

## LEGISLATIVE BILL 218

Approved by the Governor April 18, 1998

Introduced by Maurstad, 30; Brown, 6; Jensen, 20

AN ACT relating to law; to amend sections 28-311.02, 28-311.03, 28-311.05, 29-104, 29-115, 29-116, 29-117, 29-118, 29-118, 29-824, 29-825, 29-826, 42-905, 42-925, 42-926, and 42-928, Reissue Revised Statutes of Nebraska, section 42-903, Revised Statutes Supplement, 1996, and sections 25-2740, 28-101, 29-2262, 42-901, 42-924, 42-924.01, and 42-924.02, Revised Statutes Supplement, 1997; to redefine a term; to change provisions relating to stalking; to provide for harassment protection orders; to provide a penalty; to change provisions relating to arrests without warrants; to change provisions relating to conditions of probation; to redefine a term; to change and eliminate provisions relating to the filing of suppression motions; to eliminate miscellaneous provisions relating to the county court; to change provisions relating to the Protection from Domestic Abuse Act; to change provisions relating to protection orders; to accord full faith and credit to valid foreign protection orders; to harmonize provisions; to repeal the original sections; and to outright repeal sections 24-586, 24-587, 24-588, 24-589, 24-590, and 29-827, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 25-2740, Revised Statutes Supplement, 1997, is amended to read:

25-2740. (1) For purposes of this section, domestic relations matters means all proceedings under sections 6 and 7 of this act (including harassment protection orders and valid foreign harassment protection orders), the Conciliation Court Law and sections 42-347 to 42-381 (including dissolution, separation, annulment, custody, and support), section 43-512.04 (including child support or medical support), section 42-924 (including domestic protection orders), sections 43-1401 to 43-1418 (including paternity and parental support), and sections 43-1801 to 43-1803 (including grandparent visitation).

(2) In all domestic relations matters, a party shall file his or her petition and all other court filings with the clerk of the district court. The party shall state in the petition whether such party requests that the proceeding be heard by a county court judge or by a district court judge. If the party requests the case be heard by a county court judge, the county court judge assigned to hear cases in the county in which the matter is filed at the time of the hearing is deemed appointed by the district court and the consent of the county court judge is not required. Such proceeding is considered a district court proceeding, even if heard by a county court judge, and an order or judgment of the county court in a domestic relations matter has the force and effect of a district court judgment. The testimony in a domestic relations matter heard before a county court judge shall be preserved as provided in section 25-2732.

(3) Until January 1, 2000, upon motion of a party in a contested action, the proceeding shall be transferred from a county court judge to a district court judge.

Sec. 2. Section 28-101, Revised Statutes Supplement, 1997, is amended to read:

28-101. Sections 28-101 to 28-1348 and sections 6 and 7 of this act shall be known and may be cited as the Nebraska Criminal Code.

Sec. 3. Section 28-311.02, Reissue Revised Statutes of Nebraska, is amended to read:

28-311.02. (1) It is the intent of the Legislature to enact laws dealing with stalking offenses which will protect victims from being willfully harassed, intentionally terrified, threatened, or intimidated by individuals who intentionally follow, detain, stalk, or harass them or impose any restraint on their personal liberty and which will not prohibit constitutionally protected activities.

(2) For purposes of sections 28-311.02 to 28-311.05 and sections 6 and 7 of this act:

(a) Harass shall mean means to engage in a knowing and willful course of conduct directed at a specific person which seriously terrifies, threatens, or intimidates the person and which serves no legitimate purpose; and

(b) Course of conduct shall mean means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including a series of acts of following, detaining, restraining the personal liberty of, or stalking the person or telephoning, contacting, or otherwise communicating with the person.

Sec. 4. Section 28-311.03, Reissue Revised Statutes of Nebraska, is amended to read:

28-311.03. Any person who willfully and maliciously harasses another person with the intent to injure, terrify, threaten, or intimidate commits the offense of stalking.

Sec. 5. Section 28-311.05, Reissue Revised Statutes of Nebraska, is amended to read:

28-311.05. Sections 28-311.02 to 28-311.04 and sections 6 and 7 of this act shall not apply to conduct which occurs during labor picketing.

Sec. 6. (1) Any victim who has been harassed as defined by section 28-311.02 may file a petition and affidavit for a harassment protection order as provided in subsection (3) of this section. Upon the filing of such a petition and affidavit in support thereof, the judge or court may issue a harassment protection order without bond enjoining the respondent from (a) imposing any restraint upon the person or liberty of the petitioner, (b) harassing, threatening, assaulting, molesting, attacking, or otherwise disturbing the peace of the petitioner, or (c) telephoning, contacting, or otherwise communicating with the petitioner.

(2) The petition for a harassment protection order shall state the events and dates of acts constituting the alleged harassment.

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

(4) A petition for a harassment protection order filed pursuant to subsection (1) of this section may not be withdrawn except upon order of the court. An order issued pursuant to subsection (1) of this section shall specify that it is effective for a period of one year unless otherwise modified by the court. Any person who knowingly violates an order issued pursuant to subsection (1) of this section after service shall be guilty of a Class II misdemeanor.

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

(b) A court may also assess costs associated with the filing of a petition for a harassment protection order or the issuance or service of a harassment protection order seeking only the relief sought in the harassment protection order against the respondent.

(6) The clerk of the district court shall make available standard application and affidavit forms for a harassment protection order with instructions for completion to be used by a petitioner. The clerk and his or her employees shall not provide assistance in completing the forms. The State Court Administrator shall adopt and promulgate the standard application and affidavit forms provided for in this section as well as the standard temporary and final harassment protection order forms and provide a copy of such forms to all clerks of the district courts in this state. These standard temporary and final harassment protection order forms shall be the only such forms used in this state.

(7) Any order issued under subsection (1) of this section may be issued ex parte without notice to the respondent if it reasonably appears from the specific facts shown by affidavit of the petitioner that irreparable harm, loss, or damage will result before the matter can be heard on notice. If the specific facts included in the affidavit (a) do not show that the petitioner will suffer irreparable harm, loss, or damage or (b) show that, for any other compelling reason, an ex parte order should not be issued, the court or judge may forthwith cause notice of the application to be given to the adverse party stating that he or she may show cause, not more than fourteen days after service upon him or her, why such order should not be entered. If such ex parte order is issued without notice to the respondent, the court shall forthwith cause notice of the petition and order to be given the respondent stating that, upon service on the respondent, the order shall remain in effect for a period of one year unless the respondent shows cause why the order should not remain in effect for a period of one year. The court shall also cause to be served upon the respondent a form with which to request a

show-cause hearing. If the respondent wishes to appear and show cause why the order should not remain in effect for a period of one year, he or she shall affix his or her current address, telephone number, and signature to the form and return it to the clerk of the district court within five days after service upon him or her. Upon receipt of the request for a show-cause hearing, the court shall immediately schedule a show-cause hearing to be held within thirty days after the receipt of the request for a show-cause hearing and shall notify the petitioner and respondent of the hearing date.

(8) Upon the issuance of any harassment protection order under this section, the clerk of the court shall forthwith provide the petitioner, without charge, with two certified copies of such order. The clerk of the court shall also forthwith provide the local police department or local law enforcement agency and the local sheriff's office, without charge, with one copy each of such order and one copy each of the sheriff's return thereon. The clerk of the court shall also forthwith provide a copy of the harassment protection order to the sheriff's office in the county where the respondent may be personally served together with instructions for service. Upon receipt of the order and instructions for service, such sheriff's office shall forthwith serve the harassment protection order upon the respondent and file its return thereon with the clerk of the court which issued the harassment protection order within fourteen days of the issuance of the harassment protection order. If any harassment protection order is dismissed or modified by the court, the clerk of the court shall forthwith provide the local police department or local law enforcement agency and the local sheriff's office, without charge, with one copy each of the order of dismissal or modification.

(9) A peace officer may with or without a warrant arrest a person if (a) the officer has probable cause to believe that the person has committed a violation of an order issued pursuant to this section or a violation of a valid foreign harassment protection order recognized pursuant to section 7 of this act and (b) a petitioner under this section provides the peace officer with a copy of a harassment protection order or the peace officer determines that such an order exists after communicating with the local law enforcement agency or a person protected under a valid foreign harassment protection order recognized pursuant to section 7 of this act provides the peace officer with a copy of a valid foreign harassment protection order.

(10) A peace officer making an arrest pursuant to subsection (9) of this section shall take such person into custody and take such person before a judge of the county court or the court which issued the harassment protection order within a reasonable time. At such time the court shall establish the conditions of such person's release from custody, including the determination of bond or recognizance, as the case may be. The court shall issue an order directing that such person shall have no contact with the alleged victim of the harassment.

Sec. 7. (1) A valid foreign harassment protection order or order similar to a harassment protection order issued by a court of another state, tribe, or territory shall be accorded full faith and credit by the courts of this state and enforced as if it were issued in this state.

(2) A foreign harassment order issued by a court of another state, tribe, or territory shall be valid if:

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

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

(c) The harassment order from another jurisdiction has not been rendered against both the petitioner and the respondent, unless: (i) The respondent filed a cross or counter petition, complaint, or other written pleading seeking such a harassment order; and (ii) the issuing court made specific findings of harassment against both the petitioner and respondent and determined that each party was entitled to such an order. There is a presumption of the validity of the foreign protection order when the order appears authentic on its face.

(3) A peace officer may rely upon a copy of any putative valid foreign harassment protection order which has been provided to the peace officer by any source.

Sec. 8. Section 29-104, Reissue Revised Statutes of Nebraska, is amended to read:

29-104. The term prosecuting attorney shall mean means any county attorney. Such term shall also mean any or city attorney or assistant city attorney in a city of the metropolitan class when such attorney is prosecuting any violation designated as a misdemeanor or traffic infraction.

Sec. 9. Section 29-113, Reissue Revised Statutes of Nebraska, is



amended to read:

29-115. Any person aggrieved by a statement taken from him or her which is not a voluntary statement, or any statement which he or she believes was taken from him or her in violation of the fifth or sixth amendments of the Constitution of the United States, may move for suppression of such statement for use as evidence against him or her. The suppression motion shall be filed in the district court where a felony is charged and may be made at any time after the information or indictment is filed, and must be filed at least ten days before trial, unless otherwise permitted by the court for good cause shown. When the charge is other than a felony, the motion shall be filed in the court where the complaint is pending, and must be filed at least ten days before trial or at the time of the plea to the complaint, whichever is later, unless otherwise permitted by the court for good cause shown. Unless claims of a statement being involuntary or taken in violation of the fifth or sixth amendments of the Constitution of the United States are raised by motion before trial as provided in this section, all objections to the use of such statements as evidence on these grounds shall be deemed waived, except that the court may entertain such motions to suppress after the commencement of trial when the defendant is surprised by the introduction of such statements by the state, and also the court in its discretion may entertain motions to suppress such statements when the defendant was not aware of the grounds for any such motion before the commencement of trial, or in such situations as the court deems that justice may require. In the event that the trial court entertains any such motion after the commencement of trial, the defendant shall be deemed to have waived any jeopardy which may have attached. None of the foregoing shall affect the right of the defendant to present the question of the voluntariness of the statement, or the question of whether the proper constitutional safeguards were given to any defendant either in custody or otherwise significantly deprived of his or her liberty, for the consideration of the fact finder at trial.

Sec. 10. Section 29-116, Reissue Revised Statutes of Nebraska, is amended to read:

29-116. (1) In addition to any other rights of appeal, the state shall have the right to appeal from an order granting a motion for the suppression of statements alleged to be involuntary or in violation of the fifth or sixth amendments of the Constitution of the United States in the manner provided in this section.

(2) If when such motion has been granted in the district court, the Attorney General or the county attorney or prosecuting officer attorney with the consent of the Attorney General may file his or her application with the Clerk of the Supreme Court asking for a summary review of the order granting the motion. The review shall be made by a judge of the Court of Appeals at chambers upon such notice, briefs, and argument as the judge directs, after which such judge shall enter his or her order affirming, reversing, or modifying the order submitted for review, and upon any trial on the general issue thereafter, the parties and the trial court shall be bound by such order. Upon conviction after trial the defendant may on appeal challenge the correctness of the order by the judge.

(3) If such motion has been granted in the county court, the Attorney General or the county attorney or prosecuting attorney may file his or her application with the clerk of the district court in the district in which the motion has been granted asking for a summary review of the order granting the motion. The review shall be made by a judge of the district court upon such notice, briefs, and arguments as the judge directs, after which such judge shall enter his or her order affirming, reversing, or modifying the order submitted for review, and upon any trial on the general issue thereafter the parties and the trial court shall be bound by such order. Upon conviction after trial the defendant may on appeal challenge the correctness of the order by the judge.

Sec. 11. Section 29-117, Reissue Revised Statutes of Nebraska, is amended to read:

29-117. The application for review provided in section 29-116 shall be accompanied by a copy of the order of the ~~district trial~~ court granting the motion to suppress and a transcript of all the evidence, including affidavits, considered by the ~~district trial~~ court in its ruling on the motion, and so certified by the ~~district trial~~ court. The application shall be filed with the Clerk of the Supreme Court, if the trial court is the district court, or with the clerk of the district court, if the trial court is the county court, within such time as may be ordered by the ~~district trial~~ court, which in fixing such time shall take into consideration the length of time required to prepare the necessary transcripts, and shall also consider whether the defendant is in jail or whether he or she is on bail, but in no event shall

more than thirty days be given in which to file such application.

Sec. 12. Section 29-118, Reissue Revised Statutes of Nebraska, is amended to read:

29-118. In making an order granting a motion to suppress a statement, the ~~district~~ trial court shall in such order fix a time, not exceeding ten days, in which the county attorney or other prosecuting ~~offices~~ attorney may file a notice with the clerk of such court of his or her intention to seek a review of the order. Upon the filing of such notice, the ~~district~~ trial court shall fix a time in which the application for review shall be filed with the Clerk of the Supreme Court clerk of the appellate court.

Sec. 13. Section 29-824, Reissue Revised Statutes of Nebraska, is amended to read:

29-824. (1) In addition to any other right to appeal, the state shall have the right to appeal from an order granting a motion for the return of seized property and to suppress evidence in the manner provided in sections 29-824 to 29-826.

(2) If such motion has been granted in district court, the Attorney General or the county attorney or prosecuting ~~offices~~ attorney with the consent of the Attorney General may file his or her application with the Clerk of the Supreme Court asking for a summary review of the order granting the motion. The review shall be made by a judge of the Court of Appeals at chambers upon such notice, briefs, and argument as the judge directs, after which such judge shall enter his or her order affirming, reversing, or modifying the order submitted for review, and upon any trial on the general issue thereafter the parties and the trial court shall be bound by such order. Upon conviction after trial the defendant may on appeal challenge the correctness of the order by the judge.

(3) If such motion has been granted in the county court, the Attorney General or the county attorney or prosecuting attorney may file his or her application with the clerk of the district court in the district in which the motion has been granted asking for a summary review of the order granting the motion. The review shall be made by a judge of the district court upon such notice, briefs, and arguments as the judge directs, after which such judge shall enter his or her order affirming, reversing, or modifying the order submitted for review, and upon any trial on the general issue thereafter the parties and the trial court shall be bound by such order. Upon conviction after trial the defendant may on appeal challenge the correctness of the order by the judge.

Sec. 14. Section 29-825, Reissue Revised Statutes of Nebraska, is amended to read:

29-825. The application for review provided in section 29-824 shall be accompanied by a copy of the order of the ~~district~~ trial court granting the motion to suppress and a transcript of all of the evidence, including affidavits, considered by the ~~district~~ trial court in its ruling on the motion, and so certified by the ~~district~~ trial court. The application shall be filed with the Clerk of the Supreme Court, if the trial court is the district court, or with the clerk of the district court, if the trial court is the county court, within such time as may be ordered by the ~~district~~ trial court, which in fixing such time shall take into consideration the length of time required to prepare the necessary transcript, and shall also consider whether the defendant is in jail or whether he or she is on bail, but in no event shall more than thirty days be given in which to file such application.

Sec. 15. Section 29-826, Reissue Revised Statutes of Nebraska, is amended to read:

29-826. In making an order granting a motion to suppress and to return property, the ~~district~~ trial court shall in such order fix a time, not exceeding ten days, in which the county attorney or other prosecuting ~~officer~~ attorney may file a notice with the clerk of such court of his or her intention to seek a review of the order. Upon the filing of such notice the ~~district~~ trial court shall fix the time in which the application for review shall be filed with the ~~Clerk of the Supreme Court~~ appellate court, and shall make an appropriate order for custody of the property pending completion of the review.

Sec. 16. Section 29-2262, Revised Statutes Supplement, 1997, is amended to read:

29-2262. (1) When a court sentences an offender to probation, it shall attach such reasonable conditions as it deems necessary or likely to insure that the offender will lead a law-abiding life. No offender shall be sentenced to probation if he or she is deemed to be a habitual criminal pursuant to section 29-2221.

(2) The court may, as a condition of a sentence of probation,

require the offender:

- (a) To refrain from unlawful conduct;
- (b) To be confined periodically in the county jail or to return to custody after specified hours but not to exceed (i) for misdemeanors, the lesser of ninety days or the maximum jail term provided by law for the offense and (ii) for felonies, one hundred eighty days;
- (c) To meet his or her family responsibilities;
- (d) To devote himself or herself to a specific employment or occupation;
- (e) To undergo medical or psychiatric treatment and to enter and remain in a specified institution for such purpose;
- (f) To pursue a prescribed secular course of study or vocational training;
- (g) To attend or reside in a facility established for the instruction, recreation, or residence of persons on probation;
- (h) To refrain from frequenting unlawful or disreputable places or consorting with disreputable persons;
- (i) To have in his or her possession no firearm or other dangerous weapon unless granted written permission;
- (j) To remain within the jurisdiction of the court and to notify the court or the probation officer of any change in his or her address or his or her employment;
- (k) To report as directed to the court or a probation officer and to permit the officer to visit his or her home;
- (l) To pay a fine in one or more payments as ordered;
- (m) To work, in lieu of or in addition to any fine, on public streets, parks, or other public property for a period not exceeding twenty working days. Such work shall be under the supervision of the probation officer or a law enforcement officer in the jurisdiction in which the work is performed;
- (n) To pay for tests to determine the presence of drugs or alcohol, psychological evaluations, and rehabilitative services required in the identification, evaluation, and treatment of offenders if such offender has the financial ability to pay for such services;
- (o) To perform community service as defined in section 29-2277;
- (p) To be monitored by an electronic surveillance device or system and to pay the cost of such device or system if the offender has the financial ability;
- (q) To participate in a community correctional facility or program as provided in section 47-610;
- (r) To successfully complete an incarceration work camp program as determined by the Department of Correctional Services; or
- (s) To satisfy any other conditions reasonably related to the rehabilitation of the offender.

~~(3) In all cases in which the offender is guilty of assault or battery and the victim is the offender's spouse, a condition of probation shall be mandatory counseling as provided by the Protection from Domestic Abuse Act.~~

~~(4) In all cases in which the offender is guilty of violating section 28-416, a condition of probation shall be mandatory treatment and counseling as provided by such section.~~

Sec. 17. Section 42-901, Revised Statutes Supplement, 1997, is amended to read:

42-901. Sections 42-901 to 42-930 and sections 26 and 27 of this act shall be known and may be cited as the Protection from Domestic Abuse Act.

Sec. 18. Section 42-903, Revised Statutes Supplement, 1996, is amended to read:

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

(1) Abuse shall mean means the occurrence of one or more of the following acts between household members:

- (a) Attempting to cause or intentionally, knowingly, or recklessly causing bodily injury with or without a deadly weapon; or
- (b) Placing, by physical menace, another in fear of imminent bodily injury;

(2) Course of conduct shall mean a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including a series of acts of following, detaining, restraining the personal liberty of, or stalking the person or telephoning the person;

~~(3) Department shall mean means the Department of Health and Human Services;~~

~~44) (3). Family or household members shall include includes spouses~~

or former spouses, children, persons who are presently residing together or who have resided together in the past, persons who have a child in common whether or not they have been married or have lived together at any time, and other persons related by consanguinity or affinity; and

(5) Harass shall mean to engage in a knowing and willful course of conduct directed at a specific person which seriously terrifies, threatens, or intimidates the person and which serves no legitimate purpose; and

(6) (4) Law enforcement agency shall mean means the police department or town marshal in incorporated municipalities and the office of the sheriff in unincorporated areas.

Sec. 19. Section 42-905, Reissue Revised Statutes of Nebraska, is amended to read:

42-905. The comprehensive support services shall include, but not be limited to:

- (1) Emergency services for victims of abuse and their families;
- (2) Support programs that meet specific needs of victims of abuse and their families;
- (3) Education, counseling, and supportive programs for the abuser;
- (4) Programs to aid in the prevention and elimination of domestic violence which shall include education and public awareness; and
- (5) Assistance in completing the standard application petition and affidavit forms for persons who file an application a petition and affidavit for a protection order.

Sec. 20. Section 42-924, Revised Statutes Supplement, 1997, is amended to read:

42-924. (1) Any victim of domestic abuse or any victim who has been willfully and maliciously harassed by a person who had the intent to terrify, threaten, or intimidate the victim as prohibited by section 28-311.03 may file an application a petition and affidavit for a protection order as provided in subsection (3) (2) of this section. Upon the filing of such an application a petition and affidavit in support thereof, the judge or court may issue a protection order without bond granting the following relief:

- (a) Enjoining the respondent from imposing any restraint upon the petitioner or upon the liberty of the petitioner;
- (b) Enjoining the respondent from threatening, assaulting, molesting, attacking, or otherwise disturbing the peace of the petitioner;
- (c) Enjoining the respondent from telephoning, contacting, or otherwise communicating with the petitioner;
- (d) Removing and excluding the respondent from the residence of the petitioner, regardless of the ownership of the residence;
- (e) Ordering the respondent to stay away from any place specified by the court;
- (f) Awarding the petitioner temporary custody of any minor children not to exceed ninety days; or
- (g) Ordering such other relief deemed necessary to provide for the safety and welfare of the petitioner and any designated family or household member.

enjoining the adverse party from (4) imposing any restraint upon the person or liberty of the applicant or (b) threatening, assaulting, molesting, attacking, or otherwise disturbing the peace of the applicant.

(2) Application for a protection order providing for removal of the adverse party from the premises occupied by the victim of domestic abuse shall require notice and hearing. Such hearing shall be scheduled as soon as possible after entry of the protection order but in no event later than fourteen days after entry of the protection order. The court may order either party excluded from the premises occupied by the other upon a showing that physical or emotional harm would otherwise result. Any such order issued shall specifically set forth the location of the premises and shall be personally served, and a return thereof shall be filed in district court.

(3) Applications (2) Petitions for protection orders shall be filed with the clerk of the district court, and the proceeding may be heard by the county court or the district court as provided in section 25-2740.

(4) An application made (3) A petition filed pursuant to subsection (1) or (2) of this section may not be withdrawn except upon order of the court. An order issued pursuant to subsection (1) or (2) of this section shall specify that it is effective for a period of one year and, if the order grants temporary custody, the number of days of custody granted to the petitioner unless otherwise modified by the court. Except as provided in section 28-311.04, any Any person who knowingly violates an order issued pursuant to subsection (1) or (2) of this section or section 26 of this act after service shall be guilty of a Class II misdemeanor, except that (a) any person convicted of violating such order who has a prior conviction for violating a protection order shall be guilty of a Class I misdemeanor and (b)



any person convicted of violating such order who has a prior conviction for violating the same protection order shall be guilty of a Class IV felony.

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

Sec. 21. Section 42-924.01, Revised Statutes Supplement, 1997, is amended to read:

42-924.01. Fees to cover costs associated with the filing-issuance, of a petition for a protection order or the issuance or service of a protection order seeking only the relief provided by the Protection from Domestic Abuse Act shall not be charged, except that a court may assess such fees and costs if the court finds, by clear and convincing evidence, that the statements contained in the application petition were false and that the protection order was sought in bad faith.

At the final hearing, a court may assess costs associated with the filing, issuance, of a petition for a protection order or the issuance or service of a protection order seeking only the relief provided by the Protection from Domestic Abuse Act against the adverse party respondent.

Sec. 22. Section 42-924.02, Revised Statutes Supplement, 1997, is amended to read:

42-924.02. The clerk of the district court shall make available standard application petition and affidavit forms for a protection order all types of protection orders provided by law with instructions for completion to be used by an applicant a petitioner. The clerk and his or her employees shall not provide assistance in completing the forms. The State Court Administrator shall adopt and promulgate the standard application petition and affidavit forms provided for in this section as well as the standard temporary and final protection order forms and provide a copy of such forms to all clerks of the district courts in this state. These standard temporary and final protection order forms shall be the only such forms used in this state.

Sec. 23. Section 42-925, Reissue Revised Statutes of Nebraska, is amended to read:

42-925. Any order issued under subsection (1) or (2) of section 42-924 may be issued ex parte without notice to the adverse party respondent if it reasonably appears from the specific facts shown by included in the affidavit of the applicant that irreparable harm, loss, or damage will result that the petitioner will be in immediate danger of abuse before the matter can be heard on notice. In the alternative (1) If the specific facts included in the affidavit do not show that the petitioner will be in immediate danger of abuse or (2) if the court does not issue an ex parte order or grants only part of the relief sought, the court or judge may forthwith cause immediate notice of the application petition to be given to the adverse party respondent stating that he or she may show cause, not more than fourteen days after service upon him or her, why such order should not be entered. If such ex parte order is issued without notice to the adverse party respondent, the court shall forthwith cause immediate notice of the application petition and order to be given the adverse party respondent stating that, upon service on the respondent, the order shall remain in effect for a period of one year and, if the order grants temporary custody, that such custody shall not exceed the number of days specified by the court unless the respondent shows cause why the order should not remain in effect. The court shall also cause to be served upon the respondent a form with which to request a show-cause hearing. If the respondent wishes to appear and show cause why the order should not remain in effect, he or she shall affix his or her current address, telephone number, and signature to the form and return it to the clerk of the district court within five days after service upon him or her. Upon receipt of the request for a show-cause hearing, the court shall immediately schedule a show-cause hearing to be held within thirty days after the receipt of the request for a show-cause hearing and shall notify the petitioner and respondent of the hearing date. he or she may show cause, not less than five days after service upon him or her, why such order should not remain in effect. If the judge of the district court and the judge of the conciliation court are absent from the county, any judge of the county court may issue a temporary ex parte order in accordance with this section.

Sec. 24. Section 42-926, Reissue Revised Statutes of Nebraska, is amended to read:

42-926. Upon the issuance of any protection order under section 42-925, the clerk of the court shall forthwith provide the applicant petitioner, without charge, with two certified copies of such order. The clerk of the court shall also forthwith provide the local police department or local law enforcement agency and the local sheriff's office, without charge, with one copy each of such order and one copy each of the sheriff's return thereon. The clerk of the court shall also forthwith provide a copy of the



protection order to the sheriff's office in the county where the adverse party respondent may be personally served together with instructions for service. Upon receipt of the order and instructions for service, such sheriff's office shall forthwith serve the protection order upon the adverse party respondent and file its return thereon with the clerk of the court which issued the protection order within fourteen days of the issuance of the protection order. If any protection order is dismissed or modified by the court, the clerk of the court shall forthwith provide the local police department or local law enforcement agency and the local sheriff's office, without charge, with one copy each of the order of dismissal or modification.

Sec. 25. Section 42-928, Reissue Revised Statutes of Nebraska, is amended to read:

42-928. A peace officer shall with or without a warrant arrest a person if (1) the officer has probable cause to believe that the person has committed a violation of an order issued pursuant to section 42-924, a violation of section 42-925, or a violation of an order excluding a person from certain premises issued pursuant to section 42-357, or a violation of a valid foreign protection order recognized pursuant to section 26 of this act and (2) an applicant a petitioner under section 42-924 or 42-925, or an applicant for an order excluding a person from certain premises issued pursuant to section 42-357, or a person protected under a valid foreign protection order recognized pursuant to section 26 of this act provides the peace officer with a copy of a protection order or an order excluding a person from certain premises issued under such sections or the peace officer determines that such an order exists after communicating with the local law enforcement agency.

Sec. 26. (1) A valid foreign protection order related to domestic or family abuse issued by a court of another state, tribe, or territory shall be accorded full faith and credit by the courts of this state and enforced as if it were issued in this state.

(2) A foreign protection order related to domestic or family abuse issued by a court of another state, tribe, or territory shall be valid if:

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

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

(c) The protection order from another jurisdiction has not been rendered against both the petitioner and the respondent, unless: (i) The respondent filed a cross or counter petition, complaint, or other written pleading seeking such a protection order; and (ii) the issuing court made specific findings of domestic or family abuse against both the petitioner and respondent and determined that each party was entitled to such an order. There is a presumption of the validity of the foreign protection order when the order appears authentic on its face.

(3) A peace officer may rely upon a copy of any putatively valid foreign protection order which has been provided to the peace officer by any source.

Sec. 27. A court shall only grant a respondent a protection order if (1) the respondent files a cross or counter petition seeking a protection order and (2) the issuing court makes specific findings of domestic or family abuse against the respondent and determines that the respondent is entitled to a protection order.

Sec. 28. Original sections 28-311.02, 28-311.03, 28-311.05, 29-104, 29-115, 29-116, 29-117, 29-118, 29-824, 29-825, 29-826, 42-905, 42-925, 42-926, and 42-928, Reissue Revised Statutes of Nebraska, section 42-903, Revised Statutes Supplement, 1996, and sections 25-2740, 28-101, 29-2262, 42-901, 42-924, 42-924.01, and 42-924.02, Revised Statutes Supplement, 1997, are repealed.

Sec. 29. The following sections are outright repealed: Sections 24-586, 24-587, 24-588, 24-589, 24-590, and 29-827, Reissue Revised Statutes of Nebraska.