

The Foundation: What Is “The Law”? How Is It Made?



Legal Basics for HHS Directors and Administrators
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Overview

What is the *the law*?

- Sources of law
- Interaction between laws

How is the law made?

- Focus on the NC Legislative Process



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Sources of Law

Constitutions

Common
Law

Statutes

Regulations

Ordinances

POP QUIZ! Who makes each type of law?



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Sources of Law – Who?

People

Judges

Legislators

Agencies,
Boards and
Commissions

Local
Governments



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Common Law



The common law is that law established by judges as they decide cases. In doing so, judges attempt to follow the outcomes and reasoning of earlier cases – that is, they follow precedent.



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Statutes



Statutes (not statues) are the method by which legislatures make law, and statutes often change the common law.

If there is a conflict between a statute and the common law, the statute prevails.



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Constitutions

- Both the US and NC constitutions establish rules that regulate state and local government. They establish procedure that must be followed and give rights to citizens.
 - Example: Due process
- Under the Supremacy Clause of the U.S. Constitution, federal law of any form preempts any conflicting state law.



Regulations



Administrative regulations are a modern source of law, invented as legislatures created the administrative agency to deal with the complexities of modern life.

Regulations are intended to fill in the details of broad statutory policies.

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Local Ordinances



- Local governments may adopt ordinances, which regulate selected activities within the territory of the local government.
- "Police power" – general power of government to protect the health, safety, and welfare of the population; subject to limitations

Interaction of Laws

- Supremacy – federal > state
- Preemption – if two laws are in conflict, one law may preempt another law
 - Express – for example, the state prohibits local governments from regulating smoking in private clubs
 - Implied – If the state creates a “complete and integrated regulatory scheme”



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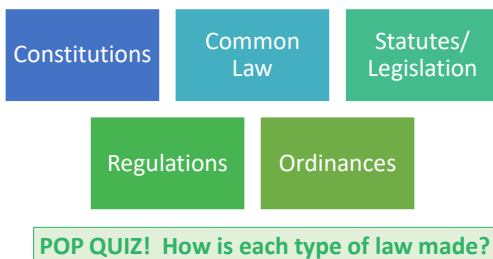
Role of Judges

- Common law – Judges invented it and they are constantly reviewing and, perhaps, changing it.
- Statutes – Interpret; often only by judicial interpretation do statutory meanings become fixed. If the legislature doesn't like the interpretation, it can amend the statute.



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Sources of Law



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Sources of Law – How?

Vote
Constitutional
Convention

Judicial opinions,
precedent

Stay tuned...

Rulemaking
processes
defined by law

Ordinance
making processes
defined by law



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The Legislative Process in NC



Christine Wunsche

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Roadmap

Who?

What?

How?

Learn more!

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WHO?



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Bi-Cameral Structure

- Senate: 50 members, 2-year terms
- House: 120 members, 2-year terms



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Chamber Leadership

President Pro Tempore
of the Senate



Speaker of the House



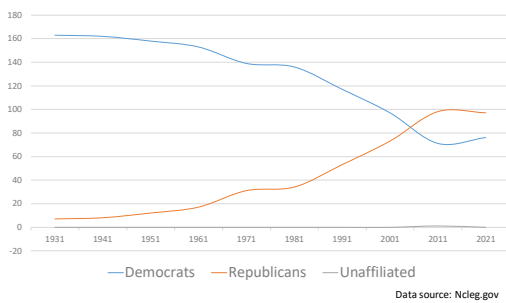
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Who is Eligible for Office?

- **Senate:**
 - at least 25 years old
 - qualified North Carolina voter and resident for at least two years
 - resident of the district for at least one year before the general election in November
- **House of Representatives:**
 - at least 21 years old
 - a qualified North Carolina voter
 - resident of the district for at least one year before the general election in November

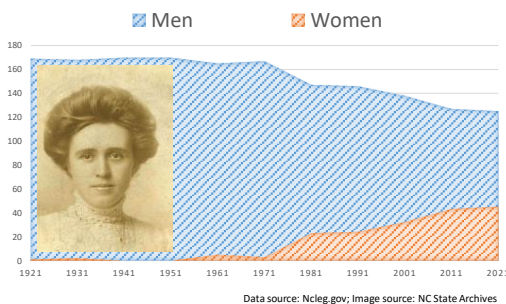
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Party Affiliations



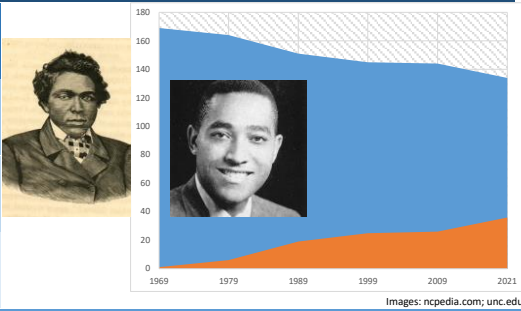
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Women

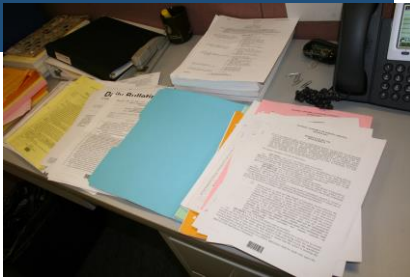


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African-Americans



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WHAT?

UNC
University of North Carolina

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Legislative Sessions

1. **Regular Session**, 1st Year of Biennium (odd-numbered)
"Long Session"
2. **Regular Session**, 2nd Year of Biennium (even-numbered)
"Short Session"
3. Veto Session
4. Extra Sessions ("Special Sessions")

UNC
University of North Carolina

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Regular Session (odd numbered years)

- Known as the “Long Session”
- Organizational session, then convenes in late January
- No limit on subject matter
- Typically in session 6 - 7 months
- 1,500 to 2,000 bills introduced
- About 300 laws enacted
- Two-year budget enacted



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Regular Session (even numbered years)

- Known as the “Short Session”
- Convenes in May
- Scope is limited in previous year’s adjournment resolution; typically limited to budget adjustments, unfinished business, and non-controversial local bills
- Usually lasts six to ten weeks
- About 400-500 bills introduced
- About 150-200 laws enacted



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Reconvened/Veto Session

- Only purpose is to consider whether to override a veto
- Called by proclamation of the governor
- Does not need to be called if a majority of the legislators state the session is not necessary
- Often takes place along with an “extra session”



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Extra Session

- Called by governor or majority of membership
- Normally does not stray beyond purpose for which called
- Can vary in length from one day to several weeks



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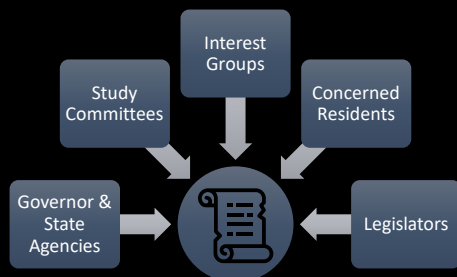
Typical Schedule

- Monday – Brief session at 7 pm
- Tue/Wed – Committee meetings am/pm
Session in afternoon
- Thu – Committee meetings in am
Session in late am
- Fri/Sat/Sun/Mon am – at home/in district



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It Starts With an Idea . . .



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3 Types of Bills

- Public
- Local
- Resolutions

GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017 RATIFIED BILL

RESOLUTION 2017-5 HOUSE JOINT RESOLUTION 921

A JOINT RESOLUTION HONORING THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL MEN'S BASKETBALL TEAM FOR WINNING THE 2017 NCAA CHAMPIONSHIP

Whereas, on April 3, 2017, the University of North Carolina at Chapel Hill men's basketball team won the 2017 National Collegiate Athletic Association (NCAA) Division I Championship by defeating Gonzaga University by a score of 71-65; and

Whereas, on the road to the final championship game, the Tar Heels defeated some formidable opponents, including the Oregon Ducks (77-76), Kentucky Wildcats (75-73), Butler Bulldogs (92-80), Arkansas Razorbacks (72-65), and Texas Southern Tigers (103-64); and

Whereas, the Tar Heels looked at this year's season as redemption for losing the 2016 National Championship during the final seconds of the game against Villanova University; and

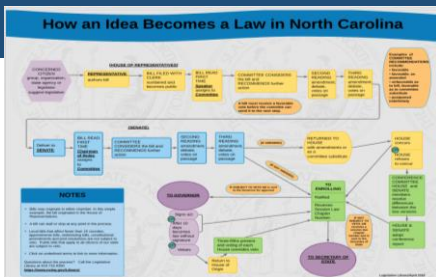
Whereas, the 2017 National Championship marks the sixth Division I NCAA Championship, adding to National Championships in 1957, 1982, 1993, 2005, and 2009; and

Whereas, the University of North Carolina at Chapel Hill men's basketball team is the only team in the history of the NCAA to have won the championship in both the men's and women's divisions;



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HOW?



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Process

- Member **introduces**
- **Read three times** in each chamber
 - Committee work typically conducted between first and second reading
- **Approved** by both chambers
- Most public bills must be **signed (or not vetoed) by the Governor** to become law



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Legislative Committees

- All bills are referred to a committee but few get a committee hearing
- Bills rarely fail a committee vote
- Only opportunity for public to speak on legislation
- First opportunity to make changes to a bill



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GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2013		GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2013	
SENATE BILL Second Extraordinary Session (HB1)		SENATE BILL Second Extraordinary Session (HB1)	
Short Title: <i>Minors' Safety Act</i>	(HB1)	Short Title: <i>Health and Safety Law Change</i>	Public
Sponsor: <i>Senator Thompson</i>	Author: <i>Debra R. Davis, Robert A. Hargett</i>	Sponsor: <i>Senator Thompson</i>	Public
Status: <i>Transmitted</i>		Status: <i>Transmitted</i>	Public
Effective Date: <i>March 23, 2013</i>		Effective Date: <i>March 23, 2013</i>	
<p>1. I, the undersigned, do hereby certify that the following bill was introduced in the Senate on the 23rd day of March, 2013, and that it was read twice and passed by a majority of the members of the Senate.</p>		<p>1. I, the undersigned, do hereby certify that the following bill was introduced in the Senate on the 23rd day of March, 2013, and that it was read twice and passed by a majority of the members of the Senate.</p>	
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<p>12. The bill was introduced in the Senate on the 23rd day of March, 2013, and that it was read twice and passed by a majority of the members of the Senate.</p>		<p>12. The bill was introduced in the Senate on the 23rd day of March, 2013, and that it was read twice and passed by a majority of the members of the Senate.</p>	



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Chamber Process

- After committees, have 2nd & 3rd readings
 - Bills can be amended on the chamber floor
- Bill goes to 2nd chamber
 - Committee process repeated
 - 2nd & 3rd readings
 - Returned to original chamber
- 👍 If agree to changes, then have concurrence
- 👎 If disagree with changes, then have conference committee

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Veto Authority

- First in flight but last in vetoes...
- No line-item veto
- Not all types of bills are subject to veto



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NC VETOES

■ ■ ■ ■ ■ ■ ■ ■ ■ ■

[Veto Statistics, NC Legislative Library](#)

Year	Governor	Vetoes	Override?
1997-2000	Hunt	0	
2001-2002	Easley	1	
2003-2004	Easley	3	
2005-2006	Easley	3	
2007-2008	Easley	2	1
2009-2010	Perdue	1	
2011-2012	Perdue	19	11
2013-2014	McCrory	3	2
2015-2016	McCrory	3	2
2017-2018	Cooper	28	23
2019-2020	Cooper	25	0
2021-2022 (so far)	Cooper	16	0

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Effective Communication



Be aware of deadlines and process



Contact all members of delegation



Get to know administrative assistants



Respect their time



Be Clear, Concise, and Consistent

Specify your exact request
Provide short written materials
Avoid changes and conflicting messages



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NCGA www.ncleg.gov



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Legislative Reporting Service/Daily Bulletin Irs.sog.unc.edu



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Questions?

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