

Rule 12-16. Rules for Appointment of Counsel in Criminal Cases in 12th Judicial District

I. PURPOSE. This rule is to establish a process for the appointment of private attorneys to represent indigent defendants as provided in Neb. Rev. Stat. §§ 29-3901 to 29-3908.

II. APPLICABILITY. This rule shall not apply to criminal proceedings in which the court appoints the Public Defender, the Nebraska Commission on Public Advocacy, or any other attorney under contract with the county to provide such services.

III. GENERAL

A. Appointments of private attorneys shall be made on an impartial and equitable basis:

B. The appointments shall be distributed among the attorneys on a rotation system:

C. Complex cases shall be assigned to attorneys with sufficient levels of experience and competence to provide adequate representation:

D. Less experienced attorneys should be assigned cases which are within their capabilities, but should be given the opportunity to expand their experience under supervision: and

E. Cases shall be assigned to attorneys of sufficient experience, skill, and competence to render effective assistance of counsel to defendants.

IV. COURT-APPOINTED ATTORNEY LIST

A. Each County Court shall maintain a court-appointed attorney list from which attorneys shall be appointed to represent indigent defendants in misdemeanor and felony cases (which shall consist of two categories; misdemeanors and felonies).

B. Attorneys must contact the County Court in each county and request the Clerk Magistrate to place them on, or remove them from, the court-appointed list. Attorneys must set forth the experience that qualifies them to handle the level of case referenced in their request.

C. The County Court shall maintain a misdemeanor list and a separate felony appointment list (Appendix 1, attached hereto, shall be used when requesting to be placed or removed from the court-appointed attorney list).

V. METHOD OF SELECTION FROM COURT-APPOINTED LIST

A. The Court will generally attempt to appoint attorneys from the court-appointed attorney list on a rotational basis, subject to the court's sole discretion to make exceptions due to:

1. the nature and complexity of the case;
2. an attorney's experience;

3. the nature and disposition of the defendant;
4. a language consideration;
5. a conflict of interest;
6. the availability of the attorney, taking into consideration an immediate need to address issues involved in the case;
7. geographical considerations--in all cases, the court may appoint attorneys who are in closest geographical proximity to the court before considering the appointment of other attorneys in order to avoid travel time and mileage expenses, for the convenience of defendants in consulting with their attorney, and for the convenience of the court in scheduling cases for hearing; and
8. other relevant factors.

B. Attorneys may contact the appropriate County Court and request the current court-appointed counsel list.

VI. REMOVAL AND REINSTATEMENT FROM APPOINTMENT LIST

A. Judges will monitor attorney performance on a continuing basis to ensure the competency of attorneys on the list. An attorney may be removed from the appointment list by a majority vote of county and district court judges within the district.

B. If an attorney is under consideration for removal from the list, written notification will be given indicating the concerns with the attorney's performance giving rise to consideration for removal, and be given the opportunity to respond in writing or in person before a final decision is made.

C. An attorney who has been removed from the list for any reason may be considered for reinstatement by a majority vote of the judges, after the deficiencies contained in the notice have been resolved.

Rule 12-16 approved December 17, 2014.
