

On January 31, 2018, the Nebraska Supreme Court approved the following rule amendments to the local district court rules of the Second Judicial District:

## District 2

### Rules of the District Court of the Second Judicial District

#### Scope and effective date.

These rules for the district courts of the Second Judicial District shall become effective upon approval by the Supreme Court and publication in the Nebraska Advance Sheets and shall supplement the Uniform District Court Rules of Practice and Procedure adopted by the Supreme Court.

#### Rule 2-1. Annual Term of Court

The regular term of the court in each county shall be deemed to commence on January 1 of each calendar year, and shall be deemed to conclude on December 31 of the same calendar year. No order opening or closing such term shall be required.

#### Rule 2-2. Preliminary Matters

~~A. Motion Days—Motion days in Sarpy and Cass counties shall be on Mondays at the times listed below and the motion days in Otoe County shall be on Tuesdays at the times listed below. In the event a motion day is a recognized holiday, each judge, at his or her option, may designate the next recognized working day as a motion day. Unless otherwise prescribed by the assigned judge, preliminary matters are called as shown below:~~

#### ~~Sarpy County~~

<del>Courtroom No. 1</del>	<del>Courtroom No. 2</del>	<del>Courtroom No. 4</del>
<del>(ZASTERA)</del>	<del>(ARTERBURN)</del>	<del>(KELCH)</del>
<del>8:30 Drug Court</del>	<del>8:15 Arraignments</del>	<del>8:15 Arraignments</del>
<del>10:45 Arraignments/Criminal</del>	<del>10:30 Criminal</del>	<del>9:00 Criminal</del>
<del>1:30 Law/Equity</del>	<del>1:30 Domestic</del>	<del>1:00 Domestic</del>
<del>2:00 Domestic</del>	<del>3:30 Law/Equity</del>	<del>3:00 Law/Equity</del>

~~-~~

#### ~~Cass County (Funke)~~

#### ~~Monday~~

~~Time:~~

~~8:30 a.m. Domestic~~

~~9:30 a.m. Law/Equity~~

~~10:30 a.m. Criminal/Contempt~~

~~-~~

#### ~~Otoe County (Funke)~~

~~Tuesday~~

~~-~~

Time:

8:30 a.m. Domestic

9:30 a.m. Law/Equity

10:30 a.m. Criminal/Contempt

~~B.~~ Unless otherwise ordered by the court, all motions (except for temporary allowances), written objections, and other filings of a similar nature, shall cite the legal authorities relied upon, and shall contain a notice of hearing with a date and time selected as set forth above not less than five (5) nor more than thirty (30) days from filing. Absent a notice of hearing or specific directions by the court, the matter will be automatically calendared on the first motion day after five (5) days have passed following filing.

~~A. C.~~ Motions (except for contempt or to vacate a judgment) shall be submitted on affidavits and oral arguments of counsel, **not to exceed 15 minutes per party**, unless otherwise ordered. If a moving party fails to appear in support of a pleading at the prescribed time, the same shall be deemed submitted without argument. In addition to the requirements of the Uniform District Court Rules, as well as Neb. Rev. Stat. § 25-910, any motion filed that does not require the appearance of one and/or both of the parties, including, but not limited to: Motion to Endorse, Motion for Deposition, Motion to Withdraw, etc., and where there is no objection by the opposing party, no hearing shall be required unless for good cause as decided by the Judge. Counsel shall set forth in the body of the motion that he/she has had contact with the opposing party and that there is no objection by the same, and shall further submit via email (not e-file) to the Judge's bailiff, a proposed order in Microsoft Word for the signature of the Judge.

~~B.~~ Continuance(s). In addition to the requirements set forth in Neb. Rev. Stat. § 25-1148, a Motion for Continuance shall set forth whether the opposing party has an objection. If the opposing party does not object to the continuance, the party filing the motion shall be responsible for arranging, as soon as practical, a new date and time with all opposing parties and the court. If the opposing party does object, or after reasonable efforts have been made to contact the opposing party without success as verified by affidavit, it is the responsibility of the party filing the motion to set the motion for a continuance hearing. If the moving party fails to attempt contact with opposing counsel, the motion for continuance may be summarily denied. Except for exigent circumstances, a motion for a continuance shall be made at least three (3) working days prior to the hearing for which the continuance is requested. See Attachment B.

~~D.~~ Hearing on motions for summary judgment, motions to suppress evidence, temporary replevin orders, temporary injunctions, motions for new trial and matters requiring more than five (5) days' notice shall be set only after conferring with the assigned trial judge and/or the bailiff.

~~C. E.~~ When a motion is ruled upon, the party required to plead further shall be allowed ten (10) days to further plead, except as is otherwise ordered by the court.

~~D. F.~~ Child Support Enforcement. In Sarpy County, child support enforcement cases shall be heard by the Statewide-Referee.

~~E. G.~~ Alternative Services. Motions for service by publication are submitted ex parte to the assigned trial judge when filed. The motion shall be accompanied by an affidavit of factual matters establishing the defendant(s) cannot, with reasonable diligence, be served by personal service, residence service, certified mail, or any other matter that would provide the party with actual notice of the proceedings and an opportunity to be heard.

### **Rule 2-3. Stipulations and Agreements**

All stipulations not made in open court or in chambers and recorded by the reporter and all agreements of counsel or parties to a suit, must be reduced to writing and signed by the parties making the same and filed with the Clerk, or they will not be recognized or considered by the court.

### **Rule 2-4. Correspondence with the Court**

Subject to subsections (A) and (B) below, any unofficial correspondence with the court (letters, briefs, etc.) and all proposed documents (proposed settlement agreement, proposed decree, etc.) may be submitted to the court by counsel as an email attachment in Word format. All other pleadings, motions and any other document that will be filed within the court file shall **only** be electronically filed (e-filed) by counsel; follow-up copies of the same shall neither be submitted nor accepted by the court. For individuals not represented by counsel, i.e., a self-represented litigant, all correspondence shall be mailed by U.S. mail, postage prepaid, or personally delivered to the Clerk of the District Court. Ex parte communication with the court shall not be tolerated in the absence of express permission by all interested parties.

#### A. Exhibit Handling

(1) Affidavits, depositions, and other proposed exhibits in support of motions shall not be filed with the Clerk unless otherwise ordered by the Court. Nothing in this rule shall prohibit any properly filed pleading from being offered and received into evidence.

(2) Public Records as Exhibits. In all cases where books, files, or records, or parts thereof belonging to or taken from the records of public offices are offered in evidence or are marked for identification to be offered at a pretrial conference, it shall be the duty of the party offering the same to furnish true copies of the same to the court reporter and the opposing counsel before the offer.

(3) Documentary Exhibits. All documentary evidence which is not impeaching or rebuttal in nature shall be presented to the court reporter prior to trial, marked for identification, and submitted to the opposing party for inspection. They shall be numbered consecutively.

#### B. Electronic Filing

(1) When a party e-files any motion, including a motion for ex parte order, pleading, or other document after **2:00 p.m.** on a given day that requires a hearing within the next 72 hours, he/she shall also follow up with the Clerk of the District Court, whether in person or by phone call on the day of filing, in order to give the Clerk adequate notice so that the court is made aware of the request in a timely manner.

~~All correspondence to the court regarding pending litigation shall refer to the subject case by case title, number and county, and a copy of such correspondence shall be mailed to opposing counsel. If the correspondence entails the transmittal of pleadings or journal entries, orders, or decrees, pre-addressed stamp envelopes required for those purposes shall be enclosed therewith.~~

### **Rule 2-5. Proof of Service**

Except as otherwise provided by statute, or by order of the court, proof of service of any pleading, motion, or other paper required to be served shall be made by: (1) a certificate by or on behalf of counsel showing the name and address on whom service was had; (2) written receipt of the opposing party or his or her attorney; (3) affidavit of the person making service; (4) return of the county sheriff; (5) E-Service

in accordance with Neb. Ct. R. § 6-419; or (6) other proof satisfactory to the court. Failure to make proof of service will not affect the validity of the service, and the court may at any time allow the proof of service to be amended or supplied unless it clearly appears that to do so would result in material prejudice to substantial rights of any party affected thereby.

#### **Rule 2-6. Reduction in Support for Periods of Visitation**

~~The following provision shall apply to any decree providing for a reduction in child support payments while the non-custodial parent has possession of said child or children:~~

~~(1) The non-custodial parent shall prepare and sign an affidavit stating the inclusive dates that the non-custodial parent had possession of the minor child or children with the name of said child or children showing the amount of support to be reduced.~~

~~(2) This affidavit shall be filed with the clerk of the district court within thirty (30) days after said possession and a copy mailed to the custodial parent or it shall be presumed that the non-custodial parent did not have possession of the child or children for the affected time period.~~

~~(3) Within thirty (30) days after receipt of the copy of said affidavit, the custodial parent may file an objection or counter affidavit, and if this is done, a hearing date will be set to determine the matter.~~

~~(4) Failure of the custodial parent to file an objection or counter affidavit within thirty (30) days shall constitute a waiver to contest the reduction of child support issue.~~

~~(5) Counsel for the parties shall advise the parents of this provision.~~

#### **Rule 2-6, Rule 2-7. Consents to Adoption**

~~A. (1)~~ Applications for an order consenting to adoption of children subject to jurisdiction of the court must be accompanied by a photocopy or duplicate original of all relinquishments and consents to adoption as required by law. Attorneys should note that in case of abandonment or other situations where one or both of the natural parents are unable to consent, substitute consents are required.

~~B. (2)~~ Any delinquent support payments remain a judgment against the party ordered to pay such support, unless a receipt or satisfaction is filed by the party to whom the support is due.

~~C. (3)~~ Upon completion of the adoption proceedings, an appropriate motion shall be filed together with a proposed order terminating all future support as of the date of the adoption decree. The motion and proposed order shall be accompanied by a copy of the adoptive decree. The decree of adoption shall be redacted to comply with Neb. Ct. R. § 6-1521.

#### **Rule 2-7, Rule 2-8. Summary Judgment Procedure**

A. The moving party shall set forth in the brief in support of the motion for summary judgment the basis for the motion, including the Rule of Procedure or statute under which the motion is filed, and a separate statement of each material fact as to which the moving party contends there is no genuine issue to be tried and as to each shall identify the specific document or portion thereof or discovery response or deposition testimony (by page and line) which it is claimed established the fact.

B. The party opposing a motion for summary judgment shall set forth in its opposing brief a separate statement of each material fact as to which it is contended there exists a genuine issue to be tried and as to

each shall identify the specific documents or discovery response or deposition testimony (by page and line) which it is claimed establishes the issue.

### **Rule 2-8. Rule 2-9. Trial Assignments**

A. Criminal Cases: Criminal cases shall be set for both pretrial conference and for trial at the discretion of the judge presiding over the case, at the time of or following the arraignment of the defendant. on or about the date that the defendant files a written waiver of arraignment. Written waivers of arraignment are required. See Attachment C (Written Waiver of Arraignment) and Attachment D (Written Waiver of Preliminary Hearing).

(1) Progression Order. As soon after filing of a case as is practicable, the Court may enter an order of progression for the case. The progression order may include the mandatory exchange of information, discovery deadlines, provision for disclosure of expert witnesses, the date of the pretrial conference, the trial term at which the case will be tried or the trial date, together with such other provisions as the court may deem appropriate.

B. Civil Cases ~~and Domestic Cases~~: All civil (law or equity) and domestic cases shall be set for trial by the assigned trial judge in accordance with the following procedures:

(1) Trial. Trial assignment priority shall be within the discretion of the judge assigned to the case. Civil jury trials will be scheduled during the third week of every other month, or as otherwise determined by the Court.

(2) Progression Order. As soon after filing of a case as is practicable, the court may enter an order of progression for the case. The progression order may include the mandatory exchange of information, discovery deadlines, provision for disclosure of expert witnesses, the date of the pretrial conference, the trial term at which the case will be tried or the trial date, together with such other provisions as the court may deem appropriate.

~~(1) In all civil and domestic cases, a Certificate of Readiness for Trial shall be filed (on a form provided by the Clerk of the District Court, a copy of which is attached to these Rules) with the Clerk of the District Court upon the completion of all discovery proceedings, and a copy delivered to the judge assigned to said case;~~

~~(2) Failure to object to the Certificate of Readiness within (ten) 10 days from the date of filing shall constitute an acceptance by all parties that the matter is ready for trial and can be tried in the amount of time as designated by the party filing the Certificate of Readiness;~~

~~(3) If an Objection is filed to the Certificate of Readiness filed by an opposing party, the party filing the Objection to said Certificate of Readiness shall set the matter for hearing on a regularly scheduled motion day (pursuant to Rule 2-2 of these Rules) and give notice of said hearing to all parties;~~

~~(4) Trial assignment priority shall be within the discretion of the judge assigned to the case, but said judge shall prioritize as much as possible trial assignments by the dates of the filing of Certificates of Readiness.~~

### **C. Domestic Actions:**

(1) Progression Order. As soon after filing of a case as is practicable, the court may enter an order of progression for the case. The progression order may include the mandatory exchange of information,

discovery deadlines, provision for disclosure of expert witnesses, the date of the pretrial conference, the trial term at which the case will be tried or the trial date, together with such other provisions as the court may deem appropriate.

(2) Property Statements. Where the action involves a division of property by the court, each party shall prepare a property statement setting forth assets, liabilities, and any other information concerning property germane to the case at bar. The party filing the action, i.e., the petitioner, shall have sixty (60) days from the date of service to prepare the property statement, and then will furnish a copy to the opposing party. The responding party shall then complete the property statement by adding to it any additional property and that party's estimates of value of all property listed. The responding party's additions shall be served upon the initiating party within thirty (30) days after the filing of the initial statement. When property division is contested at final hearing, the parties shall prepare a joint property statement for use as an exhibit. Either party may receive an extension of time for filing or completing property statements on written motion and good cause shown. Except by agreement of the parties or order of the court, amendments to the property statement shall not be permitted unless filed at least ten (10) days prior to trial. Property statements shall not be filed with the court, but proof of service shall be filed.

(3) Temporary Hearing. Unless otherwise ordered, temporary applications shall be governed by Neb. Ct. R. § 6-1504 and Neb. Rev. Stat. § 43-2930. Except where a party appears as a self-represented litigant and live testimony is required, or unless otherwise ordered, evidence shall be submitted by affidavits, which shall be exchanged by the parties at least forty-eight (48) **business** hours prior to the hearing, i.e., affidavits for a Monday hearing are due by close of business on the previous Wednesday, etc. Except for good cause shown, no more than five (5) affidavits, or alternatively, no more than twenty-five (25) total affidavit pages (including exhibits attached thereto), will be considered by the court at the time of the temporary hearing. Pay stubs, W-2s, and Child Support Worksheets do not count against the total of 25 pages that is allowed for each party. All affidavits shall be submitted with standard-sized font and margins. Any affidavits that do not comply with the aforementioned requirements may not be considered by the court for purposes of the temporary hearing. No "reply" or "responsive" affidavits are permitted. All temporary hearings shall be scheduled within 14 days of the filing of the motion for temporary relief and shall be set for no longer than 15 minutes. Parties to notify the court if a temporary hearing is expected to take longer than 15 minutes, and it will be set for special setting beyond the aforementioned 14 days. Counsel shall submit a proposed temporary order in Microsoft Word format.

(4) Ex Parte Custody Orders. No ex parte order shall be entered in a domestic relations case without one (1) or more supporting affidavits from a party or his or her witnesses. Except for good cause shown, no ex parte temporary order shall be entered in a pending case if the opposing party is represented by counsel or a guardian ad litem/attorney for minor(s) has been appointed. If an ex parte order is issued, it shall be served upon the opposing party or counsel forthwith, and a temporary hearing shall be held forthwith.

(5) Contested Custody. If an issue concerning custody of a minor child exists, the court may appoint a guardian ad litem/attorney for the minor(s). In such event, the court will order an initial deposit of fees to be paid by the parties into the court within a specified time period. If no time period is specified by the court, it shall be 20 days. Initial fees shall be allocated between the parties in the discretion of the court, subject to modification and the assessment of additional fees at the time of the final hearing. Those claiming indigent status may apply to the court for a waiver of such fee assessment. Such an application must be accompanied by an affidavit establishing poverty. When a guardian ad litem/attorney for the minor child makes application for payment of fees in a case involving a claim of indigence, copies of the fee application and notice of hearing shall be served upon the County Attorney, who may appear at the hearing to object to payment of the same.

(6) No document filed in the public record of a case shall have complete vehicle identification numbers, account numbers, Social Security numbers, dates of birth, or other personal identification information. Real estate shall be described by legal description as opposed to street address.

(7) Leaving the State. Every order for child custody, temporary or permanent, shall contain language substantially as follows:

A party exercising custody of a minor child is ordered not to move the child outside the State of Nebraska except by written agreement of the parties and approved by the Court. Anyone intending such a move must first:

(a) Make written application to the court; and

(b) Give notice of the application and hearing to the other party as required by law.

(8) Reduction in Support for Periods of Visitation. Whenever a temporary or permanent child support order provides for a reduction in child support while a non-custodial parent has possession of the child or children, the following procedure shall be utilized:

(a) The non-custodial parent shall prepare and sign an affidavit stating the inclusive dates that the non-custodial parent had possession of the minor child or children with the name of said child or children showing the amount of support to be reduced.

(b) This affidavit shall be filed with the Clerk of the District Court within thirty (30) days after said possession and a copy mailed to the custodial parent or it shall be presumed that the non-custodial parent did not have possession of the child or children for the affected time period.

(c) Within thirty (30) days after receipt of the copy of said affidavit, the custodial parent may file an objection or counter-affidavit, and if this is done, a hearing date will be set to determine the matter.

(d) Failure of the custodial parent to file an objection or counter-affidavit within thirty (30) days shall constitute a waiver to contest the reduction of child support issue.

(e) Counsel for the parties shall advise the parents of this provision.

(f) If the State of Nebraska is a party to the action, the same shall be given notice and an opportunity to object in a matter consistent herein.

D. ~~C~~. Other Settings: Notwithstanding subsections B or C of this rule, the judge assigned to such case may on his or her own motion assign a trial date to said case or, in the alternative, hold periodic docket calls for the purpose of assigning trial dates to pending cases. In the event that a case is set for docket call for the purpose of setting a trial date, counsel or self-represented parties shall be required to personally appear for such docket call-

#### **Rule 2-9. Mediation in Domestic Relations Cases Rule 2-10. Domestic Relations—Mediation**

A. A domestic-relations matter involving children includes filings for dissolution of marriage and determination-of-paternity cases which involve issues of custody, parenting time, visitation, or other access with a child. Within fifteen (15) days after entry of this court's progression order, both parties are required to register for the basic level parenting class, "What About the Children." Barring an emergency, no hearing for temporary orders will be scheduled unless proof is submitted by the moving party showing

~~completion of said parenting course. See Attachment A. All parties who have not submitted a parenting plan to the court within 90 days of filing an action involving child custody shall be required to meet and participate in mediation services or the specialized alternative dispute resolution process to complete a parenting plan or visitation schedule, including child custody, visitation, grandparent visitation, and any other issues relating to the children that may be susceptible to mediation or the specialized alternative dispute resolution process. No trial date will be scheduled until attendance at the required mediation to resolve custody and/or visitation issues has been attempted or the specialized alternative dispute resolution process has been attempted, provided, however, that failure or refusal to participate by a party shall not delay entry of a final judgment by more than 6 months. It is further provided that, notwithstanding the language in this paragraph, domestic violence issues may, upon consideration by the trial court, disqualify the parties from mediation.~~

If a modification proceeding is filed by either and/or both parties less than two (2) years after an initial decree or previous modification is entered, both parties are required to complete the second level parenting class, "Reaching Beyond Conflict." For good cause shown and (1) when both parents agree and such parental agreement is bona fide and not asserted to avoid the purposes of the Parenting Act, or (2) when mediation or specialized alternative dispute resolution is not possible without undue delay or hardship to either parent, the mediation or specialized alternative dispute resolution requirement may be waived by the court. In such a case where waiver of the mediation or specialized alternative dispute resolution is sought, the court shall hold an evidentiary hearing and the burden of proof for the party or parties seeking waiver is by clear and convincing evidence.

Each party shall be responsible for the costs of attending either parenting education course. The court may waive or specifically allocate costs between the parties for their required participation in the course.

Further information on parenting education courses may be found at:  
<https://supremecourt.nebraska.gov/programs-services/mediation/parenting-act-mediation/parenting-education-classes>.

B. Mediation is required in all cases. The parties may either agree on a mediator, or if an agreement cannot be reached, the court shall order that parties involved in a domestic case filed in Sarpy County are required to attempt mediation at the Concord Mediation Center. Mediation shall be attempted within sixty (60) days of the court's progression order. Parties involved with a domestic case filed in Cass or Otoe Counties are required to attempt mediation at either the Concord Mediation Center, the Mediation Center in Lincoln, or the Resolution Center in Beatrice within sixty (60) days of the court's progression order. A party may not terminate mediation until after an individual initial screening session and one mediation or specialized alternative dispute resolution session are held unless said mediation is waived as provided herein.

~~C. All parties not having agreed to a parenting plan within 90 days of filing an action involving child custody, and not having agreed to a specific mediator, shall contact the bailiff of the assigned Judge, and shall be assigned the next mediator from a rotating list of approved mediators. However, parties or counsel are required to notify the Judge assigned to the case, by notifying his or her bailiff, of any request for delay in assignment of a mediator if the parties or counsel are attempting to negotiate a Parenting Plan agreement.~~

~~D. At any time in the proceedings, the court may refer a case to mediation or the specialized alternative dispute resolution process in order to attempt resolution of any relevant matter. The court may state a date for the case to return to court, and the court shall not grant an extension of such date except for good cause shown unless said mediation is waived as provided herein.~~



~~C. E.~~ The Nebraska Office of Dispute Resolution maintains a list of ~~District Court Clerk of each county shall maintain a list of~~ mediation centers approved by the ~~Mediation Committee of the District Court~~ Dispute Resolution Advisory Council found here: <https://supremecourt.nebraska.gov/programs-services/mediation>. These mediators must meet State of Nebraska (or equivalent) standards for training in order to qualify. The following requirements apply to all participating mediators:

(1) Each participating mediator shall comply with Nebraska Law on mediation, including the Nebraska Parenting Act. Additionally, any mediator qualifying as a specialized mediator, who conducts specialized alternative dispute resolution, shall meet all requirements set forth by Neb. Rev. Stat. § 43-2938(3), or any amendment thereto. All mediators and/or specialized mediator must be willing to agree to the court requirements for participation, and each mediator will be asked to sign a statement indicating acknowledgment and acceptance of the requirements.

(2) Court-approved mediators will determine their own fees ~~and will provide a copy of their fee schedule to the Mediation Committee of the District Court~~. In order to be on the list of court-approved mediators, a mediator must agree to use a sliding-scale fee of \$25 to \$75 per person per hour, determined on the basis of what each party is able to pay. Court-approved mediators must also agree to take pro bono cases on an "as needed" basis. The Court will determine the need for such pro bono services, so that the burden of these cases is equitably distributed among the participating mediators.

~~D. F.~~ Prior to commencing an initial mediation session, the mediator shall provide an initial individual screening session with each party to assess the presence of child abuse or neglect, unresolved parental conflict, domestic intimate-partner abuse, other forms of intimidation or coercion, or a party's inability to negotiate freely and make informed decisions. If any of these conditions exist, the mediator shall proceed with the specialized alternative dispute resolution process that addresses safety measures for the parties, if the mediator is on the approved specialized list of an approved mediation center or approved list of the State of Nebraska, or shall refer the parties to a mediator who is so qualified.

~~G.~~ ~~In conjunction with setting a case for an uncontested final hearing, the parties shall file a pleading, and provide a copy to the assigned Judge, indicating all issues have been resolved and a parenting plan, which has been reduced to writing, has been agreed to by the parties. If the parties have not agreed to any of the following: parenting plan, child support calculations, or a property settlement agreement, they should file a certificate of readiness with the Court and indicate within the certificate of readiness whether the parties have complied with the mediation requirements of this rule.~~

~~H.~~ ~~The Mediation Committee of the District Court may make such other operating rules as may be needed to facilitate the beginning and continuation of this mediation program.~~

~~I.~~ ~~The Mediation Committee of the District Court will be a standing committee of the district court and will be composed of the four district court judges and such other persons as the committee deems necessary.~~

### **Rule 2-10. Rule 2-11. Rules for Problem-Solving Courts**

A. Presiding judge; assignment of judges; and succession plan for problem-solving court judges.

(1) The District Drug Court programs shall be presided over by a district judge selected by the district court judges.

(2) The district judges, with the consent of the assigned judge, shall appoint such district judges as are necessary to perform the judicial duties required by the problem-solving courts in the district.

(3) The presiding and problem-solving court judges so appointed shall serve in any or all of the divisions of the problem-solving court and may serve under a temporary or permanent assignment. A permanently assigned judge shall serve a term of not more than 3 consecutive years. A temporary judge assignment shall not exceed 1 year and shall be a transitional or interim position.

(4) Prior to assuming the position of a problem-solving court judge, or as soon thereafter as practical, the assigned judge shall attend a judicial training program administered by the National Drug Court Institute or other training program approved by the State's Problem-Solving Center Coordinator. At least every 3 years after the initial training, each problem-solving court judge shall attend training events complying with the Nebraska Problem-Solving Court standards.

(5) On or before January 15, 2018, and every 3 years thereafter, the district judges, with the consent of the assigned judge, shall appoint a successor presiding judge who shall immediately succeed the presiding judge in the event of the presiding judge's death, disability, retirement, resignation, removal, elevation to another court, or failure to be retained. Such successor judge shall attend training in advance of service, pursuant to subsection (4), to allow the successor judge to immediately assume the position of presiding problem-solving court judge upon the occurrence of a vacancy.

(6) As of the date hereof, the following judges shall preside in the district's problem-solving courts:

(a) Drug Court:

(i) Presiding judge(s): William B. Zastera George A. Thompson

(ii) Successor judge(s): George A. Thompson Stefanie Martinez

~~(7) Changes for Judge Thompson/Courtroom No. 8 effective July 1, 2017.~~

#### ~~MOTION DAY (MONDAYS)~~

#### ~~CRIMINAL HEARINGS~~

~~Drug Court will be held at 9 a.m. on Mondays~~

~~Arraignments will be heard at 10:30 a.m. on Mondays~~

~~Sentencings will be heard at 10:30 a.m. on Mondays~~

~~Motions and Bond hearings will be heard at 10:30 a.m. on Mondays~~

~~Pretrial hearings will be heard at 1 p.m. on Mondays~~

#### ~~CIVIL HEARINGS~~

~~Civil hearings will be heard at 3 p.m. on Mondays~~

#### ~~MOTION DAY (FRIDAYS)~~

#### ~~DOMESTIC HEARINGS~~

Domestic hearings will be heard at 8:30 a.m. on Fridays (unless there is an ongoing jury trial, and then domestic hearings will be heard on Friday of said week at 8 a.m. The Court will notify attorneys of any such change).

### **Rule 2-12 Motions, Scheduling, Calendar for Judge Martinez**

Effective July 1, 2017, Judge Stefanie A. Martinez will no longer hold a motion day. Instead, all motions to be heard by Judge Martinez will be scheduled and conducted in the following manner:

A. Motions Defined: For purposes of this rule, the word “motion” includes all pretrial and posttrial motions and similar filings in which a hearing is requested, except requests for continuances.

B. Date and Time of Hearing:

(1) Except as otherwise provided by law, pretrial and posttrial motions or similar filings in which a hearing is requested, Except requests for continuances, shall be in writing and filed with the clerk of the District Court not less than 10 working days prior to hearing, except by permission of the court.

(2) Counsel at the time of making said filing shall obtain a date and time for hearing thereon from the judge or the judge’s bailiff and file a notice of hearing with the filing. Unless approved by the judge, a hearing date must be obtained for each motion, even if motions in the same case are already scheduled.

(3) A notice of hearing shall be required for each such motion, even if additional motions are scheduled for hearing in the same case. The notice of said hearing shall be mailed by U.S. mail, postage prepaid, or personally delivered to opposing counsel or party, if not represented by counsel, at least 3 full working days prior to said hearing.

### **Rule 2-10. County Court Limited Jurisdiction**

Pursuant to Neb. Rev. Stat. § 24-312, and by agreement of the Sarpy County District Court, the Sarpy County Court shall be granted the following limited power(s) in an effort to more efficiently administer the caseloads of the courts:

A. To retain jurisdiction of a criminal matter until an Information has been filed by the Sarpy County Attorney, or an individual acting in such capacity, in District Court; and/or

B. To hear cases involving domestic relations matters as defined in Neb. Rev. Stat. § 25-2740 and Class IV felony cases.

IN THE DISTRICT COURT OF SARPY \_\_\_\_\_ COUNTY, NEBRASKA

_____	)	Case No. CI _____
	)	
Plaintiff,	)	
v.	)	CERTIFICATE OF COMPLETION OF PARENTING
	)	EDUCATION COURSE
_____	)	
	)	
Defendant.	)	

1. I am the \_\_\_\_\_ in this action.  
(Plaintiff or Defendant)

2. On \_\_\_\_\_, 20\_\_\_\_, I completed the following parenting course(s) as  
(month and day) (year)  
given by an organization approved by the State Court Administrator’s Office (please mark all  
that apply):

- “What About the Children?” (Basic level parenting course); or
- “Reaching Beyond Conflict” (Second level parenting course).

3. Attached to this Certificate of Completion of Parenting Education Course is the  
documentation that was provided to me after I completed the course.

\_\_\_\_\_ Date \_\_\_\_\_  
Your Signature

\_\_\_\_\_  
Your Full Name

\_\_\_\_\_  
Full Street Address/P.O. Box

\_\_\_\_\_  
City/State/ZIP Code

\_\_\_\_\_ Phone \_\_\_\_\_ Email Address

**ATTACHMENT “A”**

IN THE DISTRICT COURT OF SARPY \_\_\_\_\_ COUNTY, NEBRASKA

_____	)	Case No. _____
	)	
Plaintiff,	)	
v.	)	MOTION FOR CONTINUANCE AND
	)	NOTICE OF HEARING
_____	)	
	)	
Defendant.	)	

COMES NOW \_\_\_\_\_ and moves the Court for a  
 (Your full name)  
 continuance for the matter set for the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. I am  
 (Day) (Month) (Year)  
 unable to participate in said matter for the following reasons:

I have consulted with the other party who has  no objection  not responded.

WHEREFORE, \_\_\_\_\_ moves that this Motion for  
 (Your full name)  
 Continuance be set for hearing, and that upon said hearing, the Court continue the matter for the  
 \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
 (Day) (Month) (Year)

\_\_\_\_\_  
 Your Signature Date \_\_\_\_\_

_____ Your Name	_____ Your Street Address/P.O. Box
	_____ City/State/ZIP Code
	_____ Phone      Email Address

**ATTACHMENT "B"**

IN THE DISTRICT COURT OF ~~SARPY~~ \_\_\_\_\_ COUNTY, NEBRASKA

THE STATE OF NEBRASKA,	)	DOC. {District Docket}
	)	
Plaintiff,	)	
v.	)	WRITTEN ARRAIGNMENT AND WAIVER OF PHYSICAL
	)	APPEARANCE
_____	)	
	)	
Defendant.	)	

Pursuant to Neb. Rev. Stat. § 29-4206, I, {Client First Name}{Client Last Name}, Defendant in the above-entitled action, waive my right to physically appear for arraignment in District Court and ask the Court to enter a plea of not guilty on my behalf subject to the following pretrial motion(s) (if applicable) filed or to be filed pursuant to Statute:

- \_\_\_\_\_ plea in abatement
- \_\_\_\_\_ demurrer
- \_\_\_\_\_ motion to quash
- \_\_\_\_\_ plea in bar
- \_\_\_\_\_ other: \_\_\_\_\_

I waive the right to 24-hour service on the Information prior to entering a plea and the formal reading of the Information. I consent to service of the Information upon my attorney of record. I request the Court to grant my Motion for Mutual and Reciprocal Discovery.

Date \_\_\_\_\_ Defendant's signature: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone #: \_\_\_\_\_

APPEARANCE OF COUNSEL

I, {Attorney Name}, # {Attorney Bar Number}, advise the Court that

- \_\_\_\_\_ I am the attorney of record.
- \_\_\_\_\_ I have been appointed to represent the above-named Defendant and a financial affidavit is on file.

Date \_\_\_\_\_ Attorney's signature: \_\_\_\_\_

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing pleading was served upon the County Attorney via E-Service through E-filing System at the email address of the County Attorney which was registered on Nebraska.gov.

{ \_\_\_\_\_ Attorney Name \_\_\_\_\_ }

**ATTACHMENT "C"**

IN THE DISTRICT COURT OF ~~SARPY~~ \_\_\_\_\_ COUNTY, NEBRASKA

THE STATE OF NEBRASKA,	)	CR _____
	)	
Plaintiff,	)	
v.	)	WAIVER OF PRELIMINARY HEARING
	)	
_____	)	
	)	
Defendant.	)	

I, the undersigned Defendant, acknowledge the following:

I understand the English language or have the assistance of an interpreter in my native language and have reviewed this document in its entirety and discussed it with my attorney before signing it.

A preliminary hearing is a hearing where the State must prove an offense has been committed and there is probable cause to believe that I committed the offense. I understand that if I proceed to a preliminary hearing and the State fails to meet its burden, the charges will be dismissed without prejudice.

I have the following rights at a preliminary hearing: the right to have counsel, the right to confront and cross examine my accusers, the right to testify, the right to subpoena witnesses, and the right to remain silent.

By waiving my right to this preliminary hearing, I will not be able to withdraw my waiver nor request a preliminary hearing in the future. My case will be immediately bound over to the District Court of ~~Sarpy~~ \_\_\_\_\_ County.

I have not been threatened nor induced to waive my right to a preliminary hearing. I am knowingly, intelligently and voluntarily waiving my right to a preliminary hearing on the charges contained within the complaint.

I acknowledge that the County Court retains jurisdiction of this case until an Order binding the case over to District Court has been issued.

An arraignment date will be scheduled forthwith in the District Court. It is my responsibility to maintain contact with my attorney regarding notice of all future court appearances, as well as, report any change of address to my attorney and to the court by the next regular business day.

If I fail to appear for my arraignment date in the District Court, my posted bond may be forfeited, a warrant may be issued for my arrest, and I may be subject to additional charges.

Date \_\_\_\_\_ Defendant's signature \_\_\_\_\_

Address \_\_\_\_\_

Telephone and email \_\_\_\_\_

CERTIFICATION OF COUNSEL

I, \_\_\_\_\_ attorney at law, hereby certify to the Court the

**ATTACHMENT "D"**

following: I am the attorney of record for the above-named Defendant. I have advised my client of all rights and the possible penalties for the charges filed against him or her. I understand the Court will expect me to notify the Defendant of all court proceedings in this matter. I have provided a signed copy of this waiver to the Sarpy \_\_\_\_\_ County Attorney's office.

Date \_\_\_\_\_ Attorney's signature: \_\_\_\_\_  
Bar # \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone and email \_\_\_\_\_

ORDER TO APPEAR

THIS COURT, having reviewed the Waiver of Preliminary hearing executed by the defendant, finds that the waiver is made knowingly, intelligently and voluntarily. The waiver is accepted and the defendant is bound over to District Court on the charges set forth in the Complaint. The defendant is hereby ordered to appear personally for Arraignment on

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ in courtroom # \_\_\_\_\_ at \_\_\_\_\_ a.m.

Bond continues at \$ \_\_\_\_\_, with \_\_\_\_\_ and a no contact with \_\_\_\_\_.

\_\_\_\_\_  
County Court Judge



IN THE DISTRICT COURT OF \_\_\_\_\_ COUNTY, NEBRASKA

**) CERTIFICATE OF READINESS  
) FOR TRIAL**

Plaintiff, )

vs. ) DOC. \_\_\_\_\_ NO. \_\_\_\_\_

)

Defendant. ) Judge: \_\_\_\_\_

**Type of Case:** \_\_\_\_\_ **LAW** \_\_\_\_\_ **EQUITY** \_\_\_\_\_ **DOMESTIC**

The undersigned certifies:

1. Trial of this case will be \_\_\_\_\_ Jury \_\_\_\_\_ Non Jury \_\_\_\_\_ Domestic with issues:

\_\_\_\_\_ Dissolution

\_\_\_\_\_ Modification

\_\_\_\_\_ Paternity \_\_\_\_\_ Alimony \_\_\_\_\_ Child Support

\_\_\_\_\_ Custody/Visitation \_\_\_\_\_ Other (specify) \_\_\_\_\_

Service was perfected on: \_\_\_\_\_

2. The issues are joined, and in the opinion of the undersigned, the case is ready for trial; that all discovery proceedings, including depositions and other necessary preparation has been completed; that all necessary witnesses are available for trial; that the trial is estimated to take no less than \_\_\_\_\_ hours/days nor more than \_\_\_\_\_ hours/days.

3. The undersigned (counsel, litigant, or witnesses) is not available for trial of said cause on the following dates during the next ninety (90) days:

\_\_\_\_\_  
\_\_\_\_\_

4. The parties have completed a parenting education program as required by the Parenting Act and the Rules of the Second Judicial District. The original certificate of completion for each of the parties has been filed in the court file.

5. The parties have attended mediation, and the mediation has resulted in:

\_\_\_\_\_ A parenting plan having been developed.

\_\_\_\_\_ A partial parenting plan having been developed.

\_\_\_\_\_ No parenting plan having been developed.

6. The parties have or have not agreed on a financial plan for the child(ren), including a support calculation in accordance with the Guidelines:

\_\_\_\_\_ Yes

\_\_\_\_\_ No

7. The parties have or have not entered into a written property settlement agreement:

\_\_\_\_\_ Yes

\_\_\_\_\_ No

8. This certificate has been filed in duplicate with the Clerk of the District Court and a copy served on each party or counsel personally or by U.S. Mail, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_; and

**9. Failure to object to this certificate within ten (10) days from filing date shall constitute acceptance by all parties that the matter is ready for trial.**

Attorney number, name (individual name, not firm), current address, and telephone number:

Attorney for Plaintiff (or Pro Se)

Attorney for Defendant (or Pro Se)

Attorney for Child(ren)

Other

\_\_\_\_\_

Attorney for \_\_\_\_\_

RULE ON APPOINTMENT OF COUNSEL FOR  
INDIGENT DEFENDANTS IN CRIMINAL CASES

- 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. PREFACE/APPLICABILITY. Sarpy, Cass, and Otoe Counties all have Public Defender Offices. Sarpy County also maintains a contract with two separate law firms which each serve as Alternate Public Defenders. Cass County maintains a contract with one law firm to serve as Alternate Public Defender. As a result, the necessity to appoint private counsel for indigent defendants does not frequently occur. The following rule shall not apply to criminal proceedings in which the Court appoints the Public Defender, Alternate 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 effective representation; and
  - E. Less-experienced attorneys should 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 from which attorneys shall be appointed to represent indigent defendants. In the event that a District Court judge is required to appoint a private attorney, the District Court judge shall utilize the list maintained by the County Court.
  - B. Attorneys may contact the County Court in each county and request the Clerk Magistrate to place them on or remove them from the court-appointed list.
  - C. The County Court shall make the court-appointed list of attorneys available upon request.
- V. METHOD OF SELECTION FROM COURT-APPOINTED LIST.
  - 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>
  8. attorney's foreign language proficiency; and
  9. other relevant factors that may be involved in a specific case.
- 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.
- C. If an attorney on the court-appointed attorney list is appointed outside the rotational basis established, that attorney's name shall be placed at the end of the rotation.

## VI. REMOVAL AND REINSTATEMENT FROM APPOINTMENT LIST.

- A. Judges will monitor attorney performance on a continuing basis to ensure the competency of attorneys on the list. An attorney may be removed from the appointment list by a majority vote of County and District Court judges.
- B. If an attorney is under consideration for removal from the list, written notification will be given indicating the concerns with his or her performance which give 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 list may be considered for reinstatement by a majority vote of the judges, after the deficiencies contained in the notice have been resolved.

Rule approved October 22, 2014.

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<sup>1</sup> The Court may appoint an attorney present in court when a defendant appears and wants to speak with 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.

<sup>2</sup> 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 the defendant in consulting with a local attorney, and for the convenience of the Court in scheduling cases.