American Legislative History Research Options
Spring 2010

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Web profile: http://law.wustl.edu/faculty_profiles/indexfaculty.asp?id=866
The Big Picture

Statute

Undefined Term

Unexpected Situation or Ambiguous Phrase

Fill Gaps with outside information
HOW A BILL BECOMES LAW
Federal Legislative History

HR 1
Introduced in House

S 2
Introduced in Senate

Referred to House Committee

Referred to Subcommittee

Reported by Full Committee

Rules Committee Action

FLOOR ACTION

House Debate, Vote on Passage

Committees may hold hearings on bills which have been referred to them. Many bills die while in committee, i.e., no action is taken on the motion. Bills favorably reported out go to the next step in the process.

Referred to Senate Committee

Referred to Subcommittee

Reported by Full Committee

FLOOR ACTION

Senate Debate, Vote on Passage

CONFERENCE ACTION

VETOED

PRESIDENT

SIGNED

Congress can override a Presidential veto with a two-thirds majority vote in each house. The bill then becomes law without the signature of the President.

HOW A BILL BECOMES LAW
Federal Legislative History

HR 1
House Bill

S 1
Senate Bill

Referred to House Committee

Referred to Subcommittee

Reported by Full Committee

Rules Committee Action

FLOOR ACTION

House Debate, Vote on Passage

CONGRESS ACTION

VETOED

PRESIDENT

SIGNED

Committees may hold hearings on bills which have been referred to them. Many bills die while in committee, i.e., no action is taken on the motion. Bills favorably reported out go to the next step in the process.

FLOOR ACTION

Senate Debate, Vote on Passage

HOW A BILL BECOMES LAW
Federal Legislative History

HR 1
Introduced in House

S 2
Introduced in Senate

Referred to House Committee
Referred to Senate Committee

Referred to Subcommittee
Referred to Subcommittee

Committees may hold hearings on bills which have been referred to them. Many bills die while in committee, i.e., no action is taken on the motion. Bills favorably reported out go to the next step in the process.

Reported by Full Committee

Rules Committee Action

FLOOR ACTION

House Debate, Vote on Passage

FLOOR ACTION

Senate Debate, Vote on Passage

CONFERECE ACTION

VETOED

PRESIDENT

SIGNED

Congress can override a Presidential veto with a two-thirds majority vote in both House. The bill then becomes law without the signature of the President.

Committees may hold hearings on bills which have been referred to them. Many bills die while in committee.
HOW A BILL BECOMES LAW
Federal Legislative History

HR 1
Introduced in House

Referral to House Committee

Referral to Subcommittee

Reported by Full Committee

Rules Committee Action

FLOOR ACTION

House Debate
Vote on Passage

S 2
Introduced in Senate

Referral to Senate Committee

Referral to Subcommittee

Reported by Full Committee

FLOOR ACTION

Senate Debate
Vote on Passage

Conference Action

Vetoed

President

Signed

Congress can override a Presidential veto with a two-thirds majority vote in each house. The bill then becomes law without the signature of the President.

HOW A BILL BECOMES LAW
Federal Legislative History

HR 1
Introduced in House

$2
Introduced in Senate

Referral to House Committee

Referral to Senate Committee

Committees may hold hearings on bills which have been referred to them. Many bills die while in committee, i.e., no action is taken on the motion. Bills favorably reported out go to the next step in the process.

Referral to Subcommittee

Referral to Subcommittee

Reported by Full Committee

Reported by Full Committee

Rules Committee Action

FLOOR ACTION

FLOOR ACTION

House Debate, Vote on Passage

Senate Debate, Vote on Passage

Conference Action

Veto

PRESIDENT

Congress can override a Presidential veto with a two-thirds majority vote in each House. The bill then becomes law, despite the objections of the President.

Why Statutory Construction?

• Statutes can be:
  ▫ Vague – uncertain in meaning & indefinite in scope
  ▫ Ambiguous – multiple meanings
How to Interpret Statutes

• Interpretation – process of determining meaning of statute: “statutory construction”
• Look at
  ▫ **Intrinsic evidence**
  ▫ **Extrinsic evidence**

For more info see: 2A Sutherland Statutory Construction (7th ed.)
KF425 .S25
Intrinsic Evidence

- look at the text of the statute itself
  - The plain meaning of the text: The Plain Meaning Rule
Extrinsic Evidence

• look at other information about the social or legal context of the legislation
  ▫ Cases
    • Sometimes the courts will construe the meaning of a statute
Statutory Interpretation Methods

- This slide is created by Prof. Stark at WULAW (Jan 2010) who adapted it from: Deborah A. Schmedemann & Christine L. Kunz, *Synthesis: Legal Reading, Reasoning, and Writing* 65 (3\textsuperscript{rd} ed. 2007)

**Cases Construing the Statute**

- Statute Itself
  - Plain Meaning Rule
  - Purpose Approach
  - Golden Rule

- Legislative Intent

- Similar Statutes and Persuasive Precedent

- Canons of Construction
LEGISLATIVE HISTORY

- to find “legislative intent” (i.e., is there anything in the legislative record that indicates what the legislators intended the text to mean?)

This source is also frequently used in scholarly research,
Legislative History

• May provide a huge document trail
• Therefore: Start your research by searching for someone who has done the work for you.
Il Buono, Il Brutto, Il Cattivo...

- **The GOOD** - Compiled legislative history
- **The BAD** - Compiling your own federal legislative history
- **The UGLY** - Compiling your own state legislative history
Accept these universal truths.....

- Doing legislative history can be tedious
- Doing legislative history can be time-consuming
- Even if you go through all the steps, you still may come up with nothing..........
Your Sources

- Senate or House bill, as introduced
- Companion bills, if any
- Debates on the House or Senate floor
- Committee Hearings
- Committee Report
- Public Law, as signed by the President
- Comments made by the President
Scale of Importance

- Reports--Conference, House and Senate
- Different Versions of Bills
- Statements by Bill’s sponsors or committee members during debate
- Committee prints and hearings
- Presidential statements
<table>
<thead>
<tr>
<th>Action</th>
<th>Documentation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bill is introduced in either the House or the Senate.</td>
<td>Bills</td>
</tr>
<tr>
<td>Bill sent to Committee/ Subcommittee</td>
<td>Hearings</td>
</tr>
<tr>
<td>Bill reported out of committee to the parent body (i.e., House or Senate)</td>
<td>Report (House Report or Senate Report)</td>
</tr>
<tr>
<td>Bill is debated/ Amended/ Passed or defeated</td>
<td>Floor debate and other records in the <em>Congressional Record</em></td>
</tr>
<tr>
<td>Consideration in the other chamber, goes through same committee/ parent body stages</td>
<td>See above</td>
</tr>
<tr>
<td>If the two chambers can’t agree on the language, then to Conference Committee</td>
<td>Conference Report Published as House Report</td>
</tr>
<tr>
<td>If passes both chambers, goes to President</td>
<td>Enrolled Bill</td>
</tr>
<tr>
<td>Becomes law (signed by President or no action for 10 days while congress is in session)</td>
<td>Public Law (P.L.) Presidential Messages</td>
</tr>
</tbody>
</table>
The Good:

Compiled Legislative History
Compiled Legislative History

• If your law is considered “landmark” legislation, then someone may have gathered all the legislative history documents together already......

• **WARNING!** Some compilations are not complete.
Full Text Legislative Histories

- Search the online catalog to find compiled legislative histories held by the library
- HeinOnline, “U.S. Federal Legislative History Library”
- Westlaw Directory Location: All Databases > U.S. Federal Materials > Legislative History
Bibliographies of Compiled Legislative Histories

- Federal legislative Histories: An Annotated Bibliography and Index to Officially Published Sources. Greenwood Press. 1994 Res. KF 42.2 1994
  - 255 legislative histories (1862-1990)
- Sources of compiled legislative histories : a bibliography of government documents, periodical articles, and books, 1st Congress-94th Congress / compiled by Nancy P. Johnson KF42.2 1979 .J64
The Bad:

Compiling Your Own Federal Legislative History
Always Identify the Scope of your Research

• Determine whether you need
  ▫ the history of an individual statute
  ▫ or material on a general subject
How Do You Locate These documents?

The Check Clearing Act for the 21th Century is a federal law that is designed to enable banks to handle checks electronically. Before the enactment of this law banks had to physically move original paper checks from one bank to another.

You have been asked to conduct a legislative history on the act.
Step 1: Determine Your Public Law

- At the end of your statute section in the U.S. Code or one of the annotated versions, locate the history of your section.

- Determine the public law number for which you want to compile legislative history.
Step 2: Verify Your Public Law and bill number.

- For public laws enacted after 1945, you can consult the “Legislative History” volume of the *United States Code, Congressional and Administrative News* – it is a great source in paper.
or online at:

http://www.gpoaccess.gov/plaws/index.html
PUBLIC LAW 108–100—OCT. 28, 2003
117 STAT. 1177

Public Law 108–100
108th Congress

An Act

To facilitate check truncation by authorizing substitute checks, to foster innovation in the check collection system without mandating receipt of checks in electronic form, and to improve the overall efficiency of the Nation’s payment system, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Check Clearing for the 21st Century Act” or the “Check 21 Act”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings, purposes.
Sec. 3. Definitions.
Sec. 4. General provisions governing substitute checks.
Sec. 5. Substitute check warranties.
Sec. 6. Indemnity.
Sec. 7. Expedited remittance for consumers.
Sec. 8. Expedited remittance procedures for banks.
Sec. 9. Delays in an emergency.
Sec. 10. Measures of damages.
Sec. 11. Statute of limitations and notice of claim.
See what you get when you scroll down to the end of your public law: References to legislative history docs!
For public laws enacted after 1945, you can consult the “Legislative History” volume of the *United States Code, Congressional and Administrative News* – it is a great source in paper and this source compiles the most important docs. 80% of your time you will find what you need here.
U.S.C.C.A.N.

- Arranged by
  - Congress
  - Session
- Commercial version of Session Laws
- Also source for “Legislative History”
  - Says Legislative History, but is not complete, just some reports
  - And sometimes just excerpts from reports they do print
- Also available on Westlaw
- Great “one stop shopping source”
Step 3

- Compiling your on legislative history.....Identify the original bill number associated with your public law.
Step 4: Collect the Relevant Documents

- Your options: Locate a Government Depository Library or go online via the internet or a subscription database.
Google Uncle Sam? To Access Click here
• Other Resources Include:
  GPO Access
  thomas.loc.gov
  House.gov
  Senate.gov
  GPO's Federal Digital System (FDsys)
A very recent feature....at http://www.gpo.gov/fdsys/
## Check Clearing for the 21st Century

**Corporate Author:** United States. Congress (108th, 1st session : 2003)

**Title:** Check Clearing for the 21st Century Act: conference report (to accompany H.R. 1474)

**Published:** [Washington, D.C. : U.S. G.P.O., 2003]

**Description:** 27 p.; 24 cm

**Permalink:** [http://catalog.wustl.edu:80/record=b2815586-s2](http://catalog.wustl.edu:80/record=b2815586-s2)

### WUSTL has online access:
- **Text version**
- **PDF version:** Adobe Acrobat Reader required

<table>
<thead>
<tr>
<th>LOCATION</th>
<th>CALL #</th>
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</tr>
<tr>
<td>Olin Level A Microforms</td>
<td>Y 1.1/8:108-291</td>
<td>NOT CHECKED OUT</td>
</tr>
</tbody>
</table>
Full-Text Sources: Lexis & Westlaw - Remember to Note the Coverage Before Searching.


- LexisNexis tutorial can be found at: http://www.lexisnexis.com/lawschool/flashtutorial/Statutory_Research_Tutorial.htm
Step 5: Read the Documents

- You will have to sift through all the relevant documents yourself......
WULAW Research databases

• Click [here](#)

• Choose the [CIS Congressional Universe and Research Digital Collection](#) (Many law library will only offer access to a hard copy or a microfiche collection.)
LEGISLATIVE HISTORY OF: P.L. 108-100

TITLE: Check Clearing for the 21st Century Act or Check 21 Act

CIS-NO: 2003-PL108-100
DOC-TYPE: Legislative History
DATE: Oct. 28, 2003
LENGTH: 18 p.
ENACTED-BILL: 108 H.R. 1474 Retrieve Bill Tracking report
STAT: 117 Stat. 1177
CONG-SESS: 108-1

SUMMARY:
"To facilitate check truncation by authorizing substitute checks, to foster innovation in the check collection system without mandating receipt of checks in electronic form, and to improve the overall efficiency of the Nation's payments system, and for other purposes."

Also makes a technical amendment to the Federal Reserve Act.
# Updating for Free?

## United States Code Classification Tables

**Office of the Law Revision Counsel**

These tables show where recently enacted laws will appear in the United States Code and which sections of the Code have been amended by those laws. The tables sorted in Public Law order may be used to identify the sections of the Code affected by a particular law. The tables sorted in Code order may be used to determine whether a particular section of the Code has recently been amended. The tables only include those provisions of law that have been classified to the Code. The text of recently enacted laws may be found through the Library of Congress [Thomas](https://thomas.loc.gov) website.

<table>
<thead>
<tr>
<th>Year</th>
<th>Congress</th>
<th>Session</th>
<th>Public Laws</th>
<th>Sorted in Public Law order</th>
<th>Sorted in U.S. Code order</th>
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<tbody>
<tr>
<td>2009</td>
<td>111th</td>
<td>1st</td>
<td>111-1 to 111-125</td>
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<tr>
<td>2008</td>
<td>110th</td>
<td>2nd</td>
<td>110-181 to 110-460</td>
<td><a href="#">HTML Format</a></td>
<td><a href="#">HTML Format</a></td>
</tr>
</tbody>
</table>
Need Current Background Information?

  - The Washington University Law Library has a subscription to Congressional Quarterly Weekly Report, [library.cqpress.com/cqweekly](library.cqpress.com/cqweekly)
What to Remember

• Most useful legislative history material will be the reports.
• GPO Access to retrieve public law (or FDsys)
• USCAAN is good “quick & dirty” source for reports.
• Thomas is great for more current materials and is free. Search by bill number.
• CIS/LexisNexis Congressional is a great access tool to these materials - however you have to come to the library to access this database.
• Legislative history can be very complex. If you need further help, locate a pathfinder online and/or ask a librarian!
If you have access to Westlaw or WL tutorial:

• 1. Getting Started – Statutes – legislative history modules at:

Sources

- Berring, Coehn, Olson: How to Find the Law (1989)
- Amy Sloan, Basic Legal Research (2009)