

District 1

First Judicial District Rule of Appointment of Counsel for Indigent Defendant in Criminal Cases

The following rule is adopted by the District and County Courts of the First Judicial District for the appointment of counsel for indigent individuals charged with crimes of misdemeanors and felonies after January 1, 2015.

(1) Counsel for indigent defendants shall be provided in accordance with Neb. Rev. Stat. §§ 29-3901 to 29-3908. Attorneys shall provide legal counsel to all clients in a professional, skilled manner consistent with the Nebraska Supreme Court Rules of Professional Conduct. Each county's public defender shall have first priority to be appointed for any indigent defendant in all criminal cases within the county. The rules set out in the paragraphs below deal with the appointment of licensed attorneys to handle indigent defendants when no local public defender is available.

(2) Each clerk of the county and district court shall maintain a list of all licensed attorneys who have filed a letter with the court clerk requesting they be placed on the list to accept appointments in criminal cases in the First Judicial District in accordance with paragraphs (7) and (10) below. The list shall have a priority category listing as follows: The first category listing shall include such attorneys having an office located within the county of such appointment. The second category listing shall include names of attorneys having an office location within any of the counties immediately adjacent to the county of such appointment. The third category listing shall include names of attorneys having an office location within the First Judicial District. The list shall be held by the court clerk and be open for public inspection on request. The list shall have the name, Nebraska Bar number, office location, and telephone number of each practicing attorney.

(3) Each clerk shall keep a separate list of case appointments of licensed attorneys to indigent defendants. The list shall include the name, Nebraska Bar number, criminal case number, and date of appointment of the attorney to the case. This list shall also be open to public inspection upon request.

(4) The appointment of attorneys to indigent defendants shall be on a rotation basis, using the first category listing above. No attorney on the first category listing shall be appointed to an indigent defendant a second time without first ensuring that all attorneys on the first category have been appointed on cases in their order on the listing or have been disqualified based upon conflicts. Attorneys on the second category listing shall be used only when no first category listing attorneys are available. Any use of second category listings shall be on rotation process similar to first category listing above. Attorneys on the third category listing shall be used only when no first or second category listing attorneys are available. Any use of

third category listings shall be on rotation process similar to first category listing above.

(5) Nothing stated above shall prevent a court from skipping the category listings above and appointing the Nebraska Commission on Advocacy (NCOA) on a case-by-case basis for any indigent defendants. Any such appointment of the attorneys of NCOA shall be listed on the separate list of case appointments set out in paragraph (3) above.

(6) Nothing stated above shall prevent the court from skipping the category listings above and appointing a licensed attorney on a case-by-case basis for any indigent defendants. Any such appointment of attorneys shall be listed on the separate list of case appointments set out in paragraph (3) above.

(7) All active practicing attorneys who have offices located within any of the categories listed above who want appointments in criminal cases shall file a letter with such request with the clerks of the county and district court in the county in which their office is located. The clerks in such counties will then send copies of the letters to all county and district clerks within the First District for filing in those counties.

(8) No attorney will be removed from the list unless: (a) The attorney files a written request for removal with the clerks of the county and district court in the county in which their office is located, or (b) the attorney is ordered removed from the list by a judge in the First District after notice and opportunity for hearing.

(9) An attorney may, with the consent of the court, designate a member of his/her firm to appear on behalf of an indigent defendant.

(10) It is the intent of this rule that a practicing attorney need only file his/her request for criminal assignments once with the county and district court clerks of the county in which his/her office is located. The county court clerks of such courts will have responsibility to file copies of the letters with all of the other county court clerks in the First District. The district court clerks of such courts will have the responsibility to file copies of the letters with all of the other district court clerks in the First District. Any practicing attorney that has an office in more than one county in the district need not file his/her request with both such counties.

Approved December 10, 2014.
