

On November 15, 2023, the Nebraska Supreme Court adopted the following rule amendments to Neb. Ct. R. App. P. § 2-109(E):

**CHAPTER 2: APPEALS**

**Article 1: Nebraska Court Rules of Appellate Practice.**

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**§ 2-109. Briefs; constitutional questions.**

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(E) Cases Involving Constitutional Questions. A party ~~presenting a case involving the~~ who asserts that federal or state constitutionality of a Nebraska statute is unconstitutional under the Nebraska Constitution or the U.S. Constitution must file and serve notice thereof with the Clerk by a separate notice or by notice in a Petition to Bypass at the time of filing such party's brief. This notice requirement applies to an appellant, appellee, cross-appellant, or cross-appellee if it is the party asserting that a Nebraska statute is unconstitutional. If the Attorney General is not already a party to an action where the constitutionality of the statute is in issue, a copy of the notice and brief ~~assigning~~ asserting ~~unconstitutionality~~ must be served on the Attorney General within 5 days of the filing of the brief with the Clerk, and the Attorney General shall be entitled to file a response and may be heard at oral argument upon seeking leave to do so, which may be granted at the Supreme Court's discretion. ~~;~~ Proof of such service shall be filed with the Clerk. In the absence of such notice pertaining to a constitutional question, the Supreme Court will not consider any constitutional question except by special order of the Supreme Court, which may be issued at its discretion.

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