

## Electronic Updating: Is Your Citation Still Safe?

by Joanne Kiley and Laura Iken

Updating caselaw, statutes, and regulations is a vital component of legal research. Determining whether your case, statute, or regulation is still “good law” can make the difference in a pleading or case. Of course, the advent of electronic services such as Shepard’s and Keycite has made the process of updating much simpler. In this article, we will examine the major electronic services along with other sources for staying current.

### **Caselaw**

Caselaw must be updated to ensure that a decision has not been overruled or received any other negative treatment. The easiest way to update caselaw (state or federal) is to use either the LexisNexis Shepard’s or Westlaw KeyCite products. Since both services update as soon as information is available from the courts, they are the most current sources available. As you know, each service has special features.

LexisNexis gives you a nice Shepard’s Summary at the top of the report. This lays out the number of citing references, which are rated positive, neutral, cautionary, and warning. Signals such as a red octagon or a yellow triangle give a broad indication of what type of treatment is given. Shepard’s also arranges citations in jurisdictional order, a convenience if you are looking for a particular court.

Westlaw’s Keycite provides signals that indicate analysis of the citations, including yellow flags for caution and red flags for a warning. Keycite also provides a star-rating system that indicates the depth of treatment of the citation in the citing case, with four stars examining the case, and fewer stars for less-detailed treatments. Another feature of the Keycite service is that the Keycite report provides notations of the headnotes, which are treated in each of the citing cases; therefore, readers can see at a glance whether the issue is covered in the citing reference or not. Finally, the Keycite service arranges references by depth of treatment and by jurisdiction within depth of treatment.

LoisLaw provides the GlobalCite service with every service package offered. However, while GlobalCite does provide a summary of each citing reference, no

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editorial judgment is given as to the treatment the citing reference gives to the citation. Additionally, Loislaw's caselaw is less extensive than either Westlaw or LexisNexis. These limitations make it difficult to determine whether a case is still good law or not.

### **Statutes**

Updating statutes is important to ensure that a statute has not been repealed or received negative treatment by the courts. Federal and state statutes follow the same process for updating. After researching the statute and looking in the pocket parts and cumulative supplements to get the most current information, statutes can be updated electronically. Both KeyCite and Shepard's services, as well as GlobalCite, can be used to update statutes. You can also find the annotated statutes online on Westlaw and LexisNexis. FindLaw ([www.findlaw.com](http://www.findlaw.com)) and

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Cornell University's Legal Information Institute ([www.law.cornell.edu](http://www.law.cornell.edu)) also provide access to the unannotated version of the *United States Code*; however, checking for the most recent updates is still necessary.

The *United States Code Service (USCS)* is the Lexis Federal Statute database. It is updated on an irregular basis since it is dependent upon its vendor for receipt of the amendments and new laws. By linking to the "Source Information" window noted by a gray "I," you can determine the most recent update to the USCS source on Lexis, specified as "current through PL 108-273, 7/7/2004," for example.

The United States Code Annotated on Westlaw is updated daily; however, you must check the public laws for any new law that has not yet been codified. At the end of each statute section, Westlaw lists specifically how current the statute section is, for instance, "current through P.L. 108-261, approved 6-25-04." It is imperative to check the Public Laws database for recently passed laws.

When you need to update the status of a particular statute section, you can use the Shepard's or Keycite functions for the optimum efficiency. However, when an entire act with many sections and subsections needs to be reviewed for any updates, a popular name search in the Public Laws databases may be faster.

The Shepard's report provides legislative history and gives subsequent legislation that has amended the original statute. After the legislative history information, citing references are arranged in jurisdictional order, as with caselaw. Secondary source references are given at the end of the report.

The KeyCite statutes report now contains a pending legislation section, a very useful feature to see if a statute is up for amendment. Additionally, the report provides historical and statutory notes, con-

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taining detailed notations of amendments. Caselaw references are grouped by citing references, then administrative decisions, followed by registers and secondary sources.

To check the public laws and any pending legislation, you can search using the act's popular name on Lexis in the files USCS-Public Laws (PUBLAW) and Congressional Full-text Bills (BLTEXT) or Westlaw in the files United States Public Laws (US-PL) and Congressional Bills (CONG-BILLTXT). Users with greater budgetary constraints can run a search on the Library of Congress' THOMAS (<http://thomas.loc.gov>) for the popular name under "Search Bill Text 108th Congress." However, you must open each bill to check for Public Law Status, a potentially time-consuming process depending on the congressional activity on an issue in the past year.

As a side note, Westlaw, LexisNexis, and the Legal Information Institute at Cornell University have made finding the citation for a particular act simple with their Popular Name tables. You can search Lexis for the citation free under the USNAME file.

Loislaw also updates statutes through its GlobalCite service, but again, the limitations described above show that it has yet to be a substitute for either Westlaw or LexisNexis.

Legislative tracking is related to updating statutes. Sometimes it is necessary to follow particular bills through either state or federal legislatures in order to see proposed amendments to current statutes. Bill status is now available on the General Assembly sites of all 50 states, as well as on THOMAS. Many states have tracking functions through which users can create lists of bills they wish to follow, eliminating the necessity of entering information over again when rechecking at a later time. Currently, eight states (California, New Jersey, New Mexico, Pennsylvania,

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South Carolina, Utah, Virginia, and Wisconsin) offer e-mail alerts and will automatically update you when a change of status in a tracked bill is noted. Westlaw is also beginning to add legislative history for many states. This will be something exciting to watch as the breadth and depth of this new source expands.

### Regulations

After verifying the accuracy and currency of federal statutes, you may need to check the corresponding agency regulations.

The volumes of the *Code of Federal Regulations* (print) are updated annually. However, to ensure that you have the most current regulation, you must also

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check the *Federal Register*. All this can be done for free on the Government Printing Office online service, GPO Access.

The *Code of Federal Regulations* (CFR) is found at [www.gpoaccess.gov/cfr](http://www.gpoaccess.gov/cfr) and the Federal Register is found at [www.gpoaccess.gov/fr/index.html](http://www.gpoaccess.gov/fr/index.html). GPO Access provides keyword searching for the CFR and the *Federal Register*; however, the results list does not provide keywords in context, nor is there any other way of skimming results for the best options. GPO Access searching of the Federal Register and the CFR is best when a citation or date is available.

LexisNexis and Westlaw also provide searching by citation in their "Get a Document" (Lexis) and "Find a Document" (Westlaw) search functions. If one has multiple *Federal Register* and/or CFR sections to retrieve, the "Get & Print" (Lexis) or "Find & Print" (Westlaw) options are useful. These allow users to enter the list of citations and hit "enter" once to have all requested documents begin printing from an attached printer. The charge is the same amount that incurs when using "Get a Document" or "Find a Document." Lexis adds the benefit of free printing when using "Get & Print" (i.e., you still pay the "get" or retrieval fee, but not the print fee). Often, however, users need to retrieve more than one section of the CFR. If you need all of Part 23 of 42 CFR, for exam-

ple, Westlaw offers a nice feature within its "Find a Document" tool. Enter "42 CFR PT 23" and Westlaw will produce a list of the 29 documents (the 29 sections of Part 23 of 42 CFR) for you to view or print.

When using Westlaw or Lexis for searching the *Code of Federal Regulations*, you are essentially searching all but the most recent week of the Federal Register for newly approved regulations. Both Westlaw and Lexis update CFR files weekly from the *Federal Register* file. For instance, when viewing a result from a search in Lexis, the top of the CFR document contains this statement, "This Section Is Current Through the July 22, 2004 Issue of the *Federal Register*." Westlaw also provides the latest update information in the Scope notes found by clicking on the green "i." Lexis and Westlaw updates to the *Federal Register* daily (Monday through Friday) and both vendors' *Federal Register* resources begin with the July 1, 1980 volume. As an added bonus, on Lexis one can search in Terms and Connectors and restrict the search by Lexis Segments such as sub-agency and volume number.

In order to update CFR searches for any additions in the *Federal Register*, you only need to search for results within the last week because the CFR is updated weekly. You will need to be careful to check the segments being used in a Terms and Connectors search when switching from the CFR file to the *Federal Register* file as the segments are different from one file to the next. Both Westlaw and Lexis also have the Table of Contents drill-down option available for an alternative form of searching.

### Conclusion

Updating the status of cases, statutes, and regulations is now simpler and better than ever. We have many information resources readily available to use for research, so it is important to be aware of just how much information we can access. It seems that this trend of having more information available electronically will also continue. To stay abreast of the updates, new enhancements, and new sources for cases, statutes, and regulations, check often for announcements and changes on Westlaw, Lexis, Loislaw, FindLaw, the Legal Information Institute, THOMAS, and GPO Access. Happy researching!

*Joanne Kiley is the manager of Information Services of the Chicago office of Michael, Best & Friedrich, LLP. Her e-mail address is [jckiley@mbf-law.com](mailto:jckiley@mbf-law.com).*

*Laura Ikens is the Information Specialist at the Chicago office of Michael, Best & Friedrich, LLP. Her e-mail address is [laikens@mbf-law.com](mailto:laikens@mbf-law.com).* **A**

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