

## **Deciphering State Statutory Publication**

### Article Description

Textualism is on the rise in the United States, with a seemingly simple proposition at its heart: if you want to know what the law is, you just need to read the text of the statute. This principle is one of the pillars that supports the idea that the United States is a nation governed by the rule of law; we cannot claim to be ruled by law if the people cannot know what those laws are. Knowing what the “text of the statute” is, however, can be complicated.

Today, when a lawyer or judge wants to read a statute, they usually look at the code. After all, that is what the Bluebook tells people to do. In many states, however, the binding text of legislation is found in the enrolled bills, not the code. The language that state governments use to describe their statutes adds to the confusion, making it difficult to identify which version of their statutes has the binding text. Some states will designate a code as “official”, even though the enrolled bills have the final say in what the law means in that jurisdiction.

This article discusses the need for states to clarify their statutes and statutory publication. We offer several reasons why the need is more urgent than ever to clear up statutory publication ambiguity and make official versions of statutes universally available to the public. The article also offers several recommendations for how states can better serve legal practice and the orderly development of law by improving statutory publication.

For librarians, this article will serve as an important discussion piece, because of the need for us to ensure the preservation of the primary legal record. How can we know what to prioritize for preservation in our collections when state statutory publication remains ambiguous? How do we manage private publication (and the cost of purchasing private publications) for what should be public domain materials? This article addresses these issues in our recommendations and should give librarians ample place for discussion.

### Authors:

Leslie Street

Director of the Wolf Law Library,

Clinical Professor of Legal Research

William & Mary Law School

Frederick W. Dingley

Senior Reference Librarian

William & Mary Law School