

Identifying Information

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Paper Information

Title:	Edicts of Government: Copyright in State Legal Materials
Abstract:	<p>The Copyright Act of 1976 is silent as to the copyrightability of state government works, although Section 105 addresses the copyrightability of Federal government works. In its Compendium of U.S. Copyright Office Practices, Third Edition, the Copyright Office includes “government edicts” in its list of uncopyrightable material. The Compendium states that: “As a matter of longstanding public policy, the U.S. Copyright Office will not register a government edict that has been issued by any state, local, or territorial government, including legislative enactments, judicial decisions, administrative rulings, public ordinances, or similar types of official legal materials.” Despite “longstanding public policy” to the contrary some states have claimed copyright in government edicts. Other states have ambiguous laws concerning copyright. Access to the law is critical for citizens, and the Internet provides a vehicle for free public access. Public online accessibility, however, has often been limited or nonexistent for some state materials. There are also issues regarding annotations, notes, commentary and other supplementation which may or may not have the force of law. There are issues regarding technical standards incorporated into law. While recent Federal court decisions have tackled some of these issues, questions remain regarding the copyrightability of state government edicts. This paper examines and analyzes the background and issues surrounding the copyright of state government edicts. It considers the implications of recent court decisions. It also examines and assesses the prospects for improving public access to these works.</p>