COMPARATIVE ANALYSIS

OF

AMERICAN BAR ASSOCIATION

STANDARDS FOR

CRIMINAL JUSTICE

WITH

KANSAS

LAWS, RULES AND LEGAL PRACTICE

BY THE JUDICIAL COUNCIL

ADVISORY COMMITTEE ON THE

STANDARDS FOR CRIMINAL JUSTICE

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INCLUDING 1974 SUPPLEMENT PREPARED

BY THE JUDICIAL COUNCIL ADVISORY

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CRIMINAL JUSTICE

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FOREWORD

This work comparing the Kansas Criminal Code and case law with the American Bar Association Standards for Criminal Justice has been prepared and published through the efforts of five men, under the sponsorship of the Kansas Judicial Council. With the capable leadership of Judge Hotchkiss, the members have explored and commented on nearly every phase of criminal procedure. Each has worked enthusiastically and diligently, sacrificing weekends and evenings, to complete this voluminous project within a narrow time allotment. The state of Kansas is fortunate to count among its attorneys such men as Judge Hotchkiss, Lee Hornbaker, Ed Johnson, John Tillotson and Professor Paul Wilson, who have responded willingly and worked tirelessly upon this worthwhile effort to improve the administration of criminal justice in Kansas.

A grant of federal assistance to the Judicial Council under the provisions of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, through the generosity of the Governor's Committee on Criminal Administration, and a grant from the American Bar Association, have made it possible to defray the costs of this project. For these contributions the people of the state of Kansas should be grateful.

ALFRED G. SCHROEDER, Chairman
The Judicial Council of the
State of Kansas
SUPPLEMENTAL FOREWORD

The Comparative Analysis of the American Bar Association Standards for Criminal Justice with Kansas Law, Rules and Legal Practice has been supplemented and brought up-to-date since its original publication in 1972 by the continued work of Lee Hornbaker, Edward Johnson, John Tillotson and Professor Paul Wilson under the capable leadership of Judge Albert B. Fletcher, Jr., since the untimely demise of Judge Alex Hotchkiss on May 9, 1973. The committee has responded willingly and worked tirelessly upon this worthwhile supplemental effort to improve the administration of criminal justice in Kansas, made possible by an additional grant of federal assistance to the Judicial Council under the provisions of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, through the generosity of the Governor's Committee on Criminal Administration.

ALFRED G. SCHROEDER, Chairman
The Judicial Council of the
State of Kansas
March, 1975
PREFACE

Similar to action taken in several other states and as a part of the American Bar Association program of implementation of the Standards, this Comparative Analysis of American Bar Association Standards for Criminal Justice with Kansas Law, Rules and Legal Practice has been prepared. All of the Standards have been covered except Fair Trial and Free Press and the Urban Police Function, which are not directly a part of the judicial process.

The project was sponsored by the Kansas Judicial Council. A committee of five appointed by it was charged with the responsibility of preparation of the material. The council also supplied the services of Linda D. Elrod who was specially assigned as research assistant for this project and rendered valuable aid in the major portion of the work. The helpful services of Randy M. Hearrell, research assistant for the Judicial Council, also have been made available and utilized to a substantial extent.

The form of the composition has been to set out the separated provisions of the Standards, and immediately thereafter the comparable Kansas Code provisions, if any, followed by comment. Included in the Kansas Code designation are applicable constitutional provisions, statutes and rules of court. The comment includes references to the decision law, both federal and state, together with recognized practice authorities and aids such as Pattern Instructions for Kansas and the like.

Although intended as a permanent general reference work for use by all interested in the field of criminal law, its initial purpose was for use as a text for the State Judicial Conference of October, 1972. Thus pressure for timely completion required several all-day sessions of the committee, commencing with April 10, 1972, and continuing to September 1, 1972. This does not include the many additional hours of services performed by the individual members of the committee in making the original draft on the subjects separately assigned to each. This was followed by a review and consideration and final draft of the material at the sessions of the full committee.

I express my personal thanks to Paul E. Wilson, Kane Professor of Law, the University of Kansas, Lawrence, Kansas; Lee Hornbaker, Attorney at Law, Junction City, Kansas; E. Edward Johnson, Assistant U. S. Attorney, Topeka, Kansas; and John C. Tillotson, Attorney at Law, Leavenworth, Kansas, the other members of this committee whose devotion to duty and dedication to this cause made possible the completion of this project.

Alex Hotchkiss
Chairman, Judicial Council
Advisory Committee on the
Standards for Criminal Justice

September 1, 1972
SUPPLEMENTAL PREFACE

In September, 1972 the Comparative Analysis of the American Bar Association Standards for Criminal Justice with Kansas Laws, Rules and Legal Practice was published by the Judicial Council Advisory Committee on the Standards for Criminal Justice under the guidance of the late Alex Hotchkiss.

Since its first printing the laws and rules of criminal procedure in Kansas have changed dynamically. The changes are reflected in the enclosed pages. They replace the pages presently in the text.

A welcome addition to the text is an index compiled by Linda D. Elrod, associate professor of law at Washburn University and edited by Randy M. Hearrell, research assistant for the Judicial Council. This index gives ready reference to the standards and the applicable Kansas law.

The committee does not anticipate another revision of the text and therefore suggests that said text should be kept current by counsels notations.

I express my personal thanks to Paul E. Wilson, Kane Professor of Law, The University of Kansas, Lawrence, Kansas; Lee Hornbaker, attorney-at-law, Junction City, Kansas; E. Edward Johnson, assistant U.S. attorney, Topeka, Kansas, and John C. Tillotson, attorney-at-law, Leavenworth, Kansas, the other members of this committee whose dedication has made possible this revision.

ALBERT B. FLETCHER, JR., Chairman Judicial Council Advisory Committee on the Standards of Criminal Justice
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