

# Decoding Legislation

## Finding Historical Acts and Codes

By Jan Bissett and Margi Heinen

Sometimes the best way forward in statutory research is going back. After looking at caselaw interpreting a statute, we are often faced with the need to take a longer look at the language and history of the statute to bolster our argument. New attorneys digging into statutory language may require a refresher in how acts are created. For all researchers, finding the historical progression of enacted legislation is more accessible as historical materials move online. We'll take a look at finding historical statutory language and electronic sources of Michigan Public Acts and previous editions of the Michigan Compiled Laws.

Recently, a new graduate asked, "The case is quoting the act, but what I have is called the code. Do I have the right materials?" Keeping the process in mind is critical to understanding what we are researching. From *Schoolhouse Rock's* "I'm Just a Bill"<sup>1</sup> to the extensive resources for complex legislative histories at the Law Librarians' Society of Washington, D.C.'s *Legislative Source Book*,<sup>2</sup> researchers can jump into the shallow or deep end of legislative research. As a reminder for our discussion here, a bill in the legislature that is enacted becomes a public act in Michigan or a public law on the federal level and usually has chronological dates and identifying numbers. These public acts are the record of the original language passed on a specific date. This language is then placed into a code, an arrangement of acts by subject so all materials on a given topic are together. The code continually changes as new acts amend or supplement the original language. The Michigan Legislature website<sup>3</sup> clarifies this process and offers many options for frequently requested acts and even some popular, but outdated, legislation.

Why, you ask, would anyone risk providing out-of-date legislation on this website? One of the most frequently researched enactments in any state is the Probate Code. Some states have enacted all or part of the Uniform Probate Code and some have made changes to the original language throughout the years, but a unique situation or lengthy probate process can mean the original wording of the legislation is still a question. The ability to electronically access the language of the historical enactments can make it easier to retrieve that older language.

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To be clear, locating original language or changes in language isn't a full legislative history. Often, researchers will say they need the "legislative history" when what they really need is to see the changes in the statute's language over time. Thus, if it is important to know what a code section said in a specific year, we can usually find it without much difficulty. A full-blown legislative history requires finding reports and perhaps debates or committee notes for individual pieces of legislation; at the state level, that can be complicated. What we describe here is less involved. How do we find the progression of language in code sections?

Michigan's public acts are published chronologically as passed by the legislature and approved by the governor. Many Michigan law libraries retain these official print volumes, *Public and Local Acts of the Legislature of Michigan*, through 2010<sup>4</sup> or earlier,<sup>5</sup> with slight variations in title before 1933. The current public acts are also reprinted in the commercial codes' legislative service pamphlets—*Michigan Compiled Laws Annotated (MCLA)/Michigan Legislative Service*<sup>6</sup> and *Michigan Compiled Laws Service (MCLS)/Michigan MCLS Advance Legislative Service*<sup>7</sup>—available in print and via Thomson Reuters Westlaw (2013–2016) and Lexis Advance (1990–2016). Michigan Public Acts from the mid-1990s are accessible electronically from the Michigan Legislature website;<sup>8</sup> select coverage of earlier public acts is available via the Internet Archive<sup>9</sup> (search the title and select "date published") and HathiTrust.<sup>10</sup> Governing Michigan<sup>11</sup> has selected individual public acts in its *Michigan Legislative and Statutory Materials* collection as of the time of this writing. HeinOnline's State Session Laws library<sup>12</sup> offers the most complete online archive of Michigan's territorial and legislative acts (1806–2014). Another database, LLMC Digital, offers Michigan session laws from 1821 through 2005.<sup>13</sup>

Michigan enacted legislation is published by subject in the Michigan Compiled Laws. The last official compilation of these statutes occurred in 1979. This compilation or code, arranged by subject, has a different numbering scheme from its chronological cousin, the session laws. Researchers must take note of these differences and the relationship to update statutory language. Often, the question is how a compiled section appeared in a particular moment in time. Commercial code editions via Lexis Advance (*MCLS*,

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1991–present) and Thomson Reuters Westlaw (MCLA, 1989–present) provide historical or archived editions of their respective compilations. Ironically, Westlaw identifies its historical editions using *Michigan Statutes Annotated*, the predecessor to Lexis’s MCLS. HeinOnline also offers a historical archive of superseded state statutes, including territorial compilations and early revised statutes and compiled laws of Michigan.<sup>14</sup> Earlier Michigan statutory compilations (1838, 1857, 1882, and 1897) are also available through LLMC Digital. Some of these compilations may be available from HathiTrust and the Internet Archive.

Since most young attorneys have grown up using online statutory sources, let’s look at the Probate Code online. Using the Michigan Compiled Laws basic search at the Michigan Legislature website,<sup>15</sup> we can perform basic or advanced searches by section, statute, popular name, or keyword. Typing “probate” into the MCL content box shows just how complicated legislative publication may be. The results supply citations to the repealed Revised Probate Code, Act 642 of 1978, or the repealed sections of the 1939 Probate Code, Act 288 of 1939, as well as the current chapters and text of the Probate Code, now known as the Estates and Protected Individuals Code. The Revised Probate Code text is available from the website’s Requested Repealed Acts section.<sup>16</sup> If you are interested in additional historical provisions, the citation helps you find sections in print or via HeinOnline’s State Session Laws or Historical Statutes Archive.

As an example, let’s look at section 700.3206 of EPIC.<sup>17</sup> At the end of that section, we see: *History: Add. 2006, Act 299, Imd. Eff. July 20, 2006; -- Am. 2008, Act 41,*

*Imd. Eff. Mar. 17, 2008; -- Am. 2012, Act 63, Imd. Eff. Mar. 22, 2012; -- Am. 2016, Act 57, Eff. June 27, 2016.* What does this tell us? The initial date is when the section was first enacted—Public Act 299 of 2006. The section was amended in 2008, 2012, and, most recently, 2016. If you are trying to find the language in effect on May 31, 2012, you would need to find Public Act 63 of 2012, which went into effect in March 2012. Language before the 2006 enactment of this legislation may be found by going back to the repealed probate codes. Michigan’s legislative website does a fantastic job of providing citations to older text. In other states, one may not be so lucky. Westlaw or Lexis may include links to enactments back to 1989 or 1990, but seldom older.

The key to approaching this type of research is to be aware of the chronological versus subject legislative publication scheme, have familiarity with current resources and how they’re updated, and know where to find historical or archived versions of the acts and codes. Print materials and HeinOnline’s state legislative collections provide more comprehensive historical coverage than Lexis Advance or Thomson Reuters Westlaw and will help your research “go back” so you may go forward with your argument and analysis. ■

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## ENDNOTES

1. YouTube, *I’m Just a Bill (Schoolhouse Rock!)* <<https://www.youtube.com/watch?v=tyeJ55o3EIO>>. All websites cited in this article were accessed June 13, 2016.
2. LLSDC, *LLSDC’s Legislative Source Book* <<http://www.llsdc.org/sourcebook>>.
3. Michigan Legislature <<http://www.legislature.mi.gov>>.
4. Koscielniak, *Locating the Law: A Handbook for Non-Law Librarians in Michigan* <[http://www.michigan.gov/documents/libraryofmichigan/LM\\_LawHandbook\\_Ch\\_4\\_Michigan\\_Legal\\_Pathfinder\\_Dec\\_2014\\_478022\\_7.pdf](http://www.michigan.gov/documents/libraryofmichigan/LM_LawHandbook_Ch_4_Michigan_Legal_Pathfinder_Dec_2014_478022_7.pdf)>.
5. Michigan Legislative Service Bureau, Publications Order Form <<https://www.legislature.mi.gov/Publications/publicationOrderForm.pdf>>.
6. Thomas Reuters, Michigan Legislative Service <<http://legalsolutions.thomsonreuters.com/law-products/Statutes/Michigan-Legislative-Service/p/100028717>>.
7. LexisNexis, Michigan Compiled Laws Service <<http://www.lexisnexis.com/store/catalog/booktemplate/productdetail.jsp?pageName=relatedProducts&prodl=prod1721032>>.
8. Michigan Legislature, Public Acts <[http://www.legislature.mi.gov/\(S|1fnyndxan55kvwtticounu2k\)/mileg.aspx?page=PublicActs](http://www.legislature.mi.gov/(S|1fnyndxan55kvwtticounu2k)/mileg.aspx?page=PublicActs)>.
9. Internet Archive <<https://archive.org/index.php>>.
10. HathiTrust <<https://www.hathitrust.org>>.
11. Library of Michigan, *Governing Michigan: Digital Government Publications* <<http://governingmichigan.org>>.
12. HeinOnline, *Session Laws Library* <<http://heinonline.org/HeinDocs/DigitalSessionLaws.pdf>>.
13. LLMC Digital <<http://llmc.com/default.aspx>>.
14. HeinOnline, *State Statutes: A Historical Archive* <<http://heinonline.org/HeinDocs/StateStatutes.pdf>>.
15. Michigan Legislature <[http://www.legislature.mi.gov/\(S|gq0l22cmhsqo530iaipmdnv3\)/mileg.aspx?page=MCLBasicSearch](http://www.legislature.mi.gov/(S|gq0l22cmhsqo530iaipmdnv3)/mileg.aspx?page=MCLBasicSearch)>.
16. Michigan Legislature, Requested Repealed Laws <<http://legislature.mi.gov/doc.aspx?RequestedRepealed>>.
17. MCL 700.3206 <<http://legislature.mi.gov/doc.aspx?mcl-700-3206-amended>>.



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