CHAPTER 5
RESEARCHING LEGISLATIVE HISTORY

GETTING STARTED

Deciding on research goals

Searching for legislative history on either the federal or state level can be a time consuming task. It is an activity that most researchers do not undertake routinely; however, in the many areas in which statutes are involved, the question of what the legislature intended is often raised.

At the federal level, legislative history was regularly cited in opinions of the Supreme Court and Courts of Appeals through the 1980s. In more recent years, Justices Scalia and Kennedy have been vocal opponents of its use, and citations to legislative history by the Supreme Court are not as pervasive as in the past. However, there are still many such references in current opinions. At the state level, availability has always been an issue, although recent efforts to maintain bill files in a systematic fashion have improved the situation.

The first step in this process is to determine the purpose of the research and to decide whether a cursory or an in-depth search is necessary.

Gathering information

In traditional legal research, gathering references to cases and statutes and reading the actual text are often not discrete steps. A researcher finds a cite to a case that appears relevant and proceeds to read it, coming back to the index or to the initial online source later to make sure that all important sources have been found.

To do efficient legislative history research, however, it is essential to spend time at the beginning gathering information. While the code is the logical starting point, many of the documents are accessible only by bill number or other references that are not included in the current code. It is important to understand that legislative history material is all referenced by the session law, rather than the code, citation. Information items that should be determined at the outset include, at a minimum:

- Session law number (e.g., for federal statutes, the public law number)
- Bill number(s)

The session law information can be found at the end of the relevant code section(s), while the bill number is usually included in the session law, as well as in various tables published with a jurisdiction’s legislative materials.
Compiled federal legislative histories

For purposes of learning the legislative history process, it is important that students attempt to use the various sources to see how one would go about compiling a legislative history. It should be noted, however, that sometimes it is possible to find federal legislative histories that others have compiled. Several bibliographies located in the Reference collection on Level 2 of the library can be helpful in locating existing compilations:

- **Sources of Compiled Legislative Histories** by Nancy Johnson (Ref. KF42.2.J69) covers laws from the 1st Congress. Also available in HeinOnline.
- **Federal Legislative Histories: An Annotated Bibliography and Index to Officially Published Sources** (1994) by Bernard Reams (Ref. KF 42.2) covers 257 bills passed by Congress from 1862-1990.
- **Union List of Legislative Histories** (7th ed.) by the Law Librarians’ Society of Washington, D.C. (Ref. KF 4.U644) lists legislative histories, both compiled in-house and acquired from published sources, that are held by Washington area libraries.
- You can also try searching the online catalog by the name of the statute.

The next sections deal specifically with federal and Maryland legislative history research. For legislative history of laws of other states it is best to consult a librarian. Our library does not generally carry legislative history materials for states other than Maryland, and it may be necessary in some cases to either contact the state’s legislative library or visit a law or legislative library in that state. It is also possible to find more recent materials on the Web.

**RESEARCHING FEDERAL LEGISLATIVE HISTORY**

**General Information**

While all legislative history materials have only persuasive legal authority, certain types of legislative history documents are considered by the courts to be more persuasive than others. Although documents of each type have been cited in court opinions, and relied upon as evidence of legislative intent, normally the highest persuasive value is assigned to the reports of the congressional committees that considered the proposed legislation and recommended its enactment. Other documents generated prior to enactment include statements made on the floor of Congress in legislative debate, statements or testimony at committee hearings, and earlier or alternative versions of the bill. Statements made and reports written after enactment are usually found to be less persuasive.

On the federal level, therefore, if one has a limited amount of time, reviewing the committee reports contained in U.S.C.C.A.N. can be a reasonable strategy. If a more in-depth search is necessary, CIS and the other sources that will be covered should be consulted to locate other types of documents.
ProQuest Congressional is a subscription database available to the University of Maryland Francis King Carey School of Law community as well as through access at the Thurgood Marshall Law Library.  
http://congressional.proquest.com/congressional/search/basic/basicsearch

It is referenced a number of times in the following pages as a source for many types of Congressional information.


While the issue is not always clear-cut, most commentators agree that Committee Reports, (see Reports section below) are the most persuasive documents in legislative history. An easy way to find committee reports for federal bills that have become law is to use the United States Code Congressional and Administrative News (U.S.C.C.A.N.). In addition to an unofficial version of the federal session laws, U.S.C.C.A.N. contains reprints of selected committee reports and other information. It has been published since 1941; legislative history coverage began in 1948. Access is by public law number. An online version is available on Westlaw. Contents include: text of session law; United States Statutes at Large citation; bill number; names of committees and committee report numbers; and dates of consideration and passage in the House and Senate. Be sure to use the “Legislative History” volumes rather than the “Laws” volumes.

**Congressional Information Service (C.I.S.) Index/Abstracts/Legislative Histories**

Published since 1970, this index contains the most complete summary of federal legislative history information. The main index is by subject, although you can also search by bill number, public law number, or title. The set is supplemented monthly. From 1970 to 1983, two bound volumes were issued for each year - an Index volume and an Abstracts volume. The Abstracts volume contained a section with legislative histories of enacted laws. Since 1984, this information has appeared in a separate annual "Legislative Histories" volume. CIS also publishes a companion set of microfiche containing the text of the documents that are indexed. Our library does not subscribe to the microfiche set; therefore it is necessary to record the report number or Superintendent of Documents number (for hearings) also given in CIS to locate the actual documents. Contents include: bill numbers; references to hearings (including hearings on related bills from prior sessions); references to committee reports; dates of consideration in the Congressional Record; and references to presidential documents.

The complete CIS Index and Abstracts are available on Classic Lexis.

CIS Index and Abstracts are also available online through ProQuest Congressional, which organizes all of the documents associated with the law by type and links to the full text when available.

**Congressional Index**
This looseleaf service is published by the Commerce Clearing House and available in print through 2008 in the Thurgood Marshall Law Library. Republished in two volumes at the beginning of every two-year Congress, it is particularly useful for tracking current bills, for identifying bill numbers from previous sessions that did not pass, and for locating companion bills. Access is by bill number, subject, and sponsor. Contents include a digest of each bill, a status table of actions taken on all bills, whether enacted or not, and references to hearings. The title is also available online by subscription through IntelliConnect.

**Congressional Quarterly Weekly Report/Almanac**

The weekly report contains summaries of major legislation with background discussion and is available online by subscription. The yearly almanac volumes provide a summary of that year’s activities and are available in print from 1968 to the present in the Thurgood Marshall Law Library.

**United States Statutes at Large**

Access is by Statutes at Large citation. Since 1975, a legislative history summary has been included at the end of the text of each public law; from 1963-1974, this information appears in a table called "Guide to Legislative History" at the end of each volume. Contents include: text of session law; bill number; cites to House and Senate Reports; dates of consideration in the Congressional Record; and dates of presidential statements in the Weekly Compilation of Presidential Documents.

**Legislative History Documents**

**Bills**

Frequently, before the final version of a bill is reported to the floor, a committee will consider alternative versions or proposed amendments. Comparisons of enacted language with that found in earlier versions of the bill or in amendments that were not accepted 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. 21, 98th Cong. (1983)  
H.R. 1471, 94th Cong. (1976)

Bill number sequences continue through both sessions of a two-year Congress. Bills that do not pass “die” at the end of a Congress. They can be re-introduced, but will be given a new number. H.R. or S. is the prefix of a bill depending on whether it originates in the House of Representatives or Senate.

**Locating the text of federal bills**
• MICROFORM
Congressional Bills and Resolutions; Library has from the 96th Congress (1980) through the 106th Congress (2000) in Microform Cabinets on level 1; use the black binder on the shelves next to the cabinets to translate a bill number into a microfiche number.

• WEB
U.S. GPO (PDF) FDsys: 1993 – date

• LEXIS: 1989 – date
• WESTLAW: 1995 – date

Hearings

Statements made in testimony before the committee considering the proposed legislation or by committee members have also been accepted by the courts as evidence of legislative intent. 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 not held on all pieces of federal legislation, and even if held may not be published. Those which are published are cited as follows (Note that the Bluebook form does not include the Superintendent of Documents (SuDocs) classification number necessary to locate published hearings in most government documents collections.):


Hearings may be held in Congress prior to introduction of a bill, either during the session in which the bill is introduced or in an earlier session. Each committee decides which of its hearings are to be published. The National Archives has the transcripts of unpublished hearings. Senate hearings generally remain closed for 20 years, and House hearings remain closed for 30 years. Hearings that contain classified or sensitive material generally remain closed for 50 years.

Locating transcripts of testimony before Congressional committees:

• PRINT
Hearings are published by the Government Printing Office in paper form. Our library has hearings in paper from 1971-1980; these are arranged by SuDoc number and are located in the compact shelving on Level 1.

• MICROFORM
Hearings from 1980 to the present are available in microfiche in the Microform Cabinets on Level 1; these are also arranged by SuDoc number.

• WEB
U.S. GPO (PDF) FDsys: 1993 – date
LEXIS & WESTLAW
(official transcripts – contain only the witnesses’ prepared statements, and not the actual transcript of the hearing): mid 1980s – date

ProQuest Congressional
Published Hearings: (PDF): 1824 – date

HeinOnline
Covington & Burling’s collection of Congressional Hearings (1927 – 1994)

Committee Reports

Each bill is assigned to a committee and bills that are reported out of committee are accompanied by a committee report. These reports are published in separate numerical sequence for each Congressional session. If a conference committee is convened to reconcile differences between House and Senate versions, a conference committee report is issued.

Usually the most useful sources of legislative history are these written reports that accompany a bill from committee to consideration on the floor of the House or Senate. Their importance stems from being written for purposes of explaining the proposal and its likely effects by the legislators who looked at the bill most closely.

Normally, there are separate House and Senate reports available for each enacted law, as well as a conference report if the final language was developed by a conference committee. There are separate numbered series of House and Senate reports for each two-year congressional term. Conference reports are numbered within either the House or Senate series. The documents are commonly referred to by a number including that of Congress, e.g., "H. Rep. 97-857." Bluebook citation form is as follows:

S. Rep. 84-2 (1955)

Locating the text of Congressional committee reports

PRINT
Published as separate pamphlets; eventually published in the bound Congressional Serial Set/Reports & Documents; Library has 1967 and subsequent years. United States Code Congressional and Administrative News selectively publishes the text of committee reports for public laws.

LEXIS
(1990 – date)

WESTLAW
Contains the full text of all committee reports from January 1990; from 1948 - 1989 committee reports that were reprinted in USCCAN are included.

ProQuest Congressional:
PDF (1817 – date)
Committee reports from the 104th Congress on are available via:
- U.S. GPO (PDF) FDsys: (1995 – date)
- Library of Congress American Memory Site (1823 – 1873)

Committee Prints

Many committee studies and reports are published under the general classification “committee prints” and often contain statistics and other background information. Although not widely distributed in hard copy, access to the post-1970 prints is through the general CIS indexes.

Like committee reports, these are assigned consecutive numbers in a series for either a House or Senate session.

Locating the text of federal committee prints

- PRINT
  Published as separate pamphlets and organized by Su Docs number; 1971 - 1980 are located near the Serial Set.
- MICROFORM
  Since 1980, prints are available on microfiche on Level 1 in the Micro Cabinets, also arranged by Su Docs number.
- WEB
  U.S. GPO (PDF) FDsys: (1995 – date)
  LEXIS & WESTLAW
  Select committee prints from the mid 1980’s to present
  ProQuest Congressional
  PDF and HTML (1830 – date)

Floor Debates

Floor debate usually occurs after a bill has been reported out of committee and includes comments made about the bill by sponsors and other legislators during consideration or a bill on the floor. The Congressional Record has been the official source for Congressional floor debates since 1873. Members have always had the ability to correct or revise remarks prior to publication. Differing systems (bullet symbols or variations in typeface) have been in use since 1978 to indicate material inserted or substituted after the fact. The Congressional Record has, since the beginning, been published in a separate daily pamphlet edition. Until 1984, bound volumes (with different pagination from the daily version) were published at the end of each Congress. With the lapse in publication of the bound volumes, the daily edition is the only version currently available in print format.

Predecessors to the Congressional Record are the Annals of Congress (1789 - 1824), Register of debates (1824 - 1837), and the Congressional Globe (1833 – 1873). These are
all available in the Library of Congress’ web collection, A Century of Lawmaking, ProQuest Congressional and in HeinOnline.

Locating Congressional floor debates:

- **PRINT**
  Our library has bound volumes of the *Congressional Record* from 1945-1984.

- **MICROFORM**
  The *Congressional Record*, Permanent Edition is available on microfilm from 1873 through 1975 and on microfiche from 1985 through current, with a lag time of about five years. The *Congressional Record*, Daily Edition is available on microfiche from January 1993 through current, with a lag time of several months.

- **WEB**
  - U.S. GPO (PDF) FDsys: (1995 – date)

- **LEXIS**
  Has the complete *Congressional Record* since January 1985;

- **WESTLAW**
  Has the daily edition of the *Congressional Record* since January 1985.

- **HeinOnline**
  Permanent and the Daily Edition (1873 – date).

Presidential Statements

Presidential statements can sometimes be used in legislative history to indicate the President’s opinion about the purpose of a law. The *Weekly Compilation of Presidential Documents* has been published since 1965 and is the most complete source for current speeches, orders, proclamations and other documents. *Public Papers of the President* is an annual volume that cumulates material from the *Weekly Compilation* into bound format. Prior to the Carter presidency, materials were included in the bound volumes only on a selective basis.

Locating statements issued by the President

- **PRINT**
  The *Public Papers of the President* is available in print in our library. The *Weekly Compilation of Presidential Documents* is available on microfiche from 1992 on. Messages relating to proposed or enacted legislation may also be found in the *Congressional Record* or are sometimes printed as Congressional Documents.

- **LEXIS**
  Has U.S./Executive Branch Materials/Presidential Documents contains presidential documents from March 24, 1979 (documents are included about a month after publication.)

- **WESTLAW**
  Has the text of the *Weekly Compilation of Presidential Documents* from January

1, 1995; and documents released by the White House Office of Communications from January 20, 1993 to the present.

- **WEB**
  FDsys has the Weekly Compilation of Presidential Documents from 1993 to the present.

- **HeinOnline**
  Has various Presidential documents, signing statements, vetoes, etc.

**RESEARCHING MARYLAND LEGISLATIVE HISTORY**

**General Information**

Researching the legislative history of a Maryland session law can be a time consuming undertaking that ultimately results in little new insight into the thinking behind a particular legislative enactment. Nonetheless, there is often information of some value to be found and the following is an overview of both the sources to use and some tips on how to use them effectively.

Much of the information that follows is taken from an article by Michael S. Miller and Judith C. Levinson entitled *Ghost Hunting: Searching for Maryland Legislative History*. The full article, which provides much more background and detail about the sources, is available from the library’s homepage under “Research Guides – Specialized – Maryland Law – Maryland Legal Research Guides.” Mr. Miller served as the Director of the Maryland State Law Library from 1977 to 2005.

**Maryland Code superseded volumes**

The library maintains a nearly comprehensive collection of superseded volumes of the Maryland Code. In addition to providing a snapshot of how the code stood at a particular point in the past, these volumes can be a significant part of legislative history research.

Since the early 1970s the edition of the code first published in 1957 has been gradually replaced by a new edition. The first time a volume appears in the new format it includes Revisor’s Notes, which explain in some detail the editorial and substantive changes that were made in recompiling from the format of the 1957 edition. Unfortunately, these Revisor’s Notes are only included in this first publication and not in any subsequent republications of the volume. If a “Replacement Volume” is the current volume, then reference must be made back to the superseded volume that first introduced the named subject article to locate the Revisor’s Notes.

In addition, the new edition of the Maryland Code uses the 1957 edition of the code as a “platform” for session law information. Reference must be made to a superseded volume of the 1957 edition to find earlier session laws that have contributed to the section of the code as it currently stands. There are many instances where these session laws go back to the eighteenth century.
Session Laws

Maryland session laws, as enacted by the legislature and signed by the governor, are published chronologically in the Laws of Maryland. They are arranged by chapter number, which is a sequential number assigned as enacted legislation is signed into law. A new sequence of chapter numbers begins with each session of the legislature. Going to the session law is by far the most efficient way to determine the number of the bill that was enacted. Knowing the bill number is critical to using all additional legislative history sources.

Bills

Bill number sequences span only one year's legislative session. HB (House Bill) or SB (Senate Bill) is the prefix depending on the chamber of origin. The Maryland Constitution requires three readings on the floor for all enacted bills. The First Reading takes place before referral to a committee. The Second Reading occurs at the time of action on the floor. At this reading, the bill is open to amendments. The Third Reading occurs when the vote is taken. Amendments are not allowed at the time of the Third Reading. Pre-filed bills are filed before the session begins and are read on opening day.

Locating the text of Maryland bills

- **PRINT:**
  Each version of a bill is printed first as a separate pamphlet
- **WESTLAW:**
  Contains the full text of all available bills - introduced, amended and enacted versions - for the current legislative session
- **LEXIS**
  Full-Text Bills (full text of bills from the current legislative session)

Hearings

There is no systematic publication of hearings at the state level. Transcripts of testimony are occasionally found in bill files (see below under Maryland Legislative History of Bills). Committees sometimes record testimony.

Committee Reports

Beginning in 1982, section-by-section analyses and floor reports provided by the committees are contained in the bill files (see below under Maryland Legislative History of Bills.)

Committee Prints
While there is no comparable publication to federal committee prints, bill files often contain information such as the fiscal note that must accompany each Maryland bill, study commission reports and miscellaneous notes.

**Floor Action**

*Maryland House and Senate Journals*

Available in the library beginning with the 1927 volumes, access to the journals is by bill number and subject in an index that is published in the last volume of every year. The contents of the journals include the committee to which the bill was referred, subsequent amendments, the vote on amendments, and the final roll call vote. However, the results of searching in these volumes are often less than the researcher might expect, as much of the information provided is purely procedural.

Floor debates are not published at the state level. Since 1992, debates of floor sessions in the Senate of Maryland have been audio taped. The Legislative Services Library in Annapolis provides access to these tapes for interested researchers.

**Bill files**

*Maryland Legislative History of Bills*

First produced on microfilm in 1976, these are the bill files that were maintained by the various standing committees of the General Assembly. No microfilm was produced to cover 1977 and recently the set has been produced with a lag time of more than ten years. More recent bill files are available in the Maryland Legislative Reference Library in Annapolis. Although coverage varies by year and by bill, most bill files contain some of the following materials:

1. bill drafting data such as who requested the bill, who drafted it, the purpose statement, various amending steps;
2. a copy of the bill as first submitted and subsequent readers;
3. the fiscal note that must accompany every bill;
4. witness lists, copies of written testimony submitted at Committee hearings, and, occasionally, notes on oral testimony;
5. each amendment prepared for a bill, whether or not it was submitted to a vote;
6. Committee votes;
7. miscellaneous notes, including any study commission reports;
8. floor votes on the bill, if any;
9. the Attorney General's bill-review letter for every bill reaching the Governor's desk for signing;
10. reference to bill(s) in previous sessions on same topic.

**General Assembly Web Site**

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The site http://mgaleg.maryland.gov/webmga/frm1st.aspx?tab=home includes information about bills introduced in the current legislative session. Access is by subject, bill number, sponsor, committee or statutory section affected. The contents include sponsor, bill synopsis, current legislative history, and text of each bill version.

Governor's Messages and Vetoes

The Governor's messages can provide insight into the administration's proposed legislation. The traditional State-of-the-State message of the Governor appears in the House and Senate Journals. All executive orders and proclamations are reprinted and indexed in the Journal volumes and session laws and some also appear in the Annotated Code of Maryland, the Maryland Register, and COMAR. Executive veto messages generally appear in the Maryland House and Senate Journals (usually at the beginning of the session) and the Laws of Maryland.

Further Information

Serious legislative history research may require a trip to the Legislative Reference Library in Annapolis. Bill files that are too recent to be covered in the microform collection are available there. As noted above, for a more detailed discussion of sources available, see Ghost Hunting: Searching for Maryland Legislative History.