

**RULES OF THE DISTRICT COURT
OF THE TWELFTH JUDICIAL DISTRICT
EFFECTIVE JANUARY 26, 1996
(Including Amendments)**

These rules for the district court of the 12th Judicial District shall become effective upon approval by the Supreme Court and publication in the Nebraska Advance Sheets. They shall supplement the Uniform District Court Rules of Practice and Procedure as adopted by the Nebraska Supreme Court.

**RULE 12-0
ANNUAL TERM OF COURT**

The regular term of the court in each county shall be deemed to commence on January 1 of each calendar year, and shall be deemed to conclude on December 31 of the same calendar year. No order opening or closing such term shall be required.

**RULE 12-1
CORRESPONDENCE WITH THE COURT**

All correspondence with the court regarding pending litigation shall refer to the subject case by case title, number, and county, and a copy of such correspondence shall be mailed to opposing counsel or pro se party. If the correspondence necessitates the court's transmittal of papers, preaddressed stamped envelopes shall be enclosed.

**RULE 12-2
STIPULATIONS WITH OR AMONG COUNSEL**

No stipulations of counsel shall be binding unless made in writing or upon the official record.

**RULE 12-3
MOTION CALENDARS**

A. Maintenance and Notice of the Motion Calendar.

(1) In Scotts Bluff County, when any motion requiring a hearing is filed, it should contain a notice of hearing with a date, time, manner of hearing, and certificate of service. It shall be served by personal delivery or mail on all other parties to the case. A time of hearing shall be secured by contacting the office of the judge responsible for the case. If it is impossible to secure a time for hearing, the motion may be filed, but notice of hearing must be furnished promptly thereafter. Failure to secure and serve notice of a date for hearing within 10 days after filing a motion will be deemed an abandonment of the motion.

(2) In all other counties within the district, the clerk or bailiff shall maintain a motion calendar for each judge assigned to a case plainly designating:

(a) The case name and number,

(b) Attorneys or pro se parties who have appeared in the case,

(c) A description of the motion to be heard,

(d) A space for the time and manner of hearing, and

(e) Motions to set cases for trial or other noncontested motions may be accomplished by counsel directly contacting the judge responsible for the case rather than placing the matter on the motion calendar.

The calendar shall be kept conspicuously posted in the office of the clerk or judge. It shall be mailed to attorneys, pro se parties, court reporters, and judges of the court at least 4 days before each motion day. Posting and mailing is sufficient notice of hearing where no different method of service is required by statute. If no valid appearance has been made for an adverse party, responsibility for giving notice of hearing to that party shall be upon the movant.

B. Items Placed on the Motion Calendar.

(1) Motions include all requests for an order of the court. The calendar shall include appeals, arraignments, applications for fees, applications for relief pendente lite, ex parte requests, hearings stipulated by counsel, and motions for summary judgment.

(2) Applications for temporary relief in domestic relations cases shall be calendared for hearing on the motion day 3 days after filing. All other motion calendar items shall be heard on the first calendar that is scheduled 10 days after filing.

(3) Hearings on motions for summary judgment shall be on the motion calendar scheduled at least 10 days after its service on an adverse party.

(4) Appeals shall be placed on the next motion calendar after the bill of exceptions is filed in district court, where such a demand is made, otherwise the appeal shall be placed on the next motion calendar after the transcript is filed. Upon submission, the court will identify the record to be reviewed and consider times for submitting briefs and making oral arguments. In Scotts Bluff County, counsel shall notify the judge in chambers that the bill of exceptions has been filed and obtain a hearing date to submit the appeal.

C. Submission of Motions.

If oral argument is waived or the moving party fails to appear for a motion calendar item, the matter shall be considered submitted. Failure to furnish and serve a brief is not considered a confession of the party's position. If briefs are furnished and served, it should be done at least 3 days before the hearing.

D. Telephonic or Videoconference Hearings.

(1) All nonevidentiary hearings, and any evidentiary hearings approved by the district court and by stipulation of all parties that have filed an appearance, may be heard by the court telephonically or by videoconferencing or similar equipment at any location within the judicial district as ordered by the court and in a manner that ensures the preservation of an accurate record. Such hearings shall not include trials before a jury.

(2) Unless otherwise ordered by the court, all documentary evidence shall be submitted to the court at least 3 working days in advance of the hearing with copies to other counsel or pro se parties.

(3) **Initiation of Telephone Conference Call:** The party requesting the telephone conference call shall be responsible for:

(a) arranging the time for the conference call, with the clerk if scheduled for a motion day and with the judge if scheduled otherwise;

(b) notifying all other parties who will participate in the conference call;

(c) initiating the call promptly at the time scheduled and providing for all expenses of the call; and

(d) utilizing appropriate equipment and systems to ensure that all persons participating have adequate sound quality and volume. If the court determines that the sound quality or volume is insufficient, the court may require the party initiating the call to utilize other means to complete the hearing by telephone.

E. **Time for Pleading Over.** When any motion is ruled upon, the party required to plead further shall be allowed 10 days to further plead or 20 days to answer, unless given another time by the court.

F. **Continuance or Additional Time to Plead.** In addition to the requirements set forth in Neb. Rev. Stat. § 25-1148, a motion for continuance shall set forth whether the opposing party has any objection to the continuance. No order granting a continuance shall be made ex parte. Motions for continuance that lack agreement must be set for hearing.

RULE 12-4 **CRIMINAL PLEA AGREEMENTS**

Unless otherwise authorized by the court, plea agreements in criminal cases shall be in writing and signed by the defendant and counsel.

RULE 12-5 **JURY TRIALS**

A. **Availability of Counsel During Jury Deliberations.** Counsel shall be available on short notice, personally or by telephone as ordered by the court, during jury deliberations in the event of a verdict or a question by the jury. The clerk or bailiff should be kept informed of where counsel will be at all times when the jury is deliberating, unless excused by the court.

B. **Absence of Counsel on Receipt of Verdict.** In civil cases, the court will not deem it necessary that any party or any counsel be present or represented when the jury returns to the courtroom with its verdict.

C. **Presence of Defendant in Criminal Cases.** The defendant and counsel must be present when the jury returns to the courtroom with its verdict. Defense counsel shall be responsible for producing the defendant in court when the jury returns with its verdict and at all other times ordered by the court.

RULE 12-6
DISCOVERY

A. Interrogatories or requests for admission shall have sufficient space below the interrogatory or request for the responding party to answer. Answers to interrogatories or requests for admission shall be typed with the answers following the question. If there is insufficient space, the responding party shall retype the full question and answer.

B. Requests for relief under the Nebraska Discovery Rules must be accompanied by a certificate by the moving party that sincere efforts have been made by personal consultation to resolve the difference. The statements shall also recite the date, time, and place of the conference, the names of those participating, and the specific results of the conference. Requests for relief under the Nebraska Discovery Rules shall also specify which numbered discovery requests are in dispute.

RULE 12-7
EXHIBITS

A. **Documentary Exhibits.** All documentary evidence which is not impeaching or rebuttal in nature shall be presented to the court reporter prior to trial or hearing, marked for identification, and exhibited to opposing counsel for inspection. They shall be numbered consecutively.

B. **Public Records as Exhibits.** In all cases where books, files or records, or parts thereof, belonging to or taken from the records of public offices are offered in evidence or are marked for identification to be offered at a pretrial conference, the party offering the same shall furnish copies to the court reporter before the offer.

C. **Judicial Notice.** In all cases where the court is asked to judicially notice pleadings, affidavits, or other documents from the court file, the party offering the same shall obtain a photocopy prior to the hearing to be marked and offered as an exhibit.

RULE 12-8
REMOVAL OF COURT FILES

Attorneys and bonded abstracters may check out transcripts, bills of exceptions, and court files from the clerk's office for not more than 5 days. Before removal, a receipt shall be signed and left with the clerk. If the item is not returned within 5 days or sooner if ordered by the court, the clerk, by written notice, shall warn that checkout privileges will be suspended unless such item is immediately returned. Upon failure to return, the clerk is directed by the court to suspend the checkout privileges of the involved person until the court restores the privilege.

Any person may obtain photocopies of any public filings at such reasonable cost as the clerk shall determine.

RULE 12-9
LAW LIBRARIES

No books are to be removed from the county law libraries unless signed for in the office of the clerk of the district court or office of the district judge. All books signed for must be returned to the library within 1 week from the date taken. All books used in the libraries must be returned to their proper place in the bookcase on the same day such books are used. Additional library rules may be ordered by a district judge and conspicuously posted in the applicable office of the clerk of the district court and in the library.

RULE 12-10
RULES FOR BOX BUTTE, DAWES, GRANT, MORRILL,
SHERIDAN, AND SIOUX COUNTIES

A. **Trial Sessions.** Unless otherwise determined by the court, trials will be held beginning the first Monday in:

Box Butte County:	February, May, August & November.
Dawes County:	April, August & December.
Grant County:	As necessary.
Morrill County:	March, June, September & October.
Sheridan County:	March, July & November.
Sioux County:	As necessary.

B. **Trial Calendars and Scheduling.**

The clerk of court in each county will keep, in the order of their filing, three lists of cases scheduled for trial at the next session: the first for criminal jury trials, the second for civil jury trials, and the third for trials to the court. Cases are entitled to be tried and pre-tried in that order, unless otherwise ordered by the judge assigned to the case. Criminal cases and civil nonjury cases may be exempted by order of the court from pre-trial rules.

The order of trial shall be determined by the court. Where possible, cases will be set for a date certain at pre-trial or at the motion day before the term begins. Otherwise, counsel must observe the assignment of cases on the schedule, keep informed of the progress of trials, and as cases are reached, appear and proceed with trial. Plea agreements and jury trial waivers in criminal cases will not be accepted after the last motion day preceding the trial session, except for good cause shown.

C. **Pre-trial Conference Scheduling.** Unless otherwise specially set, pre-trial conferences for all cases will be held the Monday 3 weeks before the appropriate trial session.

D. **Motion Days.** Unless otherwise determined by the court, motion days will be held each month, as follows:

Box Butte County:	Second and fourth Tuesday at 9:30 a.m.
Dawes County:	First and Third Tuesday at 9:00 a.m.
Morrill County:	Second and Fourth Tuesday at 1:00 p.m.
Sheridan County:	First and Third Tuesday at 2:00 p.m.
Sioux County:	Third Wednesday at 9:00 a.m.

E. Domestic Relations Day.

Box Butte County: Fourth Wednesday at 9:30 a.m.

F. **Exceptions.** The court will change any hour, day, or date when legal holidays interfere or as may be required to expedite the administration of justice.

RULE 12-11
RULES FOR SCOTTS BLUFF COUNTY

A. Case Assignments.

(1) Cases shall be assigned to a judge by random selection through use of computerized or manual means.

(2) **Reopened Cases.** Any matter pertaining to a finished case shall be deemed assigned to the judge originally assigned the case.

(3) **Reassignment.** A judge may reassign a case to another district judge by order, and the clerk shall note such reassignment and date on the file jacket, docket sheet, and assignment card.

(4) **Interchange of Judges.** One district judge of this court may act with respect to a particular matter in a case assigned to another district judge of this court when necessary. Such interchange will be on individual matters only and will not affect a reassignment of responsibility for the case.

(5) **Calendaring.** Each judge shall provide for the conduct, calendaring, and progress of cases assigned to that judge.

B. Trials.

(1) **Jury Sessions.** There will be jury terms beginning on the first Monday of each month unless otherwise ordered by the judge. Two judges will alternate months so that each judge is in a jury term every other month.

(2) **Scheduling Trials.** Any party may request a nonjury or jury case be set for pretrial, trial, or progression by filing a motion. The court may also schedule a case without any motion.

(3) **Order of Jury Trials.** Cases will be tried in the order set by the judge.

RULE 12-12
RULES FOR BANNER, CHEYENNE, DEUEL, KIMBALL,
AND GARDEN COUNTIES

A. **Trials.**

(1) **Trial Docket.** The trial docket will be called at times and places ordered by the District Judge.

(2) **Disposition of Untried Cases.** Unless otherwise ordered by the court, after a cause is at issue it shall be tried at the term of court then in progress or at the next succeeding term of court unless statutory grounds for a continuance exist. Upon failure to try the cause as herein provided, the court may, on its own motion or on motion of any party, dismiss the action or strike it from the docket. An action stricken from the docket may be restored upon motion and good cause shown.

(3) **Scheduling.** Scheduling of trials, pretrial conferences, and motion days shall be determined by the judge assigned to these counties.

RULE 12-13
JOURNAL ENTRIES/ORDERS/DECREES

It shall be the duty of the party directed by the court to promptly prepare a proper journal entry, order, judgment, or decree. The proposed journal entry shall be submitted to opposing counsel for approval as to form and submitted to the court for its signature within 7 days after entry of the decision or order.

In criminal matters, it is always the responsibility of the County Attorney to submit the same.

RULE 12-14
DISSOLUTION/LEGAL SEPARATION ACTIONS/CUSTODY ORDERS

A. **Leaving the State.** Every order for child custody, temporary or permanent, shall contain language substantially as follows:

A party exercising custody of a minor child is ordered not to move the child outside the State of Nebraska. Anyone intending such a move must first:

(1) Make written application to the court, including proposed changes in the visitation schedule and costs of transportation;

(2) Give notice of the application and hearing to the other party; and

(3) Establish that the move is in the child's best interests.

B. **Supplemental Child Custody Orders.** In all cases where custody of children is ordered, a "Parenting Guidelines," obtainable from the office of the judge assigned to the case, shall be attached to and made a part of the custody order.

C. (1) **Joint Property Statements.** Where the action involves a division of property, both parties shall prepare a single joint property statement setting forth assets, liabilities, and any other information

concerning property germane to the case at bar. The plaintiff shall have 40 days from filing the action to prepare the property statement and furnish a copy to the opposing party. The defendant shall then complete the property statement by adding any additional property/liabilities and the defendant's estimates of the value of all property and the amount of all liabilities listed by the plaintiff. The defendant shall complete the property statement and serve a copy on the plaintiff within 30 days after the plaintiff served the initial statement. The property statement shall then be finalized, signed, and a copy delivered to the judge at least 10 days prior to trial. A model property statement form can be obtained from the court.

(2) Extensions and Pretrial Filing Deadline. Either party may obtain an extension of the time for filing or completing the property statement on written motion for good cause shown. Except by agreement of the parties or by order of the court, amendments to the property statement shall not be permitted unless filed at least 10 days prior to trial.

D. Temporary Hearing. Unless otherwise ordered, all applications for temporary custody, support, maintenance, or other relief shall be governed by Neb. Ct. R. § 6-1504. Evidence shall be submitted by affidavits, which shall be exchanged by the parties at least 24 hours prior to the hearing. Except for good cause shown, no more than 5 affidavits or, alternatively, no more than 20 affidavit pages (excluding exhibits attached thereto), will be considered by the court at the time of the temporary hearing. Pursuant to Neb. Rev. Stat. § 43-2930, each party to a contested proceeding for a temporary order related to parenting functions or custody shall offer a Child Information Affidavit as an exhibit at the hearing. Where child support is an issue, counsel shall also prepare and exchange Nebraska Child Support Guidelines worksheets 24 hours prior to the hearing.

E. Rule for Mediation in Domestic Relations Cases.

(1) Parties to domestic-relations matters involving children are required to attend the district court-approved parent education program within 60 days from receipt of service of process. This includes filing for dissolution of marriage, legal separation, and determination-of-paternity cases, which involve issues of custody and/or visitation. Effective on January 1, 2008, motions to compel existing orders which involve parenting issues, applications to modify decrees of dissolution which involve parenting issues, and applications to modify decrees of paternity which involve parenting issues shall be subject to the requirements of this rule, and both parents are required to attend the parent education program.

If the court deems it advisable, the parties may be required to complete a second level parenting class or the children of the parties may be referred to a class.

Prior to July 1, 2010, the parties shall submit a parenting plan to be approved by the court. The parenting plan shall be developed by the parties or their counsel, an approved mediation center, or a private mediator. When a parenting plan has not been developed and submitted to the court, the court shall either create the parenting plan in accordance with the Nebraska Parenting Act or refer the case to an approved mediator. At any time in the proceeding, the court may refer a case to an approved mediator in order to attempt resolution of any relevant matter. Until July 1, 2010, either party may terminate mediation at any point in the process.

On or after July 1, 2010, all parties who have not submitted a parenting plan to the court within 5 months after the matter is filed shall be required to participate in mediation services to complete a parenting plan, including child custody, visitation schedule, grandparent visitation, and any other issues relating to the children that may be susceptible to mediation. No trial date will be scheduled until attendance at the required parent education seminar has been completed and mediation to resolve custody

and/or visitation issues has been attempted. Provided, however, that failure or refusal to participate by a party shall not delay entry of a final judgment by more than 6 months. It is further provided that, notwithstanding the language in this paragraph, domestic violence issues may, upon consideration by the trial court, disqualify the parties from mediation.

On or after July 1, 2010, a party may not terminate mediation until after an individual initial screening session and one mediation or specialized alternative dispute resolution session are held.

(2) The court shall prepare an order, for distribution by the district court clerk, advising the filing parties and their attorneys that attendance at a parenting seminar is mandatory and must be completed within 60 days from the filing of the complaint. The order shall also advise the parties and counsel: (a) that the parenting plans and visitation schedules may be referred for mediation; (b) that no trial date will be set until attendance at the required parent education seminar has been completed and, if required, mediation to resolve custody and/or visitation issues has been attempted; (c) that failure or refusal to participate by a party shall not delay entry of a final judgment by more than 6 months; and (d) that domestic violence issues may, upon consideration by the trial court, disqualify the parties from mediation. The district court clerk shall include this order with the filing and service packets distributed by the clerk.

(3) When a judge refers a case for mediation, the judge will indicate the issues to be mediated, as well as any choice of a mediator if the judge has a preference. The attorneys for the parties may mutually agree upon the choice of a mediator and may indicate whether they wish the parties to mediate any issues other than custody and parenting or visitation plans. If financial issues are to be mediated, the case may be assigned to an attorney mediator.

(4)(a) If the parties reach an agreement through mediation, the agreement shall be reduced to writing. Copies shall be provided by the mediator to the parties and their attorneys, together with a notice informing the parties and their attorneys of their right to express their objections to the written agreement. The notice shall inform the parties and their attorneys that they have 21 days from the date of the notice to notify the mediator of any written objections to the terms of the agreement. Such objections shall be specific. All matters not specifically objected to shall be deemed final.

(b) Upon the filing by either party or attorney of objections to the agreement, the mediator shall forthwith schedule a re-mediation session on the disputed issues identified in the objection. The mediator may charge additional fees for the re-mediation session and related expenses.

(c) Agreements or amended mediation agreements shall be forwarded, along with the appropriate certificate of readiness form, to the judge to whom the case is assigned and to the court file. For cases involving parties with no counsel, the parties shall complete and file with the district court clerk a "Certificate of Readiness" indicating that the case is ready to be set for an uncontested final hearing. Such certificates will be in a form acceptable to the court.

(d) Prior to setting a case for an uncontested final hearing, the parties shall file a "Certificate of Readiness" with a copy of the parenting plan with the court. In Scotts Bluff County, only counsel or pro se parties shall also contact the judge for a trial date.

(e) The "Certificate of Readiness" for final hearing shall contain the following information:

(i) The full names of the parties;

- (ii) The case number of the case;
 - (iii) The names, addresses, and bar number of counsel;
 - (iv) The date on which the complaint was filed and the date of service on defendant or the date of filing of the voluntary appearance by the defendant;
 - (v) That the parties have agreed to a parenting plan;
 - (vi) That the parties have attended the parent education seminar required by the court;
 - (vii) That the parties have completed child support calculations pursuant to the Nebraska Child Support Guidelines and have agreed to all financial matters contemplated by the guidelines;
 - (viii) That the parties have entered into a written and signed property settlement agreement; and
 - (ix) That the parties have or have not attended mediation.
- (f) If the parties have not agreed to any of the following: parenting plan, child support calculations, or a property settlement agreement, they should not file a "Certificate of Readiness." They should contact the bailiff to schedule further hearings.
- (5) Parties that either have terminated mediation unsuccessfully or have been determined to not qualify for mediation services shall have their case set for final trial before the court as soon as possible.

Amendments to The Rules of the District Court of the Twelfth Judicial District approved April 7, 2010.