

ADMINISTRATIVE RULES
OF THE
FOURTH JUDICIAL DISTRICT
STATE OF KANSAS

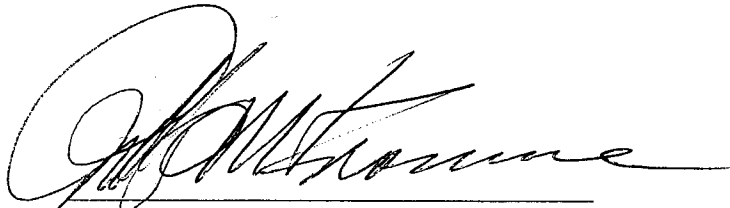
Prefatory Rule

(a) The following rules, 1 through 7, under K.S.A. 20-342, are hereby adopted for the administration of the Fourth Judicial District of Kansas. They shall be binding on all court employees and shall control administrative procedures and personnel policies in the district.

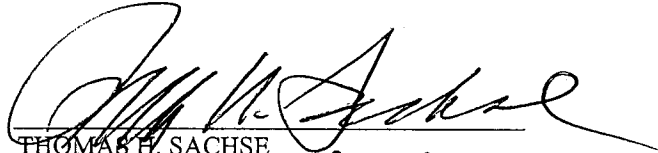
(b) REPEAL OF FORMER RULES. All administrative rules of the Fourth Judicial District of Kansas which are in effect immediately prior to the effective date of these rules are hereby repealed.

(c) Each clerk of the district court shall maintain an official file of administrative rules, which shall be available to the public during normal business hours of the court.

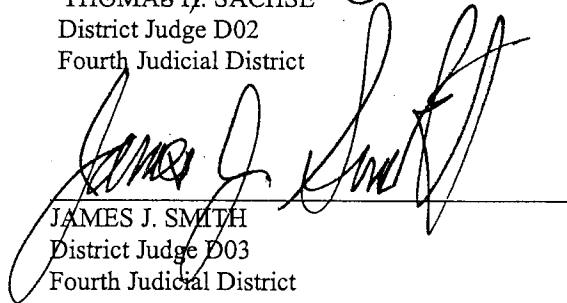
Adopted this date, July 1, 1996.
Effective July 1, 1996.
Amended July 1, 1999
Further Amended Oct. 30, 2001
Further Amended Nov. 5, 2002
Further Amended August 6, 2004
Further Amended April 29, 2005
Further Amended December 6, 2005



PHILLIP M FROMME
Chief Judge D01
Fourth Judicial District



THOMAS F. SACHSE
District Judge D02
Fourth Judicial District



JAMES J. SMITH
District Judge D03
Fourth Judicial District

Administrative Rule No. 1

ASSIGNMENT OF JUDGES AND RESPONSIBILITY OF CASES

1. The primary responsibility for cases in the Fourth Judicial District are assigned as follows:
 - (1.1) DISTRICT JUDGE DO1 - primary office Coffey County
(Present incumbent - Phillip M Fromme)
 - (1.1.1) COFFEY COUNTY - All cases except cases assigned to a district magistrate judge.
(CR CV DM RC beyond the jurisdiction of the magistrate judge and AD PR)
 - (1.1.2) OSAGE COUNTY - All cases except cases assigned to a district magistrate judge or other district judge. (CR DM RC beyond the jurisdiction of the magistrate judge)
 - (1.2) DISTRICT JUDGE DO2 - primary office Franklin County
(Present incumbent - Thomas H. Sachse)
 - (1.2.1) FRANKLIN COUNTY - All cases except those cases assigned to a district magistrate judge or other district judge. (CR DM RC beyond the jurisdiction of the magistrate judge and AD PR)
 - (1.3) DISTRICT JUDGE DO3 - primary office Anderson County
(Present incumbent - James J. Smith)
 - (1.3.1) ANDERSON COUNTY - All cases except those cases assigned to a district magistrate judge or other district judge. (CR CV DM RC beyond the jurisdiction of the magistrate judge and AD PR)
 - (1.3.2) FRANKLIN COUNTY - All civil cases (cases filed as "CV") except those cases assigned to a district magistrate judge. (CV beyond the jurisdiction of the magistrate judge)
 - (1.3.3) OSAGE COUNTY - All civil cases (cases filed as "CV") except those cases assigned to a district magistrate judge. (CV beyond the jurisdiction of the magistrate judge)
 - (1.4) DISTRICT MAGISTRATE MO1 - primary office Osage County
(Present incumbent - Jon Stephen Jones)
 - (1.4.1) OSAGE COUNTY - All cases within the magistrate's jurisdiction. (AD CV CR CT DM FG GC JV JC LM PR RC SC TR)
 - (1.4.2) COFFEY COUNTY - All within the magistrate's jurisdiction except adoption and probate cases. (CV CR CT DM FG JC JT JV LM RC SC TR)
 - (1.5) DISTRICT MAGISTRATE MO2 - primary office Franklin County
(Present incumbent - Kevin Kimball)

(1.5.1) FRANKLIN COUNTY - All cases within the magistrate's jurisdiction except adoption and probate cases. (CV CR CT DM FG GC JC JT JV LM RC SC TR)

(1.5.2) ANDERSON COUNTY - All within the magistrate's jurisdiction, except adoption and probate cases.. (CV CR CT DM FG GC JT JV LM RC SC TR)

2. Traffic, juvenile offender, juvenile tobacco and fish and game cases appealed from a magistrate judge or in which a jury trial is properly requested are assigned to the district judge assigned criminal cases in the county of the case. Limited action, probate, and adoption and small claims cases appealed from a magistrate judge are assigned to the district judge who is assigned civil cases in the county of the appeal. Juvenile in need of care and care and treatment cases appealed from a magistrate judge are assigned to the district judge assigned domestic cases in the county of the appeal except juvenile Child in Need of Care cases in Franklin County for the termination of parental rights shall be heard by the district judge assigned civil cases in said county.

3. Other specific assignments of cases may be made by the judge listed above as having primary responsibility of those matters assigned with the consent of the judge to whom it is assigned or the Chief Judge.

4. Disqualifications of judges for whatever reason will be reassigned by the Chief Judge.

5. In the event of sickness, absence or disqualification of any judge, any other judge of the district court having jurisdiction may act with full authority . Attempts to contact judges after hours or in the absence of the judge to whom the case is assigned when an emergency exists shall be in the following descending order in the various counties of the district:

Anderson	Coffey	Franklin	Osage
DO3 J. Smith	D01 Fromme	MO2 Kimball	MO1 Jones
MO2	M01	D02 Sachse	DO1
DO1	D03	DO3	MO2
D02	DO2	M01	DO2
M01	M02	D01	D03

6. Pursuant to DCR 172, all judge of the district court are hereby designated to preside as hearing officers for the establishment, modification, or enforcement of support pursuant to the Kansas Parentage Act, K.S.A. 23-451, et seq., 39-718a, 39,755 or 60-1610 or K.S.A. 23-4,137, 38-1542. 38-1543. OR 38-1563, and amendments thereto; and enforce orders granting visitation rights.

7. Under of the provisions of K.S.A. 20-302b, actions pursuant to the Protection from Abuse Act shall be assigned to Magistrate Judges in the Fourth Judicial District.

Amended this Nov. 5, 2002

Further amended this August 6, 2004

Further amended this April 29, 2005

Further amended this December 6, 2005

Administrative Rules
of the
Fourth Judicial District
State of Kansas

Administrative Rule No. 2

COURT RECORDS

(a) CUSTODIANS OF RECORDS AND HOURS OF OPERATION

The principal offices and the official custodian of the records in the Fourth Judicial District of Kansas are as follows:

District Court Clerk
Anderson County Courthouse
Garnett, KS. 66032

District Court Clerk
Coffey County Courthouse
Burlington, KS. 66839

District Court Clerk
Franklin County Court Building
Ottawa, KS. 66067

District Court Clerk
Osage County Courthouse
Lyndon, KS. 66451

The regular office hours during business days of such custodians is from 8:00 a.m. to 12:00 noon and 1:00 p.m. to 5:00 p.m. The offices shall be open to the public from 8:00 am to 12:00 noon, and 1:00 pm to 4:00 pm.

(b) COPY CHARGES

The official custodian of the court records shall be authorized to charge and require advance payment of a fee for providing access to or furnishing copies of records. Executive branch agencies such as the Department of Social and Rehabilitation Services and local governmental agencies may be charged for access and copies on the same basis as members of the public, as follows:

- (1) A fee of \$.25 shall be charged per photocopy page.
- (2) A fee of \$.25 shall be charged for each copy of microfilm.
- (3) A fee of \$1.00 shall be charged for certifying any paper or writ.
- (4) Fees for the use of fax equipment are as follows:
 - (a) Send: \$2.00 for the 1st page, not including the cover page.
\$.50 for each additional page
 - (b) Receive: No Charge
- (5) Whenever a request or access will require more than the usual time and effort on the part of court personnel, an access fee of \$12.00 per hour shall be charged.

(c) DISTRIBUTION OF COPY CHARGES

The clerk of the District Court shall remit all monies collected from fees for copies of records to the County Treasurer for use of the copying, microfilming machine and optical disk, and all monies received for the cost of staff time in providing access to or searching records to the state treasurer. The clerk may remit a collected fee to a genealogical society which has conducted the search in lieu of staff time.

(d) REQUESTS FOR COPIES

Any request for copies other than in person may require a written request giving the requester's name and address and the information necessary to ascertain records to which the requester desires. Each request for inspection and/or copy of public records shall be acted upon as soon as possible, but no later than the end of the third business day following the day that the request is received and so as to not disrupt the other essential functions of the office.

(e) RECORD SECURITY

No person shall remove original copies of public record from the office without written permission of the custodian of records. The inspection and copying of public records shall be made while the records are in the possession, custody and control of the custodian or a person designated by the custodian and shall be made under the supervision of such custodian or person.

Amended on this Oct. 30, 2001

Administrative Rule No. 3

JUDGMENT PAYMENTS

(a) PAYMENT OF JUDGMENTS TO ATTORNEYS

The clerk of the district court is authorized to pay proceeds of a judgment to the party awarded the judgment or to the attorney of record. (Smith v. Ward, 161 Kan. 453, 169 P. 2d 93 (1946))

(b) ENDORSEMENT WITHOUT RECOURSE

When payment for temporary orders or judgments are made by check and received by the district court clerk's office, the clerk is authorized to endorse the check to the proper person "without recourse".

Administrative Rule No. 4

TRAFFIC

(a) CONTINUANCES

The initial time and date to appear for arraignment, as stated on the Uniform Traffic Complaint served upon the offender, may be extended once by the clerk of the court for a period not to exceed fourteen (14) additional days. All other extensions of time to appear, continuances of hearings, or trials shall be by orders of a judge of the district court.

(b) FINES

If a law enforcement officer should unintentionally enter an amount less than the statutory fine and costs, the court shall accept the amount as compliance by the defendant.

(c) REFUNDS OF OVERPAYMENTS: The Clerk of District Court shall refund overpayments of \$5.00 or more.

Amended on this Oct. 30, 2001

Administrative Rule No. 5

ALCOHOL AND DRUG SAFETY ACTION PROGRAMS

(a) AUTHORIZED PROGRAMS

The following centers, with offices within the Fourth Judicial District, and pursuant to K.S.A. 8-1008(b), having the approval of the District and Municipal Judges in the Fourth Judicial District, have been approved to provide alcohol and drug safety action services such as evaluation, supervision, and/or monitoring to District and Municipal courts in the Fourth Judicial District:

Franklin County Mental Health Clinic, Inc.
204 East 15th Street
Ottawa, KS. 66067

Southeast Kansas Mental Health
318 East 6th Street
Garnett, KS. 66032

Mental Health Center of East Central Kansas
1000 Lincoln
Emporia, Ks. 66801

Horizons Recovery Service
P.O. Box 55
Ottawa, KS. 66067

Verlin R. Conkle Jr. MS, NCC
215 Hudson St.
Burlington, Ks. 66839

Gayle M. Taylor, LMSW
1315 Alleghaney St. #1
Burlington, Ks. 66839

If an approved program fails to provide any type of correspondence or report to the Court on the date ordered by the Court, for any reason, including lack of payment for services, the Court may remove the program from the list of authorized programs.

(b) OTHER APPROVED PROGRAM

Any center with offices located outside of the Fourth Judicial District shall be certified to provide services to District and Municipal Courts in the Fourth Judicial District providing the program is certified to provide services by another Judicial District in the state of Kansas.

(c) PAYMENT FOR SERVICES

When money is received by the clerk of a municipal or district court for the alcohol and drug safety action fund, it shall be paid out by that clerk to the following agency in that court's county:

Anderson County - Southeast Kansas Mental Health Center

Coffey County - Mental Health Center of East Central Kansas

Franklin County - Franklin County Mental Health Clinic, Inc.

Osage County - Mental Health Center of East Central Kansas

The above designated payee, upon receiving the funds from a municipal or district court clerk, shall reimburse any other agency for the use of their services. The above designated payee may retain 10% of the amounts collected as an administrative fee, in accordance with KSA 8-1008.

Adopted on this November 14, 1997

Amended on this Oct. 30, 2001

Amended on this Nov. 5, 2002

ADMINISTRATIVE ORDER NO. 6

FOURTH JUDICIAL DISTRICT
ADMINISTRATIVE INCENTIVES AND SANCTIONS PROGRAM

Policy and Procedure

I. Mission Statement: To ensure appropriate, timely, and graduated rewards or consequences to a probationer's behaviors and actions as they relate to Court ordered supervision, the Fourth Judicial District will apply the use of administrative incentives and sanctions.

Incentives may be used to promote and recognize the exceptional performance of a probationer as they relate to following the orders of the Court, especially any obligations toward identified victims. Exceptional performance is defined as any achievement which exceeds the minimum requirements set by the Court.

Administrative sanctions may be used to address new misdemeanor convictions and/or technical violations which occur during the term of probation. Technical violations are defined as violations of court ordered supervision conditions, which do not result in a new violation of the law. These sanctions may be enacted without further order of the Court when accepted by the probationer.

Possible benefits of this program include; timely, immediate consequences and rewards for behavior, fewer revocation hearings, less disparity in the treatment of offenders, and a stronger focus on victims.

II. Policy Statement: It is the policy of the Fourth Judicial District Community Corrections and Court Services Departments to, when appropriate, utilize the Administrative Incentives and Sanctions Program to assist probationers placed under their supervision by the Court.

Once a sanction has been imposed and successfully completed the alleged violation may not be used as the basis for a probation violation filed by the Supervising Officer, but may be considered by the Court in the disposition of future violations. If the probationer fails to complete the sanction imposed, a motion to revoke the probation may be filed or additional sanctions may be imposed. The Supervising Officer has the option to file a revocation instead of utilizing administrative sanctions if prior sanctions have not been successfully completed at the time new violations occur or if extenuating circumstances would not be in the best interest of the client, public or probation office.

Sanctions may be imposed with the consent of the client at the discretion of the Supervising Officer. The sanction will be tailored to fit the seriousness of the alleged violation, taking into consideration any previous sanctions imposed. Failure to participate in the Program may result in an affidavit being filed with the County Attorney's office for any alleged violation(s) of probation. However, refusal to participate in the Program will not be considered by the Court as a basis for revoking probation. Multiple sanctions may be imposed when appropriate. The cost of any and all sanctions imposed will be the responsibility of the probationer.

The Supervising Officer shall notify the County Attorney's office of any alleged violation which would

constitute a felony by filing an affidavit requesting revocation of the probation. Sanctions are not considered appropriate for dealing with new felony violations. If the new conviction is for a misdemeanor or the probationer has failed to complete a previously imposed sanction; the Supervising Officer has the option of imposing an additional sanction or notifying the county Attorney's Office by filing an affidavit requesting revocation of the probation.

If the probationer is alleged or determined to have violated any Court ordered Obligation to a victim; (material failure to pay restitution, contact with the victim when ordered otherwise, making an apology to the victim, etc.) no sanctions will be available. The Supervising Officer shall notify the county attorney's office by filing an affidavit requesting revocation of the probation.

Placement with Community Corrections is viewed as the probationer's "last chance" because revocation from their program would result in imposition of sentence. It is therefore not considered an administrative sanction. If a probationer is found to be inappropriate for Court Services' level supervision, a revocation hearing will be requested.

III. Procedures:

A. Placement on Probation

1. At the time supervision requirements are discussed with the probationer, information will be provided outlining the objectives of the program (Client Information Form).
2. A signed copy of this form will be provided to the client and the original will remain in the Supervising Officer's filed.

B. Violation: Administrative Sanctions may be enacted without further order of the Court after the following guidelines have been addressed.

1. The client has admitted to the alleged violation.
2. The Supervising Officer has fully explained how the administrative sanction will be administered.
3. The probationer has been advised in writing and has signed a voluntary modification of the probation order, waiving his/her right to an evidentiary hearing. The Supervising Officer has signed the voluntary modification. A copy of the voluntary modification has been provided to the Court and the probationer.

Adopted this date NOVEMBER 14, 1997.

ADMINISTRATIVE RULE NO. 7

PREPARATION OF PROCESS FOR SERVICE

The Clerks of the District Court shall not prepare summons, executions, garnishments or any other form which would be in effect rendering legal service, except as provided by law (K.S.A. 61-2701, et seq.) or by the Court rules of the Fourth Judicial District.

The Clerks of the District Court shall issue any such process that has been prepared and delivered to the Clerk's office for issuance as provided by law and upon receiving written directions from the requesting party. If the preparing parties/counsel have not provided the required documents that are to accompany any process to served, the Clerk of the District Court shall forward to the preparing parties/counsel a notice indicating what documents are needed to issue the requested process.

If no directive for type of service of process is made, or no documents furnished to effectuate the service of such process within 10 days of filing, the case will be dismissed without prejudice.

Adopted this date April 22, 1998.

Amended on this Oct. 30, 2001