



# 1-2 Types of Laws

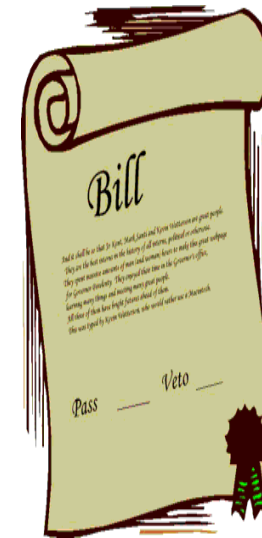
## GOALS

1. Identify the **4** sources of law`
2. Discuss how conflicts between laws are resolved
3. Compare and contrast **criminal** and **civil law**, and **substantive** and **procedural law**

# WHAT ARE THE SOURCES OF LAW?

Laws in this country are created at all three levels of government (federal, state and local). Laws come from:

1. Constitutions - Federal and State
2. Statutes - Federal and State
3. Case law - Federal and State
4. Administrative law - local



# 1. Constitutions - document



- ▶ Framework of a government and its relationship to the people it governs.
  - ▶ When constitutions are adopted or amended, or when courts interpret constitutions, CONSTITUTIONAL LAW is made.
- ▶ Federal and State Levels
  - ▶ Highest source of law.
- ▶ U.S. Constitution and state constitutions apply concurrently
- ▶ **U.S. Constitution superior** to any and all state constitutions
  - ▶ Any federal, state or local law **IS NOT VALID** if it conflicts with the Federal Constitution.

# Constitutions allocate powers:

- ▶ Between the people and their governments
- ▶ Between state governments and the federal government
- ▶ Among the branches of the government
- ▶ \*The state constitution is the main instruments for allocating powers between the people and their governments. Through the first ten amendments, called the Bill of Rights.

# Minimum Wage



For instance: **federal** minimum wage is \$7.25.

**Illinois state** is \$8.25.

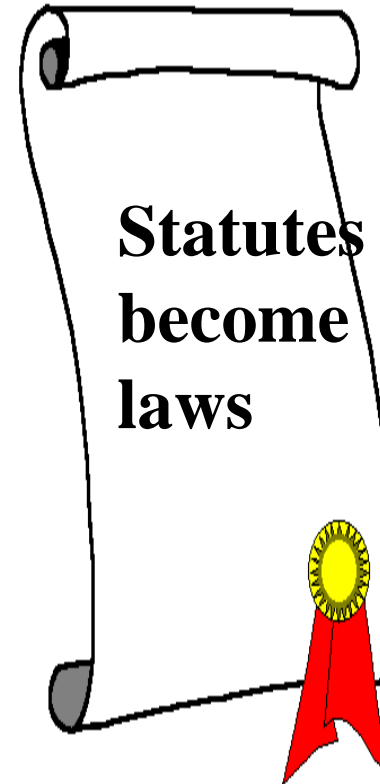
**Wisconsin state** is \$7.25

<http://www.dol.gov/esa/minwage/america.htm#Illinois>

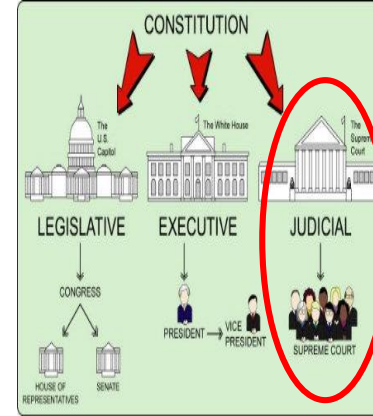
## 2. Statutes

- ▶ State and Federal Legislatures are composed of elected representatives of the people.
- ▶ Acting for their citizens, these legislatures enact laws called statutes.

[Pending Legislation in Illinois](#)



# 3. Case Law



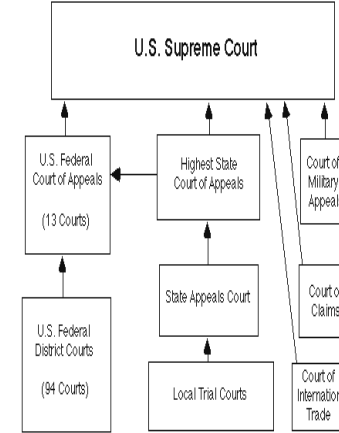
- ▶ Created by the judicial branch.
- ▶ Usually after a trial has ended and one of the parties has appealed the result to a higher court.
- ▶ When the appellate court publishes its opinion (verdict) on a case, that opinion may state new or more appropriate rules to be used in deciding the case and others like it.

NEW CASE LAW(S)



### 3. Case Law

- ▶ The effectiveness of case law arises out of the doctrine of **stare decisis** (latin for “let the decision stand”)
  - ▶ Lower courts must follow established case law in deciding similar cases.
  - ▶ **Stare decisis DOES NOT BIND Supreme Courts** because Supreme Courts are superior.



# 4. Administrative Law



- ▶ Laws that town or city council or by a county board or commission are typically referred to as **ordinances**.
- ▶ Rules and regulations made by appropriately empowered agencies
  - ▶ Zoning Commission
  - ▶ DMV
- ▶ Legislative branch (Town Mayor) delegates its power to the agencies

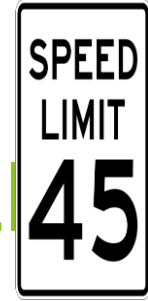
# WHAT HAPPENS WHEN LAWS CONFLICT?

- ▶ Sometimes law created by different levels of government conflict.

For example, a **city ordinance** setting a speed limit of **35 mph** on a state highway near and elementary school may conflict with a **state statute** setting **45** as a **minimum speed limit** on state roads.



# WHAT HAPPENS WHEN LAWS CONFLICT?



- ▶ In this situation, legal rules are used that determine which statement of the law is **superior** to the other and should therefore be enforced.

Generally:

1. Federal Constitutional Law
2. State Statutory Law
3. Local (County and City) Administrative Law

# Constitutions and Validity

- ▶ Constitutions are the highest sources of law, and the Federal Constitution is “the supreme law of the land” (U.S. Constitution, Article VI).
- ▶ This means that any federal state, or local statute, case law or administrative decision is not valid if it conflicts with the federal Constitution.



# Constitutions and Validity

► When any type of law is declared invalid by a state or federal court because it conflicts with a constitution, it is said to be **unconstitutional**.

Arizona makes it a crime under state law to be in the country illegally.

President Barack Obama, has asked the Justice Department to research this state law to see if it's unconstitutional.



# Statutes and Validity

- ▶ Statutes must be constitutional to be valid.
- ▶ Statutes must also not exceed the scope of the powers of the body that authored it.

The Arizona law seems to be unconstitutional because they enacted this law without authority.

**“States have no power to pass immigration laws because it’s an attribute of foreign affairs. Just as states can’t have their own foreign policies or enter into treaties, they can’t have their own immigration laws either.”**



# Administrative Regulations and Validity

- ▶ Can be reviewed by courts to determine whether they are constitutional. The courts also may invalidate a rule or regulation if it is outside the scope of powers delegated to the agency by the legislature that created it.



Does the city of Cary have authority to restrict anyone from driving on city roads after 10:00 p.m.?



# Case Law and Validity

- ▶ A legislative body has the power to nullify a court's interpretation of a statute or ordinance by rewriting the statute.
- ▶ Administrative agencies also can revise their regulations when challenged.

The city of Cary will not let anyone under the age of 17 on the streets after 10:00 p.m.



Slide  
17

# WHAT ARE THE MAIN CLASSIFICATIONS OF LAWS?

- ▶ Civil and criminal laws
- ▶ Procedural and substantive laws
- ▶ Business law
  - ▶ Uniform business laws



# Civil Laws

- ▶ When private legal rights of an individual are violated.
  - ▶ Tenant fails to pay the rent as promised, the landlord has the right to sue the tenant. (No police action).
- ▶ When one person is injured by another (intentionally or not).



# Criminal Laws

- ▶ **Criminal** - Offense against society. A citizens right to live in peace is violated by illegal activity, the offense is governed by criminal law. **The government will prosecute.**



# Civil and Criminal Laws

- ▶ Sometimes when a crime is committed, private injuries may be inflicted as well. **One incident could result in a criminal and civil offense.**



# What's your verdict?

- ▶ A truck driver was traveling at 85 mph when it side swiped a car, then hit a guard rail, and then a concrete barrier. **Both drivers suffered injuries.** The car was demolished.
- 1. Did the truck driver violate :
  - A. civil law
  - B. criminal law
  - C. no law
  - D. Civil law and criminal law



# What's your verdict?

## Criminal Law and civil law.

Exceeding the speed limit was a **crime** for which the truck driver could be arrested, convicted in a criminal trial and fined. In addition, the truck driver committed a civil offense when he carelessly allowed his truck to smash into the side of the car. The car driver could win a **civil lawsuit** against the truck driver and receive compensation for his injuries and the value of his car.

# Procedure Law

- ▶ Legal rules for processing both civil and criminal cases through the court system.
  - ▶ Determines what remedies **(could be \$)** are available in a lawsuit and how those remedies **(could be jail time)** are to be secured.
  - ▶ The doctrine of *stare decisis* is a procedural law. (Let the decision stand, based on previous case - case law)



Slide  
24



# Procedure Law

- ▶ One procedural law involves the right to a trial by jury, as outlined in the Bill of Rights.
- ▶ Another is the right to an attorney, even if you do not have enough money to pay for one.



Slide  
25

# Procedure Law

- ▶ Procedural law issues are argued by the attorney before a judge rather than before a jury. The judge will decide procedural issues because they are questions of law.
  - ▶ Evidence issues such as hearsay
  - ▶ “Objection your honor”. “On what grounds?”
- ▶ **Failure to follow proper procedure can cause an otherwise winning to be lost.**



Slide  
26

# Procedure Law

- ▶ Example: If you were hurt in a car accident and the other driver is at fault, the time period for suing that driver for your injuries is 2 years (statute of limitations)
- ▶ This is in place for fairness. It is not fair to bring a suit against someone after this time period because people cannot remember things forever. Witnesses to an automobile accident cannot be expected to recall what they saw more than 2 years ago.



Slide  
27

# Substantive Law

**Substantive law** defines duties, establishes rights, and prohibits wrongs. It is concerned with all rules of conduct.

The law against taking another's life is a part of substantive law.

The law protecting you from discrimination in housing, schooling and the like is part of substantive law.

1. Murder
2. Theft
3. Breach of contract
4. Negligence



# Business Law

- ▶ Covers rules that apply to business situations and transactions.

- ▶ Mostly Civil law

- ▶ Contracts

- ▶ Commercial torts

- ▶ Manufacturers make defective products that injure users.

- ▶ Criminal law for business activities

- ▶ Punish a firm that conspires with competitors to fix prices
  - ▶ Employee who steals company tools



# Uniform Business Law

- ▶ Laws of our various states **DO NOT** have to be alike as long as they are constitutionally valid.
- ▶ Interstate Commerce - uniformity among businesses transacting between states is important
- ▶ Committees of legal experts have written model laws covering such areas as sales, certain credit transactions and business forms.
  - ▶ UCC - Uniform Commercial Code (adopted by most states)
    - ▶ Sale of Goods
    - ▶ Certain aspects of banking, and leases of goods.

## TYPES OF LAW

|                           |   |
|---------------------------|---|
| <b>Constitutional law</b> | Based on constitutions                                  |
| <b>Statutory law</b>      | Enacted by legislative bodies                           |
| <b>Administrative law</b> | Rule-makings by administrative agencies                 |
| <b>Civil law</b>          | Addresses wrongs done to individuals                    |
| <b>Criminal law</b>       | Addresses wrongs done to society                        |
| <b>Procedural law</b>     | Deals with methods of enforcing legal rights and duties |
| <b>Substantive law</b>    | Defines legal rights and duties                         |
| <b>Business law</b>       | Rules that apply to business transactions               |