

2012 SC 66

IN THE SUPREME COURT OF THE STATE OF KANSAS

FILED

ORDER

JUL 10 2012

RE: SUPREME COURT RULE 640

CAROL G. GREEN  
CLERK OF APPELLATE COURTS

The attached Supreme Court Rule 640 is hereby amended, effective July 10, 2012.

BY ORDER OF THE COURT this 10<sup>th</sup> day of July, 2012.

FOR THE COURT:



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Lawton R. Nuss  
Chief Justice

Attachment

## Rule 640

### ~~IMPAIRED~~ JUDGES ASSISTANCE COMMITTEE

(a) 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 ~~an impaired judges assistance committee~~ a Judges Assistance Committee to provide assistance to any Kansas judge needing help by reason of a mental or physical disability or an addiction to or excessive use of drugs or intoxicants.

(b) The committee shall consist of seven judges and shall always include at least two active district judges and two active district magistrate judges. The other three members may be active or retired judges. Population and geographical representation shall be considered in the appointment process.

Each appointment shall be for a term of four years. The Supreme Court will appoint a new member to fill a vacancy on the 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 consecutive four-year terms thereafter. A vacancy shall occur when the qualifications for the appointment of any member are no longer met.

(c) The Supreme Court shall designate one member as chair of the committee, which shall meet when the need arises and as called by the chair.

(d) 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 objectives of the committee are to:

1. identify judges who are impaired from responsibly performing their duties by virtue of addiction or abuse of alcohol or other chemicals or due to senility, psychiatric disorders, or other reasons;
2. arrange intervention in those identified cases in such a manner that the judges involved will recognize their impairment, accept help from the committee and medical professionals, and be treated and monitored for a period of time so that they may return to their duties when able;
3. recommend avenues of treatment and provide a program of peer support where possible;
4. act as an advocate of judges who are ill and assist them in recognizing their impairment in obtaining effective treatment when possible; and in returning to the responsible performance of their 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.

(e) A judge may communicate with the committee or one of its members directly on his or her own behalf or any person may suggest the need to 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 Impaired Judges Assistance Committee.

(f) The committee is authorized to designate persons to assist the committee in its work.

(g) The committee members, designees, and all other participants shall be entitled to the immunities of Rule 608 and shall be 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 work of the committee.

(h) All proceedings, information, meetings, reports, and records of the committee pertaining to individual judges shall be privileged and not be divulged in whole or in part except:

1. when the judge fails or refuses to address the issues of concern, the committee, upon a vote of the majority, may refer the matter to the Commission on Judicial Qualifications;
2. when a judge has been referred to the committee by the Commission on Judicial Qualifications, the committee shall provide progress reports and recommendations to the Commission;
3. when the judge consents to the release of information;
4. or by order of the Supreme Court.

(i) Annually, and at such additional times as the Supreme Court may order, the committee shall file a statistical report of its activities with the Court and the Commission on Judicial Qualifications.

(j) The committee may adopt rules of procedure consistent with this rule.

(k) Members and designees of the committee shall 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 not be the financial responsibility of the Impaired Judges Assistance Committee.

(l) A judge's cooperation, or failure to cooperate, with the committee may be considered by the Commission on Judicial Qualifications and/or the Supreme Court in any disciplinary proceeding.

(m) 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.