



**KIDS
DISCOVER**

*The Bill
of Rights*

A PRIMER



The Bill of Rights

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The Bill of Rights, the first 10 amendments to the United States Constitution, was created on September 25, 1789, and ratified on December 15, 1791.

TENTH AMENDMENT:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

GUARANTEES:



POWERS OF STATES AND PEOPLE

NINTH AMENDMENT:

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

GUARANTEES:

PROTECTION OF RIGHTS NOT SPECIFICALLY LISTED IN THE CONSTITUTION



FIRST AMENDMENT:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

GUARANTEES FREEDOM OF:



RELIGION SPEECH PETITION



ASSEMBLY THE PRESS

SECOND AMENDMENT:

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

GUARANTEES:



RIGHT TO BEAR ARMS

EIGHTH AMENDMENT:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

PROHIBITS:

CRUEL AND UNUSUAL PUNISHMENT



EXCESSIVE BAIL

SEVENTH AMENDMENT:

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

GUARANTEES:



CIVIL TRIAL BY JURY

SIXTH AMENDMENT:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

GUARANTEES:



SPEEDY TRIAL



PUBLIC TRIAL



TRIAL BY JURY



RIGHT TO COUNSEL



RIGHTS OF THE ACCUSED



CONFRONTATION CLAUSE

FIFTH AMENDMENT:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

GUARANTEES:



DUE PROCESS

PROHIBITS:



DOUBLE JEOPARDY



SELF-INCRIMINATION



EMINENT DOMAIN WITHOUT JUST COMPENSATION

PROHIBITS:



SEARCHES, ARRESTS, AND SEIZURES OF PROPERTY WITHOUT WARRANT OR PROBABLE CAUSE

PROHIBITS:



GOVERNMENT USE OF PRIVATE HOMES AS QUARTERS FOR SOLDIERS

THIRD AMENDMENT:

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.



Right!

Suppose you disagreed with a new law. You could write letters to newspapers voicing your opinion. You could demonstrate. You could contact your mayor or governor. You could even write a letter to the President.

You have many ways to get your ideas heard. In fact, as long as you behaved peacefully, no one could stop you from speaking out.

Why? Because you—and everyone else in the United States—have the right of free speech.

You are very fortunate, as is everyone in the U.S. More than half the world's population lives in countries without this freedom. For us, though, free speech is only one of the many liberties we enjoy—all guaranteed by the Bill of Rights, the first ten amendments to the Constitution.... Yet, it almost didn't happen.

Bill of Rights: The Backstory

During the Constitutional Convention of 1787, the Framers focused on establishing a government free from the tyranny they experienced under British rule. They didn't bother to name the rights of individuals because they assumed those rights would be respected.

George Mason, the delegate from Virginia, was concerned. He believed that if the rights of individuals were not spelled out, they could be abused, as they had been by the British. Mason proposed a preface to the Constitution—a bill of rights.

Mason's idea was rejected. Instead of drafting a bill of rights, the delegates returned to their states to begin the process of ratifying the Constitution.

The matter of individual rights, however, became a stumbling block to ratification. Delegates from many states threatened to vote no to a Constitution that had no bill of rights. People heatedly debated the idea. Letters were written. Speeches were made. A nation hung in the balance.

Alexander Hamilton argued that since no institution had the power to take away the right to free speech, there was no need to protect it. "Why declare that things shall not be done which there is no power to do? Why, for instance, should it be said that the liberty of the press [newspapers] shall not be restrained,

when no power is given by which restrictions may be imposed?"

Thomas Jefferson wrote a letter to James Madison about the matter. "A bill of rights is what the people are entitled to against any government, and what no just government should refuse, or rest on inference."

In his first inaugural address, George Washington talked of adding amendments that showed "a reverence for the characteristic rights of freemen and a regard for public harmony."

Others from Pennsylvania, New Hampshire, Massachusetts, New York, Maryland, Virginia, North Carolina, and South Carolina agreed with Jefferson and Washington. These delegates opposed ratification unless they were assured that a bill of rights would be added once the new government was operating.

Finally, a bill of rights was promised, and the Constitution was ratified.

When the first Congress met in 1789, James Madison, "Father of the Constitution," proposed nine amendments. With much discussion and many revisions, the Bill of Rights emerged—ten amendments in all. That was December 15, 1791, well over 200 years ago. Today, the Bill of Rights remains a source of pride, debate, and discussion for citizens of the United States.

AMENDMENT I

THE ORIGINAL < Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

IN PLAIN ENGLISH < The First Amendment says that the government can't stop you from saying whatever you want, from practicing any religion you want, or from writing whatever you want in a newspaper or book. And it can't keep you from taking part in a peaceful demonstration about changing a law or government policy.

IN PRACTICE < Freedom of speech is not an absolute freedom. According to Oliver Wendell Holmes, a justice of the Supreme Court in 1919, it can be against the law to say or write something that represents a "clear and present danger." For example someone "falsely shouting fire in a theatre and causing a panic" would be against the law. You might have heard people say, "You can't shout fire in a crowded theater." They're paraphrasing Holmes's famous words.

AMENDMENT II

THE ORIGINAL < A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

IN PLAIN ENGLISH < This amendment protects the right to own a firearm.

IN PRACTICE < The Second Amendment is interpreted differently by different people. Some believe the amendment ensures that states can maintain militias, much like the National Guard, but says nothing about the rights of individuals to own guns. Others believe the amendment gives individuals the right to own guns. While people on both sides continue to hold strong views, in 2008 the Supreme Court interpreted the language to mean that the right to bear arms is an individual right.

AMENDMENT III

THE ORIGINAL < No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

IN PLAIN ENGLISH < This amendment says the government cannot force your family to let soldiers live in your home except if Congress passes a law about it during wartime.

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IN PRACTICE ◀ During the Revolutionary War, both British and American soldiers demanded that citizens give them lodging. After the war, the idea of forced lodging was extremely unpopular, which is why this amendment was included in the Bill of Rights. Since then, it's been called the “forgotten amendment” and described as obsolete. However, concerns arose after Hurricane Katrina in 2005, when members of the National Guard took over private property in Louisiana and Mississippi.

AMENDMENT IV

THE ORIGINAL ◀ The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

IN PLAIN ENGLISH ◀ This amendment prevents police and other government agents from searching you, your home, or your things unless they convince a judge beforehand that they have good reason to think you have committed a crime. In effect, the amendment bans unreasonable searches and says police must obtain a warrant from a judge ahead of time.

IN PRACTICE ◀ Requiring a warrant for physical searches and seizures is one thing, but what about the Global Positioning System (GPS)? Does the Fourth Amendment keep the police from attaching a GPS tracking device to the underside of a car without a warrant? The Framers could not have anticipated this question. How do you think they would have answered? Stay tuned for a Supreme Court decision on the matter.

AMENDMENT V

THE ORIGINAL ◀ No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment of indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

IN PLAIN ENGLISH ◀ According to the Fifth Amendment, if you are to be tried for a serious crime, a grand jury must first decide there's enough evidence against you. Plus, you cannot be tried twice for the same crime. In addition, the government cannot make you testify against yourself in a trial. You

can't be jailed, put to death, or have your property taken away without being convicted in a trial. And finally, the government cannot take your property without paying you for it.

IN PRACTICE ◀ If you've ever seen a television crime trial, you may have heard a witness "plead the fifth" instead of answering a question. The "fifth" refers to the part of the Fifth Amendment that says people can't be forced to testify against themselves. When people plead the fifth, they are saying, "My answer will cause me to look guilty of a crime," so I'm not going to answer.

AMENDMENT VI

THE ORIGINAL ◀ In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

IN PLAIN ENGLISH ◀ This amendment spells out the rights of people who have been accused of a crime: The right to be told details of the supposed crime; the right to a prompt, public trial (nothing hidden or secret); the right to an impartial, or neutral, jury; the right to challenge their accusers; the right to find people who will speak in their favor; and the right to have a lawyer.

IN PRACTICE ◀ An important part of the Sixth Amendment is the right to counsel (a lawyer). Trials are complicated events. People not trained in the law may be unable to defend themselves effectively. That's why the Framers felt it was important for them to have the right to hire a lawyer. The Framers, however, didn't say anything about who would pay for the lawyer. The question remained unanswered until 1932, when the Supreme Court said that the right existed whether someone could afford to pay or not. Today, each state has a system of public defenders whose job it is to represent people who cannot afford to hire their own lawyer.

AMENDMENT VII

THE ORIGINAL ◀ In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

IN PLAIN ENGLISH ◀ This amendment says that people accused of a crime have the right to a trial by jury.

IN PRACTICE ◀ The Seventh Amendment applies to cases that involve money damages. For example, say a person slips on an icy sidewalk in front of a home. The person may sue the homeowner for money to pay expenses, such as doctor bills. This amendment ensures that the homeowner gets a trial with a jury if he or she wants it. Without the Seventh Amendment, one person—a judge—could decide on guilt or innocence.

AMENDMENT VIII

THE ORIGINAL ◀ Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

IN PLAIN ENGLISH ◀ According to this amendment, punishment, bail, and fines must be reasonable—not cruel or unusual—even for people convicted of a crime.

IN PRACTICE ◀ When the amendment was written, punishment meant being put in stocks or having your hands cut off. It may have meant being burned or branded. By today's standards, these are cruel and unusual punishments. Many would argue that the death penalty is also cruel and unusual. What do you think?

AMENDMENT IX

THE ORIGINAL ◀ The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

IN PLAIN ENGLISH ◀ This amendment says that people have rights other than those listed in the Constitution. The government cannot interfere with those rights.

IN PRACTICE ◀ For over 150 years no one paid much attention to the Ninth Amendment. Then, in 1965, the Supreme Court said a person's right to privacy is one of the rights not listed in the Constitution. The right to privacy means that, for example, people's homes are private. The government can't control what people do, read, or watch on TV in their own home. Not everyone agrees with the Supreme Court's decision that the right to privacy is one of those rights covered in the Ninth Amendment. Controversy and debate continues.

AMENDMENT X

THE ORIGINAL < The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

IN PLAIN ENGLISH < Congress cannot do anything other than what the Constitution says it can do. All else is left up to the states or to the people.

IN PRACTICE < The Constitution says nothing about Congress having the power to make laws about job and school requirements, marriage requirements, cars and other motor vehicles, firearms, police, fire, and voting. So these powers go to the states. Many feel that the states should have even more power. The tension between those who believe in a strong federal government and those who believe in more states' rights began at the time the Constitution was written and continues today.

Television is full of crime dramas and shows about detectives, cops, and lawyers. Watch carefully, and you'll find ideas related to the Bill of Rights everywhere:

- ☛ Evidence that can't be admitted at trial because of way it was obtained
- ☛ Juries being picked
- ☛ Characters pleading "the fifth"
- ☛ Police officers and detectives obtaining warrants
- ☛ Discussions about grand jury indictments

All these actions—and more—are ways the Bill of Rights protects us from the possibility of an overstrong government. What other examples can you add to the list?