

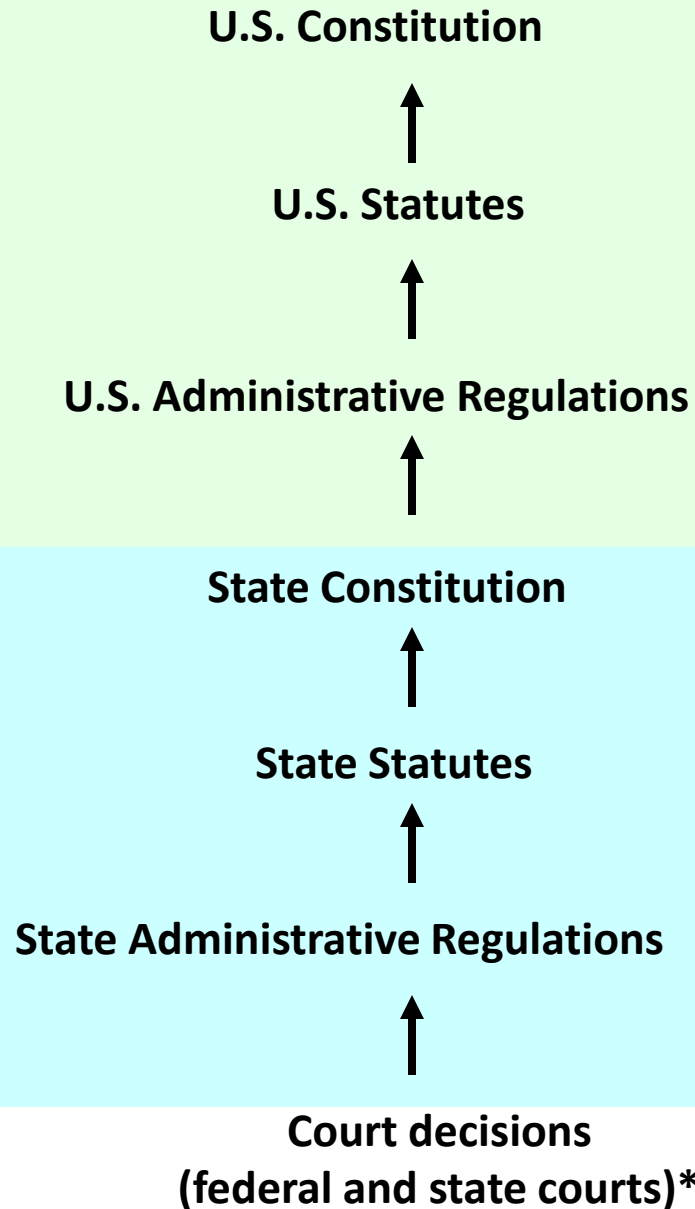
# **Advanced Legal Research**

## **Introduction and General Principles**

# **Hierarchy of Primary Legal Authority**

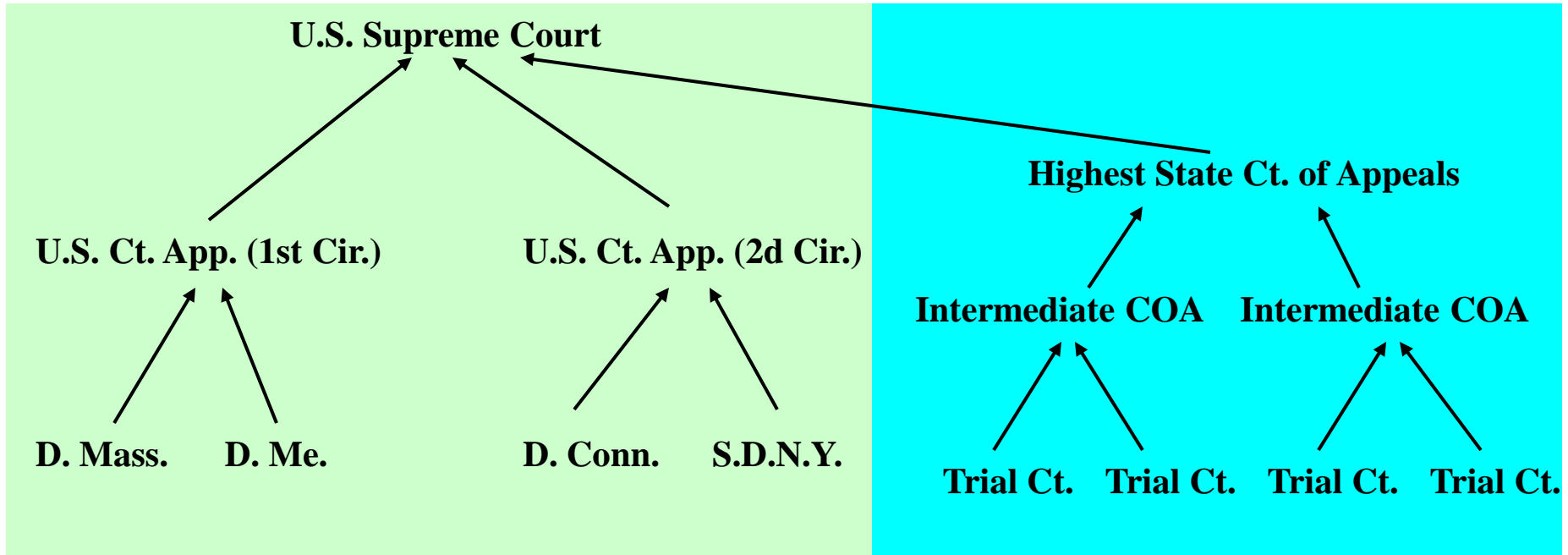
**What Authority is needed?**

# Hierarchy of Legal Authority



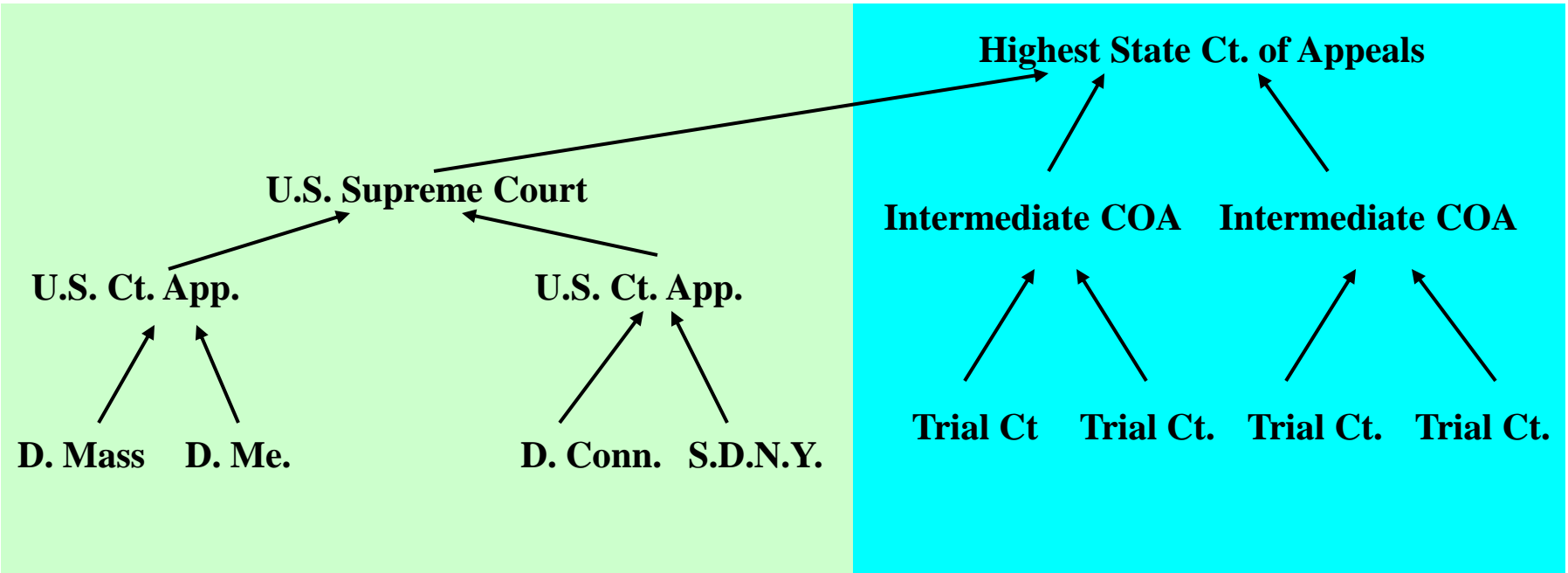
# Federal Law Issue

## Hierarchy of Mandatory Authority



# State Law Issue

## Hierarchy of Mandatory Authority



# Online Research

# Economics of Lexis/Westlaw

## Three billing options

- Hourly
- Transactional
- Flat-Fee

## Transactional

- The smaller the database, the cheaper
- Use broad searches (use of Focus/Locate are free)

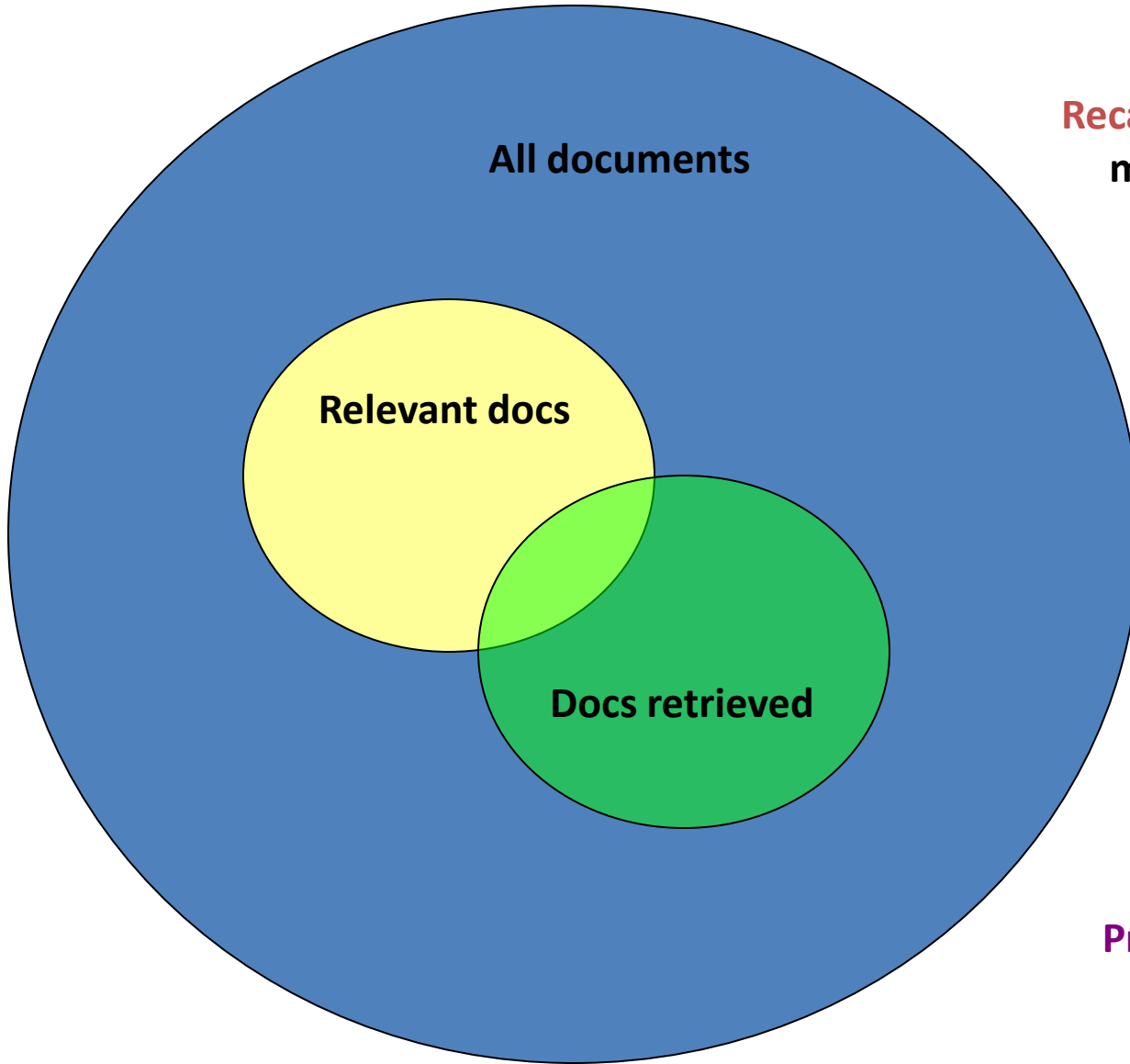
Locating a document by citation (fixed fee, usually cheaper than a search)

Use TOC (no cost)

Use the Book Browse/Docs in Seq features

Use the research trail/history options from previous searches (within last 24 hrs)

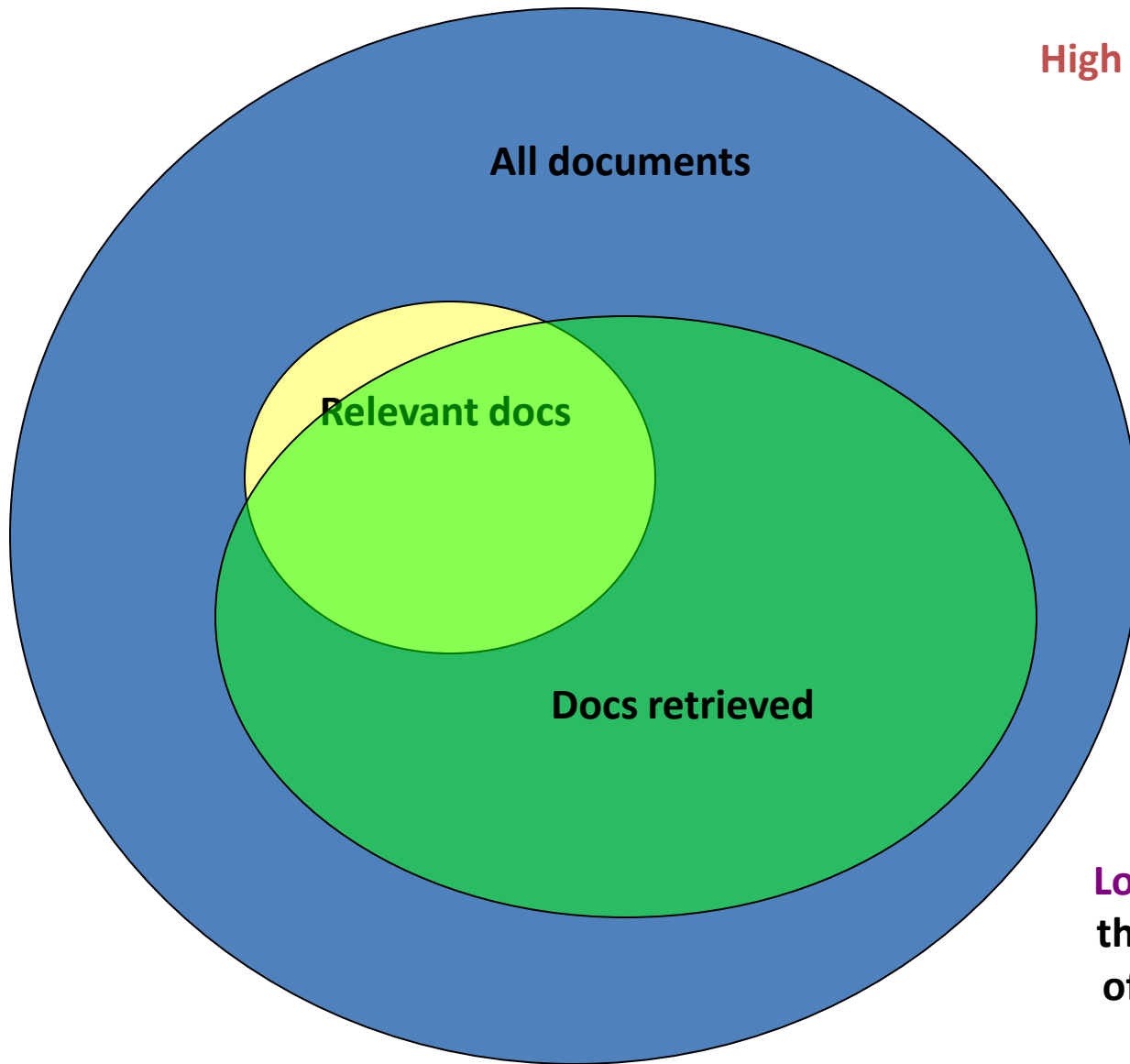
# Full-text searching online



**Recall** – of all relevant docs, how many your search retrieved

**Precision** – of all docs retrieved, how many are relevant

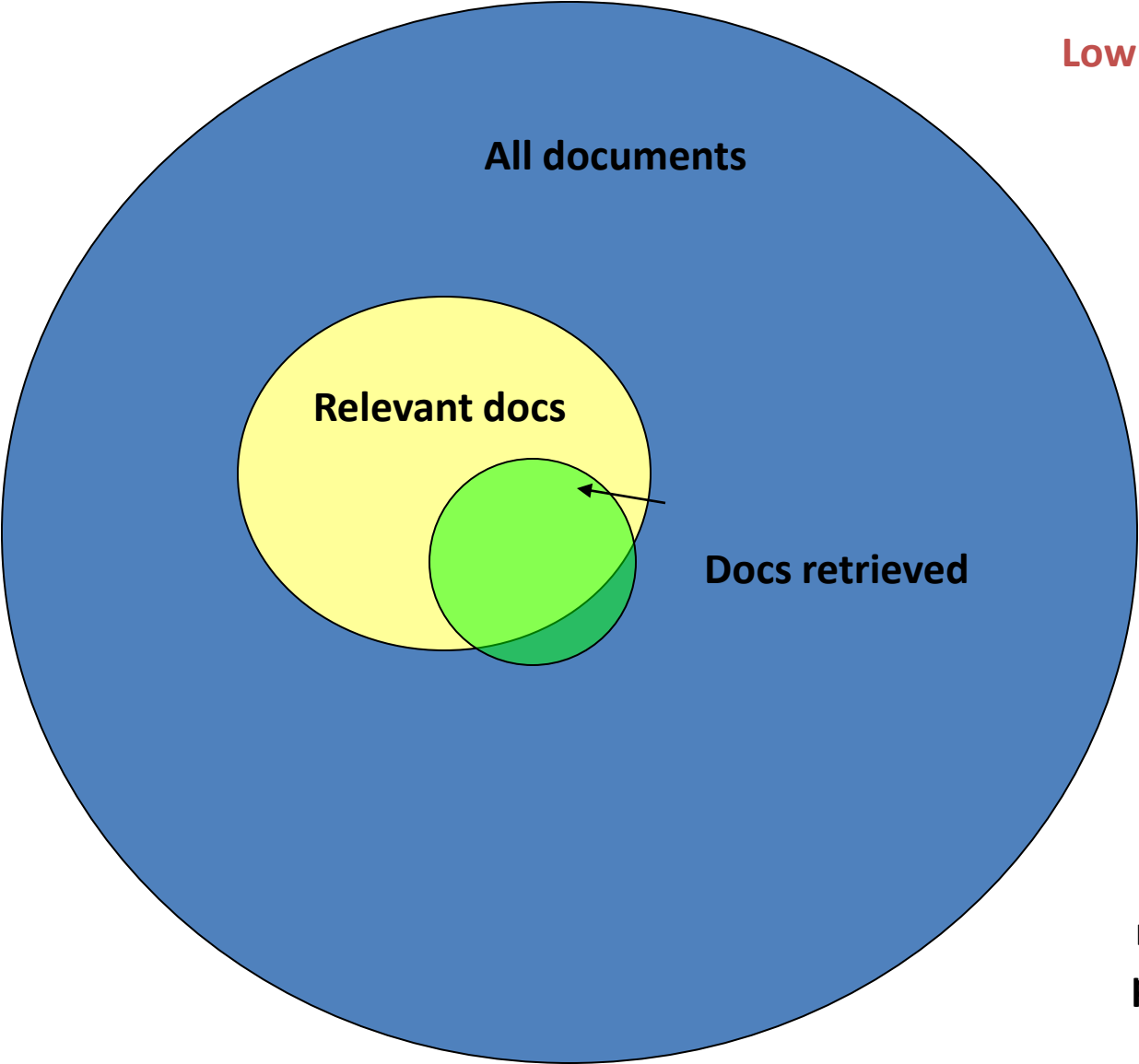
# Broad Search



**High Recall** – search retrieved most relevant documents

**Low Precision** – out of all results the search retrieved, percentage of those that are relevant is low

# Narrow search



**Low Recall** – of all relevant docs, search retrieved few

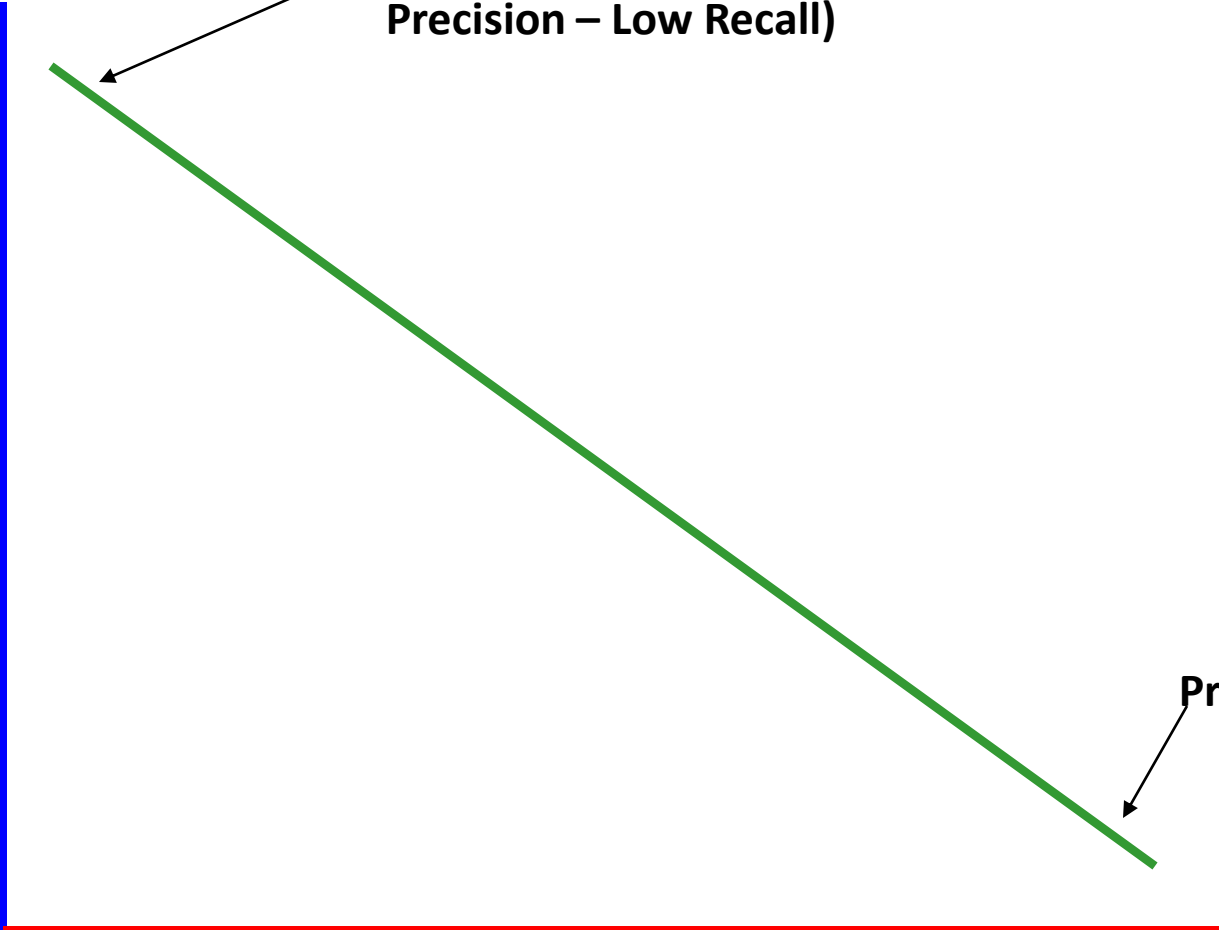
**High Precision** – out of all results the search retrieved, percentage of those that are relevant is high

Precision

Narrow search (High Precision – Low Recall)

Broad search (Low Precision – High Recall)

Recall



# Developing a “terms and connectors” search

1. Analyze the facts and develop issues
2. Determine which words and phrases should become part of search
  1. Develop a broad, medium, and narrow search
  2. Run the broadest search you can (within reason)
3. Synonyms
4. Consider alternative forms of the word(s) and phrase(s)
  1. Plural forms
  2. Truncation
  3. Hyphenated forms v. multiple words
  4. Spacing with abbreviations (I.B.M.)
5. Determine the relationship between words and phrases
  1. Connectors
  2. Priority of connectors
6. Determine if fields/segments apply
7. Select the narrowest database possible

	<b>Westlaw</b>	<b>Lexis</b>
Phrase	" "	(type phrase)
Or	(space)	or
And	&	and
Within n words	+(n) /(n)	pre/(n) w/(n)
Same sentence	+s /s	w/s
Same paragraph	+p	
Not	/p	w/p
Within same segment	%	w/seg

# Priority of Connectors

Westlaw	Lexis
Phrases	OR
Or (space)	W/n, PRE/n, NOT W/n
+n /n	W/S
+s /s	W/P
+p /p	W/SEG
AND	NOT W/SEG
But not	AND
	AND NOT

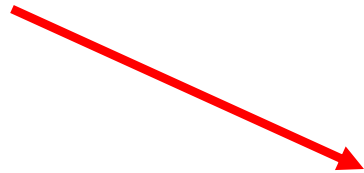
# Statutes: Public Laws

## **Assigned Reading for Class 2**

**Mary Whisner, The United States Code, Prima Facie Evidence, and Positive Law, 101 Law Lib. J. 545 (2009).**

**[http://www.aallnet.org/products/pub\\_lj\\_v101n04/2009-30.pdf](http://www.aallnet.org/products/pub_lj_v101n04/2009-30.pdf)**

**Bill  
H.R. 7152**



**Public Law  
88-352**

- 1. Statutes at Large**
- 2. United States Code Congressional and Administrative News (U.S.C.C.A.N.)**
- 3. Online: Lexis, Westlaw, Thomas web site**

# P.L. 88-352

Public Law

Number  
of  
Congress  
(1963-64)

Number of law  
passed  
(352<sup>nd</sup> public law  
passed by the  
88<sup>th</sup> Congress)

# 78 Stat. 241

Volume

Statutes at Large

page

# Popular Name

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the “Voting Rights Act of 1965”.*

# Eighty-ninth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Monday, the fourth day of January,  
one thousand nine hundred and sixty-five*

## An Act

To enforce the fifteenth amendment to the Constitution of the United States, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act shall be known as the "Voting Rights Act of 1965".

SEC. 2. No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color.

SEC. 3. (a) Whenever the Attorney General institutes a proceeding under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court shall authorize the appointment of Federal examiners by the United States Civil Service Commission in accordance with section 6 to serve for such period of time and for such political subdivisions as the court shall determine is appropriate to enforce the guarantees of the fifteenth amendment (1) as part of any interlocutory order if the court determines that the appointment of such examiners is necessary to enforce such guarantees or (2) as part of any final judgment if the court finds that violations of the fifteenth amendment justifying equitable relief have occurred in such State or subdivision: *Provided*, That the court need not authorize the appointment of examiners if any incidents of denial or abridgement of the right to vote on account of race or color (1) have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

(b) If in a proceeding instituted by the Attorney General under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court finds that a test or device has been used for the purpose or with the effect of denying or abridging the right of any citizen of the United States to vote on account of race or color, it shall suspend the use of tests and devices in such State or political subdivisions as the court shall determine is appropriate and for such period as it deems necessary.

# Organization of Public Laws

## Sections

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the “Voting Rights Act of 1965”.*

...

**Sec. 2. No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color.**

# Eighty-eighth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday, the seventh day of January,  
one thousand nine hundred and sixty-four*

## An Act

To enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Act of 1964".*

### TITLE I—VOTING RIGHTS

SEC. 101. Section 2001 of the Revised Statutes (42 U.S.C. 1971), as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), and as further amended by section 601 of the Civil Rights Act of 1960 (74 Stat. 90), is further amended as follows:

(a) Insert "1" after "(a)" in subsection (a) and add at the end of subsection (a) the following new paragraphs:

"(2) No person acting under color of law shall—

"(A) in determining whether any individual is qualified under State law or laws to vote in any Federal election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to vote;

"(B) deny the right of any individual to vote in any Federal election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election; or

# Organization of Public Laws

## Titles and sections

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That: This Act may be cited as the “Civil Rights Act of 1964”.*

### TITLE VII – EQUAL EMPLOYMENT OPPORTUNITY

**Sec. 701. For the purposes of this title –**  
**(a) The term person ...**

**Anatomy  
of  
a  
Freestanding  
Public Law**

Public Law 89-110

AN ACT

**Title** →

To enforce the fifteenth amendment to the Constitution of the United States, and for other purposes.

**Enacting  
clause** →

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".*

**Short Title  
(Popular  
Name)** →

Sec. 2. No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color.

# **Private Securities Litigation Reform Act**

**Pub. L. 104-67**

# **Sarbanes-Oxley Act**

**Pub. L. 107-204**

# **CERCLA**

**Comprehensive Environmental Response, Compensation, and Liability Act**

**Pub. L. 110-352**

# **Title IX**

**Education Amendments of 1972**

**Pub. L. 92-318, title IX**

Public Law 89-110

AN ACT

**Title** →

To enforce the fifteenth amendment to the Constitution of the United States, and for other purposes.

**Enacting  
clause** ↗

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".*

**Short Title  
(Popular  
Name)** ↗

Sec. 2. No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color.

**Operating  
Provisions** ↗

# Table of Contents



## Voter Registration Act of 1993

- Section 1.
- Section 2.
- Section 3.

- Short Title
- Findings and Purposes
- Definitions

**Public Law 89-110**

**AN ACT**

**To enforce the fifteenth amendment to the Constitution of the United States, and for other purposes.**

***Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the “Voting Rights Act of 1965”.***

....

**Sec. 10 (a) The Congress finds that the requirement of the payment of a poll tax as a precondition to voting (i) precludes persons of limited means from voting or imposes unreasonable financial hardship upon such persons as a precondition to their exercise of the franchise, (ii) does not bear a reasonable relationship ...**



**Findings**

## Public Law 100-300

### AN ACT

To establish procedures to implement the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### Section 1. Short Title

This act may be cited as the “International Child Abduction Remedies Act”.

#### Sec. 2. Findings and Declarations

- (a) Findings – The Congress makes the following findings:
- (1) The international abduction or wrongful retention of children is harmful to their well-being.
  - (2) Persons should not be permitted to obtain custody of children by virtue of their wrongful removal or retention.
  - (3) International abductions and retentions of children ...

## Findings

## Public Law 89-110

Sec. 4. (a) ...

**Definitions** → (c) The phrase “test or device” shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) ...

## Public Law 100-300

Sec. 3. Definitions

For the purposes of this Act –

(1) the term “applicant” means any person who, pursuant to the Convention, files an application with the United States Central Authority or a Central Authority of any other party to the Convention for the return of a child alleged to have been wrongfully ...

# Other elements:

**Effective date**

**Sunset provisions**

**Severability clause**

**P.L. 89-110**

**Sec. 19.** If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

**Remedies & Sanctions**

**P.L. 89-110**

**Sec. 12 (a)** Whoever shall deprive or attempt to deprive any person of any right secured by section 2, 3, 4, 5, 6, or 10 or shall violate section 11 (a) or (b), shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

**Anatomy  
of  
an  
Amending  
Public Law**

# Types of amending public laws

## Amendment by Reference

**P.L. 97-205**

...

**Sec. 2. (a) Subsection (a) of section 4 of the Voting Rights Act of 1965 is amended by striking out “seventeen years” each place it appears and inserting in lieu thereof “nineteen years”.**

**(b) Effective on and after August 5, 1984, subsection (a) of section 4 of the Voting Rights Act of 1965 is amended –**

**(1) by inserting “(1)” after “(a)”;**

**(2) by inserting “or in any political subdivision of such State ...**

## Amendment by Reenactment or Restatement

**P.L. 97-205**

...

**Sec. 3. Section 2 of the Voting Rights Act of 1965 is amended to read as follows:**

**“Sec. 2. (a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State ...**

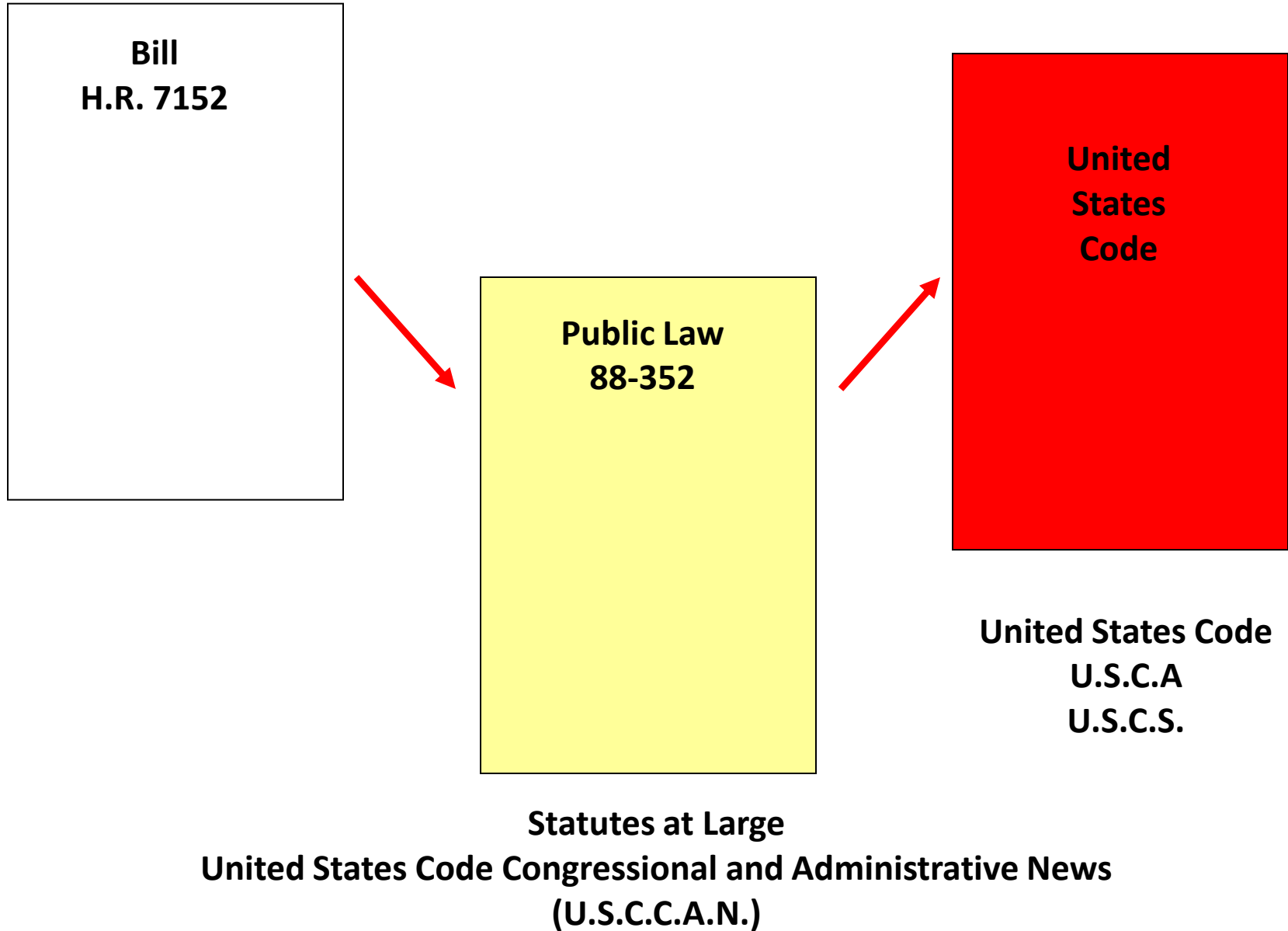
# Types of amending public laws (cont)

## Redlining

**Sec. 1. Sec. 2 of the Voting Rights Act of 1965 is amended as follows:**

**Sec. 2. No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to ~~deny or abridge~~ in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2), as provided in subsection (b).**

# Public Laws are codified into U.S.C.



## **Office of the Law Revision Counsel – House of Rep.**

**In charge of incorporating the Pub. L. into the code**

**The mechanics of this process**

**U.S.C. is organized into 50 titles**

**Title 1. General Provisions**

**Title 2. The Congress**

**...**

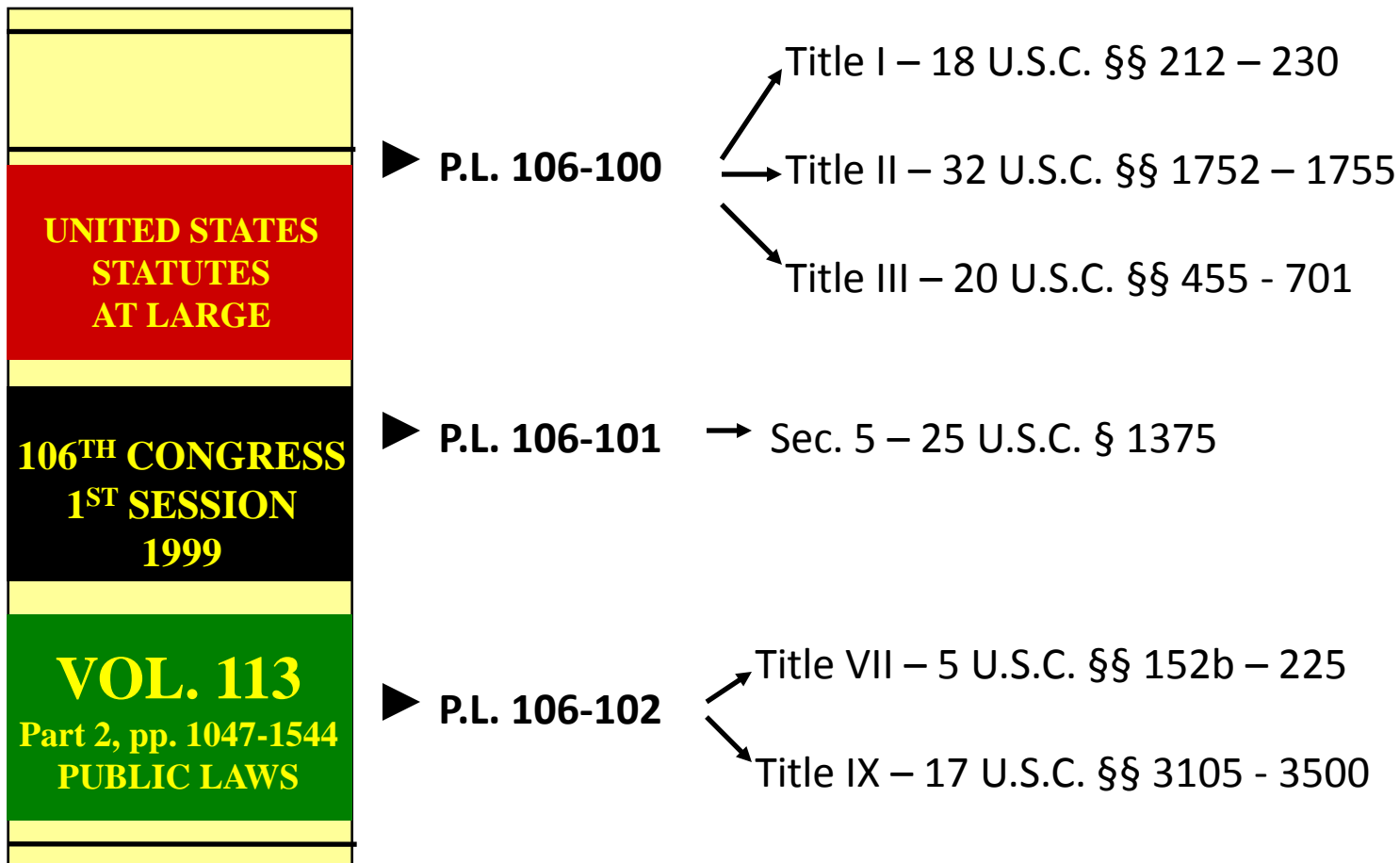
**Title 21. Food and Drugs**

**...**

**Title 26. Internal Revenue Code**

# Statutes at Large

- ◆ Contains text of only those laws passed during a session of Congress
- ◆ Arranged chronologically



# **Private Securities Litigation Reform Act**

**Pub. L. 104-67**

**Scattered sections of 15 U.S.C.**

# **Sarbanes-Oxley Act**

**Pub. L. 107-204**

**Various sections in Titles 15 and 18 of the U.S.C.**

# **CERCLA**

**Comprehensive Environmental Response, Compensation, and Liability Act**

**Pub. L. 110-352**

**Various sections in Titles 42 and 26 of the U.S.C.**

# **Title IX**

**Education Amendments of 1972**

**Pub. L. 92-318, title IX**

**20 U.S.C. Sections §§ 1681-1688**

# United States Code

## Crimes

**18 USCA § 480**

**United  
States  
Code**



**2000 Edition**

**Title  
18**

**9**

### **§ 480. Possessing counterfeit foreign obligations or securities**

Whoever, within the United States, knowingly and with intent to defraud, possesses or delivers any false, forged, or counterfeit bond, certificate, obligation, security, treasury note, bill, promise to pay, bank note, or bill issued by a bank or corporation of any foreign country, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, c. 645, 62 Stat. 707; Sept. 13, 1994, Pub.L. 103-322, Title XXXIII, § 330016(1)(H), 108 Stat. 2157.)

### **Session Law References**

**1. C. 645, 62 Stat. 707, June 25, 1948**

**2. Pub. L. 103-322, Title XXXIII, §330016(1)(H),  
108 Stat. 2157, Sept. 13, 1994**

**Public Law 91-513**

**Comprehensive Drug Abuse Prevention and Control Act of 1970**

**Title I (Rehabilitation programs relating to Drug Abuse)**

**Part D (Offenses and Penalties)**

**Sec. 408 (Continuing criminal enterprise)**

**Look specifically at Sec. 408(b)**

To amend the Public Health Service Act and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Drug Abuse Prevention and Control Act of 1970".*

Comprehensive  
Drug Abuse Pre-  
vention and Con-  
trol Act of 1970.

Public Law 91-513

TABLE OF CONTENTS

TITLE I—REHABILITATION PROGRAMS RELATING TO DRUG ABUSE

- Sec. 1. Programs under Community Mental Health Centers Act relating to drug abuse.
- Sec. 2. Broader treatment authority in Public Health Service hospitals for persons with drug abuse and other drug dependence problems.
- Sec. 3. Research under the Public Health Service Act in drug use, abuse, and addiction.
- Sec. 4. Medical treatment of narcotic addiction.

Title II

TITLE II—CONTROL AND ENFORCEMENT

PART A—SHORT TITLE; FINDINGS AND DECLARATION; DEFINITIONS

- Sec. 100. Short title.
- Sec. 101. Findings and declarations.
- Sec. 102. Definitions.
- Sec. 103. Increased numbers of enforcement personnel.

Part D

PART B—AUTHORITY TO CONTROL; STANDARDS AND SCHEDULES

- Sec. 201. Authority and criteria for classification of substances.
- Sec. 202. Schedules of controlled substances.

PART C—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, AND DISPENSERS OF CONTROLLED SUBSTANCES

- Sec. 301. Rules and regulations.
- Sec. 302. Persons required to register.
- Sec. 303. Registration requirements.
- Sec. 304. Denial, revocation, or suspension of registration.
- Sec. 305. Labeling and packaging requirements.
- Sec. 306. Quotas applicable to certain substances.
- Sec. 307. Records and reports of registrants.
- Sec. 308. Order forms.
- Sec. 309. Prescriptions.

Sec. 408(b)

PART D—OFFENSES AND PENALTIES

- Sec. 401. Prohibited acts A—penalties.
- Sec. 402. Prohibited acts B—penalties.
- Sec. 403. Prohibited acts C—penalties.
- Sec. 404. Penalty for simple possession; conditional discharge and expunging of records for first offense.
- Sec. 405. Distribution to persons under age twenty-one.
- Sec. 406. Attempt and conspiracy.
- Sec. 407. Additional penalties.
- Sec. 408. Continuing criminal enterprise.

CONTINUING CRIMINAL ENTERPRISE

SEC. 408. (a) (1) Any person who engages in a continuing criminal enterprise shall be sentenced to a term of imprisonment which may not be less than 10 years and which may be up to life imprisonment, to a fine of not more than \$100,000, and to the forfeiture prescribed in paragraph (2); except that if any person engages in such activity after one or more prior convictions of him under this section have become final, he shall be sentenced to a term of imprisonment which may not be less than 20 years and which may be up to life imprisonment, to a fine of not more than \$200,000, and to the forfeiture prescribed in paragraph (2).

Penalty.

(2) Any person who is convicted under paragraph (1) of engaging in a continuing criminal enterprise shall forfeit to the United States—

Forfeiture.

(A) the profits obtained by him in such enterprise, and

(B) any of his interest in, claim against, or property or contractual rights of any kind affording a source of influence over, such enterprise.

(b) For purposes of subsection (a), a person is engaged in a continuing criminal enterprise if—

(1) he violates any provision of this title or title III the punishment for which is a felony, and

(2) such violation is a part of a continuing series of violations of this title or title III—

(A) which are undertaken by such person in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management, and

(B) from which such person obtains substantial income or resources.

Sec. 408(b)

## **Pub. L. 91-513, Sec. 408(b)**

**For purposes of subsection (a), a person is engaged in a continuing criminal enterprise if –**

- (1) he violates any provision of [this title or title III](#) the punishment for which is a felony, and**
- (2) such violation is a part of a continuing series of violations of [this title or title III](#) ...**

**Sec. 408(b) of Pub. L. 91-513 is codified at Title 21 U.S.C. §848(c)**

# Hierarchy of United States Code

## Title 21 – Food and Drugs

**§ 848 – Continuing criminal enterprise**

**Subsection (c)**

---

**Pub. L. 91-513, Sec. 408(b)**

**For purposes of subsection (a), a person is engaged in a continuing criminal enterprise if –**

**(1) he violates any provision of this [title or title III](#) the punishment for which is a felony, and**

**(2) such violation is a part of a continuing series of violations of this [title or title III](#) ...**

---

**U.S.C.**

**Ch. 13 Drug Abuse Prevention**

**21 §848**

**(c) “Continuing criminal enterprise” defined**

For purposes of subsection (a) of this section, a person is engaged in a continuing criminal enterprise if –

**(1) he violates any provision of this [subchapter or subchapter II of this chapter](#) the punishment for which is a felony, and**

**(2) such violation is a part of a continuing series of violations of this [subchapter or subchapter II of this chapter](#) ...**

## **Office of the Law Revision Counsel – House of Rep.**

**In charge of incorporating the Pub. L. into the code (known as codification).**

**Statutes at Large has existed since 1845.**

**The United States Code has existed since 1926.**

**This process of codification introduces the possibility of error:**  
**- terminology needs to be changed so the code is intelligible.**

**What is “the law”?**

- Language found in public laws**
- Language found in U.S.C.**

# **Relationship between Statutes at Large (Public Laws) and the United States Code**

**Public law is positive law**

- **Default position**
- **Code is prima facie evidence of the law**

**Code title is positive law**

- **Can only achieve this status if Congress enacts a Code title into positive law**
- **The process of enacting a Code title into positive law**

# Positive Law v. Prima facie evidence of the law

## 1 U.S.C. § 204

The matter set forth in the edition of the Code of Laws of the United States current at any time shall, together with the then current supplement, if any, establish prima facie the laws of the United States.... *Provided, however,* That whenever titles of such Code shall have been enacted into positive law the text thereof shall be legal evidence of the laws therein contained ....

## **Two types of public laws:**

### **1. Public law creating new or amending existing code sections that are located in a Code title that has been enacted into positive law:**

- Public law will indicate what is being added or changed using the language found in the Code (See public law 109–464 in Exhibit A)**
- Language of public law directly adds to or amends language found in the Code.**

### **2. Public law creating new or amending existing codes sections that are located in a Code title that has not been enacted into positive law:**

- if adding new sections to the code, language will have to be modified to fit into the code (see example from Pub. L. 91-513)**
- if amending code section(s), public law will amend language of an earlier public law (e.g., 109-453 in Exhibit B) that is codified in the code.**

# **Congress always amends whatever is positive law:**

- If the public law is positive law, Congress will amend the language found in the public law being amended.**
- If the Code is positive law, Congress will amend the language as it appears in the U.S.C.**

# **Title 16 of the U.S.C. – not enacted into positive law**

**Pub. L. 109-453, Sec. 1(c) amends Sec. 108 of the National Historic Preservation Act, which is codified at 16 U.S.C. 470h**

Public Law 109–453  
109th Congress

## **An Act**

To amend the National Historic Preservation Act to provide appropriation authorization and improve the operations of the Advisory Council on Historic Preservation.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### **SECTION 1. NATIONAL HISTORIC PRESERVATION ACT AMENDMENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “National Historic Preservation Act Amendments Act of 2006”.

(b) **REFERENCE.**—A reference in this Act to “the Act” shall be a reference to the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(c) **HISTORIC PRESERVATION FUND.**—Section 108 of the Act (16 U.S.C. 470h) is amended by striking “2005” and inserting “2015”.

# 18 U.S.C. - enacted into positive law

## Pub. L. 109-464, Section 1 Amends Title 18 of the U.S. Code

Public Law 109–464  
109th Congress

### An Act

To amend title 18, United States Code, to prohibit disruptions of funerals of members or former members of the Armed Forces.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### **SECTION 1. RESPECT FOR THE FUNERALS OF FALLEN HEROES.**

(a) **IN GENERAL.**—Chapter 67 of title 18, United States Code, is amended by adding at the end the following new section:

**“§ 1388. Prohibition on disruptions of funerals of members or former members of the Armed Forces**

**“(a) PROHIBITION.**—For any funeral of a member or former member of the Armed Forces that is not located at a cemetery

Page from U.S.C. indicating which Code titles have been  
enacted into positive law

**TITLES OF UNITED STATES CODE**

---

- |   |  |
|---|--|
| *1. General Provisions.                                     | 27. Intoxicating Liquors.  |
| 2. The Congress.  | *28. Judiciary and Judicial Procedure; and<br>Appendix.                    |
| *3. The President.  | 29. Labor.   |
| *4. Flag and Seal, Seat of Government, and the<br>States.   | 30. Mineral Lands and Mining.  |
| *5. Government Organization and Employees;<br>and Appendix. | *31. Money and Finance.  |
| 6. Domestic Security.                                       | *32. National Guard.   |
| 7. Agriculture.   | 33. Navigation and Navigable Waters.                                       |
| 8. Aliens and Nationality.                                  | †34. [Navy.]   |
| *9. Arbitration.  | *35. Patents.  |
| *10. Armed Forces.  | *36. Patriotic and National Observances,<br>Ceremonies, and Organizations. |
| *11. Bankruptcy; and Appendix.                              | *37. Pay and Allowances of the Uniformed<br>Services.                      |
| 12. Banks and Banking.                                      | *38. Veterans' Benefits.   |
| *13. Census.  | *39. Postal Service.   |
| *14. Coast Guard.   | *40. Public Buildings, Property, and Works.                                |
| 15. Commerce and Trade.                                     | 41. Public Contracts.  |
| 16. Conservation.   |  |
| *17. Copyrights.  |  |

Public Law 110-403  
110th Congress

An Act

Oct. 13, 2008  
[S. 3325]

To enhance remedies for violations of intellectual property laws, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Prioritizing  
Resources and  
Organization for  
Intellectual  
Property Act of  
2008.  
15 USC 8101  
note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Prioritizing Resources and Organization for Intellectual Property Act of 2008”.

(b) **TABLE OF CONTENTS.**—The table of contents is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Reference.
- Sec. 3. Definition.

**TITLE I—ENHANCEMENTS TO CIVIL INTELLECTUAL PROPERTY LAWS**

- Sec. 101. Registration of claim.
- Sec. 102. Civil remedies for infringement.
- Sec. 103. Treble damages in counterfeiting cases.
- Sec. 104. Statutory damages in counterfeiting cases.
- Sec. 105. Importation and exportation.

**TITLE II—ENHANCEMENTS TO CRIMINAL INTELLECTUAL PROPERTY LAWS**

- Sec. 201. Criminal copyright infringement.

# TITLE I—ENHANCEMENTS TO CIVIL INTELLECTUAL PROPERTY LAWS

## SEC. 101. REGISTRATION OF CLAIM.

(a) LIMITATION TO CIVIL ACTIONS; HARMLESS ERROR.—Section 411 of title 17, United States Code, is amended—

(1) in the section heading, by inserting “CIVIL” before “INFRINGEMENT”;

(2) in subsection (a)—

(A) in the first sentence, by striking “no action” and inserting “no civil action”; and

(B) in the second sentence, by striking “an action” and inserting “a civil action”;

(3) by redesignating subsection (b) as subsection (c);

(4) in subsection (c), as so redesignated by paragraph (3), by striking “506 and sections 509 and” and inserting “505 and section”; and

(5) by inserting after subsection (a) the following:

“(b)(1) A certificate of registration satisfies the requirements of this section and section 412, regardless of whether the certificate contains any inaccurate information, unless—

“(A) the inaccurate information was included on the application for copyright registration with knowledge that it was inaccurate; and

“(B) the inaccuracy of the information, if known, would have caused the Register of Copyrights to refuse registration.

“(2) In any case in which inaccurate information described under paragraph (1) is alleged, the court shall request the Register of Copyrights to advise the court whether the inaccurate information, if known, would have caused the Register of Copyrights to refuse registration.

“(3) Nothing in this subsection shall affect any rights, obligations, or requirements of a person related to information contained

**SEC. 102. CIVIL REMEDIES FOR INFRINGEMENT.**

(a) **IN GENERAL.**—Section 503(a) of title 17, United States Code, is amended to read as follows:

“(a)(1) At any time while an action under this title is pending, the court may order the impounding, on such terms as it may deem reasonable—

“(A) of all copies or phonorecords claimed to have been made or used in violation of the exclusive right of the copyright owner;

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**SEC. 103. TREBLE DAMAGES IN COUNTERFEITING CASES.**

Section 35(b) of the Trademark Act of 1946 (15 U.S.C. 1117(b)) is amended to read as follows:

“(b) In assessing damages under subsection (a) for any violation of section 32(1)(a) of this Act or section 220506 of title 36, United States Code, in a case involving use of a counterfeit mark or designation (as defined in section 34(d) of this Act), the court shall, unless the court finds extenuating circumstances, enter judgment for three times such profits or damages, whichever amount is greater, together with a reasonable attorney’s fee, if the violation consists of—