Kentucky Legal Research
Carolina Academic Press
Legal Research Series

Suzanne E. Rowe, Series Editor

Arizona—Tamara S. Herrera
Arkansas—Coleen M. Barger
California—Hether C. Macfarlane & Suzanne E. Rowe
Colorado—Robert Michael Linz
Connecticut—Jessica G. Hynes
Federal—Mary Garvey Algro, Spencer L. Simons, Suzanne E. Rowe,
Scott Childs & Sarah E. Ricks
Georgia—Nancy P. Johnson, Elizabeth G. Adelman & Nancy J. Adams
Idaho—Tenielle Fordyce-Ruff & Suzanne E. Rowe
Illinois, Second Edition—Mark E. Wojcik
Iowa—John D. Edwards, M. Sara Lowe, Karen L. Wallace
& Melissa H. Weresh
Kansas—Joseph A. Custer & Christopher L. Steadham
Kentucky—William A. Hilyerd, Kurt X. Metzmeier & David J. Ensign
Louisiana—Mary Garvey Algro
Massachusetts—E. Joan Blum
Michigan, Second Edition—Pamela Lysaght & Cristina D. Lockwood
Minnesota—Suzanne Thorpe
Missouri, Second Edition—Wanda M. Temm & Julie M. Cheslik
& Suzanne E. Rowe
North Carolina—Scott Childs
Ohio—Katherine L. Hal & Sara Sampson
Oregon, Second Edition—Suzanne E. Rowe
Pennsylvania—Barbara J. Busharis & Bonny L. Tavares
Tennessee—Sibyl Marshall & Carol McCrehan Parker
Texas—Spencer L. Simons
& Mary A. Hotchkiss
Wisconsin—Patricia Cervenka & Leslie Behroozi
Kentucky Legal Research

William A. Hilyerd
Kurt X. Metzmeier
David J. Ensign

Suzanne E. Rowe, Series Editor

Carolina Academic Press
Durham, North Carolina
# Summary of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>List of Tables and Figures</td>
<td>xv</td>
</tr>
<tr>
<td>Series Note</td>
<td>xvii</td>
</tr>
<tr>
<td>Preface</td>
<td>xix</td>
</tr>
<tr>
<td>Acknowledgments</td>
<td>xxi</td>
</tr>
<tr>
<td>Chapter 1 • The Research Process and Legal Analysis</td>
<td>3</td>
</tr>
<tr>
<td>Chapter 2 • The Kentucky Constitution</td>
<td>11</td>
</tr>
<tr>
<td>Chapter 3 • Judicial Opinions and Reporters</td>
<td>25</td>
</tr>
<tr>
<td>Chapter 4 • Finding Cases</td>
<td>43</td>
</tr>
<tr>
<td>Chapter 5 • Statutes</td>
<td>49</td>
</tr>
<tr>
<td>Chapter 6 • Legislative History</td>
<td>65</td>
</tr>
<tr>
<td>Chapter 7 • Administrative Law</td>
<td>81</td>
</tr>
<tr>
<td>Chapter 8 • Court Rules and Ethics</td>
<td>99</td>
</tr>
<tr>
<td>Chapter 9 • Updating with Citators</td>
<td>111</td>
</tr>
<tr>
<td>Chapter 10 • Secondary Sources and Practice Aids</td>
<td>127</td>
</tr>
<tr>
<td>Chapter 11 • Online Legal Research</td>
<td>141</td>
</tr>
<tr>
<td>Appendix A • Legal Citations</td>
<td>155</td>
</tr>
<tr>
<td>Appendix B • Selected Bibliography</td>
<td>159</td>
</tr>
<tr>
<td>About the Authors</td>
<td>161</td>
</tr>
<tr>
<td>Index</td>
<td>163</td>
</tr>
</tbody>
</table>
Contents

List of Tables and Figures xv
Series Note xvii
Preface xix
Acknowledgments xxi

Chapter 1 • The Research Process and Legal Analysis 3
I. Kentucky Legal Research 3
II. The Intersection of Legal Research and Legal Analysis 3
III. Types of Legal Authority 4
IV. Overview of the Research Process 5
   A. Getting Started 7
      1. Gathering Facts and Determining Jurisdiction 7
      2. Generating Research Terms 7
   B. Choosing to Research in Print or Online 9
V. Researching the Law—Organization of This Book 10

Chapter 2 • The Kentucky Constitution 11
I. Researching the Kentucky Constitution 13
   A. The Constitution in Michie’s Kentucky Revised Statutes and Baldwin’s Kentucky Revised Statutes 13
   B. The Constitution on Lexis and Westlaw 13
   C. Free Online Sources for the Kentucky Constitution 14
   D. Commentaries 15
II. Interpreting the Kentucky Constitution 15
   A. Text 16
   B. Case Law 17
   C. Researching Historical Circumstances 18
      1. The 1891 Constitutional Convention 19
      2. Prior Constitutions 19
         a. The 1849 Constitution 20
         b. The 1792 and 1799 Constitutions 20
3. Post-1891 Amendments 21

III. Researching Other State Constitutions with Similar Provisions 22

IV. United States Constitution 22

Chapter 3 • Judicial Opinions and Reporters 25

I. Court Systems 25
   A. Kentucky Courts 26
   B. Federal Courts 26
   C. Courts of Other States 28

II. Reporters for Kentucky Cases 28

III. Court Reporters 31
   A. Parts of a Reported Case 31
   B. Features of a Reporter Volume 34
   C. Advance Sheets 34

IV. Reporters for Federal Cases 34
   A. United States Supreme Court Cases 34
   B. United States Court of Appeals Cases 35
   C. United States District Court Cases 36

V. Topical Reporters 36

VI. Unreported Opinions 36

VII. Reading and Analyzing Cases 37
   A. A Thimbleful of Civil Procedure 37
   B. Analyzing the Substance of Cases 38
   C. Strategies for Reading Cases 40

Chapter 4 • Finding Cases 43

I. West Digests 43

II. Online Topic Searching 45
   A. Topic and Key Number Searching Online 45
   B. Searching Using Terms and Connectors 45
   C. Natural Language Searching 46

III. Kentucky Court Site 47

IV. Casemaker 47

Chapter 5 • Statutes 49

I. Kentucky Statutory Research 50
   A. Kentucky Revised Statutes 50
Contents

B. Annotated Codes 51
   1. *Michie's Kentucky Revised Statutes* 53
   2. *Baldwin's Kentucky Revised Statutes Annotated* 53
C. Researching the Kentucky Revised Statutes in Print 54
   1. Create a List of Research Terms 54
   2. Search the Index 54
   3. Find and Read Statutory Language 55
   4. Updating Statutes 56
   5. Finding Related Cases 58
   6. Other Features of Annotated Codes 59
D. Kentucky Statutes Online 59
   1. Kentucky Revised Statutes on the Internet 59
   2. Kentucky Statutes on Casemaker 60
II. Applying and Interpreting Kentucky Statutes 60
III. Writing About Statutes 62
IV. Researching the Statutes of Other States 62
V. Federal Statutes 63

Chapter 6 • Legislative History 65
I. The Legislative Process 65
II. Kentucky Legislative History Research 66
   A. Sources of Kentucky Legislative History 68
      1. Kentucky Acts 69
      2. Kentucky Journals 69
      3. Kentucky Legislative Research Commission Website 70
         a. Bills and Resolutions 70
         b. Legislative Documents 70
   B. Researching Legislative History Online and in Print 70
      1. Researching Laws Passed Before 1998 in Print 72
      2. Researching Laws Passed After 1998 Online 73
      3. Taped Debates and Committee Meetings 73
   C. Researching External Sources of Legislative History 74
1. Publications of the Legislative Research Commission 74
2. Law Reviews and Bar Publications 75
3. Newspapers 75

III. Bill Tracking in Kentucky 75
   A. Researching by Bill Number 76
   B. Researching by Topic 76

IV. Federal Legislative Research 77
   A. Federal Legislative History 77
      1. Sources of Federal Legislative History 78
      2. Print Resources for Federal Legislative History 79
      3. Online Resources for Federal Legislative History 79
      4. Compiled Legislative History 80
   B. Federal Bill Tracking 80

Chapter 7 • Administrative Law 81
   I. Introduction to Administrative (and Other Executive Branch) Law 81
   II. How Do Kentucky Agencies Create Administrative Law? 82
   III. Researching Kentucky Administrative Law 85
      A. Finding Kentucky Regulations 85
         1. Finding a Regulation with a Citation 85
         2. Researching by Agency 86
         3. Searching by Topic 86
         4. Finding Regulations Related to Particular Statutes 86
      B. Researching the Enabling Act(s) 87
      C. Finding Updates to Kentucky Regulations 88
   IV. Researching Agency Decisions 89
   V. Researching Other Executive Materials 90
      A. Attorney General Opinions 90
      B. Gubernatorial Materials 92
   VI. Other Resources 93
   VII. Researching Federal Administrative Law 94
      A. Code of Federal Regulations 94
Contents

B. Federal Register 95
C. Updating Federal Regulations 96
D. Researching Decisions of Federal Agencies 97
E. Judicial Opinions 97

Chapter 8 • Court Rules and Ethics 99
I. Introduction to Court Rules 99
II. Researching Kentucky Rules 99
   A. Sources of Rules 99
   B. Updating Rules 101
   C. Interpreting Procedural Rules 102
      1. Case Law 102
      2. Other Resources 102
III. Ethics Rules 103
   A. Introduction to Ethics Rules 103
   B. Interpreting Ethics Rules 103
      1. Kentucky Bar Association Opinions 103
      2. Case Law 104
      3. Judicial Ethics Committee Decisions 105
IV. National Sources of Ethics Materials 106
   A. Model Rules 106
   B. ABA Ethics Opinions 107
   C. Other Materials 107
V. Researching Federal Rules 108
   A. Sources of Rules 108
   B. Interpreting Rules 109
      1. Case Law 109
      2. Other Resources 109

Chapter 9 • Updating with Citators 111
I. What Is a Citator? 111
II. Why Use a Citator? 112
   A. Ensure Cases Are Still Good Law 112
   B. Find Other Cases on the Same Legal Issue 112
   C. Find Secondary Sources on the Topic 113
III. How to Use Online Citators 113
   A. KeyCite on Westlaw 113
      1. Accessing KeyCite 114
2. Navigating the Types of KeyCite Lists 114
3. Analyzing the KeyCite Symbols and Limiting the Search Results 116
4. Understanding Symbols Next to Citing Cases 117
5. Reading and Analyzing the Cases that Cite Your Case 117

B. Shepard’s on Lexis 118
1. Accessing Shepard’s 118
2. Navigating the Types of Shepard’s Lists 119
3. Analyzing the Shepard’s Symbols and Limiting the Search Results 121
4. Reading and Analyzing the Cases that Cite Your Case 122

C. Alerts 122

Appendix: Using Shepard’s in Print 123

Chapter 10 • Secondary Sources and Practice Aids 127
I. Nature of Secondary Sources 128
II. Legal Encyclopedias 129
III. American Law Reports 130
IV. Treatises and Practice Guides 132
   A. General Information 132
   B. Kentucky Treatises and Practice Guides 134
V. Legal Form Books 136
VI. Jury Instructions 137
VII. Legal Periodicals 137
   A. Law Reviews 137
   B. Bar Journals 139
   C. Locating Articles 139

Chapter 11 • Online Legal Research 141
I. Introduction 141
II. Choosing Between Print and Online 141
III. Searching Online 142
   A. Clarify the Issue 142
   B. Generate Search Terms 143
   C. Choose the Resource to Search 143
Contents

1. Commercial Online Services vs. Free Websites 143
2. Kentucky Resources 145
   a. Statutes and Regulations 145
   b. Judicial Materials 145
3. Federal Resources 146
   a. Statutes and Regulations 146
   b. Major Case Sites 147
D. Select Search Technique 147
   1. Terms and Connectors Searching 148
      a. Basic Boolean Connectors 148
      b. Proximity Connectors 149
      c. Wildcards and Truncators 149
      d. Segment and Field Searching 150
      e. Combining Search Strategies 151
   2. Natural Language Searching 151
   3. Easy Searching 152
   4. Lexis Advance and WestlawNext Searching 152
E. Review and Refine the Search 153

Appendix A • Legal Citations 155
   I. General Legal Citation 155
   II. Kentucky Legal Citation 156

Appendix B • Selected Bibliography 159
   General Research 159
   Kentucky Research 159
   Advanced Legal Research 160
   Legal Analysis 160

About the Authors 161
Index 163
## List of Tables and Figures

### Tables

**Chapter 1 • The Research Process and Legal Analysis**
- Table 1-1. Overview of the Research Process 6
- Table 1-2. Generating Research Terms 8

**Chapter 2 • The Kentucky Constitution**
- Table 2-1. Outline of the Kentucky Constitution 12

**Chapter 3 • Judicial Opinions and Reporters**
- Table 3-1. Kentucky Court System 27
- Table 3-2. Kentucky Nominative Reporters 29
- Table 3-3. Regional Reporters and States Included 30
- Table 3-4. Case Excerpt from *Carmical v. Bullock*, 251 S.W.3d 324 (Ky. App. 2008) 32
- Table 3-5. Reporters for Federal Court Cases 35

**Chapter 5 • Statutes**
- Table 5-1. Sections in Chapter 513: Arson 51
- Table 5-2. Sample Annotation, KRS 511.020, First-Degree Burglary 52
- Table 5-3. Selected Entries for Arson in the Michie’s KRS Index 55
- Table 5-4. Outline of KRS 513.020(1), Arson in the First Degree 56
- Table 5-5. Excerpts from KRS 446.010, Definitions for Statutes Generally 57
xvi  List of Tables and Figures

Chapter 6 • Legislative History 65
   Table 6-1. How a Bill Becomes a Law 67
   Table 6-1. How a Bill Becomes a Law, continued 68
   Table 6-2. Sample Entry from History of House Bills 72
   Table 6-3. Bill Tracking Overview 76
   Table 6-4. Comparison of Sources for Kentucky and Federal Legislative History 78
   Table 6-5. Selected Resources for Federal Legislative History 79

Chapter 9 • Updating with Citators 111
   Table 9-1. Treatment Signals 119

Chapter 10 • Secondary Sources and Practice Aids 127
   Table 10-1. ALR 6th, Contents of Volume 63 131
   Table 10-2. Kentucky Practice Series 135
   Table 10-3. Kentucky Legal Periodicals 138

Chapter 11 • Online Legal Research 141
   Table 11-1. Websites for Commercial Providers 144

Appendix A • Legal Citations 155
   Table A-1. Sample Citation Forms 156
   Table A-2. Kentucky Citation Forms 157

Figures

Chapter 9 • Updating with Citators 111
   Figure 9-1. KeyCite 115
   Figure 9-2. Shepard’s 120

Chapter 10 • Secondary Sources and Practice Aids 127
   Figure 10-1. CJS, Libel and Slander §2 130

Chapter 11 • Online Legal Research 141
   Figure 11-1. Illustration of Boolean Connectors 149
Series Note

The Legal Research Series published by Carolina Academic Press includes titles from many states around the country as well as a separate text on federal legal research. The goal of each book is to provide law students, practitioners, paralegals, college students, laypeople, and librarians with the essential elements of legal research in each jurisdiction. Unlike more bibliographic texts, the Legal Research Series books seek to explain concisely both the sources of legal research and the process for conducting legal research effectively.
Preface

Kentucky Legal Research has been written to assist readers in acquiring and perfecting legal research skills. Since there are a wide range of options for locating primary and secondary materials, we include both print and electronic sources. Throughout the chapters, we refer to commercial providers of computerized legal research, primarily Lexis and Westlaw but also Casemaker, which is now free to members of the Kentucky Bar Association. We are also careful to discuss all relevant Internet websites maintained by the Kentucky government.

The text begins with an overview of the research process and legal analysis. The objectives of each chapter include an explanation of research strategies and a discussion of print and electronic resources. To simplify the research process, we often include detailed description of various research tasks. We also provide a variety of examples and screen shots to illustrate the sources. Some chapters include appendixes that provide the researcher with more detailed information.

Each chapter gives a very brief explanation of appropriate federal materials that could be used with Kentucky materials. Since legal ethics research is very important, a separate chapter addresses that topic. At the end of the book, there is an appendix briefly discussing Kentucky citation rules and a selective bibliography of legal research materials.
Acknowledgments

Professor Suzanne E. Rowe, the Series Editor, greatly improved the quality of this book by reviewing each chapter. Moreover, as the author of previous books in this series, Professor Rowe shared freely from her own body of work. In this regard, the authors acknowledge, in particular, Professor Rowe’s significant contributions to Chapters 1, 3, 7, and 9.

The authors are grateful to Mike Swansburg, Benjamin I. Silver, Barbara Westerfield Hilyerd, and Jamison McCune for reading and proofreading all or parts of the manuscript, and Beth Haendiges for drawing Table 11-2 and for proofreading Chapters 2, 5, 6, and 10.

The authors acknowledge LexisNexis and Thomson Reuters for granting permission to include images of their products and services.

The authors also wish to acknowledge support for this work from the University of Louisville, Louis D. Brandeis School of Law.