

## NOTICE OF COMMENT PERIOD

The Nebraska Supreme Court is considering proposed amendments to Neb. Ct. R. § 6-1518, which is entitled “Appeals, statement of errors; mandate; bills of exceptions from other tribunals.” The Nebraska Supreme Court directed that the proposed amendments be published for a period of public comment.

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 email to [erika.schafer@nejudicial.gov](mailto:erika.schafer@nejudicial.gov), with the rule number listed in the subject line, no later than July 1, 2024.

The full text of the proposed amendment is available below, or a paper copy may be obtained by telephoning the office of the Clerk of the Supreme Court and Court of Appeals at 402-471-3731.

## CHAPTER 6: TRIAL COURTS

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### Article 15: Uniform District Court Rules of Practice and Procedure.

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#### **§ 6-1518. Appeals from county court and other tribunals, including those pursuant to the Administrative Procedures Act; statement of errors; mandate; bills of exceptions from other tribunals; briefs; oral argument; summary disposition.**

(A) Bills of exceptions from county court. In appeals from the county court to the district court and where a bill of exceptions is requested to be prepared, the bill of exceptions filed in the county court proceeding shall be transmitted electronically from the county court to the district court and filed in the district court. Upon filing the bill of exceptions, the clerk of the district court shall send notice to the parties using JUSTICE procedures. The bill of exceptions shall be the official record of the proceedings and shall be considered by the district court without being offered and received in evidence.

(B) Statement of errors.

Within 20 days of filing the bill of exceptions in an appeal to the district court, the appellant shall file with the district court a statement of errors which shall consist of a separate, concise statement of each error a party contends was made by the trial court. Each assignment of error shall be separately numbered and paragraphed. Consideration of the cause will be limited to errors assigned, provided that the district court may, at its option, notice plain error not assigned. This rule shall not apply to small claims appeals.

(C) Mandates.

(1) Within 2 judicial days after the decision of the district court becomes final, the clerk shall issue a mandate and transmit the same to the clerk of the county court on the form prescribed by the Nebraska Supreme Court together with a copy of the district court's decision.

(2) The clerk shall notify the clerk of the county court if any matter appealed from the county court is thereafter appealed to the Supreme Court or Court of Appeals. Such

notice shall be sent to the county court within 2 days after the date the notice of appeal is filed in the district court.

(3) The clerk shall notify the clerk of the county court of receipt of a mandate from the Supreme Court or Court of Appeals within 2 days after the mandate is received by the district court on cases that originated in the county court.

**(D) Bills of Exceptions From Other Tribunals.**

(1) Any court reporting personnel approved by the court, board, or tribunal from which the appeal or error proceedings is taken may attend and record the trial or proceedings and prepare a bill of exceptions, certified to be true and complete by such court reporting personnel, and file the same with the chief clerical officer of such court, board, or tribunal who shall certify the bill of exceptions as the official record of the proceedings. Proposed amendments not agreed to shall be heard and determined by such court, board, or tribunal as provided in Neb. Ct. R. App. P. § 2-105(G). The completed bill of exceptions shall be filed electronically in the district court within the time provided by law and, if no time be fixed, before the case is submitted to the reviewing court.

(2) The clerk of the district court shall promptly notify the court reporting personnel serving the district court judge to whom the case is assigned of the filing of the bill of exceptions from the court, board, or tribunal. Said court reporting personnel shall review the bill of exceptions for the purpose of determining whether it has been prepared in compliance with Neb. Ct. R. App. P. §§ 2-105.01 and 2-105.02. If in the opinion of the court reporting personnel the bill of exceptions has not been so prepared, the court reporting personnel shall advise the judge to whom the case is assigned for such action as the judge deems appropriate.

(3) The bill of exceptions from the court, board, or tribunal filed in the district court shall be the official record and shall be considered by the district court without being offered and received in evidence.

(E) The absence of a mandatory document from the transcript must be raised by a party prior to submission of the appeal to the district court.

**(F) Briefs and Oral Argument.**

(1) Briefs. Unless otherwise ordered by the court, the briefs listed below must be filed within the times stated in these rules. Requests for additional time to file briefs shall be supported by a showing of good cause.

(a) Appellant's or Petitioner's brief must be served and filed within 30 days after the date the bill of exceptions is filed. If no request for preparation of a bill of exceptions is filed, Appellant's or Petitioner's briefs must be served and filed within 30 days after the transcript is filed, unless the court directs otherwise.

(b) Appellee's or Respondent's brief must be served and filed within 30 days after the Appellant or Petitioner has served and filed briefs.

(c) Appellant's or Petitioner's reply brief must be served and filed within 10 days after Appellee or Respondent has served and filed briefs.

(2) Oral argument.

(a) A time of hearing shall be secured by contacting the judge's bailiff. Notice of said hearing shall be mailed or personally delivered to opposing counsel or party, if not represented by counsel, on or before the date Appellant's or Petitioner's brief is served and filed.

(b) Unless ordered by the court, no oral argument is allowed in any appeal from the county court in any criminal case:

(i) Where the accused entered a plea of guilty or no contest; or

(ii) Where the sole allegation of error is that the sentence imposed was excessive or excessively lenient or the trial court refused to reduce the sentence upon application of the defendant.

(3) Cases to be submitted without argument may be submitted at any time after the time for filing the Appellant's reply brief has expired.

(4) Unless otherwise ordered by the court, oral argument shall not exceed 10 minutes per side in any civil or criminal case. On the court's own motion or on motion by a party, additional time may be granted by a showing of good cause.

(5) Unless otherwise directed by the court, the parties may elect to waive oral argument and submit a case solely on the briefs. Such notice to waive oral argument shall be filed with the Clerk of the District Court and separately communicated to the judge's bailiff at least 3 days prior to the date of hearing.

(G) Summary Disposition.

(1) Summary Dismissal. When the district court is hearing an appeal over which it determines it lacks jurisdiction, the appeal will be dismissed in the following manner: "APPEAL DISMISSED."

(2) Summary Affirmance. When the district court is hearing an appeal over which it determines on its own motion that (1) it is confined to plain error review because of appellant's failure to file a required statement of errors, (2) a detailed opinion would have no significant value upon further review, and (3) one of the following conditions is met:

(a) the judgment is based on findings of fact that are not clearly erroneous;

(b) the evidence in support of a jury verdict is not insufficient;

(c) the judgment or order is supported by substantial evidence in the record as a whole;  
or

(d) no error of law appears;

the Court may at its discretion decline to hold a hearing on appeal and affirm the judgment in the following manner: "AFFIRMED."

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