Legislative Research Guide

Overview

This guide is to help understand the Legislative Process and legislative History in both the United States Legislature and the West Virginia Legislature.

In this guide we will help provide you with a basic understanding of how to understand and beginning knowledge into the Legislative Process.
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Legislative Process

Legislative history refers to the progress of a bill through the legislative process and to the documents that are created during that process. Attorneys, judges, and others often turn to these documents to learn why Congress enacted a particular law or to aid in the interpretation of a law.

Step 1: Introduction
Only a member of Congress (House or Senate) can introduce the bill for consideration. The Representative or Senator who introduces the bill becomes its "sponsor." Other legislators who support the bill or work on its preparation can ask to be listed as "co-sponsors." Important bills usually have several co-sponsors.

Four basic types of legislation are considered by Congress: Bills, Simple Resolutions, Joint Resolutions, and Concurrent Resolutions.

A bill or resolution has officially been introduced when it has been assigned a number (H.R. # for House Bills or S. # for Senate Bills), and printed in the Congressional Record by the Government Printing Office.

Step 2: Committee Consideration
All bills and resolutions are "referred" to one or more House or Senate committees according their specific rules.

Standing Rules of the US Senate
Rules of the US House of Representatives

Step 3: Committee Action
The committee considers the bill in detail. For example, the powerful House Ways and Means Committee and Senate Appropriations Committee will consider a bill's potential impact on the Federal Budget.

If the committee approves the bill, it moves on in the legislative process. Committees reject bills by simply not acting on them. Bills that fail to get committee action are said to have "died in committee," as many do.

Step 4: Subcommittee Review
The committee sends some bills to a subcommittee for further study and public hearings. Just about anyone can present testimony at these hearings. Government officials, industry experts, the public, anyone with an interest in the bill can give testimony either in person or in writing. Notice of these hearings, as well as instructions for presenting testimony is officially published in the Federal Register.

Step 5: Mark Up
If the subcommittee decides to report (recommend) a bill back to the full committee for approval,
they may first make changes and amendments to it. This process is called "Mark Up." If the subcommittee votes not to report a bill to the full committee, the bill dies right there.

**Step 6: Committee Action -- Reporting a Bill**
The full committee now reviews the deliberations and recommendations of the subcommittee. The committee may now conduct further review, hold more public hearings, or simply vote on the report from the subcommittee. If the bill is to go forward, the full committee prepares and votes on its final recommendations to the House or Senate. Once a bill has successfully passed this stage it is said to have been "ordered reported" or simply "reported."

**Step 7: Publication of Committee Report**
Once a bill has been reported (See Step 6:) a report about the bill is written and published. The report will include the purpose of the bill, its impact on existing laws, budgetary considerations, and any new taxes or tax increases that will be required by the bill. The report also typically contains transcripts from public hearings on the bill, as well as the opinions of the committee for and against the proposed bill.

**Step 8: Floor Action -- Legislative Calendar**
The bill will now be placed on the legislative calendar of the House or Senate and scheduled (in chronological order) for "floor action" or debate before the full membership. The House has several legislative calendars. The Speaker of the House and House Majority Leader decide the order in which reported bills will be debated. The Senate, having only 100 members and considering fewer bills, has only one legislative calendar.

**Step 9: Debate**
Debate for and against the bill proceeds before the full House and Senate according to strict rules of consideration and debate.

**Step 10: Voting**
Once debate has ended and any amendments to the bill have been approved, the full membership will vote for or against the bill. Methods of voting allow for a voice vote or a roll-call vote.

**Step 11: Bill Referred to Other Chamber**
Bills approved by one chamber of Congress (House or Senate) are now sent to the other chamber where they will follow pretty much the same track of committee to debate to vote. The other chamber may approve, reject, ignore, or amend the bill.

**Step 12: Conference Committee**
If the second chamber to consider a bill changes it significantly, a "conference committee" made up of members of both chambers will be formed. The conference committee works to reconcile differences between the Senate and House versions of the bill. If the committee cannot agree, the bill simply dies. If the committee does agree on a compromise version of the bill, they prepare a report detailing the changes they have proposed. Both the House and Senate must approve the report of the conference committee or the bill will be sent back to them for further work.
Step 13: Final Action - Enrollment
Once both the House and Senate have approved the bill in identical form, it becomes "Enrolled" and sent to the President of the United States. The President may sign the bill into law. The President can also take no action on the bill for ten days while Congress is in session and the bill will automatically become law. If the President is opposed to the bill, he can "veto" it. If he takes no action on the bill for ten days after Congress has adjourned their second session, the bill dies. This action is called a "pocket veto."

Step 14: Overriding the Veto
Congress can attempt to "override" a presidential veto of a bill and force it into law, but doing so requires a 2/3 vote by a quorum of members in both the House and Senate.

- **The United States Legislative Process** - a chart explaining how a bill becomes a law. Additionally, includes descriptions on the committee process, amendments, voting, enrolling bills and action.
- **Enactment of Law** - the legislative process described by Robert B. Dove, Parliamentarian of the Senate.
- **How Laws are Made** - according to the U.S. House of Representatives.
- **About Bills, Resolutions and Laws** - a description by LexisNexis.
Primary Sources

This sections provides links and call numbers for codes. In legal research vocabulary, the term “primary sources” refers to sources of the law itself. In other words, primary sources of law are the texts of enactments by governments containing rules that govern a jurisdiction.

- WV Code - Online, Call Number: KFW1225.A2
- States Laws on the internet - a list of links to states legislatures
Print Material

A list of books and other print material to help understand the legislative process, researching legislation and delving into the comprehension of legislative materials.

**Legislative Process**
Call Number: KF4945 .M55
ISBN: 0735576629

**An Introduction to statutory Interpretation and the Legislative Process**
Call Number: KF425 .M55 1997
ISBN: 1567066127

In an easy-to-read colloquial style, Mikva and Lane lead students to the understanding they need for success in substantive courses with a heavy statutory emphasis: the Interpretation of Statutes - Beginning where students do, by reading interpretive cases, the authors demonstrate that statutory interpretation is not simply the search for legislative meaning or intent, but also the exercise of power by a separate branch of government. Organized around two types of cases, those where the statutory language is clear and where it is unclear, this chapter delves into judicial approaches to statutory interpretation and the tools employed for that purpose, as well as criticism of such approaches. The Legislative Process - Addresses the environment in which the consideration of legislation takes place and the dynamics of the enactment process. The Enactment of a Statute - Follows a particular bill through the window of the Congressional Record. This illustrates example focuses attention on the details and language of the legislative process. The Anatomy of a Statute - A complete dissection of the structure, form, and generic provisions. The Publication of Statutes - Offers little-known insights that can be used for tactical advantage.

**The Legal Process: Basic Problems in the Making and Application of Law** - Hart & Sacks
Call Number: KF386 .H3 1994
ISBN: 1566622360
Legislation: Statutory interpretation: 20 Questions - Kent Greenawalt
Call Number: KF425 .G74 1999
ISBN: 1566627842

This book gives an overview of the field of statutory interpretation for the law student. It examines the subject through questions that help show how Legislation is crafted. Part of the University Casebook Series, it features expertly edited cases, text and questions for classroom discussion.

Federal Legislative Histories
Call Number: KF42.2
ISBN: 0313230927

The use of legislative history materials is an essential step in American legal research and statutory interpretation. Legislative histories look at the legislative purpose and intent of Congress where the language of the statute is vague, unclear, or lacks specifics. The judiciary, legal scholars, the legal profession, and the creators of government policy turn to the various documents drafted during the law-making process to clarify areas of confusion or ambiguity. Precise and thorough research in the United States statutes and codes depends on having access to the materials that make up the pre-enactment history. For years, the U.S. Government Printing Office, Federal Administrative Agencies, and Federal Commissions have randomly collected, organized, excerpted, and indexed the various documents that explain the history and intent of a statute. This compilation identifies those officially created sources and provides an important access point to the legal researcher and those interested in the policy behind the nation's laws.

Mastering Statutory Interpretation
Call Number: KF425 .J455 2008
ISBN: 1594603146

Mastering Statutory Interpretation explains the methods of interpreting statutes, including a discussion of the various theories and canons of interpretation. The book begins by exploring these theories and identifying the sources of meaning the theorists use to interpret statutes, including intrinsic, extrinsic, and policy-based. Throughout, the text uses the major cases in each area of study to explain how the canons work in practice. Finally, each chapter provides a concise roadmap and summary to introduce and encapsulate the most important material.
This report identifies and describes some of the more important rules and conventions of interpretation that the Court applies. Although this report focuses primarily on the Court's methodology in construing statutory text, the Court's approach to reliance on legislative history are also briefly described. In analyzing a statute's text, the Court is guided by the basic principle that a statute should be read as a harmonious whole, with its separate parts being interpreted within their broader statutory context in a manner that furthers statutory purpose. The various canons of interpretation and presumptions as to substantive results are usually subordinated to interpretations that further a clearly expressed congressional purpose.

How do judges determine the meaning of laws? The extent to which judges should exercise their discretion in interpreting legislation has been a contentious issue throughout American history, involving questions about the balance of power between the legislature and the judiciary. In Statutes in Court William D. Popkin provides an indispensable survey of the history of American statutory interpretation and then offers his own theory of "ordinary judging" that defines the proper scope of judicial discretion. Popkin begins by discussing the British origins of statutory interpretation in this country. He then maps the evolving conceptions of the judicial role in the United States from Revolutionary times through the twentieth century before presenting his "ordinary judging" theory—one that asks the judge to use modest judicial discretion to assist the legislature in implementing good government. Claiming that theory cannot account for everything a judge does when determining statutory meaning or writing an opinion, Popkin shows how judges who strive to be conscientious in interpreting the law are often hampered by the lack of both a framework in which to fit their approach and a well-understood common vocabulary to explain what they do. Statutes in Court fills that gap. This work will be valuable to anyone concerned about the judicial role in the interpretation of political scientists.
How should judges, in America and elsewhere, interpret statutes and the Constitution? Previous work on these fundamental questions has typically started from abstract views about the nature of democracy or constitutionalism, or the nature of legal language, or the essence of the rule of law. From these conceptual premises, theorists typically deduce an ambitious role for judges, particularly in striking down statutes on constitutional grounds. In this book, Adrian Vermeule breaks new ground by rejecting both the conceptual approach and the judge-centered conclusions of older theorists. Vermeule shows that any approach to legal interpretation rests on institutional and empirical premises about the capacities of judges and the systemic effects of their rulings. Drawing upon a range of social science tools from political science, economics, decision theory, and other disciplines, he argues that legal interpretation is above all an exercise in decision making under severe empirical uncertainty. In view of their limited information and competence, judges should adopt a restrictive, unambitious set of tools for interpreting statutory and constitutional provisions, deferring to administrative agencies where statutes are unclear and deferring to legislatures where constitutional language is unclear or states general aspirations.
Legislative History

A list of links and resources to help understand legislative history. Legislative history includes any of various materials generated in the course of creating legislation, such as committee reports, analysis by legislative counsel, committee hearings, floor debates, and histories of actions taken. Legislative history is used for discovering sources of information about the legislative intent.

Undertaking legislative history research; identify the law for which you need to perform a legislative history. If you have the Public Law number, you’re ready. If you have a U.S. Code cite, you need to look up your cite and consult the historical note following the text of the provision. Here it will give you the Public Law number of the law(s) that enacted your provision. If there is more than one, you need to consult each Public Law to determine which one enacted/added the language of the section with which you’re concerned.

- **Federal Legislative History Research** - A practitioners guide to compiling documents and sifting for legislative intent.
- **Westlaw Legislative Research Tips** - A guide providing information on how to conduct federal statutes and legislative history research.
- **HEONLINE** - Legislative history FAQ's
- **BillHop** - a wiki and blogging tool that allows members to track, discuss and take action on legislation at the federal and state levels.
- **WVU Law Library Guide to Federal Legislative History** - basic concepts and important resources
- **WVU Law Library Video Guide** - a video tutorial on legislative research at the WVU College of Law Library
- **LLSDC's Legislative Source Book** - links and sources for legislative research compiled by the Law Librarians' Society of Washington D.C.
Following the Legislature

This section provides links to help you keep up-to-date on the happening of the U.S. Congress and the W.V. Legislature.

- Library of Congress - Legislative Information from the LOC.
- C-Span - up-to-date happenings on Capitol Hill, the White House, and National Politics.
- Federal News Service - FNS provides immediate verbatim transcripts of government briefings, speeches, press conferences and other newsmaker events to the many domestic and international news bureaus in Washington, D.C.
- West Virginia Legislature - A link to the WV Legislatures homepage.
- West Virginia Legislature on Facebook, Twitter, WV Senate on Twitter, WV House on Twitter
Pay Services

A list of links that provide pay services to clients in helping to do legislative research.

- Legislative Intent Services
- Legislative Research, Inc.
- Legicrawler
- Lexis
- Netscan
- Westlaw