

# 2

## HOW POLICY IS CREATED AND INFLUENCED

### LEARNING OBJECTIVES

- 2.1: Describe the three fundamental founding documents of the U.S. government and their meaning for the U.S. policy process
- 2.2: Explain how the structure of the U.S. government affects the policy process
- 2.3: Recall the political parties and their role in U.S. political decision making
- 2.4: Identify ways that social workers participate in the process and practice of policy

The social work profession encompasses many types of practice and practice arenas and is particularly well situated to different forms of policy advocacy and analysis. This chapter provides needed background for social work students who are learning how to connect social work careers at different levels and in various fields with social policy and advocacy. This chapter builds on a basic knowledge of U.S. state and federal government. It focuses on the interplay between federal and state systems and branches of government while explaining how and where policy is created, implemented, and challenged. Important features of the U.S. political landscape such as the history and current state of the major parties are here, with attention to the ways these have influenced substantive policies and the policy-making process. It discusses political ideologies and their connection to social work. Finally, the chapter examines how these structures and ideologies provide constraints and opportunities to intervene in the policy process and how social workers can draw on their skills and expertise to participate in these interventions.

### Vignette: School Budget Advocacy

Based on what you know from the media or your personal, work, or volunteer experiences, think about the following questions as you read the vignette. When you finish the vignette, answer the questions below.

1. What types of social work skills did Alyx and colleagues use throughout this process?
2. What levels of governments are involved in the changes they are trying to make?
3. What knowledge about the political process did Alyx and the others need to be successful?
4. What options do Alyx and their colleagues have at the end of the process?
5. What role might race, class, gender, and other aspects of identity play in this vignette?

Alyx is a school social worker in a middle school. They have been working hard throughout the past few years to find funding for programs that will help their students, many of whom come from low-income households, to pay for the necessities they need so they can be successful in school. In February, Alyx and the other social workers in the school district developed a proposal for a before-school program that would combine free breakfast and homework help. They believed that this program would have a number of benefits. It would ensure students were fed before they started the school day, which research suggests will make them more successful throughout the day. It would help students understand the concepts in their homework better, which will be good for them as individuals. This program could also be helpful to the school if students improve their standardized test scores, which are important in how outsiders measure the school's success. Based on advice from a current school board member, who is a social worker, Alyx and their colleagues presented this plan to the school board, including the research that backs up the methods chosen and their projected outcomes. They also provided a detailed budget. In addition to Alyx and the other social workers, several teachers, students, and parents came to the school board meeting to testify in support.

The school board approved the program and agreed to include it in the school board's proposed budget for the following year. The proposed budget then had to go to a **referendum**, meaning every eligible voter in the school district had the opportunity to vote yes or no on the budget. Alyx, the other social workers, teachers, students, and parents

**Referendum:** A general vote by the electorate on a single question, such as a budget or a ballot question

worked for a month to share information with the voters in the community to encourage them to support the budget.

On Election Day, only 350 people out of 5,500 eligible voters voted on the referendum. The budget was defeated by a margin of 150 to 200, meaning that if 25 people had changed their votes, or an additional 51 people had come to vote, the outcome could have been different. The town laws say that if the budget fails, the current year's budget will continue to be used, meaning that no additional funding will be available.

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## THE POLICY PROCESS

As you can see from the above vignette, social workers find that their work is affected by policy in a number of different ways and they need to be prepared to interact with the policy process to make sure their **clients** are being heard and helped. We follow the definition of *client* set out in the National Association of Social Workers (NASW) Code of Ethics: “Clients is used inclusively to refer to individuals, families, groups, organizations, and communities” (2017, Preamble). In this section, we provide an overview of the U.S. policy process. This might be a review for you, or this might be new information. If this is a review, please consider how each piece of information fits into your understanding of the social work profession as you read and what questions this new perspective brings to the information.

**Clients:** As defined by the NASW Code of Ethics: “Clients is used inclusively to refer to individuals, families, groups, organizations, and communities.”

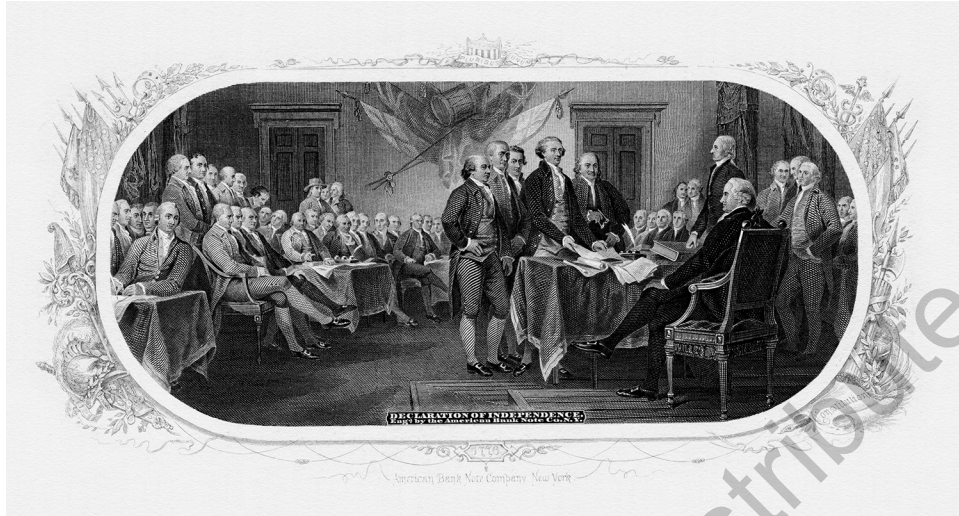
### Historical Concepts

The three fundamental founding documents of the U.S. government are the Declaration of Independence, the Constitution, and the Bill of Rights. You can see these original handwritten documents (with transcriptions) in person at the National Archives in Washington, DC, or at <https://www.archives.gov/founding-docs>. What do these three documents actually mean for the U.S. policy process? Although we are sure you have studied these documents before, think about their context and contents again today, with the present political system in mind.

#### The Declaration of Independence

The Declaration of Independence was written by Thomas Jefferson, with feedback from Benjamin Franklin and John Adams (National Archives, 2017c). Photo 2.1 shows a dramatization of the signing of this key document. It was amended and passed by the Continental Congress on July 4, 1776. This Declaration outlined the colonists' grievances with Great Britain, their efforts to address these grievances, and, those efforts having failed, their desire to dissolve their political relationship with Great Britain. The Declaration states, “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.” As the character of Angelica Schuyler will note 200 years later in the musical *Hamilton*, women are clearly missing from this declaration (Miranda, 2015). The rights of those who are enslaved are also absent. Importantly, this was a declaration of beliefs that was never intended to have legal authority, so it has never had the force of law (National Archives, 2017c).

Frederick Girsch at the American Bank Note Company, for the Bureau of Engraving and Printing



**PHOTO 2.1** Engraving by Frederick Girsch showing John Trumbull's painting of the signing of the Declaration of Independence (c. 1818)

## The Constitution

The Constitution replaced the Articles of Confederation, which provided limited powers to the first united government of the colonies but did not create a strong central government. For example, the Articles did not allow the federal government to enforce any rules, tax, regulate commerce, or print money. A Constitutional Convention gathered during the summer of 1787, and rather than tweak the existing Articles of Confederation, the group decided to create a new Constitution (National Archives, 2017b). This was controversial—in fact, after the new Constitution was completed, Congress spent 2 days debating whether the delegates to the Convention had so far exceeded their authority that they should be **censured** or given a formal statement of disapproval (National Archives, 2017d). The document reflected a compromise, with a strong central government but restriction of powers not otherwise specified to states, and three branches of government that checked each other to keep any one branch from gaining too much power (National Archives, 2017b).

The most significant compromise is that in the Constitution, a document designed to outline and protect independence and rights of the people in our new nation, the rights of some people to enslave others based on race were firmly protected. Although the word *slave* or *slavery* does not appear in the Constitution, its footprint can be seen in three places. Article 1, Section 2, describes how we will count populations for the purposes of representation and taxes. It says,

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.

“All other persons” here refers to enslaved people; Native Americans were completely excluded.

In Article 1, Section 9, in a section that specifically forbids the federal government from a number of acts, the Constitution again refers obliquely to slaves:

**Censure:** Give a formal statement of disapproval by a governing body

The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

Based on this section, in 1808, the slave trade was outlawed (Brady, 1972). Slavery, however, remained completely legal until the passage of the 13th Amendment in 1865, which continued to allow slavery or involuntary servitude for those who had been convicted of a crime.

Finally, in Article 4, Section 2, the Constitution states that

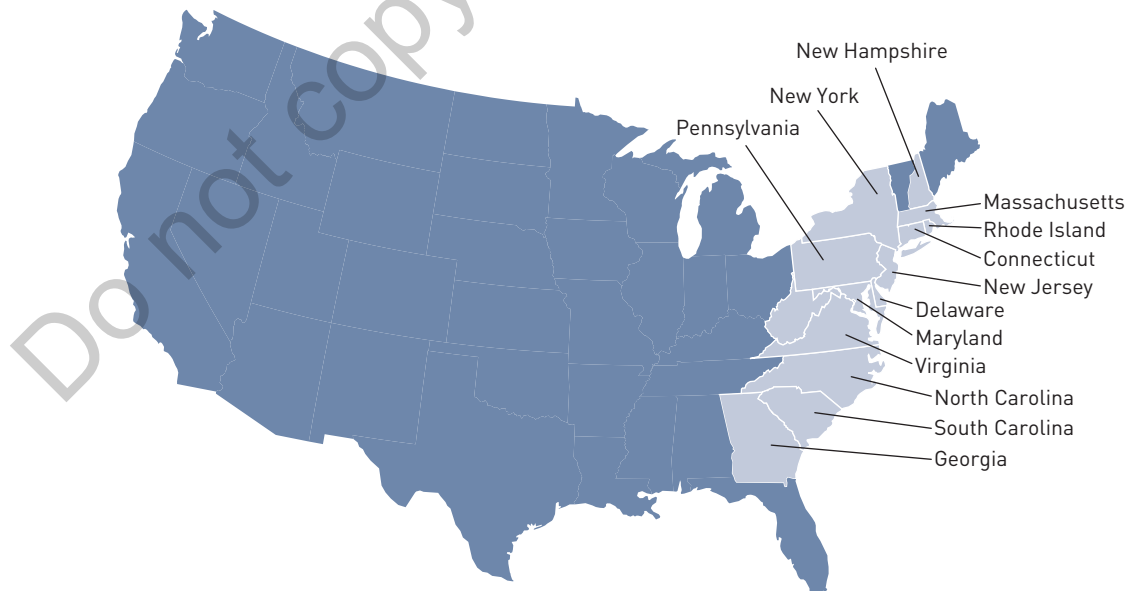
No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

This clause was designed to prevent enslaved people from fleeing to another state.

The new Constitution was first approved by the members of the Constitutional Convention, and then by the legislatures in the thirteen colonies, shown in Figure 2.1. After a public relations campaign including *The Federalist Papers*, the Constitution was ratified and became law, creating the foundation of the United States as we know it today (National Archives, 2017b).

The Constitution has been amended 17 times, and both the original document and amendments have been interpreted in a variety of ways by the executive, legislative, and judicial branches. The following sections describe the amendments. Next, we look at the three branches of government and see how they have interpreted the Constitution and amendments.

**FIGURE 2.1** ■ Map of Original Thirteen Colonies



## The Bill of Rights

The Constitution was seen by some as vague, providing opportunity for individual rights to be trampled. In the words of Patrick Henry (1788) during the ratifying convention in Virginia, “There will be no checks, no real balances, in this Government: What can avail your specious imaginary balances, your rope-dancing, chain-rattling, ridiculous ideal checks and contrivances?” A Bill of Rights had been hardly discussed at the Convention, because it was assumed that state constitutions would protect the **fundamental rights** of individuals.

To address these concerns, the Bill of Rights was developed, shown in Figure 2.2. Primarily written by James Madison, it was ratified by 1791 (National Archives, 2017a). This Bill of Rights, the first ten amendments to the U.S. Constitution, lays out many rights that are still discussed in public debates today. The most significant sources of controversy are Article 1, which protects freedom of speech, the right to assembly, and freedom of religion, among other rights; Article 2, which protects the right to bear arms and is the center of debates about gun laws today; Article 4, which limits unlawful search and seizures; Articles 5 and 7, which provide the right for individuals to be judged by a jury of their peers or equals; Article 6, which allows for a speedy trial; Article 8, which limits excessive bail; and Article 10, which states that all rights not specifically given to the federal government belong to the states.

**Fundamental rights:** This is a term that is based on the Constitution and relates to basic rights. Many are included in the Bill of Rights. These rights include freedom of speech, the right not to be incarcerated without a fair hearing, freedom of travel, the right to raise one’s children, the right to own property, and the right of privacy.

## Constitutional Amendments

In addition to the 10 amendments in the Bill of Rights, the Constitution has been amended an additional 17 times, for a total of 27 amendments. The most recent amendment, the 27th, ratified in 1992, says that members of Congress who vote to increase their pay cannot see that pay raise until after the next election. Many proposed amendments have failed to be ratified by enough states to become law, such as the Equal Rights Amendment and an amendment to give full voting rights to residents of the District of Columbia (Elving, 2018).

## Current Structure of U.S. Government

To understand the policy decisions that affect you as a social worker or make an impact on the policy process, you must first understand the structure of government. Policy decisions that affect social workers and the communities and clients we serve happen at the local, state, and federal level and through the legislative, executive, or judiciary branch.

### Branches of U.S. Government

We start with a quick review of the ways the three branches of government are laid out at the federal level and then discuss the division of powers among the different levels of government. While most state governments are structured very similarly, keep in mind that state governments can be structured however the state chooses, so there may be some differences.

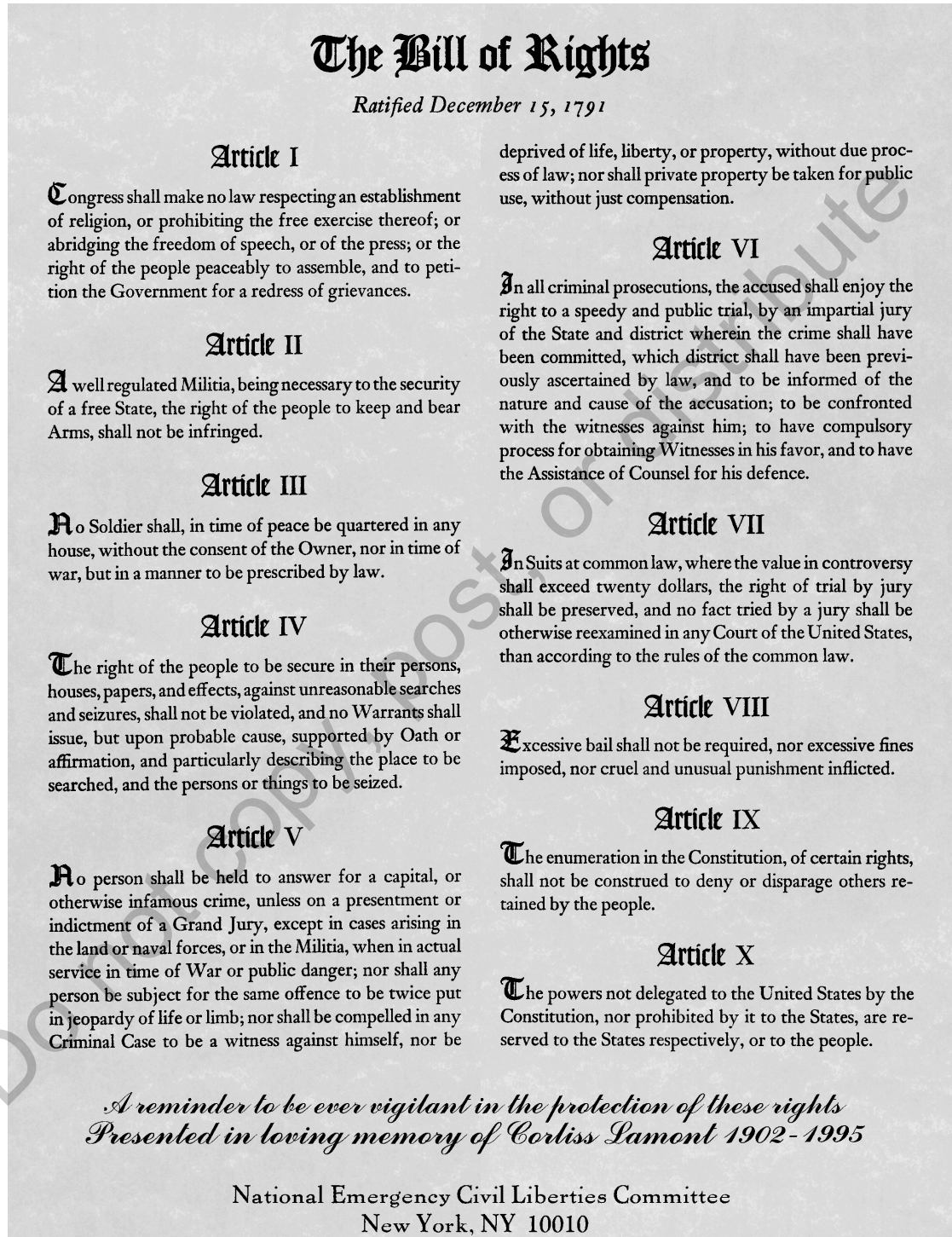
You’ve probably seen similar graphics to Figure 2.3 over the course of your education. It describes the three branches of the federal government and their respective responsibilities to create laws (the **legislative branch**), make those laws reality (the **executive branch**), and evaluate whether those laws are within the limits set by the Constitution (the **judicial branch**). The powers of each branch of government developed and changed over time, and respond to the culture and context of the time period as well as the ideological perspectives of the people who hold power within them (we discuss ideologies in depth later on in this chapter). While some of the processes to allow each branch to check the power of those in other branches were written into the Constitution, others have evolved over time. For example, the Constitution calls for a federal judiciary including a Supreme Court, but the structure of the court with a Chief Justice and associate justices was created in the 1789 Judiciary Act (Supreme Court

**Legislative branch:** The division of the government that makes laws. At the federal level, this branch is made up of Congress, which has two houses, the House of Representatives and the Senate.

**Executive branch:** The division of the government that carries out laws; at the federal level this includes the president, vice president, Cabinet, and most federal agencies

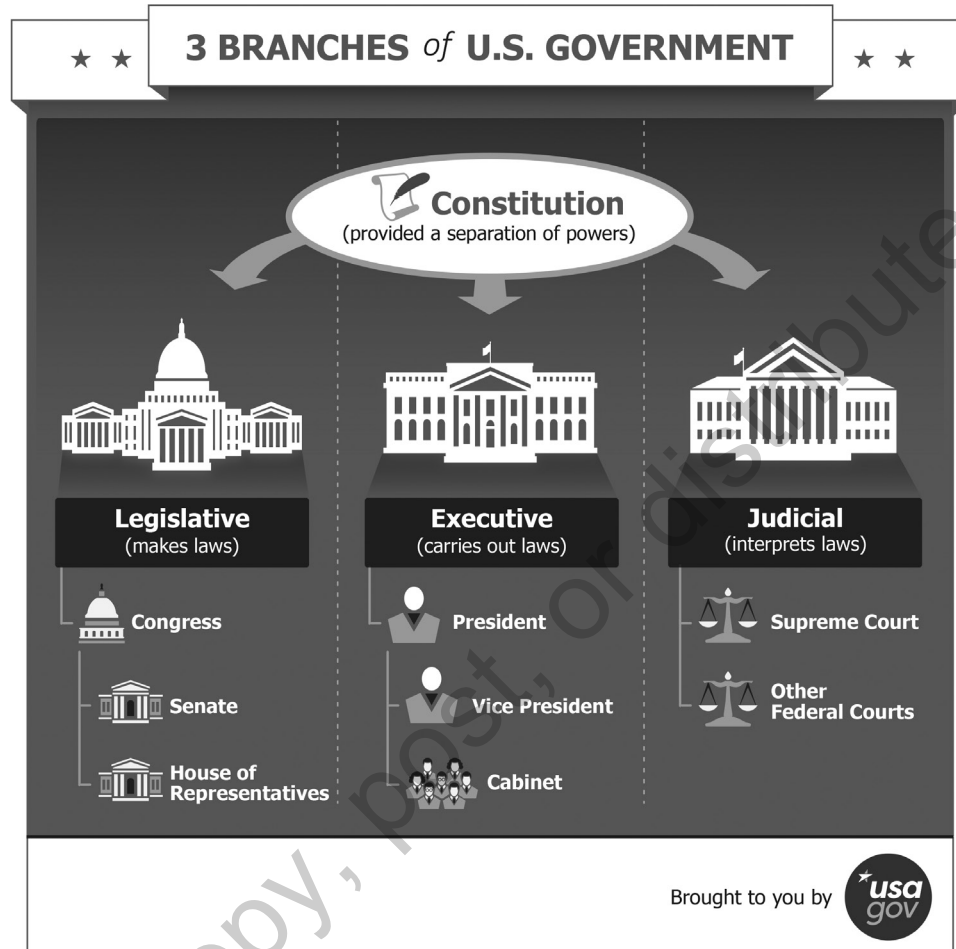
**Judicial branch:** The division of the government that evaluates laws. It includes many courts, including the Supreme Court that can determine laws unconstitutional.

FIGURE 2.2 ■ Bill of Rights



Source: Copyright © 1998-2019 by Half-Moon Foundation, Inc.

FIGURE 2.3 ■ Three Branches of U.S. Federal Government



Source: Branches of the U.S. Government. (n.d.). Retrieved from <https://www.usa.gov/organization-of-the-us-government#item-211477>

Historical Society, n.d.a). The Court gave itself the right to declare a law unconstitutional in 1800 with *Marbury v. Madison* (Supreme Court Historical Society, n.d.b). The two-party structure that today gives leaders of political parties significant influence within the executive and legislative branches did not exist at the writing of the Constitution and was, in fact, actively opposed by many founders of the country.

The general description is that at the federal level, the legislative branch (Congress) makes laws, the executive branch (the president, Cabinet agencies, and other executive branch offices) enforces them, and the judicial branch (Supreme Court and other federal courts) evaluates them. It is accurate, but not complete. Let's take a specific example and walk it through the three branches.

### Legislative Process: A Hypothetical Social Work Bill Becomes Law

A common concern for social workers is that social work licensure (like other professional licensure) is regulated at the state level. **Licensure** is the process by which the government

**Licensure:** The process by which the government or other authorized body certifies that a person has the qualifications needed to perform a specific job or task



certifies that a person has the qualifications needed to perform a specific job or task. Keep in mind that this does not necessarily mean someone is good at that job, but that they meet the minimum qualifications for the license. Although all 50 states use common licensure exams for the LMSW level, other requirements may differ. This can be a challenge if you move from one state to another—you might, for example, have to take additional coursework, training, or an exam to become licensed in a new state, even if you are already licensed in your home state (Association of Social Work Boards, n.d.). One potential solution would be to move social work licensure to the federal level, instead of leaving it to individual states to address.

We are going to take our idea for national social work licensure to a member of Congress who can introduce it, following the process for a bill to become a law as shown in Figure 2.4. Generally you would start with members of Congress who represent your geographic area. That means you have three choices: either your member of the House of Representatives or one of your two U.S. senators. You might also work with a member who doesn't represent you but has a strong interest in your issue. In this case, we start with Representative Barbara Lee, a social worker and member of Congress who chairs the Congressional Social Work Caucus and therefore seems to be a good person to talk to about an issue related to social work (<https://socialworkcaucus-lee.house.gov/>).

Representative Lee will introduce our bill, which might get the number H.R. 100 (H.R. tells us it's starting in the House of Representatives—if it started in the Senate, the bill number would start with S). Next it is sent to at least one committee, the House Committee on Education and the Workforce (<https://edworkforce.house.gov/>). Our bill beats the odds—although most bills never get a hearing, Representative Lee works with committee member Representative Carol Shea-Porter (another social worker) to convince the chair to hold a **markup hearing**, which is an opportunity for debate and amendment. Committee members receive many letters and phone calls from social workers in their districts supporting the bill, particularly those who are married to people serving in the military and therefore need to move frequently, who would be really helped by this bill. The committee members are convinced by this argument and the committee votes 30–10 to move the bill forward to the next step. Now all the members of the Social Work Caucus band together with members of the Congressional Military Family Caucus (<https://mcmorris.house.gov/congressional-military-family-caucus/>) to convince the Speaker of the House to bring the bill to the floor of the House for debate and vote. The **Speaker of the House** is the presiding officer of the House of Representatives. Our bill is one of the 5% of bills that are introduced in the House this session that make it to a vote. The bill passes the full House 235–200 and moves to the Senate to start the process again.

In the Senate, the bill is referred to the U.S. Senate Committee on Health, Education, Labor, and Pensions, also called the HELP committee (seriously, that's what it's called: <https://www.help.senate.gov/>). None of the 23 members of this committee are social workers, but the committee's Ranking Member is a member of the Senate Military Families Caucus. A **Ranking Member** is the most powerful person on a committee from the **minority party**, the party with less power. If her party had more power in the Senate and became the **majority party**, she would be the committee chair. She advocates on behalf of this bill to her fellow senators, and the bill is unanimously approved 23–0 and moved to the Senate floor for the full Senate to vote. However, the version of the bill that comes out of this committee is **amended** or formally modified. To make it even friendlier to military families, it waives social work licensure fees for the spouses of active duty military members. The bill is successfully introduced and passed in the Senate, but it is not yet ready to go to the president. Because the version that passed the House is different from the version that passed the Senate, it will have to go to a **Conference Committee**,

**Markup hearing:** The process by which a U.S. congressional committee debates, amends, and rewrites proposed legislation

**Speaker of the House:** The presiding officer of the U.S. House of Representatives

**Ranking Member:** The most powerful person on a Congressional committee from the party with less power

**Minority party:** The political party with less power in a legislative body

**Majority party:** The political party with more power in a legislative body


**Amended:** Changed or formally modified

**Conference Committee:** A committee of the U.S. Congress appointed by the House of Representatives and Senate to resolve disagreements on a particular bill

FIGURE 2.4 ■ How a Bill Becomes a Law

# HOW DOES A BILL BECOME A LAW?

## 1 EVERY LAW STARTS WITH AN IDEA



That idea can come from anyone, even you! Contact your elected officials to share your idea. If they want to try to make it a law, they will write a bill.


## 2 THE BILL IS INTRODUCED

A bill can start in either house of Congress when it's introduced by its primary sponsor, a Senator or a Representative. In the House of Representatives, bills are placed in a wooden box called "the hopper."

## 3 THE BILL GOES TO COMMITTEE

Representatives or Senators meet in a small group to research, talk about, and make changes to the bill. They vote to accept or reject the bill and its changes before sending it to:



**the House or Senate floor for debate or to a subcommittee for further research.**



Here, the bill is assigned a legislative number before the Speaker of the House sends it to a committee.

## 4 CONGRESS DEBATES AND VOTES

Members of the House or Senate can now debate the bill and propose changes or amendments before voting. If the majority vote for and pass the bill, it moves to the other house to go through a similar process of committees, debate, and voting. Both houses have to agree on the same version of the final bill before it goes to the President.

### DID YOU KNOW?


The House uses an electronic voting system while the Senate typically votes by voice, saying "yay" or "nay."

## 5 PRESIDENTIAL ACTION

When the bill reaches the President, he or she can:

**✓ APPROVE and PASS**

The President signs and approves the bill. The bill is law.



THE BILL IS  
LAW

**The President can also:**

### Veto


The President rejects the bill and returns it to Congress with the reasons for the veto. Congress can override the veto with 2/3 vote of those present in both the House and the Senate and the bill will become law.

### Choose no action

The President can decide to do nothing. If Congress is in session, after 10 days of no answer from the President, the bill then automatically becomes law.

### Pocket veto

If Congress adjourns (goes out of session) within the 10 day period after giving the President the bill, the President can choose not to sign it and the bill will not become law.

Brought to you by 

Source: How Laws Are Made. (n.d.). Retrieved from <https://www.usa.gov/how-laws-are-made>

a committee appointed by the House of Representatives and Senate to resolve disagreements on a particular bill, for a compromise to be worked out, and then back to both houses for a vote. It cannot move on to the president until both houses of Congress have passed the same bill. Luckily, this issue has become an important one for everyone involved, thanks to continued advocacy by social workers and military families, and it successfully passes the Conference Committee with the Senate change. The House agrees to that version of the bill by a unanimous voice vote.

### Executive Process: A Hypothetical Social Work Bill is Implemented

At this point, our proposed policy leaves the legislative branch and moves to the executive branch, represented in this process by the president. The president is not a big supporter of our bill because he wants to reduce rather than add government regulations. On the other hand, he does not want to get on the bad side of military families. Because of these conflicting motivations, the president takes no action on the bill. Since Congress is still in session, our bill becomes law after 10 days, even without the president's signature. As a result, our bill has successfully become a public law. It will get a number that looks something like PL 116-50, for the 50th law that was passed in the 116th session of Congress (each session runs for 2 years, in this case, 2019–2020). We are done! Wait . . . are we done?

For our hypothetical national social work licensure law to be **implemented**, meaning to actually be put into action, the government is going to have to create some rules. Rules, also referred to as *regulations*, are usually much more specific than the laws Congress passes. This process can be even longer and more complicated than the process of getting a bill to become law. An example from the National Archives and Records Administration (NARA) of what that regulatory process might look like is shown in Figure 2.5.

In this case, the responsibility within the executive branch for implementation might go to the Department of Health and Human Services (HHS, <https://www.hhs.gov/>). HHS determines a set of rules they believe are necessary to implement the new social work licensure law, such as clarifying any terms not defined in law and creating a mechanism for implementing the law, which for this law is likely to include an office within the Substance Abuse and Mental Health Services Administration (SAMHSA, <https://www.samhsa.gov/>) to oversee licensure. HHS proposes those rules, and they are made accessible via <https://www.regulations.gov/> for the public and other stakeholders to comment. The time period varies, but this comment period is generally held open for 60 days. The feedback from those comments is incorporated into the final rules, which are then issued publicly at <https://www.federalregister.gov/> and sent back to the legislative branch for a final check. If Congress has any changes they want to make, they have 30 days to do so.

### Judicial Process: A Hypothetical Social Work Bill is Challenged in the Courts

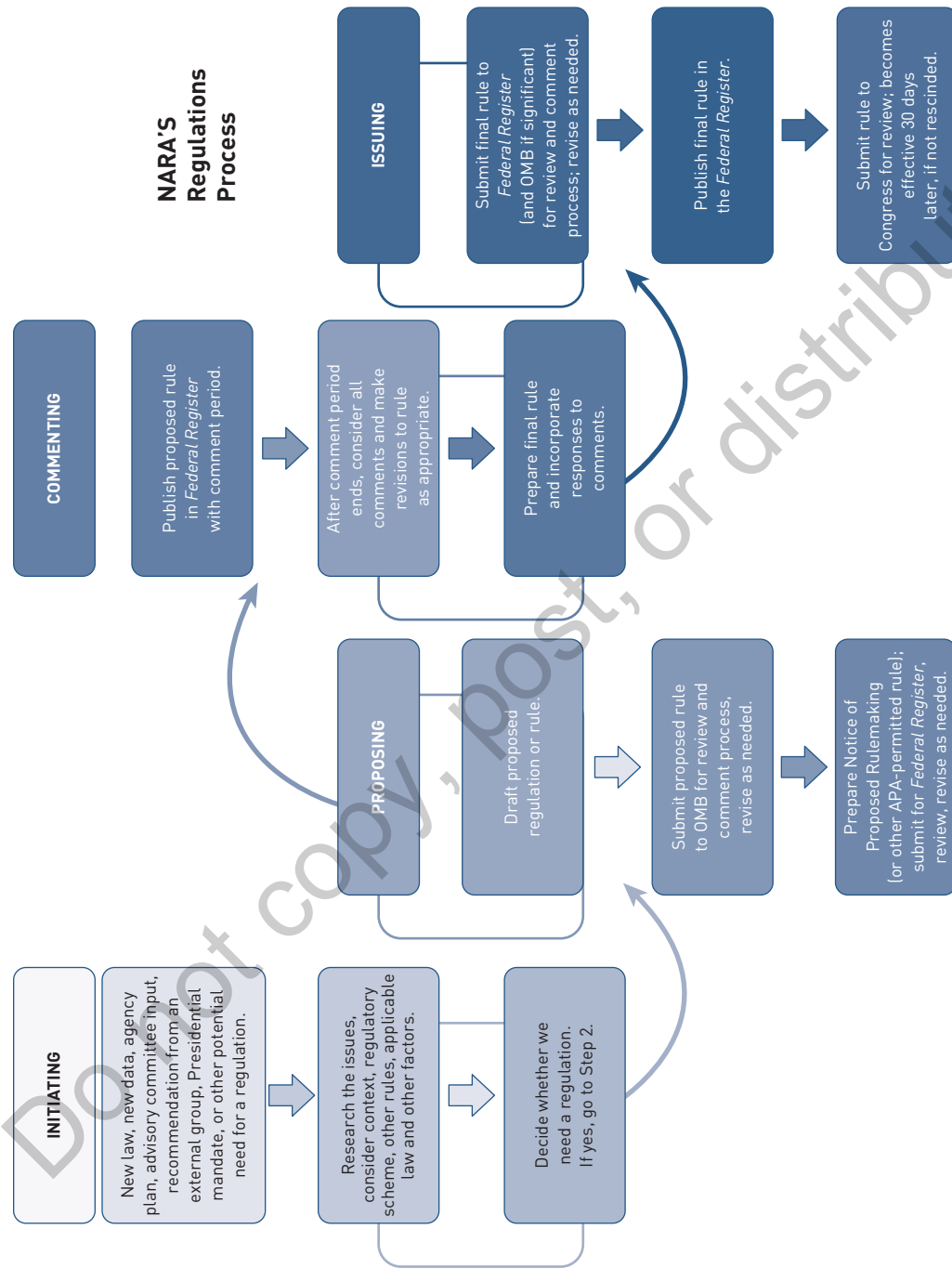
Now that our hypothetical bill has become law and a mechanism and guidelines for implementation have been established, it is done, right? Not so fast. During the process of creating this law and the related rules, the leaders of state agencies that oversee social work licensure in several different states have become angry. They feel that social work licensure should be regulated at the state level, not the federal level. They think that their state is better equipped to decide practice requirements for social work with their populations. They also do not want to lose the income generated for their state from licensure fees, often called **revenue**. These agencies band together to sue the federal government.

Their lawsuit is based on Amendment 10 to the Constitution, the last one in the Bill of Rights. It states, “The powers not delegated to the United States by the Constitution, nor

**Implementation:** The process of enacting a piece of policy that has been approved

**Revenue:** Income generated for an organization or government

**FIGURE 2.5 ■ Regulatory Process**



Source: NARA's Regulatory Process. (n.d.). Retrieved from <https://www.archives.gov/about/regulations/process.html>

prohibited by it to the states, are reserved to the states respectively, or to the people.” They argue that this means since licensure is not specifically delegated to the federal government by the Constitution, it is the right and responsibility of the states. Because the state of Massachusetts leads the way, the lawsuit is filed first with the District Court of Massachusetts (see Figure 2.6 for a district court map). Many organizations work on advocacy at this stage by filing briefs called **amicus curiae**, which means *friend of the court* (often just called *amicus briefs*). National organizations representing social workers and military families file amicus briefs on the side of the federal government. National medical associations and other groups that have also been trying to get medical and other professional licenses at the federal level instead of the state level also file briefs on the side of the federal government. Advocacy sometimes brings groups together that you wouldn’t expect to be on the same side. Sometimes people who are usually on the same side find themselves disagreeing. In this case, state chapters of social work organizations file amicus briefs siding with the states, because they want to keep control of licensure at the state level, even though the national chapters of their organizations are on the federal government’s side.

The district courts find in favor of the state agencies and say the new national licensure law is unconstitutional. Most cases will end here. In fact, if the president did not really support the bill, it is likely that the prosecutors he appointed might not wish to pursue the case further (this decision is up to the current leadership of the Justice Department). However, in this case, the federal government decides to **appeal** the decision, which means they ask a higher court to take a look at it to see if the district court made a mistake. It then moves to a federal **appellate court**. The job of this court is to hear appeals of the lower court decisions.

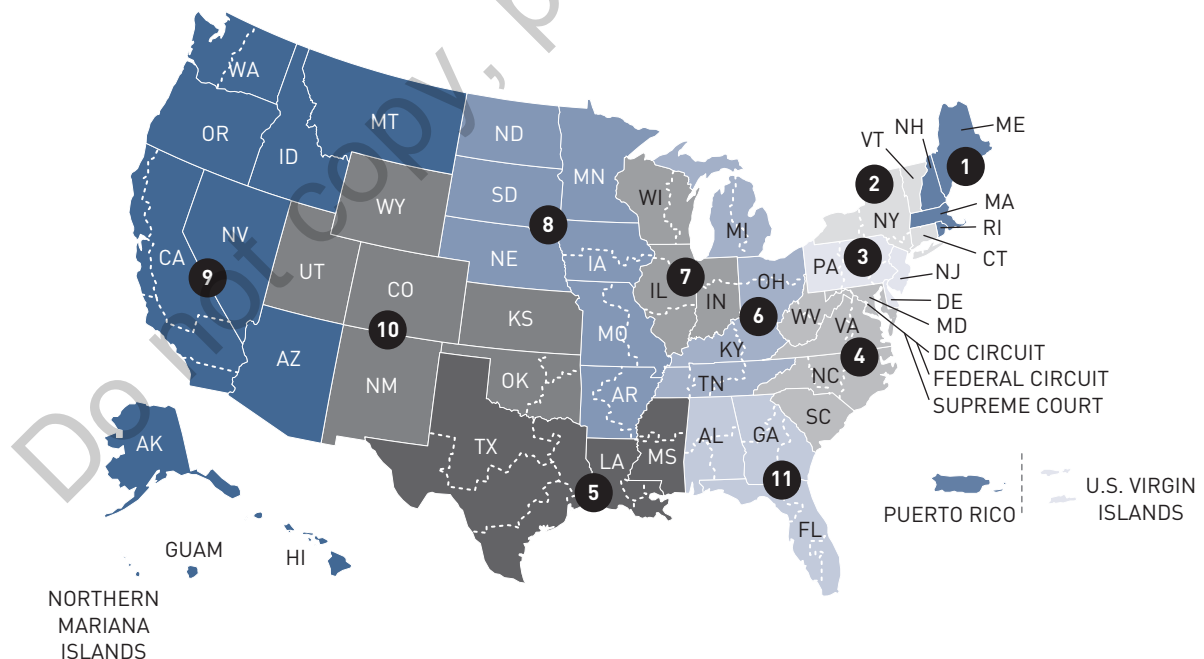
Massachusetts is located within the jurisdiction of the U.S. Circuit Court of Appeals, District 1, also called an appellate court. The case moves to this court, which hears both arguments (including more amicus briefs). The appellate court decides that the lower court’s

**Amicus curiae:** Latin phrase meaning “friend of the court,” these are authors of legal documents (called *amicus briefs*) that are filed by those interested in Supreme Court decisions, usually to support the interests of a particular side or outcome

**Appeal:** In a legal dispute, the procedure to ask a higher court to determine whether a lower court’s ruling was correct

**Appellate court:** Also called a court of appeals, which hears appeals of lower courts

FIGURE 2.6 ■ U.S. Federal District Court Map



Source: United States Courts. [n.d.]. Retrieved from <http://www.uscourts.gov/file/document/us-federal-courts-circuit-map>

decision was wrong and overturns it, finding in favor of the federal government. The state agencies are unhappy with this decision and appeal to the Supreme Court.

The Supreme Court hears a small fraction of the cases it is asked to consider each year but, against the odds again, it decides to hear this one. The issue of social work licensure on its own might not be enough to convince the Supreme Court, but because the decision seems like it will affect a number of other professions, the Court decides it should be considered. After reviewing the case and hearing oral arguments from both sides, the Court finds in a 5–4 decision that the new law is **unconstitutional** (not in accordance with the U.S. Constitution) because it violates Amendment 10. As a result, social work licensure will remain at the state level and the federal law is no longer in effect. After all this effort, everything goes back to the way it was at the beginning of the process.

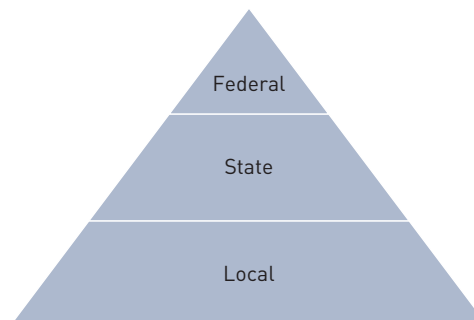
**Unconstitutional:** Not in accordance with the U.S. Constitution

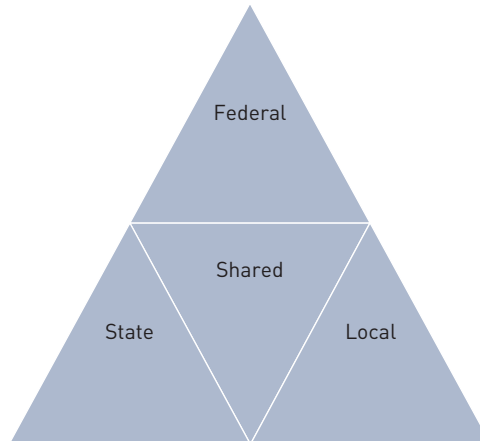
*Judicial Process: Are the Courts Political?* Though theoretically designed to be nonpolitical, the courts are indeed political and, from time to time, the composition of the courts change, allowing them to be used to support either conservative or liberal agendas. Courts cannot decide which cases they would like to hear; they must wait for someone to bring a case before them. Within the circuits, courts have reputations for liberalism or conservatism. Some circuits, such as the first, second, third, fourth, and ninth are considered to be more liberal, while the fifth and the 11th are seen as more conservative. What does this mean regarding the courts? In general, conservatives are more inclined to focus on limiting government from infringing on individual freedoms, whereas liberals may see the value of laws that limit individual freedoms with the goal of protecting community interests. Using the example of religion, liberal courts tend to support religious freedom defined in terms of keeping religion out of government processes (e.g., separation of church and state) and tend to think that the court's role is to interpret the meaning of laws. More conservative courts tend to consider religious freedom to mean that people should be allowed to practice their religion in any way they see fit even if it may infringe on the rights of others. There are of course disagreements among liberal judges or conservative judges. For example, conservatives can be traditionalists and libertarians. Traditionalists believe that if we have always done something in a certain way, as a result of tradition, it should be allowed to continue whenever possible. Libertarians generally resist government intervention that limits individual liberty for any reason (Feldman, 2012).

### Levels of U.S. Government

Often, we think of the U.S. government as a simple triangle, with the power to create policy divided up among local, state, and federal governments (see Figure 2.7).

**FIGURE 2.7** ■ Generally Accepted Division of Policy Power



**FIGURE 2.8 ■ Actual Division of Policy Power****TABLE 2.1 ■ Powers of Government**

Appropriate money for programs to promote welfare of residents	Establish local governments	Oversee parks and recreation
Borrow money	Establish military	Oversee post office
Build highways and other major public works	Establish state constitution	Oversee transportation
Charter banks and corporations	Exercise powers not specifically delegated to federal government	Print money
Conduct elections	Issue licenses	Protect against fire
Conduct policing	Make and enforce laws	Provide for public health and safety
Create and collect taxes	Oversee city zoning and planning	Ratify amendments to U.S. Constitution
Declare war	Oversee economic development	Ratify treaties with other governments
Enforce state Constitution	Oversee education	Regulate commerce between states and countries
Enforce U.S. Constitution	Oversee human services	Regulate intrastate commerce (within one state)
Establish courts	Oversee municipal public works	

The truth is probably closer to what is depicted in Figure 2.8, with many powers shared between levels.

**Federalism** refers specifically to a system in which power is divided between the state and federal government in a defined manner in which each level of government has ultimate authority in some areas (Galligan, 2007). If every decision made by a state could be overruled

**Federalism:** A system of government in which power is divided between the state and federal government in a defined manner in which each level of government has ultimate authority in some areas

by the federal government, we would not have a federalist system. Since there are some areas in which the states have final say no matter what the federal government says, the U.S. system is defined as federalist. We are not alone in this system. While the system in each country looks slightly different, Argentina, Australia, Austria, Belgium, Brazil, Canada, Germany, India, Mexico, Russia, South Africa, Spain, Switzerland, and Venezuela are all federalist (Galligan, 2007).

*Discussion: Who is in Charge?* Federalism can sometimes feel very abstract, so it might be helpful to look at ways governments in the United States divide up responsibilities in everyday practice. Below you will find a table of activities created by Tanya Rhodes Smith, director of the Nancy A. Humphreys Institute for Political Social Work at the University of Connecticut. Go through the list of activities below and divide them up. Which are exclusive powers of the federal government, exclusive powers of state governments, shared between the federal and state governments, or typically powers of local governments (including towns, cities, and counties)? You may also wish to list other duties of government that we have not included: Which categories do they belong in? When you are finished, discuss with your classmates and/or instructors. Our version of the final table is listed at the end of this chapter for comparison, but some of your conclusions may differ from ours. If so, discuss why and whether you think multiple answers are correct (or that we are wrong!).

In addition to the duties that are divided up among our local, state, and federal governments, many aspects of our social welfare system in the United States are carried out by nongovernmental organizations. For example, nongovernmental organizations may provide services that are paid for by the government (such as hospitals providing services that are billed to Medicare or Medicaid) or are funded through government contracts or grants to provide services. The Urban Institute (Pettijohn, Boris, De Vita, & Fuffe, 2013) lists 52 types of services provided by agencies through state and/or federal government grants and contracts dealing with social welfare areas such as:

- Arts education
- Child abuse prevention
- Civil liberties
- Crisis intervention
- Disaster relief
- Economic development
- Education
- Family counseling
- Food banks
- Homeless shelters
- Job training
- Medical research
- Natural resources conservation
- Rehabilitation services for those who have been involved with the criminal justice system



- Services for survivors of intimate partner violence
- Substance use disorder treatment
- Voter education and registration

## Political Parties and Ideologies

While the branches and levels of government discussed above have developed from written documents such as the U.S. Constitution, state constitutions, legislation, and judicial opinions, other aspects of our policy and political systems have developed from common practices. Indeed one aspect of that, the development of political parties, was specifically feared by the founders of our country.

### Political Parties

Political parties are groups of people who share similar political goals and opinions who come together to get candidates elected to office. In the *Federalist Papers*, James Madison (1787) refers to parties (using the term *factions* instead of parties) as a “dangerous vice.” In George Washington’s farewell address (1796), he warned sternly,

I have already intimated to you the danger of parties in the State, with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view, and warn you in the most solemn manner against the baneful effects of the spirit of party generally.

So how is it that, despite their fervent opposition to parties, every president since Washington has belonged to or represented one of these parties or factions? The credit (or blame) is generally given to Alexander Hamilton (Silbey, 2010). Essentially, Treasury Secretary Hamilton’s desire to create a strong central government helped organize Founding Fathers into groups who supported his view of a strong central government, the Federalists, and those who wanted more power to be designated to the states, the Republicans, who became known as the Democratic-Republicans. The latter included such founders as Thomas Jefferson, who in 1789 wrote to his friend Francis Hopkinson, “If I could not go to heaven but with a party, I would not go there at all,” and yet by 1800 had been elected president as a Democratic-Republican. The Federalist Party had lost its influence by 1820, to be replaced by the Whigs until the 1850s. Since around 1860, the Democratic and Republican parties have been the two major political parties in the United States; although, as discussed below, the beliefs of those under the umbrellas of those two parties have changed.

While the following discussion includes the two major parties in the United States and the most influential *third parties* or other parties, there are many other smaller parties in U.S. politics. The list from the Federal Election Commission shown in Figure 2.9 includes party labels that appeared next to candidates’ names in the 2014 federal elections. You may see other parties’ names at the state level, such as New York’s “The Rent is Too Damn High” party.

Despite this plethora of options, the Democratic and Republican parties play a major role in U.S. politics, both in the process of choosing and electing candidates and how officials govern once they are elected.

Party labels can also be tricky because parties themselves change over time. The Democrats have gone from the party of slave-owning Southern whites, such as Thomas Jefferson, to parties that have higher turnout by African Americans and Latinos than white Americans. Even within the past 20 years, the two major parties have changed. Within

**FIGURE 2.9** ■ List of Party Labels in the United States**A GUIDE TO PARTY LABELS**

The following is a list of the abbreviations used in this publication to identify the labels that appeared on the various state ballots for the U.S. Congressional candidates in the 2014 primary and general elections. The party label listed may not necessarily represent a political party organization.

AE = Americans Elect	LBU = Liberty Union
AFC = Allen 4 Congress	LIB = Libertarian
AIP = American Independent	LMP = Legalize Marijuana Party
AKI = Alaskan Independence	MSC = Send Mr. Smith
ALP = American Labor Party	MTP = Mountain
AM = American Party	N = Nonpartisan
AMC = American Constitution Party	NAF = Nonaffiliated
BBH = Bullying Breaks Hearts	NLP = Natural Law Party
BP = By Petition	NNE = None
BQT = Bob Quast for Term Limits	NOP = No Party Preference
CIT = Citizens Party	NPA = No Party Affiliation
CN = Change is Needed	NUP = National Union Party
CON = Constitution	OP = Of The People
CRV = Conservative	PAC = Politicians are Crooks
D = Democratic	PAF = Peace and Freedom
DCG = D.C. Statehood Green	PC = Petitioning Candidate
DFL = Democratic-Farmer-Labor	PET = Petition
DNL = Democratic-Nonpartisan League	PG = Pacific Green
DRP = D-R Party	PRO = Progressive
EG = Economic Growth	R = Republican
ENI = Energy Independence	REF = Reform
FA = For Americans	SBP = Stop Boss Politics
FEP = Flourish Every Person	SC = Start the Conversation
FV = Future.Vision.	SI = Seeking Inclusion
GOP = G.O.P. Party	TN = 911 Truth Needed
GRE = Green	TRP = Tax Revolt
HRP = Human Rights Party	TVH = Truth Vision Hope
IAP = Independent American Party	UN = Unaffiliated
IDP = Independence	UPC = Unity Party of Colorado
IGR = Independent Green	UST = U.S. Taxpayers Party
IND = Independent	W = Write-In
IP = Independent Party	WDB = We Deserve Better
JP = José Peñalosa	WF = Working Families
LBF = Libertarian Party of Florida	WU = Wake Up USA
LBR = Labor	WWP = Work and Wealth Party

Source: Federal Elections 2014 Election Results by the Federal Election Commission, November 2015. Retrieved from <https://transition.fec.gov/pubrec/fe2014/partylabels2014.pdf>

the past 100 years, Democrats were more likely to support federal regulation and federally funded social welfare programs. Beginning with the Clinton administration's support for "ending welfare as we know it," the Democrats have become more fiscally conservative and more likely to support arguments that suggested that families living in poverty should "pull themselves up by their bootstraps." This led to reduced social welfare spending. As discussed in Chapter 1, under the Clinton administration, welfare reform changed Aid to Families With Dependent Children, a universal means-tested, federally funded and regulated welfare program, to Temporary Assistance for Needy Families (TANF), a program funded through block grants to states with substantially limited funds, offering many ways in which states and individual workers within the welfare system could remove families from benefits.

Republicans historically focused on providing more control over regulation to states than the federal government. In the recent past, they began to focus more heavily on reduced government spending at both the federal and state levels and maintaining the use of guns without government control, while favoring greater intervention in social areas such as limiting abortion rights and same-sex marriage. Some argue that the political stances of Reagan, considered a standard-bearer of the Republican Party in his time, would not be conservative enough for today's Republican Party (Olsen, 2017).

### Political Ideology

Individual political decision making in the United States is influenced by a number of factors (Pew Research Center, 2014, 2015). One of the most significant is **ideology**, that is, beliefs about society and how it should function. When you hear people describe themselves or someone else as the *left* or *right*, they are referring to one measure of ideology that ranks people from a radical or liberal left to a conservative right. However, this distinction erases much of the nuance of political beliefs (Pew Research Center, 2014, 2015). Other political ideologies include socialism, progressivism, and libertarianism. If forced to choose a position described as conservative, moderate, or liberal, most social work students and social workers who have run for office were likely to choose liberal and moderate. Rosenwald's study (2006) found that social work students identified first as liberal (41%), then moderate (34%), and least as conservative (10%). More recent studies using slightly different methods find higher numbers of students identifying with liberal ideologies, above 60%, and a similar number (10%) identifying as conservative (Pritzker & Burwell, 2016; Pritzker & Garza, 2017). Social workers who had run for office (Lane & Humphreys, 2011) identified themselves as more liberal (60%) than the students, with similar numbers identifying as moderate (38%) and conservative (2%).

**Ideology:** Beliefs about society and how it should function

## REFLECTION

### CONSIDERING YOUR OWN POSITIONS

1. How would you describe your ideology, using the terms discussed above?
2. After you answer #1, take the quiz: <https://www.people-press.org/quiz/political-typology/>
3. How does the result of the quiz compare to your answer in #1? What might account for the differences, if any?

**Political party:** Groups of people who share similar political goals and opinions who come together to get candidates elected to office

## Political Parties and Ideology

There tends to be strong overlap between political party and ideology, although not absolute. A **political party** is part of a system in which power is divided between the state and federal government in a defined manner in which each level of government has ultimate authority say in some areas. Socialists support safety nets for the public, redistribution of wealth and resources from the wealthy to the poor and middle class, and single payer health insurance. Socialists are also anti-capitalist, believing that capitalism exploits working people. The party that most closely reflects socialist ideals in the United States is the Democratic Socialist Party. This party supports all the same programs but suggests that rather than getting rid of capitalism, these programs are necessary supports in a capitalist country. In the United States, this tends to be considered radical, but it would not be radical in many European countries. Liberals and progressives tend to be aligned with the Democratic Party, although progressives tend to support broader government involvement in social welfare than liberals. Conservatives tend to be aligned with the Republican Party. Historically, they believe in greater state control over governance than federal control and limited government outside of certain social issues such as abortion. Libertarians believe in limited government, and thus are aligned with many of the same things as Republicans on many issues. Libertarians and conservatives differ on issues that involve government control, such as abortion or the legal distribution of marijuana.

Context is very important in a consideration of political ideology and parties. In more conservative areas of the United States, you will find Democratic candidates who are opposed to gun control laws and in favor of abortion restrictions. In predominately liberal areas of the country, you will find Republican candidates who describe themselves as pro-choice and favor some policies that redistribute wealth. Religion, culture, and local community characteristics can also play a role in deciding what political party people will join, regardless of ideology.

## INTERVENTION METHODS: HOW TO ENGAGE WITH THE POLICY PROCESS

In our discussion of the context of policy throughout this chapter, we have touched on many aspects of the policy process. Here, we highlight specific examples of how some social workers participate in this process. You will find activities throughout this book to try some of these opportunities yourself. Before you proceed, answer Questions 1 through 4 for yourself. Engage with your classmates around Question 5 as you move forward.

Social work embraces integration of micro through macro perspectives, using person-in-environment (Karls & Wandrei, 1994; Kondrat, 2002) and the ecological and boundary spanning perspectives (Germain & Gitterman, 1996; Gibelman, 1999; Kerson, 2002). These are useful frameworks to engage all social work students and professionals in policy practice.

Social workers are especially well situated to recognize and create social change. As professionals we are often the face of policy to our clients and communities, or the people who tell clients whether they are eligible for a service or a community how a recently passed policy will affect them. Social workers can see how policies directly impact people. This includes both the intended effects as well as unintended consequences (Gillon, 2000). Understanding the implications of policies on the ground requires social workers to understand how social institutions and structures promote or constrain certain behaviors. Social workers' positioning and training enable them to see these effects clearly.

## DISCUSSION

### POLICY PRACTICE

1. What are your concerns and fears about engaging in policy practice?
2. What are your hopes and expectations about engaging in policy practice?
3. What skills do you have or hope to gain while you are learning to be a social worker that are valuable to policy practice?
4. What skills or experience to enhance your ability to engage in policy practice might need to come from outside of your social work education? How might you acquire these skills or experience?
5. Interview some of your classmates. Ask how each one of them envisions working to influence policy. What are some of the differences and similarities in the ways that they seek to meet this social work ethical obligation?

Social workers who work with individuals or groups *and* use a policy lens are more likely to connect individuals' experiences to the larger context. They can serve as catalysts when they see a pattern or systemic problem and help galvanize individuals for political action, directly inform agency practices, or influence policy at higher levels (Fischer, 2009). Social workers who work on the micro or mezzo level who recognize broader implications of their work, but who may not know how to address such problems, can link themselves (or their clients) with macro social workers or others in the policy arena. Indeed, social work students and social workers as a group have high levels of interest in, and engagement with, politics and the policy making process than other students (Pritzker & Burwell, 2016), although many report they did not have needed curricular or extracurricular opportunities for engagement in their social work education (Lane, 2011). In a 2008 survey of 270 social workers who had run for or served in political office from 45 states, the majority (63%) felt that their social work education prepared them for their elective career. The social work skills that they most frequently identified as useful for the pursuit of and service in office were communication and active listening, skills that are core components of social work education, regardless of practice area or method (Lane, 2011).

Social workers who dedicate their careers to policy practice take on many different roles. They can be found at all levels of governments across the country serving as elected officials (Congressional Social Work Caucus, n.d.; NASW, n.d.). Others work behind the scenes, running campaigns and serving as political aides, researchers, and in constituent services (Fisher, 2014). Still other policy practice social workers are community organizers, working with groups to identify and advocate around issues that matter before administrative agencies, private actors, and legislative bodies. Other social workers are paid or volunteer lobbyists, building and maintaining relationships with elected officials and their offices in the service of causes or groups to bring about change. Social workers are also citizens who vote and are often well positioned to know the potential benefits and harms of policies on clients, particularly on the vulnerable populations that social workers so often serve.

An example of one method of social work policy engagement is elected public office. Teresa Benitez-Thompson has been representing the 27th District in the Nevada State Assembly since 2010. Like most social workers who are legislators, Assemblywoman Benitez-Thompson

is both a woman and a Democrat. She holds a master's degree in social work from the University of Michigan, and she practiced in the areas of hospice care and adoption. In her political career, she is active on issues of importance to women and families that have also had an impact on her own life, including domestic violence that led her mother to bring her and her siblings to Reno, Nevada, to live with her grandparents, and the struggles of growing up in a low-income multigenerational family. These experiences and her social work education inform and influence her practice as an elected official. Assemblywoman Benitez-Thompson describes a family legacy of activism and service. She carried on a tradition of resourcefulness, using a scholarship from the Miss Nevada pageant to fund her undergraduate and graduate education (Elect Teresa, 2017a). Currently, she is the **majority leader** of the Nevada Assembly, which means that she has authority over the day-to-day workings of the legislative chamber, including such tasks as assigning bills to committees and scheduling. In most federal and local legislatures, this position is a sign of respect or seniority and holds power (Ballotpedia, 2017). In 2017, Assemblywoman Benitez-Thompson served on the Nevada Health and Human Services, Ways and Means, and Taxation Committees, reflective of her key interests, which include government spending, jobs, and families (Ballotpedia, 2017; Elect Teresa, 2017b).

**Majority leader:** Within a legislative body, the head of the party with the most members

## ADVOCACY

### FIND A SOCIAL WORK LEGISLATOR

*Beginning level:* Go to Ballotpedia or your state or local government website and identify a lawmaker who is a social worker. If you cannot find a social worker in your state or local government, identify a lawmaker who works on an issue of interest to you or who shares your values. Next, visit their official government and/or campaign website. Based on this research, answer the following questions.

1. What is their party affiliation?
2. What leadership roles do they have?
3. What committees do they sit on?
4. What issues do they seem to care about most?

*For the intermediate and advanced level of this activity, go to [www.edge.sagepub.com/lane](http://www.edge.sagepub.com/lane)*

## Social Work Contributions Across Policy Arenas

Assemblywoman Benitez-Thompson and others have found that their social work skills are helpful in engaging in the policy and political processes. In this section, we look at the ways in which social work skills benefit social workers in the policy arena and specifically about the ways in which social workers use research to inform their policy work.

In Table 2.2, you will find a list of policy arenas and ways in which social workers may use their social work skills to become involved in action in those areas. After reviewing the list of activities, look through the list of skills. Which skills have you already started to learn in your social work program? Which do you need to develop as you continue your social work education to make you a competent and confident social worker?

TABLE 2.2 ■ Policy Activities and Relevant Social Work Skills

Policy Arena	Activities	Relevant Social Work Skills
<b>Legislative Branch</b>	Advocacy <ul style="list-style-type: none"> <li>• Research</li> <li>• Sharing insights from practice or stories from clients/communities</li> <li>• Organizing community members</li> <li>• Engaging with elected officials and their staff</li> </ul> Electoral politics <ul style="list-style-type: none"> <li>• Running for office</li> <li>• Working on a campaign</li> <li>• Engaging voters in voter registration, education, or outreach</li> </ul>	Active listening Administration and management Advocacy Assessment on multiple levels Bargaining/compromising/negotiation Budget knowledge Communication Community engagement Community organizing Conflict management/conflict resolution Critical thinking Engagement
<b>Executive Branch</b>	Participating in regulatory process <ul style="list-style-type: none"> <li>• As agency workers</li> <li>• Weighing in on proposed regulations</li> <li>• Participating in supervision and oversight</li> <li>• Budget analysis</li> </ul>	Facilitating groups and collaboration Interpersonal skills Negotiation and conflict resolution Oral communication Policy analysis
<b>Judicial Branch</b>	Influencing the judiciary <ul style="list-style-type: none"> <li>• Writing amicus briefs</li> <li>• Expert testimony</li> </ul>	Research and evaluation Storytelling Understanding how programs affect individuals and families Understanding of human rights, social justice, and diversity Written communication

## Research

To better work within *any* policy arena and understand political reactions to social problems, social workers must first conduct research to understand how particular social problems have been framed, what policies exist to address the problems, and what the existing policies are designed to do. You will discuss research in many places in your social work education; here we focus on the first step in conducting policy research, selecting and evaluating sources. It is often useful to start by looking at an encyclopedia or similar trusted resource such as *Social Work Speaks*, produced by the National Association of Social Workers, or the publications of the Congressional Research Service to get background information on a new topic. Often this type of source includes basic information on the topic and can direct you toward more detailed sources of information.

When finding information from a website or other source you haven't used before, your first step should be to assess the value and trustworthiness of the source. To help us ascertain this, we should ask questions, such as:

- Who made this information available, either by creating it or sharing it? What is the motivation of that person in sharing the information?
- Who created the information? Many resources we use for policy research were created by a government agency, academic institute, individual researcher, or advocacy organization. Does the person or organization who created this information have a specific agenda?
- Were the data collected by a think tank or other organization with connections to a political party or ideology? If so, what is the political leaning of the organization?
- Who funds the organization that created/disseminated the research?
- Who directs the organization—for example, if it is a nonprofit, who are the members of the board of directors?
- What are the goals of the organization?
- Was the information published in a peer-reviewed journal or reviewed by outside sources in some manner for accuracy?
- Are there other perspectives on the same issue? Do these other sources present information from a different political perspective? Who funds those organizations, and so on?

Asking these questions will ensure that you look carefully at the sources of the data that you rely on. It is sometimes tempting to do this only with information that we think is wrong, but not to investigate too strongly information that we think is right. It is important to resist temptation and look as objectively as possible at all the available information before moving forward with policy advocacy.

Newspapers, radio, and television often provide up-to-date information on current policy debates. They may also present skewed data to make a particular point. Figure 2.10 suggests some ways that you might be able to assess how reliable your news source is. It is important to know about the media sources that you seek information from. Who owns them? How are they funded? What are their goals? Often the difference between straight journalism and opinion writing such as op-eds is that the news reporting of an organization aims to be objective, where opinion writing aims to express the political leanings of the author and/or newspaper. Unfortunately, sometimes non-opinion pieces present information in skewed ways as much as opinion pieces do.

In the end, facts alone may not convince other people of your views and they may have trouble identifying which sources of information they should trust, including you. Even if you can, people are often attached to an ideology and try to fit new information into their existing knowledge and belief systems. Well-reasoned, principled people may also simply disagree. As a result, it is important to understand your audience and to frame information so that it can be better received by the person or people that you are trying to teach.



FIGURE 2.10 ■ How to Spot Fake News

# HOW TO SPOT FAKE NEWS



## CONSIDER THE SOURCE

Click away from the story to investigate the site, its mission and its contact info.



## READ BEYOND

Headlines can be outrageous in an effort to get clicks. What's the whole story?



## CHECK THE AUTHOR

Do a quick search on the author. Are they credible? Are they real?



## SUPPORTING SOURCES?

Click on those links. Determine if the info given actually supports the story.



## CHECK THE DATE

Reposting old news stories doesn't mean they're relevant to current events.



## IS IT A JOKE?

If it is too outlandish, it might be satire. Research the site and author to be sure.



## CHECK YOUR BIASES

Consider if your own beliefs could affect your judgement.



## ASK THE EXPERTS

Ask a librarian, or consult a fact-checking site.

**IFLA**  
International Federation of Library Associations and Institutions  
With thanks to www.FactCheck.org

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## Final Discussion

Return to the vignette at the beginning of this chapter and see if your answers to these questions have changed.

1. What types of social work skills did Alyx and colleagues use throughout this process?
2. What levels of governments are involved in the changes they are trying to make?
3. What knowledge about the political process did Alyx and the others need to be successful?
4. What options do Alyx and colleagues have at the end of the process?
5. What role might race, class, gender, and other aspects of identity play in this vignette?

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