

Virginia

[2007 Report](#) and 2009-10 Update by Gail Warren, Virginia State Law Library

OFFICIAL STATUS



No change since
the 2007 report

AUTHENTICATION



No change since
the 2007 report

One Virginia online legal resource is considered *official* on the basis of statute. Certain online court opinions are somewhat confusingly referred to as *official*.

The Virginia Register of Regulations includes proposed or newly adopted administrative rules and other specified content. By statute, it must be published on the Web; additionally, it may be printed. VA. CODE ANN. § 2.2-4031. The status of the Virginia Register of Regulations online has been clarified; the website now includes the language, “The PDF version of the Virginia Register of Regulations posted on this page is the official legal resource. (§ 2.2-4031c of the Code of Virginia).” The court system website somewhat confusingly refers to the PDF and “word-processed” versions (distinguished from the ASCII text version) of opinions on the site as official, since those versions contain the court’s original footnotes and layout. Otherwise, no other Virginia online legal resource investigated here is considered official. It should be noted that a broad statutory framework to ensure permanency and authenticity of online legal resources was enacted in the latest legislative session. See Act of March 7, 2006, ch. 60, at <http://leg1.state.va.us/cgi-bin/legp504.exe?061+ful+CHAP0060> (amending Virginia Public Records Act to address issues in lifecycle of electronic government information).

Virginia is beginning to address the authentication of online legal resources.

A joint subcommittee of the legislature has been studying issues of providing official authentication of state electronic records and permanent public access. H.J. Res. No. 6, Gen. Assem., Reg. Sess. (Va. 2004). While this study has focused on state records and documents, and not specifically online legal sources, it is hoped the subcommittee's work will help in developing a model for legal materials on the Web created and maintained by all three branches of government.

Has the state eliminated the print publication of any of these titles in favor of online only since the 2007 report? Virginia has not eliminated any print publication of primary law since the 2007 report.

Has the state enacted legislation guaranteeing the public's permanent access to state online government information since the 2007 report? Virginia has not enacted legislation guaranteeing permanent public access to state online government information since the 2007 report.

Have courts in your state adopted a medium neutral citation system since the 2007 report? Virginia has not yet adopted medium neutral citation format.

Have there been any other significant changes to the 2007 state summary? Changes have been integrated into the report below.

Generally speaking, the commonwealth of Virginia has not taken steps to designate legal resources on the Web as *official*. An exception is the state administrative register inasmuch as the statute creating that resource requires that it be distributed online. VA. CODE ANN. § 2.2-4031(D). Despite an overall less-than-stellar performance in providing for online legal resources certified as *official* and *authentic*, the legislature is moving forward to address the authentication and preservation of government records. One hopes the application of any statutory changes will not be limited to executive agencies, but extend to the documents and records of the legislative and judicial branches of government.

A joint subcommittee of the legislature just completed a two-year study of the Virginia Public Records Act, as mandated by House Joint Resolution No. 6, adopted in 2004. The subcommittee was charged with:

- Providing and assigning authority to establish and maintain guidelines for the creation, transfer and archival preservation of electronic state records and publications;
- Providing and assigning authority to establish and maintain procedures for the official authentication of e-records and documents; and
- Establishing a means to identify, describe, receive and manage discrete electronic government information products covered by copyright.

H.J. Res. No. 6, Gen. Assem., Reg. Sess. (Va. 2004). This eleven-member legislative body's initial staff report, titled *Joint Subcommittee Studying the Virginia Public Records Act*, was published as House Document No. 25 (2005).

In November 2005, the subcommittee prepared draft legislation to amend the Virginia Public Records Act (VA. CODE ANN. § 42.1-76 to -91). The proposal addressed the challenges of *authenticating* and preserving electronic records. During the 2006

legislative session, the Virginia General Assembly approved amendments to the Virginia Public Records Act to include provisions relating to the management and archiving of electronic records, incorporating the changes recommended by the House Joint Resolution No. 6 study. See Act of March 7, 2006, ch. 60, at <http://leg1.state.va.us/cgi-bin/legp504.exe?061+ful+CHAP0060> (also published in volume 1 of the *Acts of the General Assembly of the Commonwealth of Virginia, 2006 Regular Session*). As a result, the State Library Board is charged with issuing regulations designed to address the range of issues inherent in the preservation, management, and storage of all records, including electronic records. Pursuant to this mandate, the Library of Virginia released *Electronic Records Guidelines* for all Commonwealth of Virginia agencies and local government entities in December of 2008 (at http://www.lva.lib.va.us/whatwedo/records/electron/Electronic_Records_Guidelines.pdf).

The Division of Legislative Automated Systems (DLAS) is responsible for maintaining a legislative electronic information system that includes the status of bills and resolutions and related information, and “shall be made available to all agencies of the Commonwealth and its political subdivisions, and conditionally available to the public.” VA. CODE ANN. § 30-34.10:1. Although Virginia’s session laws are not available as a single compiled resource on the DLAS website, the researcher is able to view PDF versions of final session laws (chapters) exactly as they appear in the bound volumes of the *official print Acts of the General Assembly of the Commonwealth of Virginia*. The same website also offers electronic access to the *Code of Virginia* and the *Virginia Administrative Code*. While a call to the DLAS Help Desk did indicate that the content of the online *Code of Virginia* is “the actual text of the print version,” there is no notice on the website addressing the status or accuracy of any of the three electronic publications: statutory code, session laws, and administrative code. The only notice regarding the statutes is “[t]he Virginia General Assembly is offering access to the Code of Virginia on the Internet as a service to the public. We are unable to assist users of this service with legal questions nor respond to requests for legal advice or the application of the law to specific facts.”

The description of the *Virginia Register of Regulations* found on the Division of Legislative Services (DLS) website leaves the viewer no doubt as to whether it describes only the print or both the print and online versions. Recent changes to the text appearing at the *Virginia Register of Regulations*’ website clarifies the status of the online version, “The PDF version of the *Virginia Register of Regulations* posted on this page is the official legal resource (§2.2-4031 C of the Code of Virginia). A note at the bottom of the screen indicates “printed copies of the *Virginia Register* are available by subscription.”

The Virginia Judiciary maintains a website offering electronic access to the opinions of the Virginia Supreme Court and the Virginia Court of Appeals. These opinions are uploaded to the website on the day they are released by the respective court. No notice is given to users regarding the official or unofficial status of the opinions or their accuracy. Note that opinions on the site are currently published in both PDF and ASCII text formats; several years earlier they were published in DOC (Microsoft Word) and ASCII

text formats. The website refers to the PDF and the “word-processed” versions – distinguished from the ASCII text version – as official, since opinions in those formats contain the court’s original footnotes and layout. Unfortunately, this statement causes some confusion. The website’s use of the word “official” here appears to have a broader meaning than the word as used in the phrase *official* reporter. To be sure, the text on the Web is pulled from the original opinion electronically prepared by the court. But there is no process in place to assure this *slip opinion* is the same as the final opinion published in the *official* bound *Virginia Reports* (thus, reflecting any editing completed subsequent to the slip opinion).

Virginia still publishes print *official* versions of its statutory code, session laws, administrative code, administrative register, and appellate court opinions; until the legislature and judiciary address the authentication or permanency of electronic legal information produced by their respective branches of government, the use of legal information appearing on these websites is limited to locating relevant code sections or cases, but not citing the electronic resource or relying on it as an *official* source.