

Nebraska Court Records

Introduction

Nebraska's court system consists of a supreme court, district courts, and limited jurisdiction courts. The limited jurisdiction courts include county, juvenile, municipal, and workers' compensation courts. The state archives program of the Nebraska State Historical Society collects records from all of these courts and has records of varying quantities from about twenty-five percent of them. Court records are, for the most part, public records accessible to researchers. Court records that are restricted include investigation files not used in open court, adoption records, and psychiatric evaluations.

Court Jurisdictions

The Supreme Court has original jurisdiction in civil and revenue cases involving the state, and election contests involving state officers other than state senators. This court also determines cases involving the constitutionality of statutes and hears appeals of civil and criminal cases from the lower courts.

The Court of Appeals is an intermediate appellate court which was created on Sept. 6, 1991, as the result of a constitutional amendment passed in the 1990 general election. This court was created to alleviate the backlog of appeals pending before the supreme court and to expedite the appellate review of decisions of lower courts. This court hears all civil and criminal appeals except for cases involving a death sentence, life imprisonment, or cases involving the constitutionality of a statute. Parties to the appeal may file a petition with the supreme court to bypass review by the court of appeals.

The district court is a trial court of general jurisdiction. It hears all felony and civil cases involving more than \$10,000. It presides over divorce cases and is the appellate court for the county courts. It may also try misdemeanors, although in practice these cases usually are tried in the county courts. There are twenty-one judicial districts in Nebraska with forty-eight district court judges. These districts serve all ninety-three counties. Each county has an elected clerk of the district court who handles the administration of the court records for that county.

The county court is a court of limited jurisdiction. It hears most misdemeanor cases, municipal ordinance violations, civil cases involving sums of less than \$10,000 and small claims. It has original jurisdiction over matters of probate, guardianship, conservatorship, adoption and eminent domain. It also handles juvenile matters in those counties which do not have a separate juvenile court. There are twenty-one judicial districts with fifty-seven county court judges. These districts serve all ninety-three counties. Each county has a clerk magistrate, who is appointed by the judge. These clerk magistrates act as local court administrators and may accept pleas in misdemeanor and traffic cases, set bail, and perform other judicial services.

Municipal courts existed in metropolitan and primary class cities until they were abolished in 1972 and their functions assumed by the county courts. Municipal courts acted as small claims and civil courts for sums under \$2,000 and had jurisdiction over violations of municipal ordinances.

Justices of the peace had jurisdiction over precincts and other small geographic areas until 1972, when their offices were abolished and their functions were assumed by the county courts. They tried small claims and civil cases for sums less than \$200 and misdemeanors.

Juvenile courts exist as separate courts in Lancaster, Douglas, and Sarpy counties. They handle matters pertaining to neglected, dependent and delinquent children. They also have concurrent jurisdiction with district courts in all matters concerning the care, custody, support or control of mentally handicapped children under eighteen years of age. Appeals from this court are heard by the state supreme court.

The workers' compensation court administers and enforces the Nebraska Workers' Compensation Act, including claims for workers' compensation benefits. The judges have state-wide jurisdiction and hold court in whichever county seat has a disputed case. Appeals from this court can be taken to the state supreme court.

How to Use Court Records

There are several ways to access court records. The best approach depends on what it is one is hoping to find and what records are available for a specific court. It is necessary also to determine which court would have jurisdiction over the case or type of case in question. The records types that will provide the most information about any case are the case files, the journals, and the complete records (see the records definitions below for a complete description).

Specific cases. If one is interested in locating information about a specific case tried in a district court and the names of the plaintiff or defendant are known, the first step is to consult the general index for the district court in which the case was heard. The index will then point you towards the appropriate court materials that contain information about the case. It is important to write down the case number and the volume and page numbers for any dockets the index mentions.

If there is no index available, the next step would be to look in the district court appearance dockets. These dockets are arranged chronologically, so it is necessary to have an approximate date when the case went to trial. If an approximate date is not known, then one must begin searching through all of the volumes. Sometimes appearance dockets will have an index at the beginning of each volume. Using this index can speed your search. Please note, it is possible that this index may not be complete so it may still be necessary to do a page-by-page search. The appearance docket will give the case number and usually the volume and page numbers for the journals or other records that contain information on the case.

The county, municipal, and justice courts usually do not have any other records besides a volume referred to as a docket, and the case file, which contains the original records in the case. The docket combines the functions of the district court appearance docket and the district court

journal. It will often have an index at the front of the volume. Sometimes the county and municipal courts will have a separate cumulative index to all cases or a court calendar as well. The archives does not usually collect case files from these lower courts.

The only records available for the supreme court are the case files. These can be accessed by looking in the index to supreme court cases. This index is located on rolls 82 and 83 of the microfilm for this collection. This index will provide the supreme court case number for the case.

Cases of a Specific Type. The general court indices for the various courts do not generally specify the cause of action for each case. In order to find information about cases of a specific type, for example burglaries or indebtedness, it is necessary to do a case-by-case search. The appearance docket is the record to use for cases heard in the district court. The docket is the record to use for cases heard in the county, municipal, or justice courts. There is no convenient way to search the supreme court collection, because there are only case files available.

Record Types and Terminology

Appearance Docket - A district court record. It records all actions in chronological order. It lists dates of issuance and return of summons, dates of filing of petitions and subsequent pleadings, fees, names of parties and attorneys involved, and cause of action. It may include a list of witnesses and jury members. It will usually indicate which journal, or other court record, contains the record of the case proceedings.

Bills of Exception - This is an objection to a decision of the court upon a matter of law, filed by the losing party. The adverse party has the right to examine this document and submit amendments. The bill and the proposed amendments are submitted to the judge who tried the case, for settlement.

Calendar - A county court record. It sets the order for the cases to be heard. It lists the name of the parties and their attorneys, the case number, and the date of the trial.

Case File - This file contains the original papers for the case. These papers may include motions, replies, petitions, answers, briefs, pleas, nature of the case, depositions, affidavits, subpoenas, summonses, proof of service and notice of appeal, jury lists, witness list, fee bills, executions, continuances, charge of the court, decrees, and any other documents or instruments that may be filed in the case. The exact contents of any case file varies from case to case and it is not unusual for a case file to contain little more than summonses and subpoenas. Much of the information in a case file is recorded in the journal, docket, or complete record.

Case Number - This is the unique identification number assigned to each case. It can be in one of several different formats depending on the practice of the individual court. Case numbers may be assigned consecutively beginning with case number one and extending into infinity. Case numbers may be assigned consecutive numbers for each year whereby 84-001 would indicate the first case heard for 1984. A case number may take its form from the appearance docket in which it is recorded so that the case entered on page 270 of appearance docket volume 63 will become case 63-270. There may be other conventions.

Complete Record - This is a district court record. It contains transcriptions of the petition, process, return, pleadings subsequent thereto, reports, verdicts, orders, judgements, and all material acts and proceedings of the court. A complete record is not required to be completed in cases that were dismissed without prejudice to a further action, criminal cases where the indictment has been quashed or when the prosecuting attorney enters a *nolle prosequi* on the indictment, and in actions in open court when both parties agree that no record be made.

Defendant - This is the person against whom charges have been made in a civil or criminal suit.

Deposition - A declaration made under oath and put into writing or on videotape by an official, usually a notary public or court official also under oath. The adverse party is notified before the deposition is taken so that they may attend and cross-examine or submit written interrogatories.

Docket - A general term used to refer to a bound court record. Most often used to refer to the bound records of a county court or justice of the peace, in which case it combines the functions of the district court appearance dockets and court journal.

Execution Docket - Records the confirmation of sale in satisfaction of a judgement.

Exhibit - This is a term used to describe any evidence submitted for consideration during a trial. The exhibit can take the form of maps, receipts, agreements, diagrams, weapons, drugs, medical reports, X-rays, photographs, court records from prior cases, specifications, pieces of building material, or any other item deemed relevant to the case by the attorneys involved.

General Index - This is the basic means of locating a specific case. Usually it is arranged so that there is an alphabetical list for both plaintiff and defendant. The index will provide the case number and the volume and page numbers for any dockets and journals containing information about a case. The exact arrangement of the index is governed by the practices of the individual court. It is not unusual for the index to list only the appearance docket entries or the case number.

Journal - This volume records all proceedings of the district court. It provides a synopsis of the actions taken on a case for each day.

Judgement Docket - This volume records fees and fines levied and paid as a result of a court decision.

Plaintiff - This is the person who initiates an action and who seeks a remedy in a civil or criminal action.

Trial Docket - This docket records plaintiffs, defendants, and attorneys in each case and is used to schedule court dates.