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## Statutory Law

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2017 EDITION

# A Guide to Legal Research in Virginia

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Editor: Joyce Manna Janto



Continuing Legal Education by the Virginia Law Foundation

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# A GUIDE TO LEGAL RESEARCH IN VIRGINIA

Eighth Edition

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University of Richmond Law School Library / *Richmond*

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# A GUIDE TO LEGAL RESEARCH IN VIRGINIA

Eighth Edition

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**CHAPTER 3**  
**STATUTORY LAW**

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## CHAPTER 3

### STATUTORY LAW

#### 3.1 INTRODUCTION

This chapter describes the sources of law created by the legislative branch of the Commonwealth of Virginia. The materials include the laws enacted by the Virginia General Assembly, the publications in which those laws are found, and the resources available to assist in interpreting the legislative enactments.

The cardinal rule in Virginia statutory construction is that the statute expresses the intention of the lawmakers. Therefore, it falls upon the courts to ascertain the General Assembly's intent where that intent becomes important in the application of statutory materials. When researching Virginia statutes, certain principles of interpretation and application must be kept in mind. The courts may not alter or correct a statute and are not permitted to apply the rules of construction where no ambiguity exists in the statute's language.<sup>1</sup> Nor should the courts be concerned with the motives or wisdom of the legislation.<sup>2</sup>

Working from these principles, the courts have formulated rules of construction to resolve ambiguities that genuinely exist in a statute or that arise because of a conflict between different statutes. A discussion of these critical rules is beyond the scope of this book.<sup>3</sup>

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<sup>1</sup> See, e.g., *R. Cross, Inc. v. City of Newport News*, 217 Va. 202, 228 S.E.2d 113 (1976).

<sup>2</sup> See 17 Michie's Juris. Va. & W. Va. *Statutes* § 32 (2015) [hereinafter Michie's Juris.].

<sup>3</sup> See Michie's Juris. *Statutes* sections 31 to 81 and the cases annotated in 17 Virginia and West Virginia Digest, *Statutes*, key numbers 174 to 278.



## 3.2 LEGISLATION

### 3.201 Publication.

**A. Chapter Laws.** In Virginia, statutes are initially published as chapter laws. Chapter laws are individually printed pamphlets containing only the text of a newly passed law. These resemble slip laws in the federal context. Virginia chapter laws can be found on the Virginia Legislative Information System (LIS) website<sup>4</sup> within the searchable “Bills & Resolutions” database.

**B. Session Laws.** At the end of a legislative session, all individual laws passed during that session are collected chronologically and published in a collection of session laws. Like chapter laws, the Virginia Acts of Assembly can be found online on the LIS website. The official publication of Virginia session laws is the *Acts of the General Assembly*, published by the Division of Legislative Automated Systems. The two unofficial publications of Virginia session laws are the *Virginia Advance Legislative Service* published by LexisNexis and *West’s Virginia Legislative Service* published by Thomson Reuters. These publications are available respectively on Lexis Advance and Westlaw.

**C. Statutes.** Current Virginia statutes are organized by subject matter in the *Code of Virginia 1950*. There are currently two printed editions of the Virginia Code. The *Code of Virginia 1950, Annotated* is published by LexisNexis, and *West’s Annotated Code of Virginia* is published by Thomson Reuters.<sup>5</sup>

**3.202 Legislative History.** Legislative history is a term that does not mean the same thing in every context. To a legislative historian, how, when, and why the legislature acted is as important as the details of the enactment itself. For a legal researcher, the primary objectives of legislative research are usually

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<sup>4</sup> <http://lis.virginia.gov/lis.htm>.

<sup>5</sup> See *infra* ¶ 3.3.

the specifics of the legislative enactment (for example, when the enactment took effect) and the intent of the legislature in its development of certain statutory provisions. In jurisdictions that preserve a record of the deliberations of the legislature and the reports of commissions and committees, this intent may be analyzed through the reported statements of the legislators on the floor or by committee report. This is the case for the United States Congress. In Virginia, however, transcripts of floor debates or committee discussions about a bill are not maintained. Nonetheless, there are still several sources a researcher may use to glean the legislative intent of particular pieces of legislation. The following paragraphs list sources available to a researcher of Virginia legislative history.

**A. Legislative Draft Files.** The Division of Legislative Services maintains legislative draft files for all bills after 1989. These files may contain any of the following information about a particular legislative draft: the final draft of the bill, copies showing substantive drafting changes, the bill request, correspondence between the Division of Legislative Services' staff and the requester, and background information or materials explaining the proposal. A request for a legislative draft file may be made to the Legislative Reference Center.<sup>6</sup>

**B. Video Recordings of Floor Proceedings.** Video recordings of proceedings on the House and Senate floor are available for viewing or for purchase through the clerk's office of each house. The House clerk's office has recordings beginning in 1982. These House floor recordings are also available in the Library of Virginia's archives. The Senate clerk's office keeps recordings for six months after the reconvened session. After that six-month period, Senate floor recordings are no longer available.

**C. House and Senate Journals.** The daily transactions or proceedings of the General Assembly are recorded chrono-

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<sup>6</sup> <http://dls.virginia.gov/lrc/leghist.htm>.

logically in bound volumes of the *House Journal* and the *Senate Journal*, published in cooperation with the Division of Legislative Automated Systems. All votes are recorded along with bill amendments. Brief statements on the action are sometimes quoted, such as, “an emergency exists and this bill will become effective immediately.” Both the *House Journal* and *Senate Journal* volumes contain useful appendices and indexes to assist in locating relevant passages. While these journals are useful to determine the specific voting record for legislation, they do not contain committee reports, the text of bills, or floor debates.

**D. Legislative Studies.** Legislative studies are another potential source of legislative history. These studies are created by specially appointed subcommittees, permanent commissions, or state agencies that have been charged by the General Assembly and Governor to research a particular topic and report on their findings and, at times, recommendations. Legislative studies can be found in the database of reports to the General Assembly through the Virginia’s LIS website.<sup>7</sup> The activities of legislative study commissions and joint subcommittees are reflected in the *Virginia Legislative Record*, which can be found on the Division of Legislative Services website.<sup>8</sup>

Although the sources listed above may enable the researcher to learn of the history of a legislative enactment, they often lack expressions of legislative intent. Thus, it is often necessary to rely on general principles of statutory construction to determine legislative intent in Virginia. The following paragraphs outline the legislative process and list the primary sources of the documentation of legislative actions in the commonwealth.

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<sup>7</sup> <http://lis.virginia.gov/lis.htm>.

<sup>8</sup> [http://dls.virginia.gov/pubs\\_legisrec.html](http://dls.virginia.gov/pubs_legisrec.html).

### 3.203 Creation of Legislation.

**A. Bills as Introduced; Engrossed Bills.** Before 1971, the General Assembly held biennial sessions with an occasional extra or special session in the off year.<sup>9</sup> Currently, the General Assembly convenes in Richmond on the second Wednesday of January of each year.<sup>10</sup> Proposed laws are introduced by individual members of the General Assembly before or during the first few weeks of each annual session. The chamber in which the proposed legislation is introduced refers the bill to the appropriate committee. The members of the committee then study, discuss, and vote on the bill before reporting the bill, either with or without amendments, to the originating house.

Each bill must be given three readings on three calendar days in each house.<sup>11</sup> Once a bill has passed its second reading with or without amendments, it is “engrossed.” If any amendments are adopted, the bill is rewritten incorporating those amendments and reprinted in its engrossed form. Once a bill is engrossed, it may not be debated or amended. On the third calendar day, the engrossed bill is read for the third time by the clerk. If an engrossed bill passes in the house of origin, it is sent to the second house for action where a similar procedure is followed.

**B. Enrolled Bills.** After an engrossed bill passes both houses, the bill becomes “enrolled” and the matter becomes law upon signature by the Governor. The effective date of a new law is the following July 1, unless otherwise specified.<sup>12</sup> At any point during this process, a bill may simply “die” due to lack of action or receive a pass by indefinitely (PBI). A PBI allows the committee to reconsider the legislation at a later meeting.

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<sup>9</sup> Va. Code § 294 (Code of 1919); 1934 Va. Acts ch. 99; 1971 Va. Acts ch. 22 (Extra Session).

<sup>10</sup> See Va. Code § 30-1.

<sup>11</sup> Va. Const. art. IV, § 11.

<sup>12</sup> See Va. Code § 1-214(A).

The Governor exercises some influence over the passage of enrolled bills. The Governor may sign the bill into law, amend the bill and return it to the General Assembly for approval, veto the bill and return it to the General Assembly, or take no action. If the Governor takes no action, the bill becomes law without the Governor's signature.

Approximately one month after the adjournment of the regular session of the General Assembly, a special session, or "veto" session, is convened to address the Governor's actions. The General Assembly may adopt the amendments as proposed by the Governor or override any veto by a two-thirds majority vote in both chambers.

**C. Resolutions.** Legislation that requests a study or expresses legislative opinion or sentiment on a particular issues is termed a "resolution." Most resolutions are either House Joint Resolutions (HJR) or Senate Joint Resolutions (SJR). Resolutions follow the same general legislative process as bills. While joint resolutions do require concurrence in both houses, they do not require action by the Governor. House Resolutions (HR) and Senate Resolutions (SR) only require action by the house of origin.

**D. Acts.** After each session, the General Assembly staff assembles the signed, enrolled bills in the order of their passage and assigns consecutive chapter numbers to each. These final versions are bound together in volumes entitled *Virginia Acts of the General Assembly*. This official publication of each enrolled and signed bill is published by the Division of Legislative Automated Systems. The volumes of the *Acts of the General Assembly* include various lists and tables related to a session of the General Assembly and an index to the new acts by Code sections affected, by subject, and by key word. To locate the corresponding chapter number of the *Acts of the General Assembly*, researchers must look under "Code of Virginia" in the subject index and then under specific section numbers.

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### 3.204 Resources for Locating Proposed and Enacted Legislation.

**A. Session Summary.** At the end of each session from 1998 to present, the Division of Legislative Services prepares a document entitled *Virginia General Assembly [year] Session Summary* (formerly titled *Summary of the [year] Legislative Session of the Virginia General Assembly*), which summarizes each enrolled bill. This resource is divided by broad subject headings based on the titles of the Code. Each bill is identified by the number it was assigned when introduced in the chamber of origin. This resource can be used to determine which actions have been presented to the Governor for consideration. The listed bills are subject to review, which means they may be vetoed or amended. Each summary from 1998 to present is available online at the Division of Legislative Services website.<sup>13</sup>

**B. Cumulative Index.** The Division of Legislative Services and the Division of Legislative Automated Systems work together at the end of each session to prepare an annual document entitled *Final Cumulative Index of Bills, Joint Resolutions, Resolutions, and Documents*. This index provides access by subject to all measures considered, including bills, resolutions, and documents. The index includes a heading for “Code of Virginia,” under which all sections affected by proposed legislation are listed. The index contains bill history, including sponsors’ names, for all proposed legislation, and includes bills that did not pass or, because of the nature of the bill’s subject matter, were not codified. Valuable components of this publication include information about members, information about committees, and a list of special studies along with due dates. Once a session is over and the index is distributed, it becomes the authoritative, comprehensive finding tool for that session. Each index from 2015 to the present is available on the Virginia’s LIS website.<sup>14</sup>

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<sup>13</sup> [http://dls.virginia.gov/pubs\\_summary.html](http://dls.virginia.gov/pubs_summary.html).

<sup>14</sup> <http://index.lis.virginia.gov/>.

**C. *Digest of Acts.*** From 1998 to 2012, the Division of Legislative Services and the Virginia Code Commission produced an annual publication entitled *Digest of Acts of the General Assembly of Virginia* for each session, which was available at no charge. The digest contained a one- or two-sentence summary of each legislative enactment, organized by title and section of the Code. The digest was intended to inform the general public how new legislation affected the Code. A table of enacted bill numbers identified the titles and chapters in the Code that had been affected. Each digest for this period is available online at the Division of Legislative Services website.<sup>15</sup>

**D. *Virginia Lawyers Weekly.*** The *Virginia Lawyers Weekly* (VLW) is a weekly legal newspaper covering legislative activities. The paper does not provide the texts of legislation but may contain articles that shed some light on legislative intent. The VLW is available by subscription in print and online.<sup>16</sup> While a subscription is required to view full articles online, limited highlights are available online without a subscription.

**E. *Legislative Publication Subscription Service.*** The Division of Legislative Automated Systems disseminates print publications of legislative documents through the Legislative Publication Subscription Service (also known as the Bill Box Subscription Service).<sup>17</sup> Subscribers to this document service have the option of picking up the daily distribution of bills, resolutions, and daily calendars at the Legislative Bill Room walk-up window. For an additional fee subscribers may receive distribution by UPS or United States Postal Service. Also available for an additional fee are House and Senate documents, cumulative indexes, and budget bills.

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<sup>15</sup> [http://dls.virginia.gov/pubs\\_digest.html](http://dls.virginia.gov/pubs_digest.html). The Virginia General Assembly Session Summary is available as an online resource, and it contains much of the information that the digest carries. See, e.g., <http://dls.virginia.gov/pubs/summary/2017/summary2017.pdf>.

<sup>16</sup> <http://valawyersweekly.com/>.

<sup>17</sup> <https://lis.virginia.gov/SiteInformation/SubscriptionServices.html>.

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## F. Online Services.

### 1. Virginia Legislative Information System.

The Virginia Legislative Information System (LIS) is an online database developed and maintained by the Division of Legislative Automated Systems.<sup>18</sup> Containing information from legislative sessions from 1994 to present, material available on LIS includes bills and resolutions, Governor's recommendations, bill summaries, reports to the General Assembly, and more. Other than direct personal contact, this database is the most current resource available for legislative information during a session. In fact, LIS is the official source from which other information vendors extract data.

While a researcher may consult the LIS to track current legislative activity, the Division of Legislative Automated Systems also offers a service called Lobbyist-in-a-Box, which provides customized legislative tracking by email notification.<sup>19</sup> Up to five bills may be tracked without charge. A fee-based subscription to Lobbyist-in-a-Box offers the ability to create multiple profiles with different bill lists and notification options. With the fee-based service, a user may elect to receive an email notification when an action is taken, such as when a bill is sponsored by a particular member of the General Assembly, when a bill is referred to a particular House or Senate committee, or when a bill contains specific words or references to Code sections.

**2. Westlaw.**<sup>20</sup> Westlaw's collection of Virginia proposed and enacted legislation contains material from the current legislative session. Past proposed legislation from 2005 to present is also available, as well as past enacted legislation from 1990 to present. Westlaw also offers Virginia bill tracking for the current and recently ended legislative sessions.

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<sup>18</sup> <https://lis.virginia.gov/>.

<sup>19</sup> <http://lis.virginia.gov/h015.htm>.

<sup>20</sup> <http://legalsolutions.thomsonreuters.com/law-products/support/onepass>.



Finally, Westlaw's "Virginia Legislative History" collection contains multiple types of documents related to laws passed by the state legislature, including House and Senate bills containing versions of proposed statutes and summaries, House and Senate amendments and minutes, and Governor's messages. Coverage varies by type of document within this collection. Bill summaries are available from 1997 to present.

**3. Lexis Advance.**<sup>21</sup> Lexis Advance offers access to the full text of Virginia bills pending in the Virginia state legislature and prior sessions from 1992 to present. Lexis Advance also offers Virginia bill tracking reports, providing a summary and legislative chronology of all pending Virginia legislation in the current legislative session and prior sessions back to 1990. Finally, the Virginia Advance Legislative Service collection contains the full text of all laws enacted during a legislative session from 1989 to present.

**4. Lexis.com.** Lexis.com offers access to the full text of Virginia bills ("VATEXT") and Virginia Bill Tracking Reports ("VATRCK"), however, coverage is restricted to the current legislative session. A researcher may search these two collections simultaneously using the "VABILL" collection. Lexis.com also provides the Virginia Advance Legislative Service ("VAALS") collection, containing the full text of all laws enacted during legislative sessions from 1989 to present.

**5. Legislative Tracking.** During sessions of the General Assembly, the progress of specific proposed legislation may be followed through several resources. The most current resource for legislative information is the Virginia LIS website, which provides a searchable database of bills by legislative session.<sup>22</sup> There are several other services that provide automatic alerts of bill activity.

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<sup>21</sup> [www.lexisnexis.com/en-us/products/lexis-advance.page?access=1-5912600401&treated=1-751793921](http://www.lexisnexis.com/en-us/products/lexis-advance.page?access=1-5912600401&treated=1-751793921).

<sup>22</sup> See *supra* ¶ 3.204(F)(1).

Provider	Tracking Service
Westlaw	Virginia bill tracking: current and recently ended session data
Lexis Advance	Virginia bill tracking reports: 1990-present
Lexis.com	Virginia bill tracking reports (VATRCK): current legislative session only
Virginia Legislative Information Service	Lobbyist-in-a-Box <sup>23</sup> <ul style="list-style-type: none"> <li>• Free service: email notification tracking of up to five bills</li> <li>• Subscription service: allows for multiple profiles with different bill lists and notification options</li> </ul>
	Legislative Publication Subscription Service: <sup>24</sup> available by pick up or mail delivery

### 3.3 THE VIRGINIA CODE

#### 3.301 *Code of Virginia 1950.*

**A. Generally.** The Virginia Code Commission, a permanent commission formed by the legislature, takes the session laws passed each year by the legislature and integrates those laws into broad subject headings called “titles.”<sup>25</sup> The Commission then organizes the text of the statutes under these titles and assigns

<sup>23</sup> *Id.*

<sup>24</sup> See *supra* ¶ 3.204(E).

<sup>25</sup> <http://codecommission.dls.virginia.gov/>.

section numbers to the law.<sup>26</sup> Organizing the laws by subject makes research easier, so the resulting Code of Virginia is the main tool used by lawyers to locate Virginia statutes.

There are currently two printed editions of the Code: *The Code of Virginia 1950, Annotated* is published by LexisNexis, and *West's Annotated Code of Virginia* is published by Thomson Reuters. Both contain annotations and editorial enhancements protected by copyright; only the text of the statutes is in the public domain.<sup>27</sup> Although the publication may still reference 1950, the date of the last full codification, the text is updated yearly in both versions.

**B. Arrangement and Citation.** The Virginia Code has sixty-seven titles, each corresponding with a general subject area of the law, such as criminal law or commercial law. These titles are arranged alphabetically, and each is assigned a title number. The broad subjects covered by each title are then subdivided into subtitles, chapters, articles, and sections. The number of divisions within a title varies depending on its size and complexity.

The Virginia Code Commission has adopted the use of the period to subdivide sections, which causes some confusion for researchers. The period may appear in two places in the Code. First, titles that have been substantially changed due to amendments may be repealed and reissued. The reissued title will have a “.1” or “.2” after the title number to indicate its version. For example, the current title on “Counties, Cities and Towns” is labelled 15.2, indicating that previous versions—title 15 and title 15.1—were repealed in large part and replaced by 15.2. Also,

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<sup>26</sup> See Va. Code § 30-145 *et seq.*

<sup>27</sup> The Virginia General Assembly makes a copy of the text of the Code of Virginia available online but states “[t]he Code of Virginia online database excludes material copyrighted by the publisher, Michie, a division of Matthew Bender. Copyrighted material includes annotations and revisors’ notes, which may be found in the print version of the Code of Virginia.” *Code of Virginia*, LIS Virginia Law, <http://law.lis.virginia.gov/vacode>.

newly enacted titles may be designated with a “.1” as is the case with current title 23.1, “Institutions of Higher Education; Other Educational and Cultural Institutions.” A list of titles appears at the beginning of each Code volume, including the names of repealed and replaced titles.<sup>28</sup>

The period is also used to subdivide individual statute sections or to add new sections (or repealed or reenacted sections) in a logical place in the Code rather than placing them at the end of the chapter or title. This mark looks like a decimal, which frequently confuses researchers since section 55-142.3 precedes section 55-142.12. Both the *Code of Virginia 1950, Annotated* and *West’s Annotated Code of Virginia* use this organizational structure in their publications.

Statutes are cited in the Code using only the title and section number, separated by a hyphen. For example, title 15.2 of the Virginia Code covers “Counties, Cities and Towns.” Subtitle II, chapter 17 within that title covers “Police and Public Order,” which includes sections 15.2-1700 through 15.2-1753. In legal citation, a reference to “Va. Code § 15.2-1730.1” is to section 1730.1 within title 15.2.

**C. Acts Not Included in the Code.** Traditionally, the Code published for practitioners only includes provisions passed by the General Assembly that have a “public and permanent nature.”<sup>29</sup> The General Assembly often passes acts that accomplish single tasks or have a short duration, for example, requesting a study from a state agency, honoring an individual, or

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<sup>28</sup> The original numbering of titles ran 1 through 65, but repeal and addition of new titles in the code since 1950 means that the current titles are numbered 1 through 67, with various subparts.

<sup>29</sup> This language was used often in Virginia to describe acts included in Code compilations. See, e.g., Acts of the General Assembly, 1803, or Samuel Pleasants and Henry Pace, *Collection of All Such Acts of the General Assembly of Virginia, or “Revised Code” of 1803*. Pleasants notes that “the greater part of [published laws] were laws of a local and private nature, which were totally useless, and a mere encumbrance to the practitioner in a court.” *Id.*

naming a public road or monument. These “laws of a local and private nature” are not included in the Code. This also includes yearly budget bills as well as the language of constitutional amendments that the legislature must pass to send referendums to the public.<sup>30</sup> A compilation of uncodified acts is available on the LIS website. It lists uncodified acts from 1948 to the present, with links to the full text of acts from 1994 to the present.<sup>31</sup>

**D. Amendments and Prior Codifications.** There are two types of historical notes that may be listed at the end of the text of a statute: (i) where the statute appeared in a previous codification and (ii) the enactment and subsequent amendments made by the General Assembly. References to codifications before 1950 are given by date of revision and section number, for example: Code of 1919, § 5.<sup>32</sup> References to amendments made after 1950 are referred to by the year and chapter of the acts of the General Assembly in which the amendment appears, for example: 1997, c. 406.<sup>33</sup>

The *Code of Virginia 1950, Annotated* contains references to both prior codifications and amendments. *West’s Annotated Code of Virginia* provides authority references in a similar format, but only from 1950 to present.

**E. Exact Language.** When the precise language of the statute is important, the legal researcher should confirm the exact language by checking the *Acts of the General Assembly*. For most purposes, however, the Code language is commonly accepted by Virginia’s trial courts.

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<sup>30</sup> See *supra* Chapter 2 of this book.

<sup>31</sup> <http://law.lis.virginia.gov/uncodifiedacts>. The LIS website also has a new “Budget Portal” at <https://budget.lis.virginia.gov/>.

<sup>32</sup> See the list of prior codifications at paragraph 3.302 below. Note that prior codifications were not arranged into titles, so a section number within the publication is sufficient to locate the text.

<sup>33</sup> See *supra* ¶ 3.202 (notes on legislative intent).

Each Code section is prefaced by a boldface title called a “headline” describing the essential contents of the section. While these headlines may be helpful in locating Code sections, the researcher must rely only on the actual language contained in the body of the text. By statute, the headline is not part of the section,<sup>34</sup> but the cases annotated under that section accord the headline “its due share of consideration.”<sup>35</sup>

**F. Updating.** Annual supplements to each volume of the Code are produced before July 1 of each year. The supplements incorporate enactments of each year’s General Assembly session. Replacement volumes are issued when the annual supplement for a particular volume becomes too cumbersome.

In addition, the *Code of Virginia 1950, Annotated* is further supplemented by the *Advance Code Service*. These cumulative pamphlets update the annual pocket parts with new case annotations and editorial changes. An additional updating tool is the *Advance Legislative Service*, which is a series of pamphlets published during the spring of each year that contain the enrolled bills passed by the General Assembly. The *Advance Court Rules and Practice Service* pamphlet updates the “Rules” volume of the Code.

*West’s Annotated Code of Virginia* is also supplemented by annual pocket parts and by the *Interim Annotation Service*. The semiannual *Interim* service updates the pocket parts with recent case annotations to the Code and Virginia Constitution. *West’s Virginia Legislative Service*, a series of pamphlets issued during and immediately following each session of the General

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<sup>34</sup> “The headlines of the sections printed in black-face type are intended as mere catchwords to indicate the contents of the sections and do not constitute part of the act of the General Assembly.” Va. Code § 1-217.

<sup>35</sup> *Jordan v. South Boston*, 138 Va. 838, 845, 122 S.E. 265, 267 (1924) (“It is true the headline is not strictly a title, but it occupies a closely related position. It contains catch words which are intended to indicate the contents of the section.”)

Assembly, contains the enrolled bills along with editorial headings describing the subject matter.

A prudent researcher will never discard superseded volumes and supplements but should be certain they are clearly marked and separated from the current set.

**G. Additional Materials.** The *Code of Virginia 1950, Annotated* also includes the complete text of several other primary sources of law. This includes the full text of the Constitution of the United States of America, the Constitution of Virginia, Legal Ethics Opinions, Unauthorized Practice of Law Opinions, and Compacts. It also includes tables that allow a researcher to track a statute across codifications or repeals.<sup>36</sup> Copies of the Rules of the Supreme Court of Virginia have been included in volume 11 of the *Code of Virginia 1950, Annotated* since 1984. Between 1957 and 1984, the rules were appended to the end of volume 2 as an accompaniment to title 8.01 (Civil Remedies and Procedures).<sup>37</sup>

*West's Annotated Code of Virginia* includes the text of the United States and Virginia Constitutions as well as selected disposition tables.

**3.302 Previous Codification.** In almost four centuries during which the colonial House of Burgesses and the General Assembly have passed legislation, there have been several official and unofficial Codes of Virginia. A legal researcher often must consult previous Codes to learn the history of a specific statute. The following is a list of previous codifications of Virginia statutes after the American Revolution.<sup>38</sup>

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<sup>36</sup> See *infra* ¶ 3.304 for more information on tables located in the codes.

<sup>37</sup> Other publications, such as the *Report of the Judicial Council of Virginia* and the *Virginia Reports* series, reproduce the Rules of the Supreme Court of Virginia as well.

<sup>38</sup> This list is based on information from the State Law Library and HeinOnline. For a complete list of Virginia Code compilations, see *Virginia Law Books: Essays and Bibliographies* 12-36 (W. Hamilton Bryson, ed. 2000).

Covers Acts from:	Title
1606 through 1792	Hening, William Waller, <i>The Statutes at Large, Being a Collection of all the Laws of Virginia from the First Session of the Legislature in the Year 1619</i> . 13 volumes. New York: Printed by R&W&G Bartow, 1819-1823. Often called “Hening’s Statutes at Large.”
1700 through 1750	Winfrey, Waverly K., Church, Randolph W., <i>The Laws of Virginia, Being a Supplement to Hening’s the Statutes at Large (1700-1750)</i> . Richmond: Printed by the Virginia State Library, 1971. Virginia State Law Library project that printed ordinances recovered from copies at the British Public Record Office that were omitted from Hening’s.
1768 and 1783	<i>A Collection of All Such Public Acts of the General Assembly, and Ordinances of the Conventions of Virginia, Passed Since the Year 1768</i> . Richmond: Printed by Nicholson and Prentis, 1785.
1803 Code, 1776 through 1802 Acts	<i>Collection of All Such Acts of the General Assembly of Virginia, or “Revised Code” of 1803</i> . Richmond: Printed by Samuel Pleasants and Henry Pace, 1803.



<b>Covers Acts from:</b>	<b>Title</b>
1803 through 1808	<i>Collection of All Such Acts of the General Assembly of Virginia of a Public and Permanent Nature as Have Passed Since the Session of 1801 or Revised Code of 1808.</i> Richmond: Printed by Samuel Pleasants and Henry Pace, 1808. The 1803 and 1808 Revised Codes often are bound together two volumes in a single “Revised Code.”
1808 through 1812	<i>Supplement, Containing the Acts of the General Assembly of Virginia, of a Public and Generally Interesting Nature, or Code of Virginia of 1812.</i> Richmond: Printed by Samuel Pleasants, 1812. Often seen as a supplement to the Revised Codes of 1808.
1808 through 1814	<i>Revised Code of Virginia or Second Edition of Revised Code of 1808.</i> Richmond: Printed by Samuel Pleasants, 1814.
1819	<i>Revised Code of the Laws of Virginia: Being a Collection of All Such Acts of the General Assembly, of a Public and Permanent Nature, as are Now in Force; with a General Index, or The Revised Code of Virginia.</i> 2 volumes. Richmond: Printed by Thomas Ritchie, 1819.
1819 through 1823 (1st ed.) then through 1839 (2d ed.)	Joseph Tate, <i>Digest of the Laws of Virginia, Which Are a Permanent Character and General Operation.</i> Richmond: Printed by Shepherd and Pollard, 1841.

Covers Acts from:	Title
1819 through 1833	<i>Supplement to the Revised Code of the Laws of Virginia: Being a Collection of All the Acts of the General Assembly, of a Public and Permanent Nature, Passed since the Year 1819, with a General Index.</i> 3 volumes. Richmond: Printed by Samuel Shepherd, 1833.
Through 1861	Matthews, James M., <i>Digest of the Laws of Virginia, of a Criminal Nature.</i> Richmond: Printed by West & Johnston, 1861; J.W. Randolph & English, 1871 (2d ed.), 1890 (3d ed.). A selection of criminal statutes with case annotation.
Through 1849	<i>Code of Virginia: With the Declaration of Independence and Constitution of the United States; and the Declaration of Rights and Constitution of Virginia.</i> Richmond: Printed by W.F. Ritchie, 1849.
1860	<i>Code of Virginia including Legislation to the Year 1860.</i> 2nd ed. Richmond: Printed by Ritchie, Dunnivant, & Co, 1860.
Through 1874	Munforf, George Wythe, <i>Third Edition of the Code of Virginia: Including Legislation to January 1, 1874.</i> Richmond: Printed by J. Goode, 1873.

Covers Acts from:	Title
1849 through 1887	Burks, E.C., Staples, Waller R., Riley, John William, <i>The Code of Virginia: With the Declaration of Independence and the Constitution of the United States; and the Constitution of Virginia</i> . Richmond: J. E. Goode, 1887.
1887 through 1898	Pollard, John Garland, <i>Supplement to the Code of Virginia: Being a Compilation of All Acts of a General and Permanent Nature Passed by the General Assembly since March 15th, 1887</i> . Richmond: Printed by J. L. Hill Printing Co., 1898.
1887 through 1904	<i>Code of Virginia as Amended to Adjournment of General Assembly 1904</i> . Often called "Pollard's Code." Two volumes. Private Code system supplemented by volumes entitled <i>Pollard's Code Biennial</i> . Printed every two years from 1906 through 1926.
1887 through 1912	Hurst, Sam N., <i>Annotated Pocket Code of Virginia</i> . Pulaski: Printed by Hurst & Co., 1898, 1905 (2d ed.), 1912 (3d ed.). Contains an index indicating omitted statutes.
1918	Anderson, Samuel A., Burks, Martin P., Hutton, Francis B., <i>Code of Virginia</i> . Richmond: Printed by D. Bottom, 1919. This Code appeared in two volumes, only one of which was annotated.

Covers Acts from:	Title
1918 through 1924.	<i>Code of Virginia as Amended to Adjournment of General Assembly 1924.</i> Charlottesville: The Michie Co., 1924.
1924 through 1926	<i>1926 Supplement to the Virginia Code of 1924.</i> Charlottesville: The Michie Co., 1926.
1924 through 1928	<i>1928 Supplement to the Virginia Code of 1924.</i> Charlottesville: The Michie Co., 1928.
1930	<i>Code of Virginia of 1930.</i> Charlottesville: The Michie Co., 1930.
1930 through 1932	<i>1932 Supplement to the Virginia Code of 1930.</i> Edited by Addinell Hewson Michie. Charlottesville: The Michie Co., 1932.
1930 through 1934	<i>1934 Supplement to the Virginia Code of 1930.</i> Charlottesville: The Michie Co., 1934.
1936	<i>Virginia Code of 1936.</i> Edited by A. Hewson Michie and Charles A. Sublett. Charlottesville: The Michie Co., 1936.
1936 to 1940	<i>1940 Cumulative Supplement to the Virginia Code of 1936.</i> Edited by A. Hewson Michie and Charles A. Sublett. Charlottesville: The Michie Co., 1940.
1918 through 1942	<i>The Virginia Code of 1942.</i> Edited by A. Hewson Michie, Charles A. Sublett, and Beirne Stedman. Charlottesville: The Michie Co., 1942. Updated until 1948.

Covers Acts from:	Title
1950 through present	<i>Code of Virginia 1950</i> . Two printed editions of this Code are available: <i>Code of Virginia 1950, Annotated</i> (LexisNexis) and West's <i>Annotated Code of Virginia</i> (Thomson Reuters).

Beginning in 1849, cases were cited in annotations to the Code sections. These old Codes are often excellent sources of early annotation materials for statutes that are the predecessors of existing statutes.<sup>39</sup>

**3.303 Annotations.** To aid researchers in finding cross-references and cases that interpret these statutes, both West and Lexis add annotations to their Code publications. The most convenient source of information on how the sections of the Code are interpreted and applied is the case summaries that appear beneath the sections. It is unwise to rely solely on the case summaries in the annotations; the cases themselves should always be reviewed to obtain the clearest view of the application of each statutory provision. These case annotations are selected and written by editors at LexisNexis and Thomson Reuters. While the case annotations are often ample, they are not always exhaustive. If it is essential to find every case citing or applying a particular statute, the researcher should use additional resources such as KeyCite or *Shepard's Citations*.<sup>40</sup>

Lexis editors for the *Code of Virginia 1950, Annotated* draw case annotations from the following: *South Eastern Reporter, 2d*; *Supreme Court Reporter*; *Federal Reporter, 3d*; *Federal Supplement, 2d*; *Federal Rules Decisions*; *Bankruptcy Reporter*;

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<sup>39</sup> Historical copies of these Codes may be difficult to locate in print unless a university law library is nearby, however many Internet archives have collected historical legal materials in recent years. See *infra* ¶ 3.401 for more on accessing historical Codes online.

<sup>40</sup> See *infra* ¶ 3.401.

LEXIS circuit court opinions; and opinions of the Attorney General. Lexis also includes unpublished opinions from the Court of Appeals of Virginia, which do not appear in any reporters but may be obtained from the court or online. Additional annotations include references to the law in the following secondary sources: Virginia Law Review, Washington and Lee Law Review, William & Mary Law Review, University of Richmond Law Review, and George Mason Law Review.

Case annotations in *West's Annotated Code of Virginia* include references to the *South Eastern Reporter, 2d*; *Supreme Court Reporter*; *United States Reports*; *Lawyers Edition, 2d*; *Federal Reporter, 3d*; *Federal Supplement, 2d*; *Federal Rules Decisions*; *Bankruptcy Reporter*; *Federal Claims Reporter*; *Federal Appendix*; and opinions of the Attorney General. Annotations to secondary sources includes the major law reviews published by law schools in Virginia.<sup>41</sup>

Other notes that may appear under a Code section include cross-references to other Code sections, reviser's notes, decisions under prior law, related law review citations, and other explanatory information.

**3.304 Tables.** Volume 10 of the *Code of Virginia 1950, Annotated* contains several tables that allow users to locate a section or trace its history of codification. Researchers can locate a specific Code section in the table and use it to cross-reference (i) where that section appeared in previous Codes (dating back to the Code of 1919), (ii) any repealed or amended sections, and

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<sup>41</sup> Specifically, George Mason Law Review; George Mason University Civil Rights Law Journal; Journal of Law and Politics; Journal of the Patent and Trademark Office Society; Regent University Law Review; Richmond Journal of Law and Technology; University of Richmond Law Review; Virginia Environmental Law Journal; Virginia Journal of Law and Technology; Virginia Journal of Social Policy and the Law; Virginia Law Review; Virginia Tax Review; Washington and Lee Law Review; Washington and Lee Race and Ethnic Ancestry Law Journal; William & Mary Bill of Rights Journal; William & Mary Environmental Law and Policy Review; William & Mary Law Review; and William & Mary Journal of Women and the Law.

(iii) the Acts of the General Assembly citation. Where whole titles of the *Code of 1950* have been recodified, comparative tables trace the rearrangement. These tables can dramatically simplify the task of tracing a particular law into codification and through recodification.

*West's Annotated Code of Virginia* does not include a separate tables volume. Disposition tables are included in each volume and are only provided for recently revised titles.

**3.305 Other Sources for Researching Statutes by Subject.** Both editions of the print Code include a multivolume index used to locate statutes associated with specific key words.

The index for *Code of Virginia 1950, Annotated* (LexisNexis) is mostly compiled from the Code's subject headlines;<sup>42</sup> therefore, the researcher must either be familiar with the precise subject terminology or be willing to search through many related or synonymous index entries. Also, many Code section subject headlines have remained unchanged for decades and, therefore, may not reflect current legal terminology. The publisher has recently added more main headings, including headlines and more common name and descriptive word headings.

The index to *West's Annotated Code of Virginia* offers broad headings often with multiple subheadings and cross-references. Editors have made an effort to maintain uniformity of language within the subject headings and to avoid splitting concepts into multiple headings.

The researcher using a Code index should not assume that there is no Code section on a subject even if a search of every conceivable related subject has failed to reveal any listing. If no Code section is found, it is good research practice to repeat the search in a different research medium. The researcher should take great

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<sup>42</sup> See paragraph 3.301(E) above for more on headlines.

care before concluding that no statutory authority exists on a subject.

The primary legal encyclopedia for Virginia, *Michie's Jurisprudence of Virginia and West Virginia*, is another excellent source for finding statutes across the Code that deal with a specific legal issue. Legal encyclopedias are intended to summarize the law and to serve as an introduction to research on a particular topic of law. Statutory materials as well as leading cases are found by searching relevant substantive law topics. As a Michie publication, the content is exclusive to the Lexis platforms online but can be purchased in print as well. The print publication includes a "Table of Statutes" volume to assist in locating discussions of specific statutory sections.

When researching using *Michie's Jurisprudence*, it is important to distinguish between Virginia and West Virginia entries as both states are included in this publication. It is also important to verify the text of all statutes and cases referenced in articles before relying on summaries or citing to those legal authorities.

### **3.306 The Virginia Code in Electronic Format.**

Computer-assisted legal research is an essential component of cost-effective, responsible research and is a mainstay in any law office. Online services are attractive because the law is constantly updated and they offer flexible search and retrieval options and dependable customer support. The disadvantage of electronic full-text databases has always been their price, but more flexible and attractive pricing is now available.<sup>43</sup> The Virginia LIS is available online at no cost, and Virginia State Bar members have free access to Fastcase as well.

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<sup>43</sup> The 2016 ABA Legal Technology Survey Report shows that the two major commercial legal research providers, Westlaw and LexisNexis (including both Lexis Advance and Lexis.com), are still used most often for legal research by about 70% of lawyers. However, other competitors have taken a share of the market in the last few years; in 2011 over 88% relied on Westlaw or LexisNexis.



The vast majority of new legislation becomes effective on July 1 of each year.<sup>44</sup> The researcher should be aware that not all online services integrate the annual legislative changes into the Code by that date. It is very important to ascertain the date through which an online Code is current.

**A. Virginia Legislative Information System (LIS).**

The Division of Legislative Automated Systems maintains the Code of Virginia online. Researchers may access this site at <http://lis.virginia.gov>. The site accommodates both Boolean and proximity searching of the full text of the Code and allows the user to browse the Code's table of contents and a "Popular Names Table." It also permits the tracking of ongoing and proposed legislation. It archives bills beginning with the 1994 session of the General Assembly.<sup>45</sup>

**B. Westlaw.** Access to the full text of *West's Annotated Code of Virginia*, including all current supplements, annotations, and the index is available through a subscription to Thomson Reuter's Westlaw database.<sup>46</sup> By using the "KeyCite" function, researchers can check for session laws affecting Code sections that have not yet been enacted or incorporated into the Code. Users must subscribe through West, which provides training and telephone support. Both Boolean and natural language searches are supported, as well as searches by citation. The subscription also provides access to "Virginia Statutes Annotated—Historical," which includes copies of previous codifications dating back to 2001.

**C. Lexis.** Access to the full text of the *Code of Virginia 1950, Annotated*, including the Constitution, session laws, annotations, and rules is available through a subscription to

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<sup>44</sup> See *supra* ¶ 3.203(B).

<sup>45</sup> See *supra* ¶ 3.204(F)(1).

<sup>46</sup> Subscribers access these services on [www.westlaw.com](http://www.westlaw.com).

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Lexis.com or Lexis Advance.<sup>47</sup> Archival copies of the Code date back to 1992. Both Boolean and natural language searches are supported, as well as a search by citation.

**D. Bloomberg Law.**<sup>48</sup> Bloomberg Law is the newest online subscription service that integrates legal content, company and market information, and proprietary news services. It includes an unannotated version of the current Virginia Code and session laws from January 1999 to present.

**E. Fastcase.**<sup>49</sup> Virginia State Bar members have free access to Fastcase,<sup>50</sup> which includes an unannotated version of the Code of Virginia.

**F. HeinOnline.**<sup>51</sup> Legal publisher William S. Hein & Co., Inc. maintains a database called “State Statutes: A Historical Archive,” which collects prior codifications of state law. Many of the sources indicated in paragraph 3.302 above are available through this platform for researchers tracking legislation before 1950.

**G. Virginia CaseFinder.**<sup>52</sup> Geronimo Development Corporation’s CaseFinder is a database available by subscription either online or through a monthly DVD. It includes a searchable Code, Constitution, rules of court, and case law and other materials. It also displays recent amendments to Code sections in a redline/strikeout format. In lieu of annotations, it provides a

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<sup>47</sup> Subscribers access these services on <https://advance.lexis.com>.

<sup>48</sup> Users may access these services at [www.bloomberglaw.com](http://www.bloomberglaw.com).

<sup>49</sup> Users may access these services at [www.fastcase.com](http://www.fastcase.com).

<sup>50</sup> See Chapter 9 of this book for more details on this service. Note that the legal materials once available on Loislaw have been purchased by Fastcase and are now provided through that platform.

<sup>51</sup> Users may access these services at <https://home.heinonline.org/>.

<sup>52</sup> Users may access these services at [www.casefinder.com](http://www.casefinder.com).

“Cited In” feature, which displays a list of Virginia cases that have cited that section.

### 3.4 UPDATING

#### 3.401 *Shepard’s Virginia Citations.*

**A. Generally.** *Shepard’s Virginia Citations* provides a listing of all authorities citing to a particular case or statute. Available in print and online through various Lexis platforms, *Shepard’s* provides status information on each section of the Code and lists cases and secondary sources that cite or apply the section. In addition to covering Virginia materials, *Shepard’s Virginia Citations* lists Virginia citations to the United States Constitution, the United States Code, Statutes at Large, federal rules of court, and the federal sentencing guidelines.

Online platforms will reflect the most recent citation information for a given case available through *Shepard’s*. When researching in print, the most recent paperback supplement should be consulted to ensure that all cases and other authorities that have reviewed a specific legislative enactment are located.

**B. Print Coverage.** Information tabulated in *Shepard’s Virginia Citations* includes the following:

1. Federal legislative materials.
2. Federal court rules.
3. Virginia Constitutions of 1902 and 1971.
4. Various Code provisions before the *Code of Virginia 1950, Annotated*.
5. Current *Code of Virginia 1950, Annotated*.
6. A table of Virginia legislative enactments by popular names or short titles.

7. Acts of the General Assembly, 1906-present.
8. Rules of Court, including the Rules of Professional Conduct.

**C. Previous Code Sections.** In addition to locating authorities citing a current Code section, *Shepard's* is also useful for locating cases addressing Code sections that have appeared in a similar form in previous Codes. It is important to keep in mind older cases may not continue to be annotated under the same version of the statute appearing in the current Code.

**3.402 Table of Subscription Databases with Virginia Code and Statutes.**

Database	Bills and Session Laws	Code Content
Fastcase— Virginia Statutes	Not Available	Unannotated text of current Code; archival Codes from 2008-present
Westlaw	Virginia Historical Session Laws, 1990-present; Virginia Historical Proposed Legislation, 2005-present	Content of <i>West's Annotated Code of Virginia</i> , archival copies from 2001-present
Lexis Advance	Virginia bills, 1992-present; <i>Virginia Advance Legislative Service</i> , 1989-present	Content of <i>Code of Virginia, Annotated</i> , archival copies from 1991-present

<b>Database</b>	<b>Bills and Session Laws</b>	<b>Code Content</b>
Lexis.com	Virginia bills, current legislative session; <i>Virginia Advance Legislative Service</i> , 1989-present	Content of <i>Code of Virginia, Annotated</i> , archival copies from 1991-present
Bloomberg	Virginia Acts, 1999-present	Current Code only, with computer-generated Smart Code annotation to cases
HeinOnline	Virginia Acts, 1776-present (available within 60 days of printed publication); also includes Acts of the Virginia Colony (1661-1775)	Pre-1950 Codes <sup>53</sup>

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<sup>53</sup> See *infra* ¶ 3.302.