

NOTICE OF COMMENT PERIOD

The Waiver/Fine Committee submitted proposed amendments to Neb. Ct. R. § 6-1455 entitled “Uniform waiver system.” The Nebraska Supreme Court determined the proposed amendments should 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 these 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 wendy.wussow@nebraska.gov no later than April 1, 2019.

The full text of the proposed rule 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 6: TRIAL COURTS

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

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§ 6-1455. Uniform waiver system.

(A) Uniform Waiver System. Each county court shall accept waivers of appearance and pleas of guilty in cases involving nonhazardous traffic violations, carrier violations, game and parks violations, and other violations in accordance with a schedule adopted by Supreme Court rule. Such waivers shall be on a form with uniform language in accordance with the Supreme Court rule.

(B) Guidelines for Use of Waiver System. Waivers shall be accepted in the following ways:

(1) Mail. Violators may be allowed by the law enforcement officer issuing the citation to use the waiver form contained on the defendant's copy of the citation. If the defendant is a resident of a state which is a member of the Nonresident Violator Compact, the defendant may then be released without the necessity of immediate collection of fine and costs.

If the defendant is a resident of a state which is not a member of the Nonresident Violator Compact, or is charged with an offense not covered by that compact, the officer shall

(a) allow the defendant to sign the waiver and pay the fine and costs or

(b) allow the defendant to sign the waiver and place it in an envelope along with the fine and costs in the presence of the officer. The officer shall then accompany the defendant to the nearest U.S. mailbox to observe the deposit therein of the envelope. The officer shall at no time take possession of the fine and costs.

(2) Locked waiver boxes. ~~Carrier Enforcement officers who have~~ Where a locked waiver box is permanently attached to the inside of their portable unit or permanently affixed within the

building of a ~~fixed-seal facility~~ State Weigh Station, an officer may allow the defendant, in the presence of the officer, to sign the waiver and to place it and the fine and costs in an envelope. The officer shall then, in the presence of the defendant, seal and place the envelope in the locked waiver box.

(3) Personal appearance. Violators may appear personally at the office of the clerk of the appropriate court on or before the court appearance date.

(4) Application. Violators may make application for waiver of appearance prior to the court appearance date. Upon receipt of an application, the court shall determine whether or not the waiver privilege shall be granted and shall send either a waiver or a notice of an appearance date. If the waiver privilege is denied, the judge shall set forth within the notice of appearance a written explanation showing good and sufficient cause as to why the privilege was denied.

(5) Internet. Violators may access a ~~web-site~~ website approved by the Supreme Court and upon successful completion of required information and agreeing to all waiver and plea instructions, pay the fine and costs plus any convenience fees by using a credit/debit card processor authorized by the court. Convenience fees are established by the credit/debit card processor authorized by the court and are not a part of the fine and costs to the state.

(C) Fine Schedule. The Supreme Court shall establish a schedule of the amount of fines to be imposed for violations which are to be paid by waiver.

(D) Other Violations. Notwithstanding the provisions of § 6-1455(C), and except for violations in which mandatory jail time is required to be imposed as punishment, a waiver may be allowed for violations not listed on the schedule in individual cases when authorized by the county judge or judges of the county.

(E) Payment Without Signed Waiver. When the defendant submits payment of assessed fines and costs for a waivable citation but does not enter a plea, the court may send notice to the defendant that unless he or she requests a hearing within 30 days, the court will accept said payment as a plea of no contest and find the defendant guilty of the charged offense.

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