

CHAPTER 1

INTRODUCTION TO LAW

by
William Walters III, Esq.

WHAT IS THE LAW?

The law provides the framework for defining the rights and responsibilities of individual citizens within society. In the United States, the legal system is based on the English common law that defines the various rights and responsibilities of citizens by statute, case law, and regulation. The United States and Colorado Constitutions not only establish the federal and Colorado governments but also guarantee certain individual rights for all citizens. For more information, see *Street Law: A Course in Practical Law*, 7th Ed., "Introduction to Law and the Legal System" (The McGraw Hill Companies, 2005).

MAKING OF THE LAW

Laws defining rights and responsibilities among and between citizens may be created in several different ways. The first is by passage of statutes that describe the ways in which citizens and their government are expected to act. The legislature of Colorado, *i.e.*, the General Assembly, enacts statutes by passing laws in both the Senate and House of Representatives. Once a bill is passed by both houses, the Governor may sign it into law, let it become law without his signature or veto the proposed law. The General Assembly may override a veto by a two-thirds vote. Once a bill becomes law that law applies to all of the citizens and the government of Colorado. In Colorado, statutes are contained in a multi-volume set of books called the *Colorado Revised Statutes*. These statutes are updated annually based upon changes to the laws adopted by the Colorado General Assembly. Another way to make laws in Colorado is by initiative or referendum. These devices allow the voters of Colorado either to "initiate" laws by collecting enough signatures to place an issue on the ballot or to vote on laws "referred" by the Colorado General Assembly for voter approval.

Regulations created by state administrative agencies are another source of Colorado law. These agencies are empowered by statute to adopt regulations in areas ranging from health to the environment to professions. Regulations may also govern conduct by individuals, businesses, and government. Regulations are adopted after certain procedures are followed, including notice and a hearing on the proposed regulation. In Colorado, the Department of Regulatory Agencies supervises several state regulatory boards, such as the Board of Medical Examiners and the Real Estate Commission. Other Executive Branch departments may also adopt regulations including the Departments of Agriculture, Natural Resources, Social Services, and Health.

The published opinions of the Colorado appellate courts are a third source of law in Colorado. These decisions either establish precedent (standards to be followed) or interpret the Colorado Constitution, state statutes passed by the legislature or regulations adopted by state agencies. These decisions are published in the *Pacific Reporter*, *The Colorado Lawyer*, and the

Colorado Reporter. They also may be accessed on the Internet at www.courts.co.us. A description of the appellate courts in Colorado is contained in Chapter 2. Only appellate court decisions are binding on the lower courts of Colorado.

Laws may also be adopted at the local level by county Boards of Commissioners (resolutions) and by cities (ordinances).

DIFFERENCES BETWEEN STATE AND FEDERAL LAW

Colorado statutes are bills that are adopted by both houses of the Colorado General Assembly and signed into law (or allowed to become law) by the Governor. The Governor may also veto a bill, in which case it does not become law unless the veto is overridden by the legislature. On the federal level, the House of Representatives and the Senate of the United States Congress pass federal laws for the President's signature or veto. As in Colorado, a bill may become law without the President's signature if it is not vetoed within a prescribed time. State administrative agencies (created by the Colorado General Assembly) that adopt regulations have no direct relationship to federal administrative agencies created by the United States Congress. Case law or decisions by the courts may be developed in either Colorado state courts or in the federal courts.

CHANGING THE COLORADO LAW

Laws may be changed, amended or repealed in a number of ways. If a Colorado statute is to be changed, an amendment to the existing statute by the Colorado General Assembly is the method most often used to change the law. Colorado citizens also may change the law by initiative. Colorado's administrative regulations may be changed by the agency at the request of parties affected by the regulations or at the agency's own initiative. Both statutes and regulations are subject to interpretation by the courts if the statutes or regulations are challenged in a lawsuit. Case law decisions by the courts may be further developed or changed within the court system by appealing from a lower court decision to the Colorado Court of Appeals or the Colorado Supreme Court. Finally, a court's decision can be changed by the General Assembly by adopting a new statute.

LEGAL RESOURCES

The primary resources for studying Colorado law are found either on-line or in a law library. Most Colorado law firms have access to the Internet or maintain a library that includes the Colorado statutes and cases reported by Colorado courts. Very large law firms often have their own extensive libraries or are located in buildings with building law libraries. Colorado has two law schools (University of Colorado, Boulder, and University of Denver) that contain thousands of volumes of law-related materials. These libraries contain statutes and casebooks, as well as various treatises, law journals, and books interpreting the law from around the world. Many of these materials are now available on the Internet or from specialized legal databases such as Westlaw or Lexis. The Supreme Court of Colorado maintains a library at the Colorado Judicial Building in downtown Denver and is open to the public. The Colorado Supreme Court

and the Colorado Bar Association maintain websites on the Internet. The Supreme Court Library can be accessed at www.state.co.us/courts/sctlib and the Colorado Bar Association's website at www.cobar.org.

CASE STUDY

Street Law uses the "case study" approach to law. This approach was developed in the late 1800s by professors at Harvard Law School as a way to illustrate both the legal reasoning process and the principles of law contained in court decisions. The case method helps develop the reasoning and analytical skills of attorneys. Case studies typically present a factual situation that law students are asked to analyze.

FINDING A LAWYER

In Colorado, lawyers are licensed by the Colorado Supreme Court. Because legal problems are so varied, when to consult a lawyer and who to consult is always a judgment call. As a general rule, an attorney should be consulted whenever a legal question presents itself, or the problem is so complex that an individual is not sure how to proceed. In a criminal proceeding, once a defendant is charged with a crime or is arrested, counsel should be retained. If a person charged with a crime cannot afford a lawyer, one will be provided by the Colorado State Public Defender's Office or appointed by the court. In civil matters, attorneys may be involved in lawsuits or in counseling individuals as to what their rights and responsibilities are under the law. Finding an attorney can be accomplished by contacting family members, friends, teachers or other family advisors who have used attorneys in the past. In addition, local bar associations throughout Colorado often operate referral services that identify attorneys according to their various areas of practice. Law referral directories such as *Martindale-Hubbell* and the *Colorado Legal & Financial Directory* also identify attorneys by practice areas.

BAR ASSOCIATIONS

Attorneys in Colorado have found certain advantages in serving their clients and the public by belonging to associations of attorneys. The American Bar Association, Colorado Bar Association, and Denver Bar Association are examples of such organizations. They all provide services to the public, the community, and other lawyers. This supplement, *Law in Colorado*, is one example of a public activity supported by the Colorado Bar Association. Services to the attorney members of the associations include education, information, liability insurance and placement services. In addition, bar associations may take positions on public issues. In some states, attorneys are required to belong to the state bar association, but that is not the case in Colorado.