

NOTICE OF COMMENT PERIOD

The Uniform Court Rules Subcommittee of the Bench Media Committee submitted to the Nebraska Supreme Court a proposed new rule to the Uniform County Court Rules of Practice and Procedure, Neb. Ct. R. § 6-1472, entitled “Probable cause affidavits and orders for arrest without warrant.” The Nebraska Supreme Court published the proposed rule for a public comment period which ended on August 13, 2018. Thereafter, the Nebraska Supreme Court directed that further amendments to § 6-1472 be published for an additional public comment period.

The Nebraska Supreme Court invites interested persons to comment on the proposed rule. Anyone desiring to comment on the proposed 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 December 14, 2018.

The full text of the proposed 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 6: TRIAL COURTS

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

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§ 6-1472. Probable cause affidavits, orders for arrest without warrant, and orders for identification procedures under Neb. Rev. Stat. §§ 29-3301 through 29-3307.

(A) Sworn testimony offered in support of judicial determinations of probable cause for persons arrested without warrant shall be in an affidavit or, with the consent of the court, submitted verbally and recorded. Sworn testimony offered in support of orders for identification procedures shall be in affidavit form pursuant to Neb. Rev. Stat. § 29-3303.

(1) Sworn testimony submitted in an affidavit shall be filed with the court and shall be public record upon the filing of a criminal complaint, unless sealed by the judge upon request of either party or on the court’s own motion, citing specific good cause for sealing the information.

(2) Sworn testimony submitted verbally shall be recorded and the recordings maintained pursuant to Records Retention Schedule 18 for County Courts.

(a) The recording or a transcript of the recording shall be public record unless ordered sealed by the judge citing specific cause for protecting the information.

(b) Copies of the recording or a transcript of the recording shall be available pursuant to § 6-1405 unless the record is ordered sealed.

(B) Judge’s orders under this rule shall be part of the court file and shall be public record upon the issuance of the order, unless sealed by the judge upon request of either party or on the court’s own motion, citing specific cause for sealing the information.

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