

# District 11

Appendix 1 - Request to be Added to the Court-Appointed Attorney Lists in the 11th Judicial District

## Rule for Appointment of Counsel for Indigent Defendants

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 or the Nebraska Commission on Public Advocacy.

### 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. Cases shall be assigned to attorneys of sufficient experience, skill, and competence to render effective assistance of counsel to defendants;
- D. Complex cases shall be assigned to attorneys with sufficient levels of experience and competence to provide adequate representation; and
- E. Less experienced attorneys shall be assigned cases which are within their capabilities, but should be given the opportunity to expand their experience under supervision.

### IV. COURT-APPOINTED ATTORNEY LIST

A. Each County Court shall maintain a court-appointed attorney list (which shall consist of three categories: misdemeanors; Class III, IIIA, and IV felonies; and Class I and II felonies from which attorneys shall be appointed to represent indigent defendants in that county. The list shall include the name, address, phone number, email, and Nebraska bar number for each attorney who will accept appointments to criminal cases in that county.

B. Attorneys shall contact the County Court of each county in which they wish to be considered for court appointments and request to be placed on the court-appointed list. Attorneys shall also contact the County Court when they no longer wish to receive court appointments. Appendix 1, which is attached, shall be utilized when requesting to be placed on the court-appointed attorney list.

C. The County Court shall make the court-appointed list of attorneys available upon request.

## V. METHOD OF SELECTION FROM COURT-APPOINTED LISTS

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 an attorney, taking into consideration an immediate need to address issues involved in the case; <sup>[1]</sup>
7. geographical considerations; <sup>[2]</sup> and
8. other relevant factors.

B. If the court in its sole discretion varies from the rotation basis, it may appoint any qualified attorney, whether or not the attorney is on the court-appointed attorney list.

## VI. REMOVAL AND REINSTATEMENT FROM APPOINTMENT LISTS

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

B. If an attorney is under consideration for removal from the lists, a written notification will be given to the attorney, indicating the concerns with the performance giving rise to consideration for removal, and the attorney will 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 lists may be considered for reinstatement by a majority vote of the judges, after the deficiencies contained in the notice have been resolved.

*Rule 11-15 approved January 14, 2015.*

[1] The court may appoint an attorney present in court when a defendant appears and wants to speak to an attorney immediately to discuss a resolution of the case. The court may also appoint an attorney who is known to be available on the next regularly scheduled court date.

[2] The court may appoint an attorney who is in the closest geographical proximity to the court before considering the appointment of another attorney in order to avoid the costs of travel time for attorneys and mileage expenses, for the convenience of a defendant in

consulting with a local attorney; and for the convenience of the court in scheduling cases.

---