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Research at Your Own Risk: Free Online Statutory Codes are Widely Available but are They Good Enough to Meet Users' Needs?

Paul Hellyer
William & Mary Law School, phellyer@wm.edu

Free online statutory codes are widely available but are they good enough to meet users' needs?

By Paul Hellyer

L aw librarians have long encouraged governments to provide free access to legal information on the web. One of the most important types of legal information a government can provide is its statutory code. At first glance, it seems that state and federal governments are doing a good job of providing access to statutory law—all 50 states, the District of Columbia, and the federal government provide free, full-text access to their statutory codes online.

But effective access to legal information isn't a simple matter. If the free online code isn't current or reliable or lacks the right search features, users may be forced to turn to commercial sites or print editions, options that may be out of reach for many users. As many law libraries cancel their print subscriptions to codes, effective access to statutory law through free websites is becoming even more important. Are these free sites good enough to meet users' needs?

To answer this question, I tried using the free online statutory codes for all 50 states and the District of Columbia. I attempted to find the statute of limitations for breach of a written contract as if I were handling a real-life legal problem that required a reliable answer. I conducted my research in the spring of 2010 and revisited the sites in October 2010. I found that the free sites are rife with problems that would frustrate everyday users. The following is a description of the most common and serious problems, as well as some of the best websites that I encountered.

The Most Serious Problem: Currency Issues

Effective research requires up-to-date codes. As a first step, online codes should provide the user with a currency date, but a surprising number of sites— almost a third—fail to deliver this basic information. These sites either don't provide any currency information at all or give the user vague or conflicting information. Minnesota, for example, informs users that the online code is updated annually but doesn't tell them when this last occurred. Illinois merely warns its users that its site may not include recent laws. Kentucky offers no less than four conflicting currency dates for its online code—in June 2010,

different statements on the site claimed that the code was current through the 2006 legislative session, the 2009 legislative session, March 5, 2010, and March 8, 2010.

When these websites do manage to provide clear information about currency, they usually state that the code is current through the laws passed in the previous legislative session. Only one state (Rhode Island) has a code that is updated daily; the rest appear to offer updating that's less current than Lexis and Westlaw. A few states offer tables that can be used to look up sections of

the code that have recently changed, but most of these tables are no more current than the text of the code itself and apparently aren't designed for updating purposes. These currency problems are mitigated by the fact that most state laws don't take effect immediately, but this point is rarely explained on state websites. It's almost always unclear whether a free online code contains all laws that are currently in effect.

No matter how well-designed a free site may be in other respects, uncertainty about currency will force many users to pay for access to codes on commercial databases. Improvement is strongly needed in this area if states intend to provide users with free and effective access to statutory law. Ideally, a site should state that the online code contains the laws that are currently in effect, as well as the exact date the code was last updated and the last session law that was added to the code; information on when laws take effect (supported by a link to the appropriate constitutional or statutory authority) would also be helpful.

Search Features: Room for Improvement

A lack of effective search features is another common problem with state-sponsored online codes. Full-text searching is available in every state except North Dakota, but its usefulness is often limited by poor interface design and ineffective relevancy ranking. In some states, the interface design is too basic to accommodate effective searching. For example, the Massachusetts site only allows users to search for single words or phrases and not any combinations of words. Massachusetts' statute of limitations for contracts includes the words "contract" and "years," but a search for "contract years" or "contracts and years" returns no results, making it virtually impossible to find the right code section using a full-text search.

Some sites have adequate search interfaces but lack effective relevancy ranking, which makes the search more time-consuming. Many of the sites that do feature useful relevancy ranking use Google as their search engine, which suggests that an easy solution to the problem is available. Unfortunately, sites that combine well-designed search interfaces with effective relevancy ranking are rare.

Ten websites offer subject indexes, which tend to be more useful than the full-text search engines. But for my hypothetical research problem, I usually relied on browsing the tables of contents. All of the sites I viewed allow users to do this, although some are more difficult to navigate than others. Users should be able to expand the table of contents to see the names and numbers of the different titles, chapters, articles, and sections of the code, but some sites fail to accommodate this type of browsing. For example, Oklahoma's site doesn't support web-based browsing—users who want to browse must download each title as a Word document. Louisiana offers web-based browsing, but omits information about the chapters and parts of each title, instead giving users a long list of individual sections for each title. Hawaii's site is probably the worst example of a browseable code—a hard-to-read file directory that displays the numbers for different parts of the code, without the names.

A retrieve-by-citation feature is a basic tool that all online statutory codes

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should offer, but only 16 of the sites I reviewed have this feature. Popular name tables are even rarer; they're available on only four of the sites.

Despite these drawbacks, I managed to find the applicable statute of limitations in almost every state using only the search tools offered on the free sites—but the research was often more time-consuming and frustrating than it needed to be. Even if we concede that the free sites can't be expected to match the high-quality search tools available on Lexis and Westlaw, there's still a lot of room for improvement.

No Authenticated Online Codes

In 2007, AALL's *State-by-State Report on Authentication of Online Legal Resources* found that no states were authenticating their primary law online. This situation appears to be unchanged, at least with respect to statutory codes. I encountered no statements promising authenticity. On the contrary, most sites include a disclaimer of some kind. Hawaii's site warns users that the online code is "provided for informational purposes only" and that its use is "at the sole risk of the user." Likewise, Alaska's site bluntly informs users that its online statutory code "may contain errors or omissions." New Hampshire's site tells us that its Office of Legislative Services and the official publisher of its code don't even monitor the content of its free online code, let alone verify it. Legal databases ought to instill confidence in the user, but statements like these seem designed to chase users away.

According to the AALL report, an authentic source is one whose content has been verified by a government entity and that typically bears a certificate or mark regarding its verification. A statement that an online source is "official" is one requirement, but this is not enough by itself since it doesn't necessarily mean that the content has been verified. Among the state-sponsored websites that I reviewed, Connecticut comes closest to offering an authenticated online statutory code. The Connecticut site includes a statement from the Connecticut Legislative Commissioners' Office that the online *General Statutes* "are the electronic versions of the printed volumes, and were prepared under our direction." This statement could be considered verification, but according to the AALL report, it's not an adequate authentication because it doesn't state whether the online code is official. Also, Connecticut's online code lacks any verification certificate or mark.

Kentucky's online code exemplifies the inertia of state government when it comes to online authentication. Kentucky Revised Statutes §§ 7.131 and 7.500 require Kentucky's Legislative Research Commission to maintain the official version of the *Revised Statutes* in an electronic database and make that database available to the public for free. Despite these instructions from the legislature, the free online version of the *Revised Statutes* states that it is "an unofficial posting of the *Kentucky Revised Statutes* as maintained in the official internal statutory database of the Kentucky Legislative Research Commission" (original emphasis). The disclaimer further states that no representation is made as to the accuracy or completeness of the online code. Despite having an official, electronic version of its statutory code and instructions from the legislature to make it available to the public, Kentucky (like every other state) still can't manage to provide an online authenticated statutory code.

Why should authentication of online codes be so difficult? Authentication is not a promise of perfection—any document, even an authenticated one, may contain errors. Authentication merely promises that the online version is as good as the official print version. If state governments can create official print versions of their code, there is no good reason why they can't do the same online. The federal government has already demonstrated that authenticating online legal documents is possible. The Federal Register on FDSys, which includes an authentication certificate, is a good example of what online authentication ought to look like.

Technical Problems

Like most web users, I don't expect websites to operate reliably 100 percent of the time, but I do have certain expectations. For example, I generally expect that all of the commercial legal databases my library subscribes to will be working at any given time and that problems will be resolved quickly. After completing my hypothetical research problem using state-sponsored sites, I concluded that, in general, they're much less reliable than their commercial counterparts.

Seven of the sites I used weren't functioning correctly. Some sites were down completely, while others had certain features or links that weren't working. Some of the problems lingered. I was never able to access the full-text search on Arkansas' site, which was unavailable for at least five months. The Arkansas site has no subject index either. Losing search capability in a commercial legal database for five months would be unthinkable; it ought to be unthinkable for state-sponsored sites as well.

Since I used the sites only briefly, I couldn't tell if these reliability problems are widespread or confined to only a few states. I can't recall ever having a technical problem with Virginia's free state online code, which I use regularly. If Virginia can offer a reliable online code, there's no excuse why other states can't do so as well.

The Best Websites

The quality of free online codes varies a great deal from state to state, and I could discern no pattern that could explain the differences. Website quality appears to be unrelated to the size, politics, wealth, or geographic location of a state. Some small states (such as Iowa and South Dakota) offer high-quality sites, while New York (the state with the largest bar) has one of the worst sites. The quality of some sites is uneven—Hawaii, for example, is one of the few sites that offer a free annotated code, but its browsing feature is the worst I saw.

Although no state offers an ideal version of an online statutory code, there are several state sites that are well above average. Here's a quick description of three of the best.

Oregon

We usually associate value-added information with subscription sites, but free sites can provide this as well. Oregon is one of eight state-sponsored sites that offer an annotated code. Kansas charges for access to its annotated code, but Oregon and the other states with online annotated codes offer free access. Also, Oregon provides the statutory history for each code section—a feature lacking on many state-sponsored sites.

Wisconsin

Researchers are usually looking for current law, but not always. If a cause of action arose five years ago, a researcher may need to view statutory law as it existed then. Unfortunately, few free sites can accommodate this research need. Wisconsin is one of only five states that offer archived statutory codes online. Wisconsin's archives are the most complete, going back to 1969. Wisconsin's site also features annotations, an index, and a retrieve-by-citation tool.

Iowa

Iowa's free online code is notable for its high-quality search tools. Users can retrieve code sections by citation, browse the table of contents, run a full-text search, or use a subject index. The full-text search interface is flexible, advanced, and user-friendly and allows users to see at a glance how many hits were returned in each title of the code. Iowa also offers archived versions of its code going back to 1995. ∎

Paul Hellyer (phellyer@wm.edu) is a reference librarian at William & Mary School of Law in Williamsburg, Virginia.