

Kansas Judicial Council Bulletin

DECEMBER, 1966

PARTS 3 AND 4—FORTIETH ANNUAL REPORT

Court Days, 1967



Proposed Act to Provide Counsel for Indigent Persons Charged With Crime

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Foreword

This issue of the BULLETIN contains a list of court days for 1967 in the various district courts of the state of Kansas.

Both the Judicial Council and its advisory committee on revision of the criminal law have been steadily at work on the project for the past year. The advisory committee on September 1, 1966, concluded its third year of work. Originally the Council planned to submit a complete draft recodifying the criminal code in time for the 1967 session of the legislature to act upon it. The magnitude and complexities of the task have made it impossible to meet this goal, and it is now apparent the complete draft will not be ready before the 1969 session of the legislature. Urgency for procedural legislation, implementing recent United States Supreme Court decisions requiring the appointment of counsel for indigent persons charged with crime, has commanded the attention of the Council and its advisory committee recently.

This Bill, initially prepared by the advisory committee, has been modified and changed by the Council and is published on the following pages of this BULLETIN. The Bill as presently drafted has the approval of the Council and is recommended to the legislature for adoption with two qualifications:

I. Both the Judicial Council and its advisory committee share the opinion that the administration of our criminal laws is a state and not a local problem, and therefore should have financial support at the state level. Nevertheless, the Council recognizes the problem of financing to be one of legislative policy and defers this matter to the competence of the legislature.

II. In Section 13 the Bill makes provision for the recoupment of public funds expended on behalf of an indigent person charged with crime. The first part of this section makes the defendant liable to the state of Kansas for a sum equal to the expenditure, and authorizes its recovery from the defendant where assets are later found to be available from the defendant. The second part of this section relates to the recoupment of funds expended on behalf of an indigent defendant from his spouse, if married at the time the crime charged was claimed to have been committed, and from his parents, or either of them, if he was under twenty-one years of age at the time the crime charged was claimed to have been committed. It is the opinion of the Council that this second provision is basically a question of legislative policy, and is incorporated as a suggestion for consideration.

Recent federal decisions necessitating procedural implementation in criminal cases at the state level are contained in the Preamble, which is self-explanatory.

The Bill published in this issue of the BULLETIN is designed as a part of the overall revision of the Kansas criminal code and prescribes an orderly procedure to give the indigent defendant counsel and assistance throughout the proceeding.

The present members of the advisory committee on criminal law revision are the Honorable Doyle E. White of Arkansas City, chairman and member

of the Kansas Judicial Council; E. Lael Alkire, Wichita, vice chairman; Selby S. Soward, Goodland; William M. Ferguson, Wellington; Lee V. Hornbaker, Junction City; George T. Van Bebber, Troy; Charles F. Forsyth, Erie; and Paul E. Wilson, Lawrence, reporter. Past members of the committee who resigned by reason of health are A. K. Stavelly and Howard E. Payne. Lester M. Goodell of Topeka served on the committee until his death this past year. J. Richard Foth, Assistant Attorney General, represents the office of the Attorney General in committee deliberations.

ALFRED G. SCHROEDER,

Chairman of the Kansas Judicial Council.

_____ **BILL No.** _____

AN ACT relating to Criminal Procedure, providing for the appointment of counsel to assist indigent persons who are detained in connection with police investigations or pursuant to an accusation or conviction of crime, authorizing courts to provide records without cost to indigent persons in appealed criminal cases, authorizing and providing a procedure for compensation of appointed counsel and for payment of other expense incident to the defense of indigent accused persons, creating liability for and providing for the recovery of sums expended for such purposes, and creating the Board of Supervisors of Panels to Aid Indigent Defendants.

PREAMBLE

WHEREAS, the Sixth Amendment to the Constitution of the United States provides:

In all criminal prosecutions, the accused shall enjoy the right
to have the Assistance of Counsel for his defense;

And, the Fourteenth Amendment to the Constitution of the United States provides:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws;

And, Section 10 of the Bill of Rights of the Constitution of the State of Kansas provides:

In all prosecutions, the accused shall be allowed to appear in person or by counsel;

And,

WHEREAS, in *Powell v. Alabama*, 287 U. S. 45 (1932), the Supreme Court of the United States declared that the right to the aid of counsel "is of such a character that it cannot be denied without violating those 'fundamental principles of liberty and justice which lie at the base of all our civil and political institutions'"; and

In *Johnson v. Zerbst*, 304 U. S. 458 (1938), the Supreme Court of the United States declared:

[The Assistance of Counsel] is one of the safeguards of the Sixth Amendment deemed necessary to insure fundamental rights of life and liberty,

and further declared that compliance with this constitutional mandate is an essential prerequisite to a federal court's jurisdiction to deprive an accused of his life or liberty; and

In *Gideon v. Wainwright*, 372 U. S. 335 (1963), said Court held that through the Fourteenth Amendment the Sixth Amendment right to counsel is made applicable to prosecutions in the state courts and further held that the

right of the indigent defendant in a state criminal trial to have counsel supplied by the state is a fundamental right, essential to a fair trial; and

In *Douglas v. California*, 372 U. S. 353 (1963), said Court held that where the laws of a state grant a right of appellate review to the convicted defendant, the equal protection of the laws requires that the indigent appellant be supplied with assistance of counsel on appeal; and

In *Draper v. Washington*, 372 U. S. 487 (1963), *Griffin v. Illinois*, 351 U. S. 12 (1956) and *Eskridge v. Washington Board of Prison Terms and Paroles*, 357 U. S. 214 (1958), said Court held that where the laws of a state grant a right of appellate review to a convicted defendant, the equal protection of the laws requires that the indigent appellant be supplied with a transcript of the trial proceedings, free of cost, if such transcript is necessary to an effective review; and

In *Miranda v. Arizona*, 384 U. S. 436 (1966), said Court held that the procedural safeguards necessary to secure the privilege against self-incrimination require that an indigent person who has been taken into custody or is otherwise deprived of his freedom of action in any significant way during a police investigation and who indicates in any manner that he wishes to consult with an attorney, be furnished the advice of counsel before being further interrogated; and

WHEREAS, it is the purpose and intent of the State of Kansas to supply all persons charged with crimes under the laws of the state the full and complete protection required by due process of law and the equal protection of the laws:

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. On or before the 1st day of July, 1967, the judge or judges of the district court of each county shall prepare, and file in the office of the clerk of the district court, a list of attorneys who are eligible for assignment to represent indigent persons accused of crimes, such list to be known as the Panel to Aid Indigent Defendants. Each member of the Panel to Aid Indigent Defendants shall be available to represent indigent defendants upon the appointment of any judge or magistrate of the judicial district in which such member maintains an office for the practice of law, or any adjacent judicial district. A judge or magistrate may appoint an attorney who is a member of the Panel to Aid Indigent Defendants of a county other than the county where the case is pending only after such judge or magistrate has found that no member of the Panel to Aid Indigent Defendants of the county where the case is pending is eligible or qualified to represent the defendant. The Panel to Aid Indigent Defendants may be amended by the addition of names thereto or the deletion of names therefrom whenever the removal of attorneys to or from the district or any other cause makes such action appropriate, and at least once annually it shall be reviewed and approved by the judge or judges. The district court shall provide by rule for the assignment of attorneys to the Panel to Aid Indigent Defendants, for the distribution of the list of panel members to magistrates and peace officers of the district, and for the appointment, by rotation or otherwise, of counsel from the Panel to Aid Indigent Defendants to represent indigent persons charged with crimes in such cases and under such circumstances as may be required by law.

COMMENT

The proposal seeks to establish a systematic procedure which will (1) assure the availability of counsel when needed in cases involving indigent defendants, (2) distribute the responsibility for representation of the indigent accused over the largest possible segment of the bar, (3) permit the exclusion of attorneys who on account of age, health, limited professional activity or other reason are unable to engage in trial activity, and (4) inform attorneys concerning their liability for such service.

Many different views concerning availability for appointment to represent indigent defendants have been expressed and implemented by Kansas judges. Traditionally, in all but the most serious cases, such appointments have been made from the newest members of the bar who can profit most from the experience and for whom such appointments are deemed to involve less financial sacrifice. It is reported that pursuant to the Criminal Justice Act of 1964 (18 U. S. C. 3006A) the United States District Court for the District of Kansas has prepared rosters inclusive of all attorneys in practice in counties where the court sits and that appointments are rotated among all attorneys whose names appear on the lists. Since the activity is one for which the bar has a peculiar public responsibility, it is desirable to distribute the activity among lawyers as widely as possible. At the same time, modern criminal defense practice involves a high degree of specialized knowledge and skill. It is probable that many lawyers, due to limitations of interest, experience and temperament, may, in particular cases, be unable to provide the effective assistance of counsel required by due process of law. Also, it should be pointed out that this proposal contemplates that counsel will be fairly and adequately compensated for services to indigent defendants. Hence, the distribution of the financial loss is no longer an important consideration.

In view of the above considerations and because of the widely varying conditions found in the several counties of the state, the section does not set out specific criteria for assigning attorneys to the defender list. Instead, it is contemplated that the district court in each county will provide by rule for the make-up of the list, having due regard to local conditions and to the factors mentioned in this comment. In most cases appointments will probably be rotated among panel members. However, exceptional cases may require some deviation from a scheme of rigid rotation.

Attorneys are liable to appointment by any judge or magistrate of the *judicial district* in which they practice or an adjacent judicial district. However, an attorney from outside the county can be appointed only when the court finds that no attorney of the county is eligible and qualified. By "eligible and qualified" it is meant that the attorney is a member of the Panel to Aid Indigent Defendants of the county and that he is not disqualified by reason of special knowledge, relationship, conflicting interest, etc.

SEC. 2. When any person has been taken into custody or is in any significant way deprived of his freedom of action by a peace officer, such person shall not be questioned until he has been warned that he has a right to remain silent; that any statement he makes may be used as evidence against him; that he has a right to the presence of an attorney, either retained or appointed; and that if he wishes to consult with an attorney but is financially unable to employ one, an attorney will be appointed for him prior to his being questioned. If such person indicates in any manner and at any stage of the process that he wishes to consult with an attorney before speaking, he shall not be questioned until he has had an opportunity to consult with retained or appointed counsel. Except in cases where there is imminent danger that such person will escape, it shall be the duty of the officer having custody of the detained person to provide a suitable place where such person may confer

privately with his attorney without surveillance or other intrusion by the police. The district court shall prescribe by rule the procedure to be followed by peace officers in obtaining the services of counsel from the Panel to Aid Indigent Defendants to represent indigent persons detained by such peace officers prior to appearance before a magistrate.

COMMENT

The first sentence is designed to comply with the standards established by the Supreme Court of the United States in *Miranda v. Arizona*, 384 U. S. 436 (1966). It is imperative that before a suspect is questioned he be informed (1) that he has a right to remain silent, (2) that his statements may be used against him, (3) that he is entitled to the assistance of counsel at this stage, and (4) that counsel will be provided if the suspect is without financial means to obtain an attorney.

The proposal contemplates that each district court will adopt rules which will provide guidelines for peace officers who must secure counsel under this section.

SEC. 3. A defendant charged by the State of Kansas in a complaint, information or indictment with any felony is entitled to have the assistance of counsel at every stage of the proceedings against him. If such a defendant appears before any court or magistrate without counsel to assist him and conduct his defense, it shall be the duty of the court or magistrate to inform the defendant that he is entitled to counsel and that counsel will be appointed to represent him if he is not financially able to employ an attorney. The court or magistrate shall give the defendant an opportunity to employ counsel of his own choosing if he states he is able to do so; and if the defendant asks to consult with counsel of his own choosing, he shall be given a reasonable opportunity to do so. If it is determined that the defendant is not able to employ counsel, as provided in Section 4, the court or magistrate shall appoint an attorney from the Panel to Aid Indigent Defendants to represent him. A record of the proceedings provided for herein shall be entered in the journal, and any order binding the defendant for trial or directing his further detention upon the charge and the journal entry of trial and judgment shall recite the substance of such proceedings. Counsel employed by or appointed for the defendant shall have free access to him at all reasonable hours for the purpose of conferring with him relative to the charge against him, for advising him respecting his plea and for the preparation of his defense, if a defense is to be made. It is the duty of an attorney appointed by the court to represent a defendant, without charge to such defendant, to inform him fully of the crime charged against him and the penalty therefor, and in all respects fully and fairly to represent him in the action. If, after his appointment, the attorney learns that the defendant has funds or other resources sufficient to enable him to employ counsel, the attorney shall report these facts to the court and ask permission to withdraw from the case or to be permitted to accept compensation for his services, as provided in Section 8.

COMMENT

Present K. S. A. 62-1304 provides for the appointment of counsel for indigent defendants only at the trial stage in the district court. There is no provision for appointed counsel in preliminary hearings in felony cases. Although the Supreme Court of the United States has not passed directly upon

the due process implication of failure to provide counsel at this proceeding, it seems likely that the considerations of *Gideon v. Wainwright*, 372 U. S. 335 (1963), may be applicable. In fact, a large number of examining magistrates in Kansas now appoint counsel for preliminary hearings notwithstanding the lack of specific statutory authority.

In general, the mechanics of appointment are handled in the same manner as under the present law (K. S. A. 62-1304). It should be noted that provision is made for a specific finding of indigency, in the manner provided by Section 4. Also, it should be noted that the proposal contained no provision for waiver of counsel at this stage. This is a deliberate omission, reflecting the view that in every case counsel may be useful and in no case is the presence of counsel prejudicial.

SEC. 4. When any defendant who is entitled to have the assistance of counsel, under the provisions of Section 3 of this act, claims that he is financially unable to employ counsel, the judge may, in his discretion, require that the defendant file an affidavit stating (1) his name, home address, occupation and place of employment; (2) if married, the name, home address, occupation and place of employment of his spouse; (3) if under 21 years of age when the prosecution was commenced, the names, home addresses, occupations and places of employment of his parents; (4) a complete statement of his assets, liabilities, current income and the persons legally dependent on him for support; (5) insofar as he has knowledge, a statement of the assets, liabilities, current income and legal dependents of his spouse, if he was married when the crime charged is claimed to have been committed, and his parents if he was under 21 years of age when the crime charged is claimed to have been committed. The judge or magistrate may interrogate the defendant under oath concerning the contents of the affidavit and may direct the county attorney, sheriff, marshal or other officer of the county to investigate and report upon the financial condition of the defendant and may also require the production of evidence upon the issue of the defendant's financial inability to employ counsel. Upon the basis of the defendant's affidavit, if required by the court, his statements under oath, and such other competent evidence as may be brought to the attention of the judge or magistrate, which shall be made part of the record in the case, the judge or magistrate shall determine whether the defendant is financially unable to employ counsel. In making such determination the judge or magistrate shall consider the defendant's assets, including any property which may have been transferred or conveyed by him to any person without adequate monetary consideration after the commission of the alleged crime; his liabilities; his occupation and current income therefrom; the persons legally dependent on him for support; the nature and gravity of the crime charged against him; the services and time necessary to provide the defendant with adequate defense; and the amount of fees usually charged in such cases in the county or locality. If the judge or magistrate determines that the defendant is financially able to employ counsel, he shall so advise the defendant and give him a reasonable opportunity to employ an attorney of his own choosing. If the judge or magistrate finds that the defendant is financially unable to employ counsel, he shall appoint an attorney as provided in Section 3. The judge or magistrate shall inform the defendant for whom counsel is appointed that the amount expended by the state in providing counsel and other defense services will be entered as a judgment against him, and that an action to recover such amount may be

brought against his spouse, if he was married when the crime charged is claimed to have been committed, and against his parents, or either or them, if he was under 21 years of age when the crime charged is claimed to have been committed. A determination by the judge or magistrate that the defendant is financially unable to employ counsel or pay other costs of his defense shall not preclude a recovery from the defendant or his spouse or parents of reasonable sums paid by the state for necessary counsel and other defense services.

The determination that a defendant is indigent and financially unable to employ counsel and pay other costs of his defense shall be subject to review at any time by any judge or magistrate before whom the cause is then pending. In each proceeding subsequent to the one in which the defendant has first been found to be financially unable to employ counsel and pay the costs of his defense, as provided in this section, the judge or magistrate having jurisdiction may require the defendant to file a supplemental affidavit showing his financial condition and such judge or magistrate may, upon the basis of such supplemental affidavit and evidence supplied in prior proceedings determine whether the defendant is then financially able to employ counsel and pay other costs of his defense.

COMMENT

The proposal provides a procedure for determining the fact of indigency. At the outset a financial affidavit may be required from the defendant, stating his financial situation and that of his spouse and parents in cases where they may be held liable. The determination of indigency is made with reference to the defendant's financial condition, but, as the legislation is proposed, the right of the state to recover sums expended extends to spouses and to parents of defendants who were under 21 when the crime charged was committed.

Both the Judicial Council and its Advisory Committee expressed sharp differences of opinion as to whether recovery from the spouse or parent ought to be authorized. The conflict in values is apparent. On the one hand, it is traditional that defense services in criminal cases are matters of most immediate concern to the accused and his family and that the cost of such services should be borne by those most immediately concerned. Also, the burden on the public treasury should be kept at the minimum level consistent with effective justice. On the other hand, there are patent possibilities of injustice in the rigid enforcement of a provision for recovery from spouses and parents. The decision involves a matter of public policy that only the legislature can determine.

If it is determined that spouses and parents should not be responsible, the following language should be stricken:

All of item (5) in the first sentence; all after "against him" in the seventh sentence; in the eighth sentence, the words "or his spouse or parents."

Although the consideration upon which the determination of indigency should be based is fairly clear and is stated in the proposal, no attempt has been made to establish a fixed standard of indigency. In view of the widely varying conditions which different cases may present, a statutory definition of indigency does not seem feasible. Also, as the act provides for recovery of sums expended by the state, in all cases, a remedy is available where appointments may be improvidently made.

Provision for recovery is found in Section 13.

SEC. 5. When a defendant has been convicted in the district court of any felony, the judge shall inform such defendant that he is entitled to appeal to

the Supreme Court and shall further inform him that if he is financially unable to pay the costs of such appeal he may request the court to appoint an attorney to represent him on appeal and to direct that he be supplied with a transcript of the trial record. If the defendant shall make and file an affidavit stating that he intends, in good faith, to take an appeal in the case and if the court determines, as provided in Section 4, that the defendant is not financially able to employ counsel the court shall appoint counsel from the Panel to Aid Indigent Defendants to represent the defendant and to perfect and handle the appeal. If the defendant shall file a verified motion for transcript stating that a transcript of the trial record is necessary to enable him to prosecute the appeal and that he is not financially able to pay the cost of procuring such transcript, and if the court finds that the statements contained therein are true the court shall order that such transcript be supplied to the defendant and paid for, as provided in Section 9, from the Fund to Aid Indigent Defendants. Upon an appeal or petition for certiorari addressed to the Supreme Court of the United States, if the defendant is without means to pay the cost of making and forwarding the necessary records, the Supreme Court of Kansas may by order provide for the furnishing of necessary records.

COMMENT

Present K. S. A. 62-1304 provides for supplying trial transcripts to indigent criminal defendants on appeal to the Supreme Court and for appointment of counsel in such cases when the death penalty has been imposed. Supreme Court Rule No. 56 provides for appointment of counsel to represent indigent appellants before the Supreme Court in other criminal cases. There is no provision for compensating appointed appellate counsel except in capital cases, where the statute authorizes payment of a fee not to exceed \$300. In non-capital cases, claims for attorneys' services and expense are processed by the Claims and Accounts Committee of the Legislature.

The proposal is similar to the current practice, under the statute and rule cited above.

The section contemplates that where there has been an earlier determination of indigency, the defendant's affidavit will be sufficient evidence of financial inability at the appellate stage. However, when there has been no prior determination, compliance with Section 3 is required.

SEC. 6. If any person is in custody under a sentence of imprisonment upon conviction of a felony, and such person shall file a petition for writ of habeas corpus or a motion attacking sentence under K. S. A. 60-1507 and shall file with such petition or motion his affidavit stating that the petition or motion is filed in good faith and that he is financially unable to pay the costs of such action and to employ counsel to assist him, the court shall make a preliminary examination of the petition or motion and the supporting papers; and if the court finds that the petition or motion presents substantial questions of law or triable issues of fact and if the petitioner or movant has been, or if he shall thereafter be, determined to be an indigent person, as provided in Section 4, the court shall appoint counsel from the Panel to Aid Indigent Defendants to assist such person and authorize the action to be filed without a deposit of security for costs. If the petition or motion in such case raises questions shown by the trial record, the court shall order that the petitioner or movant be supplied with a transcript of the trial proceedings, or so much thereof as may be necessary to present the issue, without cost to him. Should

an appeal be taken in such action, the trial court shall, if it finds that the petitioner or movant is an indigent person, appoint counsel to conduct the appeal, order that the appellant be supplied with a record of the proceedings or so much thereof as the court determines to be necessary and order that the deposit of security for costs be waived.

COMMENT

The proposed section extends the right to appointed counsel to post-conviction procedures. Insofar as it applies to proceedings under K. S. A. 60-1507, the section duplicates and amplifies Rule No. 121 (f) of the Kansas Supreme Court. The rule apparently is limited to section 60-1507 cases, but the proposal would be applicable in all post-conviction actions. It is not contemplated that counsel would be supplied in all cases where the petitioner or movant is an indigent person. The court must first, upon the basis of a preliminary examination, determine that the petition or motion presents substantial issues of law or triable issues of fact.

SEC. 7. An attorney who performs services for an indigent person, as provided by this act, shall at the conclusion of such service or any part thereof be entitled to reasonable compensation for his services and to be reimbursed for expenses reasonably incurred by him in performing such services. Compensation for services shall be paid in accordance with standards adopted by the Board of Supervisors of Panels to Aid Indigent Defendants. Claims for compensation and reimbursement shall be certified by the claimant and approved by the district judge before whom the service was performed, or, when the service was performed outside the district court, by the presiding judge or the district court in the county in which the service was performed or, in the case of proceedings in the Supreme Court, by the departmental justice for the department in which the appeal originated. Each claim shall be supported by a written statement, specifying in detail the time expended, the services rendered, the expenses incurred in connection with the case and any other compensation or reimbursement received. When properly certified and approved, such claims for compensation and reimbursement shall be filed in the office of the judicial administrator of the courts who shall authorize payment from the Aid to Indigent Defendants Fund. The Supreme Court may adopt rules governing the filing, processing and payment of such claims.

COMMENT

The proposed section governs procedure for claiming reimbursement for defender services. A state fund, known as the Aid to Indigent Defendants Fund is created by proposed Section 11, *infra*. The Board of Supervisors of Panels to Aid Indigent Defendants, is created and the composition is provided by Section 14, *infra*.

SEC. 8. Counsel for a defendant who is financially unable to obtain investigative, expert or other services necessary to an adequate defense in his case may request them in an *ex parte* application addressed to the magistrate or court where the action is pending. Upon finding, after appropriate inquiry in an *ex parte* proceeding, that the services are necessary and that the defendant is financially unable to obtain them, the magistrate or court shall authorize counsel to obtain the services on behalf of the defendant. The court may,

in the interests of justice, and upon a finding that timely procurement of necessary services could not await prior authorization, ratify such services after they have been obtained. The court shall determine reasonable compensation for the services and approve payment to the organization or person who rendered them upon the filing of a certified claim for compensation supported by a written statement specifying the time expended, services rendered, expenses incurred on behalf of the defendant, and the compensation received in the same case or for the same services from any other source. Payment shall be made in the manner provided in Section 7 of this Act.

COMMENT

This proposal is patterned upon a provision of the Federal Criminal Justice Act of 1964 (18 U. S. C. 3006[e]). It provides for services not specifically provided by the present laws of Kansas. The federal statute places a \$300 limit on services rendered to a defendant by a single claimant.

SEC. 9. Whenever it is determined that a transcript of all or some part of a trial or other proceeding is necessary to enable a person who is entitled to appeal, or to pursue another post-conviction remedy, to present his cause adequately and it is further determined that the appellant or petitioner or movant is financially unable to pay for the preparation of such transcript, the district judge shall order that the transcript be supplied to the appellant or petitioner or movant by the official reporter of the District Court. Upon presentation and approval of the reporter's claim for services in the preparation of such transcript, in the manner provided in Section 7, he shall be compensated from the Aid to Indigent Defendants Fund. The rate of compensation per folio for each original transcript and each carbon copy made with the original transcript shall be fixed by the Board of Supervisors of Panels to Aid Indigent Defendants. A folio shall consist of one hundred words and two figures shall be counted as one word.

COMMENT

Under K. S. A. 1965 Supp. 20-904, court reporters are compensated for services performed in the preparation of transcripts by "a reasonable fee which shall be fixed by the state board of examiners of court reporters."

SEC. 10. Whenever the court finds that funds are available for payment from or on behalf of a defendant, the court may authorize or direct that such funds be paid to the appointed attorney, to any person or organization authorized pursuant to Section 8 to render investigative, expert or other services, or to the court for deposit in the Aid to Indigent Defendants Fund as reimbursement to the appropriation current at the time of payment, to carry out the provisions of this act. Except as so authorized or directed, no person or organization may request or accept any payment or promise of payment for representation or services performed for a defendant pursuant to court appointment or order.

COMMENT

The proposal is similar to a provision of the Federal Criminal Justice Act of 1964. (18 U. S. C. 3006A[f]).

SEC. 11. If at any time after appointment of counsel the court or magis-

trate having jurisdiction of the case finds that the defendant is financially able to obtain counsel or to make partial payment for representation, he may terminate the appointment of counsel or authorize payment as provided in Section 10, as the interests of justice may dictate. If at any stage of the proceedings, including appeal, the court having jurisdiction of the case finds that the defendant is financially unable to pay counsel whom he has retained, the court may appoint counsel as provided in Section 1 and authorize payment as provided in Section 7, as the interests of justice may dictate. The magistrate or court having jurisdiction of the case may, in the interests of justice, substitute one appointed counsel for another at any stage of the proceeding.

COMMENT

The proposal attempts to define the continuing power of the court to supply or withdraw the services of appointed counsel, or to make substitutions in appointments at any stage of the proceeding.

SEC. 12. There is hereby created in the state treasury a fund to be known as the Aid to Indigent Defendants Fund to be made up of all moneys credited to it as provided by law. All authorized claims for services and expenses of counsel, fees for preparation of transcripts, for investigative services and for other costs involved in the representation of indigent accused persons shall be paid from such fund. The Legislature shall appropriate and otherwise provide by law for the payment of such moneys into such fund as may be needed to provide the services to indigent accused persons required by law; and the state treasurer is hereby authorized to accept and deposit in such fund any grants, gifts, contributions or bequests from public or private sources for aid to indigent defendants. The Aid to Indigent Defendants Fund shall be administered by the judicial administrator of the courts and disbursements therefrom shall be made upon the order of the judicial administrator for services in aid of indigent defendants. The judicial administrator is hereby authorized to procure such supplies and equipment and to employ and fix the compensation of such clerical and other assistance as may be necessary to carry out the provisions of this act. Any person so employed shall be within the unclassified service of the Kansas civil service act.

COMMENT

Although the committee has considered at length the problem of possible sources of revenue to finance the service, it has elected not to recommend a particular plan. It is the view of the committee members that this is a problem of financing the necessary services of government and is exclusively within the province of the Legislature.

SEC. 13. (a) Whenever any expenditure has been made from the Aid to Indigent Defendants Fund to provide counsel and other defense services to any defendant, as authorized by Section 10, such defendant shall be liable to the state of Kansas for a sum equal to such expenditure, and such sum may be recovered from the defendant by the state of Kansas for the benefit of the Fund to Aid Indigent Defendants. Within 30 days after such expenditure, the judicial administrator shall send a notice by certified mail to the person on whose behalf such expenditure was made, which notice shall state the

amount of the expenditure and shall demand that the defendant pay said sum to the state of Kansas for the benefit of the Fund to Aid Indigent Defendants within 60 days after receipt of such notice. The notice shall state that such sum became due on the date of the expenditure and that the sum demanded will bear interest at 6% per annum from the due date until paid. Failure to receive any such notice shall not relieve the person to whom it is addressed from the payment of the sum claimed and any interest due thereon.

Should the sum demanded remain unpaid at the expiration of 60 days after mailing the notice, the judicial administrator shall certify an abstract of the total amount of the unpaid demand and interest thereon to the Clerk of the District Court of the county in which counsel was appointed or the expenditure authorized by the court, and such clerk shall enter the total amount thereof on his judgment docket and said total amount, together with the interest thereon at the rate of 6% per annum, from the date of the expenditure thereof until paid, shall become a judgment in the same manner and to the same extent as any other judgment under the code of civil procedure and shall become a lien on real estate from and after the time of filing thereof. A transcript of said judgment may be filed in another county and become a lien upon real estate, located in such county, in the same manner as is provided in case of other judgments. Execution, garnishment, or other proceedings in aid of execution may issue within the county, or to any other county, on said judgment in like manner as on judgments under the code of civil procedure. None of the exemptions provided for in the code of civil procedure shall apply to any such judgment, but no such judgment shall be levied against a homestead. If execution shall not be sued out within five years from the date of the entry of any such judgment, or if five years shall have intervened between the date of the last execution issued on such judgment and the time of suing out another writ of execution thereon, such judgment shall become dormant and shall cease to operate as a lien on real estate of the judgment debtor. Such dormant judgment may be revived in like manner as dormant judgments under the code of civil procedure.

(b) Whenever any expenditure has been made from the Aid to Indigent Defendants Fund to provide counsel and other defense services to any defendant, as authorized by Section 10, a sum equal to such expenditure may be recovered by the state of Kansas for the benefit of the Aid to Indigent Defendants Fund from the spouse of such defendant, if he was married at the time the crime charged was claimed to have been committed, and from his parents or either of them, if he was under twenty-one years of age at the time the crime charged was claimed to have been committed, and such persons are hereby made liable to reimburse the state of Kansas for such expenditures with interest at 6% per annum. Such action shall be prosecuted by the Attorney General, who may require the assistance of the County Attorney of the county in which the action is to be filed, and shall be governed by the provisions of the code of civil procedure relating to actions for the recovery of money. No action shall be brought against a spouse or parent to recover for sums expended on behalf of an indigent defendant, unless such action shall have been filed within five years after the date of the expenditure from the Fund to Aid Indigent Defendants.

COMMENT

Recovery provisions are deemed important safeguards against abuses. Subsection (a) of the proposal would create a right in the state to recover any sum expended on behalf of an indigent accused person from the person. Subsection (b) authorizes from his spouse if he was married or from his parents if he was under 21 when the crime was committed. Subsection (b) should be deleted if the legislature decides against the policy reflected therein. The proceedings relating to judgments against the accused are similar to those found in K. S. A. 79-2101 relating to personal property judgments.

The basic responsibility of the Board of Supervisors is to fix fee schedules for attorneys. However, it is contemplated that the compensation of others who perform services for indigent persons and are compensated from the Fund to Aid Indigent Defendants will be within the purview of the Board.

SEC. 14. There is hereby created a Board of Supervisors of Panels to Aid Indigent Defendants which shall consist of a Justice of the Supreme Court, who shall be chairman, the judicial administrator, who shall be secretary, two district judges and three practicing attorneys, all of whom shall be appointed by the Chief Justice of the Supreme Court. The initial terms of the appointed members of the board shall be as follows: One judge and one attorney shall be appointed for terms of one year each; one judge and one attorney shall be appointed for terms of two years each; and the Justice of the Supreme Court and one attorney shall be appointed for terms of three years each. Thereafter all appointments to the board shall be made for terms of three years. One district judge and at least one attorney member shall reside in counties of more than 100,000 population. All attorney members shall be members of the Panels to Aid Indigent Defendants of their respective counties. Members of the Board of Supervisors shall be reimbursed for actual and necessary expenses incurred in the performance of their duties and shall not be subject to the limitations of K. S. A. 75-3207 and amendments thereto. The Board of Supervisors of Panels to Aid Indigent Defendants shall fix and promulgate schedules of standard rates of compensation for attorneys who are assigned to represent indigent defendants under this Act, and shall perform such other duties as may be imposed by law or rules adopted by the Supreme Court.

SEC. 15. Existing K. S. A. 62-1304 is hereby repealed.

STATUTE TO BE REPEALED

62-1304. Counsel for accused; appointment, when; compensation; record of proceedings; costs, expenses and attorney fees, how paid. (a) If any person about to be arraigned upon an indictment or information for any offense against the laws of this state be without counsel to conduct his defense, it shall be the duty of the court to inform him that he is entitled to counsel, and to give him an opportunity to employ counsel of his own choosing, if he states that he is able to do so. If he does ask to consult counsel of his own choosing, the court shall permit him to do so, if such counsel is within the territorial jurisdiction of the court. If he is not able to employ counsel, and does not ask to consult counsel of his own choosing, the court shall appoint counsel to represent him, unless he states in writing that he does not want counsel to represent him and the court shall find that the appointment of counsel over his objection will not be to his advantage. A record of such proceedings shall be made by the court reporter, which shall be transcribed and reduced to writing by the reporter, who shall certify to the correctness of such transcript, and such transcript shall be filed and made a part of the files

in the cause. The substance of the proceedings provided for herein shall be entered of record in the journal and shall be incorporated in the journal entry of trial and judgment. Counsel employed by or appointed for the accused shall have free access to him at reasonable hours for the purpose of conferring with him relative to the charge against him and advising him respecting his plea, and for the preparation of his defense, if a defense is to be made. It is the duty of an attorney appointed by the court to represent a defendant, without charge to defendant, to inform him fully of the offense charged against him and of the penalty therefor, confer with available witnesses, cause subpoenas to be issued for witnesses necessary or proper for defendant, and in all respects to fully and fairly represent him in the action. If after his appointment the attorney learns that the defendant, or his relatives or friends, are able to employ counsel for defendant, he shall report those facts to the court and ask permission to withdraw from the case or to be permitted to accept compensation for his services. Whereupon the court shall make an appropriate order with respect thereto. If an attorney so appointed shall not have been paid and shall have complied with all of the provisions of this section, he shall receive a reasonable fee for his services, which shall be set by the trial judge and the same shall be paid from the general fund of the county in which the action was tried.

(b) Any person convicted of any felony shall be entitled to appeal such conviction to the supreme court without cost of a transcript of trial court proceedings to such defendant if the defendant shall present to the judge his affidavit that he intends in good faith to take an appeal in the case and that such transcript is necessary to enable him to prosecute the appeal, and that the defendant has not the means to pay for the same. Thereupon, the court shall order the transcript made at the expense of the county, such expense to be payable from the county general fund. Upon any appeal to the United States supreme court, where the defendant has not the means to pay the cost of making and forwarding the necessary records, the Kansas supreme court may by order prescribe the furnishing of such records and the expense of the same shall be paid out of the general fund of the county in which the conviction was had. When any defendant has been found guilty of murder in the first degree and his punishment fixed at death, and he be without means to employ counsel to perfect such appeal, he shall make affidavit to that effect, and shall be entitled to the appointment of counsel. The judge of the court in which such defendant was convicted shall, when requested by the defendant and when satisfied that the affidavit was made in good faith, appoint competent counsel to conduct such appeal. Such counsel shall be entitled to his actual and necessary expenses incurred in conducting such appeal, and in addition thereto, shall be entitled to a fee for his services to be fixed by the supreme court. In no case shall such fee exceed three hundred dollars (\$300): *Provided*, Payment of such costs, expenses and attorneys fees herein provided for shall be from the general fund of said county. [G. S. 1868, ch. 82, § 160; R. S. 1923, 62-1304; L. 1941, ch. 291, § 1; L. 1953, ch. 282, § 1; L. 1957, ch. 329, § 1; L. 1961, ch. 278, § 1; L. 1963, ch. 305, § 1; June 30.]

COURT DAYS IN DISTRICT COURTS—1967
(Please see notes on page 204)

COUNTIES	County seat	Judge	Clerk	Nc. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Allen	Iola	Spencer A. Gard	Jeanne Smith	37	10	6	6	3	2	5	11	3	6	11
Anderson	Garnett	Floyd H. Coffman	Robertta Bowman	4	6b	3b	3b	7b	5b	2b	1b	6b	10b	1b
Atchison	Atchison	Edmund L. Page	Mary Lou Underwood	2	4 11 18 25	1 8 15	1 8 15 22 29	5 12 19 26	3 10 17 24 31	7 14 21 28	6 13 20 27	4 11 18 25	1 8 15 22 29	6 13 20 27
Barber (see note 9)	Medicine Lodge	Charles H. Stewart	Ruth O. Osborn	24	4	13	3	3	18	12	19	23	7	5
Barton (see note 7)	Great Bend	Frederick Wolslagel	Geneva Steincamp	20	4	8	7	5	8	6	6	4	6	6
Bourbon (see note 3)	Fort Scott	Robert H. Miller	Mary Smallwood	6	3	8	8	5	8	7	11	4	8	6
Brown	Hiawatha	Chester C. Ingels	Edna Boicourt	22	17c	6c	21c	18c	16c	5c	19c	17c	21c	19c
Butler	El Dorado	George S. Reynolds Page W. Benson	Virginia Elmore	13	6	3	6	7	5	12	1	2	13	1
Div. No. 1														
Div. No. 2														
Chase	Cottonwood Falls	Jay Sullivan	Myrtle Austin	5	27	24	24	28	26	30	29	27	24	29
Chautauqua	Sedan	George S. Reynolds Page W. Benson	Grace Sears	13	9	6	3	3	8	2	5	6	3	4
Div. No. 1														
Div. No. 2														
Cherokee	Columbus	William P. Meeks	Nina Coldiron	11	3	7	7	4	2	6	12	3	7	5
Columbus Div.														
Galena Div.														
Cheyenne	St. Francis	William B. Ryan	Eva Zimelman	17	19	16	9	2	22	8	11	18	27	4
Clark	Ashland	Ernest M. Vieux	Hope Grimes	31	5c	9c 20c	9c	6c	11c	8c	7c 25c	5c	9c	7c

COURT DAYS IN DISTRICT COURTS—1967—CONTINUED
(Please see notes on page 204)

COUNTIES	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Clay (see note 8) Div. No. 1 Div. No. 2	Clay Center	Lewis L. McLaughlin Joseph W. Menzie	Lucille Murrison	21	5 23	1 20	6 6	6 17	2 22	5 5	6 18	3 23	6 6	7 4
Cloud	Concordia	Marvin O. Brummett	Minnie L. Johnson	12	2	7	7	3	2	6	25	18	22	18
Coffey	Burlington	Jay Sullivan	Mayree E. White	5	30	27	27	24	29	26	25	30	27	26
Comanche	Coldwater	Ernest M. Vieux	Lorraine Thompson	31	4c	8c	8c	5c	10c 15c	7c	6c	4c	8c	7c
Cowley	Winfield	Doyle E. White	Barbara Gilland	19	6	3	3	7	5	2	1	6	3	1
Crawford (see note 12) Grand Div. Pittsburg Div.	Girard	Don Musser	Josephine Cattaneo	38	6 9	3 6	3 6	7 3	5 1	2 5	8 4	6 2	3 6	8 4
Deatur	Oberlin	William J. Ryan	Alice J. Vernon	17	17	14 27	7	11	8	6	12	9	21	12
Dickinson (see note 4) Div. No. 1 Div. No. 2	Ablene	Walter E. Hembrow Albert B. Fletcher, Jr.	Seth Barter, Jr.	8	3c	1c	1c	4c	15c	6c	11c	3c	1c	5c
Doniphan	Troy	Chester C. Ingels	Alice F. Crane	22	18c	21c	22c	19c	17c	2c	20c	18c	22c	20c
Douglas (see note 14)	Lawrence	Frank R. Gray	Lucille E. Allison	41	6b	6b	3b	7b	7b	2b	15b	6b	6b	1b
Edwards (see note 15)	Kinsley	Maurice A. Wildgen	Cecil Matthews	33	4a	8a 13b	8a	5a	1a 7b	7a	6a	4a 23b	8a	6a
Ellis Div. No. 1 Div. No. 2	Howard	George S. Reynolds Page W. Benson	Gertrude Loyd	13	2	10	10	10	1	5	18	13	6	8
Ellis	Hays	Benedict P. Cruise	W. J. Billinger	23	16a	6a	14a	11a	16a	13a	12a	16a	14a	12a

COURT DAYS IN DISTRICT COURTS—1967—CONTINUED

(Please see notes on page 204)

COUNTIES	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Ellsworth.....	Ellsworth.....	John I. Young L. A. McNalley	F. A. Vanek.....	30	17	3	20	24	22	12	7	9	3	6
Finney.....	Garden City.....	Bert J. Vance.....	Rose Murray.....	32	9c	17h	17c	23c	8c	5c	18c	23c	6e	6c
Ford.....	Dodge City.....	Ernest M. Vieux.....	Elta J. Riley.....	31	6c 16c	10c	10c	7c 17c	12c	9c	8c 11c	6c	10c	8c
Franklin.....	Ottawa.....	Floyd H. Coffman.....	Christina Wolke.....	4	3b	1b	1b	3b	10b	7b	11b	4b	8b	6b
Geary (see note 4).....	Junction City.....	Walter E. Hembrow Albert B. Fletcher, Jr.	Edward C. Verbeke.....	8	4c	2c	6c	5c	2c	5c	6c	4c	13c	6c
Gove.....	Gove.....	Benedict P. Cruise.....	Lois Hartman.....	23	18a	23a	20a	13a	6a	19a	14a	10a	20a	11a
Graham.....	Hill City.....	C. E. Birney.....	Margaret A. Hildebrand.....	34	4	6	3	19	8	14	18	10	1	5
Grant.....	Ulysses.....	L. L. Morgan.....	Edna Walker.....	30	2h	6h	6h	10c	1h	5h	2c	2h	6h	4c
Gray.....	Cimarron.....	Ernest M. Vieux.....	Ruth L. Davis.....	31	3c	7c	7c	3c	9c	6c	5c	3c	7c	5c
Greeley.....	Tribune.....	Bert J. Vance.....	Margaret L. Fife.....	32	3g	13b	9d	24d	22d	27d	12d	16d	15b	5d
Greenwood.....	Eureka.....	George S. Reynolds Page W. Beison	Alma Long.....	13	16	13	13	14	15	9	8	9	10	11
Hamilton.....	Syracuse.....	Bert J. Vance.....	Ruth Noggel.....	32	3d	20c	16c	20c	29c	29c	13c	9c	16c	20c
Harper (see note 9).....	Anthony.....	Charles H. Stewart.....	Florence M. Stone.....	24	9	1	2	10	17	19	18	9	6	4
Harvey (see note 5).....	Newton.....	Sam H. Sturm.....	Joe Fox.....	9	12b 26b	13b 23b	2b 16b	6b 20b	8b 18b	1b 15b	7b 21b	5b 19b	2b 13b	7b 14b

COURT DAYS IN DISTRICT COURTS—1967—CONTINUED
(Please see notes on page 204)

COUNTIES	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Linn (see note 3)	Mound City	Robert H. Miller	Ferne Bearty	6	4	7	7	9	9	6	12	3	7	4
Logan	Oakley	Benedict P. Cruise	H. Belle Selley	23	19a	24a	15a	3a	10a	14a	5a	11a	15a	4a
Lyon	Emporia	Jay Sullivan	Alice M. Long	5	25	22	29	26	31	28	27	25	29	27
Marion (see note 4) Div. No. 1	Marion	Walter E. Hembrow Albert B. Fletcher, Jr.	Geraldine Seibel	8	5c	6c	2c	6c	7c	7c	7c	2c	2c	7c
Marshall (see note 8) Div. No. 1	Marysville	Levis L. McLaughlin	Wilma Jean Blaser	21	3	3	1	3	12	9	5	13	10	8
Div. No. 2	McPherson	Joseph W. Menzies	Alma Bretches	9	3	21	20	3	23	19	5	24	13	6
McPherson (see note 5)	McPherson	Sam H. Sturm	Elyth Cooper	31	9b 27b	10b 24b	3b 17b	3b 21b	5b 16b	2b 19b	8b 22b	2b 20b	3b 17b	1b 15b
Meade	Meade	Ernest M. Vieux	Ethel J. Hunt	6	3h	7h	7h	4h	9h	6h	5h	3h	7h	5h
Miami (see note 3)	Paola	Robert H. Miller	Ida B. Jamison	15	5	6	6	4	10	5	13	2	6	5
Mitchell	Beloit	Donald J. Magaw	Bessie Scofield	14	4	2	6	5	3	5	18	4	2	6
Montgomery Independence Div. Coffeyville Div.	Independence	David H. Scott	Nellie McMichael	8	5	2	2	6	4	1	7	5	2	7
Morris (see note 4) Div. No. 1	Council Grove	Walter E. Hembrow Albert B. Fletcher, Jr.	Mary Collins	39	6	3	3	7	5	2	1	6	3	1
Div. No. 2	Elkhart	L. L. Morgan	Ruth Shaffer	22	6c	3c	3c	3c	3c	7c	8c	5c	3c	4c
Morton	Seneca	Chester C. Ingels	Mary Lee Frederick	7	3h	13c	7c	4h	2h	6h	5c	3h	7h	19h
Nemaha	Erie	George W. Donaldson	Chauute Div.	7	16c	20c	20c	17c	15c	1c	18c	16c	20c	18c
Neosho Erie Div. Chauute Div.	Erie	George W. Donaldson	Chauute Div.	7	4	1	14	5	10	7	6	10	8	6
Chauute Div.	Chauute	Chauute Div.	Chauute Div.	5	5	7	8	6	2	6	7	11	7	5

COURT DAYS IN DISTRICT COURTS—1967—CONTINUED

(Please see notes on page 204)

COUNTIES	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.	
Ness (see note 15)	Ness City	Maurice A. Wildgen	Martha Borthwick	33	3g 16	7g 17	7g 13b	4g	2g	6g	5g 11b	3g	7g	5g 11b	
Norton	Norton	William B. Ryan	Elsie Brault	17	9 16	17	10	17	23	7	5	23	23	15	
Osage	Lyndon	Alex Hotchkiss	Margaret Knight	35	6c	3c	7c	7c	5c	6c	8c	6c	7c	8c	
Osborne	Osborne	Donald J. Magaw	Irene Lafoon	15	6	6	2	4	2	6	21	3	6	5	
Ottawa, Div. No. 1 Div. No. 2	Minneapolis	John I. Young L. A. McNealley	Esther Plunkett	30	9	2	1	10	9	2	6	16	2	1	
Pawnee (see note 15)	Larned	Maurice A. Wildgen	Eulah Almquist	33	5a 23b	9a	9a	6a 10b	4a	8a	7a	5a 20	9a	7a	
Phillips	Phillipsburg	William B. Ryan	Evelyn M. Parker	17	20	6 13	6	13	1	9	8 18	20	22	14	
Pottawatomie (see note 11)	Westmoreland	John W. Brookens	Deane L. Arnold	36	12c	2c	9c	4b	4c	8c	5b	5c	9c	5b	
Pratt (see note 9)	Pratt	Charles H. Stewart	Mabel Axline	24	5	2	13	6	15	13	11	16	13	6	
Rawlins	Atwood	William B. Ryan	Louise Portsechy	17	18	15	8 20	12	15	5	15	19	13	13	
Reno (see note 14) Div. No. 1 Div. No. 2	Hutchinson	William A. Gossage James H. Rexroad	George Walter	40	6 20 13 27	3 17 10 24	7 17 10 24 31	7 21 14 23	5 19 8 20	2 16 9 30	1 15 8 22 29	6 20 13 27	3 10 13 24 29	3 17 10 22 29	1 15 8 22 29
Republic	Belleville	Maurice O. Brummett	Earl J. Baldrige	12	4	6	8	5	1	7	26	16	21	19	
Rice (see note 7)	Lyons	Frederick Woleslagel	Laura Saint	20	3	6	6	4	1	5	5	2	1	5	

COURT DAYS IN DISTRICT COURTS—1967—CONTINUED
(Please see notes on page 204)

COUNTIES	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Riley (see note 8) Div. No. 5 Div. No. 2	Manhattan	Lewis L. McLaughlin Joseph W. Menzies	Joseph F. Musil	21	6 4	6 7	3 7	7 4	1 1	2 6	1 6	2 2	3 7	1 5
Rooks	Stockton	C. E. Birney	Irma Renner	34	9	2	6	20	1	15	5	13	3	7
Rush (see note 15)	La Crosse	Maurice A. Wildgen	Clara Hamburg	33	3a 9b	7a	7a 27b	4a	2a	6a	5a 25b	3a	7a	5a
Russell	Russell	Benedict P. Cruise	Gladys Kling	23	2a	20a	13a	10a	1a	12a	11a	2a	13a	11a
Saline Div. No. 1 Div. No. 2	Salina	John I. Young L. A. McNalley	Betty J. Just	30	3	1	13	3	1	1	11	2	1	4
Scott	Scott City	Bert J. Vance	Irene Cunningham	32	4f	14f	6c	10c	15c	19c	26c	17c	2c	11c
Sedwick (see note 6) Div. No. 2 Div. No. 2 Div. No. 3 Div. No. 3 Div. No. 3 Div. No. 3 Div. No. 6 Div. No. 7	Wichita	William C. Kandit Howard C. Kluee B. Meek Bryant James V. Riddell, Jr. James J. Noone Robert T. Stephan Tom Raum	Dorothy I. Van Arsdale	18	(see note 6)									
Seward	Liberal	L. L. Morgan	Pauline F. Strickland	39	9c	10c	10c	17c	5c	2c	1c	9c	10c	1c
Shawnee (see note 2) Div. No. 1	Topeka	William Randolph Carpenter	Lucile M. Carter	3	27	24	24	21	19	16	8	6	3	1
Div. No. 2		Marion Beatty			6	3	3	28	26	23	15	13	10	8
Div. No. 3		E. Newton Vickers			13	10	10	7	5	2	22	20	17	15
Div. No. 4		David Prager			20	17	17	14	12	9	1	27	24	22

Italicized dates indicate the first day of the regular terms of court
 a. 9:00 a. m.; b. 9:30 a. m.; c. 10:00 a. m.; d. 10:30 a. m.; e. 11:00
 a. m.; f. 1:00 p. m.; g. 1:30 p. m.; h. 2:00 p. m.; i. 2:30 p. m.

NOTE 1. See Rule No. 113 of the Supreme Court, relating to District
 Courts.

NOTE 2. In Shawnee county the schedule continues through July and
 August, as follows:

Div. No. 1, July 14 and August 11.
 Div. No. 2, July 21 and August 18.
 Div. No. 3, July 28 and August 25.
 Div. No. 4, July 7 and August 4.

NOTE 3. In Bourbon county, July 12 is court day. In Linn county,
 July 10 is opening day of court term. In Miami county, July 11 is court
 day. Court convenes at 10:00 a. m. for trials to the Court, and 9:00 a. m.
 for jury trials.

NOTE 4. No jury at May term in Dickinson county, and June terms in
 Geary and Morris counties, except on special order.

NOTE 5. In Harvey county, court days are July 6 and 20, and August
 3. In McPherson county, court days are July 7 and 21, and August 4.

NOTE 6. In Sedgewick county all divisions hold court every day from
 Monday through Friday, throughout the year, legal holidays excepted. The
 Preliminary Judge takes care of matters of Judges who may be on vacation,
 if necessary.

Unless otherwise ordered by the Judge of the Division, all motions which
 have been on file five days or more, except those in domestic matters shall
 be peremptorily heard by the Judge of the Division to which the case has
 been assigned at 9:30 a. m. on the following days:

Division No. 1 the 1st Thursday of each month
 Division No. 2 the 1st Friday of each month
 Division No. 3 the 2nd Thursday of each month
 Division No. 4 the 2nd Friday of each month
 Division No. 5 the 3rd Thursday of each month
 Division No. 6 the 3rd Friday of each month
 Division No. 7 the 4th Thursday of each month

Unless otherwise ordered by the Judge of the Division, all motions in
 domestic matters which have been on file five days or more, including con-
 tempt, change of custody and modification of previous orders shall be pe-
 remptorily heard by the Judge of the Division to which the case has been
 assigned at 9:30 a. m. on the following days:

Division No. 1 the 1st Friday of each month
 Division No. 2 the 1st Thursday of each month
 Division No. 3 the 2nd Friday of each month
 Division No. 4 the 2nd Thursday of each month
 Division No. 5 the 3rd Friday of each month
 Division No. 6 the 3rd Thursday of each month
 Division No. 7 the 4th Friday of each month

No post-trial motion, pleading or other process in any divorce, separate
 maintenance or annulment case shall be filed by the Clerk unless there is
 on deposit with the Clerk as security for costs a balance of Ten (\$10.00)
 Dollars or more except, by permission of the Judge of the Division to which
 the case has been assigned.

NOTE 7. In Barton, Rice and Stafford counties, court convenes at 10:00
 a. m., except when jury appears, when court convenes at 9:00 a. m.

NOTE 8. In Marshall county, opening days of the January and Sep-
 tember terms delayed one day *a/c* New Year holiday and Labor Day. In
 addition to the regular days of court in Division No. 1, in Riley county,
 time permitting, special days of court will be held on the third Friday of
 the month. Also, special days of court in Divisions No. 1 and No. 2 will
 be scheduled in Clay, Marshall and Riley counties as the need arises.

NOTE 9. In Barber, Harper, Kingman and Pratt counties, court con-
 venes at 10:00 a. m. on court days and term days, and at 9:30 a. m. for
 jury trials. In Barber county, July 10 is term and court day.

NOTE 10. In Wyandotte county the schedule continues through July
 and August, as follows:

Div. No. 1, August 4.
 Div. No. 2, July 7 and August 11.
 Div. No. 3, July 14 and August 18.
 Div. No. 4, July 21 and August 25.
 Div. No. 5, July 28.

In addition to the above days, being the regular motion days, on which
 days all motions are heard, each Judge, on each Friday of the month, hears
 domestic relations matters.

NOTE 11. In Jackson, Jefferson and Pottawatomie counties, time per-
 mitting, a special court day will be held in each county two weeks after the
 regular court days.

NOTE 12. In Crawford county, July 7 is court day in the Girard Divi-
 sion; and July 3 is court day in the Pittsburg Division.

NOTE 13. In Reno county, July 7, 14, 21 and 28, and August 4, 11,
 18 and 25 are court days.

NOTE 14. In Douglas county, July 7 and August 4 are court days,
 opening at 9:30 a. m. On days on which a term of court opens, the civil
 docket will be called beginning at 9:30 a. m. and the criminal docket will
 be called beginning at 2:00 p. m.

NOTE 15. In Edwards, Hodgeman, Ness, Pawnee and Rush counties,
 jury sessions convene at 9:30 a. m. unless otherwise ordered.



31-6673

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