

M.R. 3140

IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS

Order entered November 24, 2020.

(Deleted material is struck through, and new material is underscored.)

Effective January 1, 2021, Illinois Supreme Court Rule 21 is amended, as follows.

Amended Rule 21

Rule 21. Circuit Court Rules and Filing of Rules; Administrative Authority; General Orders;

(a) **Circuit Court Rules.** A majority of the circuit judges in each circuit may adopt rules governing civil and criminal cases which are consistent with these rules and the statutes of the State, and which, so far as practicable, shall be uniform throughout the State. All rules of court shall be filed with the Administrative Director within 10 days after they are adopted.

(b) **Administrative Authority.** Subject to the overall authority of the Supreme Court, the chief circuit judge shall have the authority ~~to determine~~, among other things, to determine the hours of court and of the judges in the circuit, the available leave time to which a judge is entitled, and, when the judge's conduct negatively affects the operations of the court or public confidence in the court, to direct how that judge must conduct himself or herself. ~~to instruct the way in which a judge on the bench is expected to behave.~~ In the exercise of this general administrative authority, the chief judge shall take or initiate appropriate measures to address the persistent failure of any judge to perform his or her judicial duties or to comply with a directive from the chief judge.

(c) **Voluntary Program to Address Certain Types of Judicial Conduct.** In accordance with paragraph (b) and the chief judge's responsibilities under Supreme Court Rule 63B(3), the measures available to a chief judge to address the persistent failure of any judge to perform his or her judicial duties or to comply with a directive from the chief judge may include participation by the judge in a voluntary program under this paragraph (c) if the chief judge concludes that (i) participation in the program will help the judge address the conduct in question; (ii) use of that measure will benefit and not harm the public, the courts, and the administration of justice; and (iii) the judge's conduct does not involve dishonesty, fraud, deceit, or misrepresentation.

(1) A voluntary program under paragraph (c) shall require the judge to complete one or more of the following activities:

(A) a mentoring program;

(B) attendance at a judicial training program;

(C) testing, evaluation, and/or treatment by the Lawyers' Assistance Program or a

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provider of medical or psychological services; and

(D) any other requirement agreeable to the chief judge and the judge.

(2) The terms of the voluntary program shall be set forth in a written agreement between the chief judge and the judge. The agreement shall specify the purpose of the program, the requirements of the program, the deadline by which the requirements shall be completed, and any responsibility of the judge for payment of costs.

(3) If the judge fails to comply with the requirements of the agreement and the conduct that prompted the agreement has persisted, the chief judge shall take or initiate appropriate measures under paragraphs (b) and (d).

(4) If the judge refuses to enter into a proposed voluntary agreement, the chief judge shall take or initiate other appropriate measures under paragraph (b).

(d) Supreme Court Notice. The chief judge shall notify the Supreme Court if, despite the measures taken by the chief judge pursuant to paragraphs (b) or (c), a judge continues to fail to perform his or her judicial duties or to comply with a directive from the chief judge following the later of at least 30 days or the deadline for completion of a program pursuant to paragraph (c).

(e) General Orders. The chief judge of each circuit may enter general orders in the exercise of his or her general administrative authority, including orders (i) providing for assignment of judges, general or specialized divisions, and times and places of holding court and (ii) specifying the nature of any needed court-related personnel, facilities, or resources.

(fd) Proceedings to Compel Compliance With Certain Orders Entered by a Chief Circuit Judge. Any proceeding to compel a person or agency other than personnel of the circuit court to comply with an administrative order of the chief circuit judge pursuant to paragraph (e) shall be commenced by filing a complaint and summons and shall be tried without a jury by a judge from a circuit other than the circuit in which the complaint was filed. The proceedings shall be conducted held as in other civil cases.

Amended August 9, 1983, effective October 1, 1983; amended December 1, 2008, effective immediately; amended Nov. 24, 2020, eff. Jan. 1, 2021.

Committee Comments

(Revised January 1, 2021 ~~December 1, 2008~~)

This rule includes ~~consists of~~ paragraphs (2), (3), and (4) of former Rule 1, which was revised effective January 1, 1964.

~~New p~~Paragraph (b) clarifies ~~was adopted December 1, 2008, to clarify~~ that a chief circuit judge's administrative role includes the authority, and the responsibility, to address the persistent failure of any judge to perform his or her judicial duties. Such failure may be due to, among other things, professional incompetence, poor case load management, or chronic absenteeism. The chief judge also has authority to direct how a judge must conduct himself or herself if the judge's conduct negatively affects the operations of the court or public confidence in the court. The chief circuit judge shall take or initiate appropriate measures if a judge persistently fails to perform his or her judicial duties or comply with a directive from the chief judge. Depending on the

circumstances, “appropriate measures” may include, among other things, reassignment of the judge to administrative or other judicial duties, the provision of counseling, the assignment of a mentor, or referral to the Judicial Inquiry Board. Depending on the facts involved, the expectation is that the chief circuit judge will take or initiate appropriate action to remedy the situation. It shall be the duty of the chief judge to provide counseling, if deemed necessary or appropriate, and to report violations of the Canons to the Judicial Inquiry Board. In circumstances where there is uncertainty as to whether the conduct at issue is violative of the Canons, the chief judge shall report the conduct, with substantial particularity, to the Supreme Court.

Paragraph (c) is new. Modeled on the diversion program for lawyers developed by the Attorney Registration and Disciplinary Commission, it authorizes a chief judge to address certain conduct by a judge that requires the chief judge to “take or initiate appropriate disciplinary measures” under paragraph (b) by affording the judge an opportunity to enter into a voluntary agreement intended to help the judge correct or terminate the conduct in question. Depending on the nature of the chief judge’s obligation to “take or initiate appropriate disciplinary measures” under Supreme Court Rule 63B(3), it is anticipated that in most instances a voluntary agreement that results in the desired change to the judge’s conduct will obviate any need for the chief judge to refer the judge to the Judicial Inquiry Board. In situations where a chief judge is required by Rule 63B(3) to refer the judge to the Judicial Inquiry Board, a voluntary agreement will not eliminate that obligation. See Illinois Judicial Ethics Committee Opinion No. 2003-04 (addressing a judge’s ethical responsibility to “take or initiate appropriate disciplinary measures” with respect to a judge or lawyer’s violation of the applicable ethics rules).

Paragraph (d) is also new. It provides for notice to the Supreme Court if measures taken by a chief judge to address a judge’s persistent failure to perform his or her judicial duties or to comply with a directive from the chief judge do not result in improvement in the judge’s behavior within 30 days or following completion of a voluntary program under paragraph (c).

Paragraph (e) has been revised to authorize the chief judge to issue orders specifying the nature of any needed court-related personnel, facilities, or resources. If deemed necessary by the chief judge, noncompliance with any such order can be addressed in a proceeding pursuant to paragraph (f), with a determination of the enforceability of the order requiring due regard for separation of powers and other relevant considerations. See *Knuepfer v. Fawell*, 96 Ill.2d 284 (1983) (addressing authority of chief judge to exercise the inherent power of the courts to require production of facilities, personnel, and resources reasonably necessary to enable the performance of judicial functions with efficiency, independence, and dignity).