CHAPTER 4
STATUTES AND CONSTITUTIONS

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§ 4-1. Introduction

The preceding chapter focused on case law because of the importance of appellate decisions in the common law system and in American legal edu-
cation. The legislature, however, is the branch of government charged with making laws, and legislative enactments play just as vital a role as decisions in today’s legal system. Most appellate court decisions, in fact, involve the application or interpretation of statutes rather than the consideration of common law principles.

This chapter considers both legislation and constitutions, which establish the form and limitations of government power. Statutes and constitutions are often published together, and research methods are similar. In considering statutes or constitutional provisions, it is important to find not only the relevant text but also cases that interpret this text and define its terms. The most important research sources for both statutes and constitutions are annotated codes, which provide the text of laws in force accompanied by notes of court decisions.

Determining early in the research process whether a problem involves statutory or constitutional provisions can save considerable time, as this significantly affects the direction of your research. Experienced researchers develop a sense of which issues are likely to be governed by statute or constitution, and whether these issues are matters of federal or state law. Substantive criminal law, for example, is generally defined by the enactments of a state legislature, while defendants’ procedural rights are determined by both federal and state constitutional law. As legislatures continue to enact statutes to govern traditional common law areas such as contract and tort, more and more questions involve some statutory research. Secondary sources and cases generally provide references to the relevant provisions, so it should soon become apparent from your introductory research whether statutory research is warranted.

§ 4-2. Publication of Statutes

American statutes are published in three basic versions, in either print or electronic form. The first version of a newly enacted statute is the slip law. Each law is issued by itself on a single sheet or as a pamphlet with separate pagination. Neither federal nor state slip laws are widely distributed in print, but legislative websites and online databases such as Westlaw and Lexis generally provide convenient access to the texts of new laws. (Instead of slip laws, some sites have only enrolled bills, or the final versions of bills as they were passed by the legislature and presented to the executive for approval.)

Next are the session laws. The statutes are arranged by date of passage and published in separate volumes for each legislative term. Official session laws are generally published only in bound volumes after a session has ended, but commercial advance legislative services or advance session law services provide the texts of new laws in pamphlet form on a more timely basis. For most jurisdictions the Bluebook and the ALWD Citation Manual require citation to session law volume and page numbers, but this information is not always available online. Ex-
Hibit 4-1 on page 199 shows the beginning of an Act of Congress in the federal session law publication United States Statutes at Large.

In most jurisdictions, the session laws constitute the positive law form of legislation, and are the authoritative, binding text of the laws. Codes and other forms are only prima facie evidence of statutory language. This means that the session law controls, unless the legislature has enacted the code as positive law.

Although the chronologically arranged session laws contain the official text of legislative enactments, they have limited use as research tools. Researchers usually need the laws currently in force, rather than the laws passed during a specific legislative term. They also need convenient access to amendments and related legislation. For this they turn to the third and most useful form of statutory publication, the statutory compilation or code.

Codes collect current statutes of general and permanent application and arrange them by subject. The statutes are grouped into broad subject topics, usually called titles, and within each title they are divided into chapters and then numbered sections. The parts of a single legislative act may be printed together or may be scattered by subject through several different titles. Exhibit 4-2 on page 200 shows a section from the United States Code, incorporating the amendment in section 102 of the session law shown in Exhibit 4-1.

Some jurisdictions have official code publications containing the text of the statutes in force. If an official edition is published, it is usually the authoritative text and should be cited in briefs and pleadings. Almost every jurisdiction provides free online access to the text of its code, usually through the legislature’s website. All of the sites can be searched by keyword, although only a few permit natural language or proximity searching. Some sites include warnings that the online version is unofficial and that only the printed volumes have the official text.

Most official codes, whether in print or online, are unannotated; that is, they do not include references to judicial decisions which have applied or construed the statutes. Finding relevant cases is such an important part of statutory research that the most useful sources are annotated codes which, though unofficial, include notes of these decisions. Some statutory sections have been construed in thousands of court cases, and are accompanied by dozens or hundreds of pages of notes arranged by subject. Other sections may have no annotations at all, if they are uncontroversial and have not led to litigation or are too new to have been considered in any published court decisions. Exhibits 4-3 and 4-4 on pages 201-02 show a section from the United States Code Annotated, illustrating its display of code text and historical notes (Exhibit 4-3) followed by library references and notes of decisions (Exhibit 4-4).

Westlaw and Lexis have annotated codes for federal law and for all fifty states. These databases are
among the most thorough and up-to-date resources for statutory research, incorporating new legislation within days of enactment and providing a variety of research links from a code section to related cases and secondary sources. Exhibits 4–5 and 4–6 on pages 203–04 show a United States Code section as it appears on Westlaw and Lexis. Because most annotated codes are commercial publications, they are generally not available online at free Internet sites.

Remember, however, that annotated codes are usually not authoritative sources of the text of statutes. Most are unofficial, commercial publications, and the official code is controlling if there is any discrepancy between it and an annotated code. Moreover, the language in the session laws generally controls over the official code in case of discrepancies between those two sources.

Codes, whether annotated or unannotated, must be updated regularly to include the numerous statutory changes that occur every time a legislature meets. Some officially published codes are updated only by the issuance of a new edition every few years, and some government websites are not updated very regularly. Most annotated code publications, on the other hand, are supplemented by annual pocket parts and quarterly pamphlets, and their online counterparts may be even more up to date.

§ 4–3. Statutory Research

Even experienced researchers who do most of their work online find that printed resources are particularly well suited for statutory research. Code volumes make it easy to find related provisions and to place a section in its context. Statutory provisions often have multiple subsections and sub-subsections, and you need to understand how these different subsections relate to each other. You also need to see an entire code chapter or title in order to understand the context and purpose of an individual section. Scanning a few pages in a code volume can be easier than going from document to document in an online database. In addition, the vague and technical wording of statutes means that online keyword searches can often be less productive than using the indexes that accompany annotated codes. Despite these difficulties, online resources are now the most common starting points for statutory research.

a. Online Code Databases

This discussion of research procedures focuses primarily on Westlaw and Lexis, which have the highly useful annotated versions of codes and the same search procedures for statutes from all jurisdictions. Search approaches and features in other online resources for statutes may vary from state to state.

Fields and Segments. The comprehensive nature of statutory databases on Westlaw and Lexis
can make them difficult to search successfully. A full-text search finds words appearing either in the statutes themselves or in the annotations of cases, and may retrieve far too many irrelevant documents. You can focus searches on the statutory language, rather than the notes of decisions, by using fields and segments. The sd (substantive document) field on Westlaw and the unanno segment on Lexis contain the headings, the text, and any official notes, but not the annotations. This is often the most effective way to search for language that is likely to appear in the statute itself. You can also search just the words used to identify a title and the section. Westlaw uses the field prel for title, subtitle and chapter designations, and caption or ca for the section number and description. Lexis has an option for searching only the table of contents and then linking to full text. It also uses the segment heading for titles, subtitles and chapters, and section for individual sections.

Westlaw offers both annotated and unannotated versions of federal and state codes, so another way to search just the statutory text is to use the unannotated database. This approach, however, does not allow ready access to the notes of decisions that can be essential in interpreting the language of the statutes you find.

Establishing Context. Be aware that a code search retrieves only those specific sections that match the particular query. Westlaw and Lexis treat each code section as a separate document.

Because it is essential in statutory research to understand the context of a specific provision, you usually need to examine nearby sections after finding one that is on point. There are several ways to do this.

Both Westlaw and Lexis allow you to browse the sections immediately preceding and following the document on your screen. Westlaw has Previous Section and Next Section links, and Lexis has a feature called Book Browse. A more comprehensive way to grasp the context of a section is to see the table of contents for its chapter. In Westlaw, this is done by clicking on Table of Contents in the left window. In Lexis, you click on the hyperlinked name of the chapter in the TOC heading at the top of the screen. By scanning the list of sections, you may find others (perhaps labeled “Definitions” or “Exclusions”) that have a very direct impact on whether a particular statute is relevant to your research.

In Westlaw, clicking on the hyperlinked chapter number just above a code section opens a window that shows the text of every section in the chapter. This version has no statutory notes or annotations, but it is one of the quickest ways to scan an entire chapter to find relevant provisions.

Other Free and Subscription Databases. Other statutory databases generally offer fewer options and features than do Westlaw or Lexis. Most free websites do not include any case annotations or other research references, and many have fairly
simple options for keyword searching. They may nonetheless offer convenient and current access to the statutory text. No matter what site you use, it is vital to make sure that your source is up to date and to browse nearby sections to make sure that important definitions or cross-references are not missed.

b. KeyCite and Shepard’s

Finding statutes is just the first step of statutory research. Before relying on a statute as authority, you must verify that it is still in force and ascertain how it has been affected by subsequent legislation and by judicial decisions. Annotated codes are indispensable because they provide regularly updated information on a statute’s validity and treatment.

Even the annotated codes, however, lack the most recent legislative changes and references to all citing decisions. It can take weeks or months for amendments to be incorporated into the code database, and even longer for case annotations to be written and assigned to specific code sections. Much more current research leads can be found by using KeyCite or Shepard’s Citations.

KeyCite’s coverage of statutes expands on the cases summarized in code annotations by listing other citing cases and articles as well as recent and pending legislation. The cases in the annotated code are listed first, followed by additional “Citing Cases” listed by jurisdiction in reverse chronological order. This is where the most recent court decisions can be found. (Another way to find very recent cases is to use the Westlaw display’s Last 60 Days link, which appears only if decisions within the past two months have cited the statute.) Exhibit 4-7 on page 205 shows a KeyCite display for a federal statute, with cases in the United States Code Annotated notes under numbered subject headings followed by additional cases that are not mentioned in the code annotations.

Statutes on Westlaw include signals based on KeyCite information. A red flag appears at the top of the display if a code section has been found invalid or unconstitutional, or if it has been amended by recent legislation not yet incorporated into the text. A yellow flag shows that a section’s validity has been called into doubt, or that pending legislation would amend a section if enacted. The section in Exhibit 4-5 has a yellow flag, indicating that legislation to amend the section has been proposed. You can limit a KeyCite display in various ways, including document type, jurisdiction, and specific Locate terms.

The Lexis display of code sections does not include flags indicating unconstitutionality or recent amendments, but clicking on the “Shepardize” link provides this information. Shepard’s indicates significant judicial and legislative actions affecting a cited statute. Clicking in the Shepard’s display on the “All Neg” link will limit a listing to documents such as cases that have found a statute unconstitutional. Clicking on “FOCUS–Restrict By” allows
you to pick and choose particular treatments, specific jurisdictions, or certain types of citing documents. Exhibit 4-8 on page 206 shows the beginning of a Shepard's result for a federal statute.

One useful feature available in Shepard's is the option to restrict a listing to cases and other documents that cite a specific subsection of a statute. You do this by clicking on the "Index—Shepard's reports by court citation" link, leading to a listing of the exact forms in which courts have cited statutory provisions. This way, you can home in immediately on the two cases citing section 704(b)(2) without having to sort through 93 other cases citing the section as a whole or other subsections. Many code sections have numerous subsections and sub-subsections, and this can be an invaluable time-saver.

KeyCite and Shepard's also have references to any citing law review articles, encyclopedias, and other texts available through Westlaw or Lexis. In some instances these resources are also listed in the annotated code, but for many jurisdictions KeyCite and Shepard's have more extensive leads than the code.

Shepard's, but not KeyCite, is available in print as well as online. One advantage of the printed sets of Shepard's Citations is that they include citations to session laws and to older codifications as well as current code provisions. The current code is the only statutory source that can be checked online in either KeyCite or Shepard's.

Another Shepard's publication, Shepard's Acts and Cases by Popular Names: Federal and State, lists statutes by title and provides references to code citations. This is most useful when the name of an act is known but not its state, or when similar acts from several states are sought.

c. Indexes and Tables

Even if you normally do all of your other work online, you might find it easier to begin statutory research with a printed code. Many statutes are written in a technical language designed to eliminate ambiguities in interpretation, and the terms used may not be the ones that would occur to you in creating an online search. A subject index provides a more standard and straightforward vocabulary, and can lead more quickly to relevant provisions.

Indexes. Code indexes are complex documents, occupying as many as six volumes and filled with cross-references and long lists of subheadings. If you look under "Birds," for example, you may find nothing but an entry such as "See Migratory birds" or "Migratory birds, this index." Indexes can be unwieldy and confusing, but they remain essential resources in statutory research. Statutes are often easier to find through indexes than through full-text keyword searches, which often yield too many irrelevant results. Exhibit 4-9 on page 207 shows a page from the index to the United States Code, with a reference to the code section shown in the earlier exhibits.
Westlaw has online versions of the indexes that accompany West's printed codes. A search in the index may give a more complete picture of the law than a keyword search in the text and may reveal related sections that would otherwise be missed. The indexes can be accessed from the database directory or from links at the top of code search screens.

**Popular Name Tables.** At times you may have a reference to a particular law by its name, without a citation, and need to find the text of the statute. How do you find the Migratory Bird Treaty Reform Act of 1998? You could look in a subject index under “Migratory birds,” but it may be quicker to use a *popular name table,* which lists acts by name and provides references to citations in the session laws and code. Exhibit 4–10 on page 208 shows an example of a popular name table in the *United States Code* listing the Migratory Bird Treaty Reform Act of 1998 shown in Exhibit 4–1.

Popular name tables cover the names by which acts are designated by Congress and state legislatures, but they don’t always include the terms by which laws are commonly known. “Title VII” is familiar shorthand for a civil rights law, but the term doesn’t appear in the table. In order to find a citation for such a reference, the first step is to find more of the name (in this case, Title VII is part of the Civil Rights Act of 1964). It may be simplest to do an online search for the phrase in order to identify the act and ideally its code citation.

**Parallel Reference Tables and Parenthetical Notes.** At times you may have a citation to a statute, but not the one that immediately directs you to its place in a code. Some references are to session laws, while others are to outdated codifications. In either instance you will need to determine whether a law is currently in force and, if so, where it is codified. For this, most codes include *parallel reference tables* providing cross-references to the current code sections. In most instances, these tables also indicate which sections of session laws have been repealed or were of a temporary nature. Exhibit 4–11 on page 209 shows an excerpt from a parallel reference table mapping the federal session laws to where each section is found in the *United States Code.*

Just as parallel reference tables provide access to current code provisions from session laws or older code citations, the parenthetical notes that follow the text of a code section allow you to reconstruct the language of a statute at any given point in the past. The terms of a repealed statute may still be of value in interpreting related provisions still in force, and older laws are needed to determine the law in effect and the meaning of terms when instruments such as wills or deeds were drafted. The parenthetical notes provide leads to earlier codifications and to all session laws that have amended the section. These references are also the keys to finding legislative history information for a particular enactment.

Some codes make it easier to reconstruct past versions of a statute by indicating the exact changes
made. Others merely present a list of citations, making it necessary to check the session laws to determine the changes. Some codes indicate only recent changes or (particularly in the case of many free Internet sites) have no notes at all.

Westlaw and Lexis have statutes from most jurisdictions going back to the late 1980s or early 1990s, and reconstructing the law as of a date during that period may simply require a search in the appropriate archived database. For some jurisdictions, including federal law back to 1996, Westlaw’s Past-Stat Locator feature lets you view an older version in force on a specific date of your choice.

§ 4–4. **Sources for Federal Statutes**

The United States Congress meets in two-year terms, consisting of two annual sessions, and enacts several hundred statutes each term. These statutes range from simple designations of commemorative days to complex environmental or tax legislation spanning hundreds of pages. Each act is designated as either a public law or a private law, and assigned a number indicating the order in which it was passed. Pub. L. 111–1, for example, was the first public law passed during the 111th Congress (2009–10). Private laws, passed to meet special needs of an individual or small group, are little used in the modern era and do not become part of the statutory code.

a. **Slip Laws and Session Laws**

The first official text of a new federal law is the slip law, an individually paginated pamphlet. The Government Printing Office’s Federal Digital System (FDsys) <www.gpo.gov/fdsys/> has PDF files of slip laws beginning with the 104th Congress in 1995. For current legislation this is one of the quickest and most effective sources, with new laws appearing online within a few days or weeks of enactment. If the public law is not yet available, you can check the legislative site THOMAS <thomas.loc.gov> for the enrolled bill that was passed by both houses and sent to the President.

In print, the first appearance of federal statutes after the slip laws is in the monthly pamphlets of two advance session law services, West’s United States Code Congressional and Administrative News (USCCAN) and LexisNexis’s Advance pamphlets to the United States Code Service (USCS). After the end of each session of Congress, the slip laws are cumulated, corrected, and issued in bound volumes as the official United States Statutes at Large for the session. These are cited by volume and page number. The Migratory Bird Treaty Reform Act of 1998, Pub. L. 105–312, 112 Stat. 2956 (1998), shown in Exhibit 4–1 on page 199, begins on page 2956 of volume 112 of the Statutes at Large. There is a delay of about two years before Statutes at Large volumes are published, but the slip laws on the Government Printing Office (GPO) website include the Statutes at Large pagination within weeks of enactment.
Public laws are also available online, with Statutes at Large citations, from Westlaw and Lexis. Searchable files extend on Westlaw back to 1973, and Lexis back to 1988. Both systems also have retrospective coverage of the Statutes at Large back to 1789, but earlier acts are available as image-based PDFs and only citations, dates, and summary information are searchable.

The subscription site HeinOnline <www.heinonline.org> has complete retrospective coverage of the Statutes at Large in PDF, with the text of all acts back to 1789 searchable by keyword or title. The Library of Congress provides free access to the first eighteen volumes of the Statutes at Large, through 1875, as part of its “A Century of Lawmaking for a New Nation: U.S. Congressional Documents and Debates, 1774–1875” collection <memory.loc.gov/ammem/amlaw/lws1.html>. Only the index is searchable, but acts can be retrieved by citation.

The easiest way to find court decisions citing acts in the Statutes at Large is to do a full-text search for the citation in a case law database. Neither KeyCite nor Shepard’s online covers citations to session laws, but two other resources are available in print. The United States Code Service includes case summaries by Statutes at Large citation in one of its “Annotations to Uncodified Laws and Treaties” volumes, and more citing references can be found using Shepard’s Citations in print. Shepard’s Federal Statute Citations covers citations in federal court decisions to acts in the Statutes at Large, with references in state court decisions and journal articles available in Shepard’s individual state citators and in Shepard’s Federal Law Citations in Selected Law Reviews. References to Statutes at Large citations are one of the few features in print Shepard’s that are not available online.

Although the Statutes at Large is not the most convenient source for federal legislation, its role in legal research is vital. In most instances it is the official statement of the law, and it is a necessary source for determining the specific language Congress enacted at any given time. This is a key step in legislative history research, as will be discussed in the next chapter.

b. The United States Code

The first official subject compilations of federal legislation were the Revised Statutes of the United States of 1873, and its second edition of 1878. Congress enacted the first edition of the Revised Statutes as positive law in its entirety, expressly repealing the original Statutes at Large versions of its contents. It is therefore the authoritative text for most laws enacted before 1873, and is still needed occasionally in modern research. The Revised Statutes is online in PDF form from several sources, including the Library of Congress, as part of their coverage of the Statutes at Large.

Although the Revised Statutes rapidly became outdated, no other official compilation was prepared
for almost fifty years. Finally, in 1926, the first edition of the *United States Code* was published, arranging the laws by subject into fifty titles. The *U.S. Code* is published in a completely revised edition of about thirty-five volumes every six years, with an annual supplement of one or more bound volumes. These supplements are cumulative, so you only need to consult the main set and its latest supplement.

The *U.S. Code* is arranged in fifty subject titles, generally in alphabetical order. Titles are divided into chapters and then into sections, with a continuous sequence of section numbers for each title. Citations to the *Code* indicate the title, section number, and year. 16 U.S.C. § 704 (2006), for example, is part of title 16 (Conservation), chapter 7 (Protection of Migratory Game and Insectivorous Birds). The chapter number does not appear in the citation.

You should keep in mind that that not every federal law is published as a section of the *United States Code*. Some laws appear only in the *Statutes at Large*, and others are published as notes following sections of the code. The validity of a statute is unaffected by whether it is published as a code section or a note, or is omitted entirely from the *U.S. Code*.

The *U.S. Code* is available free online from several sources. The most important of these sites are the House of Representatives Office of the Law Revision Counsel (<uscode.house.gov>) and the Legal Information Institute (LII) (<www.law.cornell.edu/uscode/>).

The Office of Law Revision Counsel site has search boxes for convenient access by title and section number, and allows several search options including keywords using proximity connectors and truncation. The site also provides access to PDF files for entire code titles, incorporating the material in the supplements to the printed edition of the code. This makes them more convenient than the printed supplements, but because they do not mirror the published source they cannot be used for citation purposes.

The sections displayed on the Office of Law Revision Counsel site are only as current as the latest printed *U.S. Code* version, and updating a section to determine if it has been amended is a bit laborious. If you run a search by title and section number, you will see an "UPDATE" link if a code section has been amended since the most recent published edition or supplement. The update lists the sections of any public laws that have amended the code section, and you then need to retrieve the public law using a site such as FDsys or THOMAS. The absence of an "UPDATE" link, however, is an easy way to verify that there have been no recent amendments.

LII's version of the *U.S. Code* is much more user-friendly. Like the official site, it has a fill-in-the-blank form for citation searches and allows simple keyword searches with phrases and basic connectors *(and, or, or not)*, in either the entire code or individ-
eral titles. “Update(s)” notes are included as part of the display of a code section, and include links to any new public laws amending the section. A note that there is no update confirms that a section has not been amended recently. Exhibit 4–12 on page 210 shows 16 U.S.C. § 704 as it appears on the LII site, including the “Notes” link and a “No Pending Update(s)” notation.

Another online source for the U.S. Code is the subscription site HeinOnline, which reproduces every printed edition from 1926 through the most recent supplement in searchable PDF. The older editions can be useful for tracking the history of a provision, and may be needed for a citation to a statute that is no longer in force.

For most federal legislation, the Statutes at Large is authoritative and the U.S. Code is prima facie evidence of the law. A number of U.S. Code titles, however, have been reenacted as positive law, and for them the code is the authoritative text. A list of all code titles, indicating which titles have been reenacted, appears in the front of each U.S. Code volume and is reproduced as Exhibit 4–13 on page 211.

In addition to the text of statutes, the U.S. Code also includes historical notes, cross references, and other research aids. Parenthetical references indicate the Statutes at Large or Revised Statutes sources of each section, including any amendments. These references lead to the version that is usually

the authoritative text, and from there to legislative history documents relating to the law’s enactment.

The U.S. Code in print features a number of research aids, including an extensive general index and several tables. An “Acts Cited by Popular Name” table lists laws alphabetically under either short titles assigned by Congress or popular names by which they have become known, and parallel reference tables provide links from earlier revisions and from the Statutes at Large to U.S. Code sections. The index and tables are updated in each annual supplement.

c. Annotated Codes

The United States Code is the preferred source for citing federal laws, but two major shortcomings limit its value in research: (1) it is not updated on a very timely basis, and (2) it has no information about court decisions applying or interpreting code sections. These decisions are so important that most researchers rely on one of two commercially published, annotated editions of the code, United States Code Annotated (USCA), published by West and available on Westlaw, or United States Code Service (USCS), published by LexisNexis and available on Lexis. Beyond the text of the law and notes of court decisions, these commercial editions also provide references to legislative history, administrative regulations, and various secondary sources.

Unlike the official U.S. Code, which is published in a new edition every six years, USCA and USCS
consist of volumes of varying ages, all updated with annual pocket parts or pamphlet supplements. Replacement volumes are published when supplements get too unwieldy. In the case of the portion of Title 16 covering migratory birds, the USCA volume was published in 2000 and the USCS volume in 1994. For other provisions, the USCS volume may well be the more current of the two.

Thorough research involving a particular statute may require checking both USCA and USCS. Each provides selective annotations of court decisions, and specific cases may be included in one but not the other. USCA’s annotations are generally more extensive, but some court decisions appear only in USCS—which is also the only source for references to administrative decisions.

Bear in mind that notes of decisions do not follow every code section. Many sections of the U.S. Code have not been the subject of judicial interpretation. Some are uncontroversial and have not led to litigation, while others may be too new for any reported cases. If there are no annotations, you will need to interpret a section without the assistance of court decisions directly on point.

As noted, both annotated editions of the code are available online (USCA on Westlaw and USCS on Lexis). The online code databases are updated to include laws from the current session of Congress; notes above the heading on Lexis and at the bottom of the Westlaw display indicate the latest public law included in code coverage. If a section has been amended by a public law too recent to be incorporated, both services provide notices to check for more current legislative action.

Specialized online and looseleaf services are another source for current, annotated statutes in some subject fields. Most services include federal statutes affecting their fields, accompanied by abstracts of judicial and administrative decisions, relevant administrative regulations, and explanatory text. Major tax services such as the Standard Federal Tax Reporter (CCH) and United States Tax Reporter (RIA) are basically heavily annotated editions of 26 U.S.C., also known as the Internal Revenue Code.

§ 4-5. Sources for State Statutes

State statutes appear in many of the same forms as their federal counterparts, with slip laws, session laws, codes, and annotated codes. Current session laws and codes are available from government websites, and annotated codes are published both electronically and in print.

a. Slip Laws and Session Laws

State slip laws are rarely distributed widely in paper, but every state legislature provides Internet access to recently enacted laws. Two easy ways to find legislative websites are to search for “[state] legislature” or to check a site with multistate links such as the National Conference of State Legislatures <www.ncsl.org?tabid=17173>.
Every state has a session law publication similar to the U.S. Statutes at Large, containing the laws enacted at each sitting of its legislature. The names of these publications vary (e.g., Acts of Alabama, Statutes of California, Laws of Delaware). In most states the session laws are the authoritative positive law text of the statutes, and you may need them to examine legislative changes or to reconstruct the language in force at a particular date.

Westlaw and Lexis have the texts of new legislation from every state, with retrospective files going back to at least 1991. These are known on Westlaw as “Legislative Services” and on Lexis as “Advance Legislative Services” or ALS. The major difference between the two systems is that Westlaw separates each state’s current legislative session from “historical” session laws back to the late 1980s or early 1990s, while Lexis has one database for each state combining older and newer sessions.

In print, commercially published session law services for most states contain laws from a current legislative session, very much as USCCAN and USCS Advance do for congressional enactments.

HeinOnline has a Session Laws Library that is in the process of providing retrospective coverage of state session laws in PDF. For most states it currently has volumes from 1990 or 1995 to date, with older sessions available for several of the larger jurisdictions. Most larger law libraries also have older state session laws in microform.

b. Codes

All states have subject compilations of their statutes similar to the U.S. Code. Some states publish unannotated official codes, regularly revised on an annual or biennial basis. In the states with regularly published official codes, this is usually the authoritative text which should be cited according to The Bluebook and ALWD Citation Manual.

Every state makes its code available through its state website, although these free online codes vary widely in their currency, official status, and features. Only a handful of state codes available free of charge include annotations of court decisions, and some online codes bear prominent disclaimers that they are unofficial versions for convenience only. All of the codes, however, can be searched by keyword and browsed through tables of contents. Several convenient compilations of links are available, including lists of state legal materials at the Legal Information Institute (<www.law.cornell.edu/states/listing.html>) and FindLaw (<www.findlaw.com/11stategov/>).

Most researchers rely on annotated codes containing summaries of relevant court decisions and other references, published in most instances by either West or LexisNexis. Several states have competing codes from both publishers. The authority of annotated codes varies from state to state, but they are usually accepted as at least prima facie evidence of the statutory law.
Westlaw and Lexis have annotated codes from all fifty states, as well as the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. Westlaw users can choose between annotated and unannotated versions, and in several states between competing editions of the annotated code. Both systems add notices to statutes that have been amended by slip laws not yet incorporated into the code database. The Westlaw display has a red flag linking to legislative action, and Lexis has a "Legislative Alert" with links to new acts.

The outline and arrangement of code material vary from state to state. While most codes are divided into titles and sections, in a format similar to the U.S. Code, several states have individual codes designated by name rather than title number (e.g., commercial code, penal code, tax code). Exhibit 4–14 on page 212 shows Indiana statutes as published in Burns Indiana Statutes Annotated. Note that it provides not only the text of the code sections, but historical notes indicating when they were enacted, annotations about one section's constitutionality and construction, and a reference to an ALR annotation.

State codes usually have references to the original session laws in parenthetical notes following each section, as shown in Exhibit 4–14, but only some include notes indicating the changes made by each amendment. Most also include tables with cross references from session law citations and earlier codifications to the current code.

The Bluebook and ALWD Citation Manual have listings by state of the names and citations of current official and commercially published codes. State legal research guides (listed in Appendix A on pages 438–53) provide information about earlier codes and statutory revisions for individual states.

c. Multistate Research Sources

Most state statutory research situations require finding the law in one particular state, for which that state's code is the primary research tool. Sometimes, however, you may want to compare statutory provisions among states or survey legislation throughout the country. Multistate surveys of state laws can be frustrating and time-consuming, since different state codes do not necessarily use the same terminology for similar issues.

Several resources can help to make multistate statutory research a bit easier. Both Westlaw and Lexis have combined databases containing the codes of all fifty states. These databases can save considerable time, although you should remember that any single search may not retrieve all relevant laws. You may also need to search individual codes or check the printed state code indexes.

The Internet provides convenient multistate access to code provisions in some subject areas. One of the most comprehensive sites is the Legal Information Institute's topical index to state statutes.
with the search section (environmental regulation). Links to cases and statutes cited in the digest entry are provided. The Law Digests are also available free online in PDF from Martindale.com <www.martindale.com>, in its “Search Legal Topics” section.

The National Survey of State Laws is arranged by topic rather than by state, with tables summarizing state laws in forty-six areas and providing citations to codes. Its “Gun Control” section, for example, includes information on illegal arms, waiting periods, ownership restrictions, and laws prohibiting firearms on or near school grounds. The National Survey focuses more on social and political issues than does Martindale-Hubbell, with sections on topics such as capital punishment, prayer in public schools, right to die, and stalking.

The National Survey of State Laws is part of Westlaw’s 50 State Surveys database, which also includes several hundred surveys prepared by West editors consisting of an introductory summary followed by links to states code provisions. A topical listing of Westlaw’s surveys is available by clicking on the 50 State Surveys link at the top of any state statute search screen. Lexis has similar sets of fifty-state surveys providing spreadsheet listings or descriptions of state code sections on hundreds of topics.

Numerous other online and print resources reprint or summarize state laws on specific topics. A valuable series of bibliographies called Subject Com-
pilations of State Laws (1981-date) describes these collections and lists of state statutes. This set does not itself summarize or cite the statutes, but it provides annotated descriptions of sources that do so. These include books, compendia, websites, and law review articles, which often have footnotes with extensive listings of state code citations. Exhibit 4–16 on page 214 shows a page from this publication, with entries under the heading “Animals” for a website, an interest group publication, and two law review articles. Subject Compilations of State Laws is available by subscription through HeinOnline, cumulative and with links to law review articles in HeinOnline’s database as well as to publicly available Internet sites.

d. Uniform Laws

Most multistate research requires finding a wide variety of legislative approaches to a particular topic. In a growing number of areas, however, states have adopted virtually identical acts. This can dramatically reduce the confusion caused by the application of conflicting state statutes. The National Conference of Commissioners on Uniform State Laws (NCCUSL), created in 1892 to prepare legislation which would decrease unnecessary conflicts, has drafted more than two hundred laws. Most of these are in force in at least one state, and some (such as the Uniform Commercial Code or Uniform Child Custody Jurisdiction Act) have been enacted in virtually every jurisdiction.

Uniform Laws Annotated, a multivolume set published by West and available online from Westlaw, contains every uniform law approved by the NCCUSL, lists of adopting states, Commissioners’ notes, and annotations to court decisions from adopting jurisdictions. These annotations allow researchers in one state to study the case law developed in other states with the same uniform law. A decision from another state is not binding authority, but its interpretation of similar language may be persuasive. The set is supplemented annually by pocket parts and by the pamphlet Directory of Uniform Acts and Codes; Tables–Index, which lists the acts alphabetically and includes a table of jurisdictions indicating the acts adopted in each state. Lexis has several dozen uniform laws, unannotated, in the Model Acts and Uniform Laws section of its Secondary Legal folder.

The text of a uniform law can also be found, of course, in the statutory code of each adopting state, accompanied by annotations from that state’s courts. The state code contains the law as actually adopted and in force, which may not be identical to the text as proposed by the Commissioners. The NCCUSL version is merely a proposal, but the state code version is the law.

Uniform acts, and drafts of current projects, are available online from the NCCUSL Archives at the University of Pennsylvania Law Library <www.law.upenn.edu/bl/ule/tic.htm>. The Legal Information Institute has “Uniform Law Locators” <www.law.
Model acts are drafted for fields where individual states are expected to modify a proposed law to meet their needs, rather than adopt it in toto. The American Law Institute has produced the Model Penal Code and other model acts; the American Bar Association has promulgated and revised the Model Business Corporation Act. Research resources for these acts include Model Penal Code and Commentaries (1980–85), and Model Business Corporation Act Annotated (4th ed. 2008–date).

e. Interstate Compacts

An interstate compact is an agreement between two or more states, which under the Constitution requires approval by Congress. Compacts generally appear in the U.S. Statutes at Large and in the session laws and codes for the states that are parties. The National Center for Interstate Compacts <www.csg.org/programs/policyprograms/NCIC/> has a variety of useful resources on the subject, including background information and a searchable database of more than 1,500 compacts in state codes.

§ 4–6. The U.S. Constitution

The United States Constitution is the basic law of the country, defining political relationships, enumerating the rights and liberties of citizens, and creating the framework of national government. Unlike statutes, which are often written in extreme detail and specificity, the Constitution contains concise statements of broad principles. It entered into force in March 1789, and in more than two centuries it has been amended only twenty-seven times. Among the most important of these amendments are the Bill of Rights, guaranteeing personal liberties, and the Fourteenth Amendment, applying these protections to the states.

Although its text has changed little, courts have applied the Constitution to numerous situations which its drafters could not have foreseen. In interpreting constitutional provisions, it is particularly important to examine relevant Supreme Court decisions and those of the lower federal courts. Judicial interpretations of constitutional principles can be just as significant as the express language of the Constitution.

The text of the Constitution appears in numerous publications ranging from simple pamphlets to standard reference works such as Black’s Law Dictionary, and it is available at dozens of Internet sites. The Constitution Society has an annotated listing of several online sources <www.constitution.org/cs_found.htm>.

The Constitution is also printed at the beginning of the United States Code, the official publication of federal statutes. As with statutes, however, the two annotated publications, United States Code Annotated (USCA) and United States Code Service (USCS),
are far more useful in legal research. (USCA and USCS are the versions of the Constitution available through Westlaw and Lexis, respectively.) These publications have much more than just the text of the Constitution. Each clause is accompanied by notes of decisions, arranged by subject and thoroughly indexed. Some major provisions have thousands of notes in several hundred subject divisions. The Constitution is so heavily annotated that it occupies twenty-eight volumes in USCA and ten volumes in USCS. These exhaustive annotations make USCA and USCS essential resources in determining how the Constitution’s broad principles have been applied to specific circumstances.

Of the many commentaries on the Constitution, one of the most extensive and widely available is The Constitution of the United States of America: Analysis and Interpretation (Johnny H. Killian et al. eds., 2002 ed.). Prepared by the Congressional Research Service of the Library of Congress, this work is published as a Senate Document every ten years and is available free on the Internet from the GPO <www.gpoaccess.gov/constitution/>. It is a useful starting point for constitutional research, with a thorough analysis of Supreme Court decisions applying each provision of the Constitution. The most recent edition was published in 2004, covering cases through June 2002, and is updated by a biennial pocket part. Exhibit 4–17 on page 215 shows the beginning of this work’s discussion of the Second Amendment, with footnotes citing several scholarly monographs, law review articles, and Supreme Court decisions.

Other helpful background sources include Encyclopedia of the American Constitution (Leonard W. Levy & Kenneth L. Karst eds., 2d ed. 2000) and Encyclopedia of the Supreme Court of the United States (David S. Tanenhaus ed., 2008), both of which include articles on constitutional doctrines as well as on specific court decisions, people, and historical periods. Shorter works providing similar treatment of constitutional issues include The Oxford Companion to the Supreme Court of the United States (Kermit Hall ed., 2d ed. 2005), and Jethro K. Lieberman, A Practical Companion to the Constitution (1999).

For further historical research, you can turn to the documents prepared by those who drafted, adopted, and ratified the Constitution. There was no official record of the debates in the constitutional convention, but Max Farrand’s The Records of the Federal Convention of 1787 (1911–87) is considered the most authoritative source. The traditional source for the state ratification debates is Jonathan Elliot, The Debates in the Several State Conventions on the Adoption of the Federal Constitution (2d ed., 1836–45). The Library of Congress website provides full-text access to both Farrand’s Records and Elliot’s Debates <memory.loc.gov/ammem/amlaw/>. A much more comprehensive modern treatment, The Documentary History of the Ratification of the Constitution (Merrill Jensen et al. eds., 20 vols. to date,

§ 4-7. State Constitutions

Each state is governed by its own constitution, which establishes the structure of government and guarantees fundamental rights. While state constitutions are roughly comparable to their federal counterpart, they tend to be much more detailed and generally are amended far more frequently. Some states have adopted new constitutions several times.

State constitutions can be important sources in cases involving individual rights. While a state cannot deprive citizens of federal constitutional rights, its constitution can guarantee rights beyond those provided under the U.S. Constitution. Just as the U.S. Supreme Court is the arbiter of the scope of protections offered by the federal constitution, the state court of last resort determines the scope of its constitution.

The best source for a state constitution is usually the annotated state code, which provides both the latest text and notes of court decisions interpreting and construing constitutional provisions. Pamphlet texts are also published in many states, and constitutions are available online from state government sites.


Robert L. Maddex, *State Constitutions of the United States* (2d ed. 2006) may be a useful source for surveying constitutional provisions in several states. It has a brief summary of each state’s constitutional history and its current constitution, as well as tables comparing provisions in each state. The Council of State Governments’ annual *Book of the States* also has tables on topics such as the length of each constitution, dates of adoption, and amendment procedures.

For research into a particular state’s constitution, one of the best starting places may be *Reference
Guides to the State Constitutions of the United States. This series of monographs began with Robert F. Williams, *The New Jersey State Constitution: A Reference Guide* (1990), and now covers more than forty states. Each volume includes a summary of the state’s constitutional history, a detailed section-by-section analysis of the constitution with background information and discussion of judicial interpretations, and a brief bibliographical essay providing references for further research.

Journals and proceedings of state constitutional conventions can provide insight into framers’ intent, although the lack of indexing in many older volumes can make for difficult research. These documents are available on microfiche in *State Constitutional Conventions, Commissions, and Amendments*, covering all fifty states from 1776 through 1988, and are listed in a series of bibliographies beginning with Cynthia E. Browne’s *State Constitutional Conventions from Independence to the Completion of the Present Union, 1776–1959: A Bibliography* (1973). You can find information on resources for territorial and initial state constitutions in *Prestatehood Legal Materials: A Fifty-State Research Guide* (Michael Chiorazzi & Marguerite Most eds., 2005).