



State of Kansas

**Office of Judicial Administration**

Kansas Judicial Center  
301 SW 10<sup>th</sup>  
Topeka, Kansas 66612-1507

(785) 296-2256

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Senate Judiciary  
Neutral Testimony on 2019 Senate Bill 119

Amy Raymond  
Office of Judicial Administration

Chairman Wilborn and Committee Members:

Thank you for the opportunity to provide neutral testimony on Senate Bill 119. I am Amy Raymond, Director of Trial Court Programs in the Office of Judicial Administration (OJA).

In reviewing SB 119, OJA would like to offer some thoughts for the committee's consideration. Much of SB 119 mirrors Supreme Court Rules 109A and 109B regarding specialty courts (attached). However, as currently drafted, SB 119 conflicts with portions of these Supreme Court Rules. For example, where SB 119 states "[t]he court shall have measurable goals and objectives," Supreme Court Rule 109B states "[t]he court should have measurable goals and objectives." This conflict could cause confusion for a district that is trying to establish a specialty court. Additionally, if the Supreme Court decides to amend its rules, a larger conflict could be created.

The conflicts between SB 119 and Supreme Court Rules 109A and 109B could be resolved by amending the bill to incorporate the rules by reference, rather than reiterating the content of those rules within a statute.

Specialty courts are established at the county-level, are often run by one judge, and are created and maintained with local resources. It is important to allow judicial districts to develop programs based on local need, while establishing statewide standards that ensure the fair administration of justice. The Supreme Court has done this through Rules 109A and 109B.

Thank you for the opportunity to talk to you today about SB 119. I am happy to stand for questions.

## Rule 109A

### SPECIALTY COURT

- (a) **Specialty Court—Defined.** A specialty court is a court program that uses therapeutic or problem-solving procedures to address underlying factors that may be contributing to a party's involvement in the criminal justice system, i.e., mental illness or drug, alcohol, or other addiction. Procedures may include treatment, mandatory periodic testing for a prohibited drug or other substance, community supervision, and appropriate sanctions and incentives.
- (b) **Specialty Court Allowed.** A judicial district may establish a specialty court.
- (c) **Receipt of Ex Parte Communication.** A judge presiding over a specialty court docket established under subsection (b) may initiate, permit, and consider an ex parte communication with a probation officer, case manager, treatment provider, or other member of a specialty court team, either at a team meeting or in a document provided to all members of the team.
- (d) **Disclosure of Ex Parte Communication.** A judge who receives an ex parte communication under subsection (c) may preside over any subsequent proceeding if:
  - (1) the judge discloses to the parties the existence of the communication and, if known, the nature of the communication; and
  - (2) the judge obtains the parties' consent to the judge's participation in the proceeding.

[**History:** New rule adopted effective January 28, 2009; Restyled rule and amended effective July 1, 2012; Am. effective July 5, 2017.]

## Rule 109B

### SPECIALTY COURT STANDARDS

- (a) **General Standards.** A specialty court should meet the following general standards:
- (1) *Goals and Objectives.* The court should have measurable goals and objectives.
  - (2) *Policy and Procedure Manual.* The court should have a policy and procedure manual covering general administration, organization, personnel, and budget matters.
  - (3) *Evidence-Based Practices.* The court should establish and adhere to practices that are evidence-based and outcome-driven and should be able to articulate the research basis for the practices it uses.
  - (4) *Eligibility Criteria.* The court should have written eligibility criteria. To the extent possible, the court should use evidence-based screening tools as part of the eligibility criteria.
  - (5) *Treatment Providers.* All treatment providers used by the specialty court should be appropriately licensed by the applicable state regulatory authority and trained to deliver necessary services according to the standards of their profession. The court should have a monitoring or quality-assurance process to ensure that treatment providers are incorporating training and services consistent with evidence-based best practices.
  - (6) *Participant Compliance.* The court should have written procedures for incentives, rewards, sanctions, and therapeutic responses to participant behavior while under court supervision. Court responses should be evidence-based when possible. Participant progress should be measured on a regular basis.
  - (7) *Judicial Education.* A judge handling a specialty court docket should be knowledgeable about underlying medical or social-science research relevant to that docket. When feasible, the court should have at least one back-up judge who is familiar with the court's policies and practices so that the court's operation remains consistent even when the assigned judge is unavailable.
- (b) **Drug-Court Standards.** A specialty court that targets drug-addicted offenders or others charged with drug offenses should substantially comply with the Adult Drug Court Best Practice Standards (Vol. 1, 2013; Vol. 2, 2015) published by the National Association of Drug Court Professionals.

[History: New rule adopted effective July 5, 2017.]