

Rule 908

DOMESTIC CONCILIATION

- (a) **Court-Ordered Domestic Conciliation.**
 - (1) A domestic conciliator helps the parties reach a resolution and, if ordered, provides a report to the court. A domestic conciliator has no decision-making authority.
 - (2) Before ordering domestic conciliation, a district court must determine whether domestic conciliation is appropriate.
 - (3) When referring a dispute to domestic conciliation, a district court must appoint a person who meets the qualifications under subsection (b).
- (b) **Qualifications of a Domestic Conciliator.**
 - (1) **Approved Domestic Conciliator.** An approved domestic conciliator is an individual who has received a certificate of approval under Rule 911.
 - (2) **Attorney Appointed as a Domestic Conciliator.** A district court may appoint an individual licensed to practice law in Kansas as a domestic conciliator under K.S.A. 5-509. Before appointing an attorney to be a domestic conciliator, a district court must consider the attorney's knowledge and experience in domestic relations cases. An attorney who has not received a certificate of approval under Rule 911 is not considered an approved domestic conciliator.
- (c) **Court Order.** If a district court determines that domestic conciliation is appropriate, the court must issue an order for domestic conciliation. The domestic conciliator must receive the written order specifying the dispute to be resolved before initiating conciliation. The order must include the provisions listed in paragraphs (1) through (5).
 - (1) **Not a Confidential Process.** The order must include a statement explaining that domestic conciliation is not a confidential process, the parties waive confidentiality of the proceeding under K.S.A. 5-512, and the domestic conciliator has the responsibility to report to the court and to other authorities as the court order directs.
 - (2) **Written Report.** The order must specify:
 - (A) whether the domestic conciliator must file a written report with the court; and
 - (B) any information the domestic conciliator must include in a filed report.

- (3) **Communication with Each Party.** The order must specify whether the domestic conciliator may communicate individually with each party.
- (4) **Communication with a Nonparty.** The order must specify whether the domestic conciliator may communicate with a nonparty. If communication with a nonparty is permitted, the district court should direct the parties to execute a release or written consent authorizing the communication.
- (5) **Fees and Other Charges.** The order must address the allocation of fees between the parties, including a retainer amount or an apportionment of domestic conciliation costs between the parties. Any fee for domestic conciliation should be based on the actual time expended by the domestic conciliator relating to the dispute between the parties, unless the court directs otherwise. A fee for domestic conciliation must not include costs for professional time wholly unrelated to the purpose of appointment.
- (d) **Written Agreement.** A domestic conciliator must enter into a written agreement with each party. The written agreement should include the domestic conciliator's expectations and procedures; billing practices, method of payment, and use of collections; and any other information the domestic conciliator deems necessary when providing conciliation services.
- (e) **Domestic Violence Screening.** A domestic conciliator must screen and continually monitor each dispute for domestic violence. A domestic conciliator should adapt the methods used during domestic conciliation to avoid coercion or an imbalance of power and control between the parties. If a domestic conciliator does not have the competency to manage a dispute involving domestic violence, the domestic conciliator must not accept the domestic conciliation or must terminate an existing domestic conciliation.
- (f) **Withdrawal or Removal.** The district court may permit the withdrawal of or remove a domestic conciliator if the court finds:
 - (1) loss of neutrality by the domestic conciliator;
 - (2) nonpayment by a party;
 - (3) lack of cooperation by a party;
 - (4) threat to a party or the domestic conciliator; or
 - (5) any other reason found by the district court.
- (g) **Reporting of CDRE Credit Hours to the District Court.** If requested by a district court, an approved domestic conciliator must report to the district court the number of CDRE credit hours the domestic conciliator has attended in the current compliance period.

[**History:** New rule adopted effective January 1, 2020.]