

Bill of Rights Notes:

Background to the Bill of Rights:

- Key issue to getting the Constitution passed
- Introduced by James Madison to Congress in 1789
- 12 amendments were proposed to the states for ratification
- Only 10 of the amendments passed: These became known as the Bill of Rights
- Two that didn't pass:
 1. Amendment dealing with apportionment in the House of Representatives
 2. Amendment dealing with Congressional Pay (later passed in 1992)

Date Created:

- Proposed to Congress: September 25, 1789
- Ratified: December 15, 1791

Amendment 1:

- Freedom of Religion: America has no official religion; includes separation of church and state
- Establishment Clause:
 1. Prohibits the establishment of a national religion
 2. Prohibits preference of one religion over another
- Free Exercise Clause:
 1. You may believe whatever you want, but you practice however you want
- Freedom of Speech and Press: Includes no prior restraint (basically, the government can't pre-censor something before it is printed, published, or spoken);
 - a. LIMITS:
 1. Libel: applies to written and published statements, you can't print false material that ruin someone's reputation
 2. Slander: false speech intended to damage a person's reputation
 3. Can't cry "fire" in a crowded room if there's not really fire because you could cause a panic and hurt someone
 4. Can't endanger the Nation by giving away military secrets
- Freedom to assemble: However, Government can require a permit
- Freedom to petition

Amendment 2:

- Right to a militia
- Right to bear arms
- Intended to prevent the national government from repeating actions that the British had taken before the Revolution (they tried to take colonists' weapons away).
- This amendment is limited in that states have the power to regulate firearms

Amendment 3:

- Prohibits the government from forcing people to quarter troops

- This was another thing practiced by the British before the Revolution and colonists hated it.
- However, in times of war, if spelled out in law, Congress may require homeowners to house soldiers

Amendment 4:

- Protects a person's right to privacy
- Colonists hated that the British used writs of assistance (general search warrants, provided without probable cause) to find smuggled goods
- This amendment requires authorities to have specific evidence or probable cause in order to be issued a search warrant or arrest warrant

Amendment 5:

- Rights of the accused person
 1. No one can be tried for a serious crime unless a Grand Jury has decided there is enough evidence to justify a trial
 2. A person who is found innocent or guilty of a crime cannot be tried for the same offense
 3. No one may be forced to testify against him/herself. They can refuse to answer questions that may incriminate them.
 - a. The government must establish guilt by finding independent evidence of the person's involvement with the crime
 4. Government can't take away life, liberty, or property without due process
- Defines the rights of eminent domain: Government has the right to take private property if they are going to make it for public use.

Amendment 6:

- Protects the rights of the individual charged with federal and state crimes to defend themselves in a court trial
 1. Right to a speedy, public, and impartial trial by jury. (This protects you from Governments silencing all of their critics as a Dictatorship regime would do)
 2. Accused person may ask to be tried by a judge alone
 3. Accused may move the trial (change of venue)
 4. Accused has the right to know the charges against them so they may prepare a defense
 5. They have the right to hear and question all witnesses against them
 6. They have a right to compel witnesses to testify in their behalf.
 7. They have a right to be defended by a lawyer.

Amendment 7:

- Right to jury trial in federal courts to settle all disputes worth more than \$20.00
- However, when both parties agree, a judge rather than a jury may hear the case and settle the dispute
- Today the cash amount has been raised to anything over \$1500.00

Amendment 8:

- Prohibits excessive bail (Bail is set to ensure the accused will show up for trial, when the trial is over and the accused showed up, the bail is given back)
- Prevents judges from ordering someone convicted of a crime to pay an excessive fine. If someone is too poor to pay, he or she can be imprisoned to work off the fine, but once the fine is worked off – they can no longer be held in prison.
- Bans cruel and unusual punishment

Amendment 9:

- All other rights not spelled out in the Constitution are “retained by the people”
- Protects basic or natural rights not specifically mentioned

Amendment 10:

- Did not add anything to the Constitution
- Only reaffirms the relationship between National and State government
- Confirms that people and states have rights that the National Government may not assume