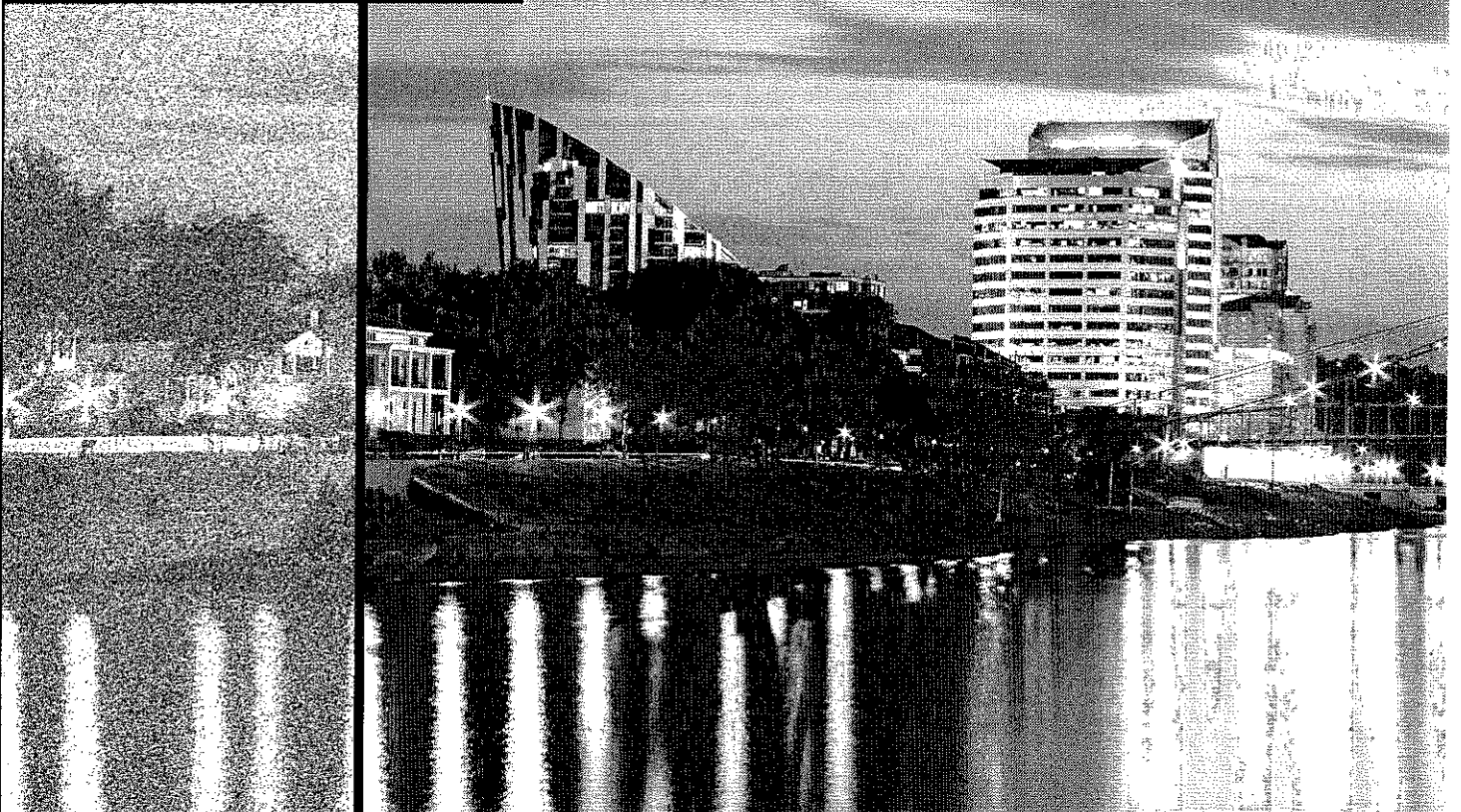


# LEX LOCI

OCTOBER 2009

*Alone we can do  
so little; together  
we can do so much.*

Helen Keller



Northern  
Kentucky  
Bar  
Association

# RESEARCHING KENTUCKY LEGISLATIVE HISTORY: A CHECKLIST<sup>1</sup>

Carol Furnish and Isaac Burkhart<sup>2</sup>

It is not possible to do the sort of legislative history for a Kentucky statute that one traditionally does for a federal statute. The Kentucky legislature does not publish its legislative debates or committee hearings - the basic materials of a true legislative history. However, in order to satisfy due diligence requirements, by attempting to determine the intent of the General Assembly, there are a few steps a researcher should take to insure that he or she has exhausted all possible resources. The following article will guide you through this process and assist you in finding the relevant materials at the Chase Law Library.

1. Your legislative history research should begin with a *Kentucky Revised Statute* (KRS) citation. Check the annotations to the KRS section in both the Lexis and Thomson-West (print or online services). Note the date that the section was enacted and examine the superseded volumes of the KRS to see if the section replaced or modified a prior law. (Most of the older Kentucky materials have been moved to Closed Stacks, which is located on the

first floor of the Chase Law Library.) A prior section that was replaced or modified can sometimes provide at least circumstantial evidence of legislative intent.

2. Next, find the citation to the *Kentucky Acts* for your KRS section. The citation to the *Kentucky Acts*, including the year, chapter, and section, will appear after the text of the statute. Here is an example of the format that you will see: 1978 ch. 250, § 1, eff. 6-17-78. Check the relevant volume of the *Kentucky Acts* to see how the section appeared in the original legislation. *Kentucky Acts* from 1792-present can be found on microfiche in the Chase Law Library. *Kentucky Acts* from 1812-present are available in print with other Kentucky materials on the second floor of the Chase Law Library. Look at the head of the act for a bill number. The HB or SB preceding the number will tell you whether the law originated in the House or the Senate. Write down the bill number in order to continue your research. Looking at the *Kentucky Acts* can be useful because sometimes the compilers of the KRS omit extraneous material useful to the interpretation of a statute. In addition,

looking at the original law may place the section you are researching into a context not apparent from its place in the code. (Often the official compilers of the KRS cut an Act into parts and place individual sections in several widely dispersed chapters). In some cases, the Act may have a preamble that explains its legislative purpose.

3. At this point, your research options depend on when the law in question was passed. If your law was passed after 1998, you may be able to do all your research on the LRC's website at <http://www.lrc.state.ky.us>. If your law was passed prior to 1998, you will need to visit a library (such as Chase Law Library) that has access to the *Kentucky Acts* and *House and Senate Journals* in print. Chase has print versions of the *Kentucky Acts* from 1812-present; The *House Journal* from 1825-present; and the *Senate Journal* from 1822-present. When using the *House Journal* or *Senate Journal* (the Journals), look at the History of Action table in the last volume of the session in which your bill was passed. This table will direct you to the pages in that journal on which your bill was mentioned. The Journals can be used to trace the legislative action of a bill on chamber floors. Although limited in their usefulness, the Journals may provide some information that is relevant to your research, including the sponsor of the bill, committees to which the bill was referred, and different versions of the bill if it was modified during the legislative process. Different versions of the bill (including any modification such as a deletion or addition) can sometimes help discern legislative intent. In addition, the Journals can be useful in obtaining the voting record of a particular legislator.

4. Next, check the publications of the Legislative Research Commission (LRC). The LRC was established in 1948 as a non-partisan fact-finding and service arm of the General Assembly. The LRC is administered by a full-time staff, which includes researchers, fiscal analysts, attorneys, and librarians who provide expert services to the legislators. Its publications are written in language designed to avoid the appearance of bias to any party. Thus, even if an LRC publication is on point with your topic, it may not be helpful in elucidating legislative intent.

There are two continuing numbered series published by the LRC, the *Informational Bulletin* and the *Research Reports* series. The *Informational Bulletin* and *Research Reports* can be found on the web at <http://www.lrc.ky.gov/lrcpubs/lrcpubs.htm>.



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Chase Law Library also has print versions of the *Informational Bulletins* and the *Research Reports* in the Kentucky section on the second floor. Two LRC publications may be particularly useful: *Issues Confronting the [Year] General Assembly* and *Mid-interim Reports of the Joint, Special and Statutory Committees*. In addition, there are a number of publications on special topics. For example, the LRC has published reports on county and municipal law, zoning laws, and the Kentucky Constitution. The best way to find out if there is an LRC publication on your topic is to search NKUIRE using your subject of interest as a keyword and Legislative Research Commission as the author/publisher.

5. Contact the LRC Library in Frankfort to see if the floor debate or committee meeting was taped during the session. For information on the availability of video tapes call the LRC at 502.564.8100.

Having a detailed chronology of the bill will be helpful in this process. If the committee meeting was not taped, then summary minutes of the committee hearings can be obtained from the LRC Library. In addition, Kentucky Educational Television (KET) offers legislative coverage archives, available at <http://www.ket.org/legislature/archives.php>. This page includes clips from regular and interim sessions of the Kentucky General Assembly (2001-present). However, they do not constitute a complete record of these sessions.

6. Many laws begin with suggestions from the academic community. Therefore, it may be helpful to check the two law journals with a state focus, the *Kentucky Law Journal* and the *Northern Kentucky Law Review*. In addition, the KBA's *Kentucky Bench & Bar* frequently discusses proposed and enacted legislation. All three of the publications are indexed by LegalTrac and the law school journals are available

full-text via *Hein Online*. The print bound periodicals are found on the first floor of the Chase Law Library; current issues are located on the second floor.

7. Finally, insights into the enactment of a law may be gained from reading newspaper coverage of the General Assembly. The major Kentucky papers are available via LexisNexis and Westlaw: the *Courier-Journal* is on LexisNexis and the *Lexington Herald-Leader* is on Westlaw. Specific articles may be purchased directly from the paper when accessing their website.

<sup>1</sup> Portions of this article are reproduced (with the permission of the author) Kurt X. Metzmeier, Kurt Metzmeier, *Frankfort Franks: Finding the Legislative History of Kentucky Statutes*, Louisville Bar Briefs, Jan. 2008, pp. 18-19; and *Kentucky Legislative History*, <http://www.law.louisville.edu/library/research/guides/ky-history>.

<sup>2</sup> Carol Furnish, Assistant Director for Instruction & Outreach Services, Chase College of Law Library and Isaac Burkhardt, Research Assistant and third-year law student.

## YOUNG LAWYERS' REPORT NKBA

The Young Lawyers' Section has been very active this year. The Truancy Mediation Program is currently being implemented in the John G. Carlisle Elementary School of the Covington Independent School District. Many attorney volunteers are serving as mediators between the school administration and parents of truant students. The program is already experiencing very positive results. The YLS would like to thank the lawyers who volunteered for the program.

The YLS is also strongly supporting Northern Kentucky Legal Aid (now doing business as Legal Aid of the Bluegrass). As many of the members of the NKBA are aware, Legal Aid and its partnering organization, Northern Kentucky Volunteer Lawyers, have experienced a significant decline in funding from various sources. The Executive Director of Legal Aid, Dick Cullison, spoke at the August meeting of the YLS. More than 20 YLS members were in attendance, and the NKVL

received donations from 100% of the members in attendance. In fact, the YLS contributed 20% more funds than were requested by Director Cullison. In addition, members of the YLS provide volunteer services. Considering the current budget issues relating to Legal Aid and NKVL, the YLS would like to strongly encourage the membership of the NKBA to provide significant consideration relating to possible donations during these organizations' joint annual fundraising drive this November.

The YLS also assisted the Kentucky Bar Association with a raffle at the NKBA Annual Golf Outing to benefit the Kentucky Legal Education Opportunity Fund. The raffle was a success and the YLS would like to thank Member Roula Allouch for her organization of the raffle.

On a lighter note, the NKBA YLS enjoyed a great social outing with the KBA YLS following the KBA Law Update on September 2. It was certainly rewarding to enjoy the

company of our contemporaries across the Commonwealth.

Looking ahead, the YLS is organizing a bar exam writing clinic for prospective bar examinees. The clinic will take place in January,

2010. In addition, the first of the series of YLS CLE's occurred on September 4, 2009, and provided great insight to lawyers beginning new law practices. The second CLE session occurred on October 1 and focused on marketing and technology. Next, the YLS is conducting a CLE at the NKBA office on November 5 and the topic will be "Managing Your Law Office." The YLS members hope to see many attorneys taking advantage of the CLE opportunities.

