

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 212

Introduced by Karpisek, 32.

Read first time January 15, 2013

Committee:

A BILL

1 FOR AN ACT relating to the Parenting Act; to amend section 43-2929,
2 Revised Statutes Cumulative Supplement, 2012; to provide
3 a presumption for court-created parenting plans; and to
4 repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-2929, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 43-2929 (1) In any proceeding in which parenting
4 functions for a child are at issue under Chapter 42, a parenting plan
5 shall be developed and shall be approved by the court. Court rule may
6 provide for the parenting plan to be developed by the parties or
7 their counsel, a court conciliation program, an approved mediation
8 center, or a private mediator. When a parenting plan has not been
9 developed and submitted to the court, the court shall create the
10 parenting plan in accordance with the Parenting Act. A parenting plan
11 shall serve the best interests of the child pursuant to sections
12 42-364, 43-2923, and 43-2929.01 and shall:

13 (a) Assist in developing a restructured family that
14 serves the best interests of the child by accomplishing the parenting
15 functions; and

16 (b) Include, but not be limited to, determinations of the
17 following:

18 (i) Legal custody and physical custody of each child;

19 (ii) Apportionment of parenting time, visitation, or
20 other access for each child, including, but not limited to, specified
21 religious and secular holidays, birthdays, Mother's Day, Father's
22 Day, school and family vacations, and other special occasions,
23 specifying dates and times for the same, or a formula or method for
24 determining such a schedule in sufficient detail that, if necessary,
25 the schedule can be enforced in subsequent proceedings by the court,

1 and set out appropriate times and numbers for telephone access;

2 (iii) Location of the child during the week, weekend, and
3 given days during the year;

4 (iv) A transition plan, including the time and places for
5 transfer of the child, method of communication or amount and type of
6 contact between the parties during transfers, and duties related to
7 transportation of the child during transfers;

8 (v) Procedures for making decisions regarding the day-to-
9 day care and control of the child consistent with the major decisions
10 made by the person or persons who have legal custody and
11 responsibility for parenting functions;

12 (vi) Provisions for a remediation process regarding
13 future modifications to such plan;

14 (vii) Arrangements to maximize the safety of all parties
15 and the child;

16 (viii) Provisions to ensure regular and continuous school
17 attendance and progress for school-age children of the parties; and

18 (ix) Provisions for safety when a preponderance of the
19 evidence establishes child abuse or neglect, domestic intimate
20 partner abuse, unresolved parental conflict, or criminal activity
21 which is directly harmful to a child.

22 (2) A parenting plan shall require that the parties
23 notify each other of a change of address, except that the address or
24 return address shall only include the county and state for a party
25 who is living or moving to an undisclosed location because of safety

1 concerns.

2 (3) When safe and appropriate for the best interests of
3 the child, the parenting plan may encourage mutual discussion of
4 major decisions regarding parenting functions including the child's
5 education, health care, and spiritual or religious upbringing.
6 However, when a prior factual determination of child abuse or
7 neglect, domestic intimate partner abuse, or unresolved parental
8 conflict has been made, then consideration shall be given to
9 inclusion of provisions for safety and a transition plan that
10 restrict communication or the amount and type of contact between the
11 parties during transfers.

12 (4) Regardless of the custody determinations in the
13 parenting plan, unless parental rights are terminated, both parents
14 shall continue to have the rights stated in section 42-381.

15 (5) In the development of a parenting plan, consideration
16 shall be given to the child's age, the child's developmental needs,
17 and the child's perspective, as well as consideration of enhancing
18 healthy relationships between the child and each party.

19 (6) With respect to court-created parenting plans, there
20 shall be a rebuttable presumption that each parent is entitled to at
21 least forty-five percent of the annual parenting time. For purposes
22 of this subsection, parenting time shall be measured by the number of
23 overnights the child spends with each parent. The burden of proof for
24 the party or parties seeking to rebut the presumption is a
25 preponderance of the evidence. The court shall provide written

1 findings of fact and conclusions of law when entering an order that
2 rebutts such presumption.

3 Sec. 2. Original section 43-2929, Revised Statutes
4 Cumulative Supplement, 2012, is repealed.