

Rule 219

CRIMINAL CHARGE; CONVICTION

- (a) **Definitions.**
- (1) “Conviction” means the following:
 - (A) a finding based on a plea or trial that a person is guilty of a felony or misdemeanor; or
 - (B) entry by a person into a diversion agreement or other comparable disposition for a felony or misdemeanor charge.
 - (2) “Felony crime or a crime mandating registration as an offender” means the following:
 - (A) a crime classified as a felony;
 - (B) a crime mandating registration by the defendant as an offender under the Kansas Offender Registration Act (KORA), K.S.A. 22-4901 et seq.; or
 - (C) a comparable offense in any jurisdiction that if committed in Kansas would constitute a felony or mandate registration under KORA.
 - (3) “Reportable crime” means the following:
 - (A) a felony crime or a crime mandating registration as an offender; or
 - (B) a class A or B misdemeanor or an offense of comparable classification.
- (b) **Deferral.** If a criminal action is pending based on substantially similar allegations as a disciplinary matter, the following provisions will apply.
- (1) The investigation of an initial complaint or a report will not be deferred unless the disciplinary administrator authorizes deferral.
 - (2) The investigation of a docketed complaint and prosecution of a formal complaint will not be deferred unless the review committee, hearing panel, or Supreme Court authorizes deferral.
- (c) **Attorney’s Duty When Charged with Reportable Crime.** An attorney who has been charged with a reportable crime must notify the disciplinary administrator in writing of the charge and court of jurisdiction no later than 14 days after the charge is filed.
- (d) **Attorney’s Duty Upon Conviction.** An attorney who has been convicted of a reportable crime must notify the disciplinary administrator in writing of the conviction and court of jurisdiction no later than 14 days after the conviction. The pendency of sentencing or the filing of a notice of appeal, a motion for new trial, or a motion for other relief does not stay the reporting requirement.

- (e) **Duty of Clerk of Court.** The clerk of any Kansas court in which an attorney is convicted of a reportable crime must notify the disciplinary administrator in writing of the conviction no later than 14 days after the conviction.
- (f) **Conviction is Conclusive Evidence.** A certified copy of a judgment of conviction of a respondent for a reportable crime is conclusive evidence of the commission of that crime. The respondent may not present evidence that the respondent is not guilty of the crime.
- (g) **Automatic Temporary Suspension.**
 - (1) **Disciplinary Administrator's Duties.** When the disciplinary administrator receives notice that an attorney has been convicted of a felony crime or a crime mandating registration as an offender, the disciplinary administrator must commence a disciplinary board proceeding and file with the Supreme Court an ex parte motion for temporary suspension of the attorney's license to practice law. The disciplinary administrator must attach evidence of the conviction to the motion.
 - (2) **Supreme Court Order.** After the filing of a motion under subsection (g)(1), the Supreme Court will issue an order temporarily suspending the respondent from the practice of law until final disposition of the disciplinary board proceeding. The filing of a notice of appeal, a motion for new trial, or a motion for other relief does not stay a temporary order of suspension.
 - (3) **Notice to Respondent.** The clerk of the appellate courts will provide the respondent with a copy of the Supreme Court's order.
 - (4) **Respondent's Duties.** After receipt of the order, the respondent must comply with Rule 231.
- (h) **Temporary Suspension Following Conviction of Other Crime.** This rule does not preclude the disciplinary administrator from seeking the temporary suspension under Rule 213 of a respondent for the conviction of a reportable crime.
- (i) **Motion to Vacate Order of Temporary Suspension.**
 - (1) A respondent may file with the Supreme Court a motion to vacate an order of temporary suspension for good cause or because a court reversed the conviction that was the basis of the temporary suspension. The respondent must attach a certified copy of the judgment reversing the conviction.
 - (2) The respondent must serve the disciplinary administrator with a copy of the motion.
 - (3) A Supreme Court order vacating a temporary order of suspension does not terminate the disciplinary board proceedings.

- (j) **Disciplinary Board Proceeding.** A disciplinary board proceeding arising out of a conviction for a crime will proceed the same as any other matter under these rules.

[History: New rule adopted effective January 1, 2021.]