

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 741

FINAL READING

Introduced by DeBoer, 10; Jacobson, 42.

Read first time January 05, 2022

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to children and families; to amend sections
2 25-309, 43-101, 43-104, 43-104.01, 43-104.02, 43-104.03, 43-104.04,
3 43-104.05, 43-104.08, 43-104.09, 43-104.12, 43-104.13, 43-104.14,
4 43-104.16, 43-104.17, 43-104.18, 43-104.22, 43-104.23, 43-105,
5 43-106, 43-108, 43-109, 43-111, 43-111.01, 43-112, 43-115,
6 43-146.01, 43-166, 43-906, 71-3404, 71-3407, 71-3408, 71-3409,
7 71-3410, and 71-3411, Reissue Revised Statutes of Nebraska, and
8 sections 25-307, 43-102, 43-1411, 71-3405, and 71-3406, Revised
9 Statutes Cumulative Supplement, 2020; to change provisions relating
10 to adoption; to provide for cytomegalovirus public education and
11 prevention; to adopt the Domestic Abuse Death Review Act; to change
12 provisions relating to the Child and Maternal Death Review Act and
13 provide for the review of stillbirths under such act; to define and
14 redefine terms; to harmonize provisions; to repeal the original
15 sections; and to outright repeal sections 43-104.19, 43.104.20,
16 43-104.21, and 43-104.25, Reissue Revised Statutes of Nebraska.
17 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 25-307, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 25-307 Except as provided by the Nebraska Probate Code, section
4 43-104.05, and sections 43-4801 to 43-4812, the action of an infant shall
5 be commenced, maintained, and prosecuted by his or her guardian or next
6 friend. Such actions may be dismissed with or without prejudice by the
7 guardian or next friend only with approval of the court. When the action
8 is commenced by his or her next friend, the court has power to dismiss
9 it, if it is not for the benefit of the infant, or to substitute the
10 guardian of the infant, or any person, as the next friend. Any action
11 taken pursuant to this section shall be binding upon the infant.

12 Sec. 2. Section 25-309, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 25-309 Except as provided by the Nebraska Probate Code and section
15 43-104.05, the defense of an infant must be by a guardian for the suit,
16 who may be appointed by the court in which the action is prosecuted, or
17 by a judge thereof, or by a county judge. The appointment cannot be made
18 until after service of the summons in the action as directed by this
19 code.

20 Sec. 3. Section 43-101, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 43-101 (1) Except as otherwise provided in the Nebraska Indian Child
23 Welfare Act, any minor child may be adopted by any adult person or
24 persons and any adult child may be adopted by the spouse of such child's
25 parent in the cases and subject to sections 43-101 to 43-115, except that
26 no person having a spouse ~~husband or wife~~ may adopt a minor child unless
27 the spouse ~~husband or wife~~ joins in the petition therefor. If the spouse
28 ~~husband or wife~~ so joins in the petition therefor, the adoption shall be
29 by them jointly, except that an adult spouse ~~husband or wife~~ may adopt a
30 child of the other spouse whether born in or out of wedlock.

31 (2) Any adult child may be adopted by any person or persons subject

1 to sections 43-101 to 43-115, except that no person having a spouse
2 ~~husband or wife~~ may adopt an adult child unless the spouse ~~husband or~~
3 ~~wife~~ joins in the petition therefor. If the spouse ~~husband or wife~~ so
4 joins the petition therefor, the adoption shall be by them jointly. The
5 adoption of an adult child by another adult or adults who are not the
6 stepparent of the adult child may be permitted if the adult child has had
7 a parent-child relationship with the prospective parent or parents for a
8 period of at least six months next preceding the adult child's age of
9 majority and (a) the adult child has no living parents, (b) the adult
10 child's parent or parents had been deprived of parental rights to such
11 child by the order of any court of competent jurisdiction, (c) the parent
12 or parents, if living, have relinquished the adult child for adoption by
13 a written instrument, (d) the parent or parents had abandoned the child
14 for at least six months next preceding the adult child's age of majority,
15 or (e) the parent or parents are incapable of consenting. The substitute
16 consent provisions of section 43-105 do not apply to adoptions under this
17 subsection.

18 Sec. 4. For purposes of sections 43-101 to 43-115:

19 (1) Acknowledged father means an individual who has:

20 (a) Executed a valid acknowledgement of paternity; or

21 (b) Acknowledged paternity through establishment of a familial
22 relationship with the child for a period of at least six months;

23 (2) Adjudicated father means an individual who has been determined
24 by a court of competent jurisdiction, in this state or in another state
25 or territory of the United States, to be the biological or legal father
26 of a minor child; and

27 (3) Juvenile court means the separate juvenile court where it has
28 been established pursuant to sections 43-2,111 to 43-2,127 and the county
29 court sitting as a juvenile court in all other counties.

30 Sec. 5. Section 43-102, Revised Statutes Cumulative Supplement,
31 2020, is amended to read:

1 43-102 (1) Except as otherwise provided in the Nebraska Indian
2 Child Welfare Act, any person or persons desiring to adopt a minor child
3 or an adult child shall file a petition for adoption signed and sworn to
4 by the person or persons desiring to adopt. ~~The following shall be filed~~
5 prior to the hearing required under section 43-103;

6 (a) The consent or consents required by sections 43-104 and 43-105
7 or section 43-104.07;

8 (b) The ~~, the~~ documents required by section 43-104.07 or the
9 documents required by sections 43-104.08 to ~~43-104.24;~~

10 (c) A ~~43-104.25, and a~~ completed preplacement adoptive home study if
11 required by section 43-107;

12 (d) The completed and signed affidavit described in section
13 43-104.09 if required by such section;

14 (e) The completed and signed affidavit described in section
15 43-104.16 if required by such section; and

16 (f) When a consent is not required under subdivision (4)(c) of
17 section 43-104, a certified copy of the termination order shall be filed
18 prior to the hearing required in section 43-103.

19 (2) The county court of the county in which the person or persons
20 desiring to adopt a child reside has jurisdiction of adoption
21 proceedings, except that if a ~~separate~~ juvenile court already has
22 jurisdiction over the child to be adopted under the Nebraska Juvenile
23 Code, such ~~separate~~ juvenile court has concurrent jurisdiction with the
24 county court in such adoption proceeding. If a child to be adopted is a
25 ward of any court or a ward of the state at the time of placement and at
26 the time of filing an adoption petition, the person or persons desiring
27 to adopt shall not be required to be residents of Nebraska. The petition
28 and all other court filings for an adoption proceeding shall be filed
29 with the clerk of the county court. The party shall state in the petition
30 whether such party requests that the proceeding be heard by the county
31 court or, in cases in which a ~~separate~~ juvenile court already has

1 jurisdiction over the child to be adopted under the Nebraska Juvenile
2 Code, such separate juvenile court. Such proceeding is considered a
3 county court proceeding even if heard by a separate juvenile court judge
4 and an order of the separate juvenile court in such adoption proceeding
5 has the force and effect of a county court order. The testimony in an
6 adoption proceeding heard before a separate juvenile court judge shall be
7 preserved as in any other separate juvenile court proceeding.

8 ~~Except as set out in subdivisions (1)(b)(ii), (iii), (iv), and (v)~~
9 ~~of section 43-107, an adoption decree shall not be issued until at least~~
10 ~~six months after an adoptive home study has been completed by the~~
11 ~~Department of Health and Human Services or a licensed child placement~~
12 ~~agency.~~

13 Sec. 6. Section 43-104, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 43-104 (1) Except as otherwise provided in this section and in the
16 Nebraska Indian Child Welfare Act, no adoption shall be decreed unless
17 written consents thereto are filed in the county court of the county in
18 which the person or persons desiring to adopt reside or in the county
19 court in which the separate juvenile court having jurisdiction over the
20 custody of the child is located and the written consents are executed by:

- 21 (a) The ~~the~~ minor child, if over fourteen years of age; and
22 (b) Both ~~, or the adult child, (b) any district court, county court,~~
23 ~~or separate juvenile court in the State of Nebraska having jurisdiction~~
24 ~~of the custody of a minor child by virtue of proceedings had in any~~
25 ~~district court, county court, or separate juvenile court in the State of~~
26 ~~Nebraska or by virtue of the Uniform Child Custody Jurisdiction and~~
27 ~~Enforcement Act, and (c) both parents of a child born in lawful wedlock~~
28 if living, the surviving parent of a child born in lawful wedlock, the
29 mother of a child born out of wedlock, or both the mother and father of a
30 child born out of wedlock as determined pursuant to sections 43-104.08 to
31 43-104.24 ~~43-104.25~~.

1 ~~(2) On and after April 20, 2002,~~ a A written consent or
2 relinquishment for adoption under this section shall not be valid unless
3 signed at least forty-eight hours after the birth of the child.

4 (3) A petition for adoption shall attest that, at the time of
5 filing:

6 (a) There were no pending motions in any other court having
7 jurisdiction over the minor child; and

8 (b) If a juvenile court has jurisdiction over the child, that
9 adoption is the permanency goal in proceedings in juvenile court.

10 ~~(4) (2)~~ Consent shall not be required of any parent: ~~who~~

11 (a) Who has relinquished the child for adoption by a written
12 instrument; ~~τ~~

13 (b) Who has abandoned the child for at least six months next
14 preceding the filing of the adoption petition; ~~τ~~

15 (c) Whose ~~has been deprived of his or her~~ parental rights to such
16 child have been terminated by the order of any court of competent
17 jurisdiction; ~~τ~~ or

18 (d) Who is incapable of consenting.

19 ~~(5) (3)~~ Consent shall not be required of a putative father who has
20 failed to timely file;

21 (a) A a Notice of Objection to Adoption and Intent to Obtain Custody
22 pursuant to section 43-104.02 and, with respect to the absence of such
23 filing, a certificate has been filed pursuant to section 43-104.04; or

24 (b) A a petition pursuant to section 43-104.05 for the adjudication
25 of such father's objection to the adoption notice and a determination of
26 whether his consent to the adoption is required and the mother of the
27 child has timely executed a valid relinquishment and consent to the
28 adoption pursuant to such section.

29 (6) Consent shall not be required of an acknowledged or adjudicated
30 father who has failed to timely file a petition pursuant to section
31 43-104.05 for the adjudication of such notice and a determination of

1 whether his consent to the adoption is required and the mother of the
2 child has timely executed a valid relinquishment and consent to the
3 adoption pursuant to such section.

4 (7) {4} Consent shall not be required of an acknowledged father, an
5 adjudicated father, or a putative father who is not required to consent
6 to the adoption pursuant to section 43-104.05 or 43-104.22.

7 (8) The validity of a relinquishment and consent for adoption is not
8 affected by the fact that a relinquishing person is a minor.

9 (9)(a) In private adoptions not involving relinquishment of a child
10 to the state or to a licensed child placement agency, a parent or parents
11 who relinquish a child for adoption shall be provided legal counsel of
12 their choice independent from that of the adoptive parent or parents.
13 Such counsel shall be provided at the expense of the adoptive parent or
14 parents prior to the execution of a written relinquishment and consent to
15 adoption or execution of a communication and contact agreement under
16 section 43-166, unless specifically waived in writing.

17 (b) In private adoptions and adoptions involving relinquishment of a
18 child to a licensed child placement agency other than the state, a parent
19 or parents contemplating relinquishment of a child for adoption shall be
20 offered, at the expense of the adoptive parent or parents or the agency,
21 at least three hours of professional counseling prior to executing a
22 written relinquishment of parental rights or written consent to adoption.
23 Such relinquishment or consent shall state whether the relinquishing
24 parent or parents received or declined counseling.

25 Sec. 7. Section 43-104.01, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 43-104.01 (1) The Department of Health and Human Services shall
28 establish a putative biological father registry. The department shall
29 maintain such registry and shall record the names and addresses of (a)
30 any person adjudicated by a court of this state or by a court of another
31 state or territory of the United States to be the biological father of a

1 child born out of wedlock if a certified copy of the court order is filed
2 with the registry by such person or any other person, (b) any putative
3 father who has filed with the registry, prior to the receipt of notice
4 under sections 43-104.12 to 43-104.16, a Request for Notification of
5 Intended Adoption with respect to such child, and (c) any putative father
6 who has filed with the registry a Notice of Objection to Adoption and
7 Intent to Obtain Custody with respect to such child.

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

21 (3) A request or notice filed under this section or section
22 43-104.02 shall be admissible in any action for paternity and shall estop
23 the putative father from denying paternity of such child thereafter.

24 (4) Any putative father who files a Request for Notification of
25 Intended Adoption or a Notice of Objection to Adoption and Intent to
26 Obtain Custody with the putative biological father registry may revoke
27 such filing. Upon receipt of such revocation by the registry, the effect
28 shall be as if no filing had ever been made.

29 ~~(5) The department shall not divulge the names and addresses of~~
30 ~~persons listed with the biological father registry to any other person~~
31 ~~except as authorized by law or upon order of a court of competent~~

1 ~~jurisdiction for good cause shown.~~

2 ~~(5) (6)~~ The department may develop information about the registry
3 and may distribute such information, through its existing publications,
4 to the news media and the public. The department may provide information
5 about the registry to the Department of Correctional Services, which may
6 distribute such information through its existing publications.

7 ~~(7) A person who has been adjudicated by a Nebraska court of~~
8 ~~competent jurisdiction to be the biological father of a child born out of~~
9 ~~wedlock who is the subject of a proposed adoption shall not be construed~~
10 ~~to be a putative father for purposes of sections 43-104.01 to 43-104.05~~
11 ~~and shall not be subject to the provisions of such sections as applied to~~
12 ~~such fathers. Whether such person's consent is required for the proposed~~
13 ~~adoption shall be determined by the Nebraska court having jurisdiction~~
14 ~~over the custody of the child pursuant to section 43-104.22, as part of~~
15 ~~proceedings required under section 43-104 to obtain the court's consent~~
16 ~~to such adoption.~~

17 Sec. 8. Section 43-104.02, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 43-104.02 ~~(1)~~ (1) A Notice of Objection to Adoption and Intent to
20 Obtain Custody shall be filed with the putative biological father
21 registry under section 43-104.01 on forms provided by the Department of
22 Health and Human Services;

23 ~~(a) At (1) at~~ any time during the pregnancy and no later than ten
24 ~~five~~ business days after the birth of the child; or

25 ~~(b) If (2) if~~ the notice required by section 43-104.13 is provided
26 after the birth of the child;

27 ~~(i) At (a) at~~ any time during the pregnancy and no later than ten
28 ~~five~~ business days after receipt of the notice provided under section
29 43-104.12; or

30 ~~(ii) No (b) no~~ later than ten five business days after the last date
31 of any published notice provided under section 43-104.14, whichever

1 notice is earlier.

2 (2) Such notice shall be considered to have been filed if it is
3 received by the Department of Health and Human Services, Office of Vital
4 Records, putative father registry ~~department~~ or postmarked prior to the
5 end of the tenth ~~fifth~~ business day as provided in this section.

6 Sec. 9. Section 43-104.03, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 43-104.03 Within three days after the filing of a Request for
9 Notification of Intended Adoption or a Notice of Objection to Adoption
10 and Intent to Obtain Custody with the putative biological father registry
11 pursuant to sections 43-104.01 and 43-104.02, the Department of Health
12 and Human Services shall cause a certified copy of such request or notice
13 to be mailed by certified mail to ~~(1)~~ the mother or prospective mother of
14 such child at the last-known address shown on the request or notice or an
15 agent specifically designated in writing by the mother or prospective
16 mother to receive such request or notice ~~and (2) any Nebraska court~~
17 ~~identified by the putative father under section 43-104.01 as having~~
18 ~~jurisdiction over the custody of the child.~~

19 Sec. 10. Section 43-104.04, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 43-104.04 If a Notice of Objection to Adoption and Intent to Obtain
22 Custody is not timely filed with the putative biological father registry
23 pursuant to section 43-104.02, the mother of a child born out of wedlock
24 or an agent specifically designated in writing by the mother may request,
25 and the Department of Health and Human Services shall supply, a
26 certificate that no such notice has been filed with the putative
27 ~~biological~~ father registry. The filing of such certificate pursuant to
28 section 43-102 shall eliminate the need or necessity of a consent or
29 relinquishment for adoption by the putative father of such child.

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

1 43-104.05 (1)(a) A putative, acknowledged, or adjudicated father
2 objecting to a proposed adoption may file a petition objecting to the
3 adoption and seeking a determination of whether the objecting father's
4 consent to the proposed adoption is required. A putative father may only
5 file such petition if he has timely filed ~~(1) If a Notice of Objection to~~
6 ~~Adoption and Intent to Obtain Custody is timely filed with the~~ putative
7 ~~biological~~ father registry pursuant to section 43-104.02. , either the
8 ~~putative father, the mother, or her agent specifically designated in~~
9 ~~writing shall, within thirty days after the filing of such notice, file a~~
10 ~~petition for adjudication of the notice and a determination of whether~~
11 ~~the putative father's consent to the proposed adoption is required. The~~

12 (b) The petition shall be filed within forty-five days after the
13 later of the child's birth or the objecting father's receipt of notice
14 under sections 43-104.12 to 43-104.14.

15 (c)(i) Except as provided in subdivision (1)(c)(ii) of this section,
16 the petition shall be filed in the county court in the county where such
17 child was born or, if a separate juvenile court already has jurisdiction
18 over the custody of the child, in the county court of the county in which
19 such separate juvenile court is located.

20 (ii) If the child was not born in Nebraska, the petition shall be
21 filed in the county court of the county where either the biological
22 mother or objecting father resides.

23 (d) A timely petition objecting to the adoption must be filed by an
24 objecting putative, acknowledged, or adjudicated father of a minor child
25 born out of wedlock who is the subject of a proposed adoption.

26 (e) Such petition may be filed by and defended by a minor in the
27 minor's own name.

28 (2) ~~If such a petition~~ objecting to a proposed adoption is not filed
29 within the deadline provided in subdivision (1)(b) of this section,
30 ~~thirty days after the filing of such notice and the mother of the child~~
31 ~~has executed a valid relinquishment and consent to the adoption within~~

1 ninety sixty days after the later of the birth of the child or the
2 objecting father's receipt of notice under sections 43-104.12 to
3 43-104.14 filing of such notice, the putative, acknowledged, or
4 adjudicated father's consent to adoption of the child shall not be
5 required, he is not entitled to any further notice of the adoption
6 proceedings, his right to object to the adoption and any alleged parental
7 rights and responsibilities of the putative father shall not be
8 recognized thereafter in any court, and his parental rights to such child
9 will be terminated upon entry of an adoption decree.

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

22 (4)(a) The county court ~~of the county where the child was born~~ or
23 ~~the separate~~ juvenile court having jurisdiction over the custody of the
24 child shall have exclusive jurisdiction over proceedings under this
25 section from the date of notice provided under section 43-104.12 or the
26 last date of published notice under section 43-104.14, whichever notice
27 is earlier, until thirty days after the conclusion of ~~adoption~~
28 proceedings under this section concerning the child, including appeals,
29 unless such jurisdiction is transferred under subdivision (b) of this
30 subsection.

31 (b) Except as ~~otherwise~~ provided in this subdivision (4)(c) of this

1 section, the court shall, upon the motion of any party, transfer the case
2 to the district court for further proceedings on the matters of custody,
3 visitation, and child support with respect to such child if:

4 (i) ~~Such~~ ~~such~~ court determines under section 43-104.22 that the
5 consent of the objecting putative father is required for adoption of the
6 minor child and the objecting putative father refuses such consent; or

7 (ii) ~~The~~ ~~the~~ mother of the child, within ninety ~~thirty~~ days after
8 the conclusion of proceedings under this section, including appeals, has
9 not executed a valid relinquishment and consent to the adoption.

10 (c) The court, upon its own motion, may retain the case for good
11 cause shown.

12 Sec. 12. Section 43-104.08, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 43-104.08 Whenever a child is claimed to be born out of wedlock and
15 the biological mother contacts an adoption agency or attorney to
16 relinquish her rights to the child, or the biological mother joins in a
17 petition for adoption to be filed by her spouse ~~husband~~, the agency or
18 attorney contacted shall attempt to establish the identity of the
19 biological father and further attempt to inform the biological father of
20 his rights, including the right to object to the adoption and the
21 procedure and required timing to object, and his right to execute a
22 relinquishment and consent to adoption, or a denial of paternity and
23 waiver of rights, in the form mandated by section 43-106, pursuant to
24 sections 43-104.08 to 43-104.24 ~~43-104.25~~.

25 Sec. 13. Section 43-104.09, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 43-104.09 In all cases of adoption of a minor child born out of
28 wedlock, the biological mother, or an individual acting on behalf of the
29 biological mother and who possesses information provided by the
30 biological mother if the biological mother is unavailable due to death,
31 incapacity, abandonment, or termination of parental rights, shall

1 complete and sign an affidavit in writing and under oath. The affidavit
 2 shall be completed and signed ~~executed by the biological mother~~ before or
 3 at the time of execution of the consent or relinquishment and shall be
 4 filed with the court prior to the hearing on the attached as an exhibit
 5 ~~to any petition for to finalize the adoption~~. If the biological mother is
 6 under the age of nineteen, the biological mother may sign the affidavit
 7 despite her minority or the affidavit may be completed and signed
 8 ~~executed~~ by the agency or attorney representing the biological mother
 9 based upon information provided by the biological mother. The affidavit
 10 shall be in substantially the following form:

11 AFFIDAVIT OF IDENTIFICATION

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

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

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

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

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

24 (5) (CHOOSE ONE)

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

27 The name of the biological father is

28 His last-known home address is

29 His last-known work address is

30 He is years of age, or he is deceased, having died on or
31 about the day of,

1 at, in the State of

2 He has been adjudicated to be the biological father by
3 the Court of county, State
4 of, case name, docket
5 number

6 He ... has ... has not acknowledged paternity in court or in
7 connection with the child's birth certificate.

8 He ... has ... has not established a familial relationship with the
9 child.

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

12 (5B) I am unwilling or unable to identify the biological father (or
13 possible biological fathers). I do not wish or I am unable to name the
14 biological father of the child for the following reasons:

15 Conception of my child occurred as a result of sexual
16 assault or incest

17 Providing notice to the biological father of my child
18 would threaten my safety or the safety of my child

19 Other reason:

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

24

25

26

27 (use additional sheets of paper as needed).

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

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

1 by

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

4 Dated this day of,

5 (Acknowledgment)

6

7 (Signature)

8 Sec. 14. Section 43-104.12, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 43-104.12 In order to attempt to inform the biological father or
11 possible biological fathers, whether putative, acknowledged, or
12 adjudicated, of the right to execute a relinquishment and consent to
13 adoption or a denial of paternity and waiver of rights, the agency or
14 attorney representing the biological mother shall notify, by personal
15 service of process or by registered or certified mail, restricted
16 delivery, return receipt requested:

17 (1) Any acknowledged father or person adjudicated father by a court
18 in this state or by a court in another state or territory of the United
19 States to be the biological father of the child;

20 (2) Any person who has filed a Request for Notification of Intended
21 Adoption or a Notice of Objection to Adoption and Intent to Obtain
22 Custody pursuant to sections 43-104.01 and 43-104.02;

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

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

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

31 (6) Any person who was married to the child's biological mother

1 within six months prior to the birth of the child and prior to the
2 execution of the relinquishment; and

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

6 Sec. 15. Section 43-104.13, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 43-104.13 The notice sent by the agency or attorney pursuant to
9 section 43-104.12 shall be served sufficiently in advance of the birth of
10 the child, whenever possible, to allow compliance with subdivision (1)(a)
11 ~~(1)~~ of section 43-104.02 and shall state:

12 (1) The biological mother's name, the fact that she is pregnant or
13 has given birth to the child, and the expected or actual date of
14 delivery;

15 (2) That the child has been relinquished by the biological mother,
16 that she intends to execute a relinquishment and consent to adoption, or
17 that the biological mother has joined or plans to join in a petition for
18 adoption to be filed by her spouse ~~husband~~;

19 (3) That the person being notified has been identified as a possible
20 biological father of the child, whether putative, acknowledged, or
21 adjudicated;

22 (4) That the person being notified ~~possible biological father~~ may
23 have certain rights with respect to such child if he is in fact the
24 biological father;

25 (5) That the person being notified ~~possible biological father~~ has
26 the right to (a) deny paternity, (b) waive any parental rights he may
27 have, (c) relinquish and consent to adoption of the child, (d) file a
28 Notice of Objection to Adoption and Intent to Obtain Custody any time
29 during the pregnancy or as late as ten business days after birth pursuant
30 to section 43-104.02 if he is a putative father, and ~~or~~ (e) object to the
31 adoption in a proceeding before any Nebraska court within forty-five days

1 ~~after the later of receipt of notice under this section or the birth of~~
2 ~~the child if he is an acknowledged or adjudicated father which has, prior~~
3 ~~to his receipt of this notice, adjudicated him to be the biological~~
4 ~~father of the child;~~

5 (6) That to deny paternity, to waive his parental rights, or to
6 relinquish and consent to the adoption, the person being notified
7 ~~biological father~~ must contact the undersigned agency or attorney
8 representing the biological mother, and that if he wishes to object to
9 the adoption and seek custody of the child he should seek legal counsel
10 from his own attorney immediately; and

11 (7) That if the person being notified he is the biological father
12 and if the child is not relinquished for adoption, he has a duty to
13 contribute to the support and education of the child and to the
14 pregnancy-related expenses of the mother and a right to seek a court
15 order for custody, parenting time, visitation, or other access with the
16 child.

17 The agency or attorney representing the biological mother may
18 enclose with the notice a document which is an admission or denial of
19 paternity and a waiver of rights by the person being notified ~~biological~~
20 ~~father~~, which such person ~~the biological father~~ may choose to complete,
21 in the form mandated by section 43-106, and return to the agency or
22 attorney.

23 Sec. 16. Section 43-104.14, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 43-104.14 (1) If the agency or attorney representing the biological
26 mother is unable through reasonable efforts to locate and serve notice on
27 the biological father or possible biological fathers as contemplated in
28 sections 43-104.12 and 43-104.13, the agency or attorney shall notify the
29 biological father or possible biological fathers by publication.

30 (2) The publication shall be made once a week for three consecutive
31 weeks in a legal newspaper of general circulation in the Nebraska county

1 or county of another state which is most likely to provide actual notice
2 to the biological father. The publication shall include:

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

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

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

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

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

13 (f) That he has the right to (i) deny paternity, (ii) waive any
14 parental rights he may have, (iii) relinquish and consent to adoption of
15 the child, (iv) file a Notice of Objection to Adoption and Intent to
16 Obtain Custody any time during the pregnancy or as late as ten business
17 days after birth pursuant to section 43-104.02 if he is a putative
18 father, or (v) object to the adoption in a ~~proceeding before any Nebraska~~
19 ~~court within forty-five days after the later of receipt of notice under~~
20 ~~this section or the birth of the child if he is an acknowledged or~~
21 ~~adjudicated father which has adjudicated him to be the biological father~~
22 ~~of the child prior to his receipt of notice; and~~

23 (g) That ~~(i)~~ in order to deny paternity, waive his parental rights,
24 relinquish and consent to the adoption, or receive additional information
25 to determine whether he is the father of the child in question, he must
26 contact the undersigned agency or attorney representing the biological
27 mother; and

28 (h) That ~~(ii)~~ if he wishes to object to the adoption and seek
29 custody of the child, he must seek legal counsel from his own attorney
30 immediately.

31 Sec. 17. Section 43-104.16, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 43-104.16 In all cases involving the adoption of a minor child born
3 out of wedlock, the agency or attorney representing the biological mother
4 shall execute an affidavit stating that due diligence was used to
5 identify and give actual or constructive notice to the biological father
6 or possible biological fathers of the child and stating the methods used
7 to attempt to identify and give actual or constructive notice to those
8 persons or the reason why no attempts were made to identify and notify
9 those persons. The affidavit shall be ~~attached to any petition~~ filed in
10 the an adoption proceeding prior to the hearing on the petition for
11 adoption.

12 Sec. 18. Section 43-104.17, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 43-104.17 In all cases of adoption of a minor child born out of
15 wedlock, the petition for ~~to finalize the~~ adoption shall specifically
16 allege compliance with sections 43-104.08 to 43-104.16, and ~~shall attach~~
17 ~~as exhibits~~ all documents which are evidence of such compliance shall be
18 filed with the court prior to the hearing on the petition. No notice of
19 the filing of the petition to finalize or the hearing on the petition
20 shall be given to a biological father or putative biological father who
21 (1) executed a valid relinquishment and consent or a valid denial of
22 paternity and waiver of rights pursuant to section 43-104.11, (2) was a
23 putative father provided notice under sections 43-104.12 to 43-104.14 and
24 who failed to timely file a Notice of Objection to Adoption and Intent to
25 Obtain Custody pursuant to section 43-104.02 or petition pursuant to
26 section 43-104.05, (3) was a putative, acknowledged, or adjudicated
27 father who failed to timely file a petition objecting to the adoption
28 under section 43-104.05, or (4) (3) is not required to consent to the
29 adoption pursuant to proceedings conducted under section 43-104 or
30 43-104.22.

31 Sec. 19. Section 43-104.18, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 43-104.18 If a petition for ~~to finalize an~~ adoption is filed and
3 fails to establish substantial compliance with sections 43-104.08 to
4 43-104.16, the court shall receive evidence by affidavit of the facts and
5 circumstances of the biological mother's relationship with the biological
6 father or possible biological fathers at the time of conception of the
7 child and at the time of the biological mother's relinquishment and
8 consent to the adoption of the child, including any evidence that
9 providing notice to a biological father or possible biological father
10 would be likely to threaten the safety of the biological mother or the
11 child or that the conception was the result of sexual assault or incest.
12 If, under the facts and circumstances presented, the court finds that the
13 agency or attorney representing the biological mother did not exercise
14 due diligence in complying with sections 43-104.08 to 43-104.16, or if
15 the court finds that there is no credible evidence that providing notice
16 to a biological father or possible biological father would be likely to
17 threaten the safety of the biological mother or the child or that the
18 conception was the result of sexual assault or incest, the court shall
19 order the attorney or agency to exercise due diligence in complying with
20 sections 43-104.08 to 43-104.16. ~~If the attorney or agency fails to~~
21 ~~exercise due diligence in complying with such sections or at any time~~
22 ~~upon the petition or application of any interested party the court may~~
23 ~~appoint a guardian ad litem to represent the interests of the biological~~
24 ~~father. The guardian ad litem shall be chosen from a qualified pool of~~
25 ~~local attorneys. The guardian ad litem shall receive reasonable~~
26 ~~compensation for the representation, the amount to be determined at the~~
27 ~~discretion of the court.~~

28 Sec. 20. Section 43-104.22, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 43-104.22 At any hearing to determine the parental rights of an
31 acknowledged father, an adjudicated biological father, or a putative

1 ~~biological~~ father of a minor child born out of wedlock and whether such
2 father's consent is required for the adoption of such child, the county
3 court or juvenile court having jurisdiction shall receive evidence with
4 regard to the actual paternity of the child, if contested and whether
5 such father is a fit, proper, and suitable custodial parent for the
6 child. The court shall determine that such father's consent is not
7 required for a valid adoption of the child upon a finding of one or more
8 of the following:

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

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

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

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

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

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

21 (7) Notice was provided pursuant to sections 43-104.12 to 43-104.14
22 and the putative father failed to timely file a Notice of Objection to
23 Adoption and Intent to Obtain Custody pursuant to section 43-104.02;

24 (8) The acknowledged father, adjudicated father, or putative father
25 failed to timely file a petition objecting to the adoption to adjudicate
26 a Notice of Objection to Adoption and Intent to Obtain Custody pursuant
27 to section 43-104.05;

28 ~~(9) Notice was provided to an adjudicated biological father through~~
29 ~~service of process under applicable state law and he failed to object to~~
30 ~~the adoption or failed to appear at the hearing conducted under section~~
31 ~~43-104.25;~~

1 (9) ~~(10)~~ The father executed a valid relinquishment or consent to
2 adoption; or

3 (10) ~~(11)~~ The man whether an acknowledged father, an adjudicated
4 father, or a putative father, is not, in fact, the biological father of
5 the child.

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

11 Sec. 21. Section 43-104.23, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 43-104.23 (1) The court shall enter a decree finalizing the
14 adoption of the child if ~~If~~, after viewing the evidence submitted to
15 support a petition for ~~to finalize an adoption or any evidence submitted~~
16 ~~by a guardian ad litem if one is appointed~~, the court determines that:

17 (a) No ~~no~~ biological father can be identified;

18 (b) No ~~, or that no~~ identified father can be notified without likely
19 threat to the safety of the biological mother or the child; ~~or~~

20 (c) That there has been ~~upon a finding of~~ due diligence and
21 substantial compliance with sections 43-104.08 to 43-104.16 and ~~a finding~~
22 that no biological father has timely filed under section 43-104.02 or
23 43-104.05 ~~, the court shall enter an order finalizing the adoption of the~~
24 ~~child.~~

25 (2) Subject to the disposition of an appeal, upon the expiration of
26 thirty days after a decree ~~an order~~ is issued under this section, the
27 decree ~~order~~ shall not be reversed, vacated, or modified on the basis of
28 ~~in any manner or upon any ground including~~ fraud, misrepresentation, or
29 failure to provide notice under sections 43-104.12 to 43-104.14.

30 Sec. 22. Section 43-105, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 43-105 (1) If consent is not required of both parents of a child
2 born in lawful wedlock if living, the surviving parent of a child born in
3 lawful wedlock, or the mother or mother and father of a child born out of
4 wedlock, because of the provisions of subdivision ~~(1)(b)~~ ~~(1)(e)~~ of
5 section 43-104, substitute consents shall be filed as follows:

6 (a) Consent to the adoption of a minor child who has been committed
7 to the Department of Health and Human Services may be given by the
8 department or its duly authorized agent in accordance with section
9 43-906;

10 (b) When a parent has relinquished a minor child for adoption to any
11 child placement agency licensed or approved by the department or its duly
12 authorized agent, consent to the adoption of such child may be given by
13 such agency; and

14 (c) ~~When In all other cases when~~ consent cannot be given as provided
15 in ~~subdivision (1)(c) of~~ section 43-104, consent shall be given by the
16 guardian or guardian ad litem of such minor child appointed by a court,
17 which consent shall be authorized by the court having jurisdiction of
18 such guardian or guardian ad litem.

19 (2) Substitute consent provisions of this section do not apply to a
20 biological father whose consent is not required under section 43-104.22
21 or subsection (5) or (6) of section 43-104.

22 Sec. 23. Section 43-106, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 43-106 Relinquishments and consents ~~Consents~~ required to be given
25 under sections 43-104 and 43-105, ~~except under subdivision (1)(b) of~~
26 ~~section 43-104,~~ must be acknowledged before an officer authorized to
27 acknowledge deeds in this state and signed in the presence of at least
28 one witness, in addition to the officer. ~~Consents under subdivision (1)~~
29 ~~(b) of section 43-104 shall be shown by a duly certified copy of order of~~
30 ~~the court required to grant such consent.~~

31 Sec. 24. Section 43-108, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 43-108 The minor child to be adopted, unless such child is over
3 fourteen years of age, and the person or persons desiring to adopt the
4 child must appear in person before the judge at the time of hearing,
5 except that when the petitioners are married ~~husband and wife~~ and one of
6 them is present in court, the court, in its discretion, may accept the
7 affidavit of an absent spouse who is in the armed forces of the United
8 States and it appears to the court the absent spouse will not be able to
9 be present in court for more than a year because of his or her military
10 assignment, which affidavit sets forth that the absent spouse favors the
11 adoption.

12 Sec. 25. Section 43-109, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 43-109 (1) If, upon the hearing, the court finds that such adoption
15 is for the best interests of such minor child or such adult child, a
16 decree of adoption shall be entered. No decree of adoption shall be
17 entered unless:

18 (a) It ~~it~~ appears that the child has resided with the person or
19 persons petitioning for such adoption for at least six months next
20 preceding the entering of the decree of adoption, except that such
21 residency requirement shall not apply in an adoption of an adult child; ~~τ~~

22 (b) The ~~the~~ medical histories required by subsection (2) of section
23 43-107 have been made a part of the court record; ~~τ~~

24 (c) The ~~the~~ court record includes an affidavit or affidavits signed
25 by the relinquishing biological parent, or parents if both are available,
26 in which it is affirmed that, pursuant to section 43-106.02, prior to the
27 relinquishment of the child for adoption, the relinquishing parent was,
28 or parents if both are available were; ~~τ~~

29 (i) Presented ~~presented~~ a copy or copies of the nonconsent form
30 provided for in section 43-146.06; and

31 (ii) Given ~~given~~ an explanation of the effects of filing or not

1 filing the nonconsent form; ~~7~~ and

2 (d) ~~If~~ if the child to be adopted is committed to the Department of
3 Health and Human Services, the document required by subsection (3) of
4 section 43-107 is a part of the court record. ~~Subdivisions (b) and (c) of~~
5 ~~this subsection shall only apply when the relinquishment or consent for~~
6 ~~an adoption is given on or after September 1, 1988.~~

7 (2) If the adopted child was born out of wedlock, that fact shall
8 not appear in the decree of adoption.

9 (3) The court may decree such change of name for the adopted child
10 as the petitioner or petitioners may request.

11 Sec. 26. Section 43-111, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 43-111 Except as provided in sections 43-101 and section 43-106.01
14 and the Nebraska Indian Child Welfare Act, after a decree of adoption has
15 been entered, the natural parents of the adopted child shall be relieved
16 of all parental duties toward and all responsibilities for such child and
17 have no rights over such adopted child or to his or her property by
18 descent and distribution.

19 Sec. 27. Section 43-111.01, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 43-111.01 Except as otherwise provided in the Nebraska Indian Child
22 Welfare Act, if, upon a hearing, the court shall deny a petition for
23 adoption, the court may take custody of the child involved and determine
24 whether or not it is in the best interests of the child to remain in the
25 custody of the proposed adopting parents. The court may also, on its own
26 motion, appoint a legal guardian over the person and property of such
27 minor and make disposition in the best interests of the child without
28 further notice, relinquishments, or consents as may otherwise be required
29 by sections 43-102 to 43-112 and section 4 of this act.

30 Sec. 28. Section 43-112, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 43-112 An appeal shall be allowed from any final order, judgment, or
2 decree, rendered under the authority of sections 43-101 to 43-115 and
3 section 4 of this act, from the county court to the Court of Appeals in
4 the same manner as an appeal from district court to the Court of Appeals.

5 An appeal may be taken by any party and may also be taken by any
6 person against whom the final judgment or final order may be made or who
7 may be affected thereby. The judgment of the Court of Appeals shall not
8 vacate the judgment of the county court. The judgment of the Court of
9 Appeals shall be certified without cost to the county court for further
10 proceedings consistent with the determination of the Court of Appeals.

11 Sec. 29. Section 43-115, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 43-115 No adoption heretofore lawfully made shall be affected by the
14 enactment of sections 43-101 to 43-115 and section 4 of this act, but
15 such adoptions shall continue in effect and operation according to the
16 terms thereof.

17 Sec. 30. Section 43-146.01, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 43-146.01 (1) Sections 43-106.02, 43-121, 43-123.01, and 43-146.02
20 to 43-146.16 shall provide the procedures for gaining access to
21 information concerning an adopted person when a relinquishment or consent
22 for an adoption is given on or after September 1, 1988.

23 (2) Sections 43-119 to 43-142 shall remain in effect for a
24 relinquishment or consent for an adoption which is given prior to
25 September 1, 1988.

26 (3) Except as otherwise provided in subsection (2) of section
27 43-107, ~~subdivisions (1)(b), (1)(c), and (1)(d) of section 43-109,~~ and
28 subsection (4) of this section: Sections 43-101 to 43-118 and section 4
29 of this act, 43-143 to 43-146, 43-146.17, 71-626, 71-626.01, and
30 71-627.02 shall apply to all adoptions.

31 (4) Sections 43-143 to 43-146 shall not apply to adopted persons for

1 whom a relinquishment or consent for adoption was given on and after July
2 20, 2002.

3 Sec. 31. Section 43-166, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 43-166 (1) The adoptive parent or parents and the parent or parents
6 relinquishing a child for adoption may enter into a written agreement to
7 permit continuing communication and contact after the placement of an
8 adoptee between the adoptive parent or parents and the relinquishing
9 parent or parents in private or agency adoptions for adoptees not in the
10 custody of the Department of Health and Human Services as provided under
11 this section.

12 ~~(2)(a) In private adoptions, a parent or parents who relinquish a~~
13 ~~child for adoption shall be provided legal counsel of their choice~~
14 ~~independent from that of the adoptive parent or parents at the expense of~~
15 ~~the adoptive parent or parents prior to the execution of a written~~
16 ~~relinquishment and consent to adoption, or a communication and contact~~
17 ~~agreement under this section, unless specifically waived in writing.~~

18 ~~(b) In private and agency adoptions, a parent or parents~~
19 ~~contemplating relinquishment of a child for adoption shall be offered, at~~
20 ~~the expense of the adoptive parent or parents or the agency, at least~~
21 ~~three hours of professional counseling prior to executing a written~~
22 ~~relinquishment of parental rights or written consent to adoption. Such~~
23 ~~relinquishment or consent shall state whether the relinquishing parent or~~
24 ~~parents received or declined counseling.~~

25 (2) ~~(3)~~ The terms of a communication and contact agreement entered
26 into under this section may include provisions for (a) future contact or
27 communication between the relinquishing parent or parents and the adoptee
28 or the adoptive parent or parents, or both, (b) sharing information about
29 the adoptee, or (c) other matters related to communication or contact
30 agreed to by the parties.

31 (3) ~~(4)~~ If the adoptee is fourteen years of age or older at the time

1 of placement, a communication and contact agreement under this section
2 shall not be valid unless consented to in writing by the adoptee.

3 (4) ~~(5)~~ A court may approve a communication and contact agreement
4 entered into under this section by incorporating such agreement by
5 reference and indicating the court's approval of such agreement in the
6 decree of adoption. Enforceability of a communication and contact
7 agreement is not contingent on court approval or its incorporation into
8 the decree of adoption.

9 (5) ~~(6)~~ Neither the existence of, nor the failure of any party to
10 comply with the terms of, a communication and contact agreement entered
11 into under this section shall be grounds for (a) setting aside an
12 adoption decree, (b) revoking a written relinquishment of parental rights
13 or written consent to adoption, (c) challenging the adoption on the basis
14 of duress or coercion, or (d) challenging the adoption on the basis that
15 the agreement retains some aspect of parental rights by the relinquishing
16 parent or parents.

17 (6) ~~(7)~~ A communication and contact agreement entered into under
18 this section may be enforced by a civil action. A court in which such
19 civil action is filed may enforce, modify, or terminate a communication
20 and contact agreement entered into under this section if the court finds
21 that (a) enforcing, modifying, or terminating the communication and
22 contact agreement is necessary to serve the best interests of the
23 adoptee, (b) the party seeking to enforce, modify, or terminate the
24 communication and contact agreement participated in, or attempted to
25 participate in, mediation in good faith or participated in other
26 appropriate dispute resolution proceedings in good faith to resolve the
27 dispute prior to filing the petition, and (c) when seeking to modify or
28 terminate the agreement, a material change in circumstances has arisen
29 since the parties entered into the communication and contact agreement
30 that justifies modifying or terminating the agreement.

31 (7) ~~(8)~~ If the adoption was through an agency, the agency which

1 accepted the relinquishment from the relinquishing parent or parents
2 shall be invited to participate in any mediation or other appropriate
3 dispute resolution proceedings as provided in subsection (6) ~~(7)~~ of this
4 section.

5 (8) ~~(9)~~ With any communication and contact agreement entered into
6 under this section, the following shall appear on the communication and
7 contact agreement: No adoption shall be set aside due to the failure of
8 the adoptive parent or parents or the relinquishing parent or parents to
9 follow the terms of this agreement or a later order modifying or
10 terminating this agreement. Disagreement between the parties or a
11 subsequent civil action brought to enforce, modify, or terminate this
12 agreement shall not affect the validity of the adoption and shall not
13 serve as a basis for orders affecting the custody of the child. The court
14 shall not act on a petition to enforce, modify, or terminate this
15 agreement unless the petitioner has participated in, or attempted to
16 participate in, mediation in good faith or participated in other
17 appropriate dispute resolution proceedings in good faith to resolve the
18 dispute prior to filing the petition.

19 (9) ~~(10)~~ The court shall not award monetary damages as a result of
20 the filing of a civil action pursuant to subsection (6) ~~(7)~~ of this
21 section.

22 Sec. 32. Section 43-906, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 43-906 Except as otherwise provided in the Nebraska Indian Child
25 Welfare Act, the Department of Health and Human Services, or its duly
26 authorized agent, may consent to the adoption of children committed to it
27 upon the order of a juvenile court if the parental rights of the parents
28 or of the mother of a child born out of wedlock have been terminated and
29 if no father of a child born out of wedlock has timely asserted his
30 paternity rights under section 43-104.02, or upon the relinquishment to
31 such department by their parents or the mother and, if required under

1 sections 43-104.08 to 43-104.24 ~~43-104.25~~, the father of a child born out
2 of wedlock. The parental rights of parents of a child born out of wedlock
3 shall be determined pursuant to sections 43-104.05 and 43-104.08 to
4 43-104.24 ~~43-104.25~~.

5 Sec. 33. Section 43-1411, Revised Statutes Cumulative Supplement,
6 2020, is amended to read:

7 43-1411 (1) A civil proceeding to establish the paternity of a child
8 may be instituted, in the court of the district where the child is
9 domiciled or found or, for cases under the Uniform Interstate Family
10 Support Act, where the alleged father is domiciled, by:

11 (a) The ~~the~~ mother or the alleged father of such child, either
12 during pregnancy or within four years after the child's birth, unless:

13 (i) A a valid consent or relinquishment has been made pursuant to
14 sections 43-104.08 to 43-104.24 ~~43-104.25~~ or section 43-105 for purposes
15 of adoption; or

16 (ii) A a county court or separate juvenile court has jurisdiction
17 over the custody of the child or jurisdiction over an adoption matter
18 with respect to such child pursuant to sections 43-101 to 43-116 and
19 section 4 of this act; or

20 (b) The ~~the~~ guardian or next friend of such child or the state,
21 either during pregnancy or within eighteen years after the child's birth.

22 (2) Summons shall issue and be served as in other civil proceedings,
23 except that such summons may be directed to the sheriff of any county in
24 the state and may be served in any county.

25 (3) ~~(2)~~ Notwithstanding any other provision of law, a person
26 claiming to be the biological father of a child over which the juvenile
27 court already has jurisdiction may file a complaint to intervene in such
28 juvenile proceeding to institute an action to establish the paternity of
29 the child. The complaint to intervene shall be accompanied by an
30 affidavit under oath that the affiant believes he is the biological
31 father of the juvenile. No filing fee shall be charged for filing the

1 complaint and affidavit. Upon filing of the complaint and affidavit, the
2 juvenile court shall enter an order pursuant to section 43-1414 to
3 require genetic testing and to require the juvenile to be made available
4 for genetic testing. The costs of genetic testing shall be paid by the
5 intervenor, the county, or the state at the discretion of the juvenile
6 court. This subsection does not authorize intervention by a person whose
7 parental rights to such child have been terminated by the order of any
8 court of competent jurisdiction.

9 Sec. 34. (1) The Department of Health and Human Services shall
10 develop and publish informational materials for women who may become
11 pregnant, expectant parents, and parents of infants regarding:

12 (a) The incidence of cytomegalovirus;

13 (b) The transmission of cytomegalovirus to pregnant women and women
14 who may become pregnant;

15 (c) Birth defects caused by congenital cytomegalovirus;

16 (d) Methods of diagnosing congenital cytomegalovirus;

17 (e) Available preventative measures to avoid the infection of women
18 who are pregnant or who may become pregnant; and

19 (f) Early interventions, treatment, and services available for
20 children diagnosed with congenital cytomegalovirus.

21 (2) The department shall publish such informational materials on its
22 website and make the materials available to child care facilities, school
23 nurses, hospitals, birthing facilities as defined in section 71-4736, and
24 health care providers offering care to pregnant women and infants.

25 Sec. 35. A health care provider offering care to pregnant women may
26 provide the informational materials published under section 34 of this
27 act to each pregnant woman during the first trimester of pregnancy or
28 when a pregnant woman comes under the care of a provider after the first
29 trimester of pregnancy.

30 Sec. 36. (1) If a newborn infant fails a hearing screening test as
31 provided in section 71-4742, the birthing facility performing such

1 screening may provide to the parents of the newborn infant the following
2 information:

3 (a) Potential birth defects caused by congenital cytomegalovirus;

4 (b) Testing opportunities for cytomegalovirus, including the
5 opportunity to test for cytomegalovirus prior to the infant's discharge
6 from the hospital or birthing facility; and

7 (c) Early intervention services.

8 (2) The informational material published under section 34 of this
9 act, and such additional clarifying information as required by the
10 parents, may be provided to the parents at the newborn infant's follow-up
11 audiology appointment.

12 Sec. 37. Sections 37 to 46 of this act shall be known and may be
13 cited as the Domestic Abuse Death Review Act.

14 Sec. 38. (1) The Legislature finds and declares that it is in the
15 best interests of the state, its residents, and especially the families
16 of this state, that the number and causes of death related to domestic
17 abuse be examined. There is a need for a comprehensive integrated review
18 of all domestic abuse deaths in Nebraska and a system for statewide
19 retrospective review of existing records relating to each domestic abuse
20 death.

21 (2) The purpose of the Domestic Abuse Death Review Act is to prevent
22 future domestic abuse deaths by:

23 (a) Providing for the examination of the incidence, causes, and
24 contributing factors of domestic abuse deaths in Nebraska; and

25 (b) Developing recommendations for changes within communities,
26 public and private agencies, institutions, and systems, based on an
27 analysis of these causes and contributing factors which may serve to
28 prevent future domestic abuse deaths.

29 Sec. 39. For purposes of the Domestic Abuse Death Review Act:

30 (1) Associated victim means a family or household member of the
31 decedent victim who also experienced abuse committed by the perpetrator;

1 (2) Decedent victim means a person who died by homicide or suicide
2 as a result of domestic abuse;

3 (3) Domestic abuse means abuse as defined in section 42-903;

4 (4) Domestic abuse death means:

5 (a) A homicide that involves, or is a result of, domestic abuse;

6 (b) The death of a decedent victim who was a member of a law
7 enforcement agency, emergency medical service, or other agency responding
8 to a domestic abuse incident;

9 (c) The death of a decedent victim who was responding to a domestic
10 abuse incident; or

11 (d) A suicide of a decedent victim if there are circumstances
12 indicating the suicide involved, or was the result of, domestic abuse
13 within two years prior to the suicide, including: (i) The decedent victim
14 had applied for or received a protection order against the perpetrator
15 within two years prior to the suicide; (ii) the decedent victim had
16 received counseling, treatment, or sought other supportive services as a
17 result of the domestic abuse within two years prior to the suicide; or
18 (iii) the decedent victim had reported domestic abuse to law enforcement
19 within two years prior to the suicide;

20 (5) Family or household member has the same meaning as in section
21 42-903;

22 (6) Investigation means a domestic abuse death investigation as
23 described in section 40 of this act;

24 (7) Law enforcement agency means the police department or town
25 marshal in incorporated municipalities, the office of the county sheriff,
26 and the Nebraska State Patrol;

27 (8) Perpetrator means the person who has been the predominant
28 aggressor of domestic abuse;

29 (9) Survivor of domestic abuse means a person who is a current or
30 prior victim of domestic abuse; and

31 (10) Team means the State Domestic Abuse Death Review Team as

1 provided in section 41 of this act.

2 Sec. 40. (1) A domestic abuse death investigation shall involve a
3 review of existing records, documents, and other information regarding
4 the decedent victim and perpetrator from relevant agencies,
5 professionals, providers of health care, and family and household members
6 of the decedent victim or perpetrator. The records to be reviewed may
7 include: Protection orders; dissolution, mediation, custody, and support
8 agreements and related court records; medical records; mental health
9 records; therapy records; autopsy reports; birth and death certificates;
10 court records, including juvenile cases and dismissed criminal cases;
11 social services records, including juvenile records; educational records;
12 emergency medical services records; Department of Correctional Services
13 information and records; parole and probation information and records;
14 and law enforcement agency investigative information and reports.

15 (2) Records shall not be made available to the team until the
16 criminal or juvenile legal system response is completed due to:

17 (a) The death of the perpetrator;

18 (b) The criminal conviction or acquittal of the perpetrator and any
19 codefendants;

20 (c) The conclusion of grand jury proceedings resulting in a no true
21 bill;

22 (d) Adjudication in a juvenile court proceeding pursuant to
23 subdivision (1), (2), or (4) of section 43-247;

24 (e) Completion of a criminal investigation in which the county
25 attorney declines to file charges; or

26 (f) Completion of the investigation of the suicide of the decedent
27 victim.

28 Sec. 41. (1) The State Domestic Abuse Death Review Team is created.

29 (2) The Attorney General shall appoint the following members to the
30 State Domestic Abuse Death Review Team:

31 (a) At least two survivors of domestic abuse;

1 (b) A representative who is an employee of a statewide coalition
2 representing nonprofit organizations that have an affiliation agreement
3 with the Department of Health and Human Services to provide services to
4 victims of domestic abuse under the Protection from Domestic Abuse Act;

5 (c) A representative who is an employee of a nonprofit organization
6 that primarily provides services and support to victims of domestic abuse
7 in metropolitan areas;

8 (d) A representative who is an employee of a nonprofit organization
9 that primarily provides services and support to victims of domestic abuse
10 in rural areas;

11 (e) A representative who is an employee of child advocacy centers;

12 (f) A representative who is a member of a federally recognized
13 Indian tribe residing within the State of Nebraska with preference given
14 to a person with experience in domestic abuse;

15 (g) A licensed physician or nurse with experience in forensics who
16 is knowledgeable concerning domestic abuse injuries and deaths in
17 Nebraska;

18 (h) A licensed mental health professional who is knowledgeable
19 concerning domestic abuse in Nebraska;

20 (i) An officer of a law enforcement agency from a metropolitan
21 jurisdiction with experience investigating domestic abuse in Nebraska;

22 (j) An officer of a law enforcement agency from a rural jurisdiction
23 with experience investigating domestic abuse in Nebraska;

24 (k) An active county attorney or active deputy county attorney with
25 experience prosecuting domestic abuse cases in Nebraska;

26 (l) An attorney from the office of the Attorney General; and

27 (m) The team coordinator pursuant to subsection (4) of this section.

28 (3) The remaining members of the State Domestic Abuse Death Review
29 Team shall be appointed as follows: (a) The Superintendent of Law
30 Enforcement and Public Safety or designee shall appoint an employee
31 representative of the Nebraska State Patrol; (b) the chief executive

1 officer of the Department of Health and Human Services shall appoint an
2 employee representative of the department; and (c) the probation
3 administrator shall appoint an employee representative of the Office of
4 Probation Administration.

5 (4) The Attorney General shall be responsible for the general
6 administration of the activities of the team and shall employ or contract
7 with a team coordinator to provide administrative support for the team.

8 (5) Members of the team appointed by the Attorney General shall
9 serve four-year terms. The remaining members shall serve two-year terms.

10 (6) The team shall not be considered a public body for purposes of
11 the Open Meetings Act. Members of the team shall be reimbursed for
12 expenses as provided in sections 81-1174 to 81-1177.

13 (7) In appointing members to the team, the Attorney General shall
14 consider persons working in and representing communities that are diverse
15 with regard to race, ethnicity, immigration status, and English
16 proficiency and shall include members from differing geographic regions
17 of the state, including both rural and urban areas.

18 Sec. 42. (1) The purpose of the team shall be to prevent future
19 domestic abuse deaths by:

20 (a) Conducting investigations to understand the contributing factors
21 in domestic abuse deaths;

22 (b) Examining the incidence, causes, and contributing factors of
23 domestic abuse deaths; and

24 (c) Developing recommendations for changes within communities,
25 public and private agencies, institutions, and systems, based on an
26 analysis of the causes and contributing factors of domestic abuse deaths.

27 (2) The team shall:

28 (a) Develop protocols for investigations and to maintain the
29 confidentiality of information made available to the team;

30 (b) Meet a minimum of four times per year and upon the call of the
31 team coordinator selected under section 41 of this act, the request of a

1 state agency, or as determined by a majority of the team;

2 (c) Provide the Governor, the Legislature, and the Attorney General
3 with an annual electronic report on or before August 15 each year
4 beginning with the fiscal year ending June 30, 2024. The report shall not
5 contain personal identifying information of any decedent victim,
6 associated victim, or perpetrator. The report shall be available to the
7 public and include the following:

8 (i) The causes, manner, and contributing factors of domestic abuse
9 deaths in Nebraska, including trends and patterns and an analysis of
10 information obtained through investigations; and

11 (ii) Recommendations regarding the prevention of future domestic
12 abuse deaths for changes within communities, public and private agencies,
13 institutions, and systems, based on an analysis of such causes and
14 contributing factors. Such recommendations shall include recommended
15 changes to laws, rules and regulations, policies, training needs, or
16 service gaps to prevent future domestic abuse deaths;

17 (d) When appropriate, advise and consult with relevant agencies and
18 organizations represented on the team or involved in domestic abuse
19 deaths regarding the recommendations to prevent future domestic abuse
20 deaths; and

21 (e) When appropriate, educate the public regarding the incidence of
22 domestic abuse deaths, the public role in preventing domestic abuse
23 deaths, and specific steps the public can take to prevent domestic abuse
24 deaths. The team may enlist the support of civic, philanthropic, and
25 public service organizations in the performance of its educational
26 duties.

27 (3) The team may invite other individuals to participate on the team
28 on an ad-hoc basis for a particular investigation. Such individuals may
29 include those with expertise that would aid in the investigation and
30 representatives from organizations or agencies that had contact with, or
31 provided services to, the decedent victim or associated victim. If the

1 domestic abuse death occurred on tribal lands or if the domestic abuse
2 death involves a member of a federally recognized Indian tribe,
3 additional agencies and tribal representatives may be invited to
4 participate.

5 (4) The team shall require any person appearing before it to sign a
6 confidentiality agreement to ensure that all the confidentiality
7 provisions of section 46 of this act are satisfied.

8 (5) The team shall enter into confidentiality agreements with social
9 service agencies, nonprofit organizations, and private agencies to obtain
10 otherwise confidential information and to ensure that all confidentiality
11 provisions of section 46 of this act are satisfied.

12 (6) The team may enter into consultation agreements with relevant
13 experts to evaluate the information and records collected by the team.
14 All of the confidentiality provisions of section 46 of this act shall
15 apply to the activities of a consulting expert.

16 (7) The team may enter into written agreements with entities to
17 provide for the secure storage of electronic data based on information
18 and records collected by the team as part of an investigation, including
19 data that contains personal or incident identifiers. Such agreements
20 shall provide for the protection of the security and confidentiality of
21 the information, including access limitations, storage, and destruction
22 of the information. The confidentiality provisions of section 46 of this
23 act shall apply to the activities of the data storage entity.

24 (8) The team may consult and share information with the State Child
25 Death Review Team or the State Maternal Death Review Team when the
26 decedent victim or any associated victim is also the subject of an
27 investigation of a child death or investigation of a maternal death under
28 the Child and Maternal Death Review Act. The confidentiality provisions
29 of section 46 of this act and section 71-3411 shall apply to the sharing
30 of information between these teams.

31 Sec. 43. (1) The team coordinator selected under section 41 of this

1 act shall (a) convene and lead meetings of the team and (b) ensure the
2 team provides recommendations to prevent domestic abuse deaths.

3 (2) The team coordinator shall (a) gather, store, and distribute the
4 necessary records and information for investigations made available to
5 the team, (b) ensure timely notification of the team members of upcoming
6 meetings, (c) ensure that all team reporting and data collection
7 requirements are met, (d) oversee adherence to the review process
8 established by the Domestic Abuse Death Review Act and the protocols
9 developed by the team, and (e) perform such other duties as the team
10 deems appropriate.

11 Sec. 44. The team shall conduct investigations in accordance with
12 best practices and shall review all relevant records and information in
13 an investigation to understand the relationship between the decedent
14 victim and the perpetrator in order to determine:

15 (1) Whether a correlation exists between certain events in the
16 relationship and any escalation of abuse;

17 (2) The factors that contributed to the domestic abuse death;

18 (3) The public and private systemic response to the decedent victim,
19 an associated victim, and the perpetrator; and

20 (4) Recommendations and actions that address the contributing
21 factors in the domestic abuse death for change within individuals,
22 communities, public and private agencies, institutions, and systems based
23 on an analysis of the causes and contributing factors of domestic abuse
24 deaths.

25 Sec. 45. (1) For purposes of conducting an investigation, and as
26 necessary to fulfill the purposes of the Domestic Abuse Death Review Act,
27 the team shall be immediately provided the following upon request:

28 (a) Records, documents, or other information maintained by a health
29 care provider, mental health provider, or other medical professional,
30 including medical records, mental health records, therapy records, and
31 emergency medical services records; and

1 (b) All information and records maintained by any state agency,
2 county or local government, political subdivision, school district, or
3 public or private educational institution, including birth and death
4 certificates; protection orders; dissolution, mediation, custody, and
5 child support agreements; court records, including juvenile cases and
6 dismissed criminal cases; law enforcement agency investigative
7 information and reports; autopsy reports; educational records; Department
8 of Correctional Services information and records; parole and probation
9 information and records; and information and records of any social
10 services agency, including juvenile records, that provided services to
11 the decedent victim, an associated victim, or the perpetrator.

12 (2) Except as provided in section 40 of this act, the Attorney
13 General shall have the authority to issue subpoenas to compel production
14 of any of the records and information specified in this section.

15 (3) Any failure to respond to such subpoena shall be certified by
16 the Attorney General to the district court of Lancaster County for
17 enforcement or punishment for contempt of court.

18 Sec. 46. (1) All information and records acquired by the team in
19 the exercise of its duties pursuant to the Domestic Abuse Death Review
20 Act shall be confidential and exempt from disclosure except as provided
21 in this section and section 42 of this act. Statistical compilations of
22 data or recommendations made by the team that do not contain any personal
23 identifying information shall be public records.

24 (2) De-identified information and records obtained by the team may
25 be released to a researcher, research organization, university,
26 institution, or governmental agency for the purpose of conducting
27 scientific, medical, or public health research upon proof of identity and
28 execution of a confidentiality agreement as provided in this section and
29 section 42 of this act. Such release shall provide for a written
30 agreement with the Attorney General providing protection of the security
31 of the information, including access limitations, and the storage,

1 destruction, and use of the information. The release of such information
2 pursuant to this subsection shall not make otherwise confidential
3 information a public record.

4 (3) Except as necessary to carry out the team's purposes and duties,
5 members of the team and individuals attending a team meeting shall not
6 disclose any discussion among team members at a meeting and shall not
7 disclose any information prohibited from disclosure by this section.

8 (4) Members of a team and individuals attending a team meeting shall
9 not testify in any civil, administrative, licensure, or criminal
10 proceeding, including depositions, regarding information reviewed in or
11 an opinion formed as a result of a team meeting. This subsection shall
12 not be construed to prevent a person from testifying to information
13 obtained independently of the team or that is public information.

14 (5) Conclusions, findings, recommendations, information, documents,
15 and records of the team shall not be subject to subpoena, discovery, or
16 introduction into evidence in any civil or criminal proceeding, except
17 that conclusions, findings, recommendations, information, documents, and
18 records otherwise available from other sources shall not be immune from
19 subpoena, discovery, or introduction into evidence through those sources
20 solely because they were presented during proceedings of the team or are
21 maintained by the team.

22 Sec. 47. Section 71-3404, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 71-3404 (1) Sections 71-3404 to 71-3411 shall be known and may be
25 cited as the Child and Maternal Death Review Act.

26 (2) The Legislature finds and declares that it is in the best
27 interests of the state, its residents, and especially the children of
28 this state that the number and causes of death of children, including
29 stillbirths, in this state be examined. There is a need for a
30 comprehensive integrated review of all child deaths and stillbirths in
31 Nebraska and a system for statewide retrospective review of existing

1 records relating to each child death and stillbirth.

2 (3) The Legislature further finds and declares that it is in the
3 best interests of the state and its residents that the number and causes
4 of maternal death in this state be examined. There is a need for a
5 comprehensive integrated review of all maternal deaths in Nebraska and a
6 system for statewide retrospective review of existing records relating to
7 each maternal death.

8 (4) It is the intent of the Legislature, by creation of the Child
9 and Maternal Death Review Act, to:

10 (a) Identify trends from the review of past records to prevent
11 future child deaths, stillbirths, and maternal deaths from similar causes
12 when applicable;

13 (b) Recommend systematic changes for the creation of a cohesive
14 method for responding to certain child deaths, stillbirths, and maternal
15 deaths; and

16 (c) When appropriate, cause referral to be made to those agencies as
17 required in section 28-711 or as otherwise required by state law.

18 Sec. 48. Section 71-3405, Revised Statutes Cumulative Supplement,
19 2020, is amended to read:

20 71-3405 For purposes of the Child and Maternal Death Review Act:

21 (1) Child means a person from birth to eighteen years of age;

22 (2) Investigation of child death means a review of existing records
23 and other information regarding the child or stillbirth from relevant
24 agencies, professionals, and providers of medical, dental, prenatal, and
25 mental health care. The records to be reviewed may include, but not be
26 limited to, medical records, coroner's reports, autopsy reports, social
27 services records, records of alternative response cases under alternative
28 response implemented in accordance with sections 28-710.01, 28-712, and
29 28-712.01, educational records, emergency and paramedic records, and law
30 enforcement reports;

31 (3) Investigation of maternal death means a review of existing

1 records and other information regarding the woman from relevant agencies,
2 professionals, and providers of medical, dental, prenatal, and mental
3 health care. The records to be reviewed may include, but not be limited
4 to, medical records, coroner's reports, autopsy reports, social services
5 records, educational records, emergency and paramedic records, and law
6 enforcement reports;

7 (4) Maternal death means the death of a woman during pregnancy or
8 the death of a postpartum woman;

9 (5) Postpartum woman means a woman during the period of time
10 beginning when the woman ceases to be pregnant and ending one year after
11 the woman ceases to be pregnant;

12 (6) Preventable child ~~or maternal~~ death means the death of any child
13 or stillbirth ~~pregnant or postpartum woman~~ which reasonable medical,
14 social, legal, psychological, or educational intervention may have
15 prevented. Preventable child ~~or maternal~~ death includes, but is not
16 limited to, the death of a child or stillbirth resulting ~~pregnant or~~
17 ~~postpartum woman~~ from (a) intentional and unintentional injuries, (b)
18 medical misadventures, including untoward results, malpractice, and
19 foreseeable complications, (c) lack of access to medical care, (d)
20 neglect and reckless conduct, including failure to supervise and failure
21 to seek medical care for various reasons, and (e) preventable premature
22 birth;

23 (7) Preventable maternal death means the death of a pregnant or
24 postpartum woman when there was at least some chance of the death being
25 averted by one or more reasonable changes to (a) the patient, (b) the
26 patient's family, (c) the health care provider, facility, or system, or
27 (d) community factors;

28 (8) ~~(7)~~ Reasonable means taking into consideration the condition,
29 circumstances, and resources available; and

30 (9) Stillbirth means a spontaneous fetal death which resulted in a
31 fetal death certificate pursuant to section 71-606; and

1 ~~(10) Teams~~ ~~(8) Team~~ means the State Child Death Review Team and the
2 State Maternal Death Review Team.

3 Sec. 49. Section 71-3406, Revised Statutes Cumulative Supplement,
4 2020, is amended to read:

5 71-3406 (1) The chief executive officer of the Department of Health
6 and Human Services shall appoint a minimum of twelve ~~and a maximum of~~
7 ~~fifteen~~ members each to the State Child Death Review Team and the State
8 Maternal Death Review Team. A person seeking appointment shall apply
9 using an application process developed by the chief executive officer.

10 (2) The core members shall serve on both teams and shall be (a) a
11 physician employed by the department, who shall be a permanent member ~~and~~
12 ~~shall serve as the chairperson of the~~ teams team, (b) ~~a senior staff~~
13 ~~member with child protective services of the department,~~ (c) a forensic
14 pathologist, ~~(c)~~ ~~(d)~~ a law enforcement representative, ~~(d)~~ a mental
15 health provider ~~(e) the Inspector General of Nebraska Child Welfare, and~~
16 ~~(e)~~ ~~(f)~~ an attorney. ~~The remaining members appointed may be, but shall~~
17 ~~not be limited to, the following: A county attorney; a Federal Bureau of~~
18 ~~Investigation agent responsible for investigations on Native American~~
19 ~~reservations; a social worker; and members of organizations which~~
20 ~~represent hospitals or physicians.~~

21 (3) Additional required members appointed to the State Child Death
22 Review Team shall include the Inspector General of Nebraska Child Welfare
23 and a senior department staff member with child protective services, who
24 shall be permanent members. The remaining members appointed to the State
25 Child Death Review Team may include, but shall not be limited to, the
26 following: (a) A county attorney; (b) a Federal Bureau of Investigation
27 agent responsible for investigations on Native American reservations; (c)
28 a social worker; and (d) members of organizations which represent
29 hospitals or physicians.

30 (4) The remaining members appointed to the State Maternal Death
31 Review Team may include, but shall not be limited to, the following: (a)

1 County attorneys; (b) representatives of tribal organizations; (c) social
2 workers; (d) medical providers, including, but not limited to, the
3 practice areas of obstetrics, maternal-fetal medicine, and
4 anesthesiology; (e) public health workers; (f) community birth workers;
5 and (g) community advocates. In appointing members to the State Maternal
6 Death Review Team, the chief executive officer of the department shall
7 consider members working in and representing communities that are diverse
8 with regard to race, ethnicity, immigration status, and English
9 proficiency and include members from differing geographic regions in the
10 state, including both rural and urban areas.

11 (5) The department shall be responsible for the general
12 administration of the activities of the teams team and shall employ or
13 contract with a team coordinators coordinator to provide administrative
14 support for each the team and shall provide a team data abstractor for
15 the teams.

16 (6) ~~(2)~~ Members shall serve four-year terms with the exception of
17 the permanent members chairperson. Each team shall annually elect a
18 chairperson from among its members ~~In the absence of the chairperson, the~~
19 ~~chief executive officer may appoint another member of the core team to~~
20 ~~serve as chairperson.~~

21 (7) ~~(3)~~ The teams team shall not be considered a public body for
22 purposes of the Open Meetings Act. The teams team shall meet a minimum of
23 four times a year. Members of the teams team shall be reimbursed for
24 expenses as provided in sections 81-1174 to 81-1177.

25 Sec. 50. Section 71-3407, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 71-3407 (1) The purpose purposes of the teams team shall be to (a)
28 develop an understanding of the causes and incidence of child deaths,
29 stillbirths, or maternal deaths in this state, (b) develop
30 recommendations for changes within relevant agencies and organizations
31 which may serve to prevent child deaths, stillbirths, or maternal deaths,

1 and (c) advise the Governor, the Legislature, and the public on changes
2 to law, policy, and practice which will prevent child deaths,
3 stillbirths, or maternal deaths.

4 (2) The teams ~~team~~ shall:

5 (a) Undertake annual statistical studies of the causes and incidence
6 of child or maternal deaths in this state. The studies shall include, but
7 not be limited to, an analysis of the records of community, public, and
8 private agency involvement with the children, the pregnant or postpartum
9 women, and their families prior to and subsequent to the child or
10 maternal deaths;

11 (b) Develop a protocol for retrospective investigation of child or
12 maternal deaths by the teams ~~team~~;

13 (c) Develop a protocol for collection of data regarding child or
14 maternal deaths by the teams ~~team~~;

15 (d) Consider training needs, including cross-agency training, and
16 service gaps;

17 (e) Include in its annual report recommended changes to any law,
18 rule, regulation, or policy needed to decrease the incidence of
19 preventable child or maternal deaths;

20 (f) Educate the public regarding the incidence and causes of child
21 or maternal deaths, the public role in preventing child or maternal
22 deaths, and specific steps the public can undertake to prevent child or
23 maternal deaths. The teams ~~team~~ may enlist the support of civic,
24 philanthropic, and public service organizations in the performance of ~~its~~
25 educational duties;

26 (g) Provide the Governor, the Legislature, and the public with
27 annual reports which shall include the teams' ~~team's~~ findings and
28 recommendations for each of their ~~its~~ duties. ~~Each~~ The team shall submit
29 an ~~provide the~~ annual report on or before each December 31 ~~September 15.~~
30 ~~The reports submitted~~ to the Legislature ~~shall be submitted~~
31 electronically; and

1 (h) When appropriate, make referrals to those agencies as required
2 in section 28-711 or as otherwise required by state law.

3 (3) The teams ~~team~~ may enter into consultation agreements with
4 relevant experts to evaluate the information and records collected ~~by the~~
5 ~~team~~. All of the confidentiality provisions of section 71-3411 shall
6 apply to the activities of a consulting expert.

7 (4) The teams ~~team~~ may enter into written agreements with entities
8 to provide for the secure storage of electronic data ~~based on information~~
9 ~~and records collected by the team~~, including data that contains personal
10 or incident identifiers. Such agreements shall provide for the protection
11 of the security and confidentiality of the content of the information,
12 including access limitations, storage of the information, and destruction
13 of the information. All of the confidentiality provisions of section
14 71-3411 shall apply to the activities of the data storage entity.

15 (5) The teams ~~team~~ may enter into agreements with a local public
16 health department as defined in section 71-1626 to act as the agent of
17 the teams ~~team~~ in conducting all information gathering and investigation
18 necessary for the purposes of the Child and Maternal Death Review Act.
19 All of the confidentiality provisions of section 71-3411 shall apply to
20 the activities of the agent.

21 (6) For purposes of this section, entity means an organization which
22 provides collection and storage of data from multiple agencies but is not
23 solely controlled by the agencies providing the data.

24 Sec. 51. Section 71-3408, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 71-3408 (1) The chairperson of each ~~the~~ team shall:

27 (a) Chair meetings of the teams ~~team~~; and

28 (b) Ensure identification of strategies to prevent child or maternal
29 deaths.

30 (2) The team coordinator of each team provided under subsection (5)
31 ~~(1)~~ of section 71-3406 shall:

1 (a) Have the necessary information from investigative reports,
2 medical records, coroner's reports, autopsy reports, educational records,
3 and other relevant items made available to the team;

4 (b) Ensure timely notification of the team members of an upcoming
5 meeting;

6 (c) Ensure that all team reporting and data-collection requirements
7 are met;

8 (d) Oversee adherence to the review process established by the Child
9 and Maternal Death Review Act; and

10 (e) Perform such other duties as the team deems appropriate.

11 (3) The team data abstractor provided under subsection (5) of
12 section 71-3406 shall:

13 (a) Possess qualifying nursing experience, a demonstrated
14 understanding of child and maternal outcomes, strong professional
15 communication skills, data entry and relevant computer skills, experience
16 in medical record review, flexibility and ability to accomplish tasks in
17 short time frames, appreciation of the community, knowledge of
18 confidentiality laws, the ability to serve as an objective unbiased
19 storyteller, and a demonstrated understanding of social determinants of
20 health;

21 (b) Request records for identified cases from sources described in
22 section 71-3410;

23 (c) Upon receipt of such records, review all pertinent records to
24 complete fields in child, stillbirth, and maternal death databases;

25 (d) Summarize findings in a case summary; and

26 (e) Report all findings to the team coordinators.

27 Sec. 52. Section 71-3409, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 ~~71-3409 (1)(a) The team shall review all child deaths occurring on~~
30 ~~or after January 1, 1993, and before January 1, 2014, in three phases as~~
31 ~~provided in this subsection.~~

1 ~~(b) Phase one shall be conducted by the core members. The core~~
2 ~~members shall review the death certificate, birth certificate, coroner's~~
3 ~~report or autopsy report if done, and indicators of child or family~~
4 ~~involvement with the Department of Health and Human Services. The core~~
5 ~~members shall classify the nature of the death, whether accidental,~~
6 ~~homicide, suicide, undetermined, or natural causes, determine the~~
7 ~~completeness of the death certificate, and identify discrepancies and~~
8 ~~inconsistencies. The core members may select cases from phase one for~~
9 ~~review in phase two.~~

10 ~~(c) Phase two shall be completed by the core members and shall not~~
11 ~~be conducted on any child death under active investigation by a law~~
12 ~~enforcement agency or under criminal prosecution. The core members may~~
13 ~~seek additional records described in section 71-3410. The core members~~
14 ~~shall identify the preventability of death, the possibility of child~~
15 ~~abuse or neglect, the medical care issues of access and adequacy, and the~~
16 ~~nature and extent of interagency communication. The core members may~~
17 ~~select cases from phase two for review by the team in phase three.~~

18 ~~(d) Phase three shall be a review by the team of those cases~~
19 ~~selected by the core members for further discussion, review, and~~
20 ~~analysis.~~

21 ~~(1)(a) The State Child Death Review Team~~ (2)(a) ~~The team shall~~
22 ~~review all child deaths occurring on or after January 1, 2014, in the~~
23 ~~manner provided in this subsection.~~

24 (b) The members shall review the death certificate, birth
25 certificate, coroner's report or autopsy report if done, and indicators
26 of child or family involvement with the department. The members shall
27 classify the nature of the death, whether accidental, homicide, suicide,
28 undetermined, or natural causes, determine the completeness of the death
29 certificate, and identify discrepancies and inconsistencies.

30 (c) A review shall not be conducted on any child death under active
31 investigation by a law enforcement agency or under criminal prosecution.

1 The members may seek records described in section 71-3410. The members
2 shall identify the preventability of death, the possibility of child
3 abuse or neglect, the medical care issues of access and adequacy, and the
4 nature and extent of interagency communication.

5 (2)(a) The team may review stillbirths occurring on or after January
6 1, 2023, in the manner provided in this subsection.

7 (b) The members may review the death certificates and other
8 documentation which will allow the team to identify preventable causes of
9 stillbirths.

10 (c) Nothing in this subsection shall be interpreted to require
11 review of any stillbirth death.

12 (3)(a) The State Maternal Death Review Team ~~(3)(a) The team shall~~
13 ~~review all maternal deaths occurring on or after January 1, 2014, in the~~
14 ~~manner provided in this subsection.~~

15 (b) The members shall review the maternal death records in
16 accordance with evidence-based best practices in order to determine: (a)
17 If the death is pregnancy-related; (b) the cause of death; (c) if the
18 death was preventable; (d) the factors that contributed to the death; (e)
19 recommendations and actions that address those contributing factors; and
20 (f) the anticipated impact of those actions if implemented ~~death~~
21 ~~certificate, coroner's report or autopsy report if done, and indicators~~
22 ~~of the woman's involvement with the department. The members shall~~
23 ~~classify the nature of the death, whether accidental, homicide, suicide,~~
24 ~~undetermined, or natural causes, determine the completeness of the death~~
25 ~~certificate, and identify discrepancies and inconsistencies.~~

26 (c) A review shall not be conducted on any maternal death under
27 active investigation by a law enforcement agency or under criminal
28 prosecution. The members may seek records described in section 71-3410.
29 The members shall identify the preventability of death, the possibility
30 of domestic abuse, the medical care issues of access and adequacy, and
31 the nature and extent of interagency communication.

1 Sec. 53. Section 71-3410, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 71-3410 (1) Upon request, the teams ~~team~~ shall be immediately
4 provided:

5 (a) Information and records maintained by a provider of medical,
6 dental, prenatal, and mental health care, including medical reports,
7 autopsy reports, and emergency and paramedic records; and

8 (b) All information and records maintained by any agency of state,
9 county, or local government, any other political subdivision, any school
10 district, or any public or private educational institution, including,
11 but not limited to, birth and death certificates, law enforcement
12 investigative data and reports, coroner investigative data and reports,
13 educational records, parole and probation information and records, and
14 information and records of any social services agency that provided
15 services to the child, the pregnant or postpartum woman, or the family of
16 the child or woman.

17 (2) The Department of Health and Human Services shall have the
18 authority to issue subpoenas to compel production of any of the records
19 and information specified in subdivisions (1)(a) and (b) of this section,
20 except records and information on any child death, stillbirth, or
21 maternal death under active investigation by a law enforcement agency or
22 which is at the time the subject of a criminal prosecution, and shall
23 provide such records and information to the teams ~~team~~.

24 Sec. 54. Section 71-3411, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 71-3411 (1)(a) All information and records acquired by the teams
27 ~~team~~ in the exercise of their ~~its~~ purposes and duties pursuant to the
28 Child and Maternal Death Review Act shall be confidential and exempt from
29 disclosure and may only be disclosed as provided in this section and as
30 provided in section 71-3407. Statistical compilations of data made by the
31 teams ~~team~~ which do not contain any information that would permit the

1 identification of any person to be ascertained shall be public records.

2 (b) De-identified information and records obtained by the teams ~~team~~
3 may be released to a researcher, upon proof of identity and
4 qualifications of the researcher, if the researcher is employed by a
5 research organization, university, institution, or government agency and
6 is conducting scientific, medical, or public health research and if there
7 is no publication or disclosure of any name or facts that could lead to
8 the identity of any person included in the information or records. Such
9 release shall provide for a written agreement with the Department of
10 Health and Human Services providing protection of the security of the
11 content of the information, including access limitations, storage of the
12 information, destruction of the information, and use of the information.
13 The release of such information pursuant to this subdivision shall not
14 make otherwise confidential information a public record.

15 (c) De-identified information and records obtained by the teams ~~team~~
16 may be released to the United States Public Health Service or its
17 successor, a government health agency, or a local public health
18 department as defined in section 71-1626 if there is no publication or
19 disclosure of any name or facts that could lead to the identity of any
20 person included in the information or records. Such release shall provide
21 for protection of the security of the content of the information,
22 including access limitations, storage of the information, destruction of
23 the information, and use of the information. The release of such
24 information pursuant to this subdivision shall not make otherwise
25 confidential information a public record.

26 (2) Except as necessary to carry out the teams' ~~a team's~~ purposes
27 and duties, members of the teams ~~a team~~ and persons attending a team
28 meetings ~~meeting~~ may not disclose what transpired at the meetings ~~a~~
29 ~~meeting~~ and shall not disclose any information the disclosure of which is
30 prohibited by this section.

31 (3) Members of the teams ~~a team~~ and persons attending team meetings

1 a ~~team meeting~~ shall not testify in any civil, administrative, licensure,
2 or criminal proceeding, including depositions, regarding information
3 reviewed in or opinions formed as a result of team meetings a ~~team~~
4 ~~meeting~~. This subsection shall not be construed to prevent a person from
5 testifying to information obtained independently of the teams ~~team~~ or
6 which is public information.

7 (4) Information, documents, and records of the teams ~~team~~ shall not
8 be subject to subpoena, discovery, or introduction into evidence in any
9 civil or criminal proceeding, except that information, documents, and
10 records otherwise available from other sources shall not be immune from
11 subpoena, discovery, or introduction into evidence through those sources
12 solely because they were presented during proceedings of the teams ~~team~~
13 or are maintained by the teams ~~team~~.

14 Sec. 55. Original sections 25-309, 43-101, 43-104, 43-104.01,
15 43-104.02, 43-104.03, 43-104.04, 43-104.05, 43-104.08, 43-104.09,
16 43-104.12, 43-104.13, 43-104.14, 43-104.16, 43-104.17, 43-104.18,
17 43-104.22, 43-104.23, 43-105, 43-106, 43-108, 43-109, 43-111, 43-111.01,
18 43-112, 43-115, 43-146.01, 43-166, 43-906, 71-3404, 71-3407, 71-3408,
19 71-3409, 71-3410, and 71-3411, Reissue Revised Statutes of Nebraska, and
20 sections 25-307, 43-102, 43-1411, 71-3405, and 71-3406, Revised Statutes
21 Cumulative Supplement, 2020, are repealed.

22 Sec. 56. The following sections are outright repealed: Sections
23 43-104.19, 43-104.20, 43-104.21, and 43-104.25, Reissue Revised Statutes
24 of Nebraska.