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Legislative History and Bill Tracking

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Washington Legal Researcher's Deskbook, 2d

by
Penny A. Hazelton
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Nancy McMurrer
Cheryl Rae Nyberg
Mary Whisner

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INTRODUCTION

The *Washington Legal Researcher's Deskbook* has been written to assist lawyers, librarians, legal assistants, legal secretaries, and members of the public in the complex task of researching legal problems. This book focuses on the law of the state of Washington and the legal materials that are available to the Washington practitioner. The reader will not find answers to legal questions but rather will find a rich array of information that can help in the process of researching the law.

The importance of legal research certainly cannot be overstated. Most lawyers want to give good advice to their clients. If the client's problem is new to the practitioner, chances are good that a review of the legal issues and authority will be necessary. This may plunge the researcher into unfamiliar areas of law.

If it were not enough to want to give good advice, the Washington Rules of Professional Conduct (RPC) 1.1 require that a practitioner "shall provide competent representation to a client." This rule requires familiarity with the relevant law through previous knowledge or through conducting adequate research. No Washington State Bar Association Ethics Opinions interpret this rule regarding the standards for performing competent legal research.

A 1975 California Supreme Court case, *Smith v. Lewis*, 10 Cal.3d 349, 530 P.2d 589 (1975), articulates a standard of care for legal research. The standard requires (1) sufficient research (2) using standard research techniques (3) to obtain readily available authority. The Court found that the defendant lawyer failed to meet this standard of care. Cases in other jurisdictions have reached a similar result. Washington has apparently adopted this standard in *Halvorsen v. Ferguson*, 46 Wash. App. 708, 718, 735 P.2d 675, 681 (1986).

A study commissioned by the ABA Section of Legal Education and Admissions to the Bar recently listed legal research among ten skills necessary for the practice of law. The Task Force identified three specific skills needed for thorough and efficient research:

3.1 Knowledge of the Nature of Legal Rules and Institutions;
3.2 Knowledge of and Ability to Use the Most Fundamental Tools of Legal Research;
3.3 Understanding of the Process of Devising and Implementing a Coherent and Effective Research Design.

The legal researcher of the 1990s cannot rest on the knowledge of legal research tools acquired while in law school or even as recently as two years ago. The computerization of legal information has completely changed the world of legal research and the practice of law. Some recent commentators have even suggested that computerized research is required in order for practitioners to avoid malpractice. See David M. Sandhaus, *Computers Are Required for the Practitioner to Avoid Malpractice*, 47 Washington State Bar News 51-52 (no. 11, Nov. 1993); Robert C. Berring, *Technology and the Standard of Care for Legal Research*, 3 Legal Malpractice Report 21-22 (no. 4, 1992).

The purpose of this *Deskbook* is to provide a broad spectrum of information that would be helpful to the person who must research Washington State law. In the first chapter, I describe how to use a law library. From using law libraries in person to using law libraries without leaving the comfort of your home or office, the tips provided in this chapter will be useful to all legal researchers.

In the second chapter, I outline a strategy to help a legal researcher design a research process or framework. Practical tips for efficient use of legal tools are discussed. A reprint of an article that discusses the relative merits of computer and manual legal research tools has been included to help researchers sort through the maze of legal information products. If taking good notes is your downfall, be sure to read the note-taking article found near the end of this chapter. This piece is full of practical hints that can help any researcher create a fine research product.

Chapter three was written by Mary Whisner and is an excellent review of the most basic and important legal research tools used for researching Washington law. Ms. Whisner reviews secondary sources, statutes, city and county codes, administrative regulations, case law, case-finding tools, Attorney General Opinions, citator services, and basic citation information. She includes information about electronic versions of these information tools as well as the printed texts. Every legal researcher should be familiar with the contents of this chapter. This is one of the chapters that should be read completely by any researcher who must use Washington legal information resources.

Washington State agencies promulgate a variety of administrative decisions or actions. These are ably discussed in the next chapter by Cheryl Nyberg. Pay particular attention to the description of the Administrative Procedure Act and its requirements. Ms. Nyberg discusses each state agency that issues administrative determinations and even provides a summary chart of the various sources of agency quasi-judicial actions in order to speed your research.

Never done a Washington legislative history? Follow the clear step-by-step directions written by Peggy Roebuck Jarrett in Chapter five on legislative history and bill tracking. Clearly our author has had some experience with this awesome task!
Ms. Jarrett shows the novice exactly how to follow the legislature's process and includes important tips for accomplishing this research chore efficiently and competently.

Using one or more of the many excellent handbooks and deskbooks available on Washington law can help the legal researcher quickly and efficiently define the problem and locate the primary sources to answer the question. In Chapter 6, Nancy McMurrer provides annotated descriptions both of broad, multi-topic sources and other, more specific titles listed by subject. Organized into sections on encyclopedic sources; deskbooks and treatises; continuing legal education materials; litigation aids (benchbooks, pattern forms, jury verdicts and judicial biographies); ethics opinions; directories; and current awareness services, this chapter is crucial for the researcher who is not intimately familiar with the wealth of secondary literature available in Washington.

This edition of the Deskbook contains a new chapter on nonlegal research written by Mary Whisner and Peggy Roebuck Jarrett. In a clear and direct style, the authors cover sources that will help you find information about people and organizations, find factual information, and improve your writing skills.

Peggy Roebuck Jarrett, Nancy McMurrer, and Mary Whisner have written the chapter on computer-assisted legal research (CALR). Although the Deskbook is replete with references to and discussions of electronic research tools, this section discusses CALR generally. Highlighting the electronic tools and information available to the Washington legal researcher, this chapter includes excellent sections on different types of access to computer-assisted legal research: online services, CD ROM products, bulletin board systems and the Internet. Comparative tables of the most important Washington legal materials and their availability on WESTLAW and LEXIS-NEXIS are also included. If you have little or no exposure to electronic legal information systems, this chapter is a must.

In the final chapter Ms. Jarrett compiles a collection of information about legal resources in Washington. Included here are tips on how to manage your library, hire a librarian, and select materials and research tools for your library. Lists of filing and library service organizations, document delivery services, legal publishers with addresses and telephone numbers, publisher information for Washington legal periodicals, Washington CLE providers, and libraries that have various city and county codes complete the informative material to be found in this section of the Deskbook. This chapter will be a great help to those trying to keep their libraries current and properly managed, to those making decisions about purchases for office libraries, and to those trying to locate legal materials available in the local area.

I am very pleased with the high quality of the material you will find within this Deskbook. Many thanks to the authors for their tireless work. Janet Abbott worked many hours to put our draft material into final form — thank you! Thanks
also to Reba Turnquist who helped update information about publishers, prices, and
the like; to the Gallagher Law Library staff for being supportive and helpful; to the
law librarianship student interns who helped cover the Reference Office when we
needed extra time to write; to various colleagues around the state who responded
cheerfully to our requests for information; and, finally, to our library patrons for
asking us questions and helping us learn what legal researchers in Washington need to
know.

Penny A. Hazelton
Seattle, Washington
July 1996
AUTHOR BIOGRAPHIES

PENNY A. HAZELTON. Professor Hazelton has been the Director of the Marian Gould Gallagher Law Library at the University of Washington School of Law since 1985. Teaching legal research to law students, law librarianship students (lawyers training to be law librarians), library students, attorneys, legal secretaries, and paralegals has occupied a good part of Professor Hazelton's twenty-year career. She earned her JD from Northwestern School of Law of Lewis & Clark College and received a Masters in Law Librarianship from the University of Washington in 1976. Professor Hazelton is a member of the Washington State Bar Association and has served as a member and Chair of its Editorial Advisory Board Committee. Professor Hazelton spent five years at the University of Maine and four at the U.S. Supreme Court Library as head of the research services department.

PEGGY ROEBUCK JARRETT. Peggy Roebuck Jarrett received at BA in Economics from the University of California, Davis, in 1981 and an MSLS from the Catholic University of America in 1984. Ms. Jarrett spent seven years working in private law firm libraries in Washington D.C. and Seattle before joining Gallagher Law Library in August of 1990. Ms. Jarrett is a member of the reference staff and is also the Collection Development - Documents Librarian. She has served as President of the Law Librarians of Puget Sound and is an active member of the American Association of Law Libraries.

NANCY M. McMURRER. Ms. McMurrer received a BA in History/Political Science from Furman University in 1966 and a JD from the University of Virginia Law School in 1969. She practiced with the Office of Chief Counsel, Internal Revenue Service from 1969 until moving to Germany in 1976. She earned her Masters of Librarianship with Law Librarianship Certificate from the University of Washington in 1990. Ms. McMurrer was a Reference Librarian with a law firm in Seattle before joining the reference staff at the University of Washington in 1994. Nancy McMurrer is a member of the Virginia State Bar Association, the American Association of Law Libraries, and the Law Librarians of Puget Sound.

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of Law Libraries and the Law Librarians of Puget Sound, and is a former officer and member of the Mid-America Association of Law Libraries.

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## LEGISLATIVE HISTORY AND BILL TRACKING

Peggy Roebuck Jarrett

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I. Researching Legislative History in Washington

Washington State legislative history is generally available from the mid-1970s forward, although some earlier history may be available. Since only one legislative history has been compiled (for the 1986 Tort Reform Act), researchers need to gather all the pieces that make up a legislative history by starting at a library that collects legislative publications, and then if need be, contacting the State Archives for copies of the bill file. If the legislation was passed in the last two years, researchers need to contact the Committees that reported on the bill, and if a cassette tape of floor debate is needed, contact the House and Senate Journal Clerks.

When researching a legislative history, it is particularly important to know when to stop; it is often the case that the more time spent and the farther afield ventured, the lower the rate of return.

A. At the Law Library

Good libraries at which to begin include the Gonzaga University Law Library, the King County Law Library, the Seattle Public Library, the Seattle University Law Library, the University of Washington Law Library, and the Washington State Law Library.

1. Start with a section from the Revised Code of Washington (RCW). Look at the brackets at the end of the section, which contain citations to the session laws. These indicate when the law was first enacted and when it was subsequently amended. You may need to look at all of these session laws to determine when the language you are researching was added to the statute or was amended.

2. Proceed to the session laws, titled the Laws of Washington. When you have determined which law you want to follow, note the bill number, which appears in brackets at the start of the law. The bill number, along with the year and session is the key to finding any history. Veto messages and effective dates can also be found in the session laws.
3. If your bill was enacted after 1974, look at the Final Legislative Report for the background, summary, votes on final passage, effective date, and veto message, if applicable. This is an official publication, derived from the committee bill reports, and written by the committee staff after the enactment of the bill. Some researchers may stop at this point.

4. Check various versions of the bill in order to trace the addition or deletion of language through the legislative process. Libraries that collect the bills try to maintain collections that are reasonably comprehensive. However, due to the nature of the bill publication and heavy public use, there are gaps in these collections. The most complete collection is at the Washington State Archives. (Note: not all versions of all bills were saved by the Legislature prior to the early 1970s.)

5. If your bill was enacted after 1969, check the Legislative Digest and History of Bills for chronology and reporting committees. This publication gives a brief digest of each bill, and then a procedural history, which may be useful in finding out when the bill was amended.

6. Look at both the Senate Journal and House Journal for points of inquiry, texts of amendments and substitutions, and dates of floor action. Since every bill is considered by both the House and the Senate, researchers should look in both Journals. Access to the Journals is through bill number tables located at the back of the last volume of each session. The House and Senate Journals are not as complete as their federal counterpart, the Congressional Record. Most notably, debate is omitted (except for some debate from the 1986 Tort Reform Act), but cassette tapes are available from 1971 to date for the Senate and 1969 to date for the House.

B. The State Archives

The Washington State Archives in Olympia, (360) 586-1492, has files on bills introduced (not just enacted) from the mid-1970s to two years from the present. These files include whatever material the reporting committee compiled and they usually include the full bill report. The exact date that the bill files begin varies by individual committee; most committees did not start producing bill reports until the mid-1970s, although bill reports from some committees are available from the early 1970s. Committee meeting tapes are also available from the mid-1970s. These tapes are not transcribed, and they are in real time.

For bills considered before the mid-1970s, little material is available. Governors' files on specific bills are sometimes available, although no files exist for years 1957 to 1965. The Governors' files are not open until six years after he or she leaves office. Another possibility is agency files. If the bill in question affected a particular administrative agency, the Archives staff will check those files.
The Research Section of the Archives will pull, copy, and send bill files and committee tapes on request for a fee. The charges are $25/hour with a $10/minimum; $0.25/page copied; $3/shipping and handling. Committee tapes are not automatically sent when requesting a bill file; they must be specifically requested. The charge is $5/tape. The Archives cannot pull and copy sections of massive legislation: the files are not organized by topic or bill section. The Archives are open to the public, so you may research any legislative history yourself.

For current bills (those introduced in the past two years) contact the reporting committee for copies of the bill files. Occasionally, a committee may keep a bill file beyond the two-year mark. Both the Final Legislative Report and the Legislative Digest and History of Bills note the reporting committees. To find committee phone numbers, call Senate Information at (360) 786-7550 or House Information at (360) 786-7750.

C. The House and Senate Journal Tapes

The House Journal and the Senate Journal contain statements such as "debate ensued" or "Senator ___ spoke in favor of the bill." The debate itself is not printed in the Journals, but researchers can request tapes of floor action from the Journal Clerks. As with the committee tapes, they are not transcribed and are in real time. To request a tape, you need the bill number and date of action before writing or calling the Journal Clerks. It is helpful to have the page number from the House or Senate Journal as well.


D. Other Sources

For background and analysis of controversial or comprehensive legislation, try a subject search in the Washington State law reviews and bar publications. Look for materials from a continuing legal education program. Check newspapers. Depending on the subject, contact advocacy groups. And for any recent legislation, call the committee and talk with the staff. They may be of assistance.

E. Bibliography


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<td>(360) 753-6780</td>
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<td>House Information</td>
<td>(360) 786-7750</td>
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<td>House Journal Clerk</td>
<td>(360) 786-7790</td>
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II. Legislative Bill Tracking

Tracking bills as they progress through the Washington State Legislature is a fairly simple process. It can be done with just a telephone, or through one of four online systems: LEXIS-NEXIS, WESTLAW, LEGLink, or the Washington State Legislature Public Access System.

A. How a Bill Becomes a Law


A simplified version of the process is as follows:

1. Bill is introduced by a member of the House or Senate.

2. First reading, by title only.

3. Referred to the appropriate committee for consideration, including hearings.
Chapter 5, Legislative History

4. Committee makes recommendation: pass, do not pass, pass with amendments, or pass substitute bills. (At this point, bills with appropriations sections must be referred to the Ways and Means Committee).

5. Second reading; entire bill is read. All versions and amendments must be considered. Debate is opened.

6. Third reading; entire bill is read section by section. No amendments may be made. Vote is taken by roll call.

7. Bill is sent to the opposite house and the procedures outlined are repeated.

8. If the opposite house wants to make changes in the bill, it is sent back to the originating house.

9. If the originating house refuses to make the changes, a conference committee is appointed to settle differences.

10. Once the bill is passed by both houses, it is signed by the President of the Senate and the Speaker of the House.

11. Bill is transmitted to the Governor.

12. Governor signs or vetoes all or part of the bill. If the Governor does not act, the bill may become law without his or her signature. Any vetoed sections are returned to originating house for an override vote. A two-thirds majority vote is required to override a veto.

B. New Sources

One of the best ways in our state to identify pieces of legislation is to follow the news. Local newspapers, radio, and television are good for "hot" issues of general interest. Association newsletters are good for specific issues; if you are interested in a particular subject, find out if any groups participate in lobbying activities. One drawback to news sources is that they often do not give the bill number, which is most useful in any bill tracking.

C. Legislative Digest and History of Bills

The Legislative Digest and History of Bills is published several times each session and is updated by Digest Supplement to Legislative Digest and History of Bills. The Digest contains a brief summary of each bill introduced during the session, along with a diary of actions such as readings, committee referrals, and amendments. A
topical index and a table listing RCW sections affected by each bill is also included. The *Digest Supplement*, published daily, is a way to track bills by subject as they are introduced. A summary is given for each bill introduced on the previous day. The *Digest Supplement*, however, does not include either a topical index or an RCW-bill number table; tracking must be accomplished by browsing.

D. **Meeting Schedule and Bill Status**

Usually referred to as the "status sheet," the *Meeting Schedule and Bill Status* is a daily publication containing the schedules and phone numbers of each House and Senate Committee. The most useful feature, however, is the numerical list of each bill before the legislature and its status as of 5 p.m. the previous evening.

E. **Legislative Hotline**

Since 1972, the Legislature has had a toll-free phone number during the legislative session. The hotline, (800) 562-6000, is a way for citizens to leave messages for legislators, but it is also a way to find out the status of a particular bill. The hotline staff is extremely helpful; they will send you a copy of a bill, and if you have a subject but no bill number, they will help you determine the relevant bill or bills. The staff can consult the *Legislative Digest and History of Bills*, the *Digest Supplement to Legislative Digest and History of Bills*, and the *Meeting Schedule and Bill Status*. Since it can take several days for a library to receive the status sheet, this service is particularly useful for the most up-to-date information. The phone, however, is often busy. When the legislature is not in session, the Bill Room, (360) 786-7573, can check the same sources for callers.

F. **Governor’s Office**

Once a bill has left the legislature, the Governor’s office can tell you whether or not he or she has signed or vetoed it. The number to call is (360) 753-6780.

G. **LEGLink**

LEGLink is the online legislative information system produced by Washington State for the legislators and their staffs. It was introduced at the beginning of the 1994 legislative session, replacing the State’s PROFS system. LEGLink provides current access to bill history and status reports, bill digests, full-text of the bills, calendar of committee meetings, and roll call vote records. It also provides access to the *Washington Administrative Code*, the *Washington State Register*, and Attorney General opinions. Even though the system was developed for the legislature itself, public dial-up access is available for a fee. The Government Publications Division of the University of Washington’s Suzzallo Library subscribes and offers free public access; call (206) 543-1937 for more information. For further information about
subscribing to

LEXIS-NEXIS and WESTLAW

LEXIS-NEXIS and WESTLAW both contract with Information for Public Affairs to offer its StateNet database. StateNet tracks pending bills for all fifty states from introduction to enactment or veto. Files are updated daily online, but the currency of the information varies. You can search by bill number, date, sponsor, or subject. Subject searching is possible by using either the topics and keywords assigned by StateNet, or bill summary.

To access through LEXIS-NEXIS, choose the WASH, CODES, LEGIS, or STATES library, and choose the WATRCK file. To access through WESTLAW, choose the WA-BILLTRK database.

LEXIS-NEXIS and WESTLAW also offer via StateNet the full text of introduced, amended, and enacted bills. To access through LEXIS-NEXIS, choose the WASH, CODES, LEGIS, or STATES library, and choose the WATEXT file. To access through WESTLAW, choose the WA-BILLTXT database.

J. Legi-Tech

Legi-Tech is a commercial, fee-based online service based in Olympia, that offers calendars, bill-text, and votes. Customers can search by keyword, or set up personalized bill tracking. For more information, contact Legi-Tech at (360) 754-2524.