

ONE HUNDRED SEVENTH LEGISLATURE - FIRST SESSION - 2021
COMMITTEE STATEMENT
LB245

Hearing Date: Friday January 29, 2021
Committee On: Judiciary
Introducer: DeBoer
One Liner: Change provisions relating to adoptions

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	7	Senators Brandt, DeBoer, Geist, Lathrop, McKinney, Morfeld, Pansing Brooks
Nay:		
Absent:	1	Senator Slama
Present Not Voting:		

Oral Testimony:

Proponents:

Senator Wendy DeBoer
Frank Skorupa
Kim Anderson
Susan Sapp

Representing:

Introducer
County Judges Association
Nebraska Children's Home Society
Self & Nebraska State Bar Association

Opponents:

Representing:

Neutral:

Representing:

Submitted Written Testimony:

Proponents:

Amber Bogle

Representing:

Children & Family Coalition of Nebraska

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 245 makes several changes to the adoption process, with changes in creating a streamlined process for a father's notification and objection process, and elimination of guardian ad litem in the process.

Section by section

Section 1 Amends section 25-307, to provide a cross reference to 43-104.05 (section 10 of the bill).

Section 2 Amends section 25-309, to provide a cross reference to 43-104.05 (section 10 of the bill).

Section 3 Amends section 43-101 to make the section gender neutral ("husband or wife" changed to "spouse").

Section 4 Definitions (new section): Acknowledged father (either by acknowledgement of paternity or by six month familial relationship); Adjudicated father; Juvenile court; Sole legal parent.

Section 5 Amends section 43-102, regarding petitions for adoption, to add the biological mother's affidavit if required (section 13) , and an affidavit of actual or constructive notice to the father (section 17) to the filings required prior to the adoption hearing. The section also strikes current language providing that an adoption decree cannot be issued until at least six months after a home study.

Section 6 Amends section 43-104, regarding consents to adoption, by striking current subsection (b) requiring consent of the court having jurisdiction of the minor child, and adding consent of the sole legal parent when adopted by a second adult. The petition to adopt shall include that there are no pending motions in a court having jurisdiction over a minor child and that adoption is the permanency goal if the juvenile court has jurisdiction over the child. Also adds new subsection (6) that provides the consent of a father who failed to timely file is not required and the mother has provided a relinquishment and consent to the adoption. A new subsection (7) provides that the validity of consent is not affected if the relinquishing parent is a minor.

Section 7 Amends section 43-104.01 regarding the HHS biological father registry by striking subsection (5) prohibiting divulging names on the registry and subsection (7) regarding a person adjudicated to be a biological father.

Section 8 Amends section 43-104.02, regarding a notice of objection to adoption in the registry, by increasing the deadline to ten business days after birth or ten days after published notice.

Section 9 Amends section 43-104.03 regarding notice filed with the registry, by striking language requiring the notice to be filed with a court having jurisdiction over the custody of the child.

Section 10 Amends Sec. 43-104.04 to provide harmonizing language.

Section 11 Amends section 43-104.05 by adding language that a father may file an objection and a new subsection (1)(b) that requires an objection petition to be filed within 45 days after the child's birth or objecting father's receipt of notice (whichever later). The petition is filed in the county where the mother or objecting father resides if the child was born outside Nebraska. A petition may be filed by a minor.

Section 12 Amends section 43-104.08 to require an adoption agency or attorney to inform the father of his right to object to the adoption and the procedure.

Section 13 Amends 43-104.09 to revise language regarding the affidavit by the mother regarding the biological father and provide that the affidavit may be completed even if the mother is a minor.

Section 14 Amends section 43-104.12 to revise and update language.

Section 15 Amends section 43-104.13 to revise and update language regarding the notice from an agency or attorney and to provide time periods to object within the notice.

Section 16 Amends 43-104.14 to provide time periods to object within the notice if the notice is published.

Section 17 Amends section 43-104.16 regarding affidavits concerning the attempts to provide notice to the father to require the affidavit to be filed prior to the hearing rather than attached to the petition.

Section 18 Amends section 43-104.17 to add language that a notice to the father is not required if the father has not filed an objection within the required time frame.

Section 19 Amends section 43-104.18 to strike language regarding the appointment of a guardian ad litem if an agency or attorney fails to exercise due diligence in complying with notice provisions.

Section 20 Amends section 43-104.22 to add an additional finding that the father's consent is not required because the father does not intend to be custodial parent or is unable due to incarceration. Language is stricken (subsection (9)) that notice was provided and there was no objection or a failure to appear at the hearing.

Section 21 Amends section 43-104.23 regarding and an adoption decree to remove reference to a guardian ad litem.

Section 22 Amends section 43-105 to update cross references.

Section 23 Amends 43-106 to strike language referencing previously stricken section (43-104(1)(b))

Section 24 Amends section 43-108 to make language gender neutral.

Section 25 Amends section 43-109 to remove outdated language.

Section 26 Amends section 43-111 to provide cross references.

Section 27 Amends section 43-111.01 to provide cross references (new Section 4).

Section 28 Amends section 43-112 to provide cross references (new Section 4).

Section 29 Amends section 43-115 to provide cross references (new Section 4).

Section 30 Amends section 43-1146.01 to provide cross references (new Section 4) and strike unnecessary language.

Section 31 Amends section 43-906 to strike reference to a section repealed in section 35 (43-104.25).

Section 32 Amends section 43-914 to strike reference to a section repealed in section 35 (43-104.25)

Section 33 Repeals original sections.

Section 35 Outright repeals 43-104.19, 43-104.20, 43-014.21 (regarding guardian ad litem for the father) and 43-104.25 (regarding court priority)

Explanation of amendments:

Committee amendment AM 166 adds a new section 31 that amends section 43-166 by striking subsection (2) and moving it to section 6 (section 43-104) of the original green copy version by adding a new subsection (9). AM 166 also clarifies language in section 43-104.05 (2) (section 11 of the green copy) by adding language regarding the mother's relinquishment and consent to adoption is executed within 90 days after the later of the birth of the child or the objecting father's receipt of

notice. The last change in AM 166 references the county or juvenile court having jurisdiction in section 20 of the green copy (section 43-104.22) regarding parental rights hearings.

Steve Lathrop, Chairperson