

NOTICE OF COMMENT PERIOD

On March 20, 2019, the Nebraska Supreme Court considered proposed amendments to Neb. Ct. R. App. P. § 2-115 entitled “Original actions,” Appendix 4, and new rule § 2-1xx entitled “Application for leave to docket appeal filed by prosecuting attorney pursuant to § 29-2315.01.” The Supreme Court directed that the proposed amendments and new rule be published for a public comment period.

The Nebraska Supreme Court invites interested persons to comment on the proposed amendments and new rule. Anyone desiring to comment on the proposed amendments and new rule 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 wendy.wussow@nebraska.gov, no later than May 31, 2019.

The full text of the proposed amendments and new rule 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

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Article 1: Nebraska Court Rules of Appellate Practice.

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§ 2-115. Original actions.

(A) How Commenced.

(1) An original action may not be commenced except by leave of court.

(2) Application for leave to commence an original action shall be made by filing with the Supreme Court Clerk a verified petition setting forth the action. Applicant must also file with the clerk a statement setting forth the basis of the court's jurisdiction and the reasons which make it necessary to commence the action here. One copy of each must accompany the petition and the statement. No oral argument will be permitted except as may be ordered by the court.

~~See appendix 4.~~

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§ 2-1xx. Application for leave to docket appeal filed by prosecuting attorney pursuant to § 29-2315.01.

(A) For applications for leave to file an appeal pursuant to Neb. Rev. Stat. § 29-2315.01, the prosecuting attorney shall file the application with the Clerk of the Supreme Court and Court of Appeals as required by the statute, along with the Summary to Accompany Application. See appendix 4. One copy of each must accompany the application and the summary. The fee provisions of Neb. Rev. Stat. § 33-103 and § 2-101(G) shall apply.

(B) If the appellate court grants the State's application for leave to file an appeal pursuant to Neb. Rev. Stat. § 29-2315.01, the provisions of Neb. Rev. Stat. § 25-1912 requiring a notice of appeal and docket fee shall thereafter apply.

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**Summary to Accompany Application for Leave to File
Appeal by County Attorney - § 29-2315.01**

The Nebraska Supreme Court requires that this form be filed as part of an application by a county attorney requesting leave to file an appeal pursuant to Neb. Rev. Stat. § 29-2315.01 and Neb. Ct. R. ~~§ 2-115(2)~~ § 2-1xx. This form is only a synopsis of the action in the case, and is not a substitute for any pleading or application required by statute. Answers may be continued on an attached sheet of paper.

1. Name, address, and telephone number of attorney presenting application:

2. County where case filed:

3. Name of district judge:

4. Case Caption:

STATE v.

5. Charge(s) filed against defendant:

6. Description of order for which review is sought:

7. Date order entered:

8. Summary of the basis or reasons for the application:

9. Brief, concise statement of facts:

10. Description of the public interest to be protected by this review:

11. Portion of record to be presented for review:

12. Date application ~~presented to judge~~ filed with trial court:

13. Date application signed:

APPENDIX 4

Ch. 2, Art. 1, App. 4