

IN THE SUPREME COURT OF THE STATE OF KANSAS

ORDER

RULES RELATING TO JUDICIAL CONDUCT

Supreme Court Rules 640 is hereby amended, effective January 1, 2020.

Rule 640

JUDGES ASSISTANCE COMMITTEE

- (a) **The Committee.** ~~Under the authority granted by Article 3, Section 15, of the Constitution of the State of Kansas, and in the exercise of the inherent power of the Supreme Court, there is hereby created a~~ A Judges Assistance Committee is created to provide assistance to any Kansas judge needing help for a mental or physical disability or an addiction to or excessive use of drugs or intoxicants who is experiencing mental health issues such as depression, stress, grief, and anxiety; addiction issues such as alcohol abuse, drug abuse, and gambling; age-related issues; or any other issue that may affect the judge's quality of life or ability to perform the judge's judicial duties.
- (b) **Definition of "Judge."** For purposes of this rule, "judge" means any Supreme Court justice, Court of Appeals judge, district judge, district magistrate judge, Municipal Court judge, or any retired judge or justice accepting judicial assignments.
- (b)(c) **Membership.** ~~The Committee~~ committee shall will consist of seven judges appointed by the Supreme Court and shall must always include at least two active district judges and two active district magistrate judges. The other three members may be active or retired judges. ~~The court will consider population~~ Population and geographical representation ~~shall be considered~~ in the appointment process.
- (d) **Terms.** ~~Each appointment~~ Committee member shall is be appointed for a term of four years. ~~The Supreme Court court~~ will appoint a new member to fill a vacancy on the ~~committee~~ Committee occurring during a term. A new member appointed to fill a vacancy serves the unexpired term of the previous member. No member may serve more than three consecutive four-year terms, except that a member initially appointed to serve an unexpired term may serve three more consecutive four-year terms ~~thereafter~~. A vacancy ~~shall occur~~ occurs when the qualifications for the appointment of any member are no longer met.

(e)(e) **Chair and Meetings.** The Supreme Court shall will designate one member as chair of the ~~committee~~ Committee. The Committee will meet when the need arises and when called by the chair, which shall meet when the need arises and as called by the chair.

(d)(f) **Objectives.** ~~The purpose of the committee is to aid Kansas judges who are, or may potentially become, impaired in the performance of their duties by reason of alcohol or substance abuse or other physical or mental infirmity.~~ The Committee's objectives of the committee are to:

- ~~1.~~(1) identify a judges judge who are impaired from responsibly performing their whose ability to perform the judge's duties by virtue of addiction or abuse of alcohol or other chemicals or due to senility, psychiatric disorders, or other reasons is affected by mental health issues such as depression, stress, grief, and anxiety; addiction issues such as alcohol abuse, drug abuse, and gambling; age-related issues; or any other issue that may affect the judge's quality of life or ability to perform the judge's judicial duties;
- ~~2.~~(2) arrange intervention in those identified cases in such a manner that the judges a judge involved will recognize their impairment issues that may affect the judge's quality of life or ability to perform the judge's judicial duties, accept help from the committee Committee and medical professionals, and be treated and monitored for a period of time so that they the judge may return to their performing judicial duties when able;
- ~~3.~~(3) recommend avenues of treatment and provide a program of peer support where possible; and
- ~~4.~~(4) act as an advocate of a judges judge who are ill and assist them the judge in recognizing issues that may affect the judge's quality of life or ability to perform the judge's judicial duties their impairment, in obtaining effective treatment when possible, and in returning to the responsible performance of their the judge's profession;
- ~~5.~~ educate the public and the legal community about the nature of impairments and develop a program which will generate confidence to warrant early referrals and self-referrals to the committee so that impairments may be avoided, limited, or reversed.

(g) **Office of Judicial Administration.** The Office of Judicial Administration will assist the Committee in achieving its purpose and objectives by:

- (1) helping judges and other persons contact the Committee;
- (2) educating the public and the legal community about the nature of issues that may affect the judge's quality of life or ability to perform the judge's judicial duties and developing a program that will generate confidence to warrant early referrals and

self-referrals to the Committee so that such issues may be avoided, limited, or reversed;

- (3) compiling and creating reports required by the Supreme Court; and
- (4) providing any other assistance requested by the Supreme Court or the Committee.

(e)(h) **Contact.** Rather than asking the Office of Judicial Administration for assistance in contacting the committee, a judge or anyone on the judge's behalf or any other person may communicate with the committee contact the Committee or one of its members directly, on his or her the judge's own behalf, or any Any person may suggest the need to the Committee intervene on a judge's behalf. The judge's interaction with the committee, however, shall be voluntary. The Office of the Clerk of the Appellate Courts is authorized to assist judges and other persons wishing to contact the Judges Assistance Committee.

(f)(i) **Designees.** The committee Committee is authorized to may designate persons to assist the committee Committee in its work.

(g)(j) **Immunity.** The committee Committee members, Office of Judicial Administration staff assisting the Committee, designees, and all other participants shall be are entitled to the immunities of Rule 608 612 and shall be are relieved from the provisions of Rule 8.3 of the Kansas Rules of Professional Conduct, Rule 2.15(A) and (C) of the Kansas Code of Judicial Conduct, and Rule 207 as to work done for and information obtained in carrying out the Committee's work of the committee.

(h)(k) **Confidentiality.** All proceedings, information, meetings, reports, and records of the committee Committee or the Office of Judicial Administration pertaining to individual judges shall be are privileged and must not be divulged in whole or in part except:

~~1.~~(1) when a the judge fails or refuses to address the issues of concern, the committee Committee, upon a vote of the majority, may refer the matter to the Commission on Judicial Qualifications Conduct;

~~2.~~(2) when a judge has been referred to the committee Committee by the Commission on Judicial Qualifications Conduct, the committee Committee shall will provide progress reports and recommendations to the Commission;

(3) when the Committee, upon a vote of the majority, seeks the assistance of the Kansas Lawyers Assistance Program;

~~3.~~(4) when the judge consents to the release of information; or

~~4.~~(5) or by order of the Supreme Court.

(i)(l) **Annual Report.** Annually, and at such additional times as the Supreme Court may order, the committee shall The Committee must file a an annual statistical report of its activities

with the Supreme Court and the Commission on Judicial ~~Qualifications~~ Conduct. The court may order additional reports.


(j)(m) **Internal Procedural Rules.** ~~The committee~~ Committee may adopt rules of procedure consistent with this rule.

(k)(n) **Expenses.** Members and designees of the ~~committee shall~~ Committee will be reimbursed their actual and necessary expenses, including the use of professional intervention assistance, incurred in the discharge of their official duties. Any psychological, medical, or rehabilitative programs undertaken ~~shall will~~ will not be the financial responsibility of the ~~Judges Assistance~~ Committee.

(l)(o) **Cooperation.** A judge's interaction with the Committee is voluntary. However, a judge's cooperation, or failure to cooperate, with the ~~committee~~ Committee may be considered by the Commission on Judicial ~~Qualifications~~ Conduct ~~and/or~~ and the Supreme Court in any disciplinary proceeding.

(m) **Definition of "Judge".** ~~For purposes of this rule "judge" shall mean any Supreme Court Justice, Court of Appeals Judge, District Judge, District Magistrate Judge, Municipal Court Judge, or any retired judge or justice accepting judicial assignments.~~

BY ORDER OF THE COURT this 31<sup>st</sup> day of December, 2019.

FOR THE COURT:  
  
for MSL

MARLA LUCKERT  
Chief Justice