

On March 10, 2021, the Nebraska Supreme Court adopted the following rule amendments to Neb. Ct. R. § 6-2001 et seq.:

## CHAPTER 6: TRIAL COURTS

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### Article 20: Rules for Expanded News Media Coverage in Nebraska Trial Courts.

#### § 6-2001. Scope; limitations.

~~(A) Expanded news media coverage shall be permitted in the county and district courtrooms in Nebraska courts, except as otherwise provided for within these rules.~~

~~The Nebraska Juvenile Code is founded in serving the best interests of the child through protecting privacy, nonpunitive interventions, and rehabilitative outcomes. In support thereof, expanded news media coverage is not authorized in actions pending in Nebraska's juvenile courts.~~

~~The official record of all judicial proceedings are the exclusive duty of the official court reporters and courtroom clerks pursuant to Neb. Ct. R. § 1-201 et seq.~~

~~Expanded news media coverage within a courtroom is prohibited by anyone other than court personnel and those authorized under these rules.~~

~~(1) Expanded news media coverage is prohibited by anyone other than court personnel, those authorized under these rules, and/or as otherwise ordered by a judicial officer.~~

~~(2) The Nebraska Juvenile Code serves the best interests of the child through protecting privacy, nonpunitive interventions, and rehabilitative outcomes. Expanded news media coverage therefore is not permitted in actions pending in Nebraska's juvenile courts.~~

~~(B) The official record of all judicial proceedings are the exclusive duty of the official court reporters and courtroom clerks pursuant to Neb. Ct. R. § 1-201 et seq.~~

#### § 6-2002. Definitions.

~~(A) "Expanded news media coverage" includes broadcasting, recording, photographing, and live electronic reporting of judicial proceedings by the news media for gathering and disseminating news in any medium. Expanded news media coverage is limited to the news media unless otherwise ordered by the judicial officer. Electronic device notetaking does not constitute expanded news media coverage. See § 6-2003 (M).~~

~~(B) "Good cause" for exclusion and suspension under these rules means a substantial reason; one that affords a justifiable basis which is a subjective, factual question within the sole discretion of the judicial officer. A finding of good cause for exclusion or suspension of expanded news media coverage does not constitute closing in whole or in part judicial proceedings as promulgated in Neb. Ct. R. §§ 6-201 through 6-205.~~

~~(C) "Judicial officer" means the clerk magistrate, county judge, or district judge presiding in a judicial~~

proceeding.

~~(D) “Judicial proceedings” or “proceedings” includes: All public trials, hearings, or other proceedings in a trial court, for which expanded news media is requested except as specifically excluded by these rules.~~

~~(E) “News media” includes any authorized representative of a news organization that has been credentialed by the Public Information Officer of the Nebraska Supreme Court. Credentials will be issued to journalists who write for newspapers or magazines with regular frequency of publication or prepare news to be broadcast on radio or television licensed by the Federal Communications Commission.~~

~~(F) “News media coordinator” includes only coordinators designated by the Nebraska Supreme Court (see § 6-2004(A)).~~

### **§ 6-2002. Definitions.**

(A) Conference. A conference refers to any conversation between attorneys and their clients, between co-attorneys, between attorneys and the judicial officer and court staff held at the bench, judicial chambers, or judicial staff offices. It extends to include attorney’s notepads, computer screens, or any communication intended to be private or confidential.

(B) Credentials. News media which has consented to providing expanded news media coverage in compliance with the Rules for Expanded News Media, Neb. Ct. R. §§ 6-2001 through 6-2005, and demonstrated proficiency in providing expanded news media coverage may, upon application with and the approval of the Public Information Office of the Nebraska Supreme Court, be considered qualified for credentialing by the Public Information Officer.

(C) Expanded News Media Coverage. Expanded news media coverage includes broadcasting, recording, photographing, and live electronic reporting of judicial proceedings by the news media for gathering and disseminating news in any medium.

(1) Electronic device notetaking does not constitute expanded news media coverage. See § 6-2003(N).

(D) Good Cause. Good cause means a substantial reason; one that affords a justifiable basis which is a subjective, factual question within the sole discretion of the judicial officer. A finding of good cause by the judicial officer for exclusion, suspension, or termination of expanded news media coverage does not constitute closing in whole or in part judicial proceedings as promulgated in Neb. Ct. R. §§ 6-201 through 6-205.

(E) Judicial Officer. Judicial Officer is any presiding judge of the judicial district and any Nebraska judge or clerk magistrate presiding over the case in which expanded news media coverage under these rules applies.

(F) Judicial Proceedings or Proceedings. All public trials, hearings, or other proceedings in a trial court, for which expanded news media is requested, except as specifically excluded by these rules.

(G) News Media. Any authorized representative of a news organization that has been credentialed by the Public Information Officer of the Nebraska Supreme Court.

(H) News Media Coordinator. Coordinators include only those designated by the Nebraska Supreme Court (see § 6-2004(B)).

**§ 6-2003. General.**

Expanded news media coverage of judicial proceedings as set forth in the definition of “Judicial Proceedings” (see § 6-2002(~~D~~ E)) shall be permitted under the following conditions and limitations:

(A) Prior authorization. Except as set forth in subsection (E), no expanded news media coverage shall occur without prior authorization from the judicial officer, who may prescribe conditions of coverage as provided in this rule.

(B) Rights to a fair trial. Expanded news media coverage of a proceeding is permitted unless the judicial officer finds that under the circumstances of the particular proceeding, such coverage would interfere with the rights of the parties to a fair trial.

(C) Objections. ~~The judicial officer and parties~~ Parties to the proceeding may object to expanded news media coverage of the judicial proceeding (see exception § 6-2003(E)). The ruling by the judicial officer on objections rests within the sole discretion of the judicial officer and is a nonappealable temporary injunction or a suspension of expanded news media coverage.

(D) Coverage of witnesses.

(1) Expanded news media coverage of a witness may be denied by the judicial officer upon objection and showing of good cause.

(2) Expanded news media coverage of the testimony of an alleged victim/witness in criminal or civil cases when the alleged victim/witness is a minor under 19 years of age, the proceedings relate to sexual abuse or sexual assault, or such are essential elements of the matter is not allowed.

(E) Initial appearances in criminal proceedings in County Court.

Expanded news media coverage of initial appearances in criminal proceedings in County Court involving bond settings and arraignments is permitted unless otherwise ordered by the court pursuant to § 6-2003(B), (F), and (J). The right of parties to object to expanded media coverage involving bond settings and arraignments does not extend to such proceedings.

A judicial officer’s granting of expanded news media coverage of an initial appearance applies only to that particular initial appearance. Authorization for expanded news media coverage of proceedings subsequent to the initial appearance must be requested separately under § 6-2004(~~B~~ C).

(F) Excluded judicial proceedings. Expanded news media coverage is prohibited in:

(1) pretrial criminal motions hearings;

(2) all juvenile court proceedings;

(3) criminal and civil cases where the plaintiff and/or defendant is under 19 years of age at the time of the judicial proceeding except in criminal cases in which the defendant, although a minor, is charged as an adult and the court has approved expanded news media coverage for that ~~case~~ proceeding;

(4) dissolution/divorce/modification/child support enforcement hearings;

- (5) all adoptions proceedings;
- (6) all paternity cases proceedings;
- (7) all protection order hearings;
- (8) all guardianship/conservatorship/probate cases proceedings;
- (9) all trade secret cases proceedings;
- (10) all criminal and civil jury selection as further defined in § 6-2003(G); and
- (11) all grand juries jury proceedings.

Note: Exceptions may be granted for subsections (1) through (4) ~~(9)~~ when consent is obtained from all parties but remains subject to the discretion of the court approval by the judicial officer.

(G) Coverage of jurors. In all circumstances, expanded news media coverage of all summoned and/or impaneled jurors is prohibited. However, expanded news media coverage of the return of the jury's verdict shall be permitted, so long as there is no photographic, video, or audio coverage of jurors.

(H) Court conferences. Expanded news media coverage of conferences (see § 6-2002(A)) held in a judicial proceeding between attorneys and their clients, between co-attorneys, between attorneys and the judicial officer and court staff held at the bench, judicial chambers, or judicial staff offices is prohibited, as is all related attorney work product on screens or in writing.

(I) Equipment. The quantity and types of equipment permitted in the courtroom are subject to the discretion of the judicial officer consistent with these rules.

(J) Limiting coverage during the proceedings. The judicial officer may exclude, suspend, limit, and/or terminate expanded news media coverage by one or more individual news reporters at any time during the proceedings in the event the judicial officer finds that these rules, or additional rules imposed by the judicial officer, have been violated or there is good cause to believe that the rights to a fair trial will be prejudiced.

(K) Identification. All news media personnel authorized to broadcast, record, photograph, and live electronic report (e.g., tweeting, instant blogging, etc.) judicial proceedings in the courtroom must wear identification proof of Public Information Office credentialing that is clearly visible to the judicial officer, court security, the public, and members of the jury. Said personnel shall also be subject to any and all security screening/scanning as deemed necessary by any office or agency providing security for the particular courtroom or judicial proceeding. Identification must be in the form approved by the ~~Supreme Court Public Information~~ Public Information Office of the Nebraska Supreme Court.

(L) Violation. ~~Any violation of these rules by any news media shall be punishable by contempt of court to include but not be limited to suspension and/or termination of expanded news media coverage by the offending party.~~ Expanded news media coverage of one or more individual news reporters may be excluded, suspended, limited, and/or terminated by the judicial officer if there is good cause to find the news media has acted or failed to act in compliance with these rules and/or the order permitting expanded

news media coverage in force at the time of the violation. A judicial officer's finding of a violation is separate from an administrative suspension or revocation of credentials imposed by the Public Information Office of the Nebraska Supreme Court.

(M) Administrative Suspension or Revocation of Media Credentials. The Public Information Officer of the Nebraska Supreme Court may suspend or revoke the credentials of a journalist upon the violation of these rules or an order of a judicial officer. Journalists who have suspended or revoked credentials by the Office of Public Information must reapply for credentialing. An administrative suspension or revocation of credentials does not constitute the closing of judicial proceedings.

(N) ~~(M)~~ Electronic device notetaking. Electronic device notetaking does not constitute expanded news media coverage under these rules and, therefore, shall be allowed by the court, with the following limitations:

(1) Notetaking includes the typing of notes during court proceedings; or, the audio recording of court proceedings to be utilized only to check for accuracy of news reporting.

(2) No audio recording of any kind shall be made of testimony provided by a child victim, a victim of sexual abuse or sexual assault as provided under § 6-2003(D)(2), a victim of domestic violence, or if the judicial officer denied expanded news media coverage of a witness under § 6-2003(D)(1).

(3) Any dissemination of a copy of an audio recording made for purposes of notetaking requires permission under § 6-2004.

#### **§ 6-2004. Procedural.**

(A) Credentialing. The Office of Public Information shall create, manage, and maintain an administrative process for issuance of credentials and maintaining a list of those in good standing with these rules. Credentials will be issued to journalists who write for newspapers or magazines with regular frequency of publication or prepare news to be broadcast on radio or television licensed by the Federal Communications Commission. In order to be credentialed, a journalist must successfully complete a review concerning these rules. Issued credentials shall expire two (2) years after the date of issuance. It will be the responsibility of the news media person to maintain current credential certification and comply with these rules in order to remain in good standing.

(1) The Office of Public Information shall maintain a list of those having been issued credentials and their status.

(2) If the Public Information Officer determines the credentialed news media person is no longer in good standing, the news media person's credentials may be suspended or revoked by the Public Information Officer. Those who have been suspended or revoked credentials by the Office of Public Information must reapply for credentialing before being eligible to apply for expanded news media coverage.

(3) If the journalist is no longer employed by the news media organization he or she was so affiliated at the time of most recent credentialing, the credential shall be deemed expired from the date of last employment or notification to the Office of Public Information.

(4) If the news media person has failed to timely renew credentialing, such credentials shall be expired. Those with expired credentials must apply for renewal of credentials.

(B) ~~(A)~~ News media coordinator. News media coordinators are appointed by the Nebraska Supreme Court. The judicial officer and all members of the media shall work, whenever possible, with and through the appropriate news media coordinator regarding all arrangements for expanded news media coverage. The Nebraska Supreme Court will designate the jurisdiction of each news media coordinator. In the event a news media coordinator is not available for a particular proceeding, the judicial officer may deny expanded news media coverage or may temporarily appoint a news media representative to serve as the news media coordinator for the proceeding.

(C) ~~(B)~~ Advance notice of coverage.

(1) All requests for expanded news media coverage in all proceedings, except initial appearances in criminal cases in county court (see § 6-2003(E)), shall be made to the news media coordinator. The request must be in written form, using the forms approved by the Administrative Office of the Nebraska Supreme Court and filed with the clerk of the court where the proceedings are pending. No applicant to provide expanded media coverage shall so apply unless he or she is in good standing with these administrative credentials.

The request shall be filed at least seven business days in advance of the first proceeding in which expanded media coverage is requested. If the judicial proceeding is scheduled sooner than seven business days before the request, notice of the request shall be given as soon as practicable. An approved request for expanded media coverage of all proceedings along with all subsequent permissible proceedings (within that particular level of the court system) is authorized without additional notice subject to the court's determination that there is good cause to limit or terminate coverage for a particular hearing. If the case moves to a different level of the court system (e.g., from county court to district court), a new request for expanded news media coverage must be submitted in the new court of jurisdiction.

(2) A copy of the request shall be sent electronically, delivered by ordinary mail, or delivered in person to the last known contact of all attorneys of record, parties appearing without attorney representation, ~~Supreme Court Information Officer~~, the appropriate court administrator, and the judicial officer expected to preside at the proceeding for which expanded news media coverage is requested by the news media.

(3) Requests and notices shall be given using the forms approved by the Administrative Office of the Nebraska Supreme Court.

(D) ~~(C)~~ Objections to expanded news media coverage.

(1) A party to a proceeding, except an initial appearance in a criminal case in county court (see § 6-2003(E)), objecting to the request for expanded news media coverage must file a written objection using forms approved by the Administrative Office of the Nebraska Supreme Court.

The objection shall be filed at least three days before commencement of the proceeding. When the proceeding is not scheduled at least seven business days in advance, the objecting party must give notice of the objection as soon as practicable after the proceeding is scheduled.

(2) A copy of the objection shall be sent electronically, delivered by ordinary mail, or delivered in person to the last known contact of all attorneys of record, parties appearing without attorney representation, Supreme Court Information Officer, the appropriate court administrator, and the judicial

officer expected to preside at the proceeding for which expanded news media coverage is requested.

(3) Rulings on timely objections shall be made by the judicial officer prior to the commencement of the proceedings or as reasonably practical. The objecting party may be afforded an opportunity to present evidence by affidavit.

The judicial officer may rule on an objection on the basis of the written objection alone or on the combination of the written objection and the affidavits presented as evidence in the form of attachments to the objection.

(4) The deadline for filing of objections may be modified in the discretion of the judicial officer.

(5) The granting or denial of the objection to expanded news media coverage is a nonappealable temporary injunction or suspension of expanded news media coverage.

#### **§ 6-2005. Technical.**

(A) Equipment specifications. Equipment to be used by the news media in courtrooms during judicial proceedings must be unobtrusive and must not produce distracting sound. In addition, such equipment must satisfy the following criteria, where applicable:

(1) Still cameras. Still cameras and lenses must be unobtrusive and not cause distracting light or sound.

(2) Television cameras and related video equipment. Television cameras, together with any related equipment to be located in the courtroom, must be unobtrusive in both size and appearance, without distracting sound or light. Television cameras are to be designed or modified so that participants in the judicial proceedings being covered are unable to determine when recording is occurring.

(3) Audio equipment. Microphones, wiring, and audio recording equipment shall be unobtrusive and of adequate technical quality to prevent interference with the judicial proceeding being covered. The judicial officer must approve any changes in existing courtroom audio systems. No modifications of existing systems should be made at public expense. Microphones for attorneys and judicial officers to use must be equipped with off/on switches to facilitate compliance with § 6-2003(H).

(4) Electronic devices. All electronic devices used for recording audio, video, or still images must adhere to § 6-2005(C)(1). Electronic devices include, but are not limited to, laptop computers, cellular telephones, personal digital assistants, smart phones, and tablet computers. The news media seeking expanded coverage shall disclose in advance all devices which will be used by the news media.

(5) Advance approval. It shall be the duty of news media personnel to demonstrate to the judicial officer reasonably in advance of the proceeding that the equipment sought to be utilized meets the criteria set forth in this rule. Failure to obtain advance judicial approval for equipment may preclude its use in the proceeding.

(6) Timeliness. All news media equipment and personnel shall be in place at least 15 minutes prior to the scheduled time of commencement of the proceeding.

(B) Lighting. Other than light sources already existing in the courtroom, no flashbulbs or other artificial

light device of any kind shall be used in the courtroom. With authorization of the judicial officer, modifications may be made in light sources existing in the courtroom (e.g., higher wattage light bulbs), provided such modifications are installed and maintained without public expense.

(C) Equipment and pooling. The following limitations on the amount of equipment and number of photographic and broadcast news media personnel in the courtroom shall apply:

(1) Video recording, audio recording, and still photography.

(a) one still camera and

(b) one television camera or video recorder;

(c) component parts of cameras or video recorders and operators shall, when practical, be located adjacent to the courtroom;

(d) audio recording devices must utilize existing courtroom equipment unless otherwise approved by the judicial officer.

(2) Electronic devices not used for recording audio, video, or still images. The devices defined in § 6-2005(A) may be used in the courtroom by members of the news media for live electronic reporting with advance approval from the judicial officer, provided the equipment does not make any disruptive noise or interfere with court equipment. Electronic devices may not be used for telephone calls by anyone in the courtroom. Electronic devices for photography, video recording, audio recording, or streaming video may not be used by anyone in the courtroom unless approved by the judicial officer in advance. The rule applies to news media only as defined in § 6-2002(E G). Use of such electronic devices by others is prohibited.

(3) Pooling. Where the above limitations on equipment and personnel make it necessary, the news media shall be required to pool equipment and personnel. ~~Pooling arrangements shall be the sole responsibility of the news media coordinator, and the judicial officer will not mediate any dispute as to the appropriate media representatives authorized to cover a particular judicial proceeding.~~ Designation of a pool camera is the sole responsibility of the court's media coordinator. Multiday trials will require a credentialed news media representative to coordinate the daily rotation of camera operators. The judicial officer and court's media coordinator will not mediate disputes between media representatives from news organizations regarding daily rotation of camera operators. Representatives of news media are responsible for contributing to electronic pool coverage of judicial proceedings ~~when necessary~~. If a news organization is incapable of contributing to pool coverage, the news media coordinator ~~may allow the news organization to share the pool coverage or may restrict the news organization's coverage~~ representatives shall facilitate the ability to provide pool coverage for each credentialed news organization approved to cover a particular judicial proceeding.

(D) Location of equipment and personnel. Equipment and operating personnel, including news media using electronic devices to transmit and receive data communication, must be located in, and coverage of the proceedings must take place from, an area or areas the judicial officer designates within the courtroom. The area or areas designated shall provide reasonable access to the proceeding to be covered.

(E) Movement during proceedings. Television cameras and video and audio equipment may be installed

in or removed from the courtroom only when the court is not in session. In addition, such equipment shall at all times be operated from a fixed position. News media personnel are prohibited from moving about the courtroom while proceedings are in session, nor shall they engage in any movement which attracts undue attention.

(F) Variance application. The judicial officer, upon application of the news media, may permit the use of equipment or techniques at variance with the rules, provided the application for variance is included in the advance notice of coverage provided for in § 6-2004(~~B~~) (C). Objections, if any, shall be made as provided in § 6-2004(~~C~~) (D). Approval or denial of the variance application is in the sole discretion of the judicial officer.

(G) Decorum. All news media personnel shall be properly credentialed and shall maintain proper courtroom decorum at all times while covering a judicial proceeding.