

On September 21, 2016, the Nebraska Supreme Court adopted the following rule amendments to the Problem-Solving Courts rules, which are found at Neb. Ct. R. §§ 6-1201 through 6-1210:

**Article 12: Problem-Solving and Drug Courts.**

**§ 6-1201. ~~Scope and effective date~~ Establishment.**

Sections 6-1201 ~~and through 6-1202~~10 shall become effective ~~March 1, 2007,~~ and shall govern all problem-solving courts established by and within the Nebraska judicial system. Problem-solving courts shall exist and be established only upon approval of the Nebraska Supreme Court.

**§ 6-1202. ~~Problem-solving courts defined~~ General.**

For purposes of §§ 6-1201 ~~and through 6-1202~~10, problem-solving courts ~~shall mean~~are programs and services established within the district, county or juvenile courts and shall include, but are not limited to, drug court programs established pursuant to Neb. Rev. Stat. § 24-1302 and programs established for the treatment of problems related to issues such as substance abuse, mental health, and domestic violence.

**§ 6-1203. Constitutional and statutory authority.**

Sections 6-1203~~1~~ through 6-1209~~10~~10 are promulgated under the authority of article V, § 1, of the Nebraska Constitution and Neb. Rev. Stat. § 24-1302.

**§ 6-1204. Purpose.**

The purpose of §§ 6-1203~~1~~ through 6-1209~~10~~10 is to institute requirements for the establishment and operation of ~~drug~~ problem-solving courts in Nebraska.

**§ 6-1205. Scope.**

Sections 6-1203~~1~~ through 6-1209~~10~~10 shall apply to all Nebraska ~~drug~~ problem-solving court judges and personnel regardless of funding source.

**§ 6-1206. Definitions.**

For the purpose of §§ 6-1203~~1~~ through 6-1202~~10~~10, “problem-solving courts” “~~drug court,~~” “~~drug court program,~~” “~~drug court treatment program,~~” or “program” means a postplea or postadjudicatory ~~drug and alcohol~~ intensive supervision treatment program for eligible ~~offenders~~ individuals. The purpose of the program is to reduce ~~offender~~ recidivism by fostering a comprehensive and coordinated court response composed of early intervention, appropriate treatment, intensive supervision, and consistent judicial oversight.

**§ 6-1207. Requirements for establishment.**

(A) In order to establish a ~~drug~~ problem-solving court program, approval must first be granted by the Nebraska Supreme Court pursuant to §§ 6-1201 and 6-1202.

(B) ~~Drug~~ Problem-solving courts shall adhere to the 10 Key Components as identified and approved by the National Association of Drug Court Professionals in January 1997, and utilize evidence-based practices as identified by applicable social science research and literature.

(C) ~~Drug~~ Problem-solving courts shall submit to the Administrative Office of the Courts, in writing for approval by the Nebraska Supreme Court, the following:

- (1) A general program description;
- (2) A description of the target population it intends to serve;
- (3) Program goals and how they will be measured;
- (4) An established eligibility criteria for participation in the ~~drug~~ problem-solving court which includes a standardized, validated risk instrument as approved by the Administrative Office of the Courts;
- (5) The process or procedure by which an individual gains acceptance to participate in the ~~drug~~ problem-solving court;
- (6) Drug/alcohol testing protocol;
- (7) A protocol for adhering to appropriate and legal confidentiality requirements and a plan to provide all team members with an orientation regarding the confidentiality requirements of 42 U.S.C. § 290dd-2 and 42 C.F.R. part 2, if applicable;
- (8) The terms and conditions of participation in the ~~drug~~ problem-solving court, including, but not limited to, treatment, drug testing requirements, phase requirements, graduation/completion requirements, graduated sanctions and rewards, and any applicable program service fees;
- (9) The process or procedure by which a participant's progress in the ~~drug~~ problem-solving court is monitored;
- (10) Developed policies and procedures governing its general administration, including those relating to organization, personnel and finance.

(D) Any changes in the material submitted pursuant to § 6-1207(C) shall be submitted to the Administrative Office of the Courts in a timely manner for approval by the Nebraska Supreme Court.

(E) Screening and treatment for substance ~~abuse~~ use shall adhere to Neb. Ct. R., Ch. 6, Art. 13, Substance ~~Abuse~~ Use Services adopted by the Nebraska Supreme Court.

(F) The Court may from time to time modify the requirements set forth in § 6-1207(A) through (E).

(G) The Court shall reserve the right to allow exemptions to any of the requirements set forth in § 6-1207(A) through (E). Any request for an exemption shall be made to the Court in writing. Exemptions shall also be terminated at the discretion of the Court.

#### **§ 6-1208. Operational requirements.**

(A) All ~~drug~~ problem-solving courts shall be postplea or postadjudication in nature.

(B) Following the effective date of these rules, all new ~~drug~~ problem-solving courts, with the exception of family dependency drug courts, shall utilize probation personnel.

(C) Before receiving any funding from the Administrative Office of the Courts, drug problem-solving courts shall have an interlocal agreement or other contract in place. Drug Problem-solving courts directly utilizing probation personnel shall have an interlocal agreement with the Office of Probation Administration outlining the roles, responsibilities, obligations, and the collection of probation fees. Drug Problem-solving courts that are not directly utilizing probation personnel shall have an interlocal agreement or other contract with the Administrative Office of the Courts outlining the roles, responsibilities, and obligations of each.

(D) Drug Problem-solving courts applying for access to treatment funds managed by the Office of Probation Administration shall enter into an interlocal agreement with the Office of Probation Administration outlining roles, responsibilities, obligations, and the collection of fees. Such drug problem-solving courts shall adhere to all Office of Probation Administration policies and procedures in regard to the Offender Fee for Service Voucher Program.

(E) Drug Problem-solving courts shall not deny participation to anyone based on a person's financial status, gender, age, race, religion, physical or mental disability, or ethnicity.

(F) Participants must sign an appropriate consent for disclosure upon application for entry into a drug problem-solving court in accordance with confidentiality requirements of 42 U.S.C. 290dd-2 and 42 C.F.R. part 2.

(G) Drug Problem-solving courts shall have a core team of professionals responsible for the case management of participants.

(H) Drug Problem-solving courts shall advise the Administrative Office of the Courts, in writing, of the source(s) of all program funding. Drug Problem-solving courts eligible for available federal funding or other grant-based funding are encouraged to make all reasonable efforts to secure such funding.

(I) Drug Problem-solving courts in which the collection of state or local fees applies shall not deny entrance nor terminate from the program based on an individual's inability to pay.

(J) All drug problem-solving court participants shall remit all state or local fee payments to the clerk of the court. The clerk of the court shall collect all required state and local fees and shall disperse and report such fees according to law and the policies of the Administrative Office of the Courts.

(K) All drug problem-solving courts shall utilize evidence-based practices as identified by applicable scientific research, and literature, and all drug courts shall adhere to best practice standards, ~~the Nebraska Adult Drug Court and DUI Court Best Practice Standards~~. These standards do not apply to family drug courts or juvenile drug courts.

(L) The Court shall reserve the right to allow exemptions to any of the requirements set forth in § 6-1208(A) through (K). Any request for an exemption shall be made to the Court in writing. Exemptions shall also be terminated at the discretion of the Court.

#### **§ 6-1209. Case management and evaluation requirements.**

(A) Drug Problem-solving courts shall collect and record the data necessary to permit the Administrative Office of the Courts to facilitate outcome and process evaluations. At a minimum, the data to be collected and recorded shall include:

(1) Information regarding participant census, including numbers of:

- (a) active participants
  - (b) total participants served since program's inception
  - (c) graduates
  - (d) participants terminated
- (2) Participant demographics including, but not limited to:

- (a) age
- (b) race
- (c) ethnicity
- (d) gender

(3) Participant program compliance, including, but not limited to:

- (a) attendance in treatment
- (b) drug testing
- (c) phase movement
- (d) attendance in other services

(B) ~~Drug~~ Problem-solving courts shall utilize the statewide case management system as approved by the Administrative Office of the Courts to record its data when such statewide case management system becomes available. Until then, such courts shall, in a timely manner, provide data to the Administrative Office of the Courts as requested.

(C) ~~Drug~~ Problem-solving courts shall participate fully in any process or outcome evaluation facilitated by the Administrative Office of the Courts.

(D) Unauthorized disclosure of confidential information regarding participants is prohibited.

(E) The Court shall reserve the right to allow exemptions to any of the requirements set forth in § 6-1209(A) through (D). Any request for an exemption shall be made to the Court in writing. Exemptions shall also be terminated at the discretion of the Court.

#### **§ 6-1210. Succession Planning for Problem-Solving Court Judges.**

(A) Each problem-solving court shall have a written plan setting forth the procedure for the succession of the judge or judges who serve as the problem-solving court judge in the event of the death, disability, retirement, resignation, elevation to another court, or failure to be retained by the judge then serving the court. For all problem-solving courts in existence as of the date of the adoption of this rule, such succession plans shall be submitted to the Supreme Court for approval no later than May 1, 2017. For problem-solving courts implemented after the effective date of this rule, succession plans shall be

included as part of the information submitted to the Supreme Court for approval of the problem-solving court under §§ 6-1201 and 6-1202.

(B) Such plan shall require the successor judge so identified to receive training appropriate to the problem-solving court at the National Judicial College, under programs offered by the National Association of Drug Court Professionals, or equivalent training as approved by the Nebraska Statewide Problem-Solving Court Coordinator.

(C) The plan shall provide that the training shall take place before the commencement of service of the successor, except in the event of extraordinary circumstances, and with approval of the Supreme Court, the training requirement may be fulfilled after commencement of such service.

(D) Such succession plan shall be reviewed, amended as necessary to reflect current circumstances, and resubmitted to the Supreme Court every 3 years after May 1, 2017. The succession plan may include such other provisions as each problem-solving court shall deem necessary and appropriate for the continued operation of each court.