

# Nebraska State CASA Convention

## April 22, 2017



# The Law, The Legal System, and The Administration of Justice in Nebraska



# The Legal System



# Nebraska County Courts

- 58 judges across Nebraska
- Jurisdiction: misdemeanor criminal cases; preliminary hearings in felony cases; civil cases involving less than \$53,000; small claims cases involving less than \$3,600; probate, guardianship, conservatorship, adoption, and eminent domain; also functions as juvenile court except in Douglas, Lancaster and Sarpy Counties

# Nebraska Judges

- Appointment: merit selection system, judicial nominating commission
- Qualifications: U.S. citizen, at least 30, practice for 5+ years in NE, and currently admitted to practice in NE
- Retention: every 6 years

# Nebraska District Courts

- 55 Judges across Nebraska
- Trial court of general jurisdiction
- Felony criminal cases; domestic relations cases; certain civil cases
- Appellate court on most cases from county court
- Appellate court for administrative agency appeals

# Nebraska Court of Appeals

- 6 judges, panels of 3 hear appeals across Nebraska
- Intermediate Court of Appeals
- Chief Judge Frankie Moore
- Judges Inbody, Pirtle, Riedmann, Bishop and Arterburn



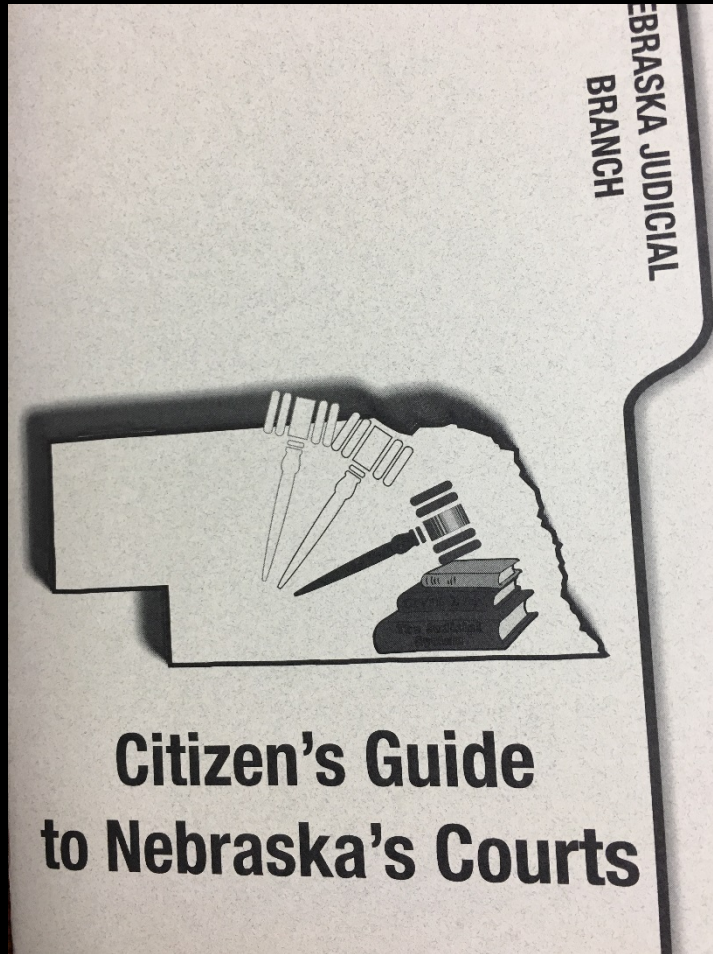
# Nebraska Supreme Court

- Chief Justice and 6 Associate Justices
- Highest State Appellate Court
- Chief Justice Heavican
- Associate Justices Wright, Miller-Lerman, Cassel, Stacy, Kelch, and Funke

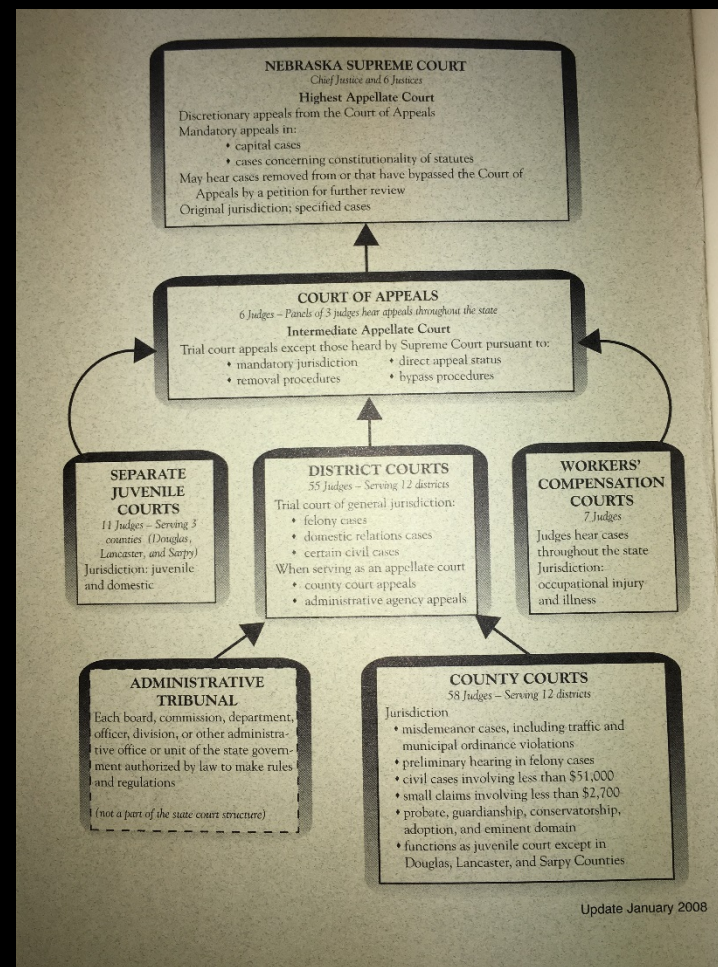
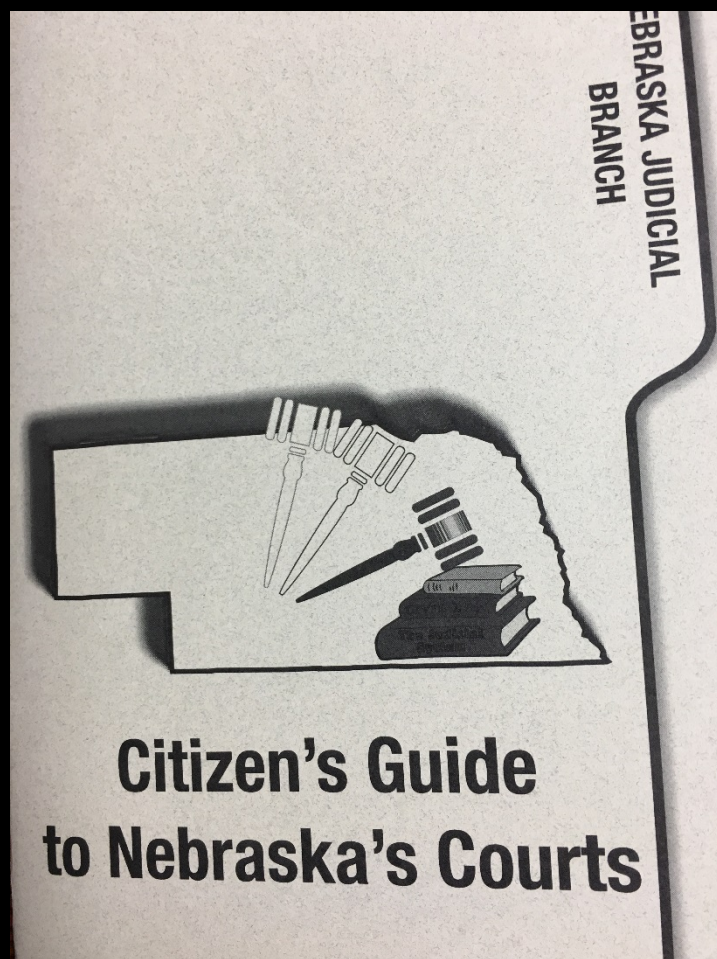




# Review: Nebraska Judicial System



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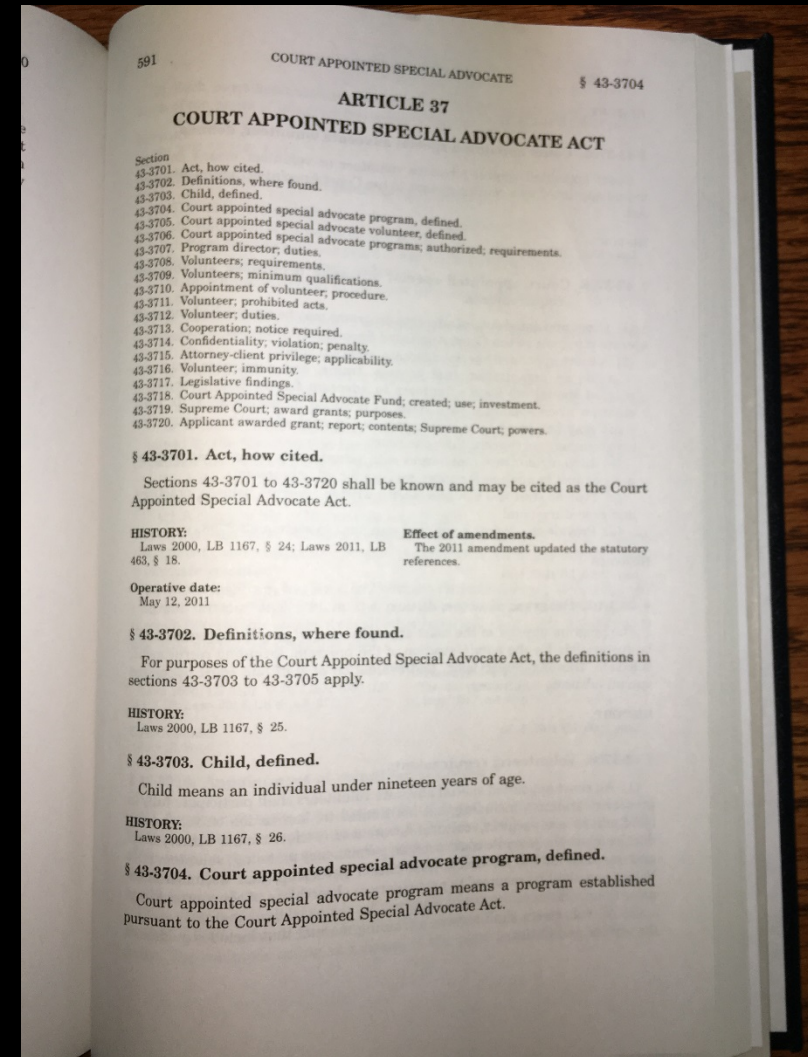


# A brush-up on the Law ....



# Court Appointed Special Advocate Act

- Neb. Rev. Stat. 43-3701 et seq.
- Enacted in 2000
- 20 sections, relatively short



## 43-3710 Appointment of Volunteer, Procedure

- CASA can be appointed in any proceeding under 43-247 or 43-292 when, in the opinion of the judge:
  - a child who may be affected by such proceeding requires services that a volunteer can provide, and
  - the court finds that the appointment is in the best interests of the child.

## 43-3710(2) Appointment Procedure, Cont'd

- Requires a court order
- Order shall specify volunteer “as a friend of the court acting on the authority of the judge.”
- Volunteer may then offer as evidence a written report with recommendations consistent with best interests of child
- Report is subject to “all pertinent objections.”

# Court Order Appointing CASA

IN THE COUNTY COURT OF SCOTTS BLUFF COUNTY, NEBRASKA

IN THE INTERESTS OF	)	CASE NO. JV _____
	)	
	)	ORDER APPOINTING CASA VOLUNTEER
_____	)	(COURT APPOINTED SPECIAL ADVOCATE)
A Minor Child Under 18 Years of Age.	)	

NOW ON this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, consistent with the Court Appointed Special Advocate Act, Neb. Rev. Stat. § 43-3701 *et seq.*, the court finds the above-referenced minor child requires services that a Court Appointed Special Advocate (hereinafter referred to as "CASA") can provide, and appointment of a CASA volunteer is in the best interests of said child.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that \_\_\_\_\_, a qualified volunteer under the supervision of the director and employees of the CASA program of Scotts Bluff County, Nebraska, should be and hereby is appointed as CASA volunteer and friend of the Court in the above-referenced action. Said CASA volunteer shall:

1. Conduct an independent examination regarding the best interests of the child that will provide factual information to the court regarding the child and the child's family, which may include interviews with and observations of the child, interviews with other appropriate individuals, and the review of relevant records and reports;
2. Determine if an appropriate permanency plan has been created for the child, whether appropriate services are being provided to the child and the child's family, and whether a treatment plan is progressing in a timely manner;
3. Prepare a written report to be distributed to the court and the parties to the proceeding and make recommendations consistent with the best interests of the child regarding placement, visitation, and appropriate services for the child and the child's family;
4. Monitor the case to assure that the child's essential needs are being met and make every effort to attend all hearings, meetings, and any other proceeding concerning the case; and
5. Testify if called by any party or the court as a witness in a proceeding.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED as follows:

1. Consistent with the requirements of Neb. Rev. Stat. § 43-3713, all government agencies (including but not limited to the Nebraska Department of Health and Human Services and its subcontractors), service providers, professionals, school districts, school personnel, parents, and families shall cooperate with all reasonable requests of the CASA volunteer. Upon presentation of a copy of this Order to any such entity or individual, said CASA volunteer shall be permitted to access the minor child and all relevant records and files of said entity and/or individual pertaining to the child and the child's parent(s), guardian(s), and/or custodian(s) to include, but not limited to, all notes, correspondence, files, records, assessments, evaluations, test results, case plans, court reports, and any other relevant documentation.
2. The CASA volunteer shall have access to the child and all court records pertaining to such child and the child's parent(s), guardian(s), and/or custodian(s).
3. The contents of any document, record, or other information relating to a case to which a CASA volunteer has access are confidential, and the CASA volunteer shall not disclose such information to persons other than the court, the parties to the action, and other persons authorized by the court.
4. The CASA volunteer shall be notified in a timely manner of all hearings, meetings, and any other proceeding concerning the case.
5. This appointment shall continue pending further order of the court, and shall conclude upon termination of the court's jurisdiction over the child, upon discharge by the court, at the request of the director of the CASA Program of Scotts Bluff County with the court's approval, or upon successful motion of a party.

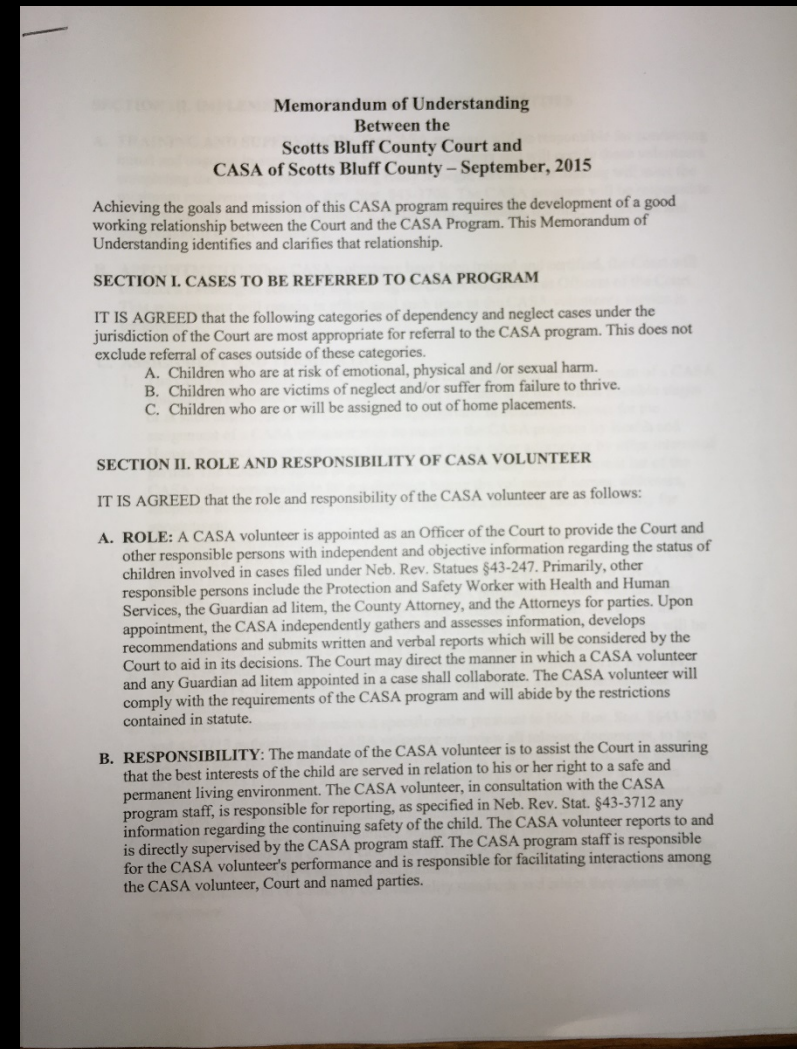
BY THE COURT:

\_\_\_\_\_  
County Court Judge



# 43-3710(3) CASA Appointment, cont'd

- “A memorandum of understanding between a court and a court appointed special advocate program is required in any county where a program is established and shall set forth the roles and responsibilities of the court appointed special advocate volunteer.”





## 43-3710 CASA Appointment, Conclusion

- CASA Volunteer's Appointment Concludes 1 of 4 ways:
- When the court's jurisdiction terminates (closed case)
- Upon discharge on court's own motion
- With court's approval, at request of program director
- Upon successful motion of a party (alleging acted inappropriately, unqualified, or unsuitable)

## “YOU’RE FIRED ...”

- 43-3711: A CASA shall NOT—
  - Accept any compensation
  - Have any association that creates a conflict of interest
  - Be related to any party or attorney in case
  - Be employed in position “that could result in a conflict of interest or give rise to appearance of a conflict”
  - Use position to seek/accept gifts or special privileges

## 43-3714: YOU'RE FIRED & GO TO JAIL ...

- CASA Volunteer shall not disclose confidential information to persons other than the court, the parties to the action, and other persons authorized by the court. A violation is a Class III misdemeanor.
- 90 days in jail and/or up to \$500 fine

## 43-3712 The Good Stuff – Volunteer Duties

- Conduct independent examination regarding best interests of the child that will provide factual information to the court regarding the child & child's family.
  - Interviews
  - Observations
  - Review of records

## 43-3712(1)(b) Volunteer Duties, Cont'd

- Determine if appropriate permanency plan exists
- Inquire whether appropriate services are provided
- Examine whether case plan is progressing timely
- Make recommendations for placement, visitation, and services for child and family
- Prepare written report for court and parties

## 43-3712(3), (4) & (5)

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- AND YOU MIGHT GET IN THE ACTION ...
- 43-3712(5): "The volunteer may be called as a witness in a proceeding by any party or the court."

# 43-3713 CAN'T WE ALL JUST GET ALONG ...

appointed.

(5) The volunteer may be called as a witness in a proceeding by any party or the court.

## **HISTORY:**

Laws 2000, LB 1167, § 35.

### **§ 43-3713. Cooperation; notice required.**

(1) All government agencies, service providers, professionals, school districts, school personnel, parents, and families shall cooperate with all reasonable requests of the court appointed special advocate volunteer. The volunteer shall cooperate with all government agencies, service providers, professionals, school districts, school personnel, parents, and families.

(2) The volunteer shall be notified in a timely manner of all hearings, meetings, and any other proceeding concerning the case to which he or she has been appointed. The court in its discretion may proceed notwithstanding failure to notify the volunteer or failure of the volunteer to appear.

## **HISTORY:**

Laws 2000, LB 1167, § 36; Laws 2009, LB 35, § 30.

## **Effect of amendments.**

The 2009 amendment added "school districts, school personnel" twice in (1).

## **Operative date:**

August 30, 2009.

### **§ 43-3714. Confidentiality; violation; penalty.**

any document, record, or other information relating to a case has access are



## Quiz Time ...

- What is age of majority in Nebraska? 43-245(2)
- How does the law define a “juvenile”? 43-245(11)
- What are the minimum number of hours of inservice training per year for CASA volunteers? 43-3710(3)
- Name 5 statutory duties of a CASA volunteer. 43-3712
- Is a CASA volunteer a “friend of the court”? 43-3710(2)

# The Administration of Justice, Juvenile Court



# Judge Mickey's Top 10 CASA Tips

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- 6. Proofread your report, it represents you!

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- 4. Articulate specific factors/best interests of the child!
- 3. Ask for something if you want it ordered!
- 2. Use technology to your benefit! E-report? Video?
- 1. Follow instructions ....

Hon. Kristen D. Mickey

County Court Judge, Scotts Bluff County, Nebraska

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