

# UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

## Executive Summary of Proposed Local Rules, Including General Rules, Civil Rules, and Criminal Rules

June 1, 2004

This memorandum summarizes in “bullet” format the proposed local rules – general, civil, and criminal – for the District of Nebraska. (Amendment of the local bankruptcy rules is not being proposed at this time.) These rules incorporate some, but not all, of the administrative procedures for electronic filing; parties will need to continue to consult the applicable administrative procedures (*i.e.*, civil, criminal, or bankruptcy) for detailed and updated filing instructions.

The general rules apply to civil, criminal, and bankruptcy cases and address matters that do not strictly pertain to civil or criminal procedure. Among other topics, the general rules provide procedures for assignment of judges, bankruptcy references and appeals, courthouse security, bar admission, and attorney discipline. A complete listing of topics is set forth below. For the most part, the general rules do not change existing procedures.

The civil rules likewise do not represent a significant departure from the existing local rules. Some changes of note, however, are that: reply briefs may be filed on all motions; parties may agree to serve discovery documents by e-mail or fax; advance notice is required for subpoenaing documents from nonparties; summary judgment briefing requirements are more rigorous; and motions for reconsideration are permitted, but limited.

The criminal rules may be thought of as “new” rules, but they include many of the same provisions as the civil rules (albeit under a different numbering system, as required by the federal rules). The intent is to provide a “stand alone” set of rules for criminal cases. The criminal rules also incorporate many procedures that are now found only in general orders. Other criminal procedures have not previously been put in writing, or else, in fact, are new for this district.

### GENERAL RULES (NEGenR 1.1 through 1.8)

- 1.1 Introduction (formerly NELR 83.13 and 1.2)
  - Nebraska General Rules are local rules adopted pursuant to Fed. R. Civ. P. 83, Fed. R. Crim. P. 57, and Bankruptcy Rule 9029.
  - Court has also adopted local rules of civil procedure, criminal procedure, and bankruptcy procedure. Separate administrative procedures regarding electronic case filing control over local rules (as per General Order 02-1).
  - Judge may deviate from local rules in the interests of justice.
  - Definitions comparable to those in local civil rules and criminal rules.
  - All local rules effective upon approval, and apply to pending cases.
  - Local rules are available from clerks’ offices or on the court’s web sites.

- 1.2 General Information (formerly NELR 77.2, 77.4, 77.3, 3.2(b), 80.1, 53.2, and 67.4)
- Court in continuous session, except in North Platte.
  - Official stations of district court clerk and bankruptcy court clerk in Omaha.
  - Release of non-public information by court personnel prohibited.
  - Prepayment of fees required by clerk; credit card payment allowed.
  - Information regarding miscellaneous fees and court reporting fees available from clerk's office or web site. (No fee amounts stated in local rules.)
  - Court plans regarding mediation and Federal Practice Fund also available from clerk's office or web site. (Plans not repeated in local rules.)
- 1.3 Case Filings; Appearance and Withdrawal of Counsel; Pro Se Litigants (formerly NELR 3.3 and General Order 97-10 (superseding NELR 3.4))
- Notice that district court and bankruptcy court have adopted electronic case filing (ECF) system, and that failure to follow administrative procedures may result in imposition of sanctions. Attorney registration requirements stated.
  - Notice that district court and bankruptcy court have adopted local rules and administrative procedures to comply with E-Government Act of 2002.
  - Counsel appears by filing written appearance, filing signed pleading, or appearing at hearing. Attorneys and pro se parties required to inform court of change of address, phone number, fax number, or e-mail.
  - Withdrawal of counsel – no substantive change.
  - Pro se litigants bound by rules – same as General Order 97-10.
  - Appointment of counsel – same as General Order 97-10, except (1) requires filing by separate document if the request is made when filing an initial complaint or petition, and (2) emphasizes that appointment is discretionary with the court.
- 1.4 Assignment of Judges (formerly NELR 40.1)
- General statement re court's dockets.
  - General statement re assignment of district judges, magistrate judges. Cross-references NECivR 73.1, which provides for magistrate judges being "on the wheel."
  - Reassignments – no substantive change.
  - Related cases – no substantive change.
  - Nebraska docket – incorporates provisions of Standing Order 03-06.
  - Death penalty habeas corpus cases assigned by chief judge. Location of all proceedings determined by assigned judge. If assigned judge unavailable, motion for stay of execution may be heard by any district judge (as per General Order 89-01).
  - Challenges to this rule made to chief judge (as in NELR 40.1).
  - Sanctions for disclosing rotation sequence – no substantive change.
  - General statement re bankruptcy court assignment method.
- 1.5 Bankruptcy Cases (formerly NELR 76.1)
- In civil cases, upon filing of suggestion of bankruptcy, case is to be referred to bankruptcy court, which will determine whether to proceed with case or

recommend its return to district court; bankruptcy court may enter order granting relief from automatic stay.

- In criminal cases, district court may refer questions about forfeiture of assets where defendant is in bankruptcy; report and recommendation will be issued.
- Withdrawal of reference – no substantive change.
- Appeals – no substantive change.
- Jury trials – no substantive change (bankruptcy judges can conduct jury trials, with parties' consent, as per General Order 95-03).

1.6 Public Security and Conduct in Courthouse and Courtroom (formerly NELR 83.3, 83.8, and 83.2)

- Provisions re general conduct, entering and leaving building or courtroom – CSO's can require photo ID for admission into courthouse.
- Weapons – list of authorized persons expanded to include federal probation and pretrial service officers.
- Food and tobacco prohibited in courtroom – beverages not prohibited.
- Cell phones – ringers must be turned off in courtroom, cannot be used during judicial proceeding without judge's consent.
- Cameras and recording/broadcasting devices – use or placement prohibited in and around courtroom, including camera cell phones. CSO's can prohibit these devices from being brought into courthouse.
- Seating of spectators and news media – no substantive change.
- Enforcement of rule and requests for exemption – no substantive change.
- Counsel's courtroom decorum – no substantive change.

1.7 Practice of Law (formerly NELR 83.4, 83.1, 83.7, and 83.6)

- Bar of the court, ethical standards – no substantive change.
- Free press-fair trial provisions – no substantive change.
- Admission to practice – no substantive change, except to incorporate exemption of government attorneys from annual assessment, as provided in General Order 93-06.
- Nonresident attorneys – no substantive change.
- Clinical legal education – no substantive change.

1.8 Attorney Discipline (formerly NELR 83.5)

- No substantive change, except to add language stating that “uncivil and unprofessional conduct” complaints and grievances are handled informally and confidentially.

CIVIL RULES  
(NECivR 1.1 through 85.1)

1.1 Definitions

- Includes reference to “Administrative Procedures” for civil cases.

3.1 Civil Cover Sheet

- Permits civil cover sheet and complaints to be submitted to clerk via e-mail.

- 3.2 Prepayment of Filing Fees
  - No substantive change.
- 3.3 Applications to Proceed in Forma Pauperis (formerly NELR 3.5)
  - Revised in accordance with General Order 97-10.
- 4.1 Service of Process
  - Specifies that service of summons/complaint cannot be done electronically.
- 5.1 Electronic Case Filing (ECF)
  - Mandates electronic filing, with certain exceptions.
- 5.2 Electronic Service
  - Notice of Electronic Filing constitutes service.
- 5.3 Privacy
  - Added pursuant to the E-Government Act of 2002.
  - Describes information that must or may be redacted and provides procedure for filing unredacted documents. List of items that must be redacted conforms to model rule approved by Judicial Conference on 3/16/04.
  - Places responsibility for redaction on counsel and parties.
- 5.4 Certificate of Service
  - Documents filed electronically require certificate of service.
  - NELR 5.2(b), permitting the certificate of service to be filed “at any time” has been deemed by the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States to be in arguable conflict with the Fed. R. Civ. P. 5(d), which requires the certificate to be filed “within a reasonable time after service.” The proposed rule eliminates the “at any time” language and, in accordance with current court practice, authorizes the clerk to issue deficiency notices for filings that lack certificates of service.
- 5.5 Restrictions on Filing Discovery
  - Authorizes parties, by agreement, to serve discovery by e-mail or fax.
- 6.1 Time
  - Specifies that 3-day mailing rule applies even with electronic filing.
- 7.1 Motion Practice
  - Paginated briefs required.
  - Index of evidence filed according to Administrative Procedures.
  - Failure to file an opposing brief precludes non-moving party from contesting moving party’s statement of facts.
  - Reply briefs may be filed without leave of court within 5 days.
  - Emphasizes that oral argument and testimony are generally not allowed.
  - Personal consultation on discovery motions may include exchange of letters, faxes, e-mail, or voice mail where non-moving party is uncooperative.

- 7.2 Proposed Orders
  - Subject to Administrative Procedures.
- 7.3 Agreements and Stipulations
  - Multiple-signature documents are subject to Administrative Procedures; attorney filing joint stipulation must provide certificate of service.
- 7.4 Motion to Certify a Question to State Court
  - Motion permitted where state law is determinative and there is no clear controlling state law precedent; precise issue must be stated; if motion granted, parties must prepare stipulated facts.
- 7.5 Sealed Pleadings, Documents, and Objects
  - Incorporates provisions of General Order 01-03.
  - Procedure provided for sealing and unsealing documents.
  - When case is closed or dismissed, counsel have 90 days to move for return of sealed documents or to maintain seal.
- 9.1 Pleading Special Matters
  - Social Security cases; claim of unconstitutionality; request for 3-judge court; privacy issues.
- 10.1 Form of Pleadings
  - Incorporates provisions of Administrative Procedures re electronic pleadings.
- 11.1 Signing of Pleadings, Motions, and Other Papers
  - Requires electronic documents to be signed in “s/ Name” format and incorporates provisions of Administrative Procedures.
- 15.1 Motion to Amend Pleading
  - No substantive change.
- 16.1 Scheduling Orders
  - No substantive change.
- 16.2 Pretrial Procedures in Civil Cases
  - Forms are removed from rule – they are available on court’s website.
  - Pretrial order requirements are described using form language.
- 23.1 Class Action Procedures
  - Explains that all documents sent to the court are publicly available once filed.
  - Documents from class members are reviewed by judge prior to filing.
- 26.1 Service of Disclosures
  - Permits e-mail or fax service if all parties agree.

- 29.1 Discovery Stipulations
  - No substantive change.
- 30.1 Depositions Upon Oral Examination
  - Authorizes video depositions without court order; states requirements for taping; parties are required to attempt to resolve objections voluntarily; unresolved objections and transcript are submitted no later than one week before trial.
- 32.1 Editing Video Depositions for Court Proceedings
  - After the court rules on objections, proponent notifies opponent about material to be deleted from tape and prepares an edited version.
  - Overruled objections need not be deleted.
  - Proponent must give edited version to opponent at least 3 days before using tape at trial; any objections to edited version must be made in writing at least 24 hours before showing tape.
- 33.1 Interrogatories
  - Permits e-mail or fax service if all parties agree; a sworn, signed paper copy of answers to interrogatories must be retained by attorney for answering party.
- 34.1 Requests for Production or Inspection
  - Permits e-mail or fax service if all parties agree.
- 34.2 Persons Not Parties
  - References NECivR 45.1.
- 36.1 Requests for Admissions
  - Requires sequential numbering.
  - Permits e-mail or fax service if all parties agree.
- 38.1 Notation of “Jury Demand” on Pleading
  - No substantive change.
- 39.1 Opening Statements and Closing Arguments
  - No substantive change.
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- 39.2 Briefs
  - Trial briefs required 5 days before trial.
  - Failure to submit brief as directed may be treated as abandonment of issues.
- 39.3 Trial Exhibits
  - Specifies that exhibits received into evidence are left in clerk’s custody; those offered but not received may also be left with the clerk.
  - Encourages counsel to consult courtroom deputy about handling exhibits; also encourages counsel to consult with court’s IT staff in cases with a large number of paper documents before preparing trial exhibits.

- 40.1 Trial Calendar
  - Merges portions of NELR 40.1 and 40.2. (Provisions in NELR 40.1 re assignment of judges placed in General Rules.)
- 41.1 Dismissal of Actions
  - No substantive change.
- 45.1 Subpoenas to Nonparties
  - Similar to provision in Nebraska rules; addresses frequent issue in employment law cases, for example, where defendant-employer requests records about plaintiff-employee from nonparties such as mental health care providers or former employers.
  - Prohibits nonparty subpoenas for production or inspection without 10 days' notice to adverse party.
  - Adverse party has 5 days to submit written objections to proponent of subpoena; objection blocks issuance of subpoena.
  - Allows for hearing on the objection after notice to all parties; also gives court discretion to award expenses.
  - Failure to object to subpoena does not preclude adverse party from asking for protective order.
- 47.1 Jury Pool Questionnaires
  - Not available for review unless ordered by court; jury list can only be used for purposes of jury selection.
  - Additional questions may be included in special cases.
- 47.2 Jury Selection
  - No substantive change.
- 47.3 Disclosure of Juror Identity
  - Names of jurors and potential jurors not included in public case file.
- 48.1 Number of Jurors
  - No substantive change.
- 48.2 Jury Deliberations
  - No substantive change.
- 51.1 Instructions to Jury
  - Proposed instructions must be filed 5 days before trial and a WordPerfect-compatible copy submitted to chambers.
  - Objections must be filed 2 days before trial.
  - Instructions must show source; 8th Circuit Model Instructions should be used whenever possible; parties should not request routine instructions.
- 52.1 Proposed Findings
  - Required 5 days before non-jury trial.

- 54.1 Taxation of Costs
  - Directs parties to review handbook on website before filing bill of costs or response.
- 54.2 Jury Cost Assessment
  - No substantive change.
- 54.3 Award of Attorney's Fees and Non-Taxable Expenses
  - No substantive change.
- 54.4 Fee Application Guidelines
  - No substantive change.
- 55.1 Default Judgments
  - Provides for e-mailing proposed entry of default to clerk and proposed judgment to clerk or judge, as appropriate.
- 56.1 Summary Judgment Procedure
  - Emphasizes that oral argument is generally not permitted on motions for summary judgment.
  - Movant's failure to include in the brief a separate statement of material facts constitutes grounds to deny the motion.
  - Statement of facts requires pinpoint citations to supporting evidence; failure to provide citations can be grounds to deny the motion.
  - Non-moving party must respond to each paragraph of movant's statement; uncontroverted facts are deemed admitted.
- 58.1 Satisfaction of Judgment
  - No substantive change.
- 60.1 Motions for Reconsideration
  - Motion for reconsideration must be filed within 10 days after order.
  - Such motions are disfavored and are generally denied unless there was "manifest error" in prior ruling or new facts or legal authority that could not have been have brought to the court's attention have appeared.
  - Only one motion per order permitted.
  - Motion to reconsider magistrate judge's order on nondispositive matter may be docketed as an appeal, at magistrate judge's discretion.
- 65.1.1 Security; Proceedings Against Sureties
  - No substantive change from NELR 67.1.
  - Statutory reference re corporate sureties corrected.
- 67.1 Deposits
  - Formerly NELR 67.2 and 67.3.
  - Modified at request of clerk's office to allow 20 days to invest deposited funds (currently 10 days).

- 68.1 Settlement Procedures
- Parties allowed 30 days to file settlement documents (currently 15 days).
  - If parties engaged in mediation, they are requested to advise the court of the mediator's name, the dates of the mediation, and whether the mediation was successful.
- 72.1 Magistrate Judges' Duties
- Combines NELR 72.1(a) and 72.2(b).
- 72.2 Appeals of Magistrate Judges' Orders in Nondispositive Matters
- No substantive change from NELR 72.3.
- 72.3 Objections to Magistrate Judges' Recommendations in Dispositive Matters
- No substantive change from NELR 72.4.
- 72.4 Review of Magistrate Judges' Orders in Special Master Reports
- No substantive change from NELR 72.5(b).
- 73.1 Magistrate Judges; Trial by Consent
- Contemplates magistrate judges being placed "on the wheel" except for cases where preliminary injunctive relief is requested.
  - When case is randomly assigned to magistrate judge, each party has 20 days to file written consent or written election to have case reassigned to district judge.
  - When case randomly assigned to district judge, parties can still consent to reassignment to magistrate judge. Procedure for consenting to trial before magistrate judge is modified in accordance with *Roell v. Withrow*, 123 S. Ct. 1696 (2003); consent must be "express," but not necessarily in writing; upon receiving consent, clerk notifies assigned district judge for approval.
- 79.1 Custody of Files and Exhibits
- Incorporates General Orders 01-06 and 01-12.
- 81.1 Demand for Jury Trial in Removed Cases
- Committee on Rules of Practice and Procedure of the Judicial Conference of the United States has advised that NELR 81.2 is in conflict with Fed. R. Civ. P. 81(c) because it requires a party to reassert its demand for jury trial after removal. (Rule 81(c) provides, in part: "A party who, prior to removal, has made an express demand for trial by jury in accordance with state law, need not make a demand after removal.") Nebraska law, however, does not require a party to demand a jury trial. In this regard, Rule 81(c) provides in part: "If state law applicable in the court from which the case is removed does not require the parties to make express demands in order to claim trial by jury, they need not make demands after removal unless the court directs that they do so within a specified time if they desire to claim trial by jury." The proposed rule makes such a direction.

- In effect, the current local is unchanged except with respect to timing of the demands; proposed rule uses times stated in Rule 81(c).

- 85.1 Title; Citation
- Informally known as Nebraska Civil Rules.

CRIMINAL RULES  
(NECrimR 1.1 through 60.1)

- 1.1 Definitions
- Includes reference to “Administrative Procedures” for criminal cases.
- 3.1 Presenting a Criminal Complaint
- Clarifies that in this district complaints are presented to magistrate judge, to district judge when magistrate judge is unavailable, and to state judge only when no federal judge can be located, even outside the courthouse.
- 4.1 Sealing Arrest Warrants and Complaints
- Unsealed after all named defendants arrested, unless otherwise ordered.
- 5.1 Initial Appearance Before Magistrate Judge
- Sets forth procedure to schedule and incorporates: NELR 83.11(b)(3) (defendants in custody shall promptly brought before the court); and the promptness requirement discussed in *United States v. Davis*, 174 F.3d 941, 944 (8th Cir. 1999) (relying on *County of Riverside v. McLaughlin*, 500 U.S. 44, 56 (1991)) regarding arrests in the absence of a filed information, indictment, or complaint.
- 6.1 Initiating Grand Jury Proceedings
- 6.2 Grand Jury Motion Practice
- 6.3 Preserving Grand Jury Secrecy
- 6.4 Return of Grand Jury Indictments
- 6.5 Issuance of Warrant of Arrest by Clerk
- Explain current procedures and incorporate: “Free Press--Fair Trial” guidelines for grand jury matters adopted by the Judicial Conference and published at 87 F.R.D. 518, 525 (September 25, 1980); and NELR 83.11(a) (clerk’s duty to issue arrest warrants).
- 7.1 Criminal Case Cover Sheet
- Must accompany every indictment or information.
- 7.2 Superseding Indictment or Information
- Must be accompanied by explanation of differences between charges.
- 9.1 Delivery to Marshal of Warrant or Summons
- Original delivered to marshal; any copies must be marked as such.

- 11.1 Change of Plea Hearing
  - Explains current procedure for scheduling a change of plea hearing.
  - Advises parties that juror costs may be imposed if the court receives notice of a change of plea or dismissal after the jury has been summoned.
- 11.2 Change of Plea Hearing Before Magistrate Judge
  - Outlines procedure for change of plea proceedings conducted by magistrate judges. See *United States v. Torres*, 258 F.3d 791, 794-96 (8th Cir. 2001).
- 12.1 Motions to Continue Trial
  - Speedy Trial waivers required.
- 12.2 Unopposed Motions
  - Moving party must provide proposed order.
- 12.3 Form and Deadlines for Discovery and Pretrial Motions
  - Speedy Trial waiver required for extending deadlines; showing of good cause required for continuances of pretrial and discovery matters (*United States v. Vesey*, 330 F.3d 1070, 1072 (8th Cir. 2003)).
  - Counsel to “meet and confer” in good faith before filing motions to compel or for protective orders.
  - Supporting brief required when a substantial issue of law has been raised.
  - Counsel to advise the court of the time needed for evidentiary hearings and whether interpreters or other parties should be present or participate.
- 12.4 Sealed Pleadings, Documents, and Objects
  - Corresponds to NECivR 7.5.
- 12.5 Disclosure of Evidence
  - Provides for witness list and advance marking of exhibits for any evidentiary hearing on a pretrial motion.
- 15.1 Subpoenaed Depositions in Criminal Cases
  - Modifies NELR 45.1(b) (pre-trial subpoenas) and references the procedure of NECrimR 17.2 for subpoenaed document production prior to trial.
- 16.1 Disclosure Requirements
  - Establishes a new procedure for reciprocal discovery.
  - Presumes that the defendant has requested Rule 16 information unless the defendant affirmatively refuses the information within a certain period of time after the arraignment.
  - Purposes of the rule are to allow defense counsel to evaluate the case before deciding whether to request discovery; to insure that discovery occurs in the vast majority of cases; to avoid disputes about whether discovery was requested; and to deter § 2255 motions for alleged ineffective assistance in failing to request discovery.

- 16.2 Motion for Enlargement or Shortening of Time for Discovery
  - Comparable to NECrimR 12.3 (extending time for pretrial motions).
- 17.1 Subpoenas and Writs
  - Establishes deadlines for delivery of subpoenas to marshal.
  - Incorporates General Order 94-12 (FPD's use of marshal's service).
- 17.2 Subpoenas for Document Production
  - Incorporates the procedure of *United States v. Fox*, 276 F. Supp. 2d 996 (D. Neb. 2003)(Kopf, J., presiding) for securing document production through pre-trial subpoenas. See also NELR 45.1(b)(1); NECrimR 15.1 (preclude pre-trial subpoenaed document production absent a court order).
- 17.3 Subpoenas Issued by Clerk; Contempt
  - Subpoena issued by clerk on magistrate judge's order must be obeyed.
- 17.4 Motion to Quash or Enforce Subpoena
  - Presented in first instance to magistrate judge.
- 18.1 Place of Prosecution and Trial
  - Formerly NELR 40.1(a)(2).
- 24.1 Voir Dire
  - Corresponds to NECivR 47.2(a).
- 24.2 Exercise of Peremptory Challenges
  - Explains procedure used in various situations.
- 24.3 Jury Pool Questionnaires
  - Corresponds to NECivR 47.1.
- 24.4 Disclosure of Juror Identity
  - Corresponds to NECivR 47.3
- 26.2.1 Motion to Produce
  - References NECrimR 12.3(b)(3).
- 28.1 Court Interpreters; Responsibilities of Clerk
- 28.2 Court Interpreters; Responsibilities of Counsel
- 28.3 Responsibilities of Court Interpreters
- 28.4 Non-Court Interpreter Services
  - These rules clarify the respective responsibilities of the clerk, counsel, and court interpreters, and advise appointed counsel regarding the use non-court interpreters.
- 29.1.1 Opening Statements and Closing Arguments.
  - Corresponds to NECivR 39.1.

- 31.1 Jury Deliberations
  - Subparagraphs (a) and (c) correspond to NECivR 48.1.
  - Subparagraphs (b) and (d) require the defendant to be in the courthouse during jury deliberations (formerly NELR 83.11(b)(4)) and in the courtroom when the verdict is announced.
  
- 31.2 Taxation of Trial Costs
  - Modifies NELR 54.1(b),(d) and (e) regarding the taxation of trial costs in criminal cases. See *also* NECrimR 11.1.
  
- 32.1 Presentence Reports
  - Incorporates provisions of General Order 88-01.
  - Government must provide information within 5 days after request.
  - Defense counsel must give 2 days' notice to attend interview.
  - Provides sentencing schedule to be used in the absence of a court-ordered schedule.
  
- 32.2 Pretrial Services, Presentence, and Probation/Supervised Release Records
  - Incorporates General Order 98-06 (confidentiality of records) and General Order 98-07 (unsealing presentence reports for 8th Circuit).
  - Incorporates General Order 88-01, ¶ 11, with respect to pro se defendants, who must return copy of presentence report, but changes rule to allow defense counsel to keep the report.
  
- 32.1.1 Sealing Petitions
  - Incorporates General Order 02-08 (reports on offenders under supervision and petitions for actions on conditions of release).
  
- 32.2.1 Criminal Forfeiture; Referral to Bankruptcy Court
  - Corresponds to NEGenR 1.5(a)(2).
  - Authorizes the district court to refer questions about asset forfeiture to the bankruptcy court when the defendant has filed for bankruptcy.
  
- 41.1 Search Warrant Applications
  - Comparable to NECrimR 3.1 (presenting a complaint).
  
- 41.2 Intercepted Communications
  - Incorporates General Order 91-02 (amending General Order 90-01) (regarding wiretaps) and General Order 01-11 (amending General Order 99-06) (depositing wire recordings).
  
- 43.1 Corporate Defendant
  - Counsel may act on a corporation's behalf with formal approval of the board of directors; otherwise, officer or director must be present.
  
- 44.1 Defendant's Representation
  - References the court's Amended Criminal Justice Act Plan.

- Obligates defendants with no appointed counsel to promptly advise the court of retained counsel or any decision to appear pro se.
  - Provisions for entry or withdrawal of appearance, giving notice of change of address, etc., correspond to NENR 1.3(d)-(f).
- 44.2 Appointed Counsel in Ancillary Matters
- Incorporates General Order 97-04 (re appointment of federal public defender in ancillary matters).
- 44.3 Filing of Voucher for Fees and Expenses
- Sets application deadlines.
  - Includes fee application guidelines (corresponds to NECivR 54.4).
  - Incorporates General Order 00-15 (re disclosure of approved CJA vouchers).
  - States requirements for requests exceeding statutory limits or for interim payments (references provisions of Volume VII of the Guide to Judiciary Policies and Procedures (Appointment of Counsel in Criminal Cases)).
  - Defendants' financial affidavits not available to public; certain CJA payment information publicly available but not electronically (as per Volume VII of the Guide to Judiciary Policies and Procedures).
- 44.4 Joint Representation
- Requires counsel to notify the court of proposed joint representation.
- 45.1 Time
- Computed the same under the local rules and federal rules.
- 46.1 Bonds and Other Sureties
- Corresponds to NECivR 65.1.1.
- 46.2 Appeal of Detention Orders
- Formerly NELR 72.5(a).
- 46.3 Defendants as Confidential Informants
- 46.4 Offenders as Confidential Informants
- Incorporate General Order 96-01 (policies re use of pre-trial supervisees and offenders as confidential informants).
- 46.5 Appearance of Defendants and Witnesses on Release
- Formerly NELR 83.11(b)(1).
- 49.1 Electronic Case Filing (ECF)
- Corresponds to NECivR 5.1 (but also excludes juvenile criminal cases).
- 49.2 Form of Pleadings
- Corresponds to NECivR 10.1.

- 49.3 Privacy
- Corresponds to NECivR 5.3 (but permits redaction of additional matters, as per Judicial Conference implementation guidance issued 3/16/04, and also requires that medical, mental health, and drug rehabilitation records be filed under seal in criminal cases).
- 49.4 Service
- Corresponds to NECivR 5.2.
- 49.5 Certificate of Service
- Corresponds to NECivR 5.4.
- 50.1 Setting Trial
- Corresponds to NECivR 40.1(a).
- 50.2 Speedy Trial Act Implementation Plan
- References plan; available on court's website.
- 53.1 Free Press-Fair Trial Guidelines
- References NEGenR 1.7(c) and Judicial Conference published guidelines.
- 53.2 Closure of Pretrial Proceedings
- New rule which outlines procedure for moving to close or oppose closure of proceedings. See *Press Enterprise v. Superior Court*, 478 U.S. 1 (1986).
- 55.1 Custody of Files and Exhibits
- Comparable to NECivR 79.1
  - Incorporates NELR 79.1 (custody of files and exhibits), General Order 01-03, ¶ V (and the March 2, 2001 Probation Office letter agreement) regarding destruction of sealed documents), General Order 01-05 (post-trial custody of documents), and General Order 01-12 (checking out and copying files and exhibits).
- 56.1 When Court is Open
- Corresponds to NEGenR 1.2(a).
- 56.2 Official Station of Clerk
- Corresponds to NEGenR 1.2(b).
- 57.1 Duties of Magistrate Judges in Felony Cases
- Formerly NELR 72.1(a) and (c), and 72.2(a)(2). The rule retains the latitude of assigning matters to magistrate judges to the extent constitutionally permitted, or of withdrawing such assignment in a particular case, but includes a "laundry list" of magistrate judge responsibilities/assignments.
  - Purpose of rule is to familiarize counsel with the assigned and authorized duties of magistrate judges in criminal cases; cross-reference applicable federal statutes, federal rules, and local rules; and comply with 28 U.S.C. § 636 (b)(4)

(requiring district courts to “establish rules pursuant to which magistrate judges shall discharge their duties”) by doing more than restating the authority to designate magistrate judges in pretrial matters (28 U.S.C. § 636 (b)(1)(A) and (B)), or generally assigning duties “not inconsistent with the Constitution and laws of the United States.” 28 U.S.C. § 636 (b)(3).

57.2 Appeals of Magistrate Judges’ Orders in Nondispositive Matters

- Corresponds to NECivR 72.2.

57.3 Objections to Magistrate Judges’ Recommendations in Dispositive Matters

- Corresponds to NECivR 72.3.

58.1 Duties of Magistrate Judges in Misdemeanor Cases

- Consolidates NELR 72.1(b), 72.2(a)(1), and 73.1(b).

58.2 Forfeiture of Collateral

- Sets forth the procedure for collateral forfeiture proceedings and references the standing orders (96-06 and 98-04) of the court for forfeiture schedules.

60.1 Title; Citation

- Informally known as Nebraska Criminal Rules.