It’s a Trap!
How to Avoid Giving Legal Advice in Reference Services

Carol Hassler, Web Services Librarian
carol.hassler@wicourts.gov
Wisconsin State Law Library
A long time ago in a library far, far away...
What types of legal research questions do your users ask?
Wisconsin Legal Research
- Research process
- Secondary and practice resources
- Wisconsin Constitution
- Statutes and court rules
- Wisconsin administrative code
- Judicial opinions and case law
- Legislative history
- Legal citation
“I need someone to show me my place in all this.”
Use the Source, Luke

Are They Official?

Updated 2017-18 Wisconsin Statutes & Annotations

Published March 11, 2019. Certified under s. 35.18 (2) (b), stats.

Updated by 2017 Wisconsin Acts 368 to 370 and through all Orders of the Court filed before and in effect on March 11, 2019.

Statutory changes effective after March 11, 2019, are designated by汉语

The electronic updated Wisconsin Statutes are published under s. 35.18 (1) (b), stats., are certified under s. 35.18 (2) (b), stats., and are prima facie evidence that they are the Wisconsin Statutes “as they purport to be" under s. 889.01, stats.

The table of contents shows all the statute chapter titles listed numerically, grouped under subject-matter headings.

Clicking on a chapter title takes the user to the beginning of the selected statute chapter in an HTML view. Clicking on the icon next to the title presents the chapter as a PDF file. If you perform a search using the search boxes above, the results will be presented in the HTML view. To view search results in a PDF file click on the preferences link above and check “View documents as PDF when available." See also Differences Between HTML and PDF Viewing.

See Advanced Search to search within single statute sections or chapters.

The updated Wisconsin Statutes and Annotations are presented on a secure connection. To verify that the statutes are being accessed from the Wisconsin Legislature's secure document server, https://docs.legis.wisconsin.gov, click on...
Legal Research Guides

Contents

- How & Where to Begin Your Research
- Administrative Law
- Statutory Law
- Updating the Law
- Government Information
- International Law
- Treaties
- Understand Legal Citations
- Research Tools

How & Where to Begin Your Research

- Law: An Introduction
  Wisconsin and Federal guides to the types of law, how laws are made, and how government works.

- Directories
  - WL Law Libraries Open to the Public
  - Finding Legal Information (WI Court System Self-Help Center)
  - Free & Low Cost Legal Research (Georgetown Law Library)
  - Guide to Wisconsin Legal Information Sources (UW Law Library)
  - Introduction to Legal Materials: A Manual for Non-Law Librarians in Wisconsin (Law Librarians Assoc. of WI)
  - State Online Legal Information (American Assc. of Law Libraries)
Jurisdiction

https://pixel.nymag.com/imgs/daily/vulture/2017/12/18/star-wars-planets/bespin.nocrop.w710.h2147483647.2x.jpg
Wisconsin Legislative Branch

- **Statutes**
  - Current
  - Archive 1941/42-
  - Annotations 1970

- **Acts**
  - Current
  - Archive 1849-
  - Budget Documents; 2015-2016 Budget Documents; 2017-2019 Budget Documents
  - Act Memos (WI Legislative Council)

- **Legislative Drafting Records**
  - Drafting Records 1999- (WI Legislature)

- **Researching Legislative History**
  - Legislative History Research in Wisconsin (WI State Law Library)
    - Get an overview of legislative history research in a clear diagram. Links and coverage for online and print resources are included.
  - Researching Legislative History in Wisconsin (WI Legislative Reference Bureau)
    - Offers suggestions for researching Wisconsin constitutional and statutory law and for determining legislative intent.

- **Constitution**
  - Constitution

- **Rules**
  - Assembly Rules
  - Senate Rules
  - Joint Rules

- **Wisconsin Pre-Statehood Legal Materials** (*HeinOnline*)

- **WI Legislature**
  - Access bills and bill histories, joint resolutions, legislative session calendars, committee information, audio and video of floor sessions, etc.

- **Wisconsin Eye**
  - Video coverage of legislative sessions and meetings.

- **Legislative Council**
- **Legislative Reference Bureau**
  - Amending the Constitution in Wisconsin

---

**Wisconsin Executive Branch**
The **Americans with Disabilities Act** gives specific guidelines for what are and are not "service animals" and some people mistakenly believe that only service animals are protected. However, the ADA also says that "emotional support animals that do not qualify as service animals under the Department’s title III regulations may nevertheless qualify as permitted reasonable accommodations for persons with disabilities under the Fair Housing Act and the ACAAs. The Fair Housing Act, which addresses "reasonable accommodations" in rental housing, is [available here](#).

**New State Laws**

On the state level, Wisconsin law now defines an "Emotional Support Animal" as one who gives "emotional support, well-being, comfort, or companionship" to a person with a disability. Unlike a service animal, an emotional support animal does not need to be certified or trained to perform tasks to benefit that individual. **Wis. Stat. 106.50(1m)(im), 2017 Wis. Act 317, Sec. 28, Eff. 4/18/18.**

**Landlords can only deny the service animal or emotional support animal if:**

- the tenant is not disabled or does not have a disability-related need
- the tenant fails to provide requested documentation allowed by this law
- there is undue financial or administrative burden or would fundamentally change the services provided
- the specific animal “poses a direct threat to a person’s health or safety” that cannot be reduced or eliminated by another accommodation
- the specific animal would cause substantial physical damage to the property that can’t be reduced or eliminated by another accommodation. **Wis. Stat. 106.50(2r)(bg)4.d., Wis. Stat. 106.50(2r), 2017 Wis. Act 317, Sec. 30**
Currency

Wisconsin Child Support Laws When the Custodial Parent Moves
BY HEATHER FRANCES J.D.

Annual overnights the child spends with the noncustodial parent. Child support is typically established at the time the couple divorces, according to the situation at the time of the divorce. Support can be modified when circumstances change.

Moving Notice

When parents receive custody as part of a divorce, a parent wishing to move out of state with a child -- or 150 miles away within Wisconsin -- must give written notice to the other parent at least 60 days prior to the move if the other parent has been awarded any periods of placement, or visitation time. If the parent proposing to move has sole or joint legal custody of the child and the child resides with that parent for the majority of the time, the noncustodial parent can attempt to stop the move by filing paperwork with the court. The court can order the custodial parent to come to court to show the move is appropriate, and the court can modify the custody order to take into account the distance caused by move.
actions affecting the family, including actions to modify judgments or orders previously granted, that are commenced on the effective date of this subsection.

(2) Motions to relocate with a child. The treatment of sections 767.001 (1) (k) and 767.225 (1) (bm) of the statutes first applies to motions to relocate with a child that are filed in any of the following:

(a) Cases originally commenced on the effective date of this paragraph.

(b) Cases in which legal custody or physical placement is modified on the effective date of this paragraph.

(3) Prohibited acts during the pendency of an action. The treatment of sections 767.117 (1) (c) and 767.215 (2) (j) 1. of the statutes first applies to actions affecting the family, excluding actions for maintenance payments or property division, but including actions to modify judgments or orders previously granted, that are commenced on the effective date of this subsection.

(7) Applicability.

(a) The requirements and procedures under this section apply to relocations with or removals of a child in any of the following cases:

1. Cases that are originally commenced on or after April 5, 2018.

2. Cases that were originally commenced before April 5, 2018, but in which a legal custody or physical placement order is modified on or after April 5, 2018.

(b) Except as provided in par. (a) 2., the requirements and procedures under s. 767.481, 2015 stats., apply to moves with or removals of a child in cases that were originally commenced before April 5, 2018.
Reliability

“May the Force be With You”

-Dr Who

https://i0.kym-cdn.com/photos/images/original/000/298/881/e3c.jpg
Divorce

Divorce ends a marriage. The court rules on issues like the division of property, maintenance (spousal support), and child support, legal custody, and physical placement. There is a 120-day waiting period to get divorced. Once the divorce is granted, the parties cannot remarry anywhere in the world for at least six months.

Wisconsin is a "no fault" divorce state, which means neither spouse must prove that the other has done anything wrong, and only one spouse must testify under oath that they believe that the marriage is irretrievably broken. Wisconsin Statute 767.315 lists the grounds for divorce and legal separation in Wisconsin. See the Wisconsin Court System's Basic Guide to Divorce and Legal Separation to learn more about divorce or legal separation.
Example Reference Questions

Is it legal to open carry a loaded firearm with a concealed to carry permit?

Can I sell CBD oil?

My landlord doesn’t knock when he comes into our house. This morning he came at 6am and let himself in with his key to check the water heater which was repaired yesterday. Is that legal?
Self-representation

“Because libraries typically allow access to public computers and because library staff members are already trained in assisting the public with research issues, they are a natural partner for providing self help services.”

-- National Center for State Courts, Center on Court Access to Justice for All, Access Brief: Self Help Services
Self-representation

Confusing Language

Legalese

Complicated Rules and Procedures
# Librarian Ethics

Catherine Arnott Smith’s webinar in the iSchool continuing education series from March 2015: Weary of Helping: Public Libraries, Health Information, and The Affordable Care Act

<table>
<thead>
<tr>
<th>Answering reference questions from the public in the areas of the legal, medicine, and taxes are the most challenging for the librarian.</th>
<th>We are not social workers</th>
<th>No advice!</th>
<th>Computer skills and access to the internet for those patrons asking the questions</th>
</tr>
</thead>
</table>

Wisconsin State Law Library
wilawlibrary.gov
Librarian Ethics

American Library Association’s Code of Ethics (ALA Code of Ethics)

• I. We provide the highest level of service to all library users through appropriate and usefully organized resources; equitable service policies; equitable access; and accurate, unbiased, and courteous responses to all requests.
Librarian Ethics

American Association of Law Libraries Code of Ethics

• We promote open and effective access to legal and related information. Further we recognize the need to establish methods of preserving, maintaining and retrieving legal information in many different forms.

• We uphold a duty to our clientele to develop service policies that respect confidentiality and privacy.

• We provide zealous service using the most appropriate resources and implementing programs consistent with our institution's mission and goals.

• We acknowledge the limits on service imposed by our institutions and by the duty to avoid the unauthorized practice of law.
Librarian vs. Lawyer

Unauthorized practice of law

Wisconsin Supreme Court Rule 23.01 Definition of practice of law

<table>
<thead>
<tr>
<th>LEGAL REFERENCE</th>
<th>(Probably) LEGAL ADVICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-attorneys <em>do</em>:</td>
<td>Non-attorneys <em>do not</em>:</td>
</tr>
<tr>
<td>Recommend law books on particular subjects, including</td>
<td>Recommend a specific legal form, explain how to fill in the form, or fill out a</td>
</tr>
<tr>
<td>books that provide forms and will explain the law and</td>
<td>legal form for the user. (It is permissible to refer users to form books. The user</td>
</tr>
<tr>
<td>procedures of the courts, and demonstrate how to</td>
<td>will need to ultimately decide whether to use those forms or not.)</td>
</tr>
<tr>
<td>effectively use them by explaining the indexes and</td>
<td></td>
</tr>
<tr>
<td>tables of contents</td>
<td></td>
</tr>
<tr>
<td>Help to find the broad definition of legal words or</td>
<td>Offer an opinion as to how a user’s specific legal problem should be handled.</td>
</tr>
<tr>
<td>phrases, usually by using sources such as <em>Black’s Law</em></td>
<td></td>
</tr>
<tr>
<td>Perform an online search to provide the user with</td>
<td>Identify any single law as the statute (or regulation, or case) that will answer the</td>
</tr>
<tr>
<td>information which may be relevant to his legal question</td>
<td>user’s legal question.</td>
</tr>
<tr>
<td>Suggest search terms when using indexes or finding tools</td>
<td>Help a person by interpreting the law (statutes, regulations, or cases)</td>
</tr>
<tr>
<td>Teach legal research techniques such as the use of</td>
<td>Write a brief, prepare a will, or draft a contract</td>
</tr>
<tr>
<td>digests and Shepard’s</td>
<td></td>
</tr>
<tr>
<td>Locate biographical information about attorneys and</td>
<td>Interpret any legal document from a court or an attorney</td>
</tr>
<tr>
<td>judges</td>
<td></td>
</tr>
</tbody>
</table>
Legal Reference

Legitimate sources

- Jurisdiction
- Context/Reliability
- Currency
- Agreement
“I cannot give legal advice” should not be used as an excuse not to provide service.

Librarians will interpret questions differently.

Be cautious of bias and treat the patron with respect.

Reword question.

Set expectations.

Read directly from the source and avoid interpretation.

Provide appropriate level of information.

Be cautious of bias and treat the patron with respect.
Legal Reference

Phrases to use

• The law states...
• In general
• See this information from this source
• This may help answer your question
• This form is used for...
• Based on the information we have in the library...
• I am a librarian and can point you to information. I am not an attorney and can not give legal advice.
• I don’t know. Let me look into this and get back to you.
• You will need to speak to an attorney to discuss your particular situation.
Legal Reference

Phrases to Avoid

- My opinion
- Should
- That means
- I predict
- If it were me
- Let me fill that out for you
- Do this... and you are set
Upset Patrons

Phrases to use

• I hear you.
• Mmm and Hmm. Okay
• I’m happy to help you research...
• I don’t know. I will look into that for you.
• I’ll see what I can find for you.
• Do you have a question for us?
• Here is the definition...
• Let’s start with [this step]
• I see that you’re upset.
Upset Patrons

Phrases to Avoid

- I understand how you feel
- It’s going to be okay
- My opinion...
- That was stupid
- Why did you do that?
- CALM DOWN!!
Legal Reference

Online forms and vendors

- Currency
- Selling what is available for free?
- Bias from vendor?
Example Reference Questions

• Is it legal to open carry a loaded firearm with a concealed to carry permit?
  – Wisconsin Statute 175.60
  – Frequently Asked Questions from the Wisconsin Department of Justice
  – Wisconsin Legislative Council's Information Memorandum on Carrying and Possessing Firearms in Wisconsin
Example Reference Questions

• Can I sell CBD oil?
  – Refer to WSSL’s gathered resources: CBD Oil and Industrial Hemp
Example Reference Questions

- My landlord doesn’t knock when he comes into our house. This morning he came at 6am and let himself in with his key to check the water heater which was repaired yesterday. Is that legal?
  - Wisconsin Administrative Code ATCP 134.09(2)(a)2
  - The Tenant Resource Center has a helpful section on their website about landlord entry.
Staying Informed

- **WSLL@Your Service:** monthly newsletter emailed
  - Blog
  - Social media: Facebook, LinkedIn

<table>
<thead>
<tr>
<th>Popular Topics</th>
<th>Search</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child Support</td>
<td>Browse the index below or search our website.</td>
</tr>
<tr>
<td>Divorce</td>
<td></td>
</tr>
<tr>
<td>Landlord/Tenant</td>
<td></td>
</tr>
<tr>
<td>Legal Assistance</td>
<td></td>
</tr>
<tr>
<td>Name Change</td>
<td></td>
</tr>
<tr>
<td>Ordinances</td>
<td></td>
</tr>
<tr>
<td>Small Claims</td>
<td></td>
</tr>
</tbody>
</table>

Website Search for one or more keywords
Wisconsin State Law Library

Are you trying to learn more about the law?  
Talk to a law librarian at one of our libraries in Madison and Milwaukee. We will answer your questions and help you identify resources.

Start your research on our website with 400+ legal research guides and tutorials.

wilawlibrary.gov

Ask a Librarian

Fill out this form to email us or call one of our libraries for help.

Question
Your question

Subject
Subject of email

Email
you@example.com

Phone
565-123-4567

County
Choose a county

Send to
Wisconsin State Law Library

This form accepts text only - no URLs or website links. If you need to email us and include a link, send an email directly to wssl.ref@wicourts.gov.

Librarians cannot provide legal advice. Read our reference service policy for more information on how we can help you.

Our goal is to respond within one working day.

Library hours
It’s a Trap!
How to Avoid Giving Legal Advice in Reference Services

Carol Hassler, Web Services Librarian
carol.hassler@wicourts.gov
Wisconsin State Law Library