petition  
4 for issuance or renewal of a sexual assault protection order or the  
5 issuance or service of a sexual assault protection order seeking only the  
6 relief provided by this section shall not be charged, except that a court  
7 may assess such fees and costs if the court finds, by clear and  
8 convincing evidence, that the statements contained in the petition were  
9 false and that the sexual assault protection order was sought in bad  
10 faith.

11 (b) A court may also assess costs associated with the filing of a  
12 petition for issuance or renewal of a sexual assault protection order or  
13 the issuance or service of a sexual assault protection order seeking only  
14 the relief provided by this section against the respondent.

15 (6) The clerk of the district court shall make available standard  
16 application and affidavit forms for issuance and renewal of a sexual  
17 assault protection order with instructions for completion to be used by a  
18 petitioner. The clerk and his or her employees shall not provide  
19 assistance in completing the forms. The State Court Administrator shall  
20 adopt and promulgate the standard application and affidavit forms  
21 provided for in this section as well as the standard temporary and final  
22 sexual assault protection order forms and provide a copy of such forms to  
23 all clerks of the district courts in this state. Such standard temporary  
24 and final sexual assault protection order forms shall be the only forms  
25 used in this state.

26 (7) A sexual assault protection order may be issued or renewed ex  
27 parte without notice to the respondent if it reasonably appears from the  
28 specific facts shown by affidavit of the petitioner that irreparable  
29 harm, loss, or damage will result before the matter can be heard on  
30 notice. If the specific facts included in the affidavit (a) do not show  
31 that the petitioner will suffer irreparable harm, loss, or damage or (b)

1 show that, for any other compelling reason, an ex parte order should not  
2 be issued or renewed, the court may forthwith cause notice of the  
3 application to be given to the respondent stating that he or she may show  
4 cause, not more than fourteen days after service, why such order should  
5 not be entered. If such ex parte order is issued or renewed without  
6 notice to the respondent, the court shall forthwith cause notice of the  
7 petition and order and a form with which to request a show-cause hearing  
8 to be given the respondent stating that, upon service on the respondent,  
9 the order shall remain in effect for a period of one year unless the  
10 respondent shows cause why the order should not remain in effect for a  
11 period of one year. If the respondent wishes to appear and show cause why  
12 the order should not remain in effect for a period of one year, he or she  
13 shall affix his or her current address, telephone number, and signature  
14 to the form and return it to the clerk of the district court within five  
15 days after service upon him or her. Upon receipt of the request for a  
16 show-cause hearing, the court shall immediately schedule a show-cause  
17 hearing to be held within thirty days after the receipt of the request  
18 for a show-cause hearing and shall notify the petitioner and respondent  
19 of the hearing date.

20 (8)(a) Upon the issuance or renewal of any sexual assault protection  
21 order, the clerk of the court shall forthwith provide the petitioner,  
22 without charge, with two certified copies of such order. The clerk of the  
23 court shall also forthwith provide the local police department or local  
24 law enforcement agency and the local sheriff's office, without charge,  
25 with one copy each of such order and one copy each of the sheriff's  
26 return thereon. The clerk of the court shall also forthwith provide a  
27 copy of the sexual assault protection order to the sheriff's office in  
28 the county where the respondent may be personally served together with  
29 instructions for service. Upon receipt of the order and instructions for  
30 service, such sheriff's office shall forthwith serve the sexual assault  
31 protection order upon the respondent and file its return thereon with the

1 clerk of the court which issued the sexual assault protection order  
2 within fourteen days of the issuance of the initial or renewed sexual  
3 assault protection order. If any sexual assault protection order is  
4 dismissed or modified by the court, the clerk of the court shall  
5 forthwith provide the local police department or local law enforcement  
6 agency and the local sheriff's office, without charge, with one copy each  
7 of the order of dismissal or modification.

8 (b) If the respondent is present at a hearing convened pursuant to  
9 this section and the sexual assault protection order is not dismissed,  
10 such respondent shall be deemed to have notice by the court at such  
11 hearing that the protection order will be granted and remain in effect  
12 and further service of such notice described in this subsection shall not  
13 be required for purposes of prosecution under this section. If the  
14 respondent has been properly served with the ex parte order and fails to  
15 appear at the hearing, the temporary order shall be deemed to be granted  
16 and remain in effect and the service of the ex parte order will serve as  
17 notice required under this section.

18 (9) A peace officer shall, with or without a warrant, arrest a  
19 person if (a) the officer has probable cause to believe that the person  
20 has committed a violation of a sexual assault protection order issued  
21 pursuant to this section or a violation of a valid foreign sexual assault  
22 protection order recognized pursuant to section 5 of this act and (b) a  
23 petitioner under this section provides the peace officer with a copy of  
24 such order or the peace officer determines that such an order exists  
25 after communicating with the local law enforcement agency.

26 (10) A peace officer making an arrest pursuant to subsection (9) of  
27 this section shall take such person into custody and take such person  
28 before the county court or the court which issued the sexual assault  
29 protection order within a reasonable time. At such time the court shall  
30 establish the conditions of such person's release from custody, including  
31 the determination of bond or recognizance, as the case may be. The court

1 shall issue an order directing that such person shall have no contact  
2 with the alleged victim of the sexual assault offense.

3 (11) An order issued under subsection (1) of this section may be  
4 renewed annually. To request renewal of the order, the petitioner shall  
5 file a petition for renewal and affidavit in support thereof at least  
6 forty-five days prior to the date the order is set to expire. The  
7 petition for renewal shall state the reasons a renewal is sought and  
8 shall be filed with the clerk of the district court, and the proceeding  
9 thereon may be heard by the county court or the district court as  
10 provided in section 25-2740. A petition for renewal will otherwise be  
11 governed in accordance with the procedures set forth in subsections (4)  
12 through (10) of this section.

13 (12) For purposes of this section, sexual assault offense means:

14 (a) Conduct amounting to sexual assault under section 28-319 or  
15 28-320 or sexual assault of a child under section 28-319.01 or 28-320.01  
16 or an attempt to commit any of such offenses; or

17 (b) Subjecting or attempting to subject another person to sexual  
18 contact or sexual penetration without his or her consent, as such terms  
19 are defined in section 28-318.

20 Sec. 5. (1) A valid foreign sexual assault protection order or  
21 order similar to a sexual assault protection order issued by a court of  
22 another state, territory, possession, or tribe shall be accorded full  
23 faith and credit by the courts of this state and enforced as if it were  
24 issued in this state.

25 (2) A foreign sexual assault protection order issued by a court of  
26 another state, territory, possession, or tribe shall be valid if:

27 (a) The issuing court had jurisdiction over the parties and matter  
28 under the law of such state, territory, possession, or tribe;

29 (b) The respondent was given reasonable notice and an opportunity to  
30 be heard sufficient to protect the respondent's right to due process  
31 before the order was issued; and

1           (c) The sexual assault protection order from another jurisdiction  
2 has not been rendered against both the petitioner and the respondent,  
3 unless: (i) The respondent filed a cross or counter petition, complaint,  
4 or other written pleading seeking such a sexual assault protection order;  
5 and (ii) the issuing court made specific findings of sexual assault  
6 offenses against both the petitioner and respondent and determined that  
7 each party was entitled to such an order.

8           (3) There is a presumption of the validity of the foreign protection  
9 order when the order appears authentic on its face.

10           (4) A peace officer may rely upon a copy of any putative valid  
11 foreign sexual assault protection order which has been provided to the  
12 peace officer by any source.

13           Sec. 6. Section 28-358.01, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15           28-358.01 (1) Isolation means intentional acts (a) committed for the  
16 purpose of preventing, and which do prevent, a vulnerable adult or senior  
17 adult from having contact with family, friends, or concerned persons, (b)  
18 committed to prevent a vulnerable adult or senior adult from receiving  
19 his or her mail or telephone calls, (c) of physical or chemical restraint  
20 of a vulnerable adult or senior adult committed for purposes of  
21 preventing contact with visitors, family, friends, or other concerned  
22 persons, or (d) which restrict, place, or confine a vulnerable adult or  
23 senior adult in a restricted area for purposes of social deprivation or  
24 preventing contact with family, friends, visitors, or other concerned  
25 persons.

26           (2) Isolation does not include (a) medical isolation prescribed by a  
27 licensed physician caring for the vulnerable adult or senior adult, (b)  
28 action taken in compliance with a harassment protection order issued  
29 pursuant to section 28-311.09, a valid foreign harassment protection  
30 order recognized pursuant to section 28-311.10, a sexual assault  
31 protection order issued pursuant to section 4 of this act, a valid



1 foreign sexual assault protection order recognized pursuant to section 5  
2 of this act, an order issued pursuant to section 42-924, an ex parte  
3 order issued pursuant to section 42-925, an order excluding a person from  
4 certain premises issued pursuant to section 42-357, or a valid foreign  
5 protection order recognized pursuant to section 42-931, or (c) action  
6 authorized by an administrator of a nursing home pursuant to section  
7 71-6021.

8 Sec. 7. Section 28-802, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 28-802 (1) A person commits pandering if such person:

11 (a) Entices another person to become a prostitute;~~or~~

12 (b) Procures or harbors therein an inmate for a house of  
13 prostitution or for any place where prostitution is practiced or allowed;  
14 ~~or~~

15 (c) Inveigles, entices, persuades, encourages, or procures any  
16 person to come into or leave this state for the purpose of prostitution  
17 or debauchery; or

18 (d) Receives or gives or agrees to receive or give any money or  
19 other thing of value for procuring or attempting to procure any person to  
20 become a prostitute or commit an act of prostitution or come into this  
21 state or leave this state for the purpose of prostitution or debauchery.

22 (2) Pandering is a Class II ~~III~~ felony ~~for a first offense, unless~~  
23 ~~the person being enticed, procured, harbored, or otherwise persuaded to~~  
24 ~~become a prostitute is under the age of eighteen years, in which case~~  
25 ~~pandering is a Class II felony for a first offense. Pandering is a Class~~  
26 ~~II felony for a second or subsequent offense.~~

27 Sec. 8. Section 28-830, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29 28-830 For purposes of sections 28-830 and 28-831, the following  
30 definitions apply:

31 (1) Actor means a person who solicits, procures, or supervises the

1 services or labor of another person;

2 (2) Commercial sexual activity means any sex act on account of which  
3 anything of value is given, promised to, or received by any person;

4 (3) Debt bondage means inducing another person to provide:

5 (a) Commercial sexual activity in payment toward or satisfaction of  
6 a real or purported debt; or

7 (b) Labor or services in payment toward or satisfaction of a real or  
8 purported debt if:

9 (i) The reasonable value of the labor or services is not applied  
10 toward the liquidation of the debt; or

11 (ii) The length of the labor or services is not limited and the  
12 nature of the labor or services is not defined;

13 (4) Financial harm means theft by extortion as described by section  
14 28-513;

15 (5) Forced labor or services means labor or services that are  
16 performed or provided by another person and are obtained or maintained  
17 through:

18 (a) Inflicting or threatening to inflict serious personal injury, as  
19 defined by section 28-318, on another person;

20 (b) Physically restraining or threatening to physically restrain the  
21 other person;

22 (c) Abusing or threatening to abuse the legal process against  
23 another person to cause arrest or deportation for violation of federal  
24 immigration law;

25 (d) Controlling or threatening to control another person's access to  
26 a controlled substance listed in Schedule I, II or III of section 28-405;

27 (e) Exploiting another person's substantial functional impairment as  
28 defined in section 28-368 or substantial mental impairment as defined in  
29 section 28-369;

30 (f) Knowingly destroying, concealing, removing, confiscating, or  
31 possessing any actual or purported passport or other immigration document

1 or any other actual or purported government identification document of  
2 the other person; or

3 (g) Causing or threatening to cause financial harm to another  
4 person, including debt bondage;

5 (6) Labor or services means work or activity of economic or  
6 financial value;

7 (7) Labor trafficking means knowingly recruiting, enticing,  
8 harboring, transporting, providing, or obtaining by any means or  
9 attempting to recruit, entice, harbor, transport, provide, or obtain by  
10 any means a person eighteen years of age or older intending or knowing  
11 that the person will be subjected to forced labor or services;

12 (8) Labor trafficking of a minor means ~~knowingly~~ recruiting,  
13 enticing, harboring, transporting, providing, or obtaining by any means  
14 or attempting to recruit, entice, harbor, transport, provide, or obtain  
15 by any means a minor intending or knowing that the minor will be  
16 subjected to forced labor or services;

17 (9) Maintain means, in relation to labor or services, to secure  
18 continued performance thereof, regardless of any initial agreement by the  
19 other person to perform such type of service;

20 (10) Minor means a person younger than eighteen years of age;

21 ~~(11) Obtain means, in relation to labor or services, to secure~~  
22 ~~performance thereof;~~

23 ~~(12) Services means an ongoing relationship between the actor and~~  
24 ~~another person in which the person performs activities under the~~  
25 ~~supervision of or for the benefit of the actor. Commercial sexual~~  
26 ~~activity and sexually explicit performances are forms of services under~~  
27 ~~this section. Nothing in this subdivision shall be construed to legalize~~  
28 ~~prostitution;~~

29 (11) ~~(13)~~ Sex trafficking means knowingly  
30 recruiting, enticing, harboring, transporting, providing, or obtaining by  
31 any means or knowingly attempting to recruit, entice, harbor, transport,

1 provide, or obtain by any means a person eighteen years of age or older  
2 for the purpose of having such person engage in commercial sexual  
3 activity, sexually explicit performance, or the production of pornography  
4 or  
5 to cause or attempt to cause a person eighteen years of age or older to  
6 engage in commercial sexual activity, sexually explicit performance, or  
7 the production of pornography against his or her will;

8 ~~(12)~~ ~~(14)~~ Sex trafficking of a minor means ~~knowingly~~  
9 recruiting, enticing, harboring, transporting, providing, soliciting, or  
10 obtaining by any means or ~~knowingly~~ attempting to recruit, entice,  
11 harbor, transport, provide, solicit, or obtain by any means a minor for  
12 the purpose of having such minor engage in commercial sexual activity,  
13 sexually explicit performance, or the production of pornography or  
14 to cause or attempt to cause a minor to engage in commercial sexual  
15 activity, sexually explicit performance, or the production of  
16 pornography;

17 ~~(13)~~ ~~(15)~~ Sexually-explicit performance means a live or public play,  
18 dance, show, or other exhibition intended to arouse or gratify sexual  
19 desire or to appeal to prurient interests; and

20 ~~(14)~~ ~~(16)~~ Trafficking victim means a person subjected to any act or  
21 acts prohibited by section 28-831.

22 Sec. 9. Section 28-831, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24 28-831 (1) Any person who engages in labor trafficking of a minor or  
25 sex trafficking of a minor is guilty of a Class IC ~~II~~ felony, except, if  
26 the actor uses overt force or the threat of force or the trafficking  
27 victim has not yet attained the age of sixteen years the actor .—Any  
28 ~~person who otherwise engages in labor trafficking of a minor or sex~~  
29 ~~trafficking of a minor~~ is guilty of a Class IB ~~IIA~~ felony.

30 (2) Any person who engages in labor trafficking or sex trafficking  
31 by inflicting or threatening to inflict serious personal injury, as

1 defined in section 28-318, on another person or physically restrains or  
2 threatens to physically restrain another person is guilty of a Class II  
3 ~~IIA~~ felony. Any person who otherwise engages in labor trafficking or sex  
4 trafficking is guilty of a Class II ~~III~~ felony.

5 (3) Any person who knowingly or recklessly solicits a trafficking  
6 victim to engage in commercial sexual activity, sexually explicit  
7 performance, or the production of pornography commits solicitation of a  
8 trafficking victim. Solicitation of a trafficking victim includes  
9 solicitation through any means and through any intermediary. Any person  
10 who commits solicitation of a trafficking victim is guilty of a Class II  
11 felony.

12 (4) ~~(3)~~ Any person, other than a trafficking victim, who knowingly  
13 or recklessly benefits from or participates in a venture which has, as  
14 part of the venture, an act that is in violation of this section is  
15 guilty of a Class IIA ~~IIIA~~ felony.

16 (5) The crimes defined in this section shall be treated as separate  
17 and distinct offenses and sentences imposed under this section shall be  
18 consecutive to any other sentence imposed.

19 (6) It is not a defense in a prosecution under subsection (1), (3),  
20 or (4) of this section that a minor consented to engage in commercial  
21 sexual activity or that the defendant believed the child was an adult.

22 Sec. 10. Section 28-1206, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24 28-1206 (1) A person commits the offense of possession of a deadly  
25 weapon by a prohibited person if he or she:

26 (a) Possesses ~~Any person who possesses~~ a firearm, a knife, or brass  
27 or iron knuckles and he or she:

28 (i) Has ~~who has~~ previously been convicted of a felony;

29 (ii) Is ~~, who is~~ a fugitive from justice;

30 (iii) Is ~~, or who is~~ the subject of a current and validly issued  
31 domestic violence protection order; or

1            (iv) Is the subject of a current and validly issued harassment  
2 protection order or sexual assault protection order and is knowingly  
3 violating such order; or

4            (b) Possesses , ~~or (b) any person who possesses~~ a firearm or brass  
5 or iron knuckles and he or she ~~who~~ has been convicted within the past  
6 seven years of a misdemeanor crime of domestic violence, ~~commits the~~  
7 ~~offense of possession of a deadly weapon by a prohibited person.~~

8            (2) The felony conviction may have been had in any court in the  
9 United States, the several states, territories, or possessions, or the  
10 District of Columbia.

11            (3)(a) Possession of a deadly weapon which is not a firearm by a  
12 prohibited person is a Class III felony.

13            (b) Possession of a deadly weapon which is a firearm by a prohibited  
14 person is a Class ID felony for a first offense and a Class IB felony for  
15 a second or subsequent offense.

16            (4)(a) (4)(a)(i) For purposes of this section, misdemeanor crime of  
17 domestic violence means a crime that:

18            (i) Is (A)(I) ~~A crime that is~~ classified as a misdemeanor under the  
19 laws of the United States or the District of Columbia or the laws of any  
20 state, territory, possession, or tribe;

21            (ii) Has (II) ~~A crime that has,~~ as an element, the use or attempted  
22 use of physical force or the threatened use of a deadly weapon; and

23            (iii) Is (III) ~~A crime that is~~ committed by another against his or  
24 her spouse, his or her former spouse, a person with whom he or she has a  
25 child in common whether or not they have been married or lived together  
26 at any time, or a person with whom he or she is or was involved in a  
27 dating relationship as defined in section 28-323. ~~;~~ ~~or~~

28            (b) For purposes of this section, misdemeanor crime of domestic  
29 violence also includes the following offenses, if committed by a person  
30 against his or her spouse, his or her former spouse, a person with whom  
31 he or she is or was involved in a dating relationship as defined in

1 section 28-323, or a person with whom he or she has a child in common  
2 whether or not they have been married or lived together at any time:

3 (i) ~~(B)(I)~~ Assault in the third degree under section 28-310; ~~τ~~

4 (ii) ~~Stalking~~ stalking under subsection (1) of section 28-311.04; ~~τ~~

5 (iii) ~~False~~ false imprisonment in the second degree under section  
6 28-315; ~~τ~~

7 (iv) ~~First~~ or ~~first~~ offense domestic assault in the third degree  
8 under subsection (1) of section 28-323; or

9 (v) ~~Any~~ any attempt or conspiracy to commit ~~any~~ one of ~~such~~ these  
10 offenses; ~~τ~~ and

11 ~~(II) The crime is committed by another against his or her spouse,~~  
12 ~~his or her former spouse, a person with whom he or she has a child in~~  
13 ~~common whether or not they have been married or lived together at any~~  
14 ~~time, or a person with whom he or she is or was involved in a dating~~  
15 ~~relationship as defined in section 28-323.~~

16 (c) ~~(ii)~~ A person shall not be considered to have been convicted of  
17 a misdemeanor crime of domestic violence unless:

18 (i) (A) The person was represented by counsel in the case or  
19 knowingly and intelligently waived the right to counsel in the case; and

20 (ii) ~~(B)~~ In the case of a prosecution for a misdemeanor crime of  
21 domestic violence for which a person was entitled to a jury trial in the  
22 jurisdiction in which the case was tried, either:

23 (A) ~~(I)~~ The case was tried to a jury; or

24 (B) ~~(II)~~ The person knowingly and intelligently waived the right to  
25 have the case tried to a jury.

26 (5) ~~(b)~~ For purposes of this section:

27 (a) ~~Domestic~~ ~~τ~~ subject of a current and validly issued domestic  
28 violence protection order means a protection order ~~pertains to a current~~  
29 court order that was validly issued pursuant to section 28-311.09 or  
30 42-924;

31 (b) Harassment protection order means a protection order issued

1 pursuant to section 28-311.09 or that meets or exceeds the criteria set  
2 forth in section 28-311.10 regarding protection orders issued by a court  
3 in any other state or a territory, possession, or tribe; and -

4 (c) Sexual assault protection order means a protection order issued  
5 pursuant to section 4 of this act or that meets or exceeds the criteria  
6 set forth in section 5 of this act regarding protection orders issued by  
7 a court in any other state or a territory, possession, or tribe.

8 Sec. 11. Section 29-404.02, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 29-404.02 (1) Except as provided in section 42-928 and section 4 of  
11 this act, a peace officer may arrest a person without a warrant if the  
12 officer has reasonable cause to believe that such person has committed:

13 (a) A felony;

14 (b) A misdemeanor, and the officer has reasonable cause to believe  
15 that such person either (i) will not be apprehended unless immediately  
16 arrested, (ii) may cause injury to himself or herself or others or damage  
17 to property unless immediately arrested, (iii) may destroy or conceal  
18 evidence of the commission of such misdemeanor, or (iv) has committed a  
19 misdemeanor in the presence of the officer; or

20 (c) One or more of the following acts to one or more household  
21 members, whether or not committed in the presence of the peace officer:

22 (i) Attempting to cause or intentionally and knowingly causing  
23 bodily injury with or without a dangerous instrument;

24 (ii) Placing, by physical menace, another in fear of imminent bodily  
25 injury; or

26 (iii) Engaging in sexual contact or sexual penetration without  
27 consent as defined in section 28-318.

28 (2) For purposes of this section:

29 (a) Household members includes ~~shall include~~ spouses or former  
30 spouses, children, persons who are presently residing together or who  
31 have resided together in the past, persons who have a child in common



1 whether or not they have been married or have lived together at any time,  
2 other persons related by consanguinity or affinity, and persons who are  
3 presently involved in a dating relationship with each other or who have  
4 been involved in a dating relationship with each other; and

5 (b) Dating relationship means frequent, intimate associations  
6 primarily characterized by the expectation of affectional or sexual  
7 involvement, but does not include a casual relationship or an ordinary  
8 association between persons in a business or social context.

9 Sec. 12. Section 29-422, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11 29-422 It is hereby declared to be the policy of the State of  
12 Nebraska to issue citations in lieu of arrest or continued custody to the  
13 maximum extent consistent with the effective enforcement of the law and  
14 the protection of the public. In furtherance of that policy, except as  
15 provided in sections 42-928 and 42-929 and section 4 of this act, any  
16 peace officer shall be authorized to issue a citation in lieu of arrest  
17 or continued custody for any offense which is a traffic infraction, any  
18 other infraction, or a misdemeanor and for any violation of a city or  
19 village ordinance. Such authorization shall be carried out in the manner  
20 specified in sections 29-422 to 29-429 and 60-684 to 60-686.

21 Sec. 13. Section 42-903, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23 42-903 For purposes of the Protection from Domestic Abuse Act,  
24 unless the context otherwise requires:

25 (1) Abuse means the occurrence of one or more of the following acts  
26 between family or household members:

27 (a) Attempting to cause or intentionally and knowingly causing  
28 bodily injury with or without a dangerous instrument;

29 (b) Placing, by means of credible threat, another person in fear of  
30 bodily injury. For purposes of this subdivision, credible threat means a  
31 verbal or written threat, including a threat performed through the use of

1 an electronic communication device, or a threat implied by a pattern of  
2 conduct or a combination of verbal, written, or electronically  
3 communicated statements and conduct that is made by a person with the  
4 apparent ability to carry out the threat so as to cause the person who is  
5 the target of the threat to reasonably fear for his or her safety or the  
6 safety of his or her family. It is not necessary to prove that the person  
7 making the threat had the intent to actually carry out the threat. The  
8 present incarceration of the person making the threat shall not prevent  
9 the threat from being deemed a credible threat under this section; or

10 (c) Engaging in sexual contact or sexual penetration without consent  
11 as defined in section 28-318;

12 (2) Department means the Department of Health and Human Services;

13 (3) Family or household members includes spouses or former spouses,  
14 children, persons who are presently residing together or who have resided  
15 together in the past, persons who have a child in common whether or not  
16 they have been married or have lived together at any time, other persons  
17 related by consanguinity or affinity, and persons who are presently  
18 involved in a dating relationship with each other or who have been  
19 involved in a dating relationship with each other. For purposes of this  
20 subdivision, dating relationship means frequent, intimate associations  
21 primarily characterized by the expectation of affectional or sexual  
22 involvement, but does not include a casual relationship or an ordinary  
23 association between persons in a business or social context; and

24 (4) Law enforcement agency means the police department or town  
25 marshal in incorporated municipalities, the office of the sheriff in  
26 unincorporated areas, and the Nebraska State Patrol.

27 Sec. 14. Section 42-924, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29 42-924 (1)(a) ~~(1)~~ Any victim of domestic abuse may file a petition  
30 and affidavit for a protection order as provided in subsections  
31 ~~subsection~~ (2) and (3) of this section. Upon the filing of such a

1 petition and affidavit in support thereof, the court may issue a  
2 protection order without bond granting the following relief:

3 (i) ~~(a)~~ Enjoining the respondent from imposing any restraint upon  
4 the petitioner or upon the liberty of the petitioner;

5 (ii) ~~(b)~~ Enjoining the respondent from threatening, assaulting,  
6 molesting, attacking, or otherwise disturbing the peace of the  
7 petitioner;

8 (iii) ~~(c)~~ Enjoining the respondent from telephoning, contacting, or  
9 otherwise communicating with the petitioner;

10 (iv) ~~(d)~~ Removing and excluding the respondent from the residence of  
11 the petitioner, regardless of the ownership of the residence;

12 (v) ~~(e)~~ Ordering the respondent to stay away from any place  
13 specified by the court;

14 (vi) ~~(f)~~ Awarding the petitioner temporary custody of any minor  
15 children not to exceed ninety days;

16 ~~(g) Enjoining the respondent from possessing or purchasing a firearm~~  
17 ~~as defined in section 28-1201; or~~

18 (vii) ~~(h)~~ Ordering such other relief deemed necessary to provide for  
19 the safety and welfare of the petitioner and any designated family or  
20 household member.

21 (b) As part of any protection order issued pursuant to this section,  
22 the court shall enjoin the respondent from purchasing or possessing a  
23 firearm, as defined in section 28-1201, and shall inform the respondent  
24 that such possession is a felony under section 28-1206.

25 (2) Petitions for protection orders shall be filed with the clerk of  
26 the district court, and the proceeding may be heard by the county court  
27 or the district court as provided in section 25-2740. A petition for a  
28 protection order may not be withdrawn except upon order of the court.

29 (3)(a) A protection ~~(3) A petition filed pursuant to subsection (1)~~  
30 ~~of this section may not be withdrawn except upon order of the court. An~~  
31 ~~order issued pursuant to subsection (1) of this section shall specify~~

1 that it is effective for a period of one year and, if the order grants  
2 temporary custody, the number of days of custody granted to the  
3 petitioner unless otherwise modified by the court.

4 (b) Any victim of domestic abuse may file a petition and affidavit  
5 to renew a protection order. Such petition and affidavit for renewal  
6 shall be filed on or after thirty days before the expiration of the  
7 previous protection order. Such renewed order shall specify that it is  
8 effective for a period of one year to commence on the first day following  
9 the expiration of the previous order and, if the court grants temporary  
10 custody, the number of days of custody granted to the petitioner unless  
11 otherwise modified by the court.

12 (4) Any person who knowingly violates a protection order issued  
13 pursuant to ~~subsection (1)~~ of this section or section 42-931 after  
14 service or notice as described in subsection (2) of section 42-926 shall  
15 be guilty of a Class I misdemeanor, except that any person convicted of  
16 violating such order who has a prior conviction for violating a  
17 protection order shall be guilty of a Class IV felony.

18 (5) If there is any conflict between sections 42-924 to 42-926 and  
19 any other provision of law, sections 42-924 to 42-926 shall govern.

20 Sec. 15. Section 42-925, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22 42-925 (1) An order issued under ~~subsection (1)~~ of section 42-924  
23 may be issued ex parte to the respondent if it reasonably appears from  
24 the specific facts included in the affidavit that the petitioner will be  
25 in immediate danger of abuse before the matter can be heard on notice. If  
26 an order is issued ex parte, such order is a temporary order and the  
27 court shall forthwith cause notice of the petition and order to be given  
28 to the respondent. The court shall also cause a form to request a show-  
29 cause hearing to be served upon the respondent. If the respondent wishes  
30 to appear and show cause why the order should not remain in effect, he or  
31 she shall affix his or her current address, telephone number, and

1 signature to the form and return it to the clerk of the district court  
2 within five days after service upon him or her. Upon receipt of the  
3 request for a show-cause hearing, the request of the petitioner, or upon  
4 the court's own motion, the court shall immediately schedule a show-cause  
5 hearing to be held within thirty days after the receipt of the request  
6 for a show-cause hearing and shall notify the petitioner and respondent  
7 of the hearing date. If the respondent appears at the hearing and shows  
8 cause why such order should not remain in effect, the court shall rescind  
9 the temporary order. If the respondent does not so appear and show cause,  
10 the temporary order shall be affirmed and shall be deemed the final  
11 protection order. If the respondent has been properly served with the ex  
12 parte order and fails to appear at the hearing, the temporary order shall  
13 be affirmed and the service of the ex parte order shall be notice of the  
14 final protection order for purposes of prosecution under subsection (4)  
15 of section 42-924.

16 (2) If an order under ~~subsection (1) of~~ section 42-924 is not issued  
17 ex parte, the court shall immediately schedule an evidentiary hearing to  
18 be held within fourteen days after the filing of the petition, and the  
19 court shall cause notice of the hearing to be given to the petitioner and  
20 the respondent. If the respondent does not appear at the hearing and show  
21 cause why such order should not be issued, the court shall issue a final  
22 protection order.

23 (3) The court may by rule or order refer or assign all matters  
24 regarding orders issued under ~~subsection (1) of~~ section 42-924 to a  
25 referee for findings and recommendations.

26 (4) An order issued under ~~subsection (1) of~~ section 42-924 shall  
27 remain in effect for the a period provided in subsection (3) of section  
28 42-924 of one year from the date of issuance, unless dismissed or  
29 modified by the court prior to such date. If the order grants temporary  
30 custody, such custody shall not exceed the number of days specified by  
31 the court unless the respondent shows cause why the order should not

1 remain in effect.

2 (5) The court shall also cause the notice created under section  
3 29-2291 to be served upon the respondent notifying the respondent that it  
4 may be unlawful under federal law for a person who is subject to a  
5 protection order to possess or receive any firearm or ammunition.

6 Sec. 16. Section 43-254, Reissue Revised Statutes of Nebraska, is  
7 amended to read:

8 43-254 Pending the adjudication of any case, and subject to  
9 subdivision (5) of section 43-251.01, if it appears that the need for  
10 placement or further detention exists, the juvenile may be (1) placed or  
11 detained a reasonable period of time on order of the court in the  
12 temporary custody of either the person having charge of the juvenile or  
13 some other suitable person, (2) kept in some suitable place provided by  
14 the city or county authorities, (3) placed in any proper and accredited  
15 charitable institution, (4) placed in a state institution, except any  
16 adult correctional facility, when proper facilities are available and the  
17 only local facility is a city or county jail, at the expense of the  
18 committing county on a per diem basis as determined from time to time by  
19 the head of the particular institution, (5) placed in the temporary care  
20 and custody of the Department of Health and Human Services when it does  
21 not appear that there is any need for secure detention, except that  
22 beginning October 1, 2013, no juvenile alleged to be a juvenile described  
23 in subdivision (1), (2), (3)(b), or (4) of section 43-247 shall be placed  
24 in the care and custody or under the supervision of the Department of  
25 Health and Human Services, or (6) beginning October 1, 2013, offered  
26 supervision options as determined pursuant to section 43-260.01, through  
27 the Office of Probation Administration as ordered by the court and agreed  
28 to in writing by the parties, if the juvenile is alleged to be a juvenile  
29 described in subdivision (1), (2), (3)(b), or (4) of section 43-247 and  
30 it does not appear that there is any need for secure detention. The court  
31 may assess the cost of such placement or detention in whole or in part to

1 the parent of the juvenile as provided in section 43-290.

2 If a juvenile has been removed from his or her parent, guardian, or  
3 custodian pursuant to subdivision (2) of section 43-248, the court may  
4 enter an order continuing detention or placement upon a written  
5 determination that continuation of the juvenile in his or her home would  
6 be contrary to the health, safety, or welfare of such juvenile and that  
7 reasonable efforts were made to preserve and reunify the family if  
8 required under ~~subsections (1) through (4)~~ of section 43-283.01.

9 Sec. 17. Section 43-283.01, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11 43-283.01 (1) In determining whether reasonable efforts have been  
12 made to preserve and reunify the family and in making such reasonable  
13 efforts, the juvenile's health and safety are the paramount concern.

14 (2) Except as provided in subsections (4) and (5) ~~subsection (4)~~ of  
15 this section, reasonable efforts shall be made to preserve and reunify  
16 families prior to the placement of a juvenile in foster care to prevent  
17 or eliminate the need for removing the juvenile from the juvenile's home  
18 and to make it possible for a juvenile to safely return to the juvenile's  
19 home.

20 (3) If continuation of reasonable efforts to preserve and reunify  
21 the family is determined to be inconsistent with the permanency plan  
22 determined for the juvenile in accordance with a permanency hearing under  
23 section 43-1312, efforts shall be made to place the juvenile in a timely  
24 manner in accordance with the permanency plan and to complete whatever  
25 steps are necessary to finalize the permanent placement of the juvenile.

26 (4) Reasonable efforts to preserve and reunify the family are not  
27 required if a court of competent jurisdiction has determined that:

28 (a) The parent of the juvenile has subjected the juvenile or another  
29 minor child to aggravated circumstances, including, but not limited to,  
30 abandonment, torture, chronic abuse, or sexual abuse;

31 (b) The parent of the juvenile has (i) committed first or second

1 degree murder to another child of the parent, (ii) committed voluntary  
2 manslaughter to another child of the parent, (iii) aided or abetted,  
3 attempted, conspired, or solicited to commit murder, or aided or abetted  
4 voluntary manslaughter of the juvenile or another child of the parent,  
5 (iv) committed a felony assault which results in serious bodily injury to  
6 the juvenile or another minor child of the parent, or (v) been convicted  
7 of felony sexual assault of the other parent of the juvenile under  
8 section 28-319.01 or 28-320.01 or a comparable crime in another state; or

9 (c) The parental rights of the parent to a sibling of the juvenile  
10 have been terminated involuntarily.

11 (5) Except as otherwise provided in the Nebraska Indian Child  
12 Welfare Act, if the family includes a child who was conceived by the  
13 victim of a sexual assault and a biological parent is convicted of the  
14 crime under section 28-319 or 28-320 or a law in another jurisdiction  
15 similar to either section 28-319 or 28-320, the convicted biological  
16 parent of such child shall not be considered a part of the child's family  
17 for purposes of requiring reasonable efforts to preserve and reunify the  
18 family.

19 ~~(6)~~ (5) If reasonable efforts to preserve and reunify the family are  
20 not required because of a court determination made under subsection (4)  
21 of this section, a permanency hearing, as provided in section 43-1312,  
22 shall be held for the juvenile within thirty days after the  
23 determination, reasonable efforts shall be made to place the juvenile in  
24 a timely manner in accordance with the permanency plan, and whatever  
25 steps are necessary to finalize the permanent placement of the juvenile  
26 shall be made.

27 ~~(7)~~ (6) Reasonable efforts to place a juvenile for adoption or with  
28 a guardian may be made concurrently with reasonable efforts to preserve  
29 and reunify the family, but priority shall be given to preserving and  
30 reunifying the family as provided in this section.

31 Sec. 18. Section 43-292.02, Reissue Revised Statutes of Nebraska, is



1 amended to read:

2 43-292.02 (1) A petition shall be filed on behalf of the state to  
3 terminate the parental rights of the juvenile's parents or, if such a  
4 petition has been filed by another party, the state shall join as a party  
5 to the petition, and the state shall concurrently identify, recruit,  
6 process, and approve a qualified family for an adoption of the juvenile,  
7 if:

8 (a) A juvenile has been in foster care under the responsibility of  
9 the state for fifteen or more months of the most recent twenty-two  
10 months; or

11 (b) A court of competent jurisdiction has determined the juvenile to  
12 be an abandoned infant or has made a determination that the parent has  
13 committed murder of another child of the parent, committed voluntary  
14 manslaughter of another child of the parent, aided or abetted, attempted,  
15 conspired, or solicited to commit murder, or aided or abetted voluntary  
16 manslaughter of the juvenile or another child of the parent, or committed  
17 a felony assault that has resulted in serious bodily injury to the  
18 juvenile or another minor child of the parent. For purposes of this  
19 subdivision, infant means a child eighteen months of age or younger.

20 (2) A petition shall not be filed on behalf of the state to  
21 terminate the parental rights of the juvenile's parents or, if such a  
22 petition has been filed by another party, the state shall not join as a  
23 party to the petition if the sole factual basis for the petition is that

24 (a) the parent or parents of the juvenile are financially unable to  
25 provide health care for the juvenile or (b) the parent or parents of the  
26 juvenile are incarcerated. The fact that a qualified family for an  
27 adoption of the juvenile has been identified, recruited, processed, and  
28 approved shall have no bearing on whether parental rights shall be  
29 terminated.

30 (3) The petition is not required to be filed on behalf of the state  
31 or if a petition is filed the state shall not be required to join in a

1 petition to terminate parental rights or to concurrently find a qualified  
2 family to adopt the juvenile under this section if:

3 (a) The child is being cared for by a relative;

4 (b) The Department of Health and Human Services has documented in  
5 the case plan or permanency plan, which shall be available for court  
6 review, a compelling reason for determining that filing such a petition  
7 would not be in the best interests of the juvenile; or

8 (c) The family of the juvenile has not had a reasonable opportunity  
9 to avail themselves of the services deemed necessary in the case plan or  
10 permanency plan approved by the court if reasonable efforts to preserve  
11 and reunify the family are required under section 43-283.01.

12 (4) Except as otherwise provided in the Nebraska Indian Child  
13 Welfare Act, if a child is conceived by the victim of a sexual assault, a  
14 petition for termination of parental rights of the perpetrator shall be  
15 granted if such termination is in the best interests of the child and (a)  
16 the perpetrator has been convicted of or pled guilty or nolo contendere  
17 to sexual assault of the child's birth parent under section 28-319 or  
18 28-320 or a law in another jurisdiction similar to either section 28-319  
19 or 28-320 or (b) the perpetrator has fathered the child or given birth to  
20 the child as a result of such sexual assault.

21 Sec. 19. Section 43-1303, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23 43-1303 (1) The office shall maintain the statewide register of all  
24 foster care placements occurring within the state, and there shall be a  
25 weekly report made to the registry of all foster care placements by the  
26 Department of Health and Human Services, any child-placing agency, or any  
27 court in a form as developed by the office in consultation with  
28 representatives of entities required to make such reports. For each child  
29 entering and leaving foster care, such report shall consist of  
30 identifying information, placement information, the plan or permanency  
31 plan developed by the person or court in charge of the child pursuant to

1 section 43-1312, and information on whether any such child was a person  
2 immune from criminal prosecution under subsection (5) of section 28-801  
3 or was considered a trafficking victim as defined in ~~subdivision (16) of~~  
4 section 28-830. The department, the Office of Probation Administration,  
5 and every court and child-placing agency shall report any foster care  
6 placement within three working days. The report shall contain the  
7 following information:

8 (a) Child identification information, including name, date of birth,  
9 gender, race, religion, and ethnicity;

10 (b) Identification information for parents and stepparents,  
11 including name, address, and status of parental rights;

12 (c) Placement information, including initial placement date, current  
13 placement date, and the name and address of the foster care placement;

14 (d) Court status information, including which court has  
15 jurisdiction, initial custody date, court hearing date, and results of  
16 the court hearing;

17 (e) Agency or other entity having custody of the child; and

18 (f) Case worker, probation officer, or person providing direct case  
19 management or supervision functions.

20 (2)(a) The Foster Care Review Office shall designate a local board  
21 to conduct foster care file audit case reviews for each case of children  
22 in foster care placement.

23 (b) The office may adopt and promulgate rules and regulations for  
24 the following:

25 (i) Establishment of training programs for local board members which  
26 shall include an initial training program and periodic inservice training  
27 programs;

28 (ii) Development of procedures for local boards;

29 (iii) Establishment of a central record-keeping facility for all  
30 local board files, including foster care file audit case reviews;

31 (iv) Accumulation of data and the making of annual reports on

1 children in foster care placements. Such reports shall include, but not  
2 be limited to, (A) personal data on length of time in foster care, (B)  
3 number of placements, (C) frequency and results of foster care file audit  
4 case reviews and court review hearings, (D) number of children supervised  
5 by the foster care programs in the state annually, (E) trend data  
6 impacting foster care, services, and placements, (F) analysis of the  
7 data, and (G) recommendations for improving the foster care system in  
8 Nebraska;

9 (v) Accumulation of data and the making of quarterly reports  
10 regarding the children in foster care placements;

11 (vi) To the extent not prohibited by section 43-1310, evaluation of  
12 the judicial and administrative data collected on foster care and the  
13 dissemination of such data to the judiciary, public and private agencies,  
14 the department, and members of the public; and

15 (vii) Manner in which the office shall determine the appropriateness  
16 of requesting a court review hearing as provided for in section 43-1313.

17 (3) A local board shall send a written report to the office for each  
18 foster care file audit case review conducted by the local board. A court  
19 shall send a written report to the office for each foster care review  
20 hearing conducted by the court.

21 (4) The office shall report and make recommendations to the  
22 Legislature, the department, the Office of Probation Administration, the  
23 courts, local boards, and county welfare offices. Such reports and  
24 recommendations shall include, but not be limited to, the annual judicial  
25 and administrative data collected on foster care pursuant to subsections  
26 (2) and (3) of this section and the annual evaluation of such data. The  
27 report and recommendations submitted to the Legislature shall be  
28 submitted electronically. In addition, the Foster Care Review Office  
29 shall provide copies of such reports and recommendations to each court  
30 having the authority to make foster care placements. The executive  
31 director of the office shall also provide, at a time specified by the

1 Health and Human Services Committee of the Legislature, regular  
2 electronic updates regarding child welfare data and information at least  
3 quarterly, and a fourth-quarter report which shall be the annual report.  
4 The executive director shall include issues, policy concerns, and  
5 problems which have come to the office and the executive director from  
6 analysis of the data. The executive director shall recommend alternatives  
7 to the identified problems and related needs of the office and the foster  
8 care system to the committee. The Health and Human Services Committee  
9 shall coordinate and prioritize data and information requests submitted  
10 to the office by members of the Legislature. The annual report of the  
11 office shall be completed by December 1 each year and shall be submitted  
12 electronically to the committee.

13 (5) The executive director of the office or his or her designees  
14 from the office may visit and observe foster care facilities in order to  
15 ascertain whether the individual physical, psychological, and  
16 sociological needs of each foster child are being met.

17 (6) At the request of any state agency, the executive director of  
18 the office or his or her designees from the office may conduct a case  
19 file review process and data analysis regarding any state ward or ward of  
20 the court whether placed in-home or out-of-home at the time of the case  
21 file review.

22 Sec. 20. Section 43-1411.01, Reissue Revised Statutes of Nebraska,  
23 is amended to read:

24 43-1411.01 (1) An action for paternity or parental support under  
25 sections 43-1401 to 43-1418 may be initiated by filing a complaint with  
26 the clerk of the district court as provided in section 25-2740. Such  
27 proceeding may be heard by the county court or the district court as  
28 provided in section 25-2740. A paternity determination under sections  
29 43-1411 to 43-1418 may also be decided in a county court or separate  
30 juvenile court if the county court or separate juvenile court already has  
31 jurisdiction over the child whose paternity is to be determined.

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

4           (3) The court may stay the paternity action if there is a pending  
5 criminal allegation of sexual assault under section 28-319 or 28-320 or a  
6 law in another jurisdiction similar to either section 28-319 or 28-320  
7 against the alleged father with regard to the conception of the child.

8           Sec. 21. Section 43-1609, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10           43-1609 (1) Child support referees shall be appointed when necessary  
11 by the district courts, separate juvenile courts, and county courts to  
12 meet the requirements of federal law relating to expediting the  
13 establishment, modification, enforcement, and collection of child,  
14 spousal, or medical support and protection orders issued under ~~subsection~~  
15 ~~(1)~~ of section 42-924.

16           (2) Child support referees shall be appointed by order of the  
17 district court, separate juvenile court, or county court. The Supreme  
18 Court shall appoint child support referees to serve more than one  
19 judicial district if the Supreme Court determines it is necessary.

20           (3) To be qualified for appointment as a child support referee, a  
21 person shall be an attorney in good standing admitted to the practice of  
22 law in the State of Nebraska and shall meet any other requirements  
23 imposed by the Supreme Court. A child support referee shall be sworn or  
24 affirmed to well and faithfully hear and examine the cause and to make a  
25 just and true report according to the best of his or her understanding.  
26 The oath or affirmation may be administered by a district, county, or  
27 separate juvenile court judge. A child support referee may be removed at  
28 any time by the appointing court.

29           (4) The Supreme Court may contract with an attorney to perform the  
30 duties of a referee for a specific case or for a specific amount of time  
31 or may direct a judge of the county court to perform such duties.

1           Sec. 22. Section 43-1611, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           43-1611 A district court, separate juvenile court, or county court  
4 may by rule or order refer or assign any and all matters regarding the  
5 establishment, modification, enforcement, and collection of child,  
6 spousal, or medical support, paternity matters, and protection orders  
7 issued under ~~subsection (1)~~ of section 42-924 to a child support referee  
8 for findings and recommendations.

9           Sec. 23. Section 43-2933, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11           43-2933 (1)(a) No person shall be granted custody of, or  
12 unsupervised parenting time, visitation, or other access with, a child if  
13 the person is required to be registered as a sex offender under the Sex  
14 Offender Registration Act for an offense that would make it contrary to  
15 the best interests of the child for such access or for an offense in  
16 which the victim was a minor or if the person has been convicted under  
17 section 28-311, 28-319.01, 28-320, 28-320.01, or 28-320.02, unless the  
18 court finds that there is no significant risk to the child and states its  
19 reasons in writing or on the record.

20           (b) No person shall be granted custody of, or unsupervised parenting  
21 time, visitation, or other access with, a child if anyone residing in the  
22 person's household is required to register as a sex offender under the  
23 Sex Offender Registration Act as a result of a felony conviction in which  
24 the victim was a minor or for an offense that would make it contrary to  
25 the best interests of the child for such access unless the court finds  
26 that there is no significant risk to the child and states its reasons in  
27 writing or on the record.

28           (c) The fact that a child is permitted unsupervised contact with a  
29 person who is required, as a result of a felony conviction in which the  
30 victim was a minor, to be registered as a sex offender under the Sex  
31 Offender Registration Act shall be prima facie evidence that the child is

1 at significant risk. When making a determination regarding significant  
2 risk to the child, the prima facie evidence shall constitute a  
3 presumption affecting the burden of producing evidence. However, this  
4 presumption shall not apply if there are factors mitigating against its  
5 application, including whether the other party seeking custody, parenting  
6 time, visitation, or other access is also required, as the result of a  
7 felony conviction in which the victim was a minor, to register as a sex  
8 offender under the Sex Offender Registration Act.

9 (2) Except as otherwise provided in the Nebraska Indian Child  
10 Welfare Act, no ~~No~~ person shall be granted custody, parenting time,  
11 visitation, or other access with a child if the person has been convicted  
12 under section 28-319 or 28-320 or a law in another jurisdiction similar  
13 to either section 28-319 or 28-320 and the child was conceived as a  
14 result of that violation unless the custodial parent or guardian, as  
15 defined in section 43-245, consents.

16 (3) A change in circumstances relating to subsection (1) or (2) of  
17 this section is sufficient grounds for modification of a previous order.

18 Sec. 24. Original sections 25-2740, 28-101, 28-311.04, 28-358.01,  
19 28-802, 28-830, 28-831, 28-1206, 29-404.02, 29-422, 42-903, 42-924,  
20 42-925, 43-254, 43-283.01, 43-292.02, 43-1303, 43-1411.01, 43-1609,  
21 43-1611, and 43-2933, Reissue Revised Statutes of Nebraska, are repealed.