

NOTICE OF COMMENT PERIOD

The Nebraska Supreme Court is considering proposed amendments to Neb. Ct. R. § 6-1449 of the Uniform County Court Rules of Practice and Procedure to require a petitioner to inform the court of other litigation or court proceedings involving the minor child or prospective ward who is the subject of the petition. The Supreme Court directed that the proposed amendments be published for a public comment period.

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 erika.schafer@nejudicial.gov, **with the rule section listed in the subject line**, no later than March 1, 2024.

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

CHAPTER 6: TRIAL COURTS

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Article 14: Uniform County Court Rules of Practice and Procedure.

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§ 6-1449. Background checks on guardians or conservators; appointment of guardian ad litem.

(A) Disclosure of the content of the following reports to nonparties of this pending action is prohibited without the court's written consent. All reports filed pursuant to this section are confidential and shall be handled in the same manner as personal and financial information in court records under § 6-1464.

(1) A person, except for a financial institution as that term is defined in subsection (12) of Neb. Rev. Stat. § 8-101 or its officers, directors, employees, or agents or a trust company, who has been nominated for appointment as a guardian or conservator shall obtain a national criminal history record check, a check of the Abuse and Neglect Registries for adults and children, a check with the sex offender registry, and a credit check through a process approved by the State Court Administrator's Office. The

nominated guardian or conservator shall file the results of the reports with the court at least 10 days prior to the appointment hearing date, unless waived or modified by the court (a) for good cause shown by affidavit filed simultaneously with the petition for appointment or (b) in the event the protected person requests an expedited hearing under Neb. Rev. Stat. § 30-2630.01.

(2) An order appointing a guardian or conservator shall not be signed by the judge until such reports have been filed with the court and reviewed by the judge. Such reports, or the lack thereof, shall be certified either by affidavit or by obtaining a certified copy of the reports. No reports or national criminal history record check shall be required by the court upon the application of a petitioner for an emergency temporary guardianship or emergency temporary conservatorship. The court may waive the requirements of this section for good cause shown.

(B) The petitioner must disclose and identify the existence of any other litigation or of any other court proceeding involving the minor child or the prospective ward in which his or her rights were or may be determined or affected to the extent that such information is known by the petitioner. The petitioner must disclose and identify the existence of any other litigation or court proceeding involving the custody, support, visitation, or paternity of a minor child or prospective ward whose rights may be determined or affected by the petition. The petition shall state that the petitioner has made diligent inquiry to learn this information.

(C) The court may appoint a guardian ad litem if:

(1) There are no interested persons. For purposes of subsection (B), interested persons shall include all those defined in § 6-1433; or

(2) The only interested persons are one or more governmental agencies paying benefits on behalf of the ward, incapacitated person, protected person, or minor.

Also, if the court finds that a governmental agency is reviewing the annual reports, then the court may waive the appointment of a guardian ad litem.

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