

CITIZEN'S GUIDE TO THE FIFTH JUDICIAL  
DISTRICT, KANSAS

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## CITIZEN’S GUIDE TO THE FIFTH JUDICIAL DISTRICT, KANSAS

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## CITIZEN'S GUIDE TO THE FIFTH JUDICIAL DISTRICT, KANSAS

**W**hether you wish to represent yourself in court or simply want a better understanding of the local court system, this document is for you. It offers brief explanations of the legal system and links to other resources that can provide more in-depth information or services. Use of this document should not be construed as receiving professional legal advice. To quote Nolo Press, "legal information is not legal advice."

### Caution

**S**elf-representation involves risks. It is your responsibility to make sure that you follow court rules, use only the most current forms and use them properly. *If you are in doubt of your ability to represent yourself and/or need an interpretation of the law, seek professional legal assistance.* Many people want to represent themselves because they think they cannot afford an attorney. Kansas provides legal assistance to lower income clients through the Kansas Legal Services (KLS) and other agencies. See the [appendix](#) for contact information.

### Unbundling

**O**ne trend that may help those seeking help in self-representation is called 'unbundling.' Traditionally, attorneys serve their clients by providing complete service for any given matter. To do otherwise is considered a breach of ethics and may result in censure and even disbarment. Therefore, most attorneys are hesitant to provide only partial service - for example, only reviewing forms filled out by a client and not covering every step of the client's legal matter process.

Unbundling is a common practice in California, Arizona and Maryland. In 1999, the Kansas Citizens Justice Initiative Committee recommended that the Kansas Bar Association look into this practice. A search of the KBA website did not yield any discussion or explanation of this practice for Kansas attorneys. However, it could become an accepted means of practice in the future.

See Kansas' Model Rules of Professional Conduct ([www.kscourts.org/ctruls/atrul226.htm](http://www.kscourts.org/ctruls/atrul226.htm)).

### *Getting Started – the Kansas Court System<sup>1</sup>*

The first court, and the one most people find themselves in contact with, is the *municipal court*. This court handles only violations of the city ordinances that occurred within the city limits. All other matters are referred to the district court.

The municipal court for Emporia is in the Civic Auditorium (6<sup>th</sup> Avenue & Mechanic). Access is on the west side of the Auditorium; meter parking is available on Mechanic Street.



Entrance to Municipal Court from outside the Civic Auditorium, looking north.

Persons appearing in municipal court have received a summons, typically in the form of a citation. Your copy of the citation has instructions on when and where to appear. Failure to appear in court can result in a warrant being issued for your arrest. While you have the right to legal counsel, municipal court does not provide trial by jury.



Once you enter the door marked for the Municipal Court, this sign directs you to the left, where the door is clearly marked.

The *district court* acts as the appellate court for the municipal courts within its jurisdiction. It has jurisdiction over all civil and criminal cases, including divorce and domestic relations, damage suits, probate and administration of estates, guardianships, conservatorships, care of the mentally ill, juvenile matters, and small claims. It is here that

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<sup>1</sup> source: You and the Courts of Kansas, KS Judicial Branch <http://www.kscourts.org/ctypes.htm>

criminal and civil jury trials are held. Rulings from district courts may be appealed to the Kansas Court of Appeals or the State Supreme Court.



Left: A courtroom in the Lyon County Courthouse; right: the courtroom in the Chase County Courthouse.

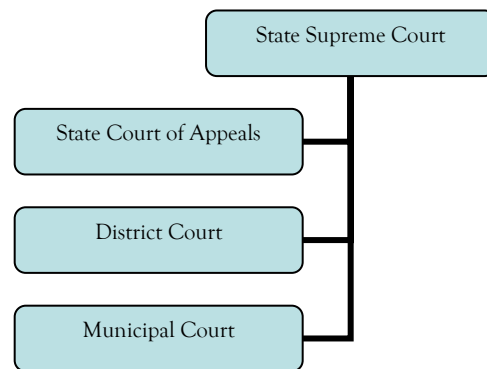
The *Kansas Court of Appeals* is an intermediate appellate court. The Court of Appeals hears all appeals from orders of the State Corporation Commission, and all appeals from the district courts in both civil and criminal cases except those which may be appealed directly to the Supreme Court. It also has jurisdiction over original actions in habeas corpus.

The Court may hear appeals en banc (all 10 judges) but the court usually sits in panels of three. The Court of Appeals may sit anywhere in the State. Hearings are scheduled regularly in Hays, Garden City, Wichita, Chanute, Kansas City, Olathe, and Topeka, and hearings have also been held in other cities for the convenience of the parties.

The *Kansas Supreme Court* hears direct appeals from the district courts in the most serious criminal cases and appeals in any case in which a statute has been held unconstitutional. It may review cases decided by the Court of Appeals, and may transfer cases from that court to the Supreme Court. It also has original jurisdiction in several types of cases.

The Supreme Court has general administrative authority over all Kansas courts. Its rules govern appellate practice in the Supreme Court and the Court of Appeals, and procedures in the district courts. Supreme Court rules also provide for the examination and admission of attorneys, set forth the code of

professional responsibility that governs the conduct of attorneys, and include the canons of judicial ethics which govern the conduct of judges. Rules also provide for the examination and certification of official court reporters. The Supreme Court may discipline attorneys, judges and nonjudicial employees.



Kansas court structure

### *Fifth Judicial District Court*

The Fifth Judicial District handles district court level cases for Lyon and Chase counties. The courthouse for Lyon County is at 430 Commercial in Emporia.



One of two front entrances to the Lyon County Courthouse. The entrance from Commercial Street is handicap accessible. Once you go through the security screening, you will see this directory of county offices. The Clerk of the District Court office is on the second floor, accessible by stairs or elevator.

The Chase County courthouse is in Cottonwood Falls, at the south end of



“Broadway,” its main downtown street. The Chase County courthouse is the oldest operating courthouse west of the Mississippi. Handicap access is available on the far south end of the building. Persons with physical disabilities who are required to appear in court should contact the district court office to make arrangements for accessibility.

As stated earlier, the Fifth Judicial District Court handles civil and criminal cases. Questions from the public typically pertain to civil matters such as applying for a marriage license. The clerks in the district court office can provide information about the paperwork that must be filed, but they cannot offer advice on how to fill out forms or otherwise interpret or apply the law to your situation. Please keep in mind that the clerks are responsible for processing case files, not providing legal advice.



Left: Clerk of the District Court office in the Lyon County Courthouse; right: Clerk of the District Court office in the Chase County Courthouse

The district court office has a limited range of forms available. Other forms are available through the Lyon County Law Library and online at the Kansas Judicial Council website, <http://www.kscourts.org/council>.

### Drug Court

Kansas Senate Bill 123, effective November 1, 2003, changed the state's punishment method of treating drug offenders to a treatment model. The Fifth Judicial District's drug court has experienced success with participants successfully completing their 18-month treatment program.

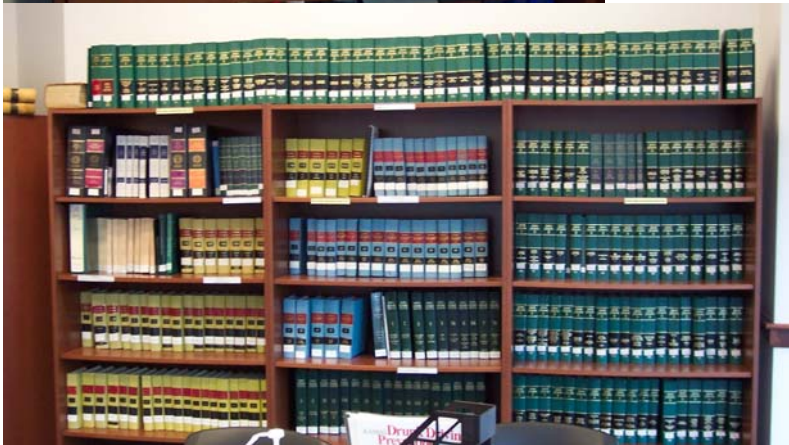
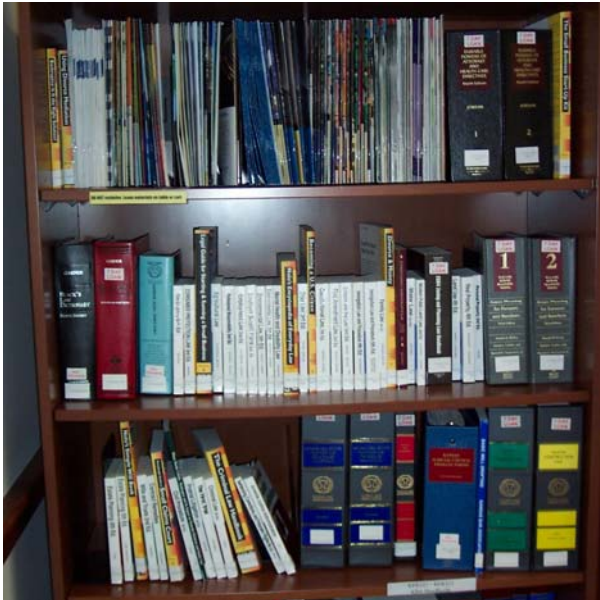
The program is unique in that offenders are supervised by community corrections staff and provided a network of support in which the offender is given opportunity to leave their substance abuse lifestyle and become a member of the mainstream community.

See [www.lyoncounty.org/DrugCourt.htm](http://www.lyoncounty.org/DrugCourt.htm) for further information.

### Lyon County Law Library

Located on the third floor of the Lyon County Courthouse, the [law library](#) provides materials and research assistance to attorney library members. The law librarian can assist members of the public with locating legal information Monday and Thursday mornings from 9 a.m. to noon, or by appointment. Checkout privileges are restricted to attorney library members and city and county officials.

View of the library door from the third floor hallway, just off the elevators.



Our print legal encyclopedias, Kansas cases and digests.



The majority of our collection is online, accessible through Lexis or Westlaw databases and key locations on the Internet.

### *Federal Courts<sup>2</sup>*

There are two kinds of federal courts – trial and appellate. U.S. district courts are the federal trial courts – the places where federal cases are tried, witnesses testify, and juries serve. Within each district is a U.S. bankruptcy court, a part of the federal district court that administers the bankruptcy laws.

Congress uses state boundaries to help define the judicial districts. Each of the ninety-four districts is in one of twelve regional circuits. Each circuit has a court of appeals. If you lose a case in a district court, you can ask the court of appeals to review the case to see if the district judge applied the law correctly. There is also a U.S. Court of Appeals for the Federal Circuit, whose jurisdiction is defined by subject matter rather than by geography. It hears appeals from certain courts and agencies, such as the U.S. Court of International Trade, the U.S. Court of Federal Claims, and the U.S. Patent and Trademark Office, and certain types of cases from the district courts.

The Supreme Court of the United States in Washington, D.C., is the highest court in the nation. If you lose a case in the court of appeals (or, sometimes, in a state supreme court), you can ask the Supreme Court to hear your appeal. However, unlike a court of appeals, the Supreme Court does not have to hear it. The Supreme Court hears only a very small percentage of the cases it is asked to review.

### *Civil and Criminal Cases - Definitions<sup>3</sup>*

**civil case** – a lawsuit brought by a party (the plaintiff) against another party (the defendant) claiming that the defendant failed to carry out a legal duty owed to the plaintiff and that the defendant’s breach of duty caused financial or personal injury to the plaintiff. Usually, the purpose of bringing the case is to get a court order for the defendant to pay for damages suffered by the plaintiff.

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<sup>2</sup> source: <http://www.fjc.gov/federal/courts.nsf>

<sup>3</sup> source: <http://www.fjc.gov/federal/courts.nsf> “definitions”

**criminal case** ~ a case prosecuted by the government, on behalf of society at large, against an individual or organization accused of committing a crime. If the defendant is found guilty, the sentence (or punishment) is often imprisonment.

### *Civil & Criminal Procedures*

A comprehensive review of civil and criminal procedures is outside the scope of this document. Kansas statutes and other resources pertaining to these procedures are available at the Lyon County Law Library, Monday and Thursday mornings from 9 a.m. to noon.

#### **Civil**

Kansas Civil Procedure is covered by Chapters 60 and 61 of the Kansas Statutes. These can be accessed online at <http://www.kslegislature.org/legsrv-statutes/>. As 60-201 states:

**Scope.** This article governs the procedure in the district courts of Kansas, other than actions commenced pursuant to the code of civil procedure for limited actions and governs the procedure in all original proceedings in the supreme court in all suits of a civil nature whether cognizable as cases at law or in equity, except as provided in K.S.A. 60-265, and amendments thereto.

Chapter 61 covers Civil Procedure for Limited Actions.

#### **Criminal**

Chapter 22 of the Kansas Statutes covers Criminal Procedure. These, too, may be accessed online at <http://www.kslegislature.org/legsrv-statutes/>.

### *Court Rules*

The Fifth Judicial District is currently updating its court rules. Questions pertaining to court rules can be answered by district court personnel, either the Clerk of the District Court's office or judges' administrative staff.

Hearings are usually open to the public and certain rules of behavior apply:

- Front row for Media, Law Enforcement and Attorneys only
- NO talking to inmates
- NO loud talking
- NO head coverings
- Cell phones OFF or SILENCED
- Cell phones that ring will be confiscated and may be picked up after Court from Security.

Failure to follow the above rules will result in your removal from the courtroom.

## *Internet Resources*

A number of resources are available to those persons wishing to represent themselves in a court case. The following resources were reviewed for quality and currency. However, websites can and do change frequently. While every effort was made to ensure the accuracy of the following links, we cannot be responsible for changes made since this document was written.

### **American Bar Association (ABA) Pro Se Resource Center**

Developed as a project of the ABA Standing Committee on the Delivery of Legal Services, this site is designed as a resource to help lawyers, bar leaders, the judiciary, court administrators, scholars and the media better understand and critically analyze the issues involved in self-representation and unbundled legal services.

The site is not intended to assist individuals with specific legal problems. Individuals with legal problems are encouraged to discuss those problems with a lawyer. Lawyers are available for consultations from lawyer referral services (see <http://www.abanet.org/legalservices/lris/directory/>). Those who cannot afford a lawyer for civil matters may be able to obtain a lawyer through legal aid or pro bono. A directory of programs providing legal services to the poor is at <http://www.abanet.org/legalservices/probono/directory.html#>.

Some materials provided at this resource center link to documents formatted as pdf files and require Adobe Acrobat. If you do not have this, you may download it at <http://www.adobe.com/products/acrobat/readstep2.html>.

### **FindLaw**

One of several excellent Internet resources, Findlaw is at <http://findlaw.com/>. This easy-to-navigate and use site offers legal information for professionals, business owners and the public. As with other resources, legal information should not be confused with legal advice.

### **NOLO**

Based in Berkeley, California, [Nolo Press](#) has produced legal books for the non-lawyer for 30 years. These books provide legal information, not legal advice. The Lyon County Law Library has a small collection of Nolo books covering bankruptcy, criminal law, divorce, small claims and wills.

These and other books can be looked up on the Lyon County Law Library online catalog, <http://www.lyoncounty.org/lyonlaw/bconline/Home.asp>.

### **Miscellaneous**

Minnesota Legal Reference Library:

<http://www.lawmoose.com/index.cfm?Action=Library.&Topic=MN102097>

Very Minnesota-specific, yet its section on How to Do Legal Research is beneficial to anyone, from a member of the public to practicing attorneys.

#### National Center for State Courts

[http://www.ncsconline.org/wcds/Topics/topic1.asp?search\\_value=Pro%20Se:%20Self-Represented%20Litigants](http://www.ncsconline.org/wcds/Topics/topic1.asp?search_value=Pro%20Se:%20Self-Represented%20Litigants)

Contains pro se litigation court links to each state, articles and other information. Their research services are free to the state court community (judges, clerks, court administrators) and available by fee to private attorneys, academicians and consultants. Fees start at \$100/hr for research time.

#### Pro Se Assistance Links

<http://www.ptla.org/pro-se.htm>

An easy-to-use site that offers sound advice (“talk with an attorney to make sure there are no hidden problems”). This is a good educational resource.

#### The Pro Se Law Center

<http://www.pro-selaw.org/pro-selaw/index.asp>

A resource for those seeking self-representation on civil matters. It offers better-than-usual links to pro se resources, including programs offered by states.

#### Self-Service Center sponsored by Maricopa County, Arizona

<http://www.superiorcourt.maricopa.gov/ssc/>

The resources offered here are Arizona-specific, but the “Tips on Self Representation” is well worth the visit.

## ***Appendix - Legal Assistance***

Consumers' Guide to Legal Help

Kansas - <http://www.abanet.org/legalservices/findlegalhelp/main.cfm?id=KS>

### ***Find a Lawyer***

For legal advice or representation



#### **Lawyer Referral**

Finding a lawyer in your area

[\(learn more...\)](#)



#### **Other Ways to Find a Lawyer**

Commercial directories and other sources

[\(learn more...\)](#)



#### **Free Legal Help**

Legal aid for low-income people and specialized help for those who qualify

[\(learn more...\)](#)

### ***Find Legal Information***

For representing yourself or learning about the law



#### **Legal Information**

Basic information about the laws in your state and your legal rights

[\(learn more...\)](#)



#### **Self-Help**

Handling a legal issue yourself

[\(learn more...\)](#)



#### **Court Information**

Guide to your state's court system

[\(learn more...\)](#)

### **Lyon County**

#### **Kansas Legal Services of Emporia**

Primary Address: 527 Commercial St, Ste 521

City: Emporia

State: KS

Zip: 66801-4081

General Phone: 620-343-7520

Fax: 620-343-6898

Counties Served: Anderson, Chase, Coffey, Greenwood, Lyon, Marion

Case Types: Adoption, Bankruptcy, Consumer, Custody, Dissolution of Marriage, Domestic Violence, Education, Elder Law, Employment, Health, Housing, Individual Rights, Juvenile, Public Benefits, Real Estate, Termination of Parental Rights

Case Restrictions: LSC restrictions