

Learning Restatements of the Law

When judges adjudicate cases, the decisions make a body of judge made law that is frequently known as the common law. The body of law changes the rules on specific areas. From time to time, the American Law Institute, which is an organization of legal brains and practitioners, will compile all of the decisions in one area into a statement of what the rule actually is. This is known as "black letter law" and is meant to address uncertainty in the law that occurs when judges change the meaning of certain parts of a legal subject. The Restatements are intended to tell both judges and lawyers what the law has become via the decisions of other judges.

The Restatements, while useful, are secondary authorities. This means that they are not the law and do not actually apply in a jurisdiction until a specific court has adopted what the restatement says in a case. Despite their status as a secondary authority, the restatements are given great attention. As of March 1995, the various restatements had been cited in a multitude of cases 129,533 times. The American Law Institute was established in 1923 and soon got to work creating the restatements. The initial work was supported by a variety of generous grants from the Carnegie Corporation. By the end of World War II, the ALI had published restatements covering the topics of Agency, Conflict of Laws, Judgments, Torts, Security, Trusts, Restitution, Property, and Contracts. A second restatement for each area was started in the 1950s.

Revisions to the various Restatements were conducted in an sweat to reflect the changes and recent developments in the law. The ALI also wanted to try out a new format which had more extensive commentary and more meaningful illustrative materials. The illustrative commentary helps individuals understand to a greater extent the statements of the reasons for the positions taken. The Restatement of Torts is a useful guide which helps lawyers and others understand the basic rules of torts and what each element means. The Restatement goes into great detail on each element of a particular injury and also explains the defences. The Third Restatement of Torts has been issued but has not yet been widely adopted. As a finish, the Second Restatement is the most commonly used version of the book.