

Nebraska Mediation Screening Tool

The Nebraska Parenting Act, Neb. Rev. Stat. §43-2939 (2007)

NOTE TO MEDIATOR:

Neb. Rev. Stat. §43-2939 (2007) states: “(1) A Parenting Act mediator, prior to meeting with the parties in an initial mediation session, shall provide an individual initial screening session with each party to assess the presence of child abuse or neglect, unresolved parental conflict, domestic intimate partner abuse, other forms of intimidation or coercion, or a party’s inability to negotiate freely and make informed decisions. If any of these conditions exist, the mediator shall not proceed with the mediation session but shall proceed with a specialized alternative dispute resolution process that addresses safety measures for the parties, if the mediator is on the approved specialist list of an approved mediation center or court conciliation program, or shall refer the parties to a mediator who is so qualified. . . . The mediator has the duty to determine whether to proceed in joint session, individual sessions, or caucus meetings with the parties in order to address safety and freedom to negotiate. In any mediation or specialized alternative dispute resolution, a mediator has the ongoing duty to assess appropriateness of the process and safety of the process upon the parties.”

This screening tool was developed under the provisions identified by Neb. Rev. Stat. §43-2927 (2007) and has been approved by the Nebraska State Court Administrator. The information contained herein is considered to meet minimum requirements of the Act; however, mediators must use their own judgment in terms of the screening process, assessment, and decision-making. The tool is based in part upon the “domestic abuse power wheel” and its domains of power and control, and is designed to address the statutorily defined risks of ability to negotiate, child abuse or neglect, unresolved parental conflict, and other forms of intimidation and coercion. While this tool addresses the statutory risk areas, mediators are encouraged to add more specific questions to explore a specific risk area should the situation warrant.

In addition to screening for safety issues and ability to negotiate freely, it is the mediator’s duty to determine whether to: (a) proceed with mediation; (b) proceed with specialized ADR; or (c) to terminate the mediation process in its entirety. A sample script to introduce the mediation screening is provided at the beginning of the tool. A sample mediation assessment is provided at the end of the tool. The screening is to be done for each and every Parenting Act client, face-to-face, in a private setting. The estimated amount of time for screening each person is a minimum of fifteen minutes, with likely average time of thirty to forty-five minutes.

Sample Mediator Script

It is important that I know as much about your relationship as possible, so I can assist you to develop a parenting plan that is safe and effective for you and your children. To do so, I need to ask you some routine questions that I ask all of my clients to determine all relevant facts. These questions are required by law. I apologize if any of them make you uncomfortable, but I would rather risk offending you than not help you stay safe. Remember that everything you tell me is confidential, except for unreported child abuse or neglect. Is this a safe place and a good time to talk with you? This interview is for me to determine which approach and what process is the safest and most helpful for you and the other parent to work out a Parenting Plan best for your children.

Mediator: If you have determined that this is a safe place and time to talk, and you have the mediation client with you alone in a private setting, then proceed with the following questions.

Mediation Screening Questions (the underlined spaces _____ indicate the other parent/party)

A. My initial question to you is: do you have any concerns, doubts, or fears about mediating or negotiating with the other parent? If so, please describe:

B. Do you have any concerns, doubts, or fears about being in the same room with the other parent? If so, please describe:

C. General Fear / Safety Issues: (if any answer is “Yes,” ask the party to describe further)

- What happens in your relationship when you disagree? Please describe: _____
- Do you feel that you or your children are in danger? Yes/No
- Do you have any fear/concerns about being able to talk about your children’s needs with _____ in the same room? Yes/No
- Do you feel safe being in the same room with _____? Yes/No
- Are you concerned about _____’s mental stability? Yes/No
- Do you have any concerns about drug or alcohol use by _____? Yes/No

D. Coercion and Threats: (if any answer is “Yes,” ask the party to describe further)

- Has _____ ever threatened you, your children, or family members? Yes/No
- Has _____ ever threatened to hurt him/herself? Yes/No
- Has _____ threatened you to not press charges or tell anyone about abuse that occurred? Yes/No

E. Isolation: (if any answer is “Yes,” ask the party to describe further)

- Has _____ or does _____ limit your contact with others (friends, family, co-workers)? Yes/No

F. Using the Children: (if any answer is “Yes,” ask the party to describe further)

- Tell me about the relationships you and _____ have with your children: _____
- Does _____:
 - undermine your authority with your children? Yes/No
 - engage in behavior that is abusive toward your children? Yes/No
 - neglect to take care of your children’s needs, such as needs for food, a healthy environment, medical care, etc. Yes/No
 - Has _____ ever taken the children without notice or permission? Yes/No
 - Has _____ ever threatened to take the children without permission? Yes/No

G. Legal Status (if any answer is “Yes,” ask the party to describe further)

- Are there other dissolution or modification proceedings active? Yes/No
- Is there a case active in juvenile court? Yes/No
- Is there an active restraining order, protection order, or other similar order? Yes/No
- Are there any other civil or criminal court actions impacting you, _____, your children, or _____’s children? Yes/No

H. Economic Abuse: (if any answer is “Yes,” ask the party to describe further)

- Describe how you and _____ handled finances and made financial decisions : _____
- Has _____ ever withheld your access to money or credit cards? Yes/No
- Has _____ ever forbid you to attend work or school? Yes/No
- Has _____ ever stolen from you or defrauded money or assets from you? Yes/No
- Has _____ ever exploited your resources for her/her personal gain? Yes/No
- Has _____ ever withheld physical resources such as food, clothing, necessary medications or shelter? Yes/No

I. Emotional Abuse: *(if any answer is “Yes,” ask the party to describe further)*

- Has _____ ever threatened or intimidated you to gain compliance? Yes/No
- Has _____ ever destroyed your personal property or threatened to do so? Yes/No
- Has _____ ever committed violence toward an animal or object in your presence? Yes/No
- Has _____ ever yelled, screamed, called you names, shamed, mocked or criticized you? Yes/No
- Has _____ ever been possessive of you? Yes/No
- Has _____ ever isolated you from friends or family? Yes/No

J. Gender-Based Privilege: *(if any answer is “Yes,” ask the party to describe further)*

- Describe how roles were divided between you and _____:
- Who:
 - helped with the children’s care
 - decided what your role was in the relationship or in the home
 - helped around the house with house cleaning, chores, etc
 - helped with outside chores
- Describe how decisions were made with _____:
- Does _____ express respect toward you? Yes/No

K. Intimidation: *(if any answer is “Yes,” ask the party to describe further)*

- Does _____ make you afraid by using looks, actions or gestures? Yes/No
- Has _____
 - ever destroyed property, particularly things that are important to you? Yes/No
 - displayed or talked about weapons in a way that caused you to be afraid? Yes/No
 - thrown or shoved objects in a way that caused you to be afraid? Yes/No
 - followed you, called you repeatedly, in a way that felt intimidating? Yes/No
 - gone through your mail, car, or household in a way that you felt violated? Yes/No
- Do you feel you shouldn’t talk about your relationship? Yes/No

L. Physical Abuse: *(if any answer is “Yes,” ask the party to describe further)*

- Describe any ways _____ has physically harmed you:
- Has _____
 - ever grabbed, pushed thrown or tripped you? Yes/No
 - pulled your hair, twisted your arm, pinned you down or slapped you? Yes/No
 - limited your access to food, drink, bathroom facilities, sleep medications or other physical self-care items? Yes/No

- ever thrown something at you? Yes/No
- hit, kicked, kneed or punched you anywhere on your body? Yes/No
- If you answered yes, were you pregnant at the time? Yes/No
- Has _____ ever strangled or “choked” you? Yes/No
- Have you ever needed medical attention as a result of _____’s actions? Yes/No

M. Sexual Abuse: *(if any answer is “Yes,” ask the party to describe further)*

- Have you felt forced to engage in unwanted sexual activity? Yes/No
- Are you concerned about _____’s inappropriate sexual behavior with or around children? Yes/No

N. Minimizing, Denying and Blaming: *(if any answer is “Yes,” ask the party to describe further)*

- When problems occurred during your relationship with _____, were you blamed for problems that weren’t your fault? Yes/No
- When problems occurred, were your feelings disregarded? Yes/No
- Did _____ feel justified for abusive behavior toward you? Yes/No
- Did _____ act as though abuse never happened, when it did? Yes/No

O. Other Concerns: Ability to Negotiate Freely and Make Informed Decisions

Mediator's Assessment:

The screening tool and process is to provide the mediator the opportunity to determine whether mediating in joint session is appropriate, referral to Specialized ADR is appropriate, or whether to terminate the mediation process itself. This page is to be completed by each mediator for each party after interviewing the client.

Again, to reiterate mediator process assessment duties defined under the Nebraska Parenting Act, (2007) §43-2939(1):

The mediator has the duty to determine whether to proceed in joint session, individual sessions, or caucus meetings with the parties in order to address safety and freedom to negotiate. In any mediation or specialized alternative dispute resolution, a mediator has the ongoing duty to assess appropriateness of the process and safety of the process upon the parties.

The following questions are provided to guide the mediator in this assessment. If the mediator providing this screening has not had the advanced specialized alternative dispute resolution (ADR) training, the mediator must not proceed with the intervention if answers to questions (2) or (3) below indicate that it is not appropriate to proceed with joint session mediation.

-
- 1. Do the responses to the screening process indicate that the person is appropriate for joint session mediation? Yes ___ No ___ Uncertain _____**
 - a. If the answer is “no” or “uncertain,” refer the party to Specialized ADR.**
 - b. If the answer is “yes,” continue with or refer the party to joint session mediation.**
 - 2. Is there a current protection order or other legal order that limits face-to-face encounter between both parents? Yes ___ No ___**
 - a. If the answer is “yes”, refer the party to Specialized ADR.**
 - b. If the answer is “no,” the party may or may not be appropriate for mediation, depending upon other responses.**
 - 3. Does the person being interviewed refuse to or have doubts about meeting face-to-face with the other parent?**
 - a. If the answer is “yes,” refer to Specialized ADR**
 - b. If the answer is “no,” the party may or may not be appropriate for mediation, depending upon other responses.**
 - 4. Do the responses indicate that neither joint session mediation nor Specialized ADR are appropriate for this matters?**
 - a. If so, the mediator must not proceed with any intervention, and terminate the process.**
 - b. The mediator should refer the party(s) to legal counsel, and other resources such as domestic violence serving agencies, social services, counselors, and others.**

Date _____ Name of Party Interviewed _____

Mediator _____ Recommendation _____