MN HOUSE RESEARCH

Judicial Interpretation of Statutes

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Executive Summary

Courts in the United States serve several functions. They oversee civil and criminal trials, issue orders requiring or prohibiting certain actions, decide whether a particular law violates the constitution, and determine the meaning of language in a contract or law. This publication discusses the role the courts play in interpreting statutes.

The primary focus of statutory interpretation is the language of a statute. Courts only move beyond that language when there is ambiguity. This publication discusses the tests and tools the court uses to resolve ambiguity and includes questions for legislators to consider when crafting legislation.

Authority to Interpret Statutes

The judicial system in the United States adopted the common law system from England.[1] Under that system there were few statutes. Courts developed the law by relying on general principles, following decisions of prior courts, and applying that guidance to the specific facts of a case. The common law tradition gave courts great power to say what the law was, and there was an understanding that courts in the United States retained that power. In one of the most famous decisions by the United States Supreme Court, *Marbury v. Madison*, the court said: "It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases, must of necessity expound and interpret that rule."[2]

Every court has the authority to interpret statutes. Minnesota has three levels of courts—district courts, the court of appeals, and the supreme court. While each court can interpret statutes, a higher court does not need to follow decisions by a lower court. This type of review is called *de novo*, or new. In short, if a trial court interprets a law in one way, the court of appeals may interpret it a different way, and the supreme court may disregard the decisions of either of those courts. However, a trial court must follow the interpretation of the court of appeals, and all courts must follow the interpretation of the supreme court.

[1] "There can be no doubt that the rule of the common law…should be received, in this country, with such modifications as will adapt it to the peculiar character of our streams, and the commerce for which they may be used. This accords with the general principle of the common law of England, that English subjects, colonizing a new country, carry with them only so much of the laws of the mother country as is applicable to their own situation and the condition of an infant colony." *Morgan v. King*, 35 N.Y. 454, 458 (1866).

[2] *Marbury v. Madison*, 5 U.S. 137, 177, 2 L. Ed. 60 (1803).

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Legislatures cannot reject an interpretation by a court. But the legislature may consider the interpretation and amend the law so that the court would reach a different conclusion in the future.[3]

The Goal of Statutory Interpretation

Courts use several tools in interpreting statutes, but the primary goal of statutory interpretation is to determine the intent of the legislature.[4] Minnesota Statutes codify this goal: "The object of all interpretation and construction of laws is to ascertain and effectuate the intention of the legislature."[5]

A court cannot simply go to the legislature and ask about the intent of a particular law. Instead, a court must rely on its tools to determine that intent. The process focuses on the statutory language, and clarity in language will best assure that a statute is applied as the legislature intended.

Determining Ambiguity

The first step in statutory interpretation is to look at the language in the statute. In reading statutes, courts give most words their plain meanings. But "technical words and phrases and such others as have acquired a special meaning, or are defined in this chapter, are construed according to such special meaning or their definition."[6]

Courts may also rely on context when reading a statute. They look at the whole statute and must give effect to all of the statute's provisions.[7] Statutes should be interpreted as a whole, and every part should be found to be important.[8]

[3] For more information on how the legislature can respond to judicial decisions, see the House Research Department publication *Unconstitutional Laws: The Effect of Court Rulings and Options for Legislative Responses* (December 2018).

[4] See, *State v. Struzyk*, 869 N.W.2d 280 (Minn. 2015).

[5] Minn. Stat. § 645.16.

[6] Minn. Stat. § 645.08, cl. (1).

[7] Minn. Stat. § 645.16.

[8] "We interpret a statute 'as a whole so as to harmonize and give effect to all its parts, and where possible, no word, phrase, or sentence will be held superfluous, void, or insignificant.' " *328 Barry Ave., LLC v. Nolan Props. Grp., LLC*, 871 N.W.2d 745, 749 (Minn. 2015) (quoting *Jackson v. Mortg. Elec. Registration Sys., Inc.*, 770 N.W.2d 487, 496 (Minn. 2009)).

The review of language is to determine "whether the words of the law are clear and free from all ambiguity."[9] Statutes are ambiguous if they may be interpreted in more than one reasonable way.[10]

For legislators, it is important to remember that an individual sentence, subdivision, or section of law should be consistent with surrounding provisions to avoid any confusion. Using inconsistent terms or structure can result in a court finding that a law is ambiguous.[11] Bills being considered by the legislature only include sections that are being amended, so legislators may wish to review statutes that are not included in a bill.

After its review, a court will decide whether the law is ambiguous. If the law is not ambiguous, the court will enforce that unambiguous language. That is, the "plain language of the statute controls when the meaning of the statute is unambiguous."[12] This is true even if there is evidence that the plain meaning is not actually what the legislature intended. Once a court determines that the language of a statute is clear, it will not consider any other evidence or argument because such an analysis "seeks to divine legislative intent by applying canons of construction to unambiguous statutory language."[13]

Resolving Ambiguity Using Canons of Construction

When a court determines that a statute is subject to more than one reasonable interpretation, the court must determine which of those interpretations to adopt. To do so, the court turns to the canons of construction. Canons of construction are rules and tests that the court uses to examine statutory language. There are many canons for a court to draw from; some are statutory, but most have been created by courts. In the book *Reading Law*, Justice Antonin Scalia and his co-author, Bryan Garner, identify 57 different canons.[14]

Courts do not apply all the canons in each case. They select which canon, or canons, to apply and there is no requirement that a court explain why it chose to disregard a particular canon. The following is a list of some of the more commonly used canons in Minnesota:

[9] *Staab v. Diocese of St. Cloud*, 813 N.W.2d 68, 72 (Minn. 2012).

[10] *State v. Hayes*, 826 N.W.2d 799, 804 (Minn. 2013) (When "a statute is susceptible to more than one reasonable interpretation, then the statute is ambiguous."); *Staab v. Diocese of St. Cloud*, 813 N.W.2d 68, 72 (Minn. 2012) (Ambiguity exists when the words of a statute, when applied to the facts of a particular case, "are susceptible to more than one reasonable interpretation."); *500, LLC v. City of Minneapolis*, 837 N.W.2d 287, 290 (Minn. 2013) ("A statute is ambiguous only if it is susceptible to more than one reasonable interpretation.").

[11] A court "may read multiple parts of a statute together to determine whether a statute is ambiguous." *State v. Boecker*, 893 N.W.2d 348, 351 (Minn. 2017).

[12] *State v. Boecker*, 893 N.W.2d 348, 351 (Minn. 2017); see also *Brua v. Minnesota Joint Underwriting Ass'n*, 778 N.W.2d 294, 300 (Minn. 2010) ("If the meaning of a statute is unambiguous, we interpret the statute's text according to its plain language.").

[13] *State Farm Mut. Auto. Ins. Co.*, 854 N.W.2d 249, 258 (Minn. App. 2014).

[14] Antonin Scalia and Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* (West 2012).

- **Grammar** – standard rules of grammar apply, so courts will look to the placement of commas and other marks to determine meaning
- **Broader Meaning** – as used in statutes, the singular ("person") includes the plural ("people"), reference to one sex includes all sexes unless the context clearly applies to only one, and the past or present tense of verbs includes the future
- **Absurd** – courts assume that the legislature does not intend a result that is absurd, impossible, or unreasonable
- **Surplusage** – each word or phrase in a statute has a unique meaning, so two similar words should not be interpreted to have an identical meaning[15]
- ***Inclusio unis, exclusion alterius*** – this Latin phrase means that, when a list includes one or more things, any item not on the list is excluded[16]
- ***In pari materia*** – if the court has interpreted a statute that covers a similar subject matter in the past, it will interpret a different statute so that the interpretations are consistent
- **Common-law Meaning** – if an ambiguous word or phrase had an understood meaning in common law, the law that existed before it was codified into statute, and the statute uses the same word or phrase, courts apply the meaning used under common law
- **Prior Decisions** – if the court interpreted a word or phrase in an unrelated statute in some way before the legislature passed the new law, the court should assume that the legislature knew of that prior interpretation and intended it to apply
- **Restraint** – courts cannot add words that are not in the statute
- **Permissive vs. Mandatory** – the words "may" and "should" are permissive while "shall" and "must" are mandatory[17]
- **Other Jurisdictions** – if a statute was adopted directly from another state or the federal government, then a Minnesota court will generally follow any interpretation by courts in those other jurisdictions
- **Later Date** – if two statutes conflict and the court cannot reconcile them, then the later adopted statute controls

[15] Courts often rely on the canon of surplusage and other canons, including the *in pari materia* canon, to conclude that two words that have nearly identical meanings must be read to have different meanings. Legislators should be careful to assure that statutes addressing the same subject use the same terms unless a legislator intends a different interpretation or result.

[16] When legislators want to include a list that illustrates a point without being concerned that the list does not include all possible examples, they typically use a phrase like, "including, but not limited to."

[17] Minnesota courts have issued opinions noting that, in some cases, actions remain permissive even when the legislature uses a mandatory term. In *Heller v. Wolner*, 269 N.W.2d 31 (Minn. 1978), the supreme court said that statutes that use a mandatory term may be permissive if they are silent on the consequence of noncompliance, define the time and mode in which public officers must discharge a duty, and are designed to secure order in the performance of those duties. See also, *Szczech v. Commissioner of Public Safety*, 343 N.W.2d 305 (Minn. App. 1984). Those decisions do not stand for the proposition that "shall" and "must" have different meanings. Many decisions by the supreme court clearly state that "shall" is mandatory. See, *State by Beaulieu v. RSJ, Inc.*, 552 N.W.2d 695 (Minn. 1996); *State v. Humes*, 581 N.W.2d 317 (Minn. 1998); *Smith v. Kiffmeyer*, 721 N.W.2d 912 (Minn. 2006); and *Dennis v. Salvation Army*, 874 N.W.2d 432 (Minn. 2016).

- **General vs. Specific** – if two statutes cover the same topic, the statute that is more specific controls over the more general statute
- **Harmony** – if possible, two statutes that cover the same subject should be interpreted in a way to give effect to both

In addition to these general canons, one canon applies only to criminal laws. The rule of lenity provides that people should not be subject to criminal penalties for violating laws that are unclear. The rule is well established and has been recognized in the United States since at least 1820.[18] However, court opinions say that the rule of lenity is not the first step of statutory interpretation. Instead, it should be used only after other canons have been employed and the statute remains ambiguous.[19]

Courts may find that different canons point to different results. In that situation, the court may turn to additional canons or may determine that one canon is more relevant than the other. After examining a statute through the lens of one or more canons of construction, the court determines the meaning of a statute.

Legislative History and Legislative Intent

Courts do consider legislative history when interpreting statutes. Legislative history can take many different forms and courts may prioritize those forms. For example, courts may determine legislative intent by identifying that similar laws were adopted by other states or by reviewing changes to a statute or policy that developed over time.[20] In addition, Minnesota law directs the court to look to the contemporaneous legislative history.[21] Such history can include statements made by legislators in debate, but statements "made in floor debates and committee discussions are to be treated with caution."[22]

[18] *United States v. Wiltberger*, 18 U.S. (5 Wheat.) 76, 95, 5 L.Ed. 37 (1820).

[19] *State v. Thonesavanh*, 904 N.W.2d 432, 440 (Minn. 2017); see also *State v. Stay*, 923 N.W.2d 355, 364 (Minn. Ct. App.), *aff'd*, 935 N.W.2d 428 (Minn. 2019) ("The canon of lenity is a canon that only applies as a last resort when, after exhausting other means of interpretation, the statute is still hopelessly ambiguous.").

[20] *Sevcik v. Commissioner of Taxation*, 100 N.W.2d 678, 687 (1959) (Courts may consider events leading up to [the legislation], the history of its passage, and any modifications made during its course."); *Baker v. Ploetz*, 616 N.W.2d 263, 270-71 (Minn. 2000) ("… the statute's legislative history is helpful because it emphasizes the importance of New York law when ascertaining the meaning of the word party as used in the statute."); *In re Welfare of J.B.*, 782 N.W.2d 353, 545-46 (Minn. 2010) ("Under these statutory amendments, public defenders assumed the duty of, and the state assumed the cost of, representation of only minors in juvenile matters, not parents or guardians.").

[21] Minn. Stat. § 645.16.

[22] *Handle With Care, Inc. v. Department of Human Services,* 406 N.W.2d 518, 522 (Minn.1987); see also *R.S. v. State*, 459 N.W.2d 680, 691 (Minn. 1990) ("This court has often relied upon tapes of these public hearings in ascertaining legislative intent.").

Minnesota's state courts and the federal courts give different weight to statements made by legislators. While Minnesota state courts are occasionally willing to consider those statements, federal courts are much less likely to review them.[23]

Minnesota courts will consider statements by legislators in some circumstances.

The Minnesota Senate and House of Representatives record committee hearings and floor debates, and courts will review those recordings.[24] At one point, the rules of both houses of the legislature said that the discussions were not to be considered by courts in determining legislative intent, but courts did not follow that rule. The prohibition does not appear in statute, and courts viewed it as "merely a statement of intention" that did not have "the force of law."[25] In addition, courts felt that they "should not turn a blind eye to what may be helpful."[26]

However, courts recognize some limits on statements made by legislators. The goal of statutory interpretation is to determine the intent of the legislature and that intent, "while deemed singular, arises from, although it is not necessarily the same as, the collective understandings of the individual members."[27] For that reason, courts must treat the statements with caution.[28] Statements made by the sponsor of a bill or a particular amendment are generally given more weight than statements by other members.[29]

In summary, Minnesota courts will review recordings of committee and floor debates on legislation to help determine the legislative intent behind a piece of legislation. However, those statements are unlikely to be the only source of intent the court considers. Statements made by

[23] Former Justice Scalia was a particularly well-known critic of trying to ascertain legislative intent from the statements of legislators. In a law review article, he wrote, "And to tell the truth, the quest for the 'genuine' legislative intent is probably a wild-goose chase anyway. In the vast majority of cases I expect that Congress neither (1) intended a single result, nor (2) meant to confer discretion upon the agency, but rather (3) didn't think about the matter at all." Antonin Scalia, *Judicial Deference to Administrative Interpretations of Law*, 1989 Duke L. J. 511, 517. An article criticizing some of Justice Scalia's opinions on judicial interpretation noted that he had expressed the belief that "a legislature is a hydra-headed body whose members may not share a common view of the interpretive issues likely to be engendered by a statute that they are considering enacting." Richard A. Posner, "The Incoherence of Antonin Scalia," *The New Republic* (August 23, 2012); available at https://newrepublic.com/article/106441/scalia-garner-reading-the-law-textual-originalism.

[24] *Handle With Care, Inc. v. Dep't of Human Servs.*, 406 N.W.2d 518, 522 (Minn. 1987).

[25] *Stearnz-Hotzfield v. Farmers Ins. Exchange*, 360 N.W.2d 384, 389 (Minn. App. 1985).

[26] *Id*.; see also *H.D. v. White*, 483 N.W.2d 501, 502–03 (Minn. App. 1992) ("While the rules of both the house and senate state tapes of proceedings are not to be used to determine legislative intent, the victim and the youth group have each referred to transcripts of legislative committee hearings and floor debate to support their respective interpretations of chapter 232, section 5. *See* House Rules 1.8, 6.6, Senate Rule 65. We need not decide the appropriateness of the offered evidence because we find these materials largely unhelpful to resolution of the primary interpretive issue in this case.").

[27] *Handle With Care, Inc. v. Dep't of Human Servs.*, 406 N.W.2d 518, 522 (Minn. 1987).

[28] *Id*.; *First Nat. Bank of Deerwood v. Gregg*, 556 N.W.2d 214, 217 (Minn. 1996) (" this court should treat with caution statements made in committee discussion….").

[29] *Id*.

legislators are less important than the actual language in a bill as a court will only consider those statements if the statute is ambiguous, and the court may find other canons of construction more helpful.

Federal courts are hesitant to rely on statements made by legislators.

Unlike state courts, federal courts do not find statements by legislators to be informative in interpreting statutes. The United States Supreme Court and many circuit courts of appeal have stated clearly that statements by legislators are not helpful. The Supreme Court noted that it is the legislature's job to sum up its debates in the legislation it enacts.[30] As a result, once Congress enacts a statute, the court prefers to avoid examining legislator statements.[31]

Reluctance to consider statements by individual legislators is largely due to a hesitance to "attribute to Congress as a whole the views expressed in individual legislators' floor statements."[32] Federal courts rely almost exclusively on statutory language and are critical of attempts to guide court interpretation through legislative statements.[33]

Federal courts will consider legislative history, but statements by individual legislators are considered "among the least illuminating forms of legislative history."[34] When confronted with a statement that is at odds with some other form of legislative history, the courts will give very little weight to the statement: "Weighing Congress's conscious departure from its wartime statutes against an isolated floor statement, the departure is far more probative."[35]

While Minnesota courts perform most of the interpretation of Minnesota statutes, federal courts may interpret those statutes at times. In those cases, the courts are unlikely to consider statements by legislators.

Questions for Drafting and Reviewing Legislation

Understanding the ways in which a court is likely to review legislation can help legislators craft language that will achieve the desired effect. Legislators may want to ask the following questions when crafting legislation:

- Are the terms, format, and procedural requirements consistent throughout the proposed legislation?

[30] *Epic Sys. Corp. v. Lewis*, --- U.S. ----; 138 S. Ct. 1612, 1631, 200 L. Ed. 2d 889 (2018).

[31] *Id*.

[32] *Zucker v. Rodriguez*, 919 F.3d 649, 660 (1st Cir. 2019).

[33] *Friends of the Boundary Waters Wilderness v. Robertson*, 978 F.2d 1484, 1491 (8th Cir. 1992) (in dissent) ("It appears that Rep. Burton attempted to write into the legislative history what he could not write into the law.").

[34] *N.L.R.B. v. SW Gen., Inc.*, --- U.S. ----; 137 S. Ct. 929, 943, 197 L. Ed. 2d 263 (2017).

[35] *Trump v. Hawaii*, --- U.S. ----; 138 S. Ct. 2392, 2412–13, 201 L. Ed. 2d 775 (2018).

- Are the terms, format, and procedural requirements consistent with those that appear in the same section of law?
- Are the terms, format, and procedural requirements consistent with other statutes that address the same or similar subjects?
- Are any terms that have a special meaning within the legislation, or a meaning different than the common dictionary definition, clearly defined?
- If the legislation uses more than one word or phrase that have a similar meaning, is there a clear difference between those words or phrases, or should the legislation only use one of them?
- Is it possible to interpret the proposed legislation in more than one reasonable way?
- If more than one reasonable interpretation is possible, are there ways to amend the legislation to provide additional clarity?
- If proposed legislation incorporates existing language from a statute, are there court decisions interpreting that statute?
- If there are court decisions interpreting language incorporated into legislation, is that interpretation consistent with the goal of the legislation?
- If the legislation includes a list of any kind, is it clear that the list is exhaustive (limited to the items listed) or illustrative (providing examples, but not limiting the list)?
- Are there existing statutes that address the same issue as the proposed legislation and, if so, is it clear which provision would control specific situations?

A court will always look at statutory language, but it is rare for the court to look beyond that language and review statements by legislators. Even if the court does consider such statements, there is no guarantee that the court will find them persuasive. In short, a statement made for the record by a legislator is unlikely to be considered by courts and will never be more important than the statutory language.

Understanding the steps a court takes to analyze statutes can help to craft legislation that is consistent with a legislator's intent. Discussions in committees and on the House or Senate floor may help explain legislation to other members and identify ambiguities. But those discussions rarely influence a court's interpretation of statutory language. The most effective way for legislators to be confident that legislation will have the desired effect is to use clear, consistent, and unambiguous language.

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