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*Research Guide : Researching Federal Legislative History*

**Introduction**

Legislative history is the background or the events which took place prior to the enactment of a statute. The general purpose of compiling the legislative history of a law is to determine the intent of the legislators in passing a particular statute. Materials published as the records and reports of legislative activity are valuable as an aid to the interpretation or construction of statutory language. There is an abundance of legislative history materials published for federal statutes. For state laws, the materials vary according to the state.

Legislative history materials constitute persuasive legal authority. In the absence of a question as to the meaning of specific language in the statute or the intent underlying the law, courts generally will not consider the legislative history of a statute. The actual language of the statute is the law and will control in the event the text of the act contradicts a statement in the legislative history.

**Documents that Comprise a Legislative History**

A legislative history includes documentation from each step in the law-making process. Different types of documents are traditionally accorded varying degrees of weight in showing congressional intent. The following documents, arranged from most to least persuasive, may be found in a typical legislative history.

**Bills and amendments:** a bill, as introduced, reported on, and acted upon by either or both houses, provides information by its language on the original intent. Often, before the final version of a bill is reported to the floor, a committee will consider alternative versions or proposed amendments. Comparison of enacted language to earlier versions of the bill or in rejected amendments can sometimes be used to infer the intent of the final version. Bills introduced in each Congress are numbered consecutively in separate series for the House and Senate and are cited as:

S. 25, 98<sup>th</sup> Cong. (1983)  
H.R. 1401, 94<sup>th</sup> Cong. (1976).

**Committee Reports:** the committee's method of communicating to Congress. A report

explains the purpose of the bill and contains the committee's reasoning and recommendations on the bill. A report may also contain a section by section analysis of the legislation and information regarding the minority position. Reports may be issued by House, Senate and Conference Committees. Conference reports are numbered within either the House or Senate series. Reports of a conference committee generally have a House number. The documents are commonly referred to the Congress during which they were issued:

S. Rep. No. 5, 84th Cong. (1955).

H.R. Rep. No. 586, 97th Cong. (1982)

**Committee Hearings:** transcripts of the testimony of witnesses before House and Senate committees may be illustrative of issues considered through the hearing process. Their usefulness is limited by the large amount of testimony pro and con on many bills and the difficulty in establishing a connection between particular remarks made at the hearing and the final language of the bill. Hearings are an early step in the legislative process. Hearings are not held on all pieces of legislation and even if held may not be published.

**Floor Debates:** activities which occur on the floor of the two chambers of Congress. Individual comments during debates are not proof of congressional intent, but statements by the bill's sponsor or chairman of the committee reporting the bill, especially with the stated intention of clarifying or explaining the bill can have significant weight. Statements made in floor debates have been found useful as sources of legislative intent, but many commentators have pointed out their limitations as accurate explanations of a bill's meaning. Remarks are published in the *Congressional Record*, which appears first on a daily basis, then is recompiled into annual bound volumes.

Daily edition: 132 Cong. Rec. S266 (daily ed. Jan. 23, 1986) (statement of Sen. Cranston)

Bound edition: 125 Cong. Rec. 14,981 (1979).

**Committee Prints:** studies, statements, reports, background information, working drafts of a bill, legislative histories or other compiled information prepared for a particular committee, normally by the committee staff. Committee prints are not automatically published or distributed.

**Presidential Messages:** remarks delivered to Congress, explaining the reasons for suggesting, signing, or vetoing legislation.

### **Locating the Documents and Compiling a Legislative History**

**Compiled Legislative Histories:** considerable time can be saved if a compiled legislative history already exists for the law in question. Compiled legislative histories are of two types: (1) those put together for selected laws by previous researchers and (2) those issued on a regular continuing basis by commercial sources. Available compilations of the first type are listed by Congress and by *Statutes at Large* location in *Nancy P. Johnson, Sources of*

*Compiled Legislative Histories* [Ref. KF42 .2 1979] Most items listed by Johnson provide the actual text of documents; some are journal articles or other sources that provide only citations to relevant documents.

### **Steps to Compiling a Federal Legislative History**

- check to see if a legislative history already exists
- locate the bill number (see below)
- identify citations to committee reports, hearings, congressional floor action, debates, amendments, and presidential messages (see below)
- locate the documents themselves

### ***Locating the Actual Documents:***

*Congressional Information Service* (CIS) [Ref. KF49 . C62] is an excellent source of information for legislation passed after 1970. CIS is an index and abstract and full-text microfiche service publisher of congressional documents. CIS provides subject indexing of congressional publications. For the years 1970 to 1983 the Abstracts volumes contain tables of legislative history information for all laws passed in a particular year arranged by public law number. Citations are provided to bills, reports and hearings. References provide access to the CIS abstract and the microfiche text. Commencing in 1984 and each year after, CIS provides a Legislative History volume organized by public law number laws which provide citations to relevant bills, reports and debate.

### ***Public Law Number, Statutes at Large citation, and Bill Number***

The language of each *U.S. Code* section is based on the original act that created the section and any later laws that amended the original or amended text. It is important to remember that there can be amendments to the amendments. To compile a legislative history for a current federal law, it is necessary to locate the documents related to both the creating act and any later amendments.

To begin the process it is important to find and note as much as possible of the following information for each act:

- the Public Law number,
- the location in the *Statutes at Large*,
- the date of enactment and the number of the House or Senate bill that was enacted, better known as the bill number.

The Public Law number and *Statutes at Large* citation are easily found with the text of the codified language in the official *U.S. Code*, *U.S.C.A.* or *U.S.C.S.* Each edition of the Code also provides a short note explaining how the amendments changed the existing text.

*Committee Report:* are published individually in paper and in microfiche. To locate committee reports for a specific law, it is necessary to know both the report number and the number of the serial set volume that contains it. Selected reports are published as part of *U.S.C.C.A.N.*; although legislative history was generally not published in this set before 1947. For most laws, either a Senate or a House report and the conference report (if there is one) are reprinted. Committee reports may also be located in the “serial set” which is maintained in microfiche.

In addition to the text of public laws and selected reports, *U.S.C.C.A.N.*, since 1948, has included the numbers of reports it does not publish. This information is also included in volumes of the *U.S. Statutes at Large* published since 1963 and with the text of each slip law.

*Debates:*

The best source for locating the text of debates on the floor of the Congress is the “History of Bills and Resolutions” table located in the permanent edition of the *Congressional Record*.

For laws enacted prior to 1970, the *Congressional Record* history tables are probably the first place to start researching a full-fledged legislative history, since they include citations to all relevant documents other than hearings. Remember, however, that the tables do not cumulate for the entire two-year congress. To find all reference to action on a bill, it is often necessary to check the permanent edition for each year of the congress.

The *Congressional Record* is available online via LexisNexis and Westlaw. Online coverage begins with 1985. It is available on the web though Thomas from 1989 forward.

*Hearings:*

CIS is the best indexing source for post 1970 hearings. The hearings themselves are in the CIS microforms set.

*Bills:*

Comparisons of the final version of a bill with the earlier mark-ups of a bill are often quite useful. Comprehensive retrospective collections are available at the Library of Congress and in the offices of each chamber. For more recent bills, Thomas provides the best source for locating the various mark-ups of the bills and their amendments.

### **Internet Resources**

Thomas at <http://thomas.loc.gov/> is an excellent online resource free of charge. It is limited to the more recent legislation.

The Congressional Record is available free of charge at <http://www.gpoaccess.gov/crecord/>. Coverage is limited to 1994 forward.

9/10/04