

Lawmaking



Law Studies
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Intro

- The laws that we are expected to follow come from several sources, including federal and state government & sometimes administrative agencies. The legislatures are the ones who make the laws we must follow. Sometimes, laws can be made by courts when they decide appeals.

Legislatures

- At the federal and state levels, the legislatures are the primary lawmaking bodies. The U.S. Congress is the federal legislature which is made up of two bodies (House of Reps. & Senate.)
- Our Constitution gives Congress the power to pass laws that are binding on the people in every state.
- The states have the power to pass laws that apply ONLY within their own boundaries.

Legislatures

- Lawmaking authority of Congress is exercised through the passage of laws known as federal statutes. When Congress passes a federal statute, it affects people in every state.
- State statutes are passed by the state legislatures. With the exception of Nebraska, all states have a two-house (bicameral) legislature. Generally, the state legislatures meet annually where they deal with issues in such areas as education, traffic, state taxes, marriage and divorce, most criminal laws, as well as the powers and duties of state government officials.

Legislatures

- The federal government's power to pass laws is limited. In other words, Congress cannot legislate unless given the power to do so in the Constitution.
- State legislatures have power to legislate in all areas over which the national government was NOT granted power by the Constitution. For example, a state cannot declare war against another country, but they could pass laws related to marriage because those powers are not given to the national government.

Legislatures

- In some cases, federal law conflicts with state law. However, in most cases, unless it is proven that Congress is legislating in an area the Constitution delegated to the states, the courts will usually follow the federal law and not the state law. When this happens, the court is ruling those state laws invalid based on Article VI of the Constitution –**the supremacy clause** –the Constitution and laws of the United States...shall be the supreme law of the land.”
- At the local level, they pass many of the laws that are most important to us in our daily lives.

Problem 2.1

- Open your Street Law book to page 21. On a sheet of looseleaf, determine if each of the listed laws is either a FEDERAL LAW, a STATE LAW, or a LOCAL LAW.
- All you need to write is FEDERAL, STATE, OR LOCAL for each law. You do not have to write the law itself.

Legislatures

- When a law is proposed, it is called a **bill**. Ideas for bills can come from anyone –lawmaker, individual citizens, or lobbyists representing various groups.
- When the bill becomes a law, citizens must obey it. Sometimes the language of the law is open to interpretation and it is not easy to know what a law prohibits or allows. When a judge tries to interpret what the legislature meant is determining **legislative intent**.

Drafting a Bill

- After the idea is expressed, there must come a time when the bill is written (drafted) –that is, when the actual language is written.
- Even the simplest language can be unclear for people to understand what is expected of them.
- Why is it important to be clear when establishing a law or a rule?
- When a judge decides what a statute means he/she must follow certain rules: (1) the courts cannot enforce a law so vague that it is unclear what conduct is prohibited and (2) if there is doubt as to the meaning of a word in a criminal statute, the word must be strictly interpreted against the government.

Drafting a Bill

- There are general guidelines that should be followed when drafting a law:
 1. Is the law written in clear language?
 2. Is the law understandable?
 3. Does the law contradict any other laws?
 4. Is the law enforceable?
 5. Are the penalties for breaking the law clear and reasonable?

The Case of the Unclear Law

- Example:
 - “No Talking in class.”
- What does the teacher mean by this?
 - Discuss.
- How would a very strict teacher interpret this rule?
- What about an easy-going teacher?

The Case of the Unclear Law

- For the next assignment, you will be working in groups of 4.
- You will examine an unclear law and discuss in your group several different hypothetical situations and determine if the given situation violates the “letter of the law” or the **legislative intent**.
- Turn to page 22 in the textbook and read the case of the unclear law...
- This activity will be completed on poster paper.
- You will have about 45 minutes to complete this activity.

The Case of the Unclear Law

- This case illustrates how laws, once written, may be susceptible to **different** interpretations. Be sure that you read and understand the law and basic legislative history.
- There are 7 hypothetical situations listed (a. – f.). Decide whether or not the vehicle in each case should be allowed in the park.
- *** Each person in the group is allowed to come up with answers on their own. Once each person has come up with their own answers, you are to compare answers. You should try to persuade your fellow group members that your answer is the best. Discuss each person's answers and come to a consensus as to the best answer –provide reasons for the decisions you made.
- *** Record responses for each case (a. – f.), explain the reasoning/rationale of the decision-makers where appropriate. (the reasoning is the most important thing, not arriving at the right answer.)

Drafting a Bill

- It is vital that the wording in the law is clear and able to be understood. For this reason, legislatures attempt to use simple, clear language as opposed to traditional legal language.
- At your desk, try to write a very basic law one might see at the Parish level here in Jefferson Parish. Write this on a piece of looseleaf paper. Due in 10 minutes...

Agencies

- Many laws that affect you are made by government agencies.
- Government agencies develop rules and regulations to make laws more specific.
- The regulations influence almost every aspect of our daily lives and have the force of law.
- Examples of government agencies: Occupational Safety and Health Administration (OSHA), Environmental Protection Agency (EPA), and Department of Transportation (DOT).

Agencies

- In reality, administrative agencies are really like hidden lawmakers that make numerous rules and regulations that affect business and industry, as well as individuals.
- Regulations that help us out on a daily basis: regulations that govern the amount of pesticide that can be used on produce or regulations dealing with the meat that can be sold and served to humans for consumption.
- Regulations issued by these agencies became law without being voted upon. They usually hold **public hearings** before issuing proposed regulations. The hearings give people or businesses the chance to express their views on the proposals. In addition, regulations proposed by the federal government must be published in a special newspaper called ***The Federal Register***.

Homework

- Select from Problem 2.4 one of the listed exercises to complete at home.

Courts

- Law is also made by courts. They interpret our laws that are already in place.
- Courts have **trials** where two sides come together to settle a dispute. Some trials determine a persons innocence or guilt.
- When a person loses a trial they sometimes ask a higher court to review and change the result of the trial. These higher courts are called **appeals or appellate courts.**
- When the appeals court decides a case, it issues a written opinion that sets a **precedent** for similar cases in the future.

International Lawmaking

- International law is defined as the law that applies to the conduct of countries.
- **Treaty** an agreement or contract between countries. The U.S. Constitution provides that treaties are the supreme law of the land if they are signed by the president and then ratified by 2/3s of the U.S. Senate.
- Important international law has been made by a series of treaties signed since 1950. The United Nations (U.N) and the European Union have both been formed by treaties. The U.S. was one of the founding members of the U.N. and over the years has been its biggest financial supporter.

Problem 2.5

- Read page 28 and answer the 3 different scenarios...
- You do not have to write the questions, only your answers.