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**District Court of Nebraska**  
Fourth Judicial District

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As a district court judge in Douglas County, it is my honor to chair the Parenting Act Subcommittee of the Nebraska Supreme Court's Commission on Children in the Courts. The primary purpose of this subcommittee is to address issues regarding the courts' implementation of Nebraska's Parenting Act as it affects parents and children. This purpose naturally encompasses a very large scope of issues, including those studied by the National Center for State Courts in its Evaluation of Nebraska's Parenting Act, being released today, October 22, 2015.

Before I proceed with brief remarks regarding the National Center's evaluation, it is timely, and essential to take note of the range of cases in which the state's district court judges make ultimate parenting and custody decisions in parenting act cases. First and foremost, decisions on whether moms and dads have joint custody, shared parenting time, sole custody, or other divided parenting time are, in a majority of divorces, separations and non-married custody matters, made by the parents themselves. The points below describe Nebraska's court experience in custody matters.

1. Between 80-90% of parents make their own parenting plans for their children. Such plans are routinely approved by the courts. The parents make their own plans without the need for any laws or rules. The parents know and can agree on parenting plans which are the best for their children.

2. The small minority of parents who do not develop their own parenting plans, are required by judges to attempt to solve their dispute through mediation, most often with a state approved parenting mediator. Mediators are trained to be neutral and help parents solve difficult issues effecting their children and if future conflicts arise those mediated plans allow parents to return to mediation to work out those conflicts.

3. The parents who cannot agree upon the issues in a parenting plan that they believe to be in their children's best interest are few and those disputes after trying mediation, are the questions of serving the children's best interests and awarding custody and allocating parenting time which are presented to a Judge for determination.

4. To resolve the parents' disputes over their children, the judge presides at a hearing at which each parent presents evidence to support his or her claims.

5. After hearing both sides, the judge considers and weighs the evidence pursuant to the elements in statute and case law to determine what arrangements are in the best interests of the children and to develop a parenting plan to further those best interests.

6. After the judge decides the case, either parent can appeal. Very few parents appeal to a higher court, which indicates an acceptance by the parents of the parenting decisions made by the judge.

7. In those infrequent cases in which appeals are taken from parenting time decisions, very few parenting decisions are reversed by the appellate courts. This also indicates that trial judges properly apply the law and the legal principles designed to protect the best interests of the children.

In how many cases does a district court judge, rather than the parents themselves, make a determination of custody? Last year, (2014) our three largest jurisdictions reported the following: Douglas County, 14% or 226 out of 1,670 family law cases were tried; Lancaster County, 8% or 57 out of 748 cases were tried; and in Sarpy County, 2% or 9 out of 377 were tried and presented to the judge to make a best interests determination of parenting time allocation, custody, and related orders. This means that the converse, or 86% of parents in Douglas County, 92% of parents in Lancaster County, and 98% of parents in Sarpy County cooperatively develop a parenting plan, determining custody and time allocation on their own, without the judge being required to enter his or her order on the matter.

It is gratifying and encouraging that so many parents are making important custody and parenting decisions for the future of their children on their own. Parents together know what is best for their children. We as Nebraska judges endorse the concept that parents are increasingly supported by the justice system to make those personal, family decisions in custody and parenting time as they navigate through the difficult, stressful, and often uncertain weeks and months of separating and then re-establishing a restructured family system.

Having said that, there are the small minority of parents who are engrossed in continuing, destructive conflict which tragically impacts not only each other but their children. This persistent conflict gets played out in the court system because frankly, the statutory and court rules of the justice system dictate these adversarial procedures which unfortunately, exacerbate the already combustible dynamics between parents, and, their attorneys.

There is always opportunity for improvement and progress in how the justice system as well as a statutory scheme impacts parents and children in family law matters. It is for this reason that the Nebraska Legislature asked the Nebraska Supreme Court to conduct an evaluation of the Parenting Act. Nebraska is fortunate to have the National Center for State Courts as our researchers to provide us with Findings and Recommendations on the Parenting Act. The charge to the National Center was three-fold:

1. Assess whether the Parenting Act was implemented in compliance with provisions of the legislation and the intentions of the Parenting Act's designers.
2. Evaluate the short-term and interim outcomes of the Parenting Act on targeted cases and the long-term impact of the Parenting Act on such cases.
3. Conduct cost efficiency analysis

This evaluation will provide not only the courts and the legislature, but the general public with an important baseline of data in regard to how well the justice system and the Act impacts parents and children in family law matters. It is incumbent upon us all to listen closely and

seriously consider the National Center's findings and recommendations in order to achieve the three-fold goal of (1) putting children at the center of the decision-making instead of in the middle of parental conflict; (2) mitigating the impact of court processes upon parental conflict; and (3) saving parties and the courts valuable time and financial resources.

As chair of the Parenting Act Subcommittee of the Supreme Court's Commission on Children in the Courts, I am committed to work with the subcommittee and the Commission to study the National Centers' findings and recommendations and to deliver to the Supreme Court, the Legislature, and the Bar our proposals for effective change to improve the justice system for parents and children. Nebraskans can be assured that the judiciary takes family law matters seriously, and strives to enhance court procedures, judicial roles and responsibilities, and justice resources to meet the intent and goals of Nebraska's Parenting Act.