

Uncovering Colorado Legislative Law-making and Legislative Intent

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I. INTRODUCTION

For most of us, legislation conjures up images of basic civics, something generally understood, but difficult to articulate in detail. While researchers appreciate a basic explanation of legislative process, equally appreciated is a framework for understanding legislative intent. As many of us know, federal legislation is relatively easy to track, given its public and private availability in print, microfiche, and electronic formats. On the state level, however, legislation is usually difficult to locate outside of a state library or capitol.

The purpose of this article is: (1) to describe the Colorado legislative law-making process from idea to enactment; (2) to identify the documents produced in the legislative process (i.e., legislative history) as well as the subtleties in discerning legislative intent; and (3) to identify the major collections and respective coverage. Having a basic understanding of the legislative process will enable the reader to better understand the relative importance of legislative documents.

II. THE LEGISLATIVE PROCESS BILL CREATION AND DRAFTING

In Colorado, members of the House of Representatives and Senate, otherwise known as the General Assembly, propose legislation. Each legislator may submit up to five bills per regular session.¹ Bills are proposed to create new law, amend existing law, or repeal present law. Ideas for bills may come from organizations such as religious groups, businesses, lawyers, lobbyists, and citizens. Following submission of the bill draft request, an attorney at the Office of Legislative Legal Services researches current law and drafts the language of the bill.

With the exception of appropriation bills, which have a definite dollar amount, the Legislative Council, an interim committee, examines every bill for fiscal impact. If a bill has fiscal impact, it is designated with a fiscal note. If a bill does not have fiscal impact, a statement to that effect is made.²

After the bill is drafted, the legislator proposing the bill seeks support from other legislators, whether by explaining the purpose of the bill, or by seeking additional sponsors or cosponsors. The same legislator also is

responsible for finding a sponsor in the second chamber, prior to passage in the original chamber.³ Upon the final vote in either chamber (i.e., third reading), additional co-sponsors may be added to the bill.⁴

FIRST READING

In the first reading, a bill is introduced by reading its title. An introduced bill, without amendments, is known as a *printed bill*. A bill can originate in either chamber. During the first reading, the bill is assigned a number that identifies its order of introduction in the legislative session. If the bill is introduced into the House, it is assigned an "HB," followed by the last two numbers of the year of introduction. A consecutive four-digit number, beginning with 1001, represents the first bill. If the bill is introduced into the Senate, it is assigned an "SB," also followed by two digits for the year of introduction. Senate bills begin with 1. For instance, HB98-1059, represents the 59th bill introduced into the 1998 session of the House of Representatives.⁵

COMMITTEES OF REFERENCE (A.K.A. STANDING COMMITTEES)

Following the first reading, the bill is assigned to at least one of ten standing committees, also referred to as committees of reference. These committees are often referred to as "workshops," in that hearings and deliberations are conducted to evaluate the bills. Research on the bill is completed prior to committee assignment. The committees range from Agriculture to Welfare.⁶

A committee of reference will study a printed bill for its substantive merits. In addition if a bill has fiscal considerations, as noted earlier, it will also be referred to the Appropriations Committee. The Appropriations Committee will review the bill for fiscal impact on Colorado.⁷

Under the 1988 GAVEL constitutional amendment, all bills referred to committees are required to go through a committee hearing and committee vote.⁸ Following the committee hearing, where public comment may be made, the committee may vote to recommend: (1) amending language, (2) passage, (3) reference to another committee, (4) indefinite postponement (i.e., kill the bill),

or (5) table and delay consideration until later in the session.⁹

SECOND READING

If the bill wins approval by the committee of reference, it is then sent to the originating chamber, referred to as the Committee of the Whole, for debate and vote. Legislators are limited in how long they may speak. In the House, legislators are limited to ten minutes.¹⁰ In the Senate, senators may speak up to one hour.¹¹ While legislators may conceivably speak up to their time limits, in the case of some bills, a bill may not be subject to much or any debate at all.¹²

During the second reading, amendments recommended by the committee of reference are considered. The chamber may also hold debates and amend the bill. A non-binding unrecorded voice vote is always taken.¹³ The bill version produced in the second reading is known as the *engrossed bill*.¹⁴

THIRD READING

If the bill passes the second reading, it is automatically scheduled for a third reading. During the third reading, amendments may be made, debates may be held, and a final vote is taken. If the bill passes, it is referred to as a *reengrossed bill*.¹⁵

REPETITION IN THE SECOND HOUSE OR SECOND CHAMBER

Once a bill passes in the chamber of origin, it then goes to the other chamber for consideration. The other chamber then repeats the process. When a bill passes on the second reading, in the other chamber, it is known as a *revised bill*.¹⁶

As is often the case, the second chamber will make changes to the reengrossed bill by making amendments of its own.¹⁷ When the amendments are passed, the bill becomes a *revised bill*. This bill is then sent back to the first chamber for consideration.

CONFERENCE COMMITTEE

If the House and Senate cannot agree on the differences in their respective versions of the bill, a conference committee convenes to reconcile the differences. The committee, composed of three representatives from each chamber, attempts to draft a bill that can pass in both chambers. Assuming both chambers can reach a compromise, the new amendments are noted in conference committee reports. The conference committee reports serve as amendments to either the revised bill or the reengrossed bill.¹⁸ Both chambers then vote to adopt the conference committee reports.¹⁹

GOVERNOR

When the governor receives the *enrolled bill*, the compromise bill passed by both chambers, several options are available. The governor may: (1) sign the bill, (2) permit the bill to become law by not signing it within ten days of receipt or 30 days following the end of a session, or (3) veto the bill. If the governor vetoes the bill, it may become law by a two-thirds majority vote of both chambers.²⁰

Following the signing, the enrolled bill becomes a slip law, which is the complete text of an enacted bill. At the end of the legislative session, the slip laws are essentially compiled by date of passage in the *Session Laws of Colorado*. Eventually, the session laws, which are indexed, will find their way into the *Colorado Revised Statutes*, a subject or topical compilation of all the session laws currently in force.

Recently passed legislation may thus create new law, alter existing law by the addition of new amendments, or change existing law by deleting language.

III. LEGISLATIVE INTENT

INTRODUCTION

Understanding the legislative process is critical in framing legislation. The law may be difficult to understand because of ambiguous or vague language due to poor drafting, legislative compromises on controversial issues resulting in confusing language, and changes in circumstances, not anticipated at the time of drafting (e.g., application of copyright law to the growing field of information technology). There are two ways to read statutes.

PLAIN MEANING APPROACH

The meaning of a statute may be interpreted by a reading of the legislative act itself. This is known as the plain meaning approach to uncovering a statute's legislative intent. Words are assumed to have a natural, normal, and obvious meaning. Section 2-4-101 (Common and technical usage) of the *Colorado Revised Statutes* states, "Words and phrases shall be read in context and construed according to the rules of grammar and common usage...." Under this approach, words and phrases are viewed for their "plain and obvious meaning," and not to an extent which is absurd, strained, or forced.²¹

PURPOSE APPROACH

It is only when the plain meaning of a statute is unclear that the purpose or intent of the legislation is explored. Legislative history is often useful in understanding the legislature's objective in passing the

legislation.

Two Colorado statute sections discuss the purpose approach, by showing how statutes may be read for legislative intent.

Section 2-4-201 ("Intentions in the enactment of statutes."), of the *Colorado Revised Statutes*, is particularly useful in framing a statute.

- (1) In enacting a statute, it is presumed that:
 - (a) Compliance with the constitutions of the state of Colorado and the United States is intended;
 - (b) The entire statute is intended to be effective;
 - (c) A just and reasonable result is intended;
 - (d) A result feasible of execution is intended;
 - (e) Public interest is favored over any private interest.

Section 2-4-203 ("Ambiguous statutes—aids in construction.") of the *Colorado Revised Statutes*, provides guidance when statutory language is unclear. It includes:

- (a) The object sought to be attained;
- (b) The circumstances under which it was enacted;
- (c) The legislative history, if any;
- (d) The common law or former statutory provisions, including laws upon the same or similar subjects;
- (e) The consequences of a particular interpretation;
- (f) The administrative construction of a statute;
- (g) The legislative declaration or purpose.

As these statutory sections indicate, when statutory language is ambiguous, legislative intent may be determined from a number of perspectives.

To facilitate a practical understanding of legislative intent, this article will follow the legislative process outlined above. In addition, it will track the documents produced during each step of the process.

BILL CREATION AND DRAFTING

The best way to track a law is to obtain the session status sheet corresponding to the year of the law's passage. In column format, the sheet provides information listing bill numbers, prime sponsors, committee assignments, committee report dates, dates of introduction, dates of passage during second and third readings, and "other actions." The status sheet is invaluable, as it pinpoints key information needed to efficiently identify legislative documents.

Bill status information is available from the General Assembly Legislative Web site at http://www.state.co.us/gov_dir/stateleg.html (current session only). The print version of the Final Status Sheet is available around mid-May from the House of Representatives, Room 271, State Capitol, Denver, CO 80203, 303-866-2904, the Senate Offices, Room 250, State Capitol, Denver, CO 80203, 303-866-2316.²²

Print copies of the Finals Status Sheet are also available at the State Publications Library and some depository libraries.

In searching for legislative intent, an important resource is the legislators themselves, whether proponents or opponents, as well as lobbyists. Sponsors and co-sponsors may be identified on the first page of a bill. Legislators and lobbyists may provide information on circumstances that inspired the bill, as well as why changes were made to certain sections, phrases, and words.

Legislators may be located in two ways. The annual *Colorado Legislative Directory* (a.k.a. Pink Book), provides capitol addresses and telephone numbers. The directory is also available on the Colorado General Assembly Web site, and the State Publications Library. To identify potential lobbying organizations, consider asking the sponsors and co-sponsors themselves.

An indirect way to identify a lobbyist is to check one of several directories. The *Professional Registered Lobbyist*, available at the State Publications Library, (published by the Licensing Division, Secretary of State, Suite 200, 1560 Broadway, Denver, CO 80202, 303-894-2680, extension 321) may be checked to identify lobbyists, addresses, and employing organizations. In addition, *Volunteer Registered Lobbyist*, provides similar information, and may be located at the Finance Clerk, House of Representatives, Room 271, State Capitol, Denver, CO 80203, 303-866-2904.

FIRST READING

An excellent starting point to understanding legislative intent is the legislative declaration or statement of purpose section of a bill. Unfortunately, the purpose section is not always stated. Whether or not a purpose section exists, the researcher should examine the entire act (e.g., statute arrangement, historical development, and legislative documents), since legislative intent is derived from the entire legislative process.²³

It is also helpful to look for a findings section. While most legislation does not include such a section, if one exists, it may provide useful background information concerning the situation or circumstances that gave rise to the legislation.

In the case of the "Colorado Parenting Time Enforcement Act," (*Colorado Revised Statute* section 14-10.5-101), as an example, the legislative declaration section states, among several findings, the occasion and necessity for the act. The act states:

The General Assembly further finds (emphasis added) that the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", (sic) Public Law 104-193, allow states

to seek grants of federal funds for the establishment and administration of programs to support and facilitate children's access to time with their noncustodial parent.

Also of fundamental importance is the legislative purpose section of the same act. The act states:

It is the **purpose** (emphasis added) of this article to enhance children's opportunities for access to their parent with whom the child does not reside the majority of the time.... To explore alternative methods by which to support and facilitate a child's access to and time with his or her parent with whom the child does not reside the majority of the time in contested parenting time proceedings.

Copies of the printed bill, the original bill as initially introduced, are available (beginning with the 1951 session) from the Colorado State Archives located in the basement of the Centennial Building, Room 1B-20, 1313 Sherman Street, Denver, CO 80203, 303-866-2358.²⁴ Another source is the Bill Room, Legislative Services Building, 201 East 14th Avenue, Denver, CO 80203, 303-866-2340,²⁵ and Colorado General Assembly Web site noted earlier. Bills for the current session are available at the Bill Room, State Publications Library, and most depository libraries.

COMMITTEES OF REFERENCE, SECOND TO THIRD READINGS, AND CONFERENCE COMMITTEE

Another starting point would be to compare the printed bill against any subsequent version created up to enactment. Changes to bill text, such as deletions or insertions, represent conscious changes, and may possibly reveal legislative intent. Committees of Reference (standing committees), for instance, may suggest amendments in the form of insertions and deletions to the printed bill, as well as favorable recommendations for House or Senate consideration.

On the federal level, standing committee reports are considered the most important legislative document. On the state level, however, their importance is less clear, absent committee analysis of a bill's intent and content. The absence of stated reasoning behind committee recommendations is a further hindrance to understanding legislative intent.

Standing committee recommendations, whether for bill passage or amendment, are located in reports of committees of reference, found in the *Colorado House and Senate Journals*. Both journals also contain information regarding first through third readings, conference committee reports, and votes on adoption of conference committee reports.

Complete sets are available at the State Archives,

Colorado Supreme Court Law Library, Legislative Council, State Publications Library, and the University of Colorado Law Library.²⁶ Current session journals are available at the General Assembly Web site.

The proceedings of all House and Senate standing committees have been tape recorded since 1973, and are located at the State Archives and Legislative Council.²⁷ The Legislative Council has in turn produced written legislative summary minutes of the proceedings, which serve as an index to locate needed information in the tapes. Information found in the legislative summary minutes include meeting dates, times, location, committee members and others present, bills examined, matters discussed, and roll call votes.²⁸ To listen to the audiotapes, it is necessary to identify the bill number, the committee name, the date and time of the committee meeting, and the location of the meeting.

Under the GAVEL amendment, a hearing must be conducted for every bill before a committee. Since the word hearing is not well defined in the amendment, hearings can vary in terms of content and time.²⁹ The purpose of a hearing is to elicit witness testimony, whether individual or organizational. Testimony may cover need for the bill, effect of the bill, or amendments to the bill. The value of hearings may be mixed, since some witnesses may be more knowledgeable, authoritative, and unbiased than others. While the value of Colorado hearings is unclear, on the federal level, hearings rank below committee reports and text of bill versions, in terms of importance of legislative intent.

Complete written hearings are not available. Instead, hearings are taped (1973 to present) and written summary minutes, which serve as access points, are made from them.³⁰ The summaries are available at the State Archives, and are accessed by bill number and subject.³¹ The Legislative Council maintains and files the summaries by committee and month.

Discussion or debate surrounding a bill ranges from nonexistent to extensive.³² The value of debates vary. Some courts have ruled that substantive comments surrounding a bill offer no value in terms of legislative intent.³³ On the other hand, if statements come from the bill's sponsors, especially when explaining or clarifying a bill's purpose, courts have accorded some recognition to the comments.³⁴

Full House and Senate floor debates became available on tape in 1973, and continue to present.³⁵ Debates are not available on the Colorado General Assembly Web site.

To hear the floor debates on audiotape, visit the State Archives. Tapes to current session debates are available in the "Sunshine Room," located in the basement of the Legislative Services Building.³⁶ Before

requesting a tape, it is necessary to first identify the meeting date, then the committee assignment and bill number. This information may be found in the status sheet and history tables of the House and Senate journals. To locate a debate within the tapes, use both the journal and calendar for the respective chamber. The calendar provides an agenda for the day's activities, and the journal provides a record of what actually took place. To listen to the tapes, an appointment must be made to use the audio equipment.³⁷

As noted earlier, standing committees function as legislative workshops and their reports are valuable when searching for legislative intent. Conference committees, on the other hand, reconcile differences in House and Senate bills, as well as important differences in policy between each chamber's versions. As such, the work of the conference committee sheds considerable light on legislative intent. Unfortunately, Colorado conference committee reports are not extensive in terms of stated legislative declarations, section by section bill analysis, and public policy considerations, which is often the case on the federal level. The meetings, however, are taped and summaries are made from them.* Despite these limitations, conference committee reports are part of the documents produced during the legislative process, and as such, intentional changes may reveal legislative intent.

GOVERNOR

In many cases, the enrolled bill will be different than the earlier versions produced in the House or Senate's first through third readings. Differences between the act, which is the final bill signed by the governor, and earlier bill versions, may also indicate legislative intent. Annual compilations of all the laws passed during a given legislative session are found in the *Session Laws of Colorado*.

POST-SESSION

Earlier, I discussed how legislative intent may be discerned by reading different versions of a bill. Legislative intent may also be uncovered by reading how the session law changes existing law. In reviewing session laws, for instance, capital letters indicate additions to existing statutes. Interlining (i.e., dashes typed over words), indicate deletions to existing statutes. This approach may give the researcher a broader appreciation of legislative intent, by comparing new and existing law, side by side.

On a broader level, sections of a statute often represent not only the original enactment, but individual amendments made to the same act over time. Hence, if one wishes to uncover the legislative intent of a

particular statutory section, a chronological examination of individual acts may also prove useful in providing a more comprehensive view of legislative intent. In short, this approach entails examining the individual pieces of a broader puzzle.

The *Session Laws of Colorado* may be found at the Colorado Legislative Council, the State Archives, the Denver Public Library, the University of Denver's Westminster Law Library, the University of Colorado Law Library, the State Publications Library, and the University of Colorado's Norlin Library. These compilations are indexed by bill number, topic, and section(s) of statutes affected (i.e., amended, repealed, etc.). The past three years of the session laws may be found on the Colorado General Assembly Web site.

BEYOND THE LEGISLATIVE PROCESS - COURT INTERPRETATIONS

While the legislative branch legislates by passing laws, the judicial branch adjudicates by deciding cases, which may or may not involve statutes. Statutes may be adjudicated for a variety of reasons, some pointed out at the beginning of this section.

One means of locating cases interpreting or construing a statute, involves checking the *Colorado Revised Statutes* or the *West's Colorado Revised Statutes*. Beyond serving as a subject or topical compilation of all the current Colorado legislative laws on a given subject, both sets also provide references to cases where a statute or statutory sections have been litigated. In both sets, any and all cases that interpret a statute are listed following the statutory section. Here, the researcher will find a brief annotation or summary of the case, as well as a citation to the reporter containing the case. Reporters are books which collect court decisions for given courts.

The two statutory sets, found in most law libraries, often list references to scholarly and practice oriented journals that have commented or footnoted the statute in some way. These articles may furnish background information about the act, or intent of the legislators. It is best to use both sets, since references to some journal articles appear in one statutory set, but not the other.

IV. CONCLUSION

It is my hope that this article has introduced the reader to the Colorado legislative process, legislative intent, and major state holdings. As is the case with any introduction, my comments serve only as a starting point. For in-depth commentary on statutory intent, please consult C. Dallas Sands' *Statutes and Statutory Construction*. Also of value is the "Statutes" article found in volume 73 of *American Jurisprudence, 2d*, a

multi-volume legal encyclopedia set. For assistance in framing the legislative intent of Colorado statute, consult section 2-4-201 to 2-4-216 of the *Colorado Revised Statutes*. Case names and corresponding case summaries will also allow the reader to more fully understand the statute.

Since a large number of Colorado residents reside outside the Denver metropolitan area, librarians and residents may contact their nearest State Publications Depository Library. The statewide depository library was formed in 1980, by the General Assembly, to provide Colorado residents with information and materials by state government agencies. The State Publications Library is the central location and is at the State Office Building, Room 314, 201 East Colfax Avenue, Denver, Co 80203, 303-866-6725. Its library catalog and 19 libraries are found at the Web site, www.cde.state.co.us/slstpubs.htm

Librarians enjoy the challenges which flow from providing users with timely and relevant information, in a convenient format. Intrinsicly satisfying is the knowledge that one is helping others to more fully embrace and participate in the democratic process. I wish you luck as you assist others in creatively bringing new life into the legislative process.

NOTES:

- ¹Joint Rule No. 24 (b) (1) (A); and Margaret E. Ackerman and Kenton D. Kuhn, 1996 *Colorado Legislative Almanac* (Boulder: Ackerman-Rorex Corp., 1995):VII-12.
- ²Ackerman, p. VII-14.
- ³Ibid
- ⁴David Hite, "An Overview of the Legislative Process," (Denver: Colorado Legislative Council Staff, 1996):10.
- ⁵Ibid.
- ⁶Thomas E. Cronin and Robert D. Loevy, *Colorado Politics and Government: Governing the Centennial State* (Lincoln: University of Nebraska Press, 1993):185-186.
- ⁷Robert S. Lorch, *Colorado's Government: Structure, Politics, Administration, and Policy* (Niwot: University Press of Colorado, 1991):237-238.
- ⁸Lorch, pp. 233-234; and Cronin and Loevy, pp. 186-187.
- ⁹Hite, p. 12; and Lorch, p. 235.
- ¹⁰Cronin, p. 191.
- ¹¹Ibid.
- ¹²Lorch, p. 239.
- ¹³Ackerman, p. VII-15; "How the Legislature Makes Laws," *Denver Post*, 6 January 1998, p. 9A; and

Reviewer comments, Karen Stewart, Colorado Legislative Council Library, Denver, CO, 25 June 1999.

- ¹⁴Hite, p. 10.
- ¹⁵Hite, p. 10; and Lorch, p. 242
- ¹⁶Hite, p. 11.
- ¹⁷*Denver Post*, p. 9A.
- ¹⁸Colorado Office of Legislative Legal Services, *Legislative Drafting Manual* (Denver: The Office, 1994):71.
- ¹⁹*Denver Post*, p. 9A; Office of Legislative Legal Services, p. 71; and Ackerman, p.VII-17.
- ²⁰Ackerman, pp. VII-17 to VII-18.
- ²¹*People v. Browning*, 809 P.2d 1086 (Colo. App. 1990), as cited in section 2-4-101 ("Statutes—Construction and Revision"), *Colorado Revised Statutes* (Bradford, 1998).
- ²²Lynn Hellebust, *State Legislative Sourcebook 1998: A Resource Guide to Legislative Information in the Fifty States* (Topeka: Government Research Service, 1998):55.
- ²³*American Jurisprudence*, 2d, "Statutes," by Michael Lepp, p. 362; and Jack Davies, *Legislative Law and Process in a Nutshell*, (St. Paul: West Publishing Co., 1986):299.
- ²⁴Mary L. Fisher, *Guide to State Legislative and Administrative Materials*, (Littleton: Fred B. Rothman & Co., 1988):Colorado-1.
- ²⁵Hellebust, p. 54.
- ²⁶Gary Alexander et al., "*Colorado Legal Resources: An Annotated Bibliography*," *Colorado Lawyer* 16 (October 1987): 1798; and Fisher, p. Colorado-2.
- ²⁷Alexander, p. 1798; and Fisher, p. Colorado-2.
- ²⁸Alexander, p. 1798; and University of Colorado Law Library, "Colorado Legal Research Handbook" (Research Guide), (Boulder: n.p., May 1991):5.
- ²⁹Lorch, p. 234.
- ³⁰Alexander, p. 1798; and Fisher, p. Colorado-1.
- ³¹Fisher, p. Colorado-1.
- ³²Lorch, p. 239.
- ³³J. M. Jacobstein and Roy M. Mersky, *Fundamentals of Legal Research* (Westbuy: The Foundation Press, Inc., 1998):193.
- ³⁴Jacobstein, p. 193.
- ³⁵Fisher, p. Colorado-2.
- ³⁶Stewart, 6/25/99.
- ³⁷Alexander, p. 1798; University of Colorado Law Library, p. 5; and Fisher, p. Colorado-2.

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