

NOTICE OF COMMENT PERIOD

The Legislature enacted L.B. 11 on March 23, 2017, and the law was approved by the Governor on March 29, 2017. The law changes provisions relating to the transfer of juvenile cases and the appeal of such transfers. The proposed amendments to Neb. Ct. R. App. P. § 2-105, § 2-111, and appendices 6 and 7 of ch. 2, art. 1, and appendix 2 of ch. 6, art. 14, are intended to revise court rules to accommodate changes to the statutes in appeals involving juvenile transfer orders.

The Nebraska Supreme Court invites interested persons to comment on the proposed amendments. Anyone desiring to comment on the proposed amendments should do so in writing to the office of the Clerk of the Supreme Court and Court of Appeals, P.O. Box 98910, Lincoln, Nebraska 68509-8910, or via e-mail to ashley.nolte@nebraska.gov, no later than July 15, 2017.

The full text of the proposed amendments is available below, or a hard copy may be obtained from the office of the Clerk of the Supreme Court and Court of Appeals upon request.

CHAPTER 2: APPEALS

Article 1: Nebraska Court Rules of Appellate Practice.

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§ 2-105. Bill of exceptions, making, preserving, transcribing, and delivery of record of trial or other proceeding.

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(B) Transcribing and Delivery of Record; the Bill of Exceptions.

....

(3) Preparation and Delivery by Court Reporting Personnel.

(a) The bill of exceptions shall be filed with the clerk of the district court as soon as possible. The bill of exceptions must be filed within the following time limits unless an extension of time is approved by the Supreme Court in accordance with these rules:

- Civil cases or criminal trials 7 weeks
- Guilty or nolo contendere pleas 3 weeks
- Juvenile transfer appeals 3 weeks

Preparation of the bill of exceptions shall commence from the date the notice of appeal is filed with the clerk of the district court. The clerk shall serve a copy of the notice of appeal on the court reporting personnel forthwith.

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§ 2-111. Scheduling, argument, and submission.

(A) General. Cases are eligible for submission at any time after the appellee's brief has been filed. This rule sets out the methods of scheduling cases for submission, the various submission methods, and rules relating to oral argument.

(B) Methods of Submission on the Merits.

(1)(a) The court may order the submission of any case without oral argument. Cases to be submitted without argument may be submitted at any time after the time for filing the appellant's reply brief has expired. The Supreme Court Clerk will notify counsel both when the order that the case be submitted without argument is entered and at the time the case is actually submitted.

(b) A party may file a motion requesting oral argument upon notice of the court's order that a case is submitted without oral argument. The motion shall be filed within 7 days after the date of the minute entry submitting the case without oral argument and shall state the reasons for the request. The nonmoving party shall have 7 days after the filing of the motion to respond, at which time the motion shall be submitted to the court for consideration. The granting of the motion shall be at the court's discretion.

(2) Cases which are advanced are scheduled for oral argument as soon as the appellee's brief is due to be filed, ~~except that appeals in juvenile cases not involving Neb. Rev. Stat. § 43-247(1), (2), or (4) are scheduled for oral argument as soon as the appellant's brief is scheduled to be filed.~~ The following categories of cases will be advanced without motion:

- (a) Criminal cases;
- (b) Workers' compensation cases;
- (c) Unemployment compensation cases;
- (d) Questions certified by other courts;
- (e) Original actions;
- (f) Appeals involving custody of minor children;
- (g) Appeals within original concurrent jurisdiction of the court;
- (h) Cases where a "case stated" has been prepared and filed by the parties;
- (i) Appeals from the Tax Equalization and Review Commission;
- (j) Appeals from the Department of Natural Resources; ~~and~~
- (k) Appeals involving guardianship and/or conservatorship; and

(1) All juvenile cases, including orders granting or denying juvenile transfers.

(3) In all other cases, either party may file a motion with the court requesting that the case be advanced for argument. A party seeking an advancement of oral argument shall file a showing in support of said motion setting out the reasons said case should be advanced for oral argument. To ensure proper scheduling, attorneys are requested to notify the Supreme Court Clerk by letter if the case should be advanced and advancement is not obvious.

(4) Cases which are not advanced are scheduled in the order in which the briefs of the appellee are filed, not in the order in which the cases were docketed. Nonadvanced cases are scheduled in the argument slots remaining after scheduling advanced cases.

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**CERTIFICATE OF
CRIMINAL APPEAL**

IN THE DISTRICT COURT OF _____ COUNTY, NEBRASKA

Trial Court No. _____

CERTIFICATE OF CRIMINAL APPEAL

STATE OF NEBRASKA,

Plaintiff,

Vs.

_____,
Defendant.

Attorney: _____ Bar No _____

Address: _____

Telephone: _____

Attorney: _____ Bar No _____

Address: _____

Telephone: _____

I certify that the attached are true and accurate copies of pleadings filed in the above-captioned criminal case.

Type of plea:

- not guilty (trial held) OR guilty or nolo contendere
- to jury
- to judge

Type of case:

Origin of case:

- felony County Court (appeal to District Court)
- misdemeanor District Court
- postconviction Other _____
- plea in bar
- juvenile transfer
- other

Notice of appeal directed to:

- Court of Appeals OR Supreme Court

Statutory authority:

- Death sentence
- Life imprisonment
- Constitutionality of statute
- Other (specify statute) _____

Notice of appeal filed on _____.

Statutory docket fee paid on _____; or

poverty affidavit filed on _____.

Cost bond in the amount of \$ _____ posted on _____.

Cash in lieu of cost bond in the amount of \$ _____ posted on _____; or

supersedeas bond in the amount of \$ _____ posted on _____.

All motions for new trial have been disposed of:

- Yes. Date: _____
- No.
- No motions for new trial filed.

Date: _____

(SEAL)

Clerk of District Court

By: _____

CERTIFICATE OF JUVENILE APPEAL

IN THE _____ COURT OF _____ COUNTY, NEBRASKA
(County or Separate Juvenile)

THE STATE OF NEBRASKA
IN THE INTEREST OF:

Case # _____

CERTIFICATE OF JUVENILE APPEAL

Juvenile

I certify that the attached are true and accurate copies of pleadings filed in the above-captioned case.

This is a juvenile case involving: Criminal Juvenile Transfer
 Adjudication/Termination

Notice of appeal directed to: Court of Appeals OR Supreme Court

Statutory authority: Constitutionality of statute
 Other (specify statute) _____

The notice of appeal was filed on: _____

The statutory docket fee was paid on: _____; or

a poverty affidavit was filed on: _____

All motions for new trial have been disposed of:

- Yes. Date: _____
- No.
- No motions for new trial filed.

Date: _____

(seal)

Clerk Magistrate/ Clerk of the District Court

By: _____

IN THE COUNTY COURT OF _____ COUNTY, NEBRASKA

Case # _____

CERTIFICATE OF CIVIL APPEAL

Plaintiff

VS.

Defendant

Attorney: _____ Bar No _____
 Address: _____
 Telephone: _____

Attorney: _____ Bar No _____
 Address: _____
 Telephone: _____

I certify that the attached are true and accurate copies of pleadings filed in the above-captioned case.

The case is a civil case originating in the County Court:

- | | | |
|-----------------------------------|------------------------------------------|-------------------------------------------------|
| <input type="checkbox"/> Adoption | <input type="checkbox"/> Inheritance Tax | <input type="checkbox"/> Juvenile |
| <input type="checkbox"/> Probate | <input type="checkbox"/> Guardianship | <input type="checkbox"/> Adjudication |
| | | <input type="checkbox"/> Termination |
| | | <input type="checkbox"/> Criminal |
| | | <input type="checkbox"/> <u>Transfer Appeal</u> |

Notice of appeal directed to:
 Court of Appeals OR Supreme Court

Statutory Authority: _____
 Constitutionality of statute

Notice of appeal filed on _____.

Statutory docket fee paid on _____; **or**

poverty affidavit filed on _____.

All motions for new trial have been disposed of:

- Yes. Date: _____
- No
- No motions for new trial filed.

Date: _____

(SEAL)

 Clerk Magistrate

By: _____

IN THE _____ COURT OF _____ COUNTY, NEBRASKA
(County or Separate Juvenile)

CERTIFICATE OF JUVENILE APPEAL

IN THE INTEREST OF:

Case # _____

Juvenile

List of Parties

Name, Relationship:

Name, Address, (Representing):

Name, Relationship:	Name, Address, (Representing):