### 2009-10 UPDATES TO THE

# STATE-BY-STATE REPORT ON AUTHENTICATION OF ONLINE LEGAL RESOURCES



AMERICAN ASSOCIATION OF LAW LIBRARIES

ELECTRONIC LEGAL INFORMATION ACCESS & CITATION COMMITTEE

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# 2009-10 Updates to State-by-State Report on Authentication of Online Legal Information Executive Summary

Since the 2007 state summaries were published, many states have realized the importance of providing access to authentic and official online legal information. The AALL Electronic Legal Information Access and Citation Committee and its volunteers have updated the 2007 state summaries to present the progress that has been made since the 2007 report was published. The 2009-10 Updates to the State-by-State Report on Authentication of Online Legal Information provide insight into what has changed and what has not changed in the struggle to make state legal information online more trustworthy.

Overall, the report updates indicate that a few states have made changes to online legal publications, including adding official and authentic notations to the information, making the information more accessible, and even eliminating print publications in favor of online only. One of the most significant changes noted in the 2009-10 update is the addition of disclaimers to many state Web sites regarding authentication and official format of the information online.

The 2009-10 updates provide answers to a series of questions to determine what changes have been made in each state after the 2007 Report was published and if a state has adopted a medium neutral citation format. The questions asked are below:

- 1. Has the state made any changes to the official status of any of these titles?
- 2. Has the state used technology to designate any of these titles as authentic? If so, what technologies have been adopted?
- 3. Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report?
- 4. Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report?
- 5. Have courts in your state adopted a medium neutral citation system since the 2007 report? If the 2007 summary reported that your state(s) had adopted a medium neutral citation system, would you please answer the following
  - o (a) By what mechanism was the system adopted (e.g., state statute, regulation, rule of court, judicial opinion, clerk of court memorandum)?
  - o (b) Where can a user find directions to understand the system (e.g., court web site with URL, state code or register with citation)?
  - o (c) (If easily determined) what new technology, if any, did the court use to implement the system?
- 6. Have there been any other significant changes to the 2007 state summary?

### **Elimination of Print Publications in Favor of Online-Only**

Since the 2007 Report, four more states have eliminated a print legal publication in favor of online only. Arkansas eliminated the printing of *Arkansas Reports* and *Arkansas Appellate Reports* in favor of online sources. Georgia eliminated print versions of the *Georgia Register* in favor of an online version. Michigan also eliminated the print version of its Administrative Code. South Carolina discontinued the print publication of the *Shearouse Advance Sheets*, which included opinions from the appellate courts. In Maryland, there was an effort to discontinue print publication of the *Maryland Register*, but the AALL Maryland state working group effectively stopped the state from completely eliminating the print. Beginning in May 2010, Maryland will provide a free PDF version of its *Register* online in addition to the html version.

### **Changes to Official and Authentic Status of Online Information**

Eight states made significant changes to the availability of their official electronic legal information. The courts in Arkansas now designate the electronic versions of Supreme Court and Court of Appeals decisions as official, and time stamps certify court decisions as authentic. Colorado designates the online versions of the *Colorado Code of Regulations* and the *Colorado Register* as official. The District of Columbia now certifies its online statutory code, *Register*, *Municipal Code*, and session laws as official. Delaware's online administrative code and register are official, and it publishes the official version of its session laws (from 1999 on) on the state's website. Delaware certifies that these sources are authentic as well. Georgia designates Supreme Court opinions online as official but to date has not designated them as authenticated versions. Ohio addresses the authentication issue by using digital signatures on all Supreme Court opinions posted on the Supreme Court of Ohio's web site. Utah and Washington both designate their administrative codes online as official.

### **Permanent Public Access**

In addition to the states that were noted in the 2007 Report, four more states guarantee permanent public access to online state legal information. Connecticut enacted legislation guaranteeing the public's permanent access to online government information. Georgia also attempts to guarantee permanent public access to online executive agency information. By statute, Idaho guarantees free and continuous access to its state publications. Utah guarantees permanent public access to born-digital Utah government publications and State of Utah websites.

### **Medium Neutral Citation**

Two states have adopted new vendor neutral citation formats. Arkansas adopted a medium neutral citation system for cases. The New Mexico Supreme Court amended its rule governing citations for pleadings and other papers filed in the courts to require vendor neutral citation.

### **Acknowledgments**

The ELIAC Committee would like to extend a huge thank you to all the state authors who investigated developments in their states and wrote the updates. This report would also not have been possible without the dedication and hard work of Tina Ching, Editor of the 2009 Updates. Finally, big thanks to the ELIAC Committee members Matt Braun and Timothy Coggins and AALL staff liaison Mary Alice Baish, AALL's Director of Government Relations.

By Emily Janoski-Haehlen 2009-2010 Chair, Electronic Legal Information Access and Citation Committee

### Alabama

<u>2007 Report</u> and 2009-10 Update by Timothy L. Coggins, University of Richmond School of Law Library

OFFICIAL STATUS



No change since the 2007 report

**AUTHENTICATION** 



No change since the 2007 report

### Alabama online legal resources are not official.

The state's online legal resources are not recognized as the official source for the documents. However, the Alabama legislature website does include the following statement: "Welcome to the Official Website of the Alabama Legislature." Appellate opinions are available online through Alalinc, the State Law Library's Legal Information Network, which is a subscription Internet service. There is no language at the introductory court website pages and at Alalinc that indicates that the online source is official. There is a comment on the first page of the online Alabama Administrative Code, which states that the Internet version is "not the official Alabama Administrative Code."

# Alabama is not addressing the authentication of online legal resources.

The state is not addressing the authentication of online legal resources. The Alabama Administrative Office of Courts website indicates the following in a legal disclaimer: "Although the information contained on this site is intended to be accurate and timely, the AOC does not guarantee the accuracy or timeliness of this information." Court representatives indicate that Alabama is not currently considering the authentication of its online legal resources.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? Alabama has not eliminated any print publications of primary law to date.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? Alabama does not guarantee permanent public access to government publications.

Have courts in your state adopted a medium neutral citation system since the 2007 report? Alabama has not adopted medium neutral citation format.

Have there been any other significant changes to the 2007 state summary? There have been no significant changes in the 2007 state summary; although a transition away from the current *Alalinc* system for access to court opinions is less likely now than it was in 2007 because of budget considerations and technology issues at the court.

Alabama does not certify as *official* and *authentic* its online versions of the state session laws, statutes, court opinions, administrative code, and administrative register. In the case of the administrative code, the website indicates that the online version is *not* the *official* version, but rather directs users to the Alabama Legislative Reference Service for the hardcopy form of the *Alabama Administrative Code*. Moreover, language at this page states that "information contained herein is for information purposes only. While every effort is being made to ensure that this information is true, correct and error-free, textual information should not be construed or accepted as legal instruments."

The websites for the legislature and the courts do not direct users to specific titles for the *official* versions. A note at the welcome page for the Alabama Legislative Information System Online (ALISON) indicates that "the information provided on ALISON is *not* the official information provided by the Legislative offices" [emphasis added]. There is no language at the Alalinc website that indicates what is considered the *official* source for Alabama Supreme Court, Court of Civil Appeals, and Court of Criminal Appeals decisions. A notice does appear at the beginning of each individual electronic slip opinion, indicating that "this opinion is subject to formal revision before publication in the advance sheets of *Southern Reporter*.

Alabama is continuing the digitizing of *Alabama Legislative Acts* and *House and Senate Journals*. It currently has available materials from January–February 1818 through the annual session for December 16-23, 1836 on its website. The website indicates that this is a multi-year endeavor and that new documents will be added, by session and progressing forward, as they are made ready. The information in the historical "Alabama Legislative Acts, House Journals, Senate Journals" section are provided for "historical and research purposes," and there is no mention that the materials as presented at the website can be used as *official*.

Alabama's court officials are not actively discussing a replacement for its current fee-based subscription service, *Alalinc*, for court opinions, which was developed in the early 1990s by the State Law Library. Fees for the service are used to pay for the hardware, software and personnel expenditures required to operate *Alalinc*. Discussions about this current fee-based subscription service and whether to replace it have slowed due to state economic and court technology-related issues. There is no indication when these discussions will resume, and there is insufficient interest at this point in moving to a system that would provide free access to court opinions.

### Alaska

<u>2007 Report</u> by Cynthia Fellows, Institute for Advanced Legal Studies; 2009-10 Update by Catherine Lemann, Alaska State Court Law Library

OFFICIAL STATUS

AUTHENTICATION

X

No change since the 2007 report

No change since the 2007 report

# One Alaska online legal resource is considered *official*. Others have *official* characteristics.

The statute creating the Alaska Online Public Notice System gives official characteristics to this substitute for an official print administrative register which is no longer published. The website does not state that the notice system is official, however.

# No Alaska online legal resource has computer-based authentication.

State officials are not considering either encryption or other computational means to authenticate website content at this time.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? No.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? No.

Have courts in your state adopted a medium neutral citation system since the 2007 report? No.

Have there been any other significant changes to the 2007 state summary? No.

The State of Alaska does not certify as *official* and *authentic* its online versions of the state session laws, statutes, administrative code and administrative register (Alaska Online Public Notice System). The Alaska Online Public Notice System is considered official, since it is the source designated by statute for publication of rulemaking notices and other actions as enumerated in section 44.62.175 of the *Alaska Statutes*. There is a permanent, publicly accessible electronic archive of these notices which are no longer published in print.

Slip opinions from the Alaska Supreme Court and Court of Appeals are posted on the official court website with the following disclaimer notice at the top of all slip opinions: "This opinion is subject to correction before publication in the PACIFIC REPORTER" (italics removed). There is also notice that, "Opinions are removed from this site once they are printed in the *Pacific Reporter*, the designated official reporter of Alaskan appellate decisions."

Session laws, statutes, and the administrative code are posted on the State of Alaska's website with the following notice:

These Infobases are not the official versions of the Alaska statutes and regulations currently in effect. The Infobases may contain errors or omissions. They will not contain information that has been inserted after their preparation. These Infobases are intended as informational guides only. The State of Alaska makes no warranty, express or implied, of the accuracy of the Infobases. To be certain of the current version of the statutes and regulations, please refer to the official printed version of the statutes and regulations.

...

THIS IS FOR INFORMATIONAL PURPOSES ONLY. The information contained herein may not be complete and is not to be construed as a legal opinion. Legislative Affairs Agency, State of Alaska, All rights reserved.

The links to the administrative code from the court system's website and the lieutenant governor's website bypass this warning by linking directly into the database.

### Arizona

<u>2007 Report</u> by Janet Fisher, Arizona State Library, Archives and Public Records; 2009-10 Update by Janet Fisher and Tony Bucci, Arizona State Library, Archives and Public Records





No change since the 2007 report

### **AUTHENTICATION**



No change since the 2007 report

### Arizona online legal resources are not official.

The state's session laws, statutes, administrative code, administrative register, and court opinions are published in official print versions. Disclaimers on the Arizona judicial and Secretary of State websites make it clear that none of their online resources are official. This clarity is lacking from the legislative site.

# Arizona is not addressing the authentication of online legal resources.

Much of the state's legal information provided online is believed to be the same as the printed official versions. However, there is no process in place to certify Web text as complete and unaltered. Web sources are assessed on a case-by-case basis and users must rely on routine business practices to ensure authenticity.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? There has been no change since the 2007 report.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? There has been no change since the 2007 report.

Have courts in your state adopted a medium neutral citation system since the 2007 report? There has been no change since the 2007 report.

Have there been any other significant changes to the 2007 state summary? There have been various changes related to the availability of materials (scope). These changes have been integrated into the text of the report.

The Arizona State Legislature, through its Legislative Council, provides no-fee, Internet access to versions of the state bills (1997–current), session laws (1997–current) and the current version of the Arizona Revised Statutes through its website (at <a href="http://www.azleg.gov">http://www.azleg.gov</a>). No written statement on permanent public access appears on the legislature's website, but the intent is to continue adding new bills and session laws to the database, while maintaining those of previous years. The text of these legislative documents is checked by staff, but is neither *official* nor *authenticated*. Access to statutes with annotations is through paid subscription to the edition as published by commercial publishers.

The Arizona Secretary of State's Office provides no-fee access to the Arizona Administrative Code (annual) and Administrative Register (weekly) in HTML and PDF formats. The website for these publications (at <a href="http://www.azsos.gov">http://www.azsos.gov</a>) provides access to the Arizona Register (May 1996–current) and the latest compilation of these administrative rules and regulations in the annual publication of the Arizona Administrative Code.

The Arizona judicial branch provides no-fee access to slip opinions from the Supreme Court (1998–current) and from the Arizona Court of Appeals (Division 1: 2000–current; Division 2: 2002–current) on the judiciary website (at <a href="http://www.supreme.state.az.us">http://www.supreme.state.az.us</a>). These unofficial and unauthenticated opinions are in PDF, however the judges' signatures do not appear.

Arizona state agencies are encouraged to publish documents on the Web, and they are to post their reports on their agency website. ARIZ. REV. STAT. ANN. § 41-4153. State agencies may publish electronic versions of reports in place of print publications. These publications are required to be forwarded to the Arizona State Library, Archives and Public Records (hereafter referred to as the "Arizona State Library") for their collections (ARIZ. REV. STAT. ANN. § 41-1338(A)(2)), with failure to supply the State Library with these publications resulting in a charge to the agency (ARIZ. REV. STAT. ANN. § 41-1338(B)).

Three divisions of the Arizona State Library – Records Management, State Archives, and Law and Research Library – are working with state agencies to address the access to internal and public documents, as well as plan for the retention and maintenance of these documents through trusted systems in the agencies and the Arizona State Library.

### Arkansas

<u>2007 Report</u> and 2009-10 Update by Timothy L. Coggins, University of Richmond School of Law Library



# Arkansas online court opinions are *official*, but other online legal resources are not *official*.

The Arkansas Supreme Court Law Library was a leader in the United States in terms of making its opinions available to the public electronically. The state now has assumed a national leadership role as well and currently designates its court opinions as official. Arkansas's legislative and executive branches have not, however, taken steps to change the status of the online legal resources to official.

# Arkansas is addressing the authentication of online legal resources.

Court personnel have investigated necessary hardware and software to begin the authentication process for court opinions. The Reporter of Decisions indicates that the Court has developed a system using watermarking and electronic signatures and will implement that system shortly. The Arkansas legislative and executive branches have not, however, taken steps to authenticate their online resources.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? Yes, Arkansas has eliminated the printing of *Arkansas Reports* and *Arkansas Appellate Reports* in favor of online sources since the 2007 report. This action taken by the Arkansas Supreme Court occurred after the Arkansas legislature passed Act 221, "An Act to Provide for the Electronic Publication and Distribution of the Arkansas Reports," in its 2009 regular session. The act was approved by the Governor on February 25, 2009.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? Arkansas has not enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report.

Have courts in your state adopted a medium neutral citation system since the 2007 report? Arkansas has adopted a medium neutral citation system since the 2007 report, although its rule indicates that a parallel citation to the regional reporter is required *if* available.

Have there been any other significant changes to the 2007 state summary? Arkansas courts have designated as *official* the online versions of Arkansas Supreme Court and Court of Appeals decisions and are currently implementing a watermarking system to certify court decisions as *authentic*.

The 2009 legislative action, Act 221, requires that the Arkansas courts make available all the decisions by the Supreme Court and the Court of Appeals, removing a previous distinction between "published" and "unpublished" opinions. Amended *Ark. Code Ann.* § 25-18-218 (A) (1) (2009) indicates that the reports of the Supreme Court and the Court of Appeals shall be published and distributed in such format and medium as the Supreme Court may direct. Sub-section (A) (2) stipulates that "the medium shall be a *permanent*, *secure*, *and unalterable record* of the final, official decisions of the Supreme Court and the Court of Appeals." [emphasis added]

The publication of *Arkansas Reports* and *Arkansas Appellate Reports* in print ends with volume 375 Ark./104 Ark. App. (2009). The Court, therefore, adopted a new neutral citation system in *In Re: Arkansas Supreme Court and Court of Appeals Rule 5-2*, No. 09-540, opinion delivered on May 28, 2009. For all published decisions issued between February 14, 2009 and July 1, 2009 and all decisions issued after July 1, 2009, the citation shall reference the case name, the year of the decision, the abbreviated court name, and the appellate decision number. Parallel citations to the regional reporter, *Southwestern Reporter, Third Series*, if available, are required. If the regional reporter citation is not available, then parallel citations to unofficial sources, including unofficial electronic databases, may be provided (Supreme Court, Opinion 09-540, pages 5-6; <a href="http://courts.arkansas.gov/court\_opinions/sc/2009a/20090528/published/09-540.pdf">http://courts.arkansas.gov/court\_opinions/sc/2009a/20090528/published/09-540.pdf</a>).

Arkansas does not certify as *official* and *authentic* online versions of statutes, session laws, and administrative regulations. The Arkansas General Assembly website states that the "code that is provided on this site is an unofficial posting of the *Arkansas Code*" and indicates that the "printed version of the *Arkansas Code* should be consulted for all matters requiring reliance on the statutory text." The website includes acts of the Arkansas General Assembly for both the current session and earlier sessions, but does not indicate whether the acts located there are official or unofficial and does not refer the user to the print *Acts of Arkansas* as the *official* versions. Since the Arkansas General Assembly has designated the online version of the *Arkansas Code* as unofficial, it is likely that it would view the online version of the *Acts of Arkansas* as unofficial as well.

Arkansas administrative regulations are published in two sources - a print Code of Arkansas Rules and print and online versions of the Arkansas Register. The Code of

Arkansas Rules is not published by the state and does not have an online version at the state website; the online version is only available from a commercial publisher. The online version of Arkansas Register at the Secretary of State's website states that the Register is an "official publication of the State of Arkansas," containing the administrative rules and regulations adopted by state agencies, boards and commissions. However, disclaimer information includes the following:

The Secretary of State website ... contains copies of rules filed by Arkansas agencies, boards and commissions with the *Arkansas Register* in an 'acceptable electronic format' as per Act 1648 of 2001. The rules contained therein are <u>not</u> to be considered 'official' copies of agency rules. The official copies remain the paper copies housed in the *Arkansas Register* division of the Secretary of State's office.

The disclaimer continues to indicate that the Secretary of State's office makes every attempt to ensure the accuracy and reliability of the rules even though they are not the *official* copies.

Arkansas courts have made significant strides since the 2007 report. According to the Arkansas Reporter of Decisions, the court is switching over to a new document management system, which will enable it to release preliminary opinions on the day that they are handed down and then to publish the final versions when they become available. Both the preliminary and the final versions will use some type of watermarking and digital signatures to ensure that the versions are the official and authentic copies of the opinions. She anticipates that the authenticating system will be in place by the end of the Summer 2009.

# California

<u>2007 Report</u> and 2009-10 Update by Maryruth Storer, Orange County Public Law Library

**OFFICIAL STATUS** 

X

No change since the 2007 report

**AUTHENTICATION** 

X

No change since the 2007 report

None of California's online legal resources is *official*. But several of those resources have some *official* characteristics.

The online administrative code, available through the state's print official publisher, is required to be consistent with the most recent print version and accurately reflect rules and regulations officially filed. The online statutes, which have no print official version, are available through the Office of Legislative Counsel website. The resource does not specifically represent that it is official and gives an extensive disclaimer and limitation of liability. The California "Official Reports" site, which draws from the commercial publisher's database of court opinions, states that the text is offered "as is" and avoids liability for errors and omissions.

California is not addressing the authentication of online legal resources.

State officials from the various entities responsible for the online legal resources investigated here have not addressed the issue of authentication.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? No.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? No.

Have courts in your state adopted a medium neutral citation system since the 2007 report? No.

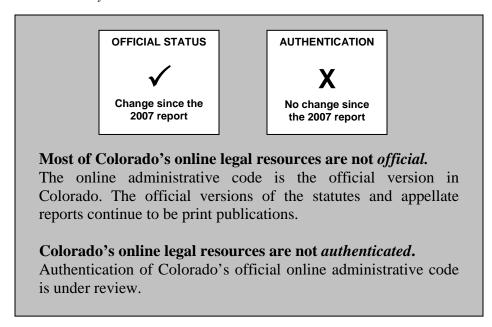
Have there been any other significant changes to the 2007 state summary? The administrative regulations site does not include Title 24, California Building Standards,

### CALIFORNIA

but contains a link to the California Building Standards Commission website, <a href="http://www.bsc.ca.gov">http://www.bsc.ca.gov</a>. That site gives a link to the International Code Councils website, <a href="http://www.ecodes.biz/product.cfm?catagory\_id=90">http://www.ecodes.biz/product.cfm?catagory\_id=90</a>. On that site, the free version lists the table of contents for most (not all) of the parts of Title 24, and the user may view only a single section at a time.

# Colorado

<u>2007 Report</u> by Martha Campbell; 2009-10 Update by Daniel Cordova, Colorado Supreme Court Library



Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? No. While the online version of the administrative rules is now official, the print version continues to be published and made available.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? No. Section 24-90-204 of the *Colorado Revised Statutes*, as amended in 2003, is the latest legislative enactment.

Have courts in your state adopted a medium neutral citation system since the 2007 report? No.

Have there been any other significant changes to the 2007 state summary? Yes. Concerning the administrative rules, the online versions of the *Colorado Code of Regulations* and the *Colorado Register* were designated official effective July 1, 2007. They are available on the Secretary of State's website (<a href="http://www.sos.state.co.us">http://www.sos.state.co.us</a>).

Concerning the appellate reports, case announcements and published opinions for the Supreme Court and the Court of Appeals are available online back to January, 2006 for both courts. The opinions are hosted on the Colorado Judicial Branch website (<a href="http://www.courts.state.co.us">http://www.courts.state.co.us</a>). The print publication continues to be the official version, designated pursuant to section 13-2-124, *Colorado Revised Statutes*, by order of the Supreme Court, En Banc, July 1, 1982.

# Connecticut

2007 Report and 2009-10 Update by Anita Postyn, NYC Civil Court – Queens County

**OFFICIAL STATUS** 

X

No change since the 2007 report **AUTHENTICATION** 

X

No change since the 2007 report

### Connecticut online legal resources are not official.

Disclaimers appear on most of the online legal resources investigated. An exception is the website for the statutory compilation, which states that it replicates the print, but makes no mention of whether the site is official or unofficial. Most disclaimers refer users to the print version as the official or authoritative source.

# Connecticut is not addressing the authentication of online legal resources.

The State Library is involved in several projects addressing digital preservation. This concerns authenticity and a number of related issues. It is significant that Connecticut, like many states, has enacted laws addressing the validity and acceptance of electronic signatures in transactions involving government agencies. Such laws lay a groundwork for computer-based means to authenticate government electronic materials, but no legislation specifically addresses online legal resources.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? The state has not eliminated any print publications in favor of online since the 2007 report.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? Connecticut has enacted legislation guaranteeing the public's permanent access to online government information (Public Act 07-227 eff. 7/1/07). To address the issue of guaranteeing the public permanent access to online government information, the Connecticut legislature had to distinguish publications created by print as opposed to those created electronically. The definition of state publications was changed to exclude language that publications be printed and changed to include tangible (print) form and intangible (electronic) form.

### CONNECTICUT

Chap. 188, Sec. 11-9c of the *Connecticut General Statutes* <a href="http://www.cga.ct.gov/2008/sup/chap188.htm">http://www.cga.ct.gov/2008/sup/chap188.htm</a> states that "The State Library shall administer and provide access to the public, on a permanent basis, to a collection of tangible state publications, and to a digital archive of intangible state publications, and a depository library system." and that the State Library "make available a permanent public archive of intangible state publications."

Have courts in your state adopted a medium neutral citation system since the 2007 report? Connecticut has not adopted a medium neutral citation system since the 2007 reports.

Have there been any other significant changes to the 2007 state summary? No other significant changes to report.

# Delaware

<u>2007 Report</u> and 2009-10 Update by Janet Lindenmuth & Mary Jane Mallonee, Widener University School of Law



### Some Delaware online legal resources are official.

The online administrative code and register are official. The court and legislative websites do not give any information on the official status of the online documents.

# Delaware is addressing the authentication of online legal resources.

The state has begun authenticating and certifying its online administrative documents and some legislative documents. Court documents have not been certified or authenticated.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? No.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? No.

Have courts in your state adopted a medium neutral citation system since the 2007 report? No.

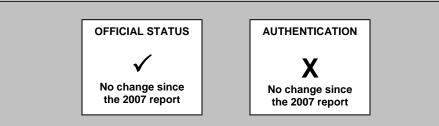
Have there been any other significant changes to the 2007 state summary? Since the last survey, the state has begun the process of making its online documents *official* and *authentic*, starting with its administrative documents and session laws, but has made no change to the court documents.

The *official* version of the state session laws is *Laws of the State of Delaware* (commonly called *Laws of Delaware* or *Delaware Laws*), published by the State of Delaware. Session laws from 1999 on are available on the state's website at: <a href="http://delcode.delaware.gov/sessionlaws/">http://delcode.delaware.gov/sessionlaws/</a> and are certified as authentic.

There is no officially published administrative code for Delaware. The only official publication of Delaware regulations is the Delaware Register of Regulations, published monthly by the state. This is not a codification, but a monthly list of regulations analogous the Federal Register. It is published (http://regulations.delaware.gov/services/register.shtml) and is official. There is an unofficial administrative code, Code of Delaware Regulations, published by Matthew Bender. A portion of the Delaware administrative code is available on the state's website (at http://regulations.delaware.gov/AdminCode/). No information is given about the official or unofficial status of this version of the code, except for Title 7, Natural Resources and Environmental Control, and Title 16 Health & Social Services, which explicitly state that it is not a complete list of regulations. Since the first survey was conducted the state has begun certifying the authenticity of the sections of the administrative code on its website. The website could be considered to be official and authentic but incomplete.

# District of Columbia

<u>2007 Report</u> and 2009-10 Update by Lesliediana Jones, George Washington University Law School



All District of Columbia online sources of law are considered official, per 1 DCMR Chapter 3, Rules of the Office of Documents

The District of Columbia is beginning to address the authentication of online legal resources but nothing has yet been implemented.

The Office of the Chief Technology Officer is developing a Public Key Infrastructure to address the need for digital signatures and encryption but has not yet determined standards.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? No.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? Not at this time.

Have courts in your state adopted a medium neutral citation system since the 2007 report? Revised citation rules were put in place in 2009 that do not reflect a medium neutral system.

Have there been any other significant changes to the 2007 state summary? Changes have been integrated into the report below.

The District of Columbia certifies its online statutory code, *Register, Municipal Code*, and session laws are *official*. The online copies became official as of January 1, 2009. However, if there is any discrepancy regarding the accuracy of any of these publications, the paper original retained by the Office of Documents and Administrative Issuance (ODAI) or the DC Archives is considered the authoritative version. Both the print and

electronic versions of the *District of Columbia Official Code* are published by West Publishing Company (Thomson West). The *official* print and online versions of the Register, session laws and municipal regulations are published by the Office of Documents and Administrative Issuance, a division of the Office of the Secretary. The D.C. Court of Appeals considers its online opinions *official*.

The District of Columbia, Office of the Chief Technology Officer, while addressing the issue of authentication of online legal resources with digital signatures, has not issued an established standard. After speaking to the various agencies that administer relevant websites, as well as the court office, none indicated that authentication of the legal resources had been considered at their agencies or that they were aware of an imminent plan.

Session laws for the District of Columbia are published in the *District of Columbia Register*, a weekly legal bulletin. The online and print versions are the *official* versions of the session laws. The Office of the Secretary posts an online, portable document format (PDF) version of the print.

The District of Columbia Council has contracted with a private entity, West Publishing Company (Thomson West), to provide the complete online *official* version of the *District of Columbia Official Code*. West has been the publisher of the print *official* version of the code since 2001. A representative at West indicated there is no authentication in place on the site and that there has been no discussion of this issue.

As the District of Columbia is not a *state*, its court structure is different than the fifty states. The court system consists of the Superior Court, which is a court of general jurisdiction, and the District of Columbia Court of Appeals. The D.C. Court of Appeals was established by Congress as the highest court in the District of Columbia in 1970. There is no intermediate court in its court system.

Opinions of the D.C. Court of Appeals are published in the *Atlantic Reporter*, part of West's *National Reporter System*, and the *Maryland Reporter*. Per the office of the Clerk of the Court, the *Atlantic Reporter* is considered the *official* reporter for the court. Opinions (August 1998–current) are posted on the website, which provides a general disclaimer covering all its contents. According to the disclaimer, the site is not warranted as "free of omissions, or error-free." All opinions posted on the website contain the following notation:

Notice: This opinion is subject to formal revision before publication in the Atlantic and Maryland Reporters. Users are requested to notify the Clerk of the Court of any formal errors so that corrections maybe made before the bound volumes go to press.

Errata and modifications for specific opinions are listed in a separate document on the site. A representative at the D.C. Court of Appeals stated that opinions posted online are

considered *official*. Certain language on the website seems to imply this, particularly the description of published and unpublished opinions of the court, as given on the "Opinions and List of MOJs" web page, which states:

Opinions of the D.C. Court of Appeals may be either published or unpublished. Signed opinions and per curiam opinions are published. Memorandum Opinions and Judgments (MOJs) are not published. Opinions published by this court from mid-1998 to the present are available on this website.

The website is therefore sufficient to inform users when an opinion is considered published, a crucial distinction under applicable court rules.

The Rules of the District of Columbia Court of Appeals provide for published and unpublished opinions without specifying the source for official publication. "An opinion may be either published or unpublished" and parties or other interested persons may move the court to change the status of an unpublished opinion or the court may do so on its own motion. D.C. Ct. App. R. 36(c). "Unpublished orders or opinions of [the] court may not be cited in any brief, except when relevant [under specified procedures generally concerning prior proceedings in the history of the case]." D.C. Ct. App. R. 28(g).

The compilation of municipal regulations is published as the *District of Columbia Municipal Regulations* (DCMR). The *District of Columbia Register* (DCR), which contains new or amended rules, is the ongoing supplement to the DCMR. The DCMR is published by the government through the Office of Documents and Administrative Issuance (ODAI), a division of the Office of the Secretary.

In 1998, Congress created the Office of the Chief Technology Officer (OCTO) to aid the District in creating and implementing key information technology initiatives. The *District of Columbia Code*, under sections 28-4916 and 28-4917, allows agencies to create, accept and distribute electronic documents. The OCTO authored a document titled *Information Technology Strategic Plan for the District of Columbia, 2002-2004*, which outlines its goals for transforming the government's information technology structure. To date, it has implemented many of the goals outlined in that plan toward online dissemination of government information.

The plan mentions a public key infrastructure (PKI) as one of the cornerstones of the security systems. Currently, the OCTO website indicates it is "developing a Public Key Infrastructure (PKI) to address agency needs for encryption, digital signature, and secure remote access." It appears that when it is developed it will become the standard for all of the District of Columbia agencies.

# Florida

<u>2007 Report</u> by Barbara H. Brandon, University of Miami Law School; 2009-10 Update by Stephanie P. Hess, Nova Southeastern Law School

**OFFICIAL STATUS** 

X

No change since the 2007 report

**AUTHENTICATION** 

X

No change since the 2007 report

### Florida online legal resources are not official.

Only the print resources are deemed official and only the Florida Administrative Code site contains a clear disclaimer that it is not an official resource.

# Florida is not addressing the authentication of online legal resources.

No steps have been taken to ensure the authenticity of any of the online publications. No relevant official contacted was aware of steps being taken to authenticate digital documents. Use of digital watermarks and signatures to authenticate materials are concepts not on the state's radar screen.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? No print publications have been eliminated.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? The revisions to section 120.55(b)(2) provide that the *Florida Administrative Weekly* website now preserve all notices "for a period of at least 5 years."

Have courts in your state adopted a medium neutral citation system since the 2007 report? No medium neutral citation system has been adopted by the state court system.

Have there been any other significant changes to the 2007 state summary? In 2008 the Florida Legislature made changes to the publication provisions governing the *Florida Administrative Code* and the state's analog to the *Federal Register*, the *Florida Administrative Weekly*. The amended administrative code provision, *Florida Statutes* 120.55, clarified that the print edition of the code is the official version and required that users be able to browse and do a full-text search of the electronic version of the code. The

new provision requires that material incorporated by reference in the online version be hyperlinked directly inside the text of the code.

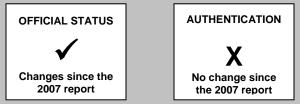
The online administrative code is updated more speedily than the print version. The system works much like the federal *e-CFR*. The *Florida Administrative Weekly* is published every Friday. The electronic version of the administrative code on the Department of State site incorporates new changes in the text of a rule by the close of business on the following Monday. Looking to the online administrative code is a much easier way to update a regulation.

The 2008 legislative changes state that the online site for the *Florida Administrative Weekly* "shall serve as the official Internet website" for the publication in section 120.55(b). The term in quotations is not defined. Unlike the amended publication provisions for the *Florida Administrative Code* there is no express language in this section that specifies that the print version of the *Florida Administrative Weekly* is the official text. However the new statutory language provides for continued print publication.

Neither print nor online versions of the administrative code maintain past issues. Any change to the *official* print *Florida Administrative Code* removes the prior version by substituting a new page in this loose-leaf publication. The online version follows the same pattern by adding or removing language from a regulation upon adoption.

# Georgia

<u>2007 Report</u> by Terrye Conroy, Coleman Karesh Law Library, University of South Carolina School of Law; 2009-10 Update by Anne Burnett, Alexander Campbell King Law Library, University of Georgia School of Law



Georgia online legal resources are not *official* except for the last two years of Georgia Supreme Court opinions as posted on their website.

Georgia continues to designate only print documents as the official version of codes and regulations. The websites posting electronic versions of these materials still contain disclaimers that the information provided online is not official. However, the Georgia Supreme Court has posted official versions of its opinions for the current year and the previous year.

Georgia is not addressing the authentication of online legal resources.

No relevant official contacted was aware of a current plan or project underway to authenticate Georgia's online legal resources.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? Georgia eliminated the print version of the *Georgia Register* in 2006. It has not eliminated any other print publication of primary law to date.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? Georgia does attempt to guarantee permanent public access to online *executive* agency information via O.C.G.A. 20-5-2, which sets forth the submission requirements for all state agencies but explicitly exempts the courts and legislature from its document submission requirements. The depository administrators have interpreted the provision as requiring state agencies to submit documents produced in all formats, including electronic. See <a href="http://www.libs.uga.edu/govdocs/collections/georgia/require.html">http://www.libs.uga.edu/govdocs/collections/georgia/require.html</a> for the depository's stated requirements.

**Have courts in your state adopted a medium neutral citation system since the 2007 report?** The Georgia Supreme Court has not adopted a medium neutral citation system. Supreme Court Rule 22 still requires citation to the official print reporter.

Have there been any other significant changes to the 2007 state summary? A significant change in Georgia since the 2007 survey is the Georgia Supreme Court's provision of *official* but unauthenticated versions of its opinions on its website, which states that "[a]n opinion designated as "Final Copy" is the Supreme Court's official opinion as published in the advance sheets."

Maintained by Georgia's Secretary of State, the PDF version of the current Rules and Regulations of the State of Georgia (at <a href="http://www.sos.state.ga.us/rules\_regs.htm">http://www.sos.state.ga.us/rules\_regs.htm</a>) may be searched by agency name, rule name, chapter number, or rule number. It is updated monthly. The site's disclaimer language clearly states that the electronic version "should not be regarded as the official copy" of the administrative sources and includes contact information for the publisher of the print *official* version. For questions regarding the website's content, the phone number for the Administrative Procedures Division is provided. The researcher is further advised to contact the appropriate adopting state agency regarding specific questions about a particular rule or regulation.

The *Georgia Register* is an online-only publication mandated by O.C.G.A. 50-25-6. In 2006, the legislature revised the provision to omit any reference to a *print* version and to explicitly state that it would be provided *electronically*. The code requires the *Georgia Register* to provide the text of all adopted rules, summaries of each proposed rule, agency meeting information, executive orders, summaries of state contracts and requests for proposal, Attorney General opinions, selected land acquisitions, information about bills introduced in the General Assembly and hearing calendars for the Georgia Supreme Court and Georgia Court of Appeals. The *Georgia Register* currently provides links to these items at <a href="http://www.georgia.gov/00/channel\_title/0,2094,4802\_64588783,00.html">http://www.georgia.gov/00/channel\_title/0,2094,4802\_64588783,00.html</a> but does not contain the text of them in a separate document.

Georgia session laws are available online through the Georgia General Assembly's website at <a href="http://www.legis.state.ga.us/">http://www.legis.state.ga.us/</a>. The legislative home page links to pending bills as well as bills introduced and statutes enacted during previous legislative sessions (1995–current). Both are searchable by keyword or by bill number. Current legislation is presented in both HTML and PDF format and previous legislation is available in HTML only. Although the website is designated as the "official website of the Georgia General Assembly," disclaimer language included on the legislative home page notifies the user that the information provided is not an "official record" of the Georgia General Assembly and that "no warranty or guarantee of any kind is provided." The webmaster's e-mail is the only contact information provided. The General Assembly's website links to an online version of the *Georgia Code* as maintained by LexisNexis, the publisher of the *Official Code of Georgia Annotated*. The site makes no claims to provide an *official* 

online version, nor are there any disclaimers as to the status of the online version.

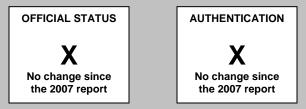
Georgia Supreme Court opinions (prior year–current) are accessed by following the "Opinions and Summaries" link on its website (at <a href="http://www.gasupreme.us">http://www.gasupreme.us</a>), where the opinions are browsable by date in PDF. Disclaimer language on each page of opinions states that all opinions are subject to reconsideration by the court and editorial changes by the Reporter of Decisions. The opinions are designated as *official* but are not certified as *authentic*. Georgia Supreme Court Rule 22 still requires citations in briefs to include the volume and page number in the official reporter. The Georgia Supreme Court website's "Contact the Court" link provides contact information for the Clerk's Offices.

The Georgia Court of Appeals website (at <a href="http://www.gaappeals.us/">http://www.gaappeals.us/</a>) links to its opinions at LexisOne (<a href="http://www.lexisone.com">http://www.lexisone.com</a>). The researcher must register to gain access to a "rolling wall" of the last ten years of all state and federal cases, searchable by keyword or citation. The site provides no statement regarding the status of these online opinions as official or otherwise. Court of Appeals Rule 24(d) requires all cases cited in briefs to include the volume and page number in the official report.

The Georgia Court Electronic Filing and Data Exchange Project provides information about e-filing and data exchange projects in Georgia courts. The information page at <a href="https://apptracking.gaaoc.us/confluence/display/EF/Home">https://apptracking.gaaoc.us/confluence/display/EF/Home</a> tracks current developments in e-filing and provides an FAQ for interested courts and attorneys.

### Hawaii

<u>2007 Report</u> by Ann S. Koto; 2009-10 Update by Jenny R.F. Fujinaka, Hawai'i Supreme Court Law Library



### Hawai'i online legal resources are not official.

Disclaimers on the judicial, legislative, and executive websites specifically state that none of the online resources is official.

# Hawai'i is not addressing the authentication of online legal resources.

Although recent statutory revisions provide for the creation of documents in digital format, there are no provisions in place for authentication.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? No.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? No, however Hawai'i has enacted legislation to allow for the creation and conversion of judiciary records and government records to electronic formats, designating the electronic copies to be the "original record".

Have courts in your state adopted a medium neutral citation system since the 2007 report? No, Hawai'i has not adopted a medium neutral citation system.

Have there been any other significant changes to the 2007 state summary? No.

# Idaho

2007 Report and 2009-10 Update by Michael Greenlee, University of Idaho Law Library

OFFICIAL STATUS AL

No change since the 2007 report

**AUTHENTICATION** 

X

No change since the 2007 report

### Idaho online legal resources are not official.

All of the online resources investigated here are provided as a free public service. However, none of these online resources serve as the official version. The official administrative code, administrative register, session laws, statutory code, and court opinions are found in print.

# Idaho is not addressing the authentication of online legal resources.

In general, since the online resources investigated here have not been designated as official, there appears to be no recognized need to authenticate these materials through digital or other means. Except for the administrative rules site, the other online resources have disclaimers stating that the information is provided as a public service and directing users to the official print versions.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? No. However, the Idaho Department of Administration is considering the elimination of the print *Idaho Administrative Code* in favor of electronic only. If this occurs, the Department will investigate making the electronic version *official* and using some form of authentication.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? Yes. *Idaho Code* 33-2505 states that "in order to provide free and continuous access to state publications, it shall be the duty of the state librarian to establish and maintain a publicly accessible digital repository of state publications prepared by state agencies." In compliance with 33-2505, the Idaho Commission for Libraries created the Idaho Digital Repository as a secure, full-text searchable repository of state publications as a "memory" of the state's business (<a href="http://libraries.idaho.gov/landing/stacks">http://libraries.idaho.gov/landing/stacks</a>).

Have courts in your state adopted a medium neutral citation system since the 2007 report?  ${\rm No.}$ 

Have there been any other significant changes to the 2007 state summary? Yes, concerning the *Administrative Code*. The 2007 report states that only the current administrative code is available online. Now, administrative codes from 2000-current are available.

## Illinois

2007 Report and 2009-10 Update by Brenda Larison, Illinois Supreme Court Library

**OFFICIAL STATUS** 

X

No change since the 2007 report

**AUTHENTICATION** 

X

No change since the 2007 report

### Illinois online legal resources are not official.

While the sources are generally available free online, disclaimers prominently state the unofficial status of each online legal resource.

# Illinois is not addressing the authentication of online legal resources.

Rule 6 of the Illinois Supreme Court Rules still requires citation to cases, statutes, and treatise material in print. It doesn't appear that free, authentic, web-based access to official state primary documents is in the state's near future.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? Illinois has not eliminated any print publication of primary law to date. Elimination of the print version of the *Laws of Illinois* in favor of distribution on CD-ROM has been considered.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? Various Illinois statutes require the publication and distribution of laws and agency rules, but permanent public access is not specifically guaranteed.

Have courts in your state adopted a medium neutral citation system since the 2007 report? The Supreme Court of Illinois has not yet adopted medium neutral citation format.

Have there been any other significant changes to the 2007 state summary? No significant changes have occurred in Illinois since the 2007 report.

None of Illinois online legal resources can be considered official. While the sources are generally available free online, none is designated official, and disclaimers prominently state the unofficial status of each.

Illinois *still lacks* an official print version of its administrative Code and statutes. The only official version of the *Illinois Administrative Code* is that held by the Secretary of State's Administrative Code Division. Official, certified copies of Code sections can be requested from the agency. The Illinois General Assembly's Joint Committee on Administrative Rules (JCAR) provides free online access to a current version of the Code (at http://www.ilga.gov/commission/jcar/admincode/titles.html).

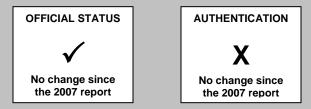
Issues of the *Illinois Register* are provided online by the Secretary of State, but are clearly labeled not the official publication (at <a href="http://ilsos.net/departments/index/register/home.html">http://ilsos.net/departments/index/register/home.html</a>).

The state's statutes are published in annotated form by both Thomson/West and Lexis, but neither set is designated "official". The Illinois General Assembly provides online statutes and public acts, but the source is neither "uninterrupted or error free" (at http://ilga.gov/legislation/ilcs/ilcs.asp).

Amendments to the state supreme court's Rule 23 are *still* being considered. The state court has not yet adopted a vendor-neutral citation system and does not appear to be considering doing so soon. The courts make available supreme court and appellate court opinions since 1996 (at <a href="http://www.state.il.us/court/">http://www.state.il.us/court/</a>).

## Indiana

<u>2007 Report</u> by Rick Goheen, University of Toledo LaValley Law Library; 2009-10 Update by Sarah G. Holterhoff, Valparaiso University School of Law Library



Two Indiana online legal resources are *official*, as stated on the state government web site. Other legal sources on the web site are unofficial, but provide no disclaimers to that effect.

Since July 2006, Indiana's administrative rules have been published only on the state web site. The Indiana Register and the Indiana Administrative Code are "permanently published" as PDF files on the Internet.

Indiana is not specifically addressing the authentication of online legal resources.

Technology-based methods are not being used to authenticate online versions of primary legal resources.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? Since July 2006, the *Indiana Register* (*IR*) and the *Indiana Administrative Code* (*IAC*) have been published exclusively in electronic format. Print publication of these titles was eliminated as of that date.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? According to statutory language, the state has been "permanently publishing" the *Indiana Register (IR)* and the *Indiana Administrative Code (IAC)* "on the Internet" since 2006.

Have courts in your state adopted a medium neutral citation system since the 2007 report? No medium neutral citation system has been adopted.

Have there been any other significant changes to the 2007 state summary? Additional changes have been described in the text below.

Since July 2006, the *Indiana Register* (*IR*) and the *Indiana Administrative Code* (*IAC*) have been published exclusively in electronic format, in accordance with P.L. 215-2005 and P.L. 123-2006, §§ 21-22 (amending IND. CODE §§ 4-22-8-2 & 4-22-8-5). Print publication of these titles was eliminated as of that date. Now, according to statutory language, the state is "permanently publishing" both these sources "on the Internet," although there is no explicit statutory statement confirming their official status. The Indiana state web site does not prominently display any information about official status of these two sources, but the *User's Guide to the -IR- Database* which is provided as a link from the web site (<a href="www.in.gov/legislative/iac/faqs.pdf">www.in.gov/legislative/iac/faqs.pdf</a>) states (page 18) that both the *Indiana Administrative Code* and the *Indiana Register* are "official publications of the state of Indiana."

Prior to July 2006, the administrative register was a serial publication, published in print and online (since October 2001, as a PDF copy of the print version). The final issue in that format was volume 29, number 10 (July 1, 2006). Since that time, the IR has been replaced by an online database of individual documents, still identified as the Indiana Register. Individual rule-making documents submitted by state agencies are each assigned a unique "document identification number" (DIN) and are posted by date on the Indiana Register web site (www.in.gov/legislative/register/irtoc.htm). Links to the DIN documents appear on the web page in chronological order, grouped into daily, weekly, and monthly collections. Clicking on one of the chronological links opens a contents page with links to the various types of documents, under the headings of notices, rules (proposed and final), and actions by the governor and attorney general. Individual documents are provided in HTML and PDF formats, and links to certain related documents are included. The online IR is searchable by subject (Google search engine), by the DIN or other document number, or by IAC or Indiana Code citation. An advance search capability is also available. The earlier editions of the *Indiana Register*, as a print publication (volumes 24-29, 2001-2006) and as an annual online list of monthly collections (2006-2008), are archived on the web site and are also available in CD-ROM format (annual subscription with monthly, cumulative updates).

As for citation to the online *Indiana Register*, according to the *User's Guide to the -IR-Database* (dated 2-18-09), "the Indiana Supreme Court is considering whether any changes are necessary with respect to the Court's rules for citing documents posted on the –IR- Database Website." An example of a citation to an online *IR* document (taken from the *User's Guide*) is: 20060726-IR-317050065FRA. When changing the format of the *Indiana Register*, it appears that no consideration was given to adopting a universal citation format. Instead the state has created a non-standard, somewhat cumbersome, organizational system for its administrative register, which is difficult to use and to cite.

The *Indiana Administrative Code* on the state government web site (<a href="www.in.gov/legislative/iac/iac\_title">www.in.gov/legislative/iac/iac\_title</a>) includes the text of "all rules of a general and permanent nature." (Note: Indiana uses the term "rule" rather than regulation.) As of July 2006, the print *IAC* was eliminated and the only version produced is the online one, which presumably has official status. It is updated on an ongoing basis as final rules

become effective and the main page bears the caption "Latest Update" and a recent date. This is in fact a working version of the next IAC edition, which will be the 2010 edition. Just as in the print version, mid-cycle changes to the IAC are not being captured; if the text of an IAC section in the working version is changed during the year, no permanent record of such a change is created. Current code sections are available in WordPerfect and PDF versions. The online *IAC* is searchable by subject (Google search engine), by document number, and by IAC and Indiana Code citation. Annual issues of the *IAC* are archived on the web site back to the 2003 edition and the content of the archived edition is presumably fixed and not subject to subsequent correction by an agency. The statutory requirement of "permanently publishing" the administrative code on the Internet starting with July 2006 provides for permanent public access. From 2003-2005, the *IAC* was also produced in CD-ROM format, with copies available for purchase. That format was discontinued when online publication began in 2006. Thomson West publishes an unofficial print edition of the *IAC*, but that is not mentioned on the web site.

Regarding authentication, the current and archived editions of the online *IAC* include a link to a Certificate of Authenticity for the edition, which certifies that the material submitted for publication by state agencies and boards has been properly endorsed by the Legislative Services Agency as being accurate and complete at one specific point in time. Although authentication is an important aspect of declaring electronic records and publications to be official, at this time Indiana is not authenticating the *IR* or the *IAC* through technologies such as encryption, public key infrastructure, or digital signature. However, the entire content of the both databases is refreshed every 30 minutes with a secure, back-up server, which is in a separate location from the live server. Also, a tape of the files is made every week and a CD of all files is created each week.

"Law Also linked from the and Administrative Rules" web page (www.in.gov/legislative/ic iac/) are the Acts of Indiana and the Indiana Code. The annual Acts compilation is the session law version of state statutory law. The same database is used to produce both a print version and an online version. The most recent full session (2008 at the time of this writing) is available as a PDF in the legislative section of the Indiana website. The PDF file for the Acts 2008 is over 3200 pages, and is a very large 16 MB download. The PDF is indexed by P.L. number on the Acts front page and there is also a link to the subject index (12 PDF pages) from the print version. There is no evidence of technology-based authentication, but a link is provided from the front page to a certificate of authenticity, signed by the Speaker of the House and Senate president pro tem, which is part of the original print document. This certificate states that the public laws of the particular session "have been compared with the enrolled acts from which they were taken and have been found correctly printed." Links to PDF versions of the annual Acts compilations back to 2000 are also available on the web site. The Acts for these years have also been produced in CD-ROM format.

The online *Indiana Code* provides no statement regarding its status, but presumably this is considered to be an unofficial version, with the print *Indiana Code* being the official one. A note appears at the top of each page, stating that the information is "maintained by

the Office of Code Revision Indiana Legislative Services Agency." There is no statement of authenticity. The Table of Contents on the opening page provides links to individual files of the 36 titles. These titles are sub-divided by article and chapter into many hundreds of smaller files, which are accessible in either HTML or PDF format. The search function available for the code (powered by Google) offers searching by subject/keyword and by code citation, with results retrieved in HTML format. The online Indiana Code lacks the print version's introductory explanatory material regarding currency and the significance of headnotes and history lines. When accessed in mid-June 2009, the Table of Contents page displayed a notice that "This version of the Indiana" Code is current through the 2008 Regular Session of the Indiana General Assembly. This version has NOT been updated to reflect changes made by the General Assembly in the 2009 Regular Session. The Indiana Code data base is being updated. To determine if a section of the Indiana Code was added, amended or repealed in 2009, click the Table of Citations Affected hyperlink below..." No archive of earlier statutory codifications is available on the web site. The *Indiana Code* was produced in CD-ROM format for the years 2003 through 2006; since 2007 it has been available in DVD format.

The web page of the Indiana Judiciary provides electronic access to opinions of the Indiana Supreme Court and Indiana Court of Appeals (www.in.gov/judiciary/opinions/). No notice is provided regarding the *official* status of the opinions or their *authenticity*. The site does not refer to the print North Eastern Reporter, which is designated as the official reporter of the Supreme Court and the Court of Appeals by court rule (Ind. R. App. P. 56 (c)). Appearing on the first page of each opinion is a "filed" stamp that notes the date and time of filing. No indication is given that the opinions are unofficial and subject to modification and correction by the courts. The "current" section on the web page contains new court opinions for one week after their initial online publication date. There are two archives of older opinions. Opinions more than one week old but more recent than June 6, 2005, are published in an Archived Opinions file in PDF format, arranged in reverse chronological order. Older opinions (prior to June 6, 2006, and extending back to 1997) are posted in a separate archive of previous opinions and are provided in both HTML and either Word or WordPerfect formats. Opinions can be searched by keyword using the search function available in the upper-right corner of each page on the site. Indiana courts have not yet adopted medium neutral citation format.

Members of the Indiana legal community, including law librarians and representatives of the state bar association, have expressed concern about the problematic situation with the official status and authentication of online primary legal sources in the state, particularly with the *Indiana Register* and the *Indiana Administrative Code*. There have been some efforts by individuals to lobby for changes to clarify the official status of primary legal sources on the state government web site (such as addition of disclaimers and references to the official print sources) and to address the issue of authentication. One solution for the *IR* and *IAC* that has been suggested by some is resuming print publication until problems with the organization, authentication, and preservation of the online versions can be resolved.

### Iowa

2007 Report and 2009-10 Update by Karen Wallace, Drake University Law Library

**OFFICIAL STATUS** 

X

No change since the 2007 report **AUTHENTICATION** 

X

No change since the 2007 report

### Iowa online legal resources are not official.

Disclaimers on the Iowa judicial and legislative websites clearly state that these online resources are unofficial. Sections 2B.17(3) and 2B.17(5) of the Code of Iowa specify that the print official sources are the only authoritative versions of Iowa's session laws, codified statutes, and administrative rules. Rules 21.25 and 21.30 of the Iowa Court Rules designate West (Thomson West) as the publisher of the official opinions of the Iowa Supreme Court and Iowa Court of Appeals.

## Iowa is not addressing the authentication of online legal resources.

Iowa offers some official agency materials online through the State Library, and much of the other Iowa legal information published on the Web is believed to be the same as the official, printed versions. However, there is no process in place to certify online materials as complete and unaltered.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? No, there has been no change since the 2007 report.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? Although there is no written statement on the site guaranteeing permanent public access to these sources, the intent is to continue adding new versions while maintaining, and perhaps even expanding, the archived versions.

Have courts in your state adopted a medium neutral citation system since the 2007 report? The state has not adopted a medium-neutral citation system.

Have there been any other significant changes to the 2007 state summary? There have been various changes related to the availability of materials (scope). These changes have been integrated into the text of the report.

Iowa does not certify as *official* or *authentic* its session laws or statutes on the Web. The Iowa General Assembly, through the Legislative Services Agency, offers no-fee access to *Iowa Acts* (the state session laws) from 1993 to current and the *Code of Iowa* from 1995 to current on its website (at <a href="http://www.legis.state.ia.us/IowaLaw.html">http://www.legis.state.ia.us/IowaLaw.html</a>). Although there is no written statement on the site guaranteeing permanent public access to these sources, the intent is to continue adding new versions while maintaining, and perhaps even expanding, the archived versions. In fact, in the last two years, not only have updates been added, but five additional years of archival coverage have been included for the session laws. The text of both the print and electronic sources is derived from the same database. However, the complex conversion process necessary to make the sources available on the Web may introduce errors. Staff spot-check the electronic documents and correct errors as they are discovered, but the *authenticity* of the online text is not guaranteed. Currently, the state is transitioning to a new underlying database. Plans are to complete this migration in 2009 and then explore authentication options.

Iowa also does not certify as *official* or *authentic* its regulations on the Web. The Iowa General Assembly, through the Legislative Services Agency, offers no-fee access to the *Iowa Administrative Bulletin* (September 24, 1997–current) on its website (at <a href="http://www.legis.state.ia.us/IAC.html">http://www.legis.state.ia.us/IAC.html</a>). Beginning with the January 8, 2003 bulletin, these are offered only in a PDF version. The current version of the *Iowa Administrative Code* is also offered, without fee, in both PDF and RTF versions. With the exception of added hypertext navigation aids, the electronic documents are generated from the same data source as the print versions. In conversion to HTML errors may be introduced. However, the text is not formally certified as *authentic*. Also, in 2008 the state changed its distribution of the print *Iowa Administrative Code*, with official pages only being delivered to certain state offices, committee members, and the State Library. Other libraries now have the option of printing update pages themselves from the Web or purchasing the official pages directly from the commercial publisher.

Iowa also does not certify as *official* or *authentic* its high court and intermediate appellate court opinions on the Web. The Iowa judicial branch offers no-fee access to slip opinions of the Iowa Supreme Court (May 28, 1998–current) and Iowa Court of Appeals (January 28, 1998–current) on the judicial website (at <a href="http://www.iowacourts.gov">http://www.iowacourts.gov</a>). Opinions released before April 2006 and available in the archives are posted in Word format. Opinions released after April 2006 are posted to the website in PDF. There is no written statement on the website guaranteeing permanent public access to these sources, but that is the intent. The judicial branch also offers a free e-mail notification service for Supreme Court opinions, Court of Appeals opinions, press releases, and orders.

Court Web pages explicitly note that the electronic versions of the court opinions are not official. At the top of both its Supreme Court and Court of Appeals opinions index pages, the judiciary offers two differently worded notices conveying that the posted opinions are not final, published opinions. Both notices directly point the reader to the North Western Reporter for the courts' official published opinions. The state has not adopted a medium-neutral citation system. Likewise, the General Assembly offers a disclaimer, modified since 2007, on the *Iowa Law* index page that begins, "This Iowa General Assembly Web Site is generally NOT the source for official legal information" and directs the reader to "refer to the official printed publication" "[i]f information on this site may affect your legal rights." The same disclaimer is offered from the administrative code index page and another disclaimer appears at the very beginning of the code and session law pages.

Iowa is offering some official materials on the Web. Under section 256.56 of the *Code of Iowa*, the State Library cooperates with the State of Iowa Information Technology Enterprise (the state's IT department) to provide permanent public access to "documents intended for the general public produced by Iowa state agencies" via Iowa Publications Online (at <a href="http://publications.iowa.gov/">http://publications.iowa.gov/</a>). Most documents date from recent years, with the vast majority from the 2000s, although there are documents dating back as far as 1923. Currently there are over 8,000 documents in the collection, quadruple what there was in 2007. Once in the depository, items cannot be altered, although revised copies are accepted as additional holdings. The software used, ePrints, does not *authenticate* documents.

Unfortunately, the Electronic Records Committee, formed in January 2002 by the State Records Commission "to recommend and regularly review policies, guidelines, and best practices for the creation, maintenance, access, and long-term preservation or destruction of electronic records," still appears to be dormant. Its website (at <a href="http://www.iowasrc.org/ERC/">http://www.iowasrc.org/ERC/</a>) has not been updated since 2003.

### Kansas

<u>2007 Report</u> by Richard J. Matthews; 2009-10 Update by Creighton J. Miller, Jr., Washburn University School of Law Library

**OFFICIAL STATUS** 



No change since the 2007 report

**AUTHENTICATION** 



No change since the 2007 report

### Kansas online legal resources are not official.

The state's statutes, session laws, administrative rules, and court opinions are published in official print versions. Taking steps to make official versions electronically available online does not appear to have been considered by the state officials and private companies responsible for the state's "official web site."

## Kansas is not addressing the authentication of online legal resources.

The state has taken steps to allow and encourage administrative agencies to publish certain official materials in online-only versions, and has created a repository and document management system for such documents. The use of encryption or related technological means to ensure the integrity of official electronic documents is not under consideration.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? Kansas has not eliminated any print publication of primary law to date.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? Kansas has not enacted legislation guaranteeing the public's permanent access to state online government information.

Have courts in your state adopted a medium neutral citation system since the 2007 report? The Kansas Supreme Court has not adopted a medium neutral citation system.

Have there been any other significant changes to the 2007 state summary? Administrative regulations previously provided through the Kansas legislative web site are now available from the Secretary of State's web site. The details of language, though

not the substance, in disclaimers have changed on some of the government web sites discussed.

Kansas Legislature (<a href="http://www.kslegislature.org/">http://www.kslegislature.org/</a>), the state's legislative web site, provides a free online version of codified Kansas statutes, current through the most recently concluded legislative session. An annotated version of the codified statutes is available as well, but only for subscribers paying an annual fee and per search charges. The web site also provides free access to Kansas session laws passed between 1996 and the end of the most recently concluded legislative session. Finally, Kansas Legislature includes the full text of all bills introduced since the 1997/98 session, so statutes passed during a current and ongoing legislative session can be accessed as enrolled bills. All of these resources are searchable by keyword or phrase and can be accessed directly by statute, chapter, or bill number. More recent session laws and bills are provided in PDF format, all other materials in HTML.

None of the online statutory material is designated as *official* or *authenticated*. The search interface for the codified statutes (both free and subscription-based) states that "[t]he text of the *Kansas Statutes* is provided with the permission of the Revisor of Statutes." Similarly, the session law search interface indicates that "[t]he text of the Session Laws of Kansas is derived from electronic-readable material provided by the Kansas Division of Printing." Both interfaces indicate that "there may be minor discrepancies" between the print and online laws and disclaim any liability for such inaccuracies. All web pages available through *Kansas Legislature* also include a link to the "Portal Policies" for the overarching *Kansas.gov* web portal. These policies include both an extensive "Terms of Use" agreement and, hidden innocuously under the heading "Privacy Statement," a general disclaimer maintaining that the site is hosted "on an 'AS IS' basis," repudiating all representations or warranties, and denying all liability.

The state's administrative regulations are published in a multi-volume, print set entitled *Kansas Administrative Regulations* (K.A.R.), last compiled in 2006 with a 2008 supplement. More recently adopted regulations are found in the *Kansas Register*, which is the "official state newspaper" and something of an analog to the *Federal Register*. Free PDF versions of the 2006 K.A.R. volumes, the 2008 K.A.R. Supplement, and all *Kansas Register* issues published since 1994 are available from the Kansas Secretary of State's web site (<a href="http://www.kssos.org/pubs/pubs\_legal.html">http://www.kssos.org/pubs/pubs\_legal.html</a>). None are searchable. Although subdivisions of the K.A.R. can be accessed by agency name or agency number, the supplement is available only as a single, large PDF file. *Kansas Register* issues are available only by volume/issue number and date.

None of the online administrative material is labeled *official* or *authenticated*. Although the Secretary of State web site does not claim any relationship to the *Kansas.gov* portal, its site policies are nearly identical to the "Portal Policies" for *Kansas.gov* and include a similar general disclaimer, again misfiled under "Privacy Statement." The site does not provide more specific disclaimers addressing the reliability of the online regulations.

Slip opinions from the Kansas Supreme Court and Court of Appeals are published online as a cooperative project of the Kansas Courts, Washburn University's law library, and the University of Kansas' law library. Opinions released since October 25, 1996 are available for free at the Kansas Judicial Branch web site (<a href="http://www.kscourts.org/">http://www.kscourts.org/</a>), where they can be accessed by case name, docket number, or date of release, and searched by keyword or phrase. The most recent opinions—those released since October 2009—are provided in PDF format, with all others in HTML.

As with the other forms of Kansas law available online, the slip opinions are not identified as either *official* or *authenticated*. A disclaimer on the Kansas Judicial Branch web site advises: "Slip opinions are subject to motions for rehearing and petitions for review [and] are subject to modification orders and editorial corrections . . .. Consult the bound volumes . . . for the final, official texts of the opinions."

Kansas does have some *official*, though not *authenticated*, government documents on the Web. Under sections 46-1212c and 75-3048 of the *Kansas Statutes Annotated*, agencies may publish reports, pamphlets, books and other materials on the Web in lieu of print publication, provided that such items are retained online and available to the public for at least twelve months. Some of these materials are archived through the KSPACe repository and document management system (<a href="http://www.kspace.org">http://www.kspace.org</a>) jointly maintained by the Kansas State Historical Society and Kansas State Library. The state is also creating a substantial Public Key Infrastructure. (See <a href="http://www.kansas.gov/idm/">http://www.kansas.gov/idm/</a>). This could serve as a framework for future *official*, *authenticated* online legal resources, but Kansas officials have no plans to take such steps.

# Kentucky

<u>2007 Report</u> by Jennifer Frazier, Kentucky State Law Library; 2009-10 Update by Emily M. Janoski-Haehlen, Chase College of Law Library, Northern Kentucky University

OFFICIAL STATUS

X

No change since the 2007 report

**AUTHENTICATION** 

X

No change since the 2007 report

### Kentucky online legal resources are not official.

The state has made strides in placing its legal resources on the Web for free public use. None of the resources investigated here, however, is deemed as official. Website disclaimers clearly state this.

## Kentucky is not addressing the authentication of online legal resources.

Authentication of digital materials is not an issue being considered by the state at this time.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? Kentucky has not eliminated any print publication of primary law to date.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? Kentucky has not enacted any legislation guaranteeing the public's permanent access to online government information.

Have courts in your state adopted a medium neutral citation system since the 2007 report? Kentucky has not adopted a medium neutral citation system and there are no plans to adopt a system to date.

Have there been any other significant changes to the 2007 state summary? There have not been any significant changes since the 2007 state summary.

Kentucky has made a good start at putting primary legal resources on the Web. The Legislative Research Commission's website maintains the *Kentucky Administrative Regulations*, *Kentucky Revised Statutes*, and *Acts of the Kentucky General Assembly* all in

#### KENTUCKY

one location. These materials are offered without fee. The regulations and statutes are the current versions only, with good descriptions of their source and years covered. Disclaimers clearly state the text of these resources is unofficial. Note that the source for the *Kentucky Revised Statutes* online is the same database from which the Legislative Research Commission prints *official* copies of the statutes when a request is made by the public. According to statute, the Commission maintains the *official* internal database for the Kentucky Revised Statutes and makes a version available on the Web, along with the regulations and acts. *See* KY. REV. STAT. ANN. §§ 7.131(1) & 7.500(1). *Acts of the General Assembly* on the website cover 1996 forward.

The Kentucky Administrative Office of the Courts maintains the opinions of the Court of Appeals (1996–current) and Supreme Court (1999–current), with links to the party briefs available on the Salmon P. Chase College of Law Library website, as well as court rules. The current searching capabilities are limited. Print sources must be consulted for the *official* versions of these opinions.

None of the material currently available from government websites is *official* or *authenticated*. In order to obtain *official* sources for any of the primary legal materials, print versions must still be consulted. At this time, there appear to be no plans to make the state's online primary legal materials *official* or to *authenticate* them through watermarks, encryption, or related technologies.

## Louisiana

<u>2007 Report</u> and 2009-10 Update by Catherine Lemann, Alaska State Court Law Library (formerly of the Law Library of Louisiana)

**OFFICIAL STATUS** 

X

No change since the 2007 report

**AUTHENTICATION** 

X

No change since the 2007 report

### Louisiana online legal resources are not official.

Disclaimers on websites for the Louisiana administrative code, statutes, and court opinions do not specifically indicate the resources are not official. Users are cautioned to refer to other sources for official versions, but the location of the official version is generally not provided.

## Louisiana is not addressing the authentication of online legal resources.

There does not appear to be any interest in addressing the issue of authentication of online legal resources by any branch of government at this time.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? No, the state has not eliminated the print publications.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? No, the state has not enacted legislation guaranteeing permanent access.

Have courts in your state adopted a medium neutral citation system since the 2007 report? Public domain citation became mandatory for all documents filed after July 1, 1994.

- (a) By what mechanism was the system adopted (e.g., state statute, regulation, rule of court, judicial opinion, clerk of court memorandum)? Louisiana Supreme Court Administrative rule Part G. Section 8.
- (b) Where can a user find directions to understand the system (e.g., court web site with URL, state code or register with citation)?

The rule includes examples: <a href="http://www.lasc.org/rules/supreme/PartGSection8.asp">http://www.lasc.org/rules/supreme/PartGSection8.asp</a>

Have there been any other significant changes to the 2007 state summary? Minor changes have been integrated into the text of the report below.

The Louisiana statutes are available through the Louisiana legislature website (at <a href="http://www.legis.state.la.us">http://www.legis.state.la.us</a>). Statutes may be located using a table of contents, by entering a specific citation, or using the search feature. The search engine often returns many results and has limited help available. From 1951-2005, West (Thomson West) was the only *official* publisher of annotated and unannotated statutes for the state. In 2005, LexisNexis published the *Louisiana Annotated Statutes*, which have also been designated as *official* by the Secretary of State. The website does not direct users to either of the paper resources.

The Louisiana Session Laws 1997 to current are available on the legislature website (at <a href="http://www.legis.state.la.us">http://www.legis.state.la.us</a>). The session laws have a variety of search and retrieval methods: subject index to bills or to acts, citator index, by bill or act number, etc. There is no way to search for bills or acts across multiple years. The only link to the disclaimer on this site is from the home page and may not be reviewed by users prior to looking for specific information. Users are not referred to the official print Acts of the Legislature.

The Louisiana Supreme Court and the five Circuit Courts of Appeal each post their own opinions. Rules of the Supreme Court and the Uniform Rules for the Courts of Appeal require pinpoint citation to the page number of the court's paper slip opinion. The Supreme Court and the Fifth Circuit Court of Appeal post disclaimers that the opinions in PDF format may not have the same pagination as the official opinion of the court. None of the Court sites refers users to the *Southern Reporter*, the unofficial and only paper publication of opinions.

No court in Louisiana currently accepts electronic filings. Court rules would have to be changed to allow for electronic filings.

The electronic *Louisiana Administrative Code* and *Louisiana Register* (at <a href="http://doa.louisiana.gov/OSR/osr.htm">http://doa.louisiana.gov/OSR/osr.htm</a>) are Word (read-only) or PDF versions of the paper pamphlet published by the Office of the State Register. There is a disclaimer on the website as to the accuracy of the information but no reference to the paper. There is no search capability across titles or years. Individual titles or issues may be searched using the search feature in Adobe Acrobat or Word.

The *official* paper *Louisiana Administrative Code* pamphlets each have a facsimile of the notarized Certificate of Correctness signed by the Director of the Office of the State Register. The certificate is not included in the electronic versions. The paper version also has a disclaimer that only publications issued directly from the Office of State Register are accurate.

#### LOUISIANA

The *official* paper *Louisiana Register* is published monthly. The electronic version does not include a copy of the inside of the front cover of each issue, thus omitting information concerning the effective date of rules published in the issue and authenticity. The administrative register is cumulatively indexed on an annual basis.

There does not appear to be any consideration of authentication of electronic legal resources by any branch of government in Louisiana.

# Maine

<u>2007 Report</u> by Lynn Randall; 2009-10 Update by John R. Barden, Maine State Law and Legislative Reference Library





No change since the 2007 report

#### **AUTHENTICATION**



No change since the 2007 report

### Maine online legal resources are not official.

The disclaimer on the Maine Revised Statutes website indicates that all online legislative publications are made available "as a public service" and "reliance on any such information is at the user's own risk." Other online legal resources have disclaimers indicating the sources are unofficial.

## Maine is not addressing the authentication of online legal resources.

The State Archivist points to the GeoArchives project, which includes documenting the authenticity of town boundary records on the Web. It appears the only discussion of authentication directed to legal publications involved court opinions, where concern was expressed with regard to the authenticity of revisions to decisions.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? Maine has not made any changes in availability of print publication of statutes, rules or judicial opinions since the 2007 report.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? Maine has not enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report.

Have courts in your state adopted a medium neutral citation system since the 2007 report? A neutral citation system was adopted by order of the Supreme Judicial Court, effective January 1, 1997 and is described in the text below.

Have there been any other significant changes to the 2007 state summary? Decisions of the Maine Supreme Court are posted to the judicial branch website on Tuesdays and

Thursdays at 11:00 a.m. Decisions are posted in PDF format. The information on the decisions page indicates that the decisions are subject to revision. Decisions as issued are numbered according to the neutral citation system adopted by order of the Supreme Judicial Court, effective January 1, 1997. The order requires parallel citation to both the citation-neutral version and the *official* version in the *Atlantic Reporter*. The Supreme Court website disclaimer directs users to the permanent *official* version of the decisions published in the *Atlantic Reporter*. The publisher of the *Atlantic Reporter* periodically excerpts the Maine decisions and republishes them in a more compact *Maine Reporter*, retaining the original *Atlantic Reporter* format and pagination. Each volume of the *Maine Reporter* includes a copy of the court order prescribing the citation format and providing examples.

# Maryland

2007 Report and 2009-10 Update by Steven Anderson, Maryland State Law Library

OFFICIAL STATUS

No change since the 2007 report

AUTHENTICATION

No change since the 2007 report

# Two Maryland online legal resources are considered *official*. One of the resources directly states it is *official*.

The online version of the Maryland Register claims that it is "an official publication of the State of Maryland." While applicable statutes require the Division of State Documents to make the register accessible online (MD. CODE ANN., STATE GOV'T § 7-206.2), only the most recent six issues are available. Maryland's online statutory code does not declare itself to be official. Section 10-201 of the Courts and Judicial Proceedings article of the Annotated Code of Maryland provides that "[t]he Code of Public General Laws compiled, updated, and maintained by the Department of Legislative Services" is evidence of the state's laws (along with the LexisNexis and West codifications). Presumptively, this means the online version, as no print copy is published by the state. The brief notation given on the Department of Legislative Services website, however, does not directly reference the statute.

# Maryland is not addressing the authentication of online legal resources.

There is no technological measure, policy or statute currently in place that addresses authentication. However, this remains an issue of statewide importance.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? In November 2009, the Division of State Documents, publisher of the Maryland Register, notified subscribers that the Register would become a "digital only" publication in January 2010 as a cost containment measure. Plans called for fee-based "e-subscriptions," which would entitle subscribers to receive issues in PDF format via e-mail. The notice of the change also included new usage restrictions for the digital copy that had not previously been in place. While a free HTML version would be available on the Division's website, that version lacks pagination, which precludes proper citation. A group of AALL members, along with other stakeholders in Maryland state

government departments, urged the Division to reconsider its plans. As of this writing, the Division appears to be adopting significantly revised plans, which will improve public access to the Register. The Division proposes to make at least six months' worth of issues in PDF format available on its website for free, without any new usage restrictions. Additionally, users will be able to sign up for free e-mail alerts notifying them of newly available issues. The Division will continue print publication, but at a lower volume, thereby allowing this task to be performed by a state printing department at reduced cost. These changes are scheduled to be announced in mid-February 2010, with an effective date of May 2010.

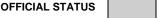
Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? There have been no recent enactments regarding the public's permanent access to online state government information.

Have courts in your state adopted a medium neutral citation system since the 2007 report? As of 2009, Maryland has not adopted a medium neutral citation format.

Have there been any other significant changes to the 2007 state summary? Maryland's session laws, the *Laws of Maryland*, are available online at two locations. The Department of Legislative Services offers PDF versions of "chapters," which appear to be identical to the print edition, beginning in 2007. Chapters between 1996 and 2006 are available only as PDF copies of bills, as they appeared upon final passage, although these are not copies of the compiled session laws themselves. These acts, however, are well-indexed, both by chapter number and bill number. The second location, the Maryland State Archives, provides free copies of scanned session laws through 2008. Most people likely will view these high quality image files, informally at least, as *official* and *authentic*, in spite of the fact that the images bear no watermark or digital signature. Furthermore, the available information on the State Archives' website would probably give users a general feeling of reliability about the scanned images.

### Massachusetts

2007 Report and 2009-10 Update by Robert M. Ey, WolfBlock, LLP





No change since the 2007 report

#### **AUTHENTICATION**



No change since the 2007 report

### Massachusetts online legal resources are not official.

The commonwealth's online versions of the statutory code, administrative regulations, and judicial opinions all contain express disclaimers of official status. The online session laws are silent on this point.

# Massachusetts is not addressing the authentication of online legal resources.

No authentication measures were found to be currently in place or planned.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? No print publications have been eliminated.

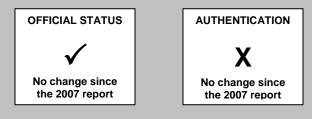
Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? No enacted or pending legislation could be found.

**Have courts in your state adopted a medium neutral citation system since the 2007 report?** The Supreme Judicial Court has made public the *Style Manual* used by the Justices, their law clerks and the staff of the office of Reporter of Decisions. The citation rules in the *Style Manual* apparently are not mandatory, as they are described in the introduction as "guidelines" that "may be useful to those preparing appellate briefs." The *Style Manual* is available at <a href="http://www.massreports.com/sjcstyle08.pdf">http://www.massreports.com/sjcstyle08.pdf</a>.

Have there been any other significant changes to the 2007 state summary? The commercial *Code of Massachusetts Regulations*, formerly published by Weil, is now published by Matthew Bender under the title *Massachusetts Administrative Code*.

# Michigan

<u>2007 Report</u> by Rick Goheen, University of Toledo LaValley Law Library; 2009-10 Update by Jane Edwards, Michigan State University College of Law, and Ruth S. Stevens, Grand Valley State University



Michigan statutes recognize the web version of its Administrative Code as the official version, although this is not clearly stated on the website. No other online resource investigated here is official. Michigan is taking steps to address the currency and accuracy of its online laws. The online Michigan Compiled Laws is generated from a current, almost real-time version of the statutory code. Michigan Supreme Court and Court of Appeals opinions on the Web are updated once the final text of the opinion is received from the official publisher of the print version.

Michigan is not addressing the authentication of online legal resources.

It does not appear the state is addressing technology issues involved in authenticating resources on the Web.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? The state is no longer publishing the print version of the Administrative Code for public distribution.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? No legislation guaranteeing permanent public access has been adopted.

Have courts in your state adopted a medium neutral citation system since the 2007 report? The state has not adopted a medium neutral citation system and therefore citations in court documents must refer to the official print versions of the statutes and court opinions.

Have there been any other significant changes to the 2007 state summary? Minor changes are described in the text below.

In Michigan, as in other states there is no coordinated effort between government agencies to address the issues of *official* status and *authentication* of online laws. As a result, an assessment of its progress in these areas must be made separately for each branch of government. While there are some similarities in the approaches taken by each branch, there are also significant differences.

Administrative Regulations: The Michigan Administrative Code is the only online source of Michigan law that has been expressly declared to be official by statute, MCL 24.259. The state is no longer publishing the print version of the Administrative Code for public distribution. The online version of the Michigan Administrative Code has an unusual URL, and it would help if this could be shortened or streamlined for better public access. The official online repository includes the current version of the Code and annual supplements reflecting revisions to the code back to 1998, but it does not include an archive of the prior versions of the Administrative Code.

Session Laws & Michigan Compiled Laws: The Michigan Legislature website provides online access to current versions of the Public Acts (session laws) and the Michigan Compiled Laws (statutory code); however these versions of the acts and compiled laws are not considered official. The website makes this very clear by including a disclaimer that states: "The information obtained from this site is not intended to replace official versions....and is subject to revision. The Legislature presents this information, without warranties, express or implied, regarding the accuracy of the information, timeliness, or completeness." Additionally, the Michigan Legislative Council, one of the organizations responsible for maintaining the website, has indicated that the online version is intended to be an aid to the public and does not replace the official print versions.

While the online versions may not be considered *official*, efforts are being made to ensure the integrity and accessibility of the materials posted on the website. The website includes the *Public Acts* for the years 1997-2009 in both HTML and PDF formats. Additionally, the session laws are notably up-to-date, with new laws being posted to the website within a day or two of enactment. The session laws are searchable using a keyword search and are browsable by year.

The *Michigan Compiled Laws* are also published in HTML and PDF formats and according to the Michigan Legislative Council, "special safeguards are in place to protect the integrity" of the online version. Like the session laws the *Michigan Compiled Laws* are updated frequently. Each PDF page includes a footer with a date stamp, a copyright notice, and the statement "Michigan Compiled Laws Complete Through PA [number] of [year]. On May 15, 2009, the PDF date stamp read "Rendered Thursday, April 23, 2009" and indicated that the text was complete through Public Act 20 of 2009. The HTML version also includes a time stamp, which appears to be given in real time (*i.e.*, the instant

the page is requested). The compiled laws are searchable by keyword and by section number. There is no browsing function until one reaches the chapter level.

<u>Court Opinions</u>: The state's Supreme Court and Court of Appeals opinions are available from a single unified website. The print version of the opinions is the only version of the opinions that is designated *official* by statute, although effort has been made to ensure that the content of the online opinions matches the *official* print version. Opinions are posted to the web shortly after their release, but, after editorial corrections and additions to an opinion are made by the court and the publisher of the print *official* reports, the online version is corrected to match the text of the *official* version. An "open book" icon is then placed next to the opinion.

The court website refers to the opinions with an "open book" icon as "[o]fficial opinions . . . uploaded to this website", but this does not, however, give the online opinions official status as that term is defined in this survey. Even after the final revision process is complete, online versions of the opinions remain in the same 8.5" x 11" PDF format in which they were originally released by the court. They are not re-posted with a new PDF image of the print official publication. Significantly, they do not have all of the features of the official print reports. The official citation is missing and the syllabus and headnotes that are part of the official opinions are not included in the online versions. The Michigan Uniform System of Citation, which governs opinions written by the Michigan courts, requires citation to the official print reports and does not provide for citing the "official" online versions of opinions. Because of the differences in content and the explicit citation requirements giving preference for the print reports, the posting of the online versions of the opinions can only be seen as an attempt to broaden access to the text of opinions, not the creation of a second official source for opinions.

Online versions of published opinions prior to 2001 are made freely available on a separate website hosted by Thomson West, the publisher of Michigan's print official reports, Michigan Reports and Michigan Appeals Reports. Although the Thomson West external site for accessing published opinions prior to 2001 is titled Michigan Official Historical Reports and can be linked to directly from the Michigan Court's website, the format of the cases there does not match the format of cases published in the official print reports. The online "Michigan Official Historical Reports" has the text of opinions, but it does not have the syllabi and headnotes included in the text of the official print opinions (Official print versions of Michigan cases have their own, unique syllabi and headnotes that differ from those published in West's Regional Reporters). Ideally, a disclaimer explaining this omission should be added to the site and the word "official" should be dropped from the title to avoid confusion.

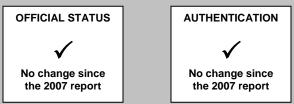
As noted in the 2007 survey, Michigan has made progress in ensuring that current and accurate versions of its laws are available online. There have been no significant changes since then. With the exception of the *Michigan Administrative Code*, Michigan has not directly addressed the issue of creating *official* online versions of its laws by statute and the Administrative Code remains the only primary resource that is published exclusively

#### MICHIGAN

| in an electronic format. The online versions of Michigan's statutes and court opinions still fall into a grey area. More needs to be done before these versions can be considered <i>official</i> . |  |
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## Minnesota

2007 Report and 2009-10 Update by Barbara L. Golden, Minnesota State Law Library



One Minnesota online legal resource is *official* (*State Register*). Based on statute and statements within the PDF copies that constitute the Web version, judicial notice shall be taken of its contents. The other online resources investigated here are not *official*.

Although the Minnesota Legislature supports free public access to online legal resources, the Revisor of Statutes considers the print versions of the statutes, session laws, and administrative code to be the authoritative editions, pursuant to MINN. STAT. 3C.06, 3C.08, and 14.47. Other statutory provisions state that the print sources are prima facie evidence of the law in all proceedings (see MINN. STAT. §§ 3C.13 & 14.37(2)) and require that print sources include a "certificate of correctness" (see MINN. STAT. §§ 3C.11(1) & 14.47(4)). Disclaimers on the legislative website make it clear that none of these online resources is official. The Minnesota Supreme Court has adopted the North Western Reporter 2d as the official reporter of their opinions (by order dated June 9, 1978). A disclaimer on the appellate courts' opinion archive page makes it clear that slip opinions published there are subject to change and refers users to the official source.

### Minnesota addresses authentication.

The Revisor of Statutes is aware of the issues and has discussed digital signatures, watermarks, and other technologies, but there are no immediate plans to make online resources official and there is no process in place to certify Web text as complete and unaltered. The online State Register is considered official and authenticated insofar as the material submitted for publication is properly endorsed. Note that the statutory and administrative online sources are drawn from the same database used to create the print resources and, therefore, are considered authentic. In fact, in some cases, the Web version is more current and correct than the print source, as corrected errors and new materials are

available on the Web almost immediately. There is a disclaimer that graphics (in the case of Minnesota Rules) are not available online.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? No.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? No.

Have courts in your state adopted a medium neutral citation system since the 2007 report? No.

Have there been any other significant changes to the 2007 state summary? Changes have been integrated into the text below.

The Minnesota Revisor of Statutes supports free access to unofficial versions of the Laws of Minnesota (state session laws) since 1849 (1st Territorial Legislature) and the since 1997 legislative Minnesota Statutes on the website (at https://www.revisor.leg.state.mn.us/pubs/). The site's retention policy (posted at http://www.leg.state.mn.us/leg/retention.asp) states that the session laws are to be kept indefinitely. It also states that only the current statutes are to be kept (to avoid confusion over what is current law), but older editions back to 1997 have been retained in a separate statutes archive (https://www.revisor.leg.state.mn.us/statutes/?view=archive). The intent is to continue maintaining all archived versions. Sources for the historical session laws are explained at https://www.revisor.leg.state.mn.us/press.php. The text of both session laws (since 1994) and statutes is derived from the same database used to produce the print versions and corrections or additions appear immediately online.

The Minnesota Revisor of Statutes supports free access to a current, unofficial version of the *Minnesota Rules* (state administrative code) on the legislative website (at <a href="https://www.revisor.leg.state.mn.us/pubs/">https://www.revisor.leg.state.mn.us/pubs/</a>). Tables and graphics are not displayed online. The electronic documents are generated from the same data source as the print versions and corrections or additions appear shortly after the notice of adoption appears in the administrative register.

The *official* status, as well as *authentic* nature, of the print resources is based on applicable statutory provisions: The official versions of laws, statutes, and administrative rules are the printed volumes published by the Office of the Revisor of Statutes pursuant to MINN. STAT. 3C.06, 3C.08, and 14.47. The print version is *prima facie* evidence of the law in all courts and proceedings. *See* MINN. STAT. §§ 3C.13 & 14.37(2) (applicable to *Minnesota Statutes* and *Laws of Minnesota*, and to *Minnesota Rules*, respectively). The print version must include a "certificate of correctness." *See* MINN. STAT. §§ 3C.11 &

14.47(4) (applicable to *Minnesota Statutes* and *Laws of Minnesota*, and to *Minnesota Rules*, respectively).

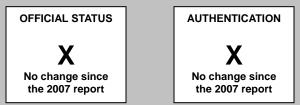
Publication of the *State Register* is governed by MINN. STAT. § 14.46. An *official* version of the *State Register* from July 1, 2004 to date is available in PDF at <a href="http://www.comm.media.state.mn.us/bookstore/state\_register.asp">http://www.comm.media.state.mn.us/bookstore/state\_register.asp</a>. Since that date, print subscriptions are no longer widely available although print copies are found in state depository libraries. Earlier issues back to March 17, 1997 are also available online. Issues from March 17, 1997 to May 27, 1997 are in HTML format; issues following that date are in PDF. Although not stated on the website, the intent is to continue to add new issues and permanently retain all archived issues. An online subscription with added features is available for a fee.

The Minnesota judicial branch offers no-fee access to the most recently released slip opinions from the Minnesota Supreme Court (at <a href="http://www.mncourts.gov/?page=230">http://www.mncourts.gov/?page=230</a>) and the Minnesota Court of Appeals (at <a href="http://www.mncourts.gov/?page=433">http://www.mncourts.gov/?page=433</a>). Opinions are available in PDF and can be downloaded in Word 2007 and Rich Text formats, but are neither official nor authenticated. These slip opinions are archived, in PDF only since January 2008, by the Minnesota State Law Library going back to May 1996 (at <a href="http://www.lawlibrary.state.mn.us/archive/">http://www.lawlibrary.state.mn.us/archive/</a>). Prior to January 2008, the archived opinions are in HTML format. No written statement on the website guarantees permanent public access, but that is the intent. The archive states that the slip opinions are unofficial and subject to modification and correction by the courts. Since May 1977, North Western Reporter 2d has been the official source of Minnesota court appellate opinions (by Minnesota Supreme Court order dated June 9, 1978). Before that time, the official reporter was Minnesota Reports published by the state. The Supreme Court's order predates the establishment of the Court of Appeals but the Court has adopted this position since it began operations in 1983.

The Court of Appeals has affirmatively considered whether to adopt an open source citation format on at least three separate occasions. Each time the judges have specifically decided to recognize *North Western Reporter 2d* as the *official* reporter of the Court's published opinions. It should be noted that "unpublished" opinions of the Minnesota Court of Appeals, although available online, are not published in the *official* print source. *See* MINN. STAT. § 480A.08(3). Unpublished opinions are not precedential and may not be cited except as provided by statute. MINN. STAT. § 480A.08(3).

# Mississippi

<u>2007 Report</u> and 2009-10 Update by Stacey Rowland, University of Mississippi Law Library



### Mississippi online legal resources are not official.

Mississippi does not certify as official and authentic its online versions of the state session laws, statutes, court opinions, or administrative regulations. The state does not have a complete online code for all administrative agencies. No administrative register is available.

## Mississippi is not addressing the authentication of online legal resources.

The goal of many state agencies is to have more resources available online, although authentication was not a stated priority.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? The state of Mississippi has not eliminated the print publication of its state administrative codes and registers, state statutes and session laws or the state high and intermediate appellate court opinions.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? No, the state of Mississippi has not enacted legislation guaranteeing the public's permanent access to state online government information.

Have courts in your state adopted a medium neutral citation system since the 2007 report? Mississippi adopted a medium neutral citation system prior to 2007.

Have there been any other significant changes to the 2007 state summary? No, the information submitted for Mississippi in 2007 has remained unchanged for the 2009 update.

## Missouri

<u>2007 Report</u> and 2009-10 Update by Cynthia L. Ernst, Leon E. Bloch Law Library, University of Missouri – Kansas City



### Missouri online legal resources are not official.

Despite the Missouri Revisor of Statutes' concern to publish an online version of state statutes capable of certification as required under section 3.090 of the Missouri Revised Statutes, it appears only the print version of the state statutes are certified and entitled to treatment as prima facie evidence of the law. Print copies of the other resources investigated here are the only official versions.

## Missouri is not addressing the authentication of online legal resources.

The state is not addressing authentication at this time. It does not appear that there are any future plans to address computer-based methods for certifying legal materials.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? Missouri has not eliminated its print publications of the administrative code, administrative register, statutory code, session laws, and court opinions. These resources are also available online.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? There have not been any changes since the 2007 report to indicate that the state has enacted legislation guaranteeing the public's permanent access to state online government information.

Have courts in your state adopted a medium neutral citation system since the 2007 report? The courts have not adopted a medium neutral citation system at this time.

Have there been any other significant changes to the 2007 state summary? At the present time there have not been any significant changes to the 2007 state summary.

### Montana

2007 Report and 2009-10 Update by Judy Meadows, State Law Library of Montana

OFFICIAL STATUS

X

No change since the 2007 report

**AUTHENTICATION** 

X

No change since the 2007 report

### Montana online legal resources are not official.

None of Montana's elected officials has considered taking the steps to make the state's electronic information official.

# Montana is not addressing the authentication of online legal resources.

Authentication is a necessary step for declaring electronic records and publications to be official. Montana's elected officials have not considered how to do this, nor have they begun to implement a plan, although the webmaster for the Supreme Court opinions is looking into authentication steps for them.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? Montana has not eliminated any print publication of primary law to date.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? Montana does guarantee permanent public access to government publication. See MCA 22-1-219.

Have courts in your state adopted a medium neutral citation system since the 2007 report? The Montana Supreme Court adopted a medium neutral citation format in 1997.

Have there been any other significant changes to the 2007 state summary? Other than the legislative and executive branches adding specific disclaimers about their online publications there have been no changes in Montana since the 2007 survey.

Montana's statutes are republished after every legislative session, incorporating all changes from legislative activity and voter initiatives since the previous code. Editions of the *Montana Code Annotated* for the session years 1995 through 2007 are freely available

on the Montana legislature's website (<a href="http://leg.state.mt.us/css/mtcode\_const/default.asp">http://leg.state.mt.us/css/mtcode\_const/default.asp</a>). The online version gives this disclaimer:

The Internet version of the Montana Code Annotated is provided as a research tool to users of the Code. In case of inconsistencies resulting from omissions or other errors, the printed version will prevail.

Bills approved by the legislature are also available on the legislature's website, but the session laws must be purchased in hard copy.

Note that the *official* print *Montana Code Annotated* is not an annotated code. It merely has historical references related to enactments. The *Montana Code Annotated*, *Annotations* is a separate and distinct publication, coming out in even-numbered years. It is available for purchase in hard copy only.

The State Law Library of Montana is the webmaster for the judicial website (at <a href="http://www.montanacourts.org">http://www.montanacourts.org</a>). The Montana Supreme Court's opinions and orders, as well as the appellate briefs filed matters before it, are placed on the web within hours of their availability, and are free for anyone to search, read or download. However, the official version of the court's opinions, the Montana Reports, is available only in print through purchase from LexisNexis. The court requires citations to its opinions to be in electronic, uniform citation format. Therefore, the commercial versions have the same look as the online, free version. Nonetheless, the court is probably a few years away from accepting the online version as the official version. Authentication of the electronic opinions is being investigated and may be available within the next year. Montana has no intermediate courts.

The Administrative Rules of Montana first became available online in 2003. They are posted by the Secretary of State's office, as are the bi-weekly editions of the Montana Administrative Register. The site makes very clear that only the print versions are official or authoritative with this disclaimer:

This site contains provisions of the Administrative Rules of Montana. Although every attempt is made to ensure that the information placed on this site is accurate and timely, Administrative Rules Services cannot assure the accuracy of any specific provision originating from this site. You are urged to consult the official printed versions of these publications or to contact legal counsel of your choice. This site cannot legally be cited as an official or authoritative source.

### Nebraska

2007 Report and 2009-10 Update by Karen Wallace, Drake University Law Library

**OFFICIAL STATUS** 

X

No change since the 2007 report **AUTHENTICATION** 

X

No change since the 2007 report

### Nebraska online legal resources are not official.

Section 49-767 of the Revised Statutes of Nebraska provides that the official version of the Nebraska statutes shall be the supplements and reissued volumes as published by the Revisor of Statutes. Rules 2-112(C) and 2-102(E)(3) of the Nebraska Court Rules of Appellate Practice specify that the bound volumes of the Nebraska Reports and the Nebraska Appellate Reports provide the official version of the courts' published opinions. Sections 49-501.01 and 84-906.03 of the Revised Statutes of Nebraska appear to leave open the possibility that an electronic version of the Nebraska session laws or Nebraska Administrative Code could be designated as official.

# Nebraska is not addressing the authentication of online legal resources.

Nebraska has no process in place to certify online legal resources as complete and unaltered.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? Nebraska has not eliminated any print publication of primary law to date.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? Such legislation has not been enacted, although statutes provide requirements for electronic records that constitute the permanent record (see Neb.Rev.St. § 84-1228) and a Nebraska Publications Clearinghouse to collect and preserve state publications (see Neb.Rev.St. § 51-411 et seq.).

Have courts in your state adopted a medium neutral citation system since the 2007 report? The Nebraska Supreme Court has not adopted a medium neutral citation format.

Have there been any other significant changes to the 2007 state summary? The disclaimer that the electronic version of the Nebraska statutes is not official is in a less visible location than it was in 2007.

Nebraska does not certify as *official* and *authentic* its online versions of the state statutes, court opinions, or administrative code. Further, the state session laws equivalent to the print title are not available online. Starting in 1999, individual slip laws, unofficial and unauthenticated, are available through the website of the Unicameral, Nebraska's legislature (at <a href="http://www.unicam.state.ne.us/">http://www.unicam.state.ne.us/</a>).

The Unicameral's site offers HTML access to the current statutory code. The disclaimer that the electronic version is unofficial is rather buried, found from following the contact link on the left-hand menu and then selecting disclaimer. This leads to the message:

"The [Legislature] makes every attempt to ensure accuracy and reliability of the data in the documents contained on this web site. However, the [Legislature] makes no warranty, guarantee, or promise, express or implied, concerning the content of the documents. For matters affecting legal or other rights, or to confirm content, please refer to the printed version of the appropriate official publication."

Both the Nebraska Supreme Court and the Nebraska Court of Appeals provide online access to slip opinions released in the last ninety days in PDF form (at <a href="http://www.supremecourt.ne.gov/opinions/index.shtml">http://www.supremecourt.ne.gov/opinions/index.shtml</a>). A clear disclaimer notes, "Pursuant to Neb. Ct. R. App. P. §§ 2-112 and 2-102(E)(3), the only official version of the opinions of the Nebraska Supreme Court and the Nebraska Court of Appeals appears in the bound volumes of the Nebraska Reports and the Nebraska Appellate Reports." According to the Nebraska Supreme Court and Court of Appeals Reporter of Decisions, there are currently no plans to change this access, although limited discussion about archiving opinions has occurred.

Nebraska has no administrative register, either in print or online. The Secretary of State's website provides an unofficial, unauthenticated version of the current administrative code in PDF format (at <a href="http://www.sos.ne.gov/rules-and-regs/regsearch/">http://www.sos.ne.gov/rules-and-regs/regsearch/</a>). The top of the page notes, "Important Information, Please Read Before Searching (click here)." The linked text reads:

"Disclaimer. Every effort is being made to make sure the online version of the Nebraska Administrative Code is complete and accurate. The text of the code on the internet appears as submitted by the agency which promulgated the rule and should be correct, but, due to the volume of text submitted, they have not been proofread for accuracy against the official paper text of the code on file with the Secretary of State." There are currently no plans to make the online version of the Nebraska Administrative Code *official* or *authenticated*. The site offers some enhancements, such as a rules tracking feature and an e-mail notification service that alerts the user to upcoming hearings for user-specified agencies' proposed regulations. Additionally, most agencies accept electronic submission of comments on proposed regulations, as explained on the Secretary of State website (at <a href="http://www.sos.ne.gov/rules-and-regs/explanation.html">http://www.sos.ne.gov/rules-and-regs/explanation.html</a>). The Secretary of State, Rules and Regulations Officer reports that Secretary of State John Gale's office has recently created a database of scanned images showing each version of every regulation from 1985 forward. Currently for internal use only, the database might eventually be made public if it can be reconfigured to be more user-friendly.

Currently, no Nebraska government body appears to offer *official* or *authenticated* state materials online. The Nebraska Library Commission's Nebraska Publications Clearinghouse (at <a href="http://www.nlc.state.ne.us/docs/statedepositoryprogram.html">http://www.nlc.state.ne.us/docs/statedepositoryprogram.html</a>) provides access to state government publications that are multiply produced and intended for public distribution. For about a decade, this has included offering links to online state publications. Beginning in July 2005, the Clearinghouse now collects PDF versions of select state documents either harvested from agency websites or scanned from print copies and then archived on the Library Commission server, with the intent of offering permanent, stable public access to these resources. These functions are detailed on the Library Commission's "Depository Library Responsibilities" Web page (at <a href="http://www.nlc.state.ne.us/docs/cleartutorialresdepost.html">http://www.nlc.state.ne.us/docs/cleartutorialresdepost.html</a>). The documents collected by the Clearinghouse are stored as locked PDF files but are not *authenticated*; an official with the Library Commission confirms there currently are no plans to begin *authenticating* them.

### Nevada

<u>2007 Report</u> by Rebecca Pressman; 2009-10 Update by Kathleen Harrington, Nevada Supreme Court Library

**OFFICIAL STATUS** 

X

No change since the 2007 report

**AUTHENTICATION** 

X

No change since the 2007 report

#### Nevada online legal resources are not official.

A general disclaimer on the Nevada legislature website makes clear that the online legal resources investigated here are not considered official. The website for Supreme Court opinions has a separate disclaimer with essentially the same language as the general disclaimer. Nevada has print official versions of the resources.

### Nevada is not addressing the authentication of online legal resources.

Nevada does not appear to be addressing the authentication of online legal resources.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? No.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? No.

Have courts in your state adopted a medium neutral citation system since the 2007 report? No.

Have there been any other significant changes to the 2007 state summary? No.

## New Hampshire

2007 Report and 2009-10 Update by Mary Searles, New Hampshire Law Library

**OFFICIAL STATUS** 

X

No change since the 2007 report

AUTHENTICATION

X

No change since the 2007 report

#### New Hampshire online legal resources are not official.

Print sources are designated the official versions. For certain online resources silent as to their official or unofficial status, one finds no source of law or other basis to consider them official.

## New Hampshire is not addressing the authentication of online legal resources.

None of the officials interviewed for this survey knew of any plans for encryption, digital signatures or digital watermarks to ensure integrity of the resources.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? No.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? RSA202-B, the New Hampshire State Government Information Dissemination and Access Act has not been amended since the 2007 report. 202-B:7 gives the state librarian responsibility for establishing a system to maintain state government information products (including electronic) permanently.

Have courts in your state adopted a medium neutral citation system since the 2007 report? No.

Have there been any other significant changes to the 2007 state summary? The New Hampshire State Library has started the New Hampshire State Publications Digital Library, a project intended to capture and preserve the state's born-digital documents. The collection currently contains only a handful of state agency documents; however, the intention is to expand the library to all agencies and all branches of government and it will include online legal resources. There are, however, no plans to address the authentication of these online resources.

## New Jersey

2007 Report and 2009-10 Update by A. Hays Butler, Rutgers Law School – Camden

**OFFICIAL STATUS** 

X

No change since the 2007 report **AUTHENTICATION** 

X

No change since the 2007 report

The status of one of the state's sources on the Web is indefinite. Otherwise, New Jersey online legal resources are not *official*.

Online database of statutes created under a law directing the Office of Legislative Services to maintain "the most current available compilation of the official text of the statutes" is not clearly considered official. The online database of decisions of the New Jersey Supreme Court and Appellate Division, maintained by Rutgers Law Library – Camden is not official.

New Jersey is not addressing the authentication of online legal resources.

The state has made no effort to authenticate its online legal resources. There are no plans to do so.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? New Jersey has not eliminated any print publication of primary law to date.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? No.

Have courts in your state adopted a medium neutral citation system sine the 2007 report? No.

Have there been any other significant changes to the 2007 state summary? The primary change since the 2007 state summary is that Michie now publishes an online version of the *New Jersey Administrative Code* (at <a href="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/newjersey/lpext.dll?f=templates&fn=main-h.htm&cp="http://www.michie.com/new

### New Mexico

<u>2007 Report</u> by Barbara Lah, University of New Mexico School of Law Library; 2009-10 Update by Jennifer L. Laws, U.S. Courts Library





New Mexico's online legal resources investigated here are considered official. Two of those sources directly state on their web sites that they are official: The New Mexico Administrative Code and the New Mexico Register.

Under statute, an electronic version of the 1978 compilation of New Mexico statutes certified by the New Mexico Compilation Commission is considered official. Act of July 1, 2006, ch. 70, § 4, 2006 N.M. Adv. Legis. Serv. 480, 483 (codified at N.M. Stat. § 12-1-7). The online New Mexico Administrative Code, which has never had a print official version, is considered official by the Administrative Law Division of the New Mexico Commission of Public Records. The online version of the New Mexico Register is also considered official. Electronic copies of New Mexico Supreme Court and New Mexico Court of Appeals opinions released for publication in the official New Mexico Reports and published online by the New Mexico Compilation Commission and the New Mexico Supreme Court are considered official.

### New Mexico is not addressing the authentication of online legal resources.

The state enacted the "Electronic Authentication of Documents Act," which pertains to the authentication of electronic documents in general. Ch. 11, 1996 N.M. Laws 115, as amended (codified at N.M. Stat. §§ 14-15-1 to -15-6). However, there is no indication that New Mexico is addressing the authentication of online legal resources specifically.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? No.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? No.

Have courts in your state adopted a medium neutral citation system since the 2007 report? On August 20, 2008 the New Mexico Supreme Court amended Rule 23-112 NMRA of the Supreme Court General Rules governing citations for pleadings and other papers filed in the courts of New Mexico. For citation to opinions of the New Mexico Supreme Court and New Mexico Court of Appeals, use of the vendor neutral citation with citation to both reporters is required. For citations for opinions issued prior to January 1, 1996, that do not have a vendor neutral citation, citation rules in the current edition of The Bluebook: A Uniform System of Citation should be followed.

Have there been any significant changes to the 2007 state summary? Minor changes have been integrated into the report below.

The New Mexico Compilation Commission hold the power to provide for both the official compilations of the New Mexico statutes and the New Mexico Supreme Court and New Mexico Court of Appeals opinions. N.M. Stat. § 12-1-3.1. The New Mexico Statute provides that "[u]pon the certification of the compilation of 1978 or any supplement by the New Mexico compilation commission, with the advice and approval of the advisory committee of the supreme court, the compilation or supplement shall be in force, and printed and electronic copies thereof shall be received, recognized, referred to and used in all the courts and in all departments and offices of the state as the official compilation of the statutory law of New Mexico and may be cited as the 'NMSA 1978.'" Act effective July 1, 2006, ch. 70, sec. 4, 2006 N.M. Laws 480 (codified at N.M. Stat. § 12-1-7).

It is important to note that if differences exist between the codified version of the law and the session law, the working in the session law is deemed correct: "If the text of an enrolled and engrossed bill differs fom a later publication of the text, the enrolled and engrossed bill prevails." N.M. Stat. § 12-2A-11. The electronic version of the statutes is considered official by the New Mexico Compilation Commission despite the disclaimer that appears on the website (http://www.conwaygreene.com/nmsu/lpext.dll?f=templates&fn=main-h.htm&2.0)

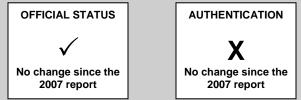
"Disclaimer. The information obtained on this site is not intended to replace the official version found in New Mexico Statutes Annotated 1978 and is subject to revision. The New Mexico Compilation Commission presents this information without warranties, express or implied, regarding the information's accuracy, timeliness, or completeness. Use of the information is the sole responsibility of the user."

Court opinions from the New Mexico Supreme Court and the New Mexico Court of Appeals are also authorized to be published, online and in print, by the New Mexico Compilation Commission. The official print New Mexico Reports is produced by Thomson West. The official electronic version ( at <a href="http://www.conwaygreene.com/nmsu/lpext.dll?f=templates&fn=main-h.htm.">http://www.conwaygreene.com/nmsu/lpext.dll?f=templates&fn=main-h.htm.</a> 2.0) contains a searchable database of opinions (1999-current) released for publication in the

New Mexico Reports. A second online source for official New Mexico court opinions can be found on the New Mexico Supreme Court Law Library's website (at <a href="http://www.supremecourtlawlibrary.com/">http://www.supremecourtlawlibrary.com/</a>). This site contains a browse-able table of cases for 1998-current. The Supreme Court Clerk considers the final opinions published on that page to be official because of the court's relationship with the Compilation Commission.

### New York

<u>2007 Report</u> and 2009-10 Update by Anita Postyn, New York City Civil Court – Queens County



An "Official Reports Service" makes the Web version of court opinions, considered official, available from the database of the print *official* publisher. None of the state's other online resources investigated here are *official*.

Official reports of New York's Court of Appeals and Appellate Division are now available for no-fee online public access through an agreement between the New York State Law Reporting Bureau and Thomson West. There is currently no online official version of the state statutes, session laws, or administrative rules publications. However through an agreement between the Department of State and Thomson West, an unofficial version of the complete New York State administrative regulations is now available free of charge through a link on the Department of State website. In addition to the New York State Register information currently available on the Department of State website, West now publishes an unannotated version of the full text of the New York State Register.

New York is not specifically addressing the authentication of online legal resources.

There is no evidence the state is presently considering computerbased authentication methods for legal sources on the Web.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? The state has not eliminated any print publications in favor of online since the 2007 report.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? The state has not enacted any legislation concerning permanent public access to online governmental information. However, New York State has taken initiatives toward developing technologies to

address the issue of permanent public access including an update in 2007 of the ESRA Best Practices Guidelines suggesting the State "provide access to e-records in the form the user prefers"; publication of a 2008 report outlining steps to "help the state ensure that government electronic records are preserved and accessible to the public" as well as participation in a multi-state digital preservation project whose aim is to develop a system to collect, store and preserve electronic state records.

Have courts in your state adopted a medium neutral citation system since the 2007 report? New York has not adopted any medium neutral citation system since the 2007 report. However, the issue of vendor neutrality is discussed in the state's openness strategy report for e-records appearing below.

Have there been any other significant changes to the 2007 state summary? In 2007, New York again revised its Best Practices Guidelines-Electronic Signatures and Records Act (ESRA) (available at: <a href="http://www.oft.state.ny.us/Policy/ESRA/esra.htm">http://www.oft.state.ny.us/Policy/ESRA/esra.htm</a>). Online legal resources are still not directly addressed but issues of production and retention of authentic copies of e-records as well as maintenance of authenticity and integrity of electronically signed e-records are discussed as desired outcomes.

In 2007, legislation was passed authorizing the Department of State to make available online to the public free of charge, an unofficial version of the New York State administrative regulations (Ch. 407 of the Laws of 2007, now codified at N.Y. S. Exec. Law s106-a). In 2008, the regulations were posted on the Department of State website and are available through a link on the homepage. Although required by statute to maintain a link to the state website containing the link to NYCRR, links were observed on some but not on all agency websites. The regulations are available at <a href="http://government.westlaw.com/linkedslice/default.asp?SP=NYCRR-1000">http://government.westlaw.com/linkedslice/default.asp?SP=NYCRR-1000</a>. A disclaimer appears on the website that the contents are to be used for information purposes only, accuracy of the contents is not guaranteed and directing users to the official version available through Thomson West.

Since 2007, certain agency websites have changed their disclaimers, addressing the issues of accuracy and certification. The Department of Health, in addition to stating that the version of the regulations available on its site is not official, now also addresses the issue of accuracy of its contents and directs users seeking reliance upon the regulations to the official print version available from West Publishing. The Banking Department also posts a similar disclaimer. Certification is addressed by the Department of Environmental Conservation which states in its disclaimer that its regulations are "not" certified copies and are to be used as a quick reference tool, "not" for legal interpretation. No other agency websites directly address the issue of certification in their disclaimers.

Legislation was introduced in 2007 in seven states, including New York, to address the issue of access to and preservation of electronic state documents. The format in which records were created and maintained was a major stumbling block to providing full public access to electronic state documents. Due to the problematic nature of the original

legislation which required state agencies to "accept all documents received in open document format for office applications", Minnesota, the first state to pass this type of legislation, passed a study bill. In August 2007, New York, the second and only other state to pass this type of bill, passed a study bill similar in language to the Minnesota bill. Ch. 477 of the Laws of 2007, now codified at N.Y. State Tech. Law § 305 (4), directed the New York State Office for Technology to commence a study addressing the issues of creation, maintenance and preservation of electronic documents in a manner encouraging appropriate government control, access, choice, interoperability and vendor neutrality.

In May 2008, the New York State Office for Technology and the New York State Archives issued a study report entitled "A Strategy for Openess: Enhancing E-Records York" these Access in New to address issues available http://www.oft.state.ny.us/policy/ESRA/erecords-study.htm. Some key recommendations for the State Legislature were that the state not mandate a specific technology for creation or preservation as technologies change and become outdated, and that an Electronic Records Committee (ERC) be created to ensure that openness to technology be recognized by the vendor community as a long term goal of the state.

Legislation is currently pending to amend the public officers law by creating the "Electronic Access to Records Act" (A03584/2009; A01050/2009). However, budgetary issues will likely delay consideration of these bills and any openness strategy efforts as proposed in the study to address possible permanent public access to electronic records would be on hold.

### North Carolina

<u>2007 Report</u> by Marcia Baker; 2009-10 Update by Kate Irwin-Smiler, Wake Forest University School of Law





No change since the 2007 report

#### **AUTHENTICATION**



No change since the 2007 report

#### North Carolina online legal resources are not official.

The state's statutes, session laws, administrative code, administrative register, and court opinions are published in official print versions. All of their online counterparts have explicit disclaimers as to official status, given on their website or on the documents themselves. The disclaimers for the court opinions, as well as the North Carolina Register and the North Carolina Administrative Code, reference the print official publications, but the disclaimer for the statutes does not.

## Authentication of North Carolina's government information is not a priority at this time.

One reason the state has not yet addressed these issues is that authentication is perceived as an additional step. Collecting the documents that require authentication is primary.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? None of the print publications have been eliminated in favor of online version.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? No legislation has guaranteed permanent public access to state online government information.

**Have courts in your state adopted a medium neutral citation system since the 2007 report?** The state courts have not adopted a medium neutral citation system. As of July 2009, court rules still require use of the *Uniform System of Citation*.

Have there been any other significant changes to the 2007 state summary? North Carolina Supreme Court opinions (1997–current) and Court of Appeals opinions (1996–current) are freely available on the Web. The PDF files of Supreme Court and Court of Appeals cases are labeled as "Slip Opinions" in a watermark, bear no disclaimer

#### NORTH CAROLINA

identifying them as not being official. WordPerfect version of Court of Appeals cases bear no watermark or disclaimer. HTML versions of the Court of Appeal cases, on the other hand each display a header stating that in case of discrepancies between the printed and the online version, the hard copy version will be "considered authoritative." This disclaimer refers the reader to the print *official* publication, the *North Carolina Court of Appeals Reports*. Any alterations or corrections introduced in the editorial phase of production result in the corrected version being displayed online, and previous versions are not retained on the Web. A more general disclaimer on the North Carolina Court System website refers to possible "technical inaccuracies or typographical errors," and out-of-date information. It does not refer to the print official publications, such as the *North Carolina Court of Appeals Reports* or the *North Carolina Reports*.

### North Dakota

2007 Report and 2009-10 Update by Ted Smith, North Dakota Supreme Court

**OFFICIAL STATUS** 

X

No change since the 2007 report

**AUTHENTICATION** 

X

No change since the 2007 report

#### North Dakota online legal resources are not official.

While the online versions of the administrative code, statutory code and session laws are not official, the Assistant Director of the North Dakota Legislative Council, in a telephone conversation, indicated that the online versions of those resources are more current and accurate than the print official versions. The Legislative Council, which consists of seventeen legislators and a substantial staff, provides a variety of administrative services for the North Dakota Legislative Assembly, including overseeing publication of legislative and administrative sources of law.

## North Dakota is not addressing the authentication of online legal resources.

Authentication methods involving technology are not being considered at this time.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? North Dakota has not eliminated any print publication of primary law since the 2007 report.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? North Dakota has not enacted legislation guaranteeing permanent public access to state online government information since the 2007 report.

Have courts in your state adopted a medium neutral citation system since the 2007 report? North Dakota has not yet adopted medium neutral citation format.

Have there been any other significant changes to the 2007 state summary? There have been no significant changes in North Dakota since the 2007 Survey.

### Ohio

<u>2007 Report</u> by Ken Kozlowski, Supreme Court of Ohio & Melissa Barr, Cuyahoga County Public Library; 2009-10 Update by Ken Kozlowski





No change since the 2007 report

#### **AUTHENTICATION**



Changes since the 2007 report

#### Ohio online legal resources are not official.

None of Ohio's online legal resources are considered official. In 2007, the State awarded a contract to Lawriter (purveyors of Casemaker) to be the exclusive web publisher for the Ohio Revised Code and Ohio Administrative Code. There was no change as to the material in regard to its lack of "official" status. The Ohio General Assembly began posting the House and Senate Journals online, again stating that the online materials were not official

## Ohio has begun to address the authentication of online legal resources, but only from one source.

All opinions posted on the Supreme Court of Ohio's web site are authenticated through the use of digital signatures, but the opinions are still not considered official. Official versions of opinions are located in the hard copy versions of Ohio Official Reports.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? Ohio has not eliminated any print publication of primary law to date.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? Ohio has not enacted legislation guaranteeing permanent public access to state online government information.

**Have courts in your state adopted a medium neutral citation system since the 2007 report?** Ohio adopted the use of the "WebCite" for opinions decided after May 1, 2002. After the latter date, WebCites became part of the official citation to Ohio cases. Users should consult *Revisions to the Manual of Citations* (July 12, 2002) at <a href="http://www.sconet.state.oh.us/ROD/Rev\_Manual Cit\_02.pdf">http://www.sconet.state.oh.us/ROD/Rev\_Manual Cit\_02.pdf</a>.

Have there been any other significant changes to the 2007 state summary? There have not been any significant changes to the state summary with the exception of the new publisher for the State's Revised and Administrative Codes, the addition of the Supreme Court of Ohio's authentication of opinions, and the addition of the Ohio House and Senate Journals to the State's online offerings (albeit not official).

### Oklahoma

<u>2007 Report</u> by Richard J. Matthews; 2009-10 Update by Jerry E. Stephens, U.S. Court of Appeals, Oklahoma City, Oklahoma

**OFFICIAL STATUS** 

X

No change since the 2007 report

**AUTHENTICATION** 

X

No change since the 2007 report

#### Oklahoma online legal resources are not official.

Oklahoma statutes, session laws, administrative rules publications, and court opinions are published in print official versions. Separate research gateways involving some duplication of legal resources have evolved and the state is generally oriented to supporting use of online resources for legal research. Those resources, however, are not offered as a substitute for established print official titles.

### Oklahoma is not addressing the authentication of online legal resources.

Recent policies concerning the protection of the state's "information assets" generally do not address the integrity of government Web publications from the perspective of long-term, archival preservation. The policies primarily target security of systems and risks from external harms.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? No.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? No. Legislation enacted by the Oklahoma Legislature in 2008 does expressly require electronic filing of any "report, administrative rule, budget work program, budget request, or any other document to be filed with the Governor, President Pro Tempore of the Senate or the Speaker of the House of Representatives." A printed copy of the items required for electronic filing may be filed in lieu of the electronic report if the electronic version cannot be filed. An explanation of the reasons for the inability to file electronically is required. *See* Oklahoma Statutes Title 74, Section 464, Laws 2008, Chapter 311, Section 1(effective November 1, 2008). The legislation does not, however, address the question of the

public's permanent access to state online government information.

Have courts in your state adopted a medium neutral citation system since the 2007 report? There has been no adoption or amendment since 2007.

If the 2007 summary reported that your state(s) had adopted a medium neutral citation system, would you please answer the following:

- (a) By what mechanism was the system adopted (e.g., state statute, regulation, rule of court, judicial opinion, clerk of court memorandum)? Adopted by rule of court on April 24, 1997.
- (b) Where can a user find directions to understand the system (e.g., court web site with URL, state code or register with citation)? A medium neutral citation system was adopted by the Oklahoma Supreme Court for opinions issued after January 1, 1998. The Supreme Court rule also permits a parallel citation to West's Pacific Reporter. The Oklahoma Supreme Court rule on medium neutral citations is published in the statute books and online. The system is published in Oklahoma Statutes Title 12, Chapter 15, Appendix 1, Rule 1.200(e). The online version can be found on the Oklahoma State Courts Network (http://www.oscn.net).

Have there been any other significant changes to the 2007 state summary? No.

## Oregon

<u>2007 Report</u> and 2009-10 Update by Cathryn Bowie, State of Oregon Law Library

OFFICIAL STATUS

X

No change since the 2007 report

AUTHENTICATION

X

No change since the 2007 report

#### Oregon online legal resources are not official.

The state's online administrative rules publications, statutes, session laws, and court opinions have disclaimers that clearly state that the resources are unofficial and identify the official print titles. Online resources are made available "as a public service" or are "provided for convenience of reference and enhanced access."

### Oregon is not addressing the authentication of online legal resources.

Authentication methods involving technology are not being considered at this time. Disclaimers for some of the resources state that the online text has not been reviewed for accuracy or legal sufficiency. In the case of statutes, state law prescribes a certification procedure that has been applied to print versions only.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? No.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? Oregon Administrative Rule 543-070-0000(2)(e) establishes that "the State Library will retain all tangible materials permanently and will maintain a permanent, accessible archive for electronic publications."

Have courts in your state adopted a medium neutral citation system since the 2007 report? No.

Have there been any other significant changes to the 2007 state summary? No.

## Pennsylvania

2007 Report and 2009-10 Update by A. Hays Butler, Rutgers Law School – Camden

**OFFICIAL STATUS** 

X

No change since the 2007 report

**AUTHENTICATION** 

X

No change since the 2007 report

#### Pennsylvania online legal resources are not official.

The online session laws, court decisions, and administrative rules publications, even though maintained by the government or companies hired by the government, cannot be considered official. The only available online statutory database is maintained as the personal effort of a lower court justice.

## Pennsylvania is not addressing the authentication of online legal resources.

None of the online legal resources investigated here has been authenticated. There is no evidence of any state plan to do so.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? Pennsylvania has not eliminated any print publication of primary law to date.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? No.

Have courts in your state adopted a medium neutral citation system sine the 2007 report? No.

Have there been any other significant changes to the 2007 state summary? Thomson West now provides online access to the unofficial *Purdon's Pennsylvania Statutes* (at <a href="http://government.westlaw.com/linkedslice/default.asp?SP=pac-1000">http://government.westlaw.com/linkedslice/default.asp?SP=pac-1000</a>).

### Rhode Island

2007 Report and 2009-10 Update by Karen Quinn, Rhode Island State Law Library

OFFICIAL STATUS

X

No change since

AUTHENTICATION

X

No change since the 2007 report

#### Rhode Island online legal resources are not official.

The state publishes its statutes, session laws, and court opinions in print official format. Although administrative rules and regulations are filed with the Secretary of State "by or through electronic data or machine readable equipment," this is not considered the official format. Agencies must also submit paper copies of the materials.

### Rhode Island is addressing the authentication of online legal resources.

Regulation 35 000 015, issued by the Secretary of State, is designed to ensure state digitization projects "occur within the framework of sound records management" and that digitized records remain accurate, authentic, and complete and maintain their integrity.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? Rhode Island has not eliminated any print publication of primary law to date.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? The State Archives oversees the *Rhode Island Historical Records Trust* (RIGL 42-8.1-20). The program associated with this trust provides government entities with aid, advice and assistance associated with the management and preservation of the public records in their custody or care. Electronic records are not specifically referred to in the legislation. Rhode Island regulation 35-000-015, entitled *Making and Management of Imaged Public Records* supports the move toward digital government. It outlines the framework within which the rules for the creation and management of digitized public records are set as well as identifies the technical requirements with which agencies must comply. Preservation of imaged public records is a component addressed by this regulation.

Have courts in your state adopted a medium neutral citation system since the 2007 report? No, there has been no move toward adoption of a medium neutral citation format.

Have there been any significant changes to the 2007 state summary? There have been no significant changes to the 2007 state summary.

The disclaimers as to authenticity remain on the General Assembly website and the Secretary of State's webpage, which contains the state's regulations. Electronic versions of administrative rules and regulations continue to be filed in a database maintained by the Secretary of State. They are verified against the print copies. There are procedures in place to authenticate the officials that submit the data.

The Judicial website, which houses the Supreme and Superior Court Opinions are not certified as *official*, nor are they *authenticated*. The official version of the Supreme Court's opinions is published in the Atlantic Reporter and its offshoot, the Rhode Island Reporter. There is no disclaimer as to authentication found on the website.

In 2007, the General Assembly increased the fees that are designated for the Rhode Island Historical Records Trust. This trust oversees the preservation of public records in their custody. Technical amendments in 2009 to Rhode Island regulation 35-000-015, entitled *Making and Management of Imaged Public Records*, clarified statutory authority.

### South Carolina

<u>2007 Report</u> and 2009-10 Update by Terrye Conroy, Coleman Karesh Law Library University of South Carolina School of Law

**OFFICIAL STATUS** 

X

No change since the 2007 report

**AUTHENTICATION** 

X

No change since the 2007 report

#### South Carolina online legal resources are not official.

Unlike South Carolina's print publications, the online versions of its legal resources have not been approved or adopted as official. Disclaimer information applicable to the legislative resources investigated here generally state that the information is provided without warranties regarding accuracy or completeness. Disclaimers for both the Code of Laws and Code of Regulations specifically state that the online unannotated versions are "not official." Current issues of the online version of the State Register, which are available by subscription only, retain the exact title of the print official version. Since it became fee-based in 2002, it is published as a PDF copy of the print official version. Absent specific attention to the issue, the online resource easily seems to be official. The online versions of South Carolina court opinions do not state whether they are official or unofficial, although the advance sheets of those opinions became solely available online, in PDF, in July 2009.

## South Carolina is not addressing the authentication of online legal resources.

From information gathered from representatives of the South Carolina General Assembly and the Judicial Department, as well as the South Carolina Department of Archives and History, it appears that the state is considering how such authentication would occur and who would be responsible. South Carolina, however, has no firm plans to implement authentication technologies.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? In July 2009, South Carolina Supreme Court discontinued the print publication of the *Shearouse Advance Sheets*, which included published

opinions and orders from the South Carolina Supreme Court and Court of Appeals. The webpage for the online PDF version of the Advance Sheets does not include a disclaimer nor are they designated as *official* or certified as *authentic*.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? The state has not enacted permanent public access legislation.

Have courts in your state adopted a medium neutral citation system since the 2007 report? The state has not adopted a medium neutral citation system.

Have there been any other significant changes to the 2007 state summary? South Carolina has not made any changes to the *official* status of any online versions of its legal resources nor has it implemented technology to designate any online resources as *authentic*. It does, however, now specifically state on the Legislature's website that the online versions of the *Code of Laws* and *Code of Regulations* are "not official."

South Carolina's "Official Web Site" (at <a href="http://www.sc.gov">http://www.sc.gov</a>) provides links directly to its executive, judicial, and legislative branch websites. The portal's sidebar "Government" button also links to those websites, as well as resources from every governmental level.

The South Carolina Code of Laws, the state session laws, the South Carolina Code of Regulations, and the South Carolina State Register are represented on the legislature website (at <a href="http://www.scstatehouse.gov">http://www.scstatehouse.gov</a>). Except for the current administrative register, which has been available since 2002 by paid subscription only, these legislative resources are not identified by the same titles as their print official counterparts. Moreover, the South Carolina Code of Laws is unannotated and the session laws (1980–current) are, for most years, the text of the enrolled bills as maintained in the legislature's bill tracking system.

The Legislature's "Website Policies" page gives a disclaimer that identifies the Office of Legislative Printing, Information and Technology Systems (LPITS) as the website producer and states that the "LPITS makes no warranties or representations regarding its accuracy or completeness" and "disclaims any liability for any damages in connection with its use." Disclaimer language on the search interface for both the *South Carolina Code of Laws* and the *South Carolina Code of Regulations* repeats this disclaimer as to accuracy and completeness and adds that "only the current published volumes" of the *Code of Laws*, *Code of Regulations*, respectively, and any pertinent acts and joint resolutions "contain the official version." None of these resources have been approved or adopted as *official* or certified as *authentic*.

The current versions of the *South Carolina Code of Laws* and the *South Carolina Code of Regulations* are both accessed directly from the home page of the website for the South Carolina legislature (at <a href="http://www.scstatehouse.gov">http://www.scstatehouse.gov</a>). Pending bills and regulations as

well as current acts are accessed using the website's "Current Legislation" and "Research" tabs. The "Archives" tab provides access to full text versions of South Carolina Acts (1980–current). Acts are available in HTML and Word format, and pending regulations are in Word. The *South Carolina Code of Laws* and the *South Carolina Code of Regulations* are in HTML and Word format. None of the resources has a PDF version.

The current monthly *South Carolina State Register* is available by paid subscription only, in PDF format (at <a href="http://www.scstatehouse.gov/cgi-bin/state register.exe">http://www.scstatehouse.gov/cgi-bin/state register.exe</a>). The "Archives" tab on the South Carolina legislature website provides access to monthly issues of the *State Register* over four years old in Word format (currently issues from January 22, 1999–June 24, 2005). They are browse-able, but not keyword searchable.

The South Carolina Judicial Department website (at <a href="http://www.sccourts.org">http://www.sccourts.org</a>) provides links to the published and unpublished opinions and orders of the South Carolina Supreme Court and the South Carolina Court of Appeals. Published opinions and orders of the South Carolina Supreme Court and the South Carolina Court of Appeals (1997–current) are available free in HTML format. They may be searched by keyword or browsed by month and year.

Also available via the Opinions/Orders link at the top of the South Carolina Judicial Department website are the "Shearouse Advance Sheets," so named for the Supreme Court's Clerk of Court. These consist of the published opinions and orders of the South Carolina Supreme Court and Court of Appeals (November 25, 2000–current) in PDF format; they are described as "identical to the paper version." In fact, South Carolina Supreme Court announced in January 2009 that due to reductions in the South Carolina Judicial Department budget, effective July 2009, the South Carolina Supreme Court will discontinue its printing contract and the Advance Sheets will no longer be available in a paper version. The webpage does not include a disclaimer; however the opinions are not designated as *official* or certified as *authentic*.

### South Dakota

<u>2007 Report</u> by Rick Goheen, University of Toledo LaValley Law Library; 2009-10 Update by Candice J Spurlin, McKusick Law Library, University of South Dakota School of Law





No change since the 2007 report

#### **AUTHENTICATION**



No change since the 2007 report

#### South Dakota online legal resources are not official.

There are print official versions of all the online legal resources investigated; in no instance is the online resource considered official. The online opinions of the state Supreme Court which begin in 1996 carry disclaimer information concerning their online status.

## South Dakota is not addressing the authentication of online legal resources.

Neither the Legislative Research Council nor by the South Dakota Code Commission have plans for authentication for their online resources in the near future.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? South Dakota has not eliminated any of its print primary law resources in favor of online resources.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? No legislation mandates permanent access to online government information.

Have courts in your state adopted a medium neutral citation system since the 2007 report? In 1995, the South Dakota Supreme Court adopted Rule 95-13, which provided for medium neutral citation as described below.

Have there been any other significant changes to the 2007 state summary? Other minor changes have been integrated into the text below.

South Dakota has not eliminated any of its print primary law resources in favor of online resources. South Dakota Codified Laws section 1-27, Public Records and Files, defines a public record and mandates that records be available and open to inspection by the public during normal business hours (SDCL §1-27-1), but no legislation mandates permanent access to online government information. The South Dakota State Library maintains a website called SoDakLIVE at <a href="http://search.sodaklive.com">http://search.sodaklive.com</a>. The state library harvests government documents and preserves them on this website, but no law mandates that they guarantee their permanent online preservation.

South Dakota makes all legislative primary legal resources available online to the public on its state website at <a href="http://www.state.sd.us/">http://www.state.sd.us/</a>. Online versions of the current administrative code, the administrative register (1998–current), the current statutory code, session laws (1997–current), and high court opinions (1996–current) are relatively easy to find. But none of the online versions are *official* or certified as *authentic*.

At the time of this writing, the index page for the online South Dakota Codified Laws gives the following notice: "Statutes are current as of 7/1/2008. This includes all changes made during the 2008 Legislative Session." The 2007 report noted that at the bottom of the index page and on the Web page for each individual statutory section, this notice appears:

This page is maintained by the Legislative Research Council (LRC). It contains material authorized for publication that is copyrighted by the state of South Dakota. Except as authorized by federal copyright law, no person may print or distribute copyrighted material without the express authorization of the South Dakota Code Commission.

This notice has been replaced with "© 2009 South Dakota Legislature" on the bottom of each page. The LRC Code Counsel says the change is merely the choice of the Webmaster and has no other significance. Since the material is copyrighted, the online statutes are regarded as unique or distinctive text *official* enough to protect, but the South Dakota Code Commission doesn't state that the online statutes are *official*. South Dakota Codified Laws §2-26-17 states that the print version of the code is the *official* code.

South Dakota's own administrative agencies need the commission's permission to copy and redistribute statutes, as is sometimes necessary in connection with promulgating and publishing rules administrative rules. The Legislative Research Council's Guide to Form Administrative and Style for Rules of South Dakota (at http://legis.state.sd.us/rules/RulesManual.pdf) advises agencies to obtain the printing master for new rules from their material on the Web. Id. at 17. Agencies therefore start with text from the online resource. No other source of rules is mentioned. Given that the state government already treats its online rules as official for internal use, it would only be one small step further to designate them as official for public use as well. However, no plans are in place to make the online Administrative Rules of South Dakota official.

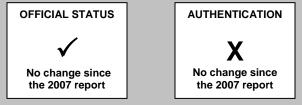
#### SOUTH DAKOTA

Online opinions of the state courts are not *official*. The earliest South Dakota Supreme Court opinions (1996–2005) available on the Web were published in HTML; after 2005 online cases are published in PDF. All online opinions, beginning with the earliest opinions in 1996, carry a notice in red type that states that: "These opinions are subject to formal revision before official publication in the North Western Reporter."

On October 30, 1995 the South Dakota Supreme Court adopted Rule 95-13. The rule provided for medium neutral citation for all opinions on or after January 1, 1996. The legislature passed the rule in the 1996 legislative session and codified it at South Dakota Codified Laws §15-26A-69.1. The statute also gives directions for understanding the system and how citation is to be assigned to each opinion by the clerk of the Supreme Court.

#### **Tennessee**

<u>2007 Report</u> and 2009-10 Update by Sibyl Marshall, University of Tennessee College of Law Library



#### Some of Tennessee's online legal resources are official.

Tennessee's online administrative register, administrative code, and session laws are official and are designated as official on their websites. The Tennessee court system publishes unofficial versions of case opinions on its websites, but does not clearly designate them as unofficial. The Tennessee state government website also provides a link to an unofficial online version of the Tennessee Code, with no disclaimer as to its unofficial status.

## Tennessee is not addressing the authentication of online legal resources.

Authentication is a necessary step for declaring electronic records and publications to be official. Tennessee has not addressed this issue since the 2007 report.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? Tennessee has not eliminated any print publication of primary law since the 2007 report.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? Tennessee has not enacted legislation guaranteeing permanent public access to state online government information since the 2007 report.

Have courts in your state adopted a medium neutral citation system since the 2007 report? The Tennessee Supreme Court has not yet adopted medium neutral citation format.

Have there been any other significant changes to the 2007 state summary? There have been no significant changes in Tennessee since the 2007 Survey.

#### Texas

<u>2007 Report</u> by Marcelino A. Estrada; 2009-10 Update by Leslie Prather-Forbis, Texas State Law Library

**OFFICIAL STATUS** 

X

No change since the 2007 report

**AUTHENTICATION** 

X

No change since the 2007 report

Three Texas online legal resources have certain *official* characteristics, based on statute, but are not commonly regarded as *official*. The resources themselves give no descriptive information about their status or *official* characteristics.

The state's administrative code and administrative register are prima facie evidence of the text of the administrative rules they contain. See Tex. Gov't Code Ann. §§ 2002.054 & 2002.022(a) (evidentiary value of code and register, respectively). Subsequent law directed the Secretary of State to make the administrative code and administrative register available online. See Tex. Gov't Code ANN. §§ 2002.057(a)(1) & 2002.0151(a)(1). The Secretary of State approves the print Texas Administrative Code published by Thomson West, which is considered authoritative but not strictly official, since rules as officially filed are controlling. The Secretary of State is also responsible for the editorial content of the Texas Register, which is currently printed and distributed by LexisNexis. As for session laws, the Secretary of State obtains the "bills that have become law" (TEX. GOV'T CODE ANN. § 405.014). PDF copies of original documents constituting the enrolled bills of the current legislature, including signatures, are available on the Secretary of State's website. The other online resources investigated here are not official. The sources indicate they are provided to facilitate access; their print counterparts are designated as official.

## Texas is not addressing the authentication of online legal resources.

There is no indication that the state is planning to specially authenticate web sources using new technologies.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? Texas has not eliminated any print publication of primary law to date.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? Texas does guarantee permanent public access to government publications.

Have courts in your state adopted a medium neutral citation system since the 2007 report? The Texas Supreme Court has not adopted medium neutral citation format.

Have there been any other significant changes to the 2007 state summary? There have been no significant changes since the 2007 survey.

Texas agency rules are initially published in the *Texas Register* and, upon adoption, compiled and published in the *Texas Administrative Code*. Though not considered *official*, the print version of the *Texas Administrative Code*, published by Thomson West, is authorized by the Secretary of State's office. The *official* version of agency rules are those filed electronically with the Secretary of State. Section 2001.037 of the *Texas Government Code* states that if there is a conflict the version on file with the Secretary of State is considered the *official* version. Sections 2002.054 and 2002.022(a) of the *Texas Government Code* provide for electronic access to the *Texas Administrative Code* and the *Texas Register*, respectively. The most recent version of the *Texas Register* is available on the Secretary of State's website. Through an agreement with the Secretary of State, the University of North Texas Libraries maintains an archive of the online *Texas Register* (June 14, 1991–issue immediately before latest). The purpose of this archive is to provide permanent storage and public access to non-current issues.

The Texas Legislature meets every other year, in odd numbered years, for 140 days beginning the second Tuesday in January. Bills introduced during a session can be viewed on the Legislative Council's website (at <a href="http://www.legis.state.tx.us">http://www.legis.state.tx.us</a>). This unofficial website includes bill history, committee amendments and, if enrolled or passed, the final bill. Researchers may view PDF copies of the original documents constituting the enrolled bills of the current legislature, including signatures, on the Secretary of State's website (at <a href="http://www.sos.state.tx.us">http://www.sos.state.tx.us</a>). Tex. Gov't Code Ann. § 405.014 charges the Secretary of State to "bind all enrolled bills and resolutions in volumes on which the date of the session is placed". These bound volumes are the General and Special Laws of the State of Texas. They are printed under the authority of the Secretary of State by contract with a private publisher.

It is common for researchers to cite to *Vernon's Texas Statutes and Codes Annotated* when referencing Texas laws. This print version is published by Thomson West and is not an *official* version of the laws. Should you wonder why the Texas statutes are referred to as *Vernon's*, a bit of history. In 1925, one of the years the Texas statutes went through a major revision, Vernon's Publishing Company was the quasi-official publisher of the

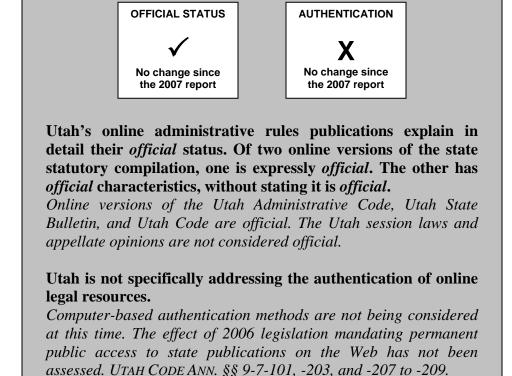
statutes. Years later, Vernon's Publishing was absorbed by West Publishing Company but "Vernon's" was retained as part of the title of the published set.

Texas has been codifying its civil statutes over the past several years. Twenty-six subject matters have been identified and the project is close to completion. Some civil statutes, however, still remain and are cited to by article number. To view the current but unofficial version of Texas statutes with incorporated amendments, researchers may visit the Legislative Council's website (at http://www.legis.state.tx.us). As noted above, the Secretary of State maintains the "bills that have become law" (TEX. GOV'T CODE ANN. § 405.014), which are an official version of Texas laws. The Secretary of State's website has the legislation from the current session. Legislation from the 78<sup>th</sup> session forward is University of North archived by the Texas (at http://texinfo.library.unt.edu/sessionlaws/default.htm).

Texas court information can be accessed electronically from a single website maintained by the Office of Court Administration (at http://www.courts.state.tx.us). 38 Texas counties have implemented electronic filing. Information on electronic filing is linked to Office Administration's website of Court http://www.courts.state.tx.us/jcit/efiling/efilinghome.asp). available **Opinions** electronically are not considered official. Likewise, Texas does not have a print official version of its court opinions. Funds for the official publication of reports were not appropriated in 1963 and the state has been without an official reporter since. West Publishing Company, now Thomson West, created Texas Cases, an unofficial reporter that republishes just the Texas opinions found in the multi-state regional South Western Reporter. Only the Texas Supreme Court, Court of Criminal Appeals and appellate courts are reporting courts.

#### Utah

2007 Report and 2009-10 Update by Jessica Van Buren, Utah State Law Library



Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? The *Utah Administrative Code* is available for free on the Division of Administrative Rules website (at <a href="http://www.rules.utah.gov/publicat/code.htm">http://www.rules.utah.gov/publicat/code.htm</a>). The website specifically states that the electronic version is the *official* publication, updated monthly. There is no longer an *official* print *Utah Administrative Code*. A print unofficial code is published by LexisNexis, which is mentioned on the website. The responsibility of the Division of Administrative Rules for publishing the administrative code is set forth in the Utah statutes. UTAH CODE ANN. §§ 63G-3-402(e), 63G-3-403, 63G-3-701, and 63G-3-702.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? The Utah State Library Division has projects providing permanent public access to born-digital Utah government publications and State of Utah websites. It also successfully sought an amendment to the Utah Library Law (UTAH CODE ANN. §§ 9-7-101 to -511), specifically providing for the long term access to digital state publications.

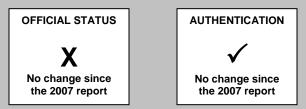
Effective May 1, 2006, the State Library Division is required to "manage and maintain an web-accessible online. digital library for state publications" (at http://publications.utah.gov) and "provide for permanent public access to the publications." State agencies posting a digital version of a state publication to its public website may not remove the publication "until a copy is deposited into the digital library for permanent public access." UTAH CODE ANN. § 9-7-208. According to the established statutory definitions, the state publications covered by the legislation include laws, legislative bills, registers, rules, and statutes, among other materials published by state agencies and political subdivisions. UTAH CODE ANN. § 9-7-101(7)(a).

Have courts in your state adopted a medium neutral citation system since the 2007 report? Utah has a public domain citation system for cases after December 31, 1998. *See* Utah Supreme Court Standing Order No. 4 (effective January 18, 2000).

Have there been any other significant changes to the 2007 state summary? No other significant changes have been made since the 2007 state summary.

### Vermont

<u>2007 Report</u> by Paul J. Donovan, Vermont Department of Libraries; 2009-10 Update by Timothy L. Coggins, University of Richmond School of Law Library



A state statute requires that Vermont maintain a publicly accessible database of statutes, with a seal of authenticity. Despite this strong basis for *official* status, no website appears to comply.

No online legal resource investigated here can be said to be official. The online version of the Vermont statutes maintained on the legislature's website gives the following notice: "The Vermont Statutes Online is an unofficial copy . . . provided as a convenience. It has NOT been edited for publication. The 'official' version . . . is online at LexisNexis Publishing." The LexisNexis version does not claim to be official.

The Vermont statute requiring a seal of authenticity for online statutes and the state's growing awareness of authentication issues represent important progress.

The Vermont General Assembly, Legislative Council is required to "maintain official computerized databases of the Vermont Statutes Annotated" and post them on the Web "with a seal of authenticity." VT. STAT. ANN. tit. 2, § 425.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? Vermont has not eliminated any print publications in favor of online only since the 2007 report.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? Vermont has not enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report.

Have courts in your state adopted a medium neutral citation system since the 2007 report? Vermont adopted Rule 28.2. Citations of the Vermont Rules of Appellate Procedure on November 27, 2001, effective January 1, 2003. Rule 28.2 states that "The citation of any opinion of the Vermont Supreme Court issued on or after January 1, 2003, must, immediately after the title of the case, indicate the year of issuance in four digits followed by the abbreviation "VT" and must include the sequential opinion number, followed by citations to the official and unofficial print reporters." *See* Vt. R. App. P. 28.2(b).

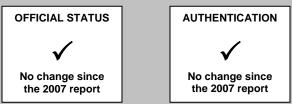
Vermont amended this rule on February 5, 2008, effective April 7, 2008. The amendment deals with an issue unrelated to citation; it requires "... that the party citing an unpublished judicial decision file and serve a copy of any such material cited with the paper in which it is cited."

Rule 28.2 of the Vermont Rules of Appellate Procedure indicate that citations to Vermont Supreme Court cases must be made in the following style: *Smith v. Jones*, 2001 VT 1, ¶ 12, 169 Vt. 203, 850 A.2d 421. Notes after this section include the following comment: "Rule 28.2 incorporates for citation of cases in the Vermont Supreme Court principles of citation form proposed in the *Universal Citation Guide* published by the Committee on Citation Formats of the American Association of Law Libraries. The purpose of the *Guide* is to develop a uniform approach to citation that will be appropriate for electronic media that do not incorporate the volume and page references customary for print media." *See* Reporter's Notes, Vt. R. App. P. 28.2.

Have there been any other significant changes to the 2007 state summary? No.

## Virginia

2007 Report and 2009-10 Update by Gail Warren, Virginia State Law Library



# One Virginia online legal resource is considered *official* on the basis of statute. Certain online court opinions are somewhat confusingly referred to as *official*.

The Virginia Register of Regulations includes proposed or newly adopted administrative rules and other specified content. By statute, it must be published on the Web; additionally, it may be printed. VA. CODE ANN. § 2.2-4031. The status of the Virginia Register of Regulations online has been clarified; the website now includes the language, "The PDF version of the Virginia Register of Regulations posted on this page is the official legal resource. (§ 2.2-4031c of the Code of Virginia)." The court system website somewhat confusingly refers to the PDF and "word-processed" versions (distinguished from the ASCII text version) of opinions on the site as official, since those versions contain the court's original footnotes and layout. Otherwise, no other Virginia online legal resource investigated here is considered official. It should be noted that a broad statutory framework to ensure permanency and authenticity of online legal resources was enacted in the latest legislative session. See Act of March 7, 2006, ch. 60, at http://leg1.state.va.us/cgi-bin/legp504.exe?061+ful+CHAP0060 (amending Virginia Public Records Act to address issues in lifecycle of electronic government information).

## Virginia is beginning to address the authentication of online legal resources.

A joint subcommittee of the legislature has been studying issues of providing official authentication of state electronic records and permanent public access. H.J. Res. No. 6, Gen. Assem., Reg. Sess. (Va. 2004). While this study has focused on state records and documents, and not specifically online legal sources, it is hoped the subcommittee's work will help in developing a model for legal materials on the Web created and maintained by all three branches of government.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? Virginia has not eliminated any print publication of primary law since the 2007 report.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? Virginia has not enacted legislation guaranteeing permanent public access to state online government information since the 2007 report.

Have courts in your state adopted a medium neutral citation system since the 2007 report? Virginia has not yet adopted medium neutral citation format.

Have there been any other significant changes to the 2007 state summary? Changes have been integrated into the report below.

Generally speaking, the commonwealth of Virginia has not taken steps to designate legal resources on the Web as *official*. An exception is the state administrative register inasmuch as the statute creating that resource requires that it be distributed online. VA. CODE ANN. § 2.2-4031(D). Despite an overall less-than-stellar performance in providing for online legal resources certified as *official* and *authentic*, the legislature is moving forward to address the authentication and preservation of government records. One hopes the application of any statutory changes will not be limited to executive agencies, but extend to the documents and records of the legislative and judicial branches of government.

A joint subcommittee of the legislature just completed a two-year study of the Virginia Public Records Act, as mandated by House Joint Resolution No. 6, adopted in 2004. The subcommittee was charged with:

- Providing and assigning authority to establish and maintain guidelines for the creation, transfer and archival preservation of electronic state records and publications;
- Providing and assigning authority to establish and maintain procedures for the official authentication of e-records and documents; and
- Establishing a means to identify, describe, receive and manage discrete electronic government information products covered by copyright.

H.J. Res. No. 6, Gen. Assem., Reg. Sess. (Va. 2004). This eleven-member legislative body's initial staff report, titled *Joint Subcommittee Studying the Virginia Public Records Act*, was published as House Document No. 25 (2005).

In November 2005, the subcommittee prepared draft legislation to amend the Virginia Public Records Act (VA. CODE ANN. § 42.1-76 to -91). The proposal addressed the challenges of *authenticating* and preserving electronic records. During the 2006

legislative session, the Virginia General Assembly approved amendments to the Virginia Public Records Act to include provisions relating to the management and archiving of electronic records, incorporating the changes recommended by the House Joint Resolution No. 6 study. See Act of March 7, 2006, ch. 60, at <a href="http://leg1.state.va.us/cgi-bin/legp504.exe?061+ful+CHAP0060">http://leg1.state.va.us/cgi-bin/legp504.exe?061+ful+CHAP0060</a> (also published in volume 1 of the Acts of the General Assembly of the Commonwealth of Virginia, 2006 Regular Session). As a result, the State Library Board is charged with issuing regulations designed to address the range of issues inherent in the preservation, management, and storage of all records, including electronic records. Pursuant to this mandate, the Library of Virginia released Electronic Records Guidelines for all Commonwealth of Virginia agencies and local government entities in December of 2008 (at <a href="http://www.lva.lib.va.us/whatwedo/records/electron/Electronic Records Guidelines.pdf">http://www.lva.lib.va.us/whatwedo/records/electron/Electronic Records Guidelines.pdf</a>).

The Division of Legislative Automated Systems (DLAS) is responsible for maintaining a legislative electronic information system that includes the status of bills and resolutions and related information, and "shall be made available to all agencies of the Commonwealth and its political subdivisions, and conditionally available to the public." VA. CODE ANN. § 30-34.10:1. Although Virginia's session laws are not available as a single compiled resource on the DLAS website, the researcher is able to view PDF versions of final session laws (chapters) exactly as they appear in the bound volumes of the official print Acts of the General Assembly of the Commonwealth of Virginia. The same website also offers electronic access to the Code of Virginia and the Virginia Administrative Code. While a call to the DLAS Help Desk did indicate that the content of the online Code of Virginia is "the actual text of the print version," there is no notice on the website addressing the status or accuracy of any of the three electronic publications: statutory code, session laws, and administrative code. The only notice regarding the statutes is "[t]he Virginia General Assembly is offering access to the Code of Virginia on the Internet as a service to the public. We are unable to assist users of this service with legal questions nor respond to requests for legal advice or the application of the law to specific facts."

The description of the *Virginia Register of Regulations* found on the Division of Legislative Services (DLS) website leaves the viewer no doubt as to whether it describes only the print or both the print and online versions. Recent changes to the text appearing at the *Virginia Register of Regulations*' website clarifies the status of the online version, "The PDF version of the *Virginia Register of Regulations* posted on this page is the official legal resource (§2.2-4031 C of the Code of Virginia). A note at the bottom of the screen indicates "printed copies of the *Virginia Register* are available by subscription."

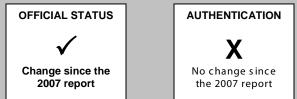
The Virginia Judiciary maintains a website offering electronic access to the opinions of the Virginia Supreme Court and the Virginia Court of Appeals. These opinions are uploaded to the website on the day they are released by the respective court. No notice is given to users regarding the official or unofficial status of the opinions or their accuracy. Note that opinions on the site are currently published in both PDF and ASCII text formats; several years earlier they were published in DOC (Microsoft Word) and ASCII

text formats. The website refers to the PDF and the "word-processed" versions – distinguished from the ASCII text version – as official, since opinions in those formats contain the court's original footnotes and layout. Unfortunately, this statement causes some confusion. The website's use of the word "official" here appears to have a broader meaning than the word as used in the phrase *official* reporter. To be sure, the text on the Web is pulled from the original opinion electronically prepared by the court. But there is no process in place to assure this *slip opinion* is the same as the final opinion published in the *official* bound *Virginia Reports* (thus, reflecting any editing completed subsequent to the slip opinion).

Virginia still publishes print *official* versions of its statutory code, session laws, administrative code, administrative register, and appellate court opinions; until the legislature and judiciary address the authentication or permanency of electronic legal information produced by their respective branches of government, the use of legal information appearing on these websites is limited to locating relevant code sections or cases, but not citing the electronic resource or relying on it as an *official* source.

# Washington

2007 Report and 2009-10 Update by Kay E. Newman, Washington State Law Library



# The <u>majority</u> of Washington online legal resources are not official.

The electronic code for the state statutes and administrative code is transferred from database sources used for the print official publications, and the Code Reviser of the State Law Committee updates the sources as changes occur. Court opinions available on the Web are not deemed official.

In 2008, Washington's administrative code became available only electronically. It is official but not authenticated.

## Washington is not addressing the authentication of online legal resources.

The state is not planning on producing online official statutes or court opinions. Officials, including the Code Reviser and other members of the State Law Committee, closely watch developments in other states, but no change concerning their official status or authentication is currently planned.

The Washington Register is <u>only</u> available electronically. It is official but not authenticated. The Code Reviser is not using technology to authenticate, nor do they plan to do so in the future.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? In 2008, Washington's administrative code became available only electronically. It is official but not authenticated.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? The state has not enacted legislation guaranteeing permanent public access to online government information.

Have courts in your state adopted a medium neutral citation system since the 2007 report? Washington has not adopted a medium neutral citation system.

#### WASHINGTON

Have there been any other significant changes to the 2007 state summary? The state's administrative register, which publishes new or proposed administrative rules and other agency actions, updates the administrative code. The online *Washington State Register* is now the *official* source of the administrative register. It is posted on the Washington State Legislature website (at <a href="http://www1.leg.wa.gov/codereviser/washington+state+register/">http://www1.leg.wa.gov/codereviser/washington+state+register/</a>) and is updated on the first and third Wednesday of each month.

## West Virginia

<u>2007 Report</u> and 2009-10 Update by Kathleen M. Wilko, Robert Crown Law Library, Stanford University





No change since the 2007 report

#### **AUTHENTICATION**



No change since the 2007 report

## West Virginia online legal resources are not official.

The official websites of the West Virginia Legislature, Supreme Court of Appeals and Secretary of State continue to include general use disclaimers as well as direct statements indicating the unofficial status of the legal materials provided.

# West Virginia is not addressing the authentication of online legal resources.

No overt steps toward authenticating online legal resources have been taken by the West Virginia courts, legislature, or Secretary of State.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? West Virginia has not eliminated any print publication of primary law to date.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? The state has not enacted legislation to guarantee permanent public access to state online government information.

Have courts in your state adopted a medium neutral citation system since the 2007 report? West Virginia courts have not yet adopted a medium neutral citation format.

Have there been any other significant changes to the 2007 state summary? Since the 2007 Survey, no significant changes have occurred in West Virginia's treatment of online legal resources. Of some note, however, is a bill passed in late April of 2009 (H.B. No. 2567) that amends the *West Virginia Code* to require electronic filing of agency rules with the Secretary of State beginning July 1, 2011. The bill requires the Secretary of State to propose rules to establish a uniform system for electronic filing by July 1, 2010.

The West Virginia Legislature has made available on its website the text of session laws (1993–current), as well as the text of the current *West Virginia Code*. Along with a general use disclaimer and a statement confirming the unofficial status of the bills included on the website, the site offers a further disclaimer on the text of bills from the 1993-1999 sessions on its "Frequently Asked Questions" page (at <a href="http://www.legis.state.wv.us/FAQs/FAQ.cfm">http://www.legis.state.wv.us/FAQs/FAQ.cfm</a>). That further disclaimer states: "[S]ome bill text from 1993-1999 may be unreliable due to older data systems losing some bill text information." No steps have been taken to *authenticate* the legal materials provided or to change the unofficial status of these materials.

The current West Virginia court structure was formalized in 1974 under the Judicial Reorganization Amendment. The court system is administered by the Supreme Court of Appeals and includes three levels: Magistrate Courts, Circuit Courts and the Supreme Court of Appeals. The Circuit Courts are the state's only courts of general jurisdiction. No *official* reporter for the Circuit Courts exists and the courts themselves do not have a presence on the web outside of contact information provided by the Supreme Court of Appeals on its website. The Supreme Court of Appeals does offer access to the text of its slip opinions, but is quite clear on the unofficial nature of these opinions and directs users to the print *official* reporters. The court also provides an electronic current awareness system that allows users to receive e-mail notification of recent slip opinions filed by the court.

The West Virginia Secretary of State website provides access to the current *Code of State Rules*. Online access to proposed rules is available only during the comment period and emergency rules are posted as long as they are in effect. The website includes a general use disclaimer, a statement regarding the unofficial nature of the rules included on the site, as well as a direction to users to the print *official* version of the *West Virginia Code of State Rules*.

The Secretary of State website also provides access to the *State Register*, the weekly publication updating the status of pending rules. The site maintains online access to this publication for at least *five years*. The general use disclaimer applicable to the *Code of State Rules* also applies here, although there is no publication-specific disclaimer as exists for the administrative code. Although the administrative register is available as a PDF document that appears to replicate the print *official* version, no authentication or chain of custody information is provided.

The Administrative Law Division of the Secretary of State is a repository for executive agency orders, opinions, and decisions. Executive orders are not currently available online, although a searchable database of orders issued since 1989 will soon be made available from the Secretary of State website, along with the ability to request certified copies of orders. Electronic versions of Attorney General opinions are not currently available. Ethics Commission Advisory Opinions are available from the Commission's website. The website offers no broad disclaimer of reliance on these electronic versions. Although the opinions are available as PDF documents that appear to replicate their print

#### WEST VIRGINIA

counterparts, no authentication or chain of custody information is provided. The text of Grievance Board opinions is available from the board's website. These electronic versions of the opinions are not *official*. At this time there is no fee associated with viewing the rules, opinions, and other materials available from the Secretary of State website, however, the agency candidly comments on its funding situation and does indicate that should funding sources change, the Secretary of State is authorized to charge certain fees for online access.

## Wisconsin

<u>2007 Report</u> by Jane Colwin, Wisconsin State Law Library, & Angelina Joseph, Marquette University Law Library; 2009-10 Update by Jane Colwin

OFFICIAL STATUS

X

No change since the 2007 report

AUTHENTICATION

No change since the 2007 report

## Wisconsin online legal resources are not official.

Wisconsin does not certify as official the administrative code, administrative register, session laws, statutes and court opinions that are available on the websites of the Wisconsin Legislature and the Wisconsin Court System.

Wisconsin is not addressing the authentication of online legal resources.

This is not a direction the state is going.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? No.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? No.

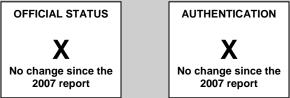
Have courts in your state adopted a medium neutral citation system since the 2007 report? No. If the 2007 summary reported that your state(s) had adopted a medium neutral citation system, would you please answer the following:

- (a) By what mechanism was the system adopted? Supreme Court Rule.
- (b) Where can a user find directions to understand the system? Supreme Court Rule 80.001 <a href="http://www.wicourts.gov/sc/scrule/DisplayDocument.pdf?content=pdf&seqNo=1">http://www.wicourts.gov/sc/scrule/DisplayDocument.pdf?content=pdf&seqNo=1</a>
- (c) What new technology, if any, did the court use to implement the system? None, the numbering is done with a Word macro.

Have there been any other significant changes to the 2007 state summary? No.

# Wyoming

2007 Report and 2009-10 Update by Kathy Carlson, Wyoming State Law Library



## Wyoming online legal resources are not official.

Even though they are not official, most people treat the state's online legal resources as if they were. Given the fact that the source of the data for most of the online sources is exactly the same as for the creation of the official source, there is only a small chance of discrepancy.

## Wyoming is not addressing the authentication of online legal resources.

Research indicates that at the present time there are no moves to add any authenticating marks to the documents.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? No.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? No.

Have courts in your state adopted a medium neutral citation system since the 2007 report? The Wyoming Supreme Court adopted medium neutral citation in 2000.

- (a) By what mechanism was the system adopted. Court Order.
- (b) Where can a user find directions to understand the system? Both the Original Order and the Amending Order are Online at the Court's website: <a href="http://www.courts.state.wy.us/LawLibrary/wyojud.aspx">http://www.courts.state.wy.us/LawLibrary/wyojud.aspx</a>. The Orders contain instructions on how the citation system is to be used.
- (c) What new technology, if any, did the court use to implement the system? Adoption required the use of macros for paragraph numbering (which were provided by the court system in Oklahoma) and the creation of a central file for registering the use of the citation numbers.

Have there been any other significant changes to the 2007 state summary? No.

## 2009-10 UPDATES TO THE

# STATE-BY-STATE REPORT ON AUTHENTICATION OF ONLINE LEGAL RESOURCES



AMERICAN ASSOCIATION OF LAW LIBRARIES

ELECTRONIC LEGAL INFORMATION ACCESS & CITATION COMMITTEE

February 2010

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