

District 4

Douglas County Court Rules

Request to be Added to Douglas County Court-Appointment List

Rule 1.

When attempting the following remedies/procedures listed below, the forms provided by the Clerk of the Court, *and only those forms*, may be used:

1. Temporary Order to Clerk in Replevin
2. Application/Order for Continuing Lien
3. Application/Order to Deliver Non-Exempt Funds
4. Motion/Affidavit/Order in Aid of Execution
5. Motion/Affidavit/Order for Alternate Service

These forms are available free of charge in unlimited quantities at the office of the Clerk of the Court.

Rule 1 approved February 9, 2005.

Rule 2. Appointment of Conflict Counsel in Criminal Cases

A. Authority. Pursuant to Neb. Ct. R. §§ 6-1525 and 6-1467, the judges of the District Court and County Court of Douglas County (the Courts) adopt this rule for furnishing conflict representation in the Courts for any person who is financially unable to obtain adequate representation in felony, misdemeanor, or post-conviction cases pursuant to Neb. Rev. Stat. §§ 29-3901 to 29-3908 and §§ 29-3001 to 29-3004 (Reissue 2008 & Cum. Supp. 2014).

B. Statement of Policy. The objective of this plan is to attain the ideal of equality before the law for all persons. This plan shall be administered so that those eligible for services pursuant to Neb. Rev. Stat. §§ 29-3901 to 29-3908 and §§ 29-3001 to 29-3004 (Reissue 2008 & Cum. Supp. 2014) will not be deprived of any element of representation necessary to an adequate defense because they are financially unable to pay for adequate representation. The further objective of this plan is to particularize the requirements for court appointments in Douglas

County, Nebraska.

C. Appointment of Private Attorneys. The Douglas County Public Defender's Office shall have first priority to be appointed for any indigent defendant in all criminal cases within the county. This rule establishes the process for the appointment of private attorneys to represent indigent defendants when the Public Defender's staff has a conflict of interest. A panel of private attorneys who are eligible and willing to be appointed to provide representation in Douglas County is hereby recognized. The Plan for the Composition, Administration, and Management of the Panel of Private Attorneys pursuant to Neb. Ct. R. §§ 6-1525 and 6-1467 is set forth below.

D. Duties of Appointed Counsel. The services to be rendered on behalf of a person represented by appointed counsel shall be commensurate with those rendered if counsel were privately employed by the person. Attorneys appointed to the panel shall conform to the highest standards of professional conduct and shall refrain from conduct unbecoming a member of the bar.

E. Creation of Panel. The District Court and County Court of Douglas County (the Courts) shall establish a panel of private attorneys (hereafter referred to as the "DC Panel"). All attorneys who are eligible and willing to be appointed to provide representation will be placed on the DC Panel.

F. Composition of Panel.

1. Attorneys who serve on the DC Panel must be members in good standing of the Nebraska bar and must have demonstrated experience in, and knowledge of, the Nebraska Rules of Criminal Procedure and the Nebraska Rules of Evidence. The Courts shall approve attorneys for membership on the DC Panel and the composition of the DC Panel after receiving recommendations from the Panel Selection Committee (the Committee) established pursuant to subsection 2 of this Plan.

Members of the DC Panel shall serve indefinitely and continuously at the pleasure of the Courts.

2. The Courts shall jointly establish a Panel Selection Committee (the Committee). The Committee shall consist of two District Court judges, two County Court judges, two private attorneys who are experienced in criminal defense work, and the Douglas County Public Defender. The Committee shall select its own chairperson.

The Committee shall meet at least once each year, and at such other times as the Committee deems appropriate, to consider applications for addition to the DC Panel. The Committee shall review the qualifications of applicants and shall recommend, for approval by the Courts, the attorneys to be included on the DC Panel and, based upon the attorney's experience, skill, and competence, the category of cases which each attorney can handle. If an attorney disputes the category in which he or she has been placed for assignment of cases, the attorney may submit to the Committee a written explanation of the basis for such dispute. The Committee will then consider the dispute, will resolve the dispute by majority vote of its members, and will provide the attorney with a written disposition of the placement dispute.

At its annual meeting, the Committee shall also review in its entirety the appointment list of

attorneys on the DC Panel to determine if any attorney should be removed due to failure to remain in good standing with the Nebraska bar or for cause. If the attorney is being considered for removal from the DC Panel for cause, the Committee shall give written notification to the attorney indicating the concerns with the attorney's performance giving rise to consideration for removal, and the attorney shall be given the opportunity to respond in writing or in person before a final decision is made.

At its annual meeting, the Committee shall also review the operation and administration of the DC Panel during the preceding year, and shall recommend to the Courts any changes regarding the appointment process and panel management which the Committee deems necessary or appropriate. If a majority of the judges of the Courts agree, then proposed language amending the Rule shall be submitted to the Supreme Court as provided by Neb. Ct. R. § 6-1501 entitled "Local Rules."

G. Assignment of Cases. Cases shall be assigned to attorneys based on their experience, skill, and competence. Complex or more serious cases shall be assigned to attorneys with sufficient levels of experience and competence to provide adequate representation in such cases. Attorneys who have less experience, skill, and competence shall be assigned cases which are within their capabilities.

H. Appointments and Maintenance of Appointment List. Appointments from the list of private attorneys on the DC Panel should be made on a rotational basis, subject to the appointing court's discretion to make exceptions due to the nature and complexity of the case, an attorney's experience or lack thereof, a language consideration, a conflict of interest, or any other factor which the appointing court may deem appropriate under the circumstances. This procedure should result in a balanced distribution of appointments and compensation among the members of the DC Panel, as well as quality representation for each defendant who is financially unable to otherwise obtain adequate representation.

To be considered for appointment to the DC Panel, a private attorney shall complete the form entitled "Request to Be Added to Douglas County Court-Appointment List" and shall file it with the Douglas County District Court Administrator's Office. This form shall be available at the District Court Clerk's Office and the County Court Clerk's Office. Any private attorney on the DC Panel may request to be removed from the Panel at any time by sending a letter asking for removal to the District Court Administrator's Office, Hall of Justice, Room 500, 1701 Farnam Street, Omaha, NE 68183.

The respective Court Administrators of District Court and County Court shall maintain a current list of all attorneys included on the DC Panel, including the attorneys' current office address and telephone numbers.

I. Effective Date. This rule shall become effective on April 1, 2015.

Rule 2 approved January 22, 2015, effective April 1, 2015; Rule 2 amended November 13, 2019.
