

On February 14, 2019, the Nebraska Supreme Court adopted the following rule amendments to Neb. Ct. R. § 6-1202 et seq., regarding problem-solving courts:

## CHAPTER 6: TRIAL COURTS

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### Article 12: Problem-Solving Courts.

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#### § 6-1202. General.

For purposes of §§ 6-1201 through 6-1210, problem-solving courts are programs and services established within the district, county, or juvenile courts and shall include, but are not limited to, ~~drug court~~ programs established pursuant to Neb. Rev. Stat. § 24-1302 and programs established for the treatment of problems related to issues such as substance abuse, mental health, and domestic violence. The purpose of the programs and services is to reduce recidivism by fostering a comprehensive and coordinated court response composed of early intervention, appropriate treatment, intensive supervision, and consistent judicial oversight.

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#### § 6-1206. Definitions. [Reserved.]

~~For the purpose of §§ 6-1201 through 6-1210, “problem-solving courts” means a postplea or postadjudicatory intensive supervision treatment program for eligible individuals. The purpose of the program is to reduce recidivism by fostering a comprehensive and coordinated court response composed of early intervention, appropriate treatment, intensive supervision, and consistent judicial oversight.~~

#### § 6-1207. Requirements for establishment or expansion.

(A) ~~In order to establish a problem-solving court program, approval must first be granted by the Nebraska Supreme Court pursuant to §§ 6-1201 and 6-1202, or expand a problem-solving court as defined in § 6-1202, approval must first be granted by the Nebraska Supreme Court pursuant to Neb. Ct. R. §§ 6-1201 through 6-1210.~~

(B) Problem-solving courts shall adhere to the 10 Key Components as identified and approved by the National Association of Drug Court Professionals in January 1997, and utilize evidence-based practices as identified by applicable social science research and literature.

(C) ~~Problem-solving courts shall submit to the Administrative Office of the Courts, in writing for approval by the Nebraska Supreme Court, the following: Any court interested in expanding an existing problem-solving court or starting a new problem-solving court shall provide a written Notice of Intention to the State Court Administrator. The written notice shall include:~~

(1) A general program description to include the following:

(a) Location of problem-solving court;

- (b) Type of problem-solving court;
- (c) The program elements, including, but not limited to, whether it is a postplea or pre- or postadjudication program;
- (d) The judicial oversight of problem-solving court; and
- (e) The level of support from:

  - (i) County attorney;
  - (ii) Public defender;
  - (iii) Treatment providers;
  - (iv) Law enforcement;
  - (v) County board; and
  - (vi) Chief probation officer;

- (2) A description of the target population it intends to serve and the estimated number of participants in the first year of operation;
- (3) Program goals and intended outcomes and how they will be measured;
- (4) An established eligibility criteria for participation in the problem-solving court which includes a standardized, validated risk instrument as approved by the Administrative Office of the Courts;
- (5) The process or procedure by which an individual gains acceptance to participate in the problem-solving court;
- (6) Drug/alcohol testing protocol;
- (7) A protocol for adhering to appropriate and legal confidentiality requirements and a plan to provide all team members with an orientation regarding the confidentiality requirements of 42 U.S.C. § 290dd-2 and 42 C.F.R. part 2, if applicable;
- (8) The terms and conditions of participation in the problem-solving court, including, but not limited to, treatment; drug testing requirements; the expected intensity of supervision; the anticipated types and intensity of treatment, education, and employment programs to be provided; phase requirements; graduation/completion requirements; graduated sanctions and rewards; and any applicable program service fees;
- (9) The process or procedure by which a participant's progress in the problem-solving court is monitored; and
- (10) ~~Developed~~ Written policies and procedures governing its general administration, including those relating to organization, personnel, and finance.

(D) After reviewing the Notice of Intention, the State Court Administrator will refer the request to the Statewide Problem-Solving Court Coordinator or request additional information from the applying court.

(E) At the direction of the State Court Administrator, the Statewide Problem-Solving Court Coordinator will begin an initial assessment of the request to include:

(1) Data supporting the need for and cost of the proposed problem-solving court and quantifying the expected benefits;

(2) The existence and applicability of evidence-based practices specific to the operation of the proposed court;

(3) Available resources;

(4) Needed resources;

(5) Problem-solving court funding plan;

(6) Whether a problem-solving court model for the proposed court has been approved by the Supreme Court and Nebraska Supreme Court Committee on Problem-Solving Courts; and

(7) The existence and applicability of Best Practice Standards approved by the Supreme Court.

(F) Upon completion of the initial assessment, the Statewide Problem-Solving Court Coordinator shall present the information and any recommendations to the State Court Administrator and the State Probation Administrator.

(G) If, after review of the Statewide Problem-Solving Court Coordinator's assessment and recommendations, the State Court Administrator determines the request shall be denied, a report shall be submitted to the applying judge explaining the reasons therefor and outlining potential next steps.

(H) If, after review of the Statewide Problem-Solving Court Coordinator's assessment and recommendations, the State Court Administrator determines the request warrants submission to the Nebraska Supreme Court, the Statewide Problem-Solving Court Coordinator shall facilitate and assist the proponents in the fulfillment of the requirements for establishing or expanding a problem-solving court outlined in Neb. Ct. R. §§ 6-1201 through 6-1210.

(I) Upon receipt of the State Court Administrator's determination that the request warrants submission to the Supreme Court, the proponents of the court shall submit to the Statewide Problem-Solving Court Coordinator all documents required for establishing or expanding a problem-solving court described in Neb. Ct. R. §§ 6-1201 through 6-1210.

(J) The Statewide Problem-Solving Court Coordinator shall review the documents submitted by proponents and determine whether the information submitted is in compliance with Neb. Ct. R. §§ 6-1201 through 6-1210. If the Coordinator so determines, the request shall be submitted by the Statewide Problem-Solving Court Coordinator to the State Court Administrator requesting Supreme Court approval. If the Coordinator determines the information is not in compliance with Neb. Ct. R. §§ 6-1201 through 6-1210, the Coordinator shall address the deficiencies with the proponents until compliance is achieved or

until the Coordinator determines the requirements of Neb. Ct. R. §§ 6-1201 through 6-1210 cannot be met. A determination that the requirements of Neb. Ct. R. §§ 6-1201 through 6-1210 cannot be met shall be communicated in writing to the State Court Administrator for further action by the Administrator.

(K) Upon approval by the Supreme Court, the applying problem-solving court will work with the Statewide Problem-Solving Court Coordinator to develop an implementation plan to include but not be limited to:

- (1) Personnel;
- (2) Timelines;
- (3) Training;
- (4) Daily operations; and
- (5) Technical assistance.

~~(D)~~ (L) Any changes in the material submitted pursuant to § 6-1207(C) shall be submitted to the Administrative Office of the Courts in a timely manner for approval by the Nebraska Supreme Court.

~~(E)~~ (M) Screening and treatment for substance use shall adhere to Neb. Ct. R., Ch. 6, Art. 13, Substance Use Services adopted by the Nebraska Supreme Court.

~~(F)~~ (N) The Court may from time to time modify the requirements set forth in § 6-1207(A) through ~~(F)~~ (M).

~~(G)~~ (O) The Court shall reserve the right to allow exemptions to any of the requirements set forth in § 6-1207(A) through ~~(F)~~ (K). Any request for an exemption shall be made to the Court in writing. Exemptions shall ~~also~~ be terminated at the discretion of the Court.

#### **§ 6-1208. Operational requirements.**

(A) All problem-solving courts shall be postplea or postadjudication in nature- and, with respect to reentry courts, postsentencing.

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(K) All problem-solving courts shall utilize evidence-based practices as identified by applicable scientific research; and literature and shall adhere to best practice standards. ~~These standards do not apply to family drug courts or juvenile drug courts~~

(L) The Court shall reserve the right to allow exemptions to any of the requirements set forth in § 6-1208(A) through (K). Any request for an exemption shall be made to the Court in writing. Exemptions shall ~~also~~ be terminated at the discretion of the Court.

#### **§ 6-1209. Case management and evaluation requirements.**

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(E) The Court shall reserve the right to allow exemptions to any of the requirements set forth in § 6-1209(A) through (D). Any request for an exemption shall be made to the Court in writing. Exemptions shall ~~also~~ be terminated at the discretion of the Court.

**§ 6-1210. Succession ~~P~~lanning for ~~P~~problem-~~S~~solving ~~C~~court ~~J~~judges.**

(A) Each problem-solving court shall have a written plan setting forth the procedure for the succession of the judge or judges who serve as the problem-solving court judge in the event of the death, disability, retirement, resignation, removal, elevation to another court, or failure to be retained by the judge then serving the court. For all problem-solving courts in existence as of the date of the adoption of this rule, such succession plans shall be submitted to the Supreme Court for approval no later than May 1, 2017. For problem-solving courts implemented after the effective date of this rule, succession plans shall be included as part of the information submitted to the Supreme Court for approval of the problem-solving court under ~~§§ 6-1201 and 6-1202~~ § 6-1207.

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