

## § 2.8

**American Jurisprudence, 2d***Legal Encyclopedia – Interactive Study*

*American Jurisprudence, 2d* is published by *Lawyers Cooperative Publishing Company* and is part of its *Total Client-Service Library*. *American Jurisprudence, 2d* is a national legal encyclopedia. Legal encyclopedias provide a little information about almost every area of law. They have two basic goals:

- To educate the researcher about a topic.
- To lead the researcher to primary authority.

*Am. Jur. 2d* (as *American Jurisprudence, 2d* is commonly abbreviated and referred to) educates the researcher by commenting upon an area of law. Within the commentary are footnote reference numbers (example: <sup>13</sup>). These references lead the researcher to the case and statute citations provided in the footnotes at the bottom of the page, thus guiding him or her to primary authority. *Am. Jur. 2d* discusses the law and may be quoted, but it is not the law. Therefore, *Am. Jur. 2d* is secondary authority.

**QUICKVIEW – AMERICAN JURISPRUDENCE, 2D****Westlaw**

1. Locate the main *Search Bar* at the top of the home page
2. Type *am jur*, click *Secondary Sources*, select *American Jurisdiction 2d* below text box
3. Enter your *search query* in the main *Search Bar* at top
4. Select an article from the list of *search results*
5. Review several articles and have relevant items delivered by printing or email

**Lexis**

1. In the *Search Query Box* at top of the home page, type: *amjur*
2. Click on the *American Jurisprudence 2d* option in the drop-box that appears below
3. Enter your client's search query in the same text box at top and select *Search*
4. Review the Results Page and review any relevant articles by clicking on the title
5. If any relevant articles are found, have them delivered by printing or email and save

**Law Library**

1. Locate the set of *indexes* at the end of the set and research key terms
2. The index leads to the *main volume* using topics and section numbers
3. Look for footnote references in the main volume that will lead to *relevant authority*
4. Always check the *pocket part (supplement)*
5. When applicable, utilize the *Volume Index* or the *New Topic Service*

**ASSIGNMENT § 2.8(a) | AMERICAN JURISPRUDENCE 2D USING WESTLAW**

At the time of this publication, both *Lexis* and *Westlaw* provide online access to *American Jurisprudence, 2d*.

**1. Login to Westlaw and Select a Filter**

- i. In the main search bar at the top, type *am jur*
- ii. When the box makes recommendations underneath the search box, select *American Jurisprudence 2d*. (Reminder: Be sure to click the suggestion. If you simply type in "American Jurisprudence 2d" Westlaw will search in Federal databases for those words and not Am. Jur. 2d, the publication.) You will now be taken to the *Am. Jur. 2d* index page. (Notice that your search filter has been updated to *American Jurisprudence 2d*.)

**2. Search within the desired filter**

- i. Again, using the top search bar, type in a search query relevant to your client's case
- ii. Westlaw will now search for those terms using the *American Jurisprudence 2d* filter (database)

**3. Review the Results Page**

The page that appears is the *Results Page*. Keep in mind that at this point the researcher is first and foremost trying to determine whether the search was productive, resulting in relevant articles or other authority. If not, tweak your search query in the main *Search Bar* at the top of the page.

The *Results Page* has three main elements:

- **The Main Window** (in the center of the page)  
This is where the "hits" appear from your search
- **The Filters Window** (on the far left)  
You can further focus your search results by selecting specific narrowing filters (although this will likely not apply when researching secondary authority since you have already narrowed your filters)

THOMSON REUTERS  
WESTLAW EDGE

American Jurisprudence... "day care center" liability injured child

ICD History Folders Favorites Notifications Sign out

Search Tips > Advanced >

Filters

Content type: American Jurisprudence 2d (2,704)

Select multiple filters

Restore previous Clear

Search within results

Jurisdiction +

Date +

Publication Type +

Publication Name +

Author +

Previously Viewed +

Documents in Folders +

Annotated Documents +

Back to American Jurisprudence 2d

American Jurisprudence 2d (2,704)

1 - 100 > Sort: Relevance

Select all items No items selected

1. **§ 257. Pecuniary-benefit test**  
American Jurisprudence, Second Edition • AMJUR MUNCSCH § 257

In jurisdictions that recognize the immunity of governmental entities from **liability** for **injuries** or damage resulting from the exercise of governmental functions, but not from the exercise of proprietary functions, a primary test of the nature of the function is whether the governmental entity is engaged in an activity or enterprise of a commercial...

...[2] An allegation, in a complaint on behalf of a **child injured** while in a city-owned and -operated preschool and **day care center**, that the **child** attended the school for a "fee paid" carried with it the implication of a pecuniary benefit and sufficiently alleged a proprietary function to withstand a motion to dismiss for failure to state a claim based on the doctrine of sovereign immunity.[...]

...In jurisdictions that recognize the immunity of governmental entities from **liability** for **injuries** or damage resulting from the exercise of governmental functions, but not from the exercise of proprietary functions, a primary test of the nature of the function is whether the governmental entity is engaged in an activity or enterprise of a commercial character as for profit or pecuniary benefit.[...]

2. **§ 181. Inspection or examination for license, permit, or regulation—Nature, source, or conditions of duty**  
American Jurisprudence, Second Edition • AMJUR MUNCSCH § 181

A rule of nonliability for negligent inspection or examination by a governmental body may be predicated on the absence of a duty owed the particular plaintiff, beyond the duty owed the public generally, under the general-duty/special-duty dichotomy recognized in some jurisdictions. On the other hand, **liability** may be imposed where a special duty is...

Each "hit" in the main window consists of the title (which is also a link to that "hit"), followed by a short section of the "hit," with terms from your search query highlighted.

By quickly browsing any given portion of the document, along with the highlighted terms, the researcher may quickly determine whether that "hit" is worth reviewing in further detail.

Notice that in the **Narrow** window at left you have other options.

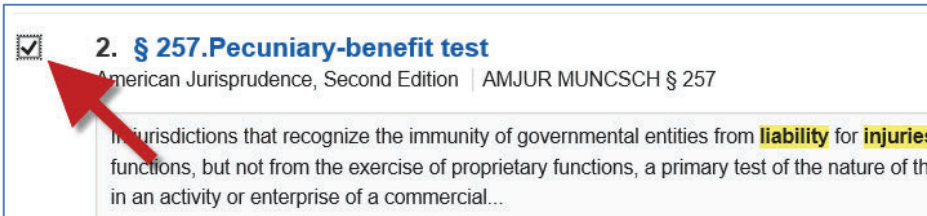
First, you are able to *Search within results*, which means you can conduct another search for more specific terms, this time limiting the search to the documents you have already found.

You can also further filter the results by checking one or more boxes next to the filters listed. Give it a try a couple of times to see how it works.

#### 4. *Select relevant articles from the Results page*

The researcher can either:

- Open each "hit" and review the article more thoroughly online,  
or
- After reviewing the portion of the article provided, simply click the check box to the left of each relevant title and have those articles delivered via email, download, or other means.



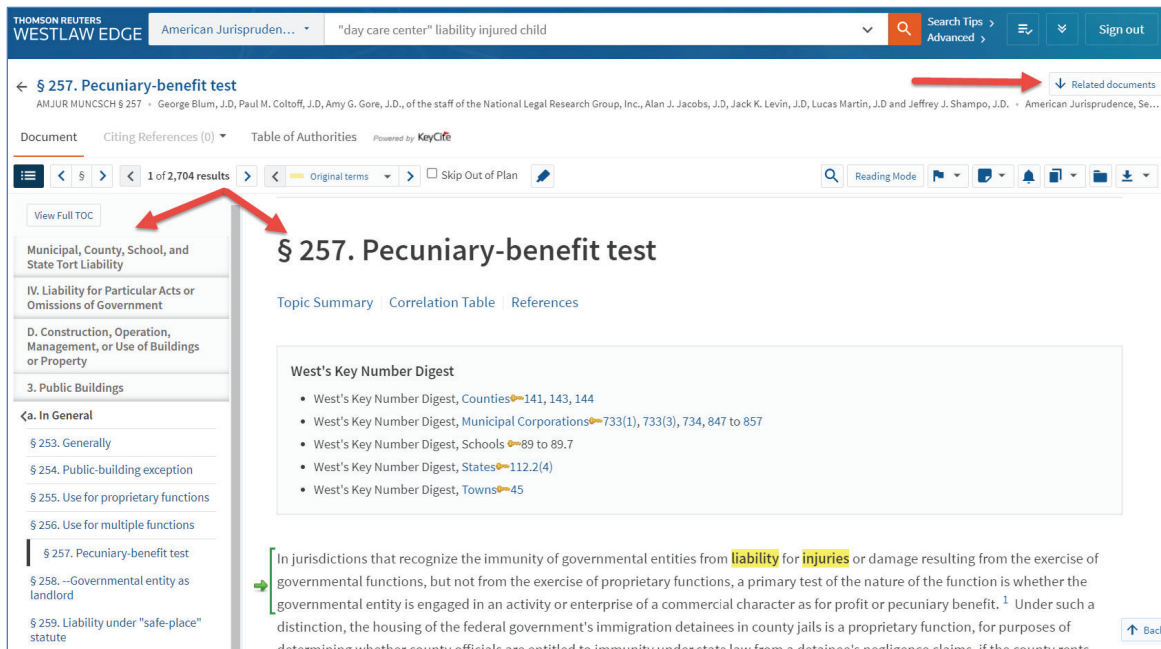
The second option is strongly recommended. As a student you are not paying for the time you spend in the site, but in a law firm every minute costs money, eating up the firm's allotted minutes allowed for in its *Westlaw* subscription. To read each article online is expensive and wasteful.

It is thus recommended that you quickly scan the articles, checking off the ones that appear most promising.

5. *Review the Articles*

The article page can be confusing at first glance. However, there are three primary navigation aids that, once recognized, make the page less intimidating. The main goals in using *Am. Jur. 2d* are to educate the researcher regarding a specific area of law and to locate primary authority. These navigation tools assist in those efforts:

- *The Article Window (Main window)*
- *Filters Window (Left side of the screen)*
- *Related Documents Button (Top right of the screen)*



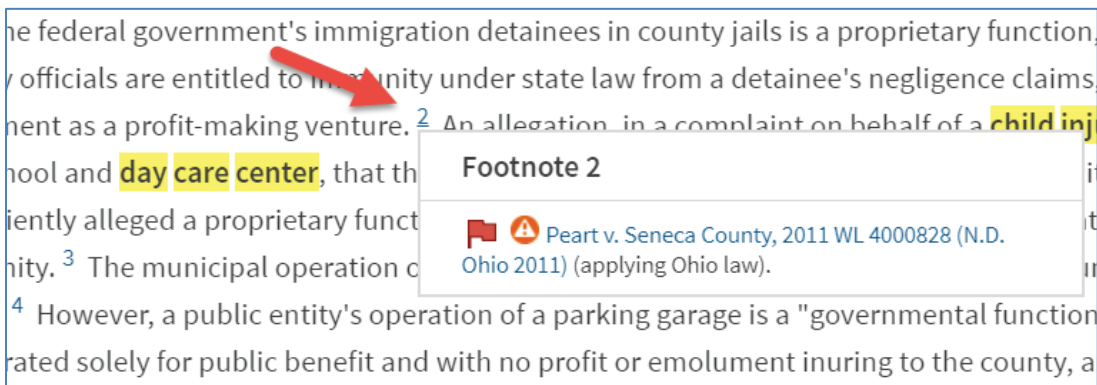
- *The Article Window*

The Article Window provides the documents that contain the most likely relevant “hits” from the search query. As mentioned previously, the title is also a link to the full article, and it is followed by a brief excerpt from the article, with search terms highlighted, so the researcher may quickly ascertain whether that article is worth reviewing in full. If so, click the check box. Later, you may choose to have all checked articles delivered via email or download.

The Article window also provides links to footnotes which lead to additional authority.



- *Links to Footnotes*

Within the article you will see references to footnotes. If you hover over the footnote link, the footnote will appear over the text. Or, if you click on a footnote reference number, you will be taken to the actual footnote at the bottom of that page.



he federal government's immigration detainees in county jails is a proprietary function. Officials are entitled to immunity under state law from a detainee's negligence claims. The court found that the county's operation of a day care center as a profit-making venture. <sup>2</sup> An allegation in a complaint on behalf of a child injured at a school and day care center, that the county operated the center as a profit-making venture. <sup>3</sup> The municipal operation of a parking garage is a "governmental function" if it is performed by a public entity. <sup>4</sup> However, a public entity's operation of a parking garage is a "governmental function" if it is performed solely for public benefit and with no profit or emolument inuring to the county, a

**Footnote 2**

  Peart v. Seneca County, 2011 WL 4000828 (N.D. Ohio 2011) (applying Ohio law).

- *Filters Window (Left column)*

The left column, or window, will always feature tools to help focus your research within the main window. If you are looking at the results page with many articles listed, you can narrow (focus) your research to specific jurisdictions, courts, states, regions, and more. The Filters Window of a specific document might be something like the *Table of Contents* for that publication or for that article.

- *Related Documents Button (Top right of the screen or scroll down to bottom of Article)*

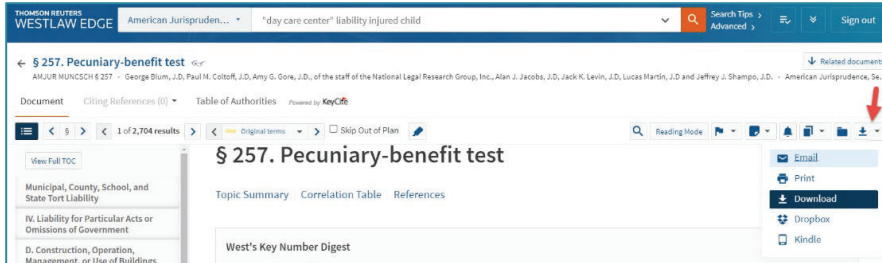
Click to view relevant *Selected Topics, Secondary Sources, Briefs, and Trial Court Documents*.


### **No More Supplements**

It should be noted that in *Westlaw* the supplement that would normally appear at the bottom of the page is gone. The reason is that *Westlaw* has chosen to make things cleaner by simply replacing, augmenting, or modifying the original text in the article instead of supplementing it. This, indeed, makes your job much easier because you can be assured that the document you are viewing is the most up to date version of that article, and it is no longer necessary to always “check the supplement.”

**Delivery of Relevant Documents: The Delivery Icon**

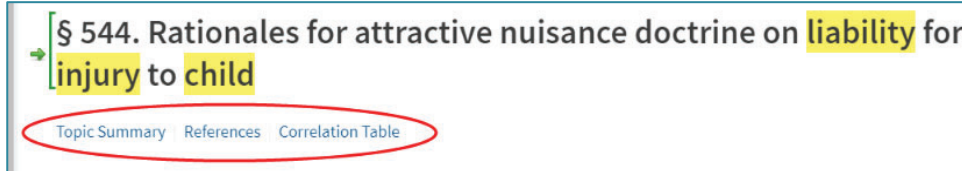
For this exercise you are simply getting used to the layout of the website. When you conduct actual research, you should either copy the citations of articles and primary authority (referred to within those articles), or you should check them for “delivery.”



The Delivery Icon is a down arrow  on the top right tool bar. When you click it a drop-down menu will appear with several options for delivery of your documents. (In a real job it costs money no matter what form of delivery is used. Practice being frugal about deliveries.)

**ADDITIONAL SECTION TOOLS**

Westlaw includes additional tools immediately below the section title. These tools include:



*Topic Summary*

A description of the scope of the overall topic. For instance, **§ 544** in the image above is a part of the topic of **Negligence**. Thus, when referring to this article, the researcher would say, “Negligence § 544 in Am. Jur. 2d.” The summary fully describes the scope of that topic.

*References*

Citations to additional articles, comments, or annotations in other publications specifically related to the same topic.

**Research References**

**A.L.R. Library**

- A.L.R. Index, Comparative Negligence
- A.L.R. Index, Guests, Invitees, or Licensees
- A.L.R. Index, Premises Liability
- West’s A.L.R. Digest, Negligence →510(4), 510(5), 570, 1010, 1012, 1016 to 1019, 1021, 1022 to 1024, 1024.6, 1024.7, 1031 to 1037, 1040, 1041, 1045, 1050, 1052, 1060, 1066, 1067, 1076, 1076 to 1078, 1086 to 1197, 1151, 1152, 1162, 1172 to 1178, 1194, 1204(1), 1204(5), 1204(8), 1315

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*Correlation Table*

In 2020, West Publishing published a new edition of C.J.S. As a result, section numbers in the new edition may have changed as material was moved around within the topic. The *Correlation Table* enables the user to translate references found in the prior edition (2010) into references for this edition (2020).

Correlation Table	
Negligence	
2010	2020
1	§1
2	§703
2	§704
3	§2

**CHECKLIST – AMERICAN JURISPRUDENCE, 2D ON WESTLAW**

- Locate the *Search Bar* at the top of the page
- Enter *am jur*, click *Secondary Sources*, select *American Jurisprudence, 2d* from the recommendations
- In the *Search Bar* at the top of the *American Jurisprudence, 2d* page, type your search query
- In the *Results Page*, modify the query, or search within the results as needed
- Within the *Article Page*, try using the footnote references, and the footnotes themselves, to find primary authority
- Read an article that appears relevant
- Be sure to copy citations to, or deliver, relevant primary authority

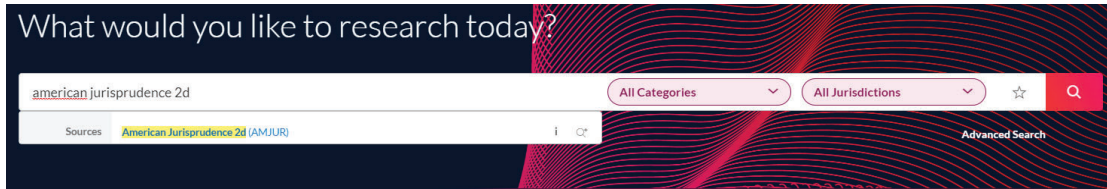
**REVIEW QUESTIONS – AMERICAN JURISPRUDENCE, 2D ON WESTLAW**

1. Detail how you located the *American Jurisprudence 2d* filter.
2. What search query did you use?
3. When you saw the *Results Page*, were you satisfied with the outcome of your search query, or did you need to modify it?
4. Were you led to any relevant primary authority either in the *Article* or in the *Footnotes*? If yes, make note of those authorities.
5. Did you have a document *delivered*? If so, in what manner? (Print? Email? Download?)

**ASSIGNMENT § 2.8(b) | AMERICAN JURISPRUDENCE 2D USING LEXIS**

Do not be surprised at the similarities between *Westlaw* and *Lexis*. It is a part of the evolution of online services that great ideas by one site are soon mimicked by the other. Following is a guide to *Am. Jur. 2d* on *Lexis*.

1. *Login to Lexis and Select a Filter*



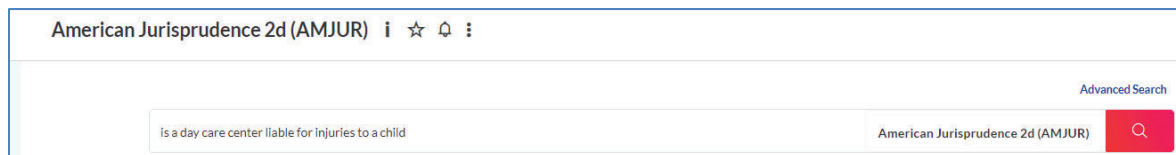
If you know the name of a book in which you want to research, or the state in which you want to locate authority, simply start typing the name of the publication, state, or court. In this case, type in the words *American Jurisprudence*. You will be provided with options below the text box. From those options, select American Jurisprudence, 2d. Do NOT click the search button at this point. The search button is for search queries, and we are setting the database first.

2. *Enter Your Search Query*

After being taken to the Am. Jur. database page, use the *Search Query Text Box* to type your query. Such as:

“day care center” liability injured child  
 or  
 is a day care center liable for injuries to a child

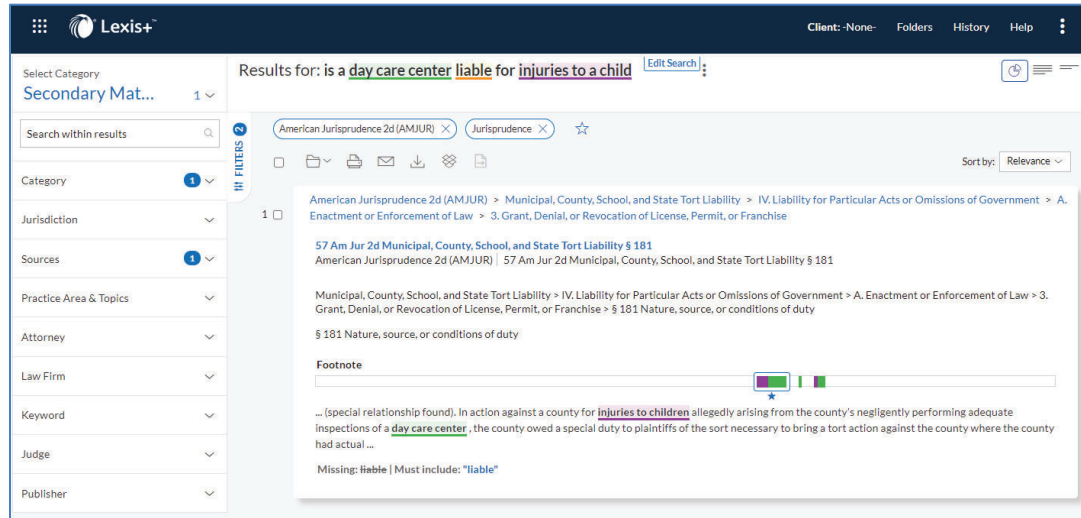
(Make sure to use a query relevant to your client’s case.) Notice that the drop-down menu at the right of the text box now shows how many filters have been selected. After typing your search query, click **Search**.





### 3. *Select relevant articles from the Results Page*

The *Results Page* provides summaries of articles that matched terms from your search query. As you survey the summaries, you can click on the titles of the documents that appear to be relevant to review the articles in their entirety.



#### The “Narrows” Window (Left column)

Notice that the left side of the page includes a section called *Narrow By*. This is similar to the *Westlaw* Narrow tool. It allows the researcher to do the following:

- *Search Within Results*  
If the researcher is satisfied with the results, but would like to focus the search more specifically, type a new word or phrase in the *Search Within Result* box on the left. For example, in the above result, perhaps the researcher would like to see if the term “common-law marriage” appeared in any of the 100 resulting articles. Just type the desired term or phrase in the text box to further focus the search.
- *Jurisdiction*  
This drop down tool within the window will help to show the jurisdictions cited or covered in the document being viewed. It is a very efficient way to determine whether there are authorities cited from your jurisdiction. Always a priority.

Notice that all of your active filters are listed at the top of the *Narrow By* window. A researcher can quickly remove individual filters by clicking on the X to the right of each filter listed.

#### 4. Review the articles

Each article from *Am Jur. 2d* is intended to inform, or educate, the researcher as to the subject matter. Each concept is based upon authority, usually primary.

The following features are provided in *Lexis* in its main window of *Am. Jur. 2d* articles:

- *The Article*
- *Footnotes*
- *References*
- *Document Delivery Options*

The screenshot shows a Lexis article page. At the top, the title is "57 Am Jur 2d Municipal, County, School, and State Tort Liability § 181". Below the title is a "Copy Citation" button. The breadcrumb trail reads: "American Jurisprudence 2d (AMJUR) > Municipal, County, School, and State Tort Liability > IV. Liability for Particular Acts or Omissions of Government > A. Enactment or Enforcement of Law > 3. Grant, Denial, or Revocation of License, Permit, or Franchise". The "Author" section lists: "George Blum, J.D., Paul M. Coltoff, J.D., Amy G. Gore, J.D., of the staff of the National Legal Research Group, Inc., Alan J. Jacobs, J.D., Jack K. Levin, J.D., Lucas Martin, J.D. and Jeffrey J. Shampo, J.D.". The "§ 181 Nature, source, or conditions of duty" section contains the text: "A rule of nonliability for negligent inspection or examination by a governmental body <sup>1</sup> may be predicated on the absence of a duty owed the particular plaintiff, beyond the duty owed the public generally, <sup>2</sup> under the general-duty/special-duty dichotomy recognized in some jurisdictions. <sup>3</sup> On the other hand, liability may be imposed where a special duty is owed to the plaintiff. <sup>4</sup> Neither a State nor county owes any individual a duty of care merely by the enactment of a general ordinance requiring safety inspections or by the fact that the State or county undertakes such inspections for safety violations. <sup>5</sup>"

- *The Article*  
Articles in encyclopedias are fairly broad, intending to provide a general understanding of the current legal thinking as to the subject matter involved. After each important concept presented (usually every sentence or partial sentence), a raised (superior) number is provided in the form of a link. The link leads to footnote references further down the page.
- *Footnotes*  
The footnotes in *Am. Jur. 2d*, whether online or in the books, lead the researcher to authority, usually law (primary authority). In *Lexis*, the citations in the footnotes are links that open the authority in a new window. If any of these authorities appear to be relevant to your project, take note of them, or have the document delivered (*see below*).

- *Reference*

In the early 2000's, *Am. Jur.* was purchased by *West Publishing* (part of *Thomson Reuters* at the time of this publication). *West* has incorporated its own research system into *Am. Jur. 2d*. Even though it is a competitor of *West*, *Lexis* provides the *Am. Jur. 2d* references to that research system, the *Key Number System*, along with other materials that may be of help to the researcher. (The *Key Number System* will be covered later in this textbook.)

- *Document Delivery Options*

The document currently on the screen can be delivered in multiple methods. It can be printed, emailed, downloaded, or faxed. Keep in mind that delivery of the document in any form may cost money (but not with your student subscription) depending on the law firm's subscription plan. Develop good habits now by only downloading necessary documents.

The screenshot displays the Lexis+ web interface. At the top, the Lexis+ logo is on the left, and navigation links like 'Run New Search', 'Client: -None-', 'Folders', 'History', and 'Help' are on the right. The main header shows the document title '57 Am Jur 2d Municipal, County, School, and State Tort Liability § 181'. Below this, there are navigation controls including 'Back to Results', 'All Terms 17', '1 of 17', and a search box. A yellow arrow points to a toolbar with icons for print, email, download, and share. The main content area features the document title in large text, a 'Copy Citation' button, and a breadcrumb trail: 'American Jurisprudence 2d (AMJUR) > Municipal, County, School, and State Tort Liability > IV. Liability for Particular Acts or Omissions of Government > A. Enactment or Enforcement of Law > 3. Grant, Denial, or Revocation of License, Permit, or Franchise'. On the right, a sidebar contains 'Info' and 'Notes' buttons, and 'Source Information' for 'American Jurisprudence 2d (AMJUR)'.

**CHECKLIST** | AMERICAN JURISPRUDENCE, 2D ON *LEXIS*

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- Type “American Jurisprudence” in the *Search Query Box* at the top of the page
- Select American Jurisprudence 2d when it comes up as an option below the text box
- Enter your search query in the *Search Query Box*
- In the *Results* page, modify the query, or search within the results, as needed
- Within the *Results Page*, review several of the article previews provided
- Read any *article* that appears relevant
- Click on relevant *Footnote Links* (FN) to obtain primary authority
- Be sure to copy cites to, or download, relevant primary authority

**REVIEW QUESTIONS** | AMERICAN JURISPRUDENCE, 2D ON *LEXIS*

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1. Detail how you located the *American Jurisprudence 2d* database.
2. What search query did you use?
3. When you saw the *Results Page*, were you satisfied with the outcome of your search query, or did you need to modify it?
4. Did the section of the *Article* you researched have a *Reference* section? If so, did it lead you to any other authority?
5. Were you led to any relevant primary authority either in the *Article* or in the *Footnotes*? If yes, make note of those authorities.
6. Did you have a document *delivered*? If so, in what manner? (Print? Email? Download?)

**ASSIGNMENT § 2.8(c) | AMERICAN JURISPRUDENCE 2D IN THE LAW LIBRARY (OPTIONAL)**

When researching in the library, the general rule is to *always begin in the index*. This holds true for *American Jurisprudence, 2d*.

1. **Locate the General Index and Research Key Terms**

The *Am. Jur. 2d General Index*, usually found at the end of the main volumes, is excellent. It is a multi-volume, softbound index. Since legal encyclopedias are arranged topically, the index will lead us not to a volume and page number, but to a topic and section number. (For instance, *Depo § 273* in the General Index would tell the researcher to find the main *Am. Jur. 2d* volume covering the topic of *Depositions* and turn to *Section 273*). If the researcher does not understand a specific abbreviation, he or she should look at the beginning of a main volume of *Am. Jur. 2d* for an abbreviation table. Many law books, including *Am. Jur. 2d*, have such tables.

The researcher should also observe whether there is a small volume *General Index Update*. This is how the *General Index* is supplemented with more recent information, since softbound volumes usually don't have pocket parts. This update usually comes out midyear. The softbound indexes themselves are typically replaced annually.

**HUSBAND AND WIFE—continued**  
 Prior marriage—continued  
     void or voidable prior marriage, **Marriage § 56**  
 Prior relationship of parties by marriage,  
     **Marriage § 52**  
**Prisons and Prisoners** (this index)  
 Privileges. **Husband-Wife Privilege** (this index)  
 Proceeds of property  
     separate property, **Husband § 16**  
     tenancy by entirety, **Husband § 27**

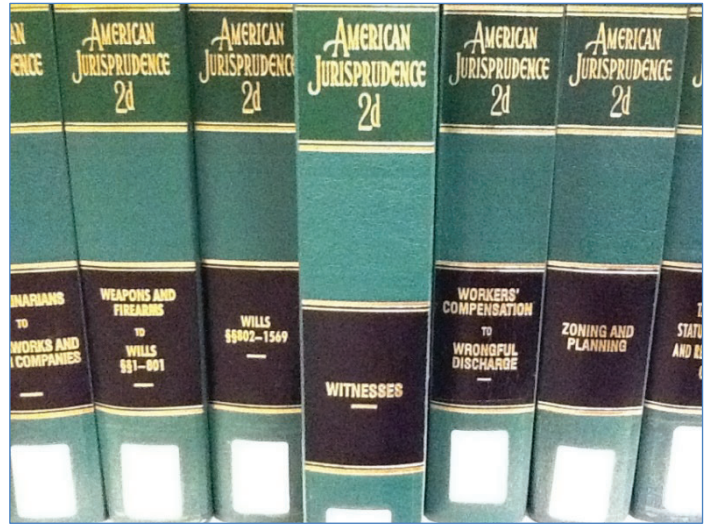
**ASSIGNMENT QUESTIONS – PART 1**

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1. How many volumes make up the *Am. Jur. 2d* General Index?
2. Is your research topic covered in the index?
3. The *Am. Jur. 2d* index leads to which of the following?
  - a. volume number, series, page number
  - b. a topic and section number
  - c. a topic and key number
4. Does the index have a supplement?
5. If yes, where is it?
6. Is your topic covered in the supplement?
7. List any cites to the *Am. Jur. 2d* main volumes the index provides.

2. *Locate the Relevant Main Volume and Look for Footnote References*  
After obtaining a topic and section number from the General Index, the researcher must find the main volume covering the topic.

Then the specific section number is found. After the section number, *Am. Jur. 2d* will provide a bold-faced short statement of the subject matter for that section number, followed by commentary of the subject matter.



If a passage in the commentary is relevant, the researcher can refer to the footnote that corresponds to the raised number (footnote reference) in the commentary

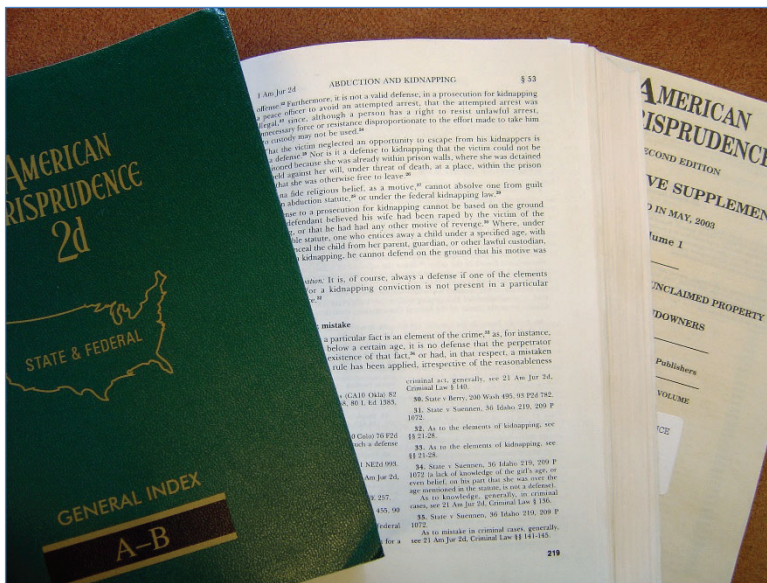
### ASSIGNMENT QUESTIONS – PART 2

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1. What is the subject matter under your topic and section number? (There should be a short, bold-face statement.)
2. Does the discussion provide any footnote references?
3. What kind of research assistance do the footnotes provide?
4. Provide at least one case or statute from the footnotes.

### 3. Check the Supplement in the Back of the Volume

Each volume of *Am. Jur. 2d* is updated annually with a supplement in the back, often called a *pocket part*. Supplements update the material within the hardbound volume. The purpose of *Am. Jur. 2d* is to lead the researcher to primary authority, such as a case or statute. However, before locating the primary authority cited in *Am. Jur. 2d*, we must make sure that the material is up to date. In the pocket part, the researcher should locate the same topic and section number that he or she researched in the main volume. Thus, if *Witnesses* §§ 52, 67, and 127 were researched in the main volume, *Witnesses* §§ 52, 67, and 127 should also be researched in the pocket part. If a pocket part becomes too thick, the publisher may update volumes by using a separate softbound supplement.



Index, Main Volume, and Supplement in *Am. Jur. 2d*

## ASSIGNMENT QUESTIONS – PART 3

- How does *Am. Jur. 2d* update material in the main volume?
- Where does the researcher look in the supplement?
  - under the Table of Contents
  - corresponding topic and section numbers
  - only corresponding section numbers
- Was there additional material for your research topic in the supplement? If yes, what kind of material?



4. *When applicable or necessary, utilize these additional features*

*New Topic Service -*

As new legal topics arise within the justice system (such as *Computers and the Internet*), it is not practical to withdraw all existing encyclopedias to insert the recently identified subject matter. Thus, when a new topic is created by the publisher for inclusion in any new encyclopedias ordered, the existing sets already on shelves are supplied with a post-binder volume called the *New Topic Service*.

*Title or Volume Index –*

In addition to the *General Index*, each individual volume contains an index for that volume. It is called the *Title Index*, often referred to as the *Volume Index*. However, it only leads the researcher to material within that single volume.

**CHECKLIST | RESEARCHING AM. JUR. 2D IN THE LAW LIBRARY**

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- Locate the *General Index* at the end of the *Main Volumes*
- Research your terms within the *General Index*
- Write down references to *Topic and Section Numbers* (you need both)
- Find the *Main Volume* corresponding with the *Topic & Section Number*
- Find the *Topic* within that volume
- Find the *Section Number* within that topic
- Read the *article*
- Take note of any relevant *Footnotes* leading to relevant primary authority
- Write down the cites to any relevant authority found in the Footnotes
- Look up that authority
- If needed, check the *Volume Index* for additional references within that volume
- If the research topic is a new area of law, check the *New Topic Service*