

**Title:** The Bill of Rights and Civil Liberties

**Corresponding Student Center Pages:** The Role of the Federal Courts; The Constitution and Rights

**Age Level:** Grades 6-12

**Suggested Time Needed:** 1-2 class periods

**Description:** This lesson helps students compare their state constitution with the Constitution of the United States. Students will specifically look at the fundamental rights guaranteed by the Constitution in an attempt to find these same rights in the constitution of their state.

**Educational Objectives:**

After completing this activity, students will gain an understanding of the following:

- The powers and limits of the national government as outlined in the U.S. Constitution.
- The application of the Bill of Rights to both state and national governments.
- Constitutions, both state and federal, have safeguards to protect and preserve individual rights.

Students will also:

- Read and use the U.S. Constitution and state constitution as primary source documents.
- Read and evaluate the information they find in the documents, and use this information to answer questions based on their reading.

**Guiding Questions:**

- Do the states guarantee the same civil rights and liberties in their constitutions as the Constitution of the United States guarantees to all citizens?
- What would happen if the U.S. Constitution did not define civil liberties? Would the states make sure that people got their rights?
- Does the fact that most states have a Bill of Rights in their own Constitution mean that state governments are more or less likely to usurp peoples' basic liberties?

**Missouri Grade Level and Course Level Expectations:**

- Principles of constitutional democracy in the United States – Analyze/apply important principles in the Constitution.
- Role of citizens and governments in carrying out constitutional principles – Identify rights included in the Bill of Rights.
- Identify, select, use, analyze, and create primary and secondary sources for social science inquiry.

### Materials List:

- Paper copies of the state and federal constitutions, or
- Access to laptops or computer lab and the internet
- Student Bill of Rights Fact Sheet
- Handout

### Procedure:

1. Lead an introductory discussion on the Bill of Rights. Students will need to know the following terms:
  - Bill of Rights
  - Incorporation
  - Precedent
  - Civil rights
  - Civil liberties
  - Due process
2. Remind students that most of our fundamental rights, due process rights, and civil liberties are defined in the Bill of Rights to the U.S. Constitution. This includes such things as:
  - Our basic freedoms of religion, speech, press, petition and assembly.
  - Our right to a trial by jury.
  - Our right to have a lawyer present at trial.
  - Our right to be free from illegal search and seizure.
  - And more . . . . .

3. After reviewing some of these basic ideas, remind your students that the original text of the Constitution states that CONGRESS is limited by the Bill of Rights. It does not appear to also limit the state legislatures.

Note: Article VI of the Constitution requires that members of the congress, members of the state legislatures, as well as judicial and executive officers of both the national and state governments take an oath to support the U.S. Constitution, so it may presume that these officials at all levels and branches will uphold the Constitution. If the document did not make it clear that the rights implied by the Bill of Rights had to be applied on all levels, do you think state officials would feel bound to do so?

4. Use the concept above as a discussion starter by asking your students if they believe that the states would agree to give people rights if the U.S. Constitution did not make them do so. You might remind students that the 14<sup>th</sup> Amendment has been used to apply the Bill of Rights to the states, but would states have to “incorporate” the rights alluded to in the Constitution if the 14<sup>th</sup> Amendment did not exist?
5. The activity that follows will ask students to think about what would happen IF the states did not have to comply with the Constitution.
6. Give students the **Bill of Rights Fact Sheet**, and the **Handout: A Study Guide for Comparing the State and Federal Constitutions**.
7. Students will also need a copy of the United States Constitution and their state’s constitution to complete the study guide. The links for these are provided below and are also included on the student handout.
  - The state constitution is generally available at the **Secretary of State’s Office** in your state. For Missouri you can access the document at: <http://www.moga.mo.gov/const/moconstn.htm>
  - Or, a PDF copy of the Missouri Constitution from the Secretary of State’s Office can be found here: [http://www.sos.mo.gov/pubs/missouri\\_constitution.pdf](http://www.sos.mo.gov/pubs/missouri_constitution.pdf)

- As a teacher, you can ask for a paper copy of the Missouri Constitution from the Secretary Of State's Office. They will send these to you free of charge, if you want to create a classroom set. You can find information about how to obtain such copies from the link below:  
<http://www.sos.mo.gov/pubs/constitution.asp>
8. Allow time to complete the study guide. It could be assigned for homework, or could be done in class as either an individual, partner, or group activity.
9. Some things to point out as your students begin:
- They should note the length of the state constitution in comparison to the Constitution of the U.S. Which is longer?
  - They should note the organization of each document. Is one easier to navigate than other? What makes this true or not?
  - They should note the number of amendments to each. Generally, the amendment process is simpler at the state level which means that most state constitutions are amended more. The Constitution has only been changed 27 times in over 200 years. How many amendments does your state constitution have?
    - This might afford you an opening to talk about initiative/petition and the ability of voters on the state level to force the addition of material into the state constitution and into state law.
  - The study guide asks students to skim through the state constitution looking for similarities to the U.S. Constitution. Students will generally find that the Missouri Constitution does mirror that of the federal government when it comes to rights and civil liberties.
    - If you aren't working with the Missouri Constitution you may still see that most state constitutions contain a Bill of Rights, or include many of the rights granted to Americans at the national level.
10. Conclusion. After students finish the study guides, go over answers with them. Then, use the questions below for a post-study guide discussion.
- What do you think it means that the Missouri Constitution includes many of the same rights as the U.S. Constitution?
  - What would happen if those rights were ONLY found in the state constitution or if they were ONLY in the national Constitution? Why might it be a problem?
  - Would we as citizens still get the rights listed in the U.S. Constitution if states were not forced to incorporate them?
  - Could our respective states pick and choose which rights to grant their residents?
  - Do you think there are some rights that states might prefer to ignore? Which ones? Why?
11. Review the Guiding Questions
- Do the states guarantee the same civil rights and liberties in their constitutions as the Constitution of the United States guarantees to all citizens?
  - What would happen if the U.S. Constitution did not define civil liberties? Would the states make sure that people got their rights?
  - Does the fact that most states have a Bill of Rights in their own Constitution mean that state governments are more or less likely to usurp peoples' basic liberties?

**Handout: A Study Guide for Comparing the State and Federal Constitutions.**

Directions: Use the resources noted to answer the questions.

You will need:

- i. A copy of the U.S. Constitution, with the Bill of Rights.
  - You can find this online at: <http://www.archives.gov/exhibits/charters/constitution.html/>
  - You can find the Bill of Rights on the Judicial Learning Center’s website at <http://judiciallearningcenter.org/the-constitution-and-rights/>
- ii. A copy of your state constitution.
  - The Missouri Constitution can be found at: [http://www.sos.mo.gov/pubs/missouri\\_constitution.pdf](http://www.sos.mo.gov/pubs/missouri_constitution.pdf)
- iii. The Bill of Rights Fact Sheet

**NOW** – Compare your state constitution to the Bill of Rights from the U.S. Constitution, and answer the following questions:

**1. The 1<sup>st</sup> Amendment is arguably one of the most important elements of the U.S. Constitution. Look at your state constitution and see if you can find the rights mentioned in the 1<sup>st</sup> Amendment. Then, summarize the content of your state constitution, and provide the location of the information (was it found in an article, a section, etc).**

A. Freedom of religion (Establishment). Congress cannot make laws establishing a religion.

Was this in your state constitution? Where? \_\_\_\_\_

What did it say? \_\_\_\_\_

B. Freedom of religion (Free Exercise). Congress cannot make laws prohibiting your free exercise of religion, or otherwise tell you how to worship.

Was this in your state constitution? Where? \_\_\_\_\_

What did it say? \_\_\_\_\_

C. Freedom of speech. Congress cannot make laws abridging or restricting your freedom of speech.

Was this in your state constitution? Where? \_\_\_\_\_

What did it say? \_\_\_\_\_

D. Freedom of press, assembly or petition. Congress cannot make laws restricting the freedom of the press, or your right to peaceably assemble, or to petition the government.

Were any or all of these in your state constitution? Where? \_\_\_\_\_

What did it say? \_\_\_\_\_

**2. Other Rights and Freedoms:**

- E. Right to a trial by jury (in criminal cases). If accused of a crime, you have a right to a speedy and public trial, by an impartial jury.

Was this in your state constitution? Where? \_\_\_\_\_

What did it say? \_\_\_\_\_

- F. Protection from illegal search and seizure. The government must show probable cause and obtain a search warrant before searching your property or person.

Was this in your state constitution? Where? \_\_\_\_\_

What did it say? \_\_\_\_\_

- G. The right to trial by jury in suits of common law (civil disputes). The 7<sup>th</sup> Amendment to the U.S. Constitution allows for jury trials in certain civil cases.

Was this in your state constitution? Where? \_\_\_\_\_

What did it say? \_\_\_\_\_

- H. Freedom from cruel and unusual punishment. If found guilty of a crime, you are protected against punishment that is cruel or unusual.

Was this in your state constitution? Where? \_\_\_\_\_

What did it say? \_\_\_\_\_

**3. Pick another right in the U.S. Constitution that you would like to look for in your state constitution.**

- I. List it here: \_\_\_\_\_

Was this in your state constitution? Where? \_\_\_\_\_

What did it say? \_\_\_\_\_

**4. Now that you have compared the two documents, answer the following questions:**

What do you think it means that the Missouri Constitution includes many of the same rights as the U.S. Constitution? Keep in mind that the state constitution was written AFTER the national constitution.

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Since there is a great deal of overlap, would it be a problem if the U.S. Supreme Court determined that the national Constitution ONLY applied to the national government and that states no longer had to incorporate the rights that are listed there? Why or why not?

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What would happen if these fundamental rights were ONLY found in the state constitutions, and the Bill of Rights disappeared at the national level? Given the FEDERAL nature of our government, why might this be a problem?

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If these rights were ONLY found in the U.S. Constitution, why might this be a problem?

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Finally, do you believe that the states should be required to swear an oath to uphold the U.S. Constitution, and that they should have to abide by the rights outlined in the Bill of Rights? Why or why not?

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**Bill of Rights Fact Sheet**

Here is a copy of the U.S. Bill of Rights, with some explanation of the basic rights that are defined by each amendment. You will need to compare this with your state’s constitution to answer the questions on the worksheet.

**Amendment I:**

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

- Provides for freedom of religion, speech, press, petition, and assembly.

**Amendment II:**

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

- Ensures the right to bear arms.

**Amendment III:**

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

- Guarantees that military troops cannot be quartered in the home.

**Amendment IV:**

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

- Ensures that citizens are free from unreasonable search and seizure.
- Personal property and persons cannot be searched unless a warrant has been issued by the courts.
- Warrants are issued by the courts based on probable cause and must specify the details of each case (where to search, what police are looking for, etc.).

**Amendment V:**

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

- Ensures that you cannot be held for a crime unless indicted by a grand jury.
- Protects you from double jeopardy.
- Protects you from self-incrimination (having to testify against yourself).
- Guarantees everyone due process of the law.
- Ensures your property cannot be taken for public use without paying you a fair price.

**Amendment VI:**

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

- Ensures your right to a speedy and public trial if accused of a crime.
- Ensures your right to an impartial jury (from the state or district in which the crime allegedly occurred).
- Guarantees that you must be told of the charges against you.
- Gives you the right to confront witnesses against you, and present witnesses in your defense.
- Gives you the right to a lawyer if arrested.

**Amendment VII:**

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

- Ensures a right to a trial by jury in civil cases.

**Amendment VIII:**

**Excessive bail shall not be required, nor excessive fine imposed, nor cruel or unusual punishments inflicted.**

- Ensures that bail will not be excessive.
- Ensures that fines shall not be excessive.
- Ensures that punishments will not be cruel or unusual.

**Amendment IX:**

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

- Ensures that rights that are not listed in the Constitution may still exist, and be held by the citizens of the United States

**Amendment X:**

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

- Ensures that any powers not given directly to the U.S., and not denied to the States, are then reserved for either the States or the people.