

NOTICE OF COMMENT PERIOD

Proposed amendments to Neb. Ct. R. App. P. § 2-109(E) were submitted to the Nebraska Supreme Court by Nebraska Supreme Court Staff Attorney's Office. Before consideration, the Nebraska Supreme Court directed that the proposed amendments be published for a period of public comment.

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 email to wendy.wussow@nejudicial.gov, with the rule number listed in the subject line, no later than November 1, 2023.

The full text of the proposed amendments is available below, or a paper copy may be obtained by telephoning the office of the Clerk of the Supreme Court and Court of Appeals at (402) 471-3731.

CHAPTER 2: APPEALS

Article 1: Nebraska Court Rules of Appellate Practice.

....

§ 2-109. Briefs; constitutional questions.

....

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

....