

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 245

Introduced by DeBoer, 10; Wayne, 13; Wishart, 27.

Read first time January 11, 2021

Committee:

1 A BILL FOR AN ACT relating to adoptions; to amend sections 25-309,
2 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, and 43-906, Reissue Revised Statutes of Nebraska, and
7 sections 25-307, 43-102, and 43-1411, Revised Statutes Cumulative
8 Supplement, 2020; to define terms and change terminology; to change
9 provisions relating to petitions for adoptions, adoptive home
10 studies, consents to adoptions, fathers, the biological father
11 registry, notices, petitions for adjudication of paternity, and
12 notices to possible biological fathers; to eliminate provisions
13 relating to guardians ad litem; to harmonize provisions; to repeal
14 the original sections; and to outright repeal sections 43-104.19,
15 43-104.20, 43-104.21, and 43-104.25, Reissue Revised Statutes of
16 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 putative father who is not required to consent to
6 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 Sec. 7. Section 43-104.01, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 43-104.01 (1) The Department of Health and Human Services shall
12 establish a putative biological father registry. The department shall
13 maintain such registry and shall record the names and addresses of (a)
14 any person adjudicated by a court of this state or by a court of another
15 state or territory of the United States to be the biological father of a
16 child born out of wedlock if a certified copy of the court order is filed
17 with the registry by such person or any other person, (b) any putative
18 father who has filed with the registry, prior to the receipt of notice
19 under sections 43-104.12 to 43-104.16, a Request for Notification of
20 Intended Adoption with respect to such child, and (c) any putative father
21 who has filed with the registry a Notice of Objection to Adoption and
22 Intent to Obtain Custody with respect to such child.

23 (2) A Request for Notification of Intended Adoption or a Notice of
24 Objection to Adoption and Intent to Obtain Custody filed with the
25 registry shall include (a) the putative father's name, address, and
26 social security number, (b) the name and last-known address of the
27 mother, (c) the month and year of the birth or the expected birth of the
28 child, (d) the case name, court name, and location of any Nebraska court
29 having jurisdiction over the custody of the child, and (e) a statement by
30 the putative father that he acknowledges liability for contribution to
31 the support and education of the child after birth and for contribution

1 to the pregnancy-related medical expenses of the mother of the child. The
2 person filing the notice shall notify the registry of any change of
3 address pursuant to procedures prescribed in rules and regulations of the
4 department.

5 (3) A request or notice filed under this section or section
6 43-104.02 shall be admissible in any action for paternity and shall estop
7 the putative father from denying paternity of such child thereafter.

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

13 ~~(5) The department shall not divulge the names and addresses of~~
14 ~~persons listed with the biological father registry to any other person~~
15 ~~except as authorized by law or upon order of a court of competent~~
16 ~~jurisdiction for good cause shown.~~

17 ~~(5) (6)~~ The department may develop information about the registry
18 and may distribute such information, through its existing publications,
19 to the news media and the public. The department may provide information
20 about the registry to the Department of Correctional Services, which may
21 distribute such information through its existing publications.

22 ~~(7) A person who has been adjudicated by a Nebraska court of~~
23 ~~competent jurisdiction to be the biological father of a child born out of~~
24 ~~wedlock who is the subject of a proposed adoption shall not be construed~~
25 ~~to be a putative father for purposes of sections 43-104.01 to 43-104.05~~
26 ~~and shall not be subject to the provisions of such sections as applied to~~
27 ~~such fathers. Whether such person's consent is required for the proposed~~
28 ~~adoption shall be determined by the Nebraska court having jurisdiction~~
29 ~~over the custody of the child pursuant to section 43-104.22, as part of~~
30 ~~proceedings required under section 43-104 to obtain the court's consent~~
31 ~~to such adoption.~~

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

3 43-104.02 (1) A Notice of Objection to Adoption and Intent to
4 Obtain Custody shall be filed with the putative biological father
5 registry under section 43-104.01 on forms provided by the Department of
6 Health and Human Services;

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

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

11 (i) At ~~(a)~~ at any time during the pregnancy and no later than ten
12 ~~five~~ business days after receipt of the notice provided under section
13 43-104.12; or

14 (ii) No ~~(b)~~ no later than ten ~~five~~ business days after the last date
15 of any published notice provided under section 43-104.14, whichever
16 notice is earlier.

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

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

23 43-104.03 Within three days after the filing of a Request for
24 Notification of Intended Adoption or a Notice of Objection to Adoption
25 and Intent to Obtain Custody with the putative biological father registry
26 pursuant to sections 43-104.01 and 43-104.02, the Department of Health
27 and Human Services shall cause a certified copy of such request or notice
28 to be mailed by certified mail to ~~(1)~~ the mother or prospective mother of
29 such child at the last-known address shown on the request or notice or an
30 agent specifically designated in writing by the mother or prospective
31 mother to receive such request or notice ~~and (2) any Nebraska court~~

1 ~~identified by the putative father under section 43-104.01 as having~~
2 ~~jurisdiction over the custody of the child.~~

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

5 43-104.04 If a Notice of Objection to Adoption and Intent to Obtain
6 Custody is not timely filed with the putative biological father registry
7 pursuant to section 43-104.02, the mother of a child born out of wedlock
8 or an agent specifically designated in writing by the mother may request,
9 and the Department of Health and Human Services shall supply, a
10 certificate that no such notice has been filed with the putative
11 ~~biological~~ father registry. The filing of such certificate pursuant to
12 section 43-102 shall eliminate the need or necessity of a consent or
13 relinquishment for adoption by the putative father of such child.

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

16 43-104.05 (1)(a) A putative, acknowledged, or adjudicated father
17 objecting to a proposed adoption may file a petition objecting to the
18 adoption and seeking a determination of whether the objecting father's
19 consent to the proposed adoption is required. A putative father may only
20 file such petition if he has timely filed ~~(1) If a Notice of Objection to~~
21 ~~Adoption and Intent to Obtain Custody is timely filed with the~~ putative
22 ~~biological~~ father registry pursuant to section 43-104.02. ~~, either the~~
23 ~~putative father, the mother, or her agent specifically designated in~~
24 ~~writing shall, within thirty days after the filing of such notice, file a~~
25 ~~petition for adjudication of the notice and a determination of whether~~
26 ~~the putative father's consent to the proposed adoption is required. The~~

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

30 (c)(i) Except as provided in subdivision (1)(c)(ii) of this section,
31 the petition shall be filed in the county court in the county where such

1 child was born or, if a ~~separate~~ juvenile court already has jurisdiction
2 over the custody of the child, in the county court of the county in which
3 such ~~separate~~ juvenile court is located.

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

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

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

12 (2) If ~~such~~ a petition objecting to a proposed adoption is not filed
13 within the deadline provided in subdivision (1)(b) of this section,
14 ~~thirty days after the filing of such notice~~ and the mother of the child
15 has executed a valid relinquishment and consent to the adoption within
16 ninety sixty days of the filing of a Notice of Objection to Adoption and
17 Intent to Obtain Custody ~~such notice,~~ the putative, acknowledged, or
18 adjudicated father's consent to adoption of the child shall not be
19 required, he is not entitled to any further notice of the adoption
20 proceedings, his right to object to the adoption ~~and any alleged parental~~
21 ~~rights and responsibilities of the putative father~~ shall not be
22 recognized thereafter in any court, and his parental rights to such child
23 will be terminated upon entry of an adoption decree.

24 (3) After the timely filing of a ~~such~~ petition objecting to a
25 proposed adoption, the court shall set a trial date upon proper notice to
26 the parties not less than twenty nor more than thirty days after the date
27 of such filing. If the mother contests the objecting putative father's
28 claim of paternity, the court shall order DNA testing to establish
29 whether the objecting putative father is the biological father. The court
30 shall assess the costs of such testing between the parties in an
31 equitable manner. Whether the objecting putative father's consent to the

1 adoption is required shall be determined pursuant to section 43-104.22,
2 except that such consent is not required if the objecting father is not
3 the biological father. The court shall appoint a guardian ad litem to
4 represent the best interests of the child.

5 (4)(a) The county court ~~of the county where the child was born or~~
6 ~~the separate~~ juvenile court having jurisdiction over the custody of the
7 child shall have exclusive jurisdiction over proceedings under this
8 section from the date of notice provided under section 43-104.12 or the
9 last date of published notice under section 43-104.14, whichever notice
10 is earlier, until thirty days after the conclusion of ~~adoption~~
11 proceedings under this section ~~concerning the child~~, including appeals,
12 unless such jurisdiction is transferred under subdivision (b) of this
13 subsection.

14 (b) Except as ~~otherwise~~ provided in ~~this~~ subdivision (4)(c) of this
15 section, the court shall, upon the motion of any party, transfer the case
16 to the district court for further proceedings on the matters of custody,
17 visitation, and child support with respect to such child if:

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

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

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

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

28 43-104.08 Whenever a child is claimed to be born out of wedlock and
29 the biological mother contacts an adoption agency or attorney to
30 relinquish her rights to the child, or the biological mother joins in a
31 petition for adoption to be filed by her spouse ~~husband~~, the agency or

1 attorney contacted shall attempt to establish the identity of the
2 biological father and further attempt to inform the biological father of
3 his rights, including the right to object to the adoption and the
4 procedure and required timing to object, and his right to execute a
5 relinquishment and consent to adoption, or a denial of paternity and
6 waiver of rights, in the form mandated by section 43-106, pursuant to
7 sections 43-104.08 to ~~43-104.24~~ 43-104.25.

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

10 43-104.09 In all cases of adoption of a minor child born out of
11 wedlock, the biological mother, or an individual acting on behalf of the
12 biological mother and who possesses information provided by the
13 biological mother if the biological mother is unavailable due to death,
14 incapacity, abandonment, or termination of parental rights, shall
15 complete and sign an affidavit in writing and under oath. The affidavit
16 shall be completed and signed ~~executed by the biological mother~~ before or
17 at the time of execution of the consent or relinquishment and shall be
18 filed with the court prior to the hearing on the attached as an exhibit
19 ~~to any petition for to finalize the adoption.~~ If the biological mother is
20 under the age of nineteen, the biological mother may sign the affidavit
21 despite her minority or the affidavit may be completed and signed
22 ~~executed~~ by the agency or attorney representing the biological mother
23 based upon information provided by the biological mother. The affidavit
24 shall be in substantially the following form:

25 AFFIDAVIT OF IDENTIFICATION

26 I,, the mother of a child, state under oath or
27 affirm as follows:

28 (1) My child was born, or is expected to be born, on the day
29 of,, at, in the State
30 of

31 (2) I reside at, in the City or Village

1 of, County of, State
2 of

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

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

7 (5) (CHOOSE ONE)

8 (5A) I know and am identifying the biological father (or possible
9 biological fathers) as follows:

10 The name of the biological father is

11 His last-known home address is

12 His last-known work address is

13 He is years of age, or he is deceased, having died on or
14 about the day of,
15 at, in the State of

16 He has been adjudicated to be the biological father by
17 the Court of county, State
18 of, case name, docket
19 number

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

22 He ... has ... has not established a familial relationship with the
23 child.

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

26 (5B) I am unwilling or unable to identify the biological father (or
27 possible biological fathers). I do not wish or I am unable to name the
28 biological father of the child for the following reasons:

29 Conception of my child occurred as a result of sexual
30 assault or incest

31 Providing notice to the biological father of my child

1 would threaten my safety or the safety of my child

2 Other reason:

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

7
8
9

10 (use additional sheets of paper as needed).

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

13 (8) I have read this affidavit and have had the opportunity to
14 review and question it. It was explained to me
15 by

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

18 Dated this day of,

19 (Acknowledgment)
20

21 (Signature)

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

24 43-104.12 In order to attempt to inform the biological father or
25 possible biological fathers, whether putative, acknowledged, or
26 adjudicated, of the right to execute a relinquishment and consent to
27 adoption or a denial of paternity and waiver of rights, the agency or
28 attorney representing the biological mother shall notify, by personal
29 service of process or by registered or certified mail, restricted
30 delivery, return receipt requested:

31 (1) Any acknowledged father or person adjudicated father ~~by a court~~

1 ~~in this state or by a court in another state or territory of the United~~
2 ~~States to be the biological father of the child;~~

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

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

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

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

14 (6) Any person who was married to the child's biological mother
15 within six months prior to the birth of the child and prior to the
16 execution of the relinquishment; and

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

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

22 43-104.13 The notice sent by the agency or attorney pursuant to
23 section 43-104.12 shall be served sufficiently in advance of the birth of
24 the child, whenever possible, to allow compliance with subdivision (1)(a)
25 ~~(1)~~ of section 43-104.02 and shall state:

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

29 (2) That the child has been relinquished by the biological mother,
30 that she intends to execute a relinquishment and consent to adoption, or
31 that the biological mother has joined or plans to join in a petition for

1 adoption to be filed by her ~~spouse~~ husband;

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

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

8 (5) That the person being notified ~~possible biological father~~ has
9 the right to (a) deny paternity, (b) waive any parental rights he may
10 have, (c) relinquish and consent to adoption of the child, (d) file a
11 Notice of Objection to Adoption and Intent to Obtain Custody any time
12 during the pregnancy or as late as ten business days after birth pursuant
13 to section 43-104.02 if he is a putative father, and ~~or~~ (e) object to the
14 adoption in a ~~proceeding before any Nebraska court~~ within forty-five days
15 after the later of receipt of notice under this section or the birth of
16 the child if he is an acknowledged or adjudicated father ~~which has, prior~~
17 ~~to his receipt of this notice, adjudicated him to be the biological~~
18 ~~father of the child~~;

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

25 (7) That if person being notified ~~he~~ is the biological father and if
26 the child is not relinquished for adoption, he has a duty to contribute
27 to the support and education of the child and to the pregnancy-related
28 expenses of the mother and a right to seek a court order for custody,
29 parenting time, visitation, or other access with the child.

30 The agency or attorney representing the biological mother may
31 enclose with the notice a document which is an admission or denial of

1 paternity and a waiver of rights by the person being notified biological
2 father, which such person the biological father may choose to complete,
3 in the form mandated by section 43-106, and return to the agency or
4 attorney.

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

7 43-104.14 (1) If the agency or attorney representing the biological
8 mother is unable through reasonable efforts to locate and serve notice on
9 the biological father or possible biological fathers as contemplated in
10 sections 43-104.12 and 43-104.13, the agency or attorney shall notify the
11 biological father or possible biological fathers by publication.

12 (2) The publication shall be made once a week for three consecutive
13 weeks in a legal newspaper of general circulation in the Nebraska county
14 or county of another state which is most likely to provide actual notice
15 to the biological father. The publication shall include:

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

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

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

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

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

26 (f) That he has the right to (i) deny paternity, (ii) waive any
27 parental rights he may have, (iii) relinquish and consent to adoption of
28 the child, (iv) file a Notice of Objection to Adoption and Intent to
29 Obtain Custody any time during the pregnancy or as late as ten business
30 days after birth pursuant to section 43-104.02 if he is a putative
31 father, or (v) object to the adoption in a ~~proceeding before any Nebraska~~

1 court within forty-five days after the later of receipt of notice under
2 this section or the birth of the child if he is an acknowledged or
3 adjudicated father which has adjudicated him to be the biological father
4 of the child prior to his receipt of notice; and

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

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

13 Sec. 17. Section 43-104.16, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 43-104.16 In all cases involving the adoption of a minor child born
16 out of wedlock, the agency or attorney representing the biological mother
17 shall execute an affidavit stating that due diligence was used to
18 identify and give actual or constructive notice to the biological father
19 or possible biological fathers of the child and stating the methods used
20 to attempt to identify and give actual or constructive notice to those
21 persons or the reason why no attempts were made to identify and notify
22 those persons. The affidavit shall be ~~attached to any petition~~ filed in
23 the an adoption proceeding prior to the hearing on the petition for
24 adoption.

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

27 43-104.17 In all cases of adoption of a minor child born out of
28 wedlock, the petition for ~~to finalize the~~ adoption shall specifically
29 allege compliance with sections 43-104.08 to 43-104.16, and ~~shall attach~~
30 ~~as exhibits~~ all documents which are evidence of such compliance shall be
31 filed with the court prior to the hearing on the petition. No notice of

1 the filing of the petition to finalize or the hearing on the petition
2 shall be given to a biological father or putative biological father who
3 (1) executed a valid relinquishment and consent or a valid denial of
4 paternity and waiver of rights pursuant to section 43-104.11, (2) was a
5 putative father provided notice under sections 43-104.12 to 43-104.14 and
6 who failed to timely file a Notice of Objection to Adoption and Intent to
7 Obtain Custody pursuant to section 43-104.02 ~~or petition pursuant to~~
8 ~~section 43-104.05~~, (3) was a putative, acknowledged, or adjudicated
9 father who failed to timely file a petition objecting to the adoption
10 under section 43-104.05, or (4) ~~(3)~~ is not required to consent to the
11 adoption pursuant to proceedings conducted under section ~~43-104~~ or
12 43-104.22.

13 Sec. 19. Section 43-104.18, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 43-104.18 If a petition for ~~to finalize an~~ adoption is filed and
16 fails to establish substantial compliance with sections 43-104.08 to
17 43-104.16, the court shall receive evidence by affidavit of the facts and
18 circumstances of the biological mother's relationship with the biological
19 father or possible biological fathers at the time of conception of the
20 child and at the time of the biological mother's relinquishment and
21 consent to the adoption of the child, including any evidence that
22 providing notice to a biological father or possible biological father
23 would be likely to threaten the safety of the biological mother or the
24 child or that the conception was the result of sexual assault or incest.
25 If, under the facts and circumstances presented, the court finds that the
26 agency or attorney representing the biological mother did not exercise
27 due diligence in complying with sections 43-104.08 to 43-104.16, or if
28 the court finds that there is no credible evidence that providing notice
29 to a biological father or possible biological father would be likely to
30 threaten the safety of the biological mother or the child or that the
31 conception was the result of sexual assault or incest, the court shall

1 order the attorney or agency to exercise due diligence in complying with
2 sections 43-104.08 to 43-104.16. ~~If the attorney or agency fails to~~
3 ~~exercise due diligence in complying with such sections or at any time~~
4 ~~upon the petition or application of any interested party the court may~~
5 ~~appoint a guardian ad litem to represent the interests of the biological~~
6 ~~father. The guardian ad litem shall be chosen from a qualified pool of~~
7 ~~local attorneys. The guardian ad litem shall receive reasonable~~
8 ~~compensation for the representation, the amount to be determined at the~~
9 ~~discretion of the court.~~

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

12 43-104.22 At any hearing to determine the parental rights of an
13 acknowledged father, ~~an adjudicated biological father,~~ or a putative
14 ~~biological~~ father of a minor child born out of wedlock and whether such
15 father's consent is required for the adoption of such child, the court
16 shall receive evidence with regard to the actual paternity of the child,
17 if contested ~~and whether such father is a fit, proper, and suitable~~
18 ~~custodial parent for the child.~~ The court shall determine that such
19 father's consent is not required for a valid adoption of the child upon a
20 finding of one or more of the following:

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

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

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

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

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

31 (6) The child was conceived as a result of a nonconsensual sex act

1 or an incestual act;

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

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

9 ~~(9) Notice was provided to an adjudicated biological father through~~
10 ~~service of process under applicable state law and he failed to object to~~
11 ~~the adoption or failed to appear at the hearing conducted under section~~
12 ~~43-104.25;~~

13 ~~(9) (10)~~ The father executed a valid relinquishment or consent to
14 adoption; or

15 ~~(10) (11)~~ The man whether an acknowledged father, an adjudicated
16 father, or a putative father, is not, in fact, the biological father of
17 the child.

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

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

25 43-104.23 ~~(1)~~ The court shall enter a decree finalizing the
26 adoption of the child if ~~If~~, after viewing the evidence submitted to
27 support a petition for ~~to finalize an adoption or any evidence submitted~~
28 ~~by a guardian ad litem if one is appointed,~~ the court determines that:

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

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

1 ~~(c) That there has been upon a finding of~~ due diligence and
2 substantial compliance with sections 43-104.08 to 43-104.16 and ~~a finding~~
3 that no biological father has timely filed under section 43-104.02 or
4 ~~43-104.05~~ , ~~the court shall enter an order finalizing the adoption of the~~
5 ~~child.~~

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

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

13 43-105 (1) If consent is not required of both parents of a child
14 born in lawful wedlock if living, the surviving parent of a child born in
15 lawful wedlock, or the mother or mother and father of a child born out of
16 wedlock, because of the provisions of subdivision ~~(1)(b)~~ ~~(1)(e)~~ of
17 section 43-104, substitute consents shall be filed as follows:

18 (a) Consent to the adoption of a minor child who has been committed
19 to the Department of Health and Human Services may be given by the
20 department or its duly authorized agent in accordance with section
21 43-906;

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

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

31 (2) Substitute consent provisions of this section do not apply to a

1 biological father whose consent is not required under section 43-104.22
2 or subsection (5) or (6) of section 43-104.

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

5 43-106 Relinquishments and consents ~~Consents~~ required to be given
6 under sections 43-104 and 43-105, ~~except under subdivision (1)(b) of~~
7 ~~section 43-104,~~ must be acknowledged before an officer authorized to
8 acknowledge deeds in this state and signed in the presence of at least
9 one witness, in addition to the officer. ~~Consents under subdivision (1)~~
10 ~~(b) of section 43-104 shall be shown by a duly certified copy of order of~~
11 ~~the court required to grant such consent.~~

12 Sec. 24. Section 43-108, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 43-108 The minor child to be adopted, unless such child is over
15 fourteen years of age, and the person or persons desiring to adopt the
16 child must appear in person before the judge at the time of hearing,
17 except that when the petitioners are married ~~husband and wife~~ and one of
18 them is present in court, the court, in its discretion, may accept the
19 affidavit of an absent spouse who is in the armed forces of the United
20 States and it appears to the court the absent spouse will not be able to
21 be present in court for more than a year because of his or her military
22 assignment, which affidavit sets forth that the absent spouse favors the
23 adoption.

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

26 43-109 (1) If, upon the hearing, the court finds that such adoption
27 is for the best interests of such minor child or such adult child, a
28 decree of adoption shall be entered. No decree of adoption shall be
29 entered unless:

30 (a) It ~~it~~ appears that the child has resided with the person or
31 persons petitioning for such adoption for at least six months next

1 preceding the entering of the decree of adoption, except that such
2 residency requirement shall not apply in an adoption of an adult child; 7

3 (b) ~~The~~ the medical histories required by subsection (2) of section
4 43-107 have been made a part of the court record; 7

5 (c) ~~The~~ the court record includes an affidavit or affidavits signed
6 by the relinquishing biological parent, or parents if both are available,
7 in which it is affirmed that, pursuant to section 43-106.02, prior to the
8 relinquishment of the child for adoption, the relinquishing parent was,
9 or parents if both are available were; 7

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

12 (ii) ~~Given~~ given an explanation of the effects of filing or not
13 filing the nonconsent form; 7 and

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

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

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

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

25 43-111 Except as provided in sections 43-101 and ~~section~~ 43-106.01
26 and the Nebraska Indian Child Welfare Act, after a decree of adoption has
27 been entered, the natural parents of the adopted child shall be relieved
28 of all parental duties toward and all responsibilities for such child and
29 have no rights over such adopted child or to his or her property by
30 descent and distribution.

31 Sec. 27. Section 43-111.01, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 43-111.01 Except as otherwise provided in the Nebraska Indian Child
3 Welfare Act, if, upon a hearing, the court shall deny a petition for
4 adoption, the court may take custody of the child involved and determine
5 whether or not it is in the best interests of the child to remain in the
6 custody of the proposed adopting parents. The court may also, on its own
7 motion, appoint a legal guardian over the person and property of such
8 minor and make disposition in the best interests of the child without
9 further notice, relinquishments, or consents as may otherwise be required
10 by sections 43-102 to 43-112 and section 4 of this act.

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

13 43-112 An appeal shall be allowed from any final order, judgment, or
14 decree, rendered under the authority of sections 43-101 to 43-115 and
15 section 4 of this act, from the county court to the Court of Appeals in
16 the same manner as an appeal from district court to the Court of Appeals.

17 An appeal may be taken by any party and may also be taken by any
18 person against whom the final judgment or final order may be made or who
19 may be affected thereby. The judgment of the Court of Appeals shall not
20 vacate the judgment of the county court. The judgment of the Court of
21 Appeals shall be certified without cost to the county court for further
22 proceedings consistent with the determination of the Court of Appeals.

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

25 43-115 No adoption heretofore lawfully made shall be affected by the
26 enactment of sections 43-101 to 43-115 and section 4 of this act, but
27 such adoptions shall continue in effect and operation according to the
28 terms thereof.

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

31 43-146.01 (1) Sections 43-106.02, 43-121, 43-123.01, and 43-146.02

1 to 43-146.16 shall provide the procedures for gaining access to
2 information concerning an adopted person when a relinquishment or consent
3 for an adoption is given on or after September 1, 1988.

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

7 (3) Except as otherwise provided in subsection (2) of section
8 43-107, ~~subdivisions (1)(b), (1)(c), and (1)(d) of section 43-109,~~ and
9 subsection (4) of this section: Sections 43-101 to 43-118 and section 4
10 of this act, 43-143 to 43-146, 43-146.17, 71-626, 71-626.01, and
11 71-627.02 shall apply to all adoptions.

12 (4) Sections 43-143 to 43-146 shall not apply to adopted persons for
13 whom a relinquishment or consent for adoption was given on and after July
14 20, 2002.

15 Sec. 31. Section 43-906, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 43-906 Except as otherwise provided in the Nebraska Indian Child
18 Welfare Act, the Department of Health and Human Services, or its duly
19 authorized agent, may consent to the adoption of children committed to it
20 upon the order of a juvenile court if the parental rights of the parents
21 or of the mother of a child born out of wedlock have been terminated and
22 if no father of a child born out of wedlock has timely asserted his
23 paternity rights under section 43-104.02, or upon the relinquishment to
24 such department by their parents or the mother and, if required under
25 sections 43-104.08 to 43-104.24 ~~43-104.25~~, the father of a child born out
26 of wedlock. The parental rights of parents of a child born out of wedlock
27 shall be determined pursuant to sections 43-104.05 and 43-104.08 to
28 43-104.24 ~~43-104.25~~.

29 Sec. 32. Section 43-1411, Revised Statutes Cumulative Supplement,
30 2020, is amended to read:

31 43-1411 (1) A civil proceeding to establish the paternity of a child

1 may be instituted, in the court of the district where the child is
2 domiciled or found or, for cases under the Uniform Interstate Family
3 Support Act, where the alleged father is domiciled, by:

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

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

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

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

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

18 (3) ~~(2)~~ Notwithstanding any other provision of law, a person
19 claiming to be the biological father of a child over which the juvenile
20 court already has jurisdiction may file a complaint to intervene in such
21 juvenile proceeding to institute an action to establish the paternity of
22 the child. The complaint to intervene shall be accompanied by an
23 affidavit under oath that the affiant believes he is the biological
24 father of the juvenile. No filing fee shall be charged for filing the
25 complaint and affidavit. Upon filing of the complaint and affidavit, the
26 juvenile court shall enter an order pursuant to section 43-1414 to
27 require genetic testing and to require the juvenile to be made available
28 for genetic testing. The costs of genetic testing shall be paid by the
29 intervenor, the county, or the state at the discretion of the juvenile
30 court. This subsection does not authorize intervention by a person whose
31 parental rights to such child have been terminated by the order of any

1 court of competent jurisdiction.

2 Sec. 33. Original sections 25-309, 43-101, 43-104, 43-104.01,
3 43-104.02, 43-104.03, 43-104.04, 43-104.05, 43-104.08, 43-104.09,
4 43-104.12, 43-104.13, 43-104.14, 43-104.16, 43-104.17, 43-104.18,
5 43-104.22, 43-104.23, 43-105, 43-106, 43-108, 43-109, 43-111, 43-111.01,
6 43-112, 43-115, 43-146.01, and 43-906, Reissue Revised Statutes of
7 Nebraska, and sections 25-307, 43-102, and 43-1411, Revised Statutes
8 Cumulative Supplement, 2020, are repealed.

9 Sec. 34. The following sections are outright repealed: Sections
10 43-104.19, 43-104.20, 43-104.21, and 43-104.25, Reissue Revised Statutes
11 of Nebraska.