

*(This is the complete Chapter 13 of the Policy and Procedures Handbook. The document has been updated to include policies adopted by the House of Delegates at the 2011 Atlanta Midyear Meeting. Simply search this document for key word or phrase. For full copies of Resolutions with Reports contact Richard Collins at 312/988-5162 or richard.collins@americanbar.org.)*

**AMERICAN BAR ASSOCIATION  
POLICY ON LEGISLATIVE AND NATIONAL ISSUES**

The following compilation is a *selective, quick reference* form of the Association's policy on major legislative, national and professional issues. It is intended as an index and reminder and should not be quoted verbatim as representing ABA policy. The Association's official records in the American Bar Center are the primary source of authoritative information.

Association policy is determined by the House of Delegates or the Board of Governors, which is empowered to act in the House's place when it is not in session. Policy is established directly, through action upon a specific policy proposal.

The policies herein are listed alphabetically under the appropriate heading. The citation following each policy indicates when the policy was adopted, which should make it possible to find the policy statement in the *American Bar Association Reports* volume for that year or, in the case of those recently adopted, in the Summary of Action covering that period. Policies adopted after 1997 are cited by year, meeting and resolution number. The citation 98M118A means the policy was approved by the House of Delegates at the 1998 Midyear meeting and was resolution 118A. Policies approved by the Board of Governors list the month, year, designation BOG and report number. Therefore, 498BOG 2.1 means the policy was approved by the Board of Governors at the April 1998 meeting and was Exhibit 2.1.

The selective listings are on subjects presumed to be of popular interest. Subjects have been included upon which the Association has not taken a position, where experience indicates that inquiries will be made by laypeople or even bar association members as to the Association's views. Policy positions approved by authorization of *amicus curiae* briefs can be obtained from the Division for Policy Administration.

The index is reviewed after each Annual Meeting of the House of Delegates.

At the 1996 Annual Meeting, the House adopted a procedure to archive policies which are 10 years old or older and which are outdated, duplicative, inconsistent or no longer relevant. Such archived policies will be retained for historical purposes but shall not be considered current policy for the Association and shall not be expressed as such. The initial phase of the process was completed over a three-year period. Hereafter, each year, policies that are ten years old will be reviewed.

## ABA Policy on Legislative and National Issues

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## ADMINISTRATIVE LAW

**Adjudication Hearings.** Urge Congress, when it considers enactment of legislation relating to new or existing programs that involve agency adjudications with an opportunity for a hearing, to consider and determine expressly within the relevant legislation whether the hearing should be subject to the requirements of certain sections of the Administrative Procedure Act. Recommend three specified factors to be considered in determining the appropriateness of requiring a formal APA adjudication. Recommend that amendment of the APA to provide prospectively that, absent a statutory requirement to the contrary in any future legislation that creates the opportunity for a hearing in an adjudication, such a hearing shall be subject to those sections. 00A113

Urges Congress to amend and modernize the adjudication provisions of the Administrative Procedure Act and to expand certain fundamental fair hearings provisions of that Act by enacting legislation consistent with the draft bill entitled "Federal Administrative Adjudication in the 21st Century," dated February 2005, recognizing the administrative law judge adjudication as the preferred type of adjudication for evidentiary proceedings conducted under the Administrative Procedure Act. 05M114

**Administration of Justice.** Urge lawyers to actively support the enactment of federal, state and local legislation designed to improve the administration of justice and the functioning of the legal system. 8/88

**Administrative Agency Proceedings.** Adopt the following principles with respect to the choice between rulemaking and adjudication in administrative agency proceedings: (1) An agency is generally free to announce new policy through an adjudication proceeding; (2) When rulemaking is feasible and practicable, an agency that has been granted broad rule making authority ordinarily should use rulemaking rather than adjudication for large-scale changes; (3) An agency should not be empowered to treat its adjudicatory decisions precisely as if they were rules. 2/85

**Administrative Conference of the United States.** Support retaining the public membership of the ACUS and support adding certain functions to ACUS. 6/79

Support reauthorization of the Administrative Conference of the United States (ACUS) and the provision of funds sufficient to permit ACUS to continue its role as the government's in-house advisor and coordinator of administrative procedural reform. 2/89

Strongly endorses legislation which would authorize the Administrative Conference of the United States to provide assistance in response to requests relating to the improvement of administrative procedure in foreign countries. 11/91

Urge that no action be taken by the Administrative Conference of the United States in plenary session on the recommendations made in the Draft Report on the Federal Administrative Judiciary until the Association has had an opportunity to present its considered views on the fundamental changes to the administrative judiciary proposed by the report. Urge the U.S. Office of Personnel Management to reopen the register to new applicants for administrative law judge positions within thirty days. 11/92

**Administrative Law Judges.** Support legislation to exempt ALJs from Civil Service veterans' preference hiring requirements and support legislation with respect to the appointment, tenure and discipline of ALJs. 8/76; 6/79

Encourages Congress to establish a retirement plan for federal administrative law judges that is appropriate to their judicial status and functions and that is separate from retirement plans of other career civil servants. 04M113B

Encourages Congress to establish The Administrative Law Judge Conference of the United States as an independent agency to assume the responsibility of the United States Office of Personnel Management with respect to Administrative Law Judges, including their testing, selection, and appointment. 05A106A

Reaffirms the judicial independence and authority granted to the Central Panel Administrative Law Judges in the Model Act Creating a State Central Hearing Agency, adopted by the House of Delegates in February 1997. 11M112

**Attorneys' Fees.** Urge Congress to enact legislation that would (1) establish uniform principles for the regulation of attorneys' fees in proceedings before federal administrative agencies; (2) provide for reasonable fees; and (3) implement through the administrative rulemaking process. 8/80

Support the award of legal assistant/paralegal fees to law firms or attorneys who represent prevailing parties in a lawsuit where statutes or current case law allow for the recovery of attorney fees. 8/93

**Bumpers Amendment.** Support legislation removing the presumption of validity of agency action during judicial review of such action. 8/79

**Civil Monetary Penalties.** (1) Generally encourages the use of administratively imposed civil monetary penalties by federal agencies against regulated persons and entities as one part of an administrative enforcement program that already includes civil or criminal sanctions; and (2) recommends that, in cases involving any significant administratively imposed civil monetary penalties, the opportunity for a formal adjudication pursuant to the Administrative Procedure Act's provisions, 5 U.S.C. 554, 556-558, be available to parties; but (3) that the foregoing position relating to the use of administratively imposed civil monetary penalties does not preclude, and is not inconsistent with, American Bar Association opposition to those portions of H.R. 2179 and S. 476 (108<sup>th</sup> Congress) that would extend the Securities and Exchange Commission's administrative penalty authority to non-regulated entities. 04A114 (*See also* Securities and Exchange Commission Authority.)

**Computer Systems/Internet in Federal Agencies.** Urge the Administration to promote best practices for federal agency Website pages and to facilitate the ease and predictability of citizen access to desired information by supporting (1) a centralized office to encourage and monitor best practices relating to agency Internet use; and (2) modernization of computer systems used for public and internal access to government information. 01A107A

**Congressional Committee Review of Prosecutorial Agencies.** Urge that (1) federal prosecutorial agencies should respond in a timely, open and candid manner to requests from congressional committees trying to determine whether the prosecutorial agencies are enforcing laws under their jurisdiction effectively or whether these laws need revision; and (2) congressional committees and federal prosecutorial agencies should work jointly to establish informal guidelines which properly balance the needs for congressional oversight of the executive function and prosecutorial independence from political interference in accordance with two specified principles. 8/96

**Congressional Review of Presidential Action.** Support congressional review of the exercise of certain congressionally delegated presidential actions which involve quasi-legislative powers, by including in each statute delegating a particular power a time limit on the use of that power and authority for the President of the United States to withdraw or modify his or her action in light of any intervening congressional resolution. 8/79

**Congressional Veto of Agency Regulations.** Oppose legislation providing for congressional review of agency regulations, which would become effective only after the expiration of a set time, unless expressly vetoed by Congress. 8/79

**Department of Justice Attorneys.** Urges the President and the Attorney General to assure that lawyers in the Department of Justice do not make decisions concerning investigations or proceedings based upon partisan political interests and do not perceive that they will be rewarded for, or punished for not, making a decision based upon partisan political interests. 10M102G

**Department of Justice Attorneys-Investigation of Misconduct.** Urges the United States Department of Justice to continue in its commitment to investigate allegations of professional misconduct on the part of the Department's lawyers and to release as much information regarding completed investigations as possible, consistent with privacy issues and law enforcement confidentiality concerns. 10A100A

**Department of Veterans' Affairs.** Urge the United States Department of Veterans' Affairs to administer its debt collection and forfeiture proceedings in a manner that allows veterans to hire attorneys without regard to the attorney fee limitations set forth in 38 U. S. C. Sections 3404 and 3405 that are applicable to benefit claims cases, and recommend three specified procedures. 8/89

Supports legislation to repeal the statutory provision preventing veterans from paying an attorney to represent them in connection with their claims for federal benefits. 05M8A

**Discipline of Lawyers.** Support legislation to bar federal agencies from prescribing professional rules of conduct for, and from disciplining, attorneys except as immediately necessary to maintain order in proceedings before them or in conformity with action taken by state disciplinary boards; undertake the development of a model enforcement mechanism for the discipline of lawyers who practice before administrative agencies. 8/82

**Dissemination of Information.** Recommend that the President and agencies take a series of procedural steps to seek more effective public participation in significant agency information dissemination efforts intended to promote public policy goals. 01A107C

**Ethical Standards/Discipline for Administrative Judiciary.** Urge federal, state, local and territorial governments to enact and adopt measures to protect the public interest in independent, impartial, and responsible decision-making in the administrative adjudication process by providing (1) that members of the administrative judiciary be held accountable under appropriate ethical standards adapted from the ABA Model Code of Judicial Conduct (1990) in light of the unique characteristics of particular positions in the administrative judiciary; and (2) that any individualized removal or discipline of a member of the administrative judiciary occur only after an opportunity for a hearing under the federal or a state administrative procedure act before an independent tribunal, with full right of appeal. 01A101B

**Ex Parte Communications in Rulemaking Proceedings.** Support legislation prohibiting such communications between private parties and government personnel. 2/59; 8/70; 8/75

**Executive Oversight.** Support specific principles with respect to executive oversight of federal agency rulemaking and the implementation of Executive Order Nos. 12291 and 12498. 2/86

Recommend that (1) certain actions be taken by any government entity designated by the President to engage in a continuing process of oversight of the rulemaking process; (2) an agency whose rules are subject to review by an entity described above should identify, by the simplest method, the substantive changes between a proposed or final rule and prior drafts that were submitted for oversight review; (3) the above recommendations are not applicable to the personal communications of the President or Vice-President; and (4) compliance or not with the above procedures is not intended to form the basis for judicial review. 2/93

**Executive Privilege.** Recommend procedures for the resolution of disputes between the Congress and the President of the United States over executive privilege, including steps to be taken by the political branches, consideration of a central body in Congress with responsibility for participation in executive privilege

negotiations, and consideration as to whether specific disputes might lend themselves to nonbinding mediation efforts. 8/87

**Federal Black Lung Compensation Program.** Express opposition in principle to any revisions of the Code of Federal Regulations (20 CFR Part 725) recommended by the United States Department of Labor (62 Federal Register 3337 et seq.) pertaining to the Federal Black Lung compensation program which are contrary to the requirements of the Federal Administrative Procedure Act or the Black Lung Benefit Act and express opposition to certain specific revisions of the Code. 8/97

**Federal Communications Commission Rules and Regulations Regarding Unsolicited Facsimiles.** Opposes the Federal Communications Commission (FCC) rules and regulations implementing the Telephone Consumer Protection Act of 1991, published July 25, 2003, that would eliminate the "established business relationship" exception to the general rule prohibiting the sending of unsolicited facsimile advertisements and urges the FCC to revise the rules and regulations accordingly. Urges the FCC to issue a clarification that the rules and regulations do not prohibit unsolicited facsimile advertisements sent by tax-exempt nonprofit organizations in pursuit of their authorized tax-exempt nonprofit purposes. Urges Congress and the FCC to take appropriate action to restore the established business relationship exception and to permit tax-exempt nonprofit organizations to send unsolicited facsimile advertisements in pursuit of their authorized tax-exempt nonprofit purposes. 803BOG2.12

**Federal Disability Benefit Programs.** Support implementation of specific recommendations of the Symposium on Federal Disability Benefit Programs with respect to disability standards, initial determinations, information on procedures and burdens of proof, medical evidence, quality assurance programs, role of administrative law judges, government representation projects, and scope and time of review. 8/86

**Federal Trade Commission.** Approve in principle the report of the Commission to Study the FTC. 2/70

Recommend that the Federal Trade Commission amend Section 4.1(a)(1) of its rules of practice to grant the right to appear before it to foreign lawyers who are authorized to practice before a foreign competition law tribunal or agency that extends reciprocal rights to American lawyers. 8/90

Recommend that the Federal Trade Commission adopt a rebuttable presumption in order modification proceedings that any provision or order which is more than ten years old should be terminated as no longer in the public interest, and include certain sunset provisions in new orders automatically terminating those orders after a stated period of time. 8/90

**Freedom of Information Act.** Support enactment of legislation improving procedures and balancing more carefully interests of private and public parties under the FOIA and providing increased protection for financial, commercial and business information and national security and intelligence. 8/74; 2/82; 2/83; 8/83

Favor amendment of FOIA to define "agency record" to cover any record (1) prepared on behalf of the agency through direct government funding, (2) if the agency has a right to obtain possession of such record, and (3) if such record was relied on by the agency in the performance of any agency rulemaking or adjudicatory function. 8/83

Favor amendments to exemption 7(D) to afford clearer protection to confidential sources. 2/84

Urge federal agencies to adhere to regulations which provide that, to the extent individuals seek access to individually identifiable records concerning themselves, they shall receive, in addition to records they are entitled to receive under the Privacy Act, access to all records required to be disclosed under FOIA. 2/84

Urges the Attorney General of the United States to issue a memorandum to Freedom of Information Act (FOIA) officials at federal agencies clarifying that the designation of agency records as "sensitive but unclassified" cannot be a basis for withholding agency documents from release. The memorandum should also establish a standard policy for: (1) designating information as "sensitive but unclassified"; (2) the internal handling of such information; (3) taking into account the sensitive nature of such information; and (4) ensuring the release of such information unless exempt under FOIA. 06M112

**Government Ethics.** Support the development of certain comprehensive guidelines outlining appropriate conduct for government officials in their dealings with private parties. Endorse the integrated approach to the regulation of ethics in government service set forth in the Report of the Committee on Government Standards entitled "KEEPING FAITH: Government Ethics and Government Ethics Regulation" (Spring 1993) as a suggested approach for the framing of such regulation. 8/93

**Government in the Sunshine Act.** Offer guidelines to federal agencies and courts on the definition of "meeting" as used in the Government in the Sunshine Act to provide that the term does not include (a) spontaneous casual discussions among agency members; (b) briefings of agency members by staff or outsiders; (c) general discussions of subjects that are relevant to an agency's responsibilities but which do not pose specific problems for agency resolution; and (d) certain exploratory discussions. 2/87

Urge that the International Trade Commission expeditiously determine the extent to which the Government in the Sunshine Act permits the Members of the Commission to meet in a non-public manner prior to determinations in matters assigned to the Commission under the Tariff Act of 1930, as amended. In the event the Commission is unable to resolve this issue in a satisfactory manner, support such initiatives as may be appropriate to clarify the Commission's ability to hold non-public meetings in such proceedings, whether by administrative or judicial interpretation of present law or by amendment of existing legislation. 2/93

Supports the International Trade Commission's adoption of certain procedures relevant to its compliance with the Government in the Sunshine Act, 5 U.S.C § 552(b). 07A118B

**Governmental Intervention in the Economy.** Endorse the principle that in lieu of governmental intervention, reliance be placed upon the competitive market as regulator supported by antitrust laws; support several enumerated analytical principles to avoid unnecessary regulation. 2/79

**Harmonization of Domestic and Foreign Regulations.** Recommend that the President and agencies take a series of procedural steps that seek to ensure effective public participation in significant agency efforts to harmonize domestic and foreign regulations through international negotiations that may require new regulations or the amendment of existing regulations. 01A107B

**Interstate Compact Agencies.** Urges Congress, states and territories to prescribe the administrative procedures to be employed by congressionally approved interstate compact agencies, provide for judicial review of such agencies' actions and specify the standards of judicial review. 08A111B

**Language Interpreters.** Urges the federal government and the states, territories and possessions to commit sufficient resources to all courts and administrative agencies to enable them to provide qualified language interpreters to ensure that all parties and witnesses may fully and fairly participate in all proceedings. 02M110

**Management of Administrative Agencies.** Urge agencies to reduce delay and improve management by making greater use of informal rulemaking, agency delegation of final authority to presiding officers and staff appeal boards, and certain management procedures subject to an outside audit. 8/78

**Medicare Claims Adjudication.** Recommends specific reforms in the Medicare claims adjudication process to

assure that Medicare beneficiaries are afforded due process throughout all levels of the claims process. 03A107

**Model Statute on Local Land Use Planning Procedures.** Adopts the *Model Statute on Local Land Use Planning Procedures*, dated August 2008, which addresses local land use procedures, incorporates the accumulated legal experience of the last eighty years and provides a uniform and fair method of treating land use applications and urges its enactment by states, territories and local legislative bodies. 08A111A

**Modified Administrative Procedure.** Support an amendment to the APA to provide a category of modified procedure in cases now heard on the record for the purpose of determining whether a formal trial-type hearing is necessary. 2/79

Recommend that with respect to nonlegislative rules, agencies provide (1) an opportunity for members of the public to comment on proposed rules and to recommend alternative policies or interpretations, or when rules are adopted without prior public participation, that agencies provide an opportunity for post-adoption comment; (2) an opportunity for affected private parties to challenge the wisdom or legality of the rule, in an enforcement or other proceeding; and (3) when an agency proposes to act at variance with a policy or interpretation contained in an established nonlegislative rule, (a) the opportunity for the private party to request relief, and (b) an explanation why the agency is departing from its established policy or interpretation. 8/93

**Office of Personnel Management/Administrative Law Judges.** Urges the Office of Personnel Management as part of its mandate to select the best qualified candidates for federal administrative law judge positions, to consider judicial status in good standing as a satisfactory alternative to any requirement that candidates be active licensed attorneys in good standing. 09M112

**Ombuds.** Support the greater use of "ombuds" to receive, review and resolve complaints involving public and private entities and endorses the Standards for the Establishment and Operation of Ombuds Offices, dated August 2001. 01A107D

Endorses revised Standards for the Establishment and Operation of Ombuds Offices, dated February 2004. 04M115

**Periodic Review of Regulations.** Recommend 5 specified principles to guide the review of existing regulations by federal administrative agencies with rulemaking authority: (1) commitment by agencies to a periodic review of regulations; (2) congressional review of programs; (3) choice of different approaches to review methods best tailored for the particular agency; (4) 5 specified requirements for an effective and meaningful review; and (5) adoption of regulations that are less likely to become obsolete or require amendment, and establishment of formal programs for issuing interpretations to lessen confusion concerning existing rules. 8/95

**Plain Language Techniques.** Urge agencies to use plain language in writing regulations, as a means of promoting the understanding of legal obligations, using certain suggested techniques. Recommend certain steps to avoid problems in the use of plain language techniques. 99A103A

**Preemption.** Urges Congress to address foreseeable preemption issues clearly and explicitly when it enacts a statute that has the potential to displace, supplement or otherwise affect state tort law. Urges Congress to remain mindful of the historic responsibility that States have exercised over the health and safety of their populace and balance the competing concerns relating to preemption. Urges the President to require an agency to follow four specific procedures before it attempts to preempt state tort law. Recommends that independent regulatory agencies which are not covered by Executive Order 13132 voluntarily comply with that order regarding federal actions that may have preemptive effect and sets forth procedures for compliance. 10A117 (*See also:* Regulatory Reform.)

**Presidential Review of Federal Rulemaking.** Endorse the guidelines concerning the implementation of

Executive Order Nos. 12,291 and 12,498 which specified that presidential review should apply generally to all informal federal rulemaking, including that by independent regulatory agencies; that the process of review should be completed in a timely fashion; that the agency submission should be available to the public when the rulemaking is completed; that new factual information or communications transmitting outside views or positions should be placed in the public file of the rulemaking; and that the presidential review process should not be judicially reviewable. 8/90

**Pro Hac Vice Admission.** Adopts the *Model Rules on Pro Hac Vice Admission* pursuant to the recommendations of the Commission on Multijurisdictional Practice. 02A201F

**Public Participation.** Support the principles of the payment of attorneys' fees and costs by the government in administrative proceedings and the judicial review of such proceedings considered to be in the public interest. 2/77; 2/78

**Regulatory Reform.** Support and oppose numerous amendments to the Administrative Procedure Act, and other statutes, to decrease federal regulation, to streamline and simplify regulatory procedures, and to provide for improved coordination among federal agencies and increased public and private oversight of regulatory action. Many entries under Administrative Law that pertain to the federal regulatory process and the Administrative Procedure Act are subsumed under Regulatory Reform. 2/78; 8/78; 2/79; 6/79; 8/79; 8/80

Urge Congress to address foreseeable preemption issues clearly and explicitly when it enacts a statute affecting regulation or deregulation of an area of conduct; urge federal agencies to establish several procedures with respect to the preemption of state laws or regulations. 8/88

**Regulatory Review Procedures.** Urge the Office of Information and Regulatory Affairs of the Office of Management and Budget to add a provision to its 1986 procedures for regulatory review that within 60 days of receipt by OIRA of a proposed or final rule under Executive Order No. 12,291, OIRA will either complete its review or return the rule to the agency for reconsideration, with certain understandings. 2/90

**Remand Proceedings.** Recommend that (1) when a reviewing court holds that a rule or order issued by a federal administrative agency must be remanded to the agency for further consideration, the court may exercise discretion in determining whether or not to refrain from vacating the agency's action pending the remand proceedings; (2) in exercising this discretion, a reviewing court should normally strike the balance in favor of vacating the agency's action unless special circumstances exist; (3) where the court orders the remedy of remand without vacation, it should (a) give serious consideration to specifying a time frame within which the agency is to comply with the terms of the remand order; and (b) consider certain directions until agency action to cure the previous error has become final; and (4) courts should encourage parties to address remedial issues in their briefs and at oral argument. 8/97

**Retroactive Rules.** Recommends that as a matter of public policy, retroactive legislation and retroactive rules that impose new legal duties and liabilities should be avoided; that in construing grants of rulemaking power where agency authority to adopt retroactive rules is unclear, federal courts should not apply a presumption that disfavors agency authority to adopt certain retroactive rules; that retroactive rules are and should be subject to the notice and comment requirements of Section 553 of the Administrative Procedure Act; noting that the resolution does not address in any way the Civil Rights statutes, including the Civil Rights Act of 1991. 2/92

**Review of Proposed Regulatory Action.** Support issuance of executive order directing federal agencies to prepare a regulatory analysis and interagency review of the impact that important proposed regulatory actions would have on the achievement of all relevant statutory goals. 8/79

**Risk Assessments.** Recommend that any formal requirement that agencies of the Federal Government undertake formal risk assessments in advance of regulatory action concerning health and safety issues should be consistent

with nine specified principles. 99A103B

**Rulemaking.** Urge that administrative agencies implement the right to petition for rulemaking by following certain procedures. 2/88

Urge the Occupational Safety and Health Administration to establish procedures to set priorities for rulemaking and to manage the rulemaking process and make such other procedural changes as are necessary to assist OSHA in fulfilling its statutory mandate. 8/88

Recommend to all federal agencies exercising rulemaking authority that they review the causes of delay in rulemaking and, to the extent feasible and practicable, that they take certain specified steps to improve their procedures for considering and adopting rules. 2/89

Recommend that (1) certain actions be taken by any government entity designated by the President to engage in a continuing process of oversight of the rulemaking process; (2) an agency whose rules are subject to review by an entity described above should identify, by the simplest method, the substantive changes between a proposed or final rule and prior drafts that were submitted for oversight review; (3) the above recommendations are not applicable to the personal communications of the President or Vice-President; and (4) compliance or not with the above procedures is not intended to form the basis for judicial review. 2/93

**Rulemaking Analyses.** Recommend that federal agencies comply with certain guidelines concerning rulemaking analyses required by Executive Order Nos. 12291, 12606, 12612 and 12630; the Paperwork Reduction Act; the

Regulatory Flexibility Act; the National Environmental Policy Act; and other statutes or executive orders requiring the preparation of similar impact or assessment analyses. 8/90

**Rulemaking Impact Analyses.** Urges the exercise of restraint in the overall number of required rulemaking impact analyses, assess the usefulness of existing and planned impact analyses, ensure that agency administrators and employees receive adequate training concerning the implementation of analyses, and ensure that agencies adhere to recommendations of the American Bar Association and the Administrative Conference of the United States pertaining to such impact analysis requirements. 2/92

**SEC Standards of Conduct.** Urge the Securities and Exchange Commission to refrain from adopting proposed standards of conduct constituting unethical practice by lawyers before the commission. (*See also* Discipline of Lawyers.) 11/81

**Securities and Exchange Commission Authority.** Opposes pending federal legislation (the Levin-Nelson Amendment to S. 476, which has passed the Senate and H.R. 2179, pending in the House) that would grant the Securities and Exchange Commission new administrative authority to: (1) impose civil monetary penalties on any individual or company alleged to have violated, or caused another to violate, any federal securities law or regulation, without regard to whether the individual or company is a regulated person; and (2) subpoena financial records without the need to notify the subject of the request. 603BOG 2.3

**Securities Exchange Act of 1934.** Urges Congress to amend clause (A) of Subsection (2) of Section 13(p) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m(p)) to read in its entirety as follows: "the person is a registrant that files reports with the Commission under Sections 13(a) (15 U.S.C.78m(a)) or 15(d) (15 U.S.C. 78o(d)) of the Securities Exchange Act of 1934, and". 11M117

**Social Security Administration.** Urge the Social Security Administration to observe, in all stages of administrative proceedings, the applicable decisions of the U. S. court of appeals for the circuit in which the

matter has arisen, subject to the agency seeking review in the U. S. Supreme Court. 7/85

Urge that federal legislation be enacted to provide that the Social Security Administration cease its policy of "non acquiescence," and that such legislation incorporate three specified principles. 2/90

Urges Congress to enact a level of administrative funding for the Social Security Administration (SSA) that permits the SSA to (1) provide its mandated services in a timely manner; (2) promptly and fairly adjudicate applications for disability insurance and supplemental security income benefits; (3) overcome significant disability claims processing times and backlogs; and (4) build the infrastructure necessary to manage the expanding workload challenges presented by serving the aging baby boomers filing disability and retirement claims. 408BOG2.1

**State Regulatory Agency Rulemaking.** Endorse the proposition that additional means should be found to increase the role of competitive considerations in state regulatory agency rulemaking and endorse the proposition that legislation designed to introduce competitive considerations into state regulatory agency proceedings should be tailored to the particular statutory framework within which each agency acts. 8/83

**Statewide Agencies.** Urge each state that does not already have an administrative procedure act generally applicable to statewide agencies to adopt one implementing certain specific principles. 8/77

**Sunset Legislation.** Support a limited form of sunset legislation, provided several considerations are met, which would require periodic review by the Congress of federal regulatory agencies. 2/78

**Supplemental Security Income.** Urge enactment of legislation to make improvements in the administration of such programs as supplemental security income by resolving inequities and anomalies in such areas as income and resource exclusions, personal needs allowances, notice provisions, overpayment procedures, and clarity in official communications, in ways that enhance the efficiency, effectiveness, fairness and accessibility of such programs. 8/84

**Veterans' Disability Claims.** Recommends that the U.S. Court of Appeals for Veterans Claims and Congress take a series of procedural steps to seek more efficient and effective resolution of veterans' disability claims. 03M102

**Visas, Issuance of.** Urges the Congress, Department of State, Department of Homeland Security, Federal Bureau of Investigation, and other relevant government agencies to ensure that the visa issuance process effectively protects the security of the United States, while allowing those persons who wish legitimately to study, work, or travel in the United States for scientific and scholarly purposes the opportunity to pursue those objectives.

Supports efforts to establish more effective and efficient policies and procedures for issuing, denying, adjudicating and revoking visas to enter or re-enter the United States. 05M110

**Wage-Price Controls.** Support principles concerning public notice and participation and administrative due process in any program of voluntary or mandatory federal controls. 2/75

## ADMIRALTY AND MARITIME LAW

**Maritime Law.** Support federal legislation to ensure uniformity of maritime laws. 8/76

## ANTITRUST LAW

**Antidumping Act.** Oppose legislation that would amend the Antidumping Act of 1916 to create a new civil cause of action for dumping patterned after the administrative antidumping law, and make these provisions part of the antitrust laws of the United States. 8/86

**Antitrust Guidelines.** Recognize that in issuing Antitrust Guidelines for International Operations, the U. S. Department of Justice is performing a significant public service by setting forth its analysis of a wide variety of transnational transactions; urge the Department of Justice to revise the draft guidelines to make clear where the Department's enforcement position departs from established law or lacks substantial legal support; urge the Department of Justice to take into account eight suggestions in considering finalization of its draft guidelines. 8/88

**Antitrust Law Enforcement.** Urge the Department of Justice and the Federal Trade Commission that (1) before either entity amends or repeals an interpretative rule of general applicability or a statement of general policy concerning antitrust law enforcement, it follow certain procedures; (2) the procedures be inapplicable when either entity states in the interpretative rule or policy statement that such procedures would serve no public interest or would be so burdensome as to outweigh any foreseeable benefit; and (3) neither (a) nor (b) be deemed as subjecting such rule or statement to any provision of the Administrative Procedure Act not otherwise applicable. 2/88

**Antitrust Procedures and Penalties Act.** Oppose those portions of legislation that would expand the scope of the Antitrust Procedures and Penalties Act (Tunney Act) to compel judicial review of voluntary dismissals of antitrust proceedings brought by the United States and more extensive judicial and third-party roles in the approval of consent judgments subject to the Tunney Act. 8/84

**California v. ARC America Corp.** Recommend that Congress hold hearings to address the legal issues and policy implications raised by the Supreme Court's recent decision in *California v. ARC America Corp.* 8/90

Urge Congress to amend Section 8 of the Clayton Act relating to interlocking directorates to add specific provisions. 2/86

**Competition Improvements Act.** Oppose the introduction into federal regulatory agency proceedings of excessively competitive considerations such as contained in the proposed act. 8/76

**Federal Deposit Insurance Act.** Support legislation to (1) amend the Federal Deposit Insurance Act to clarify that federal banking agencies, when taking action against individuals affiliated with insured depository institutions are authorized to obtain asset preservation orders only through judicial proceedings under Section 8(I)(4) of the Act; and to require the federal banking agencies, when seeking an asset preservation order under that section to demonstrate that the person against whom the order is being sought is likely to dissipate or otherwise improperly transfer assets of the institution concerned; and (2) clarify that the federal banking agencies are not authorized to use their power to issue cease-and-desist orders as a means of securing money damages relief that is ordinarily only available through the prosecution of a damages suit in court. Recommend that the agencies refrain from using asset preservation orders against lawyers on account of their conduct in representing clients before the agencies, except in certain cases. Urge development and announcement of policy positions through the notice-and-comment rulemaking procedures of the Administrative Procedure Act. Oppose certain agencies' interpretations of the Model Rules of Professional Conduct. 8/93

**Federal Trade Commission Act.** Oppose amendments to Section 10 expanding FTC authority to enforce compulsory process and to increase fines for failure to comply; support expanded rights of respondents to challenge compulsory process. 2/76

**Federal Trade Commission Rules.** Urge the Federal Trade Commission to amend its rules concerning the treatment of confidential information to provide for the uniform and adequate treatment of all such information, in accordance with five specific principles. 2/86

Recommend that the Federal Trade Commission adopt a rebuttable presumption in order modification proceedings that any provision or order which is more than ten years old should be terminated as no longer in the public interest, and include certain sunset provisions in new orders automatically terminating those orders after a stated period of time. 8/90

**Gasoline Pricing.** Opposes enactment of legislation regulating gasoline pricing and modifying the antitrust laws by creating industry-specific laws applicable to the sale of gasoline. 8/92

**Industrial Reorganization Act.** Oppose the act, or principles contained in similar legislation, which would reorganize at least seven concentrated industries and declare monopoly power *per se* unlawful. 2/74

**International Antitrust Law.** Recommend that nations adopt strong, clear laws against cartels; that they strengthen their anticartel enforcement offices, the procedures for enforcing the law and the penalties for infringing it; and that they eliminate exceptions from the anticartel principle; recommend that courts be reluctant to dismiss cases involving cartels that target or disproportionately affect their nationals or people or firms in their territory where dismissal is sought on grounds of allegedly conflicting foreign law or policy; recommend that in the enforcement of laws dealing with transnational mergers, nations harmonize reporting and waiting requirements and that enforcers consult, lend aid in discovery, and in appropriate cases, defer in exercising their own enforcement jurisdiction so as to facilitate and not frustrate salutary transactions. 8/91

**Know-How Licensing.** Urge the Commission of the European Communities to modify its draft regulation on the application of article 85(3) of the Rome treaty to certain categories of know-how licensing agreements in accordance with four principles. 2/88

**Motor Fuel Service Stations.** Oppose legislation to bar "any large integrated refiner" from operation of motor fuel service stations and limit the ability of refiners to enter into exclusive dealing contracts with their franchisees, and make illegal all exclusive dealing contracts of suppliers and retailers of branded motor fuel. 2/86.

**Petroleum Marketing Practices Act of 1978.** Oppose legislation to amend the Petroleum Marketing Practices Act of 1978 to restrict the ability of integrated refiners to operate efficiently in gasoline retail markets by creating a system of regulation. 2/86

Oppose the Retail Competition Enforcement Act or similar legislation that would codify *per se* treatment for all vertical price-fixing agreements. 8/88

**Sherman Act.** Urges that Fed. R. Civ. P. 12(b)(6) be interpreted to require that a complaint alleging a conspiracy in violation of Section 1 of the Sherman Act must allege facts constituting more than mere parallel conduct and ordinary business behavior. 06A307

Recommends that the Sherman Act, 15 U.S.C. §1, and comparable state and territorial laws should not be interpreted to apply a rule of *per se* illegality to agreements between a buyer and seller setting the price at which the buyer may resell goods or services purchased from the seller. 07M101

**Treble Damages.** Support legislation that would amend the federal antitrust laws to allow the United States to recover treble damages when it is injured by a violation of the antitrust laws, and to require judicial approval of modifications to substantive provisions of antitrust consent decrees under the procedures of the Tunney Act; oppose legislation that would amend the federal antitrust laws to follow certain procedures. 2/88

## ATTORNEYS, GENERAL PRACTICE

**Admission to Federal Courts and Agencies.** Urge promulgation by the Judicial Conference of the United States of a uniform system for admission of attorneys to federal courts and agencies. 2/72

**Advertising.** Endorse the Aspirational Goals for Lawyer Advertising, as amended. 8/88

**Alternative Work Schedules.** Endorse and promote the adoption and use of alternative work schedules for lawyers, including but not limited to (a) restructured full-time work schedules such as compressed work weeks, telecommuting, flexiplace and flex-time; and (b) reduced work schedules such as part-time employment, job-sharing and phased retirement. Encourage employers of lawyers to adopt and promote formal written policies outlining the requirements of alternative work schedules and their impact on compensation, benefits, and career progression. 2/97

**Attorney-Client Privilege.** Support the principle that the attorney-client privilege for communications between in-house counsel and their clients should have the same scope and effect as the attorney-client privilege for communications between outside counsel and their clients. 8/97

Oppose legislation such as S. 1737 of the 105<sup>th</sup> Congress, which would extend the attorney-client privilege to accountants and others not licensed to practice law. 398BOG

Strongly supports the preservation of the attorney-client privilege and work product doctrine as essential to maintaining the confidential relationship between client and attorney required to encourage clients to discuss their legal matters fully and candidly with their counsel so as to (1) promote compliance with law through effective counseling, (2) ensure effective advocacy for the client, (3) ensure access to justice and (4) promote the proper and efficient functioning of the American adversary system of justice. Opposes policies, practices and procedures of governmental bodies that have the effect of eroding the attorney-client privilege and work-product doctrine and favors policies, practices and procedures that recognize the value of those protections. Opposes the routine practice by government officials of seeking to obtain a waiver of the attorney-client privilege or work product doctrine through the grant or denial of any benefit or advantage. 05A111

Urges federal and state courts to adopt consistent rules to govern the scope of required disclosures for discovery of testifying experts and their reports and that draft expert reports and attorney-expert communications relating to the expert's report be protected from discovery in accordance with the proposed resolution. 06A120A

Urges federal and state courts to adopt consistent rules to address how the courts and counsel should resolve issues involving claims of inadvertent disclosure of materials protected by the attorney-client privilege or work product doctrine. 06A120D

Supports the right of participants in federal proceedings to take an immediate appeal from an order that rejects a claim of attorney-client privilege and on that basis requires the production of information or materials for which the privilege has been claimed. 09M301

**Attorney-Client Privilege/European Communities.** Requests the Commission of the European Communities, when conducting a competition inquiry pursuant to Article 11 or 14 of Regulation 17, to grant to an undertaking the same protection, including the same procedural safeguards, against disclosure of written communications with a U.S. lawyer that Community Law accords to a client's written communications with a lawyer of a Member State of the European Community. As a separate matter, the American Bar Association requests the Commission of the European Communities to study and extend the attorney-client privilege to house counsel, whether of Member States of the Communities, or otherwise. 2/83

**Attorney-Client Privilege in the Audit Context.** Supports the preservation of the attorney-client privilege and work product doctrine in connection with audits of company financial statements and urges the Securities and Exchange Commission and other relevant organizations to adopt standards, policies, practices and procedures and take other appropriate steps to ensure that attorney-client privilege and work product protections are preserved throughout the audit process. 06A302A

**Attorney-Client Privilege in the Context of Patent Infringement.** Recommends that a party's assertion of the advice-of-counsel defense to a charge of willful patent infringement does not waive the attorney-client privilege with respect to communications with that party's trial counsel so long as such trial counsel is not the same counsel who provided the opinion upon which the accused infringer relies. 07M302

**Attorney Discipline Amendments to Federal Rules of Bankruptcy Procedure.** Supports the Proposed Attorney Discipline Amendments to the Federal Rules of Bankruptcy Procedure that would clarify the authority of bankruptcy courts to discipline attorneys engaging in a pattern of misconduct and require district or bankruptcy courts to adopt and enforce local disciplinary rules and procedures with respect to attorneys practicing before bankruptcy courts and which comply with the *ABA Model Federal Rules of Disciplinary Enforcement* and the *ABA Standards for Imposing Lawyer Sanctions*. 06A117

**Attorney Fees.** Support legislation to empower the federal courts to review decisions of the VA and to lift the \$10 restriction on attorneys' fees paid for representing a veteran in VA proceedings. 8/75

Support the principles of the payment of attorneys' fees and costs by the government in administrative proceedings and the judicial review of such proceedings considered to be in the public interest. 2/77; 2/78

Support legislation to permit courts and administrative agencies to award attorneys' fees to a private party prevailing against government where public benefit results and economic interest is small. 2/78

Support legislation that would prohibit the award of attorneys' fees against judges arising out of actions for injunctive relief. 7/85

Support the position that the Attorneys' Fees Award Act authorizes the award of reasonable attorneys' fees to civil rights plaintiffs who recover only nominal damages. 4/92

Urge repeal of that portion of the Ticket to Work and Work Incentives Improvement Act of 1999 that imposes a 6.3 percent user fee tax on an approved attorney's fee for representation of disability claimants in Title II cases before the Social Security Administration. 00M111B

Urges Congress to enact legislation amending Title 28, of the United States Code, to provide for the direct payment of attorney fees and costs to the attorney representing a prevailing party in certain Social Security Disability Insurance and Supplemental Security Income claims. 09M10B

**Attorney Impairment Programs.** Approve 10 guiding principles to assist state and local bar associations in the development and maintenance of effective programs to identify and assist those lawyers and law students impaired by alcoholism, other forms of substance abuse or other causes; request drafting of amendments to the Model Rules of Professional Conduct implementing Guideline 2. 2/91

**Auditors' Requests.** Approve a statement of policy regarding lawyers' responses to auditors' requests for information. 12/75

**Bankruptcy-Related Legal Advice.** Opposes provisions in legislation that impose restrictions upon the bankruptcy-related legal advice lawyers can provide to individual clients. 09A10B

**Billable Hours.** Encourages law firms to consider (1) alternatives to mandatory minimum billing requirements that would reduce undue emphasis on lawyers' billable hours; and (2) compensation systems that recognize and reward attorneys based on factors in addition to the number of hours they bill to client matters. 06A120C

**Civil Rights Attorney's Fees Awards Act.** Urge Congress to enact legislation amending the Civil Rights Attorney's Fees Awards Act of 1976 and other federal civil rights fee-shifting statutes to permit the award to a prevailing party of reasonable expert fees for testimonial and nontestimonial services. 8/91

**Compensation for Assigned Counsel.** Support action by circuit judicial councils to provide compensation for assigned counsel in criminal cases comparable to that paid for private counsel for similar services. 2/74

Urge all jurisdictions to provide by statute or rule of court that attorneys appointed to represent persons who have a constitutional or statutory right to counsel receive reasonable compensation and full reimbursement for costs and expenses. 8/88

**Contingent Fees.** Use of contingent fees should continue; Automobile Accident Reparations Committee recommendation approved. 8/69

A fee may be contingent on the outcome of the matter for which the service is rendered except in a criminal case, or in a domestic relations matter when the payment or amount of fee is contingent upon the securing of a divorce or upon the amount of alimony or support, or property settlement in lieu thereof. (Model Rules of Professional Conduct.) 8/83

**Corporate Governance and Corporate Responsibility.** Adopts and endorses corporate governance policies and related governance practices that involve structural and procedural reforms designed to: (1) enhance the independence and resources of outside directors of public corporations; (2) increase the flow of material information and analysis to those directors; and (3) enhance the ability of the lawyers representing public corporations to exercise and bring to bear independent professional judgment and thereby promote corporate responsibility without undermining the constructive and collaborative relationship that must exist so that compliance with the law can be most effectively promoted. 03A119C

**Deficit Reduction Act.** Express concern over the effect upon the attorney-client privilege and the confidentiality of the attorney-client relationship of the Deficit Reduction Act, which requires disclosure of certain cash receipts in excess of \$10,000. 2/85

**Disabled Members.** Affirms commitment to providing the benefits of membership to its disabled members to the maximum extent feasible. 2/91

**Disaster Response.** Adopts twelve principles to govern the planning, preparation and training for responses to a major disaster to ensure that the legal system maintains fidelity to the rule of law. 07A113

Adopts the Model Act Governing Standards for the Care and Disposition of Disaster Animals, dated February 2010, and recommends its adoption by state and territorial legislative bodies. 10M103A

Endorses the recommendations for an Effective National Mitigation Effort, a white paper on national mitigation prepared by the Association of the Directors of Emergency Management of the U.S. states, territories and the District of Columbia. 11M114

**Discipline.** Urge that disciplinary control of the practice of attorneys in federal courts and agencies be administered by an appropriate agency as a function of the federal judiciary, and oppose the adoption of disciplinary rules by the legislative branch of the government. 2/72

Support legislation to bar federal agencies from prescribing professional rules of conduct for attorneys with certain understandings. 8/82

**Discovery Abuse.** Support amendments to the Federal Rules of Civil Procedure regarding discovery provided in the Second Report of the Special Committee for the Study of Discovery Abuse with the deletion of all references and language providing for special disciplinary action. 11/80; 2/81

**Equal Access to Justice Act.** Support proposals to amend the Act to remedy certain ambiguities and gaps in coverage, and oppose amendments to the Act to further restrict coverage and to limit reimbursement of attorneys' fees to unreasonable levels. 8/82

Recommend to the secretary of labor of the United States that a pilot or experimental project be established for the purpose of determining whether improved access to justice can be established in the unemployment compensation system in the United States, and six specified terms to be included. 8/89

Recommend that states that have not adopted legislation similar to the federal Equal Access to Justice Act be urged to adopt similar legislation which will provide for litigation expenses, including attorneys' fees to parties successfully challenging the government in the courts and in administrative proceedings where the actions of the government are not substantially justified, and thus broaden access to justice for their citizens and residents, particularly in administrative proceedings. 8/90

Urges Congress to enact legislation amending Title 28, of the United States Code, to provide for the direct payment of attorney fees and costs to the attorney representing a prevailing party in certain Social Security Disability Insurance and Supplemental Security Income claims. 09M10B

**Evaluation of Disciplinary Enforcement.** Adopted various recommendations concerning the evaluation of disciplinary enforcement, including regulation of the profession by the judiciary; support for judicial regulation and professional responsibility; expansion of the scope of public protection; establishment of a Lawyer Practice Assistance Committee; independence of disciplinary officials; independence of disciplinary counsel; access to disciplinary information; complainant's rights; procedures in lieu of discipline for minor misconduct; expedited procedures for minor misconduct; disposition of cases by a hearing committee, the Board or Court; interim suspension for threat or harm; funding and staffing; standards for resources; field investigations; random audit of trust accounts; burden of proof in arbitration of fee disputes; mandatory malpractice insurance study; effective date of disbarment and suspension orders; National Discipline Data Bank; and coordination of interstate identification. 2/92

Pursuant to the recommendations of the Commission on Multijurisdictional Practice, encourages the use of the National Lawyer Regulatory Data Bank to promote interstate disciplinary enforcement mechanisms and urges jurisdictions to adopt the International Standard Lawyer Numbering System. 02A201E

**Fair Debt Collection Practices Act.** Oppose legislation to eliminate the attorney's exemption from the Fair Debt Collection Practices Act. 11/85

**Federal Trial Advocacy.** Support that portion of the King Committee Report which encourages law schools to continue improvements in practice-oriented training and bar associations to increase the availability of continuing legal education. Oppose that portion of the Devitt and King committees' recommendations regarding examination and trial experience requirements for admission to practice in federal court. 8/86

**Fee Limitations in Federal Administrative Proceedings.** Support removal of any statutory or administratively imposed limits on the award or payment of attorneys' fees. 2/73; 2/75; 2/76; 8/76

**General Agreement on Trade in Services (GATS).** With respect to the legal services portion of GATS, the

American Bar Association: (1) supports the efforts of the U.S. Trade Representative to encourage the development of transparency disciplines on domestic regulation in response to Article VI (4) of the GATS requiring the development of "any necessary disciplines" to be applicable to service providers; and (2) supports the U.S. Trade Representative's participation in the development of additional disciplines on domestic regulations that are: (a) "necessary" within the meaning of Article VI (4) of the GATS; and (b) do not unreasonably impinge on the regulatory authority of the states' highest courts of appellate jurisdiction over the legal profession in the United States. 06A105

**Guidelines for Prosecutorial Education and Training for State and Local Prosecutors.** 8/83

**Guidelines for Settlement Negotiations.** Recommends: (1) the "Ethical Guidelines for Settlement Negotiations" dated August 2002 (Guidelines) as a resource designed to facilitate and promote ethical conduct in settlement negotiations; and (2) that these Guidelines are not intended to replace existing law or rules of professional conduct or to constitute an interpretation by the American Bar Association of any of the Model Rules of Professional Conduct, and should not serve as a basis for liability, sanctions, or disciplinary action. 02A105.

**Hearing-Impaired Attorneys.** Encourage active participation of hearing-impaired attorneys by improving their access to the work and activities of the Association. 8/86

**Law Book Publishing Practices.** Support and encourage compliance with FTC guides to protect lawyers and law libraries against unfair and deceptive publishing practices. 2/76

**Law Office Management Services.** Urge bar organizations to provide affordable law office management advisory and resource services to attorneys and legal staff who seek such assistance. 8/95

**Law Practice Contingency Plans.** Urges bar associations and courts to develop, adopt, promote and implement programs and procedures to encourage and enable lawyers to plan for law practice contingencies by designating in advance another lawyer who is willing and able to assume the lawyer's practice or to assist in the transfer of client matters and paper and electronic files, in the event that the lawyer has any physical or mental disability that significantly impairs the lawyer's ability to practice law, or the lawyer has died, disappeared, been suspended or disbarred, or otherwise been restricted from the practice of law. 07A105

**Lawyers' Creed of Professionalism.** Urge state and local bar associations to encourage their members to accept as a guide for their individual conduct, and to comply with, a lawyer's creed of professionalism, but that nothing contained in such a creed shall be deemed to supersede or in any way amend the Model Rules of Professional Conduct or other disciplinary codes, alter existing standards of conduct, or become a basis for the imposition of civil liability of any kind. 8/88

**Lawyers in Government.** Urge that steps be taken to enhance the professional status of lawyers in government so as to improve quality of legal services available to government, to establish a central directory of lawyer placement information and to develop and maintain a continuing career development program. 5/67

Recommend including time spent in government service in reckoning the number of years of prior practice to credit an attorney seeking admission on motion. 8/64; 8/74

Urge that government-employed attorneys should not be prohibited from representing pro bono clients in actions against the government so long as such representation does not present a conflict of interest, is consistent with all other applicable rules of professional responsibility and is not undertaken on government time or at government expense. 8/84

**Lawyers in the Armed Forces Serving in a Combat Zone.** Urges all bar associations and other appropriate regulatory bodies to adopt a policy that provides for the waiver or suspension of association dues, CLE requirements and other membership obligations for members who are serving in the U.S. Armed Forces and are performing services in a Combat Zone as designated by an Executive Order of the President of the United States. 07A115

**Lawyers' Pledge of Professionalism.** Authorize the dissemination to the profession of the Lawyers' Pledge of Professionalism. 8/88

**Lawyers' Responsibility to Further Public Understanding of Law.** Encourage every lawyer to consider it part of his or her fundamental professional responsibility to further the public's understanding of and confidence in the rule of law and the American system of justice. 00M108

Urges the legal profession to seek support of policymakers, educators, the media and the general public to ensure that subject matter to advance the civic mission of schools is included in the core K-12 curriculum and reflected in all standards, instruction, professional development, school funding decisions and evaluation. 04A122

**Lawyers with Disabilities.** Urges those in the legal profession to make their websites accessible to individuals with visual, hearing, manual and other disabilities and to make legal entities aware of the problems associated with inaccessible websites. 07A108

**Legal Fees Equity Act.** Oppose the Legal Fees Equity Act and similar legislation which would impose arbitrary and unreasonable limits on hourly fees for private attorneys that may be recovered from federal, state and local governments under fee-shifting statutes. 7/85

**Litigation Conduct Guidelines.** Guidelines for Litigation Conduct dated August 1998 adopted as purely aspirational goals to promote professionalism of lawyers and judges, and should not serve as a basis for litigation, liability, discipline, sanctions, or bar or disciplinary enforcement. 98A107

**Minorities in the Pipeline to the Profession.** Urges all state, territorial and local bar associations to work with national, state and territorial bar examiners, law schools, universities and elementary and secondary schools to address significant problems facing minorities within the pipeline to the profession. 06A113

**Model Court Rule on Conditional Admission to Practice Law.** Adopts the Model Rule on Conditional Admission to Practice Law including the commentary, dated February 2008. 08M112

Amendments dated August 2009 adopted, which address the standard for conditional admission, notification of violations, and terms of art within the language of the Model Rule. 09A108

**Model Court Rule on Insurance Disclosure.** Adopts the Model Court Rule on Insurance Disclosure, dated August 2004, which requires lawyers to disclose on their annual registration statements whether they maintain professional liability insurance. 04A108

**Model Court Rule on Provision of Legal Services Following Determination of Major Disaster.** *Adopts the Model Court Rule on Provision of Legal Services Following Determination of Major Disaster, dated February 2007, and amends Comment 14 to Rule 5.5 of the Model Rules of Professional Conduct.* 07M104

**Model Law Firm/Legal Department Personnel Impairment Policy and Guidelines.** Adopt the Model Law Firm/Legal Department Personnel Impairment Policy and Guidelines, dated August 1990, and commend them to law firms, legal departments, other legal services offices and state and local bar associations for consideration and adoption. 8/90

**Model Lawyer Assistance Program.** Model Lawyer Assistance Program dated August 1995 adopted. 8/95, amended 04M114

**Model Rule for Registration of In-House Counsel.** Adopts the *Model Rule for Registration of In-House Counsel*, dated August 2008, for those jurisdictions that elect to impose registration requirements on lawyers practicing therein under Model Rule 5.5(d). The Model Rule provides a mechanism for jurisdictions to identify and monitor in-house counsel who are practicing in the jurisdiction. 08A112A

**Model Rule for Trust Account Overdraft Notification.** Adopted 2/88.

**Model Rules for Advisory Opinions on the Unauthorized Practice of the Law.** Recommend adoption by states. 2/84

**Model Rules for Client Trust Account Records.** Adopts black letter *Model Rules for Client Trust Account Records*, dated August 2010, to replace the *Model Rule on Financial Recordkeeping*, adopted February 1993, to address issues arising from changes in banking laws, advances in technology and methods of lawyer practice. 10A103

**Model Rules for Fee Arbitration.** Model Rules for Fee Arbitration dated November 1994 adopted.

**Model Rules for Lawyer Disciplinary Enforcement.** Adopted 7/85

Adopt as revised to replace the Standards for Lawyer Discipline and Disability Proceedings. 8/89

Various changes adopted as a result of the action taken on the recommendations of the Commission on Evaluation of Disciplinary Enforcement. 2/92

Amendments dated May 1993 adopted. 8/93

Amendments adopted to incorporate referrals to programs providing alternatives to discipline for minor misconduct, and to clarify the provision for discipline by consent. 8/96

Amendments adopted to provide for (1) the enforcement of subpoenas issued pursuant to the law of another jurisdiction; (2) the immediate interim suspension of a lawyer upon a determination of guilt of a "serious crime"; and (3) the readmission of a lawyer who has been disbarred only after the passage of 5 years and upon completion of the bar and character and fitness examinations. 99M115A

Adopts amendments to Rules 6 and Rule 22 pursuant to the recommendations of the Commission on Multijurisdictional Practice. 02A201D

**Model Rules for Lawyers' Funds for Client Protection.** Model Rules for Lawyers' Funds for Client Protection, dated August 1989, replace the Model Rules for Clients' Security Funds. 8/89 Amendments dated August 2002 adopted. 02A111

Rules 1 (Purpose and Scope--definition of "lawyer") and 10 (Eligible Claims) and Comments amended to address issues primarily arising from the multijurisdictional practice of law. 06A104

**Model Rules for Mediation of Client-Lawyer Disputes.** Adopt Model Rules for Mediation of Client-Lawyer Disputes dated August 1998. 98A101

**Model Rules of Professional Conduct.** Adopted 8/83.

Rules 1.7, 1.8, 1.9, 1.11, 1.12 and 6.3 and/or Comments amended. 2/87

Rules 1.9, 1.10, 7.2, 7.3, and 7.4 and/or Comments amended. 2/89

Rule 3.8 and commentary amended. 2/90

Declare that Department of Justice lawyers may not be given blanket exemption from the requirements of Rule 4.2 of the ABA Model Rules of Professional Conduct or Disciplinary Rule 7-104(a)(1) of the Model Code of Professional Responsibility as adopted in individual jurisdictions; oppose any attempt by the Department of Justice unilaterally to exempt its lawyers from the professional conduct rules that apply to all lawyers under applicable rules of the jurisdictions in which they practice. 2/90

Amend to include a model rule relating to the sale or purchase of a law practice and to make necessary amendments to Model Rules 5.4, 5.6 and 7.2. 2/90

Approve 10 guiding principles to assist state and local bar associations in the development and maintenance of effective programs to identify and assist those lawyers and law students impaired by alcoholism, other forms of substance abuse or other causes; request drafting of amendments to the Model Rules of Professional Conduct implementing Guideline 2. 2/91

Rule 8.3 and Comment amended. 8/91

Model Rules amended to include a provision concerning ancillary business practices. 8/91

Rule 5.7 concerning the provision of ancillary business practices deleted. 8/92

Rule 7.4 concerning communication of fields of practice and certification amended. 8/92

Rule 6.1 and Comment concerning voluntary pro bono publico service amended to provide that a lawyer should aspire to render at least 50 hours of pro bono publico legal services per year, including certain principles in fulfilling this responsibility. 2/93

Rule 8.5 and Comment concerning Disciplinary Authority amended to provide that direction for lawyers on the choice of law to be made when the ethics rules of jurisdictions differ. 8/93

Amended to include new Rule 5.7 concerning the provision of law-related services. 2/94

Rule 3.6 amended to delete the qualifying terms in the Rule's safe harbor provision which the Supreme Court held unconstitutionally vague in *Gentile v. State Bar of Nevada*; Rule 3.8 amended to prohibit gratuitous comments by a prosecutor which have a substantial likelihood of increasing public opprobrium toward the accused. 8/94

Rule 7.4 amended to create an exception to the disclaimer requirement for lawyers certified by an ABA-accredited organization. 8/94

Rule 4.2 and Comment concerning Communication with Person Represented by Counsel amended. 8/95

Rule 3.8 and Comment concerning Special Responsibilities of a Prosecutor amended to delete subparagraph (f)(2). 8/95

Comment to Rule 8.4 amended to provide that biased or prejudiced conduct by a lawyer in the representation of a

client violates the black letter of the Rule. 98A117

Amended to include new Rule 7.6 and commentary concerning political contributions to obtain government legal engagements or appointments by judges. 00M110

Urge each jurisdiction to revise its law governing lawyers to implement eight specified principles and preserve the core values of the legal profession. Resolve to undertake a review of the Model Rules of Professional Conduct and recommend to the House of Delegates such amendments as are necessary to assure that there are safeguards in the Rules relating to strategic alliances and other contractual relationships with nonlegal professional service providers consistent with the principles contained herein. Recommend that in jurisdictions that permit lawyers and law firms to own and operate nonlegal businesses, no nonlawyer or nonlegal entity involved in the provision of such services should own or control the practice of law by a lawyer or law firm or otherwise be permitted to direct or regulate the professional judgment of the lawyer or law firm in rendering legal services to any person. 00A10F

Amendments to the Preamble, to various Rules and/or Comments, and conforming amendments were approved as a result of the action taken on the recommendations of the Commission on Evaluation of the Rules of Professional Conduct (Ethics 2000). 01A401 and 02M401

Amend Rule 7.2 and the Comment to Rule 7.2 to provide guidance with respect to lawyers' participation in referral arrangements with other lawyers and nonlawyer professional services providers. 02A114

Adopts amendments to Rules 5.5 and Rule 8.5 pursuant to the recommendations of Commission on Multijurisdictional Practice. 02A201B and 02A201C

Rule 1.6 (b) and Comment to Rule 1.6 amended to permit the lawyer to reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary. 03A119A

Rule 1.13 and Comment to Rule 1.13 amended to: (1) require the lawyer for an organizational client to report certain violations of law to higher organizational authority in certain circumstances unless reasonably believed not to be necessary in the best interest of the organization; (2) require the lawyer to proceed as reasonably believed necessary to assure that the organization's highest authority is informed of the lawyer's withdrawal or discharge in circumstances addressed in the Rule; and (3) permit the lawyer to reveal client information to prevent reasonably certain substantial injury to the organization where the organization's highest authority insists upon or fails to timely address a clear violation of law. 03A119B

Comment 14 to Rule 5.5 (Unauthorized Practice of Law; Multijurisdictional Practice of Law) amended to include reference to the *Model Court Rule on Provision of Legal Services Following Determination of Major Disaster*, adopted in February 2007. 07M104

Amends Rule 3.8 of the ABA Model Rules of Professional Conduct to identify prosecutors' obligations when they know of new evidence establishing a reasonable likelihood that a convicted defendant did not commit the offense of which he was convicted. 08M105B

Amends Rule 1.10 of the ABA Model Rules of Professional Conduct (Imputation of Conflicts of Interest: General Rule) to permit the screening of a lawyer who moves laterally from one private law firm to another, so that conflicts of interest that apply to the moving lawyer under Model Rule 1.9 (Duties to Former Clients) are not imputed to all the other lawyers in the new law firm. 09M109

Amends Model Rule of Professional Conduct 1.10 ("Imputation of Conflicts" General Rule") to explicitly state that the screening procedures permitted under the Rule apply only when a lawyer has moved laterally from one practice situation to another. 09A109

**Money Laundering.** Supports the enactment of reasonable and balanced initiatives designed to protect and prevent domestic and international money laundering and terrorist financing. Recommends that any efforts to establish and implement international and United States policies to combat money laundering and terrorist financing should be consistent with principles regarding the independence of the bar, adherence to the highest standards of professional and lawful conduct, and the confidentiality of lawyer-client communications. 03M104

Supports the United States' Government's efforts to combat money laundering and terrorist financing and observes that voluntary, risk-based and updated guidance would assist legal professionals to avoid money laundering and terrorist financing risks when providing services to clients and adopts the Voluntary Good Practices Guidance for Lawyers to Detect and Combat Money Laundering and Terrorist Financing. 10A116

**Multidisciplinary Practices.** Resolved to make no change, addition or amendment to the Model Rules of Professional Conduct which permits a lawyer to offer legal services through a multidisciplinary practice unless and until additional study demonstrates that such changes will further the public interest without sacrificing or compromising lawyer independence and the legal profession's tradition of loyalty to clients. 99A10B

The following recommendations of the Commission on Multijurisdictional Practice were adopted at the August 2002 ABA Annual Meeting:

- (1) Affirms support for the principle of state jurisdictional regulation of the practice of Law. 02A201A;
- (2) Adopts amendments to Rule 5.5 of the *ABA Model Rules of Professional Conduct*, dated August 2002. 02A201B;
- (3) Adopts amendments to Rule 8.5 of the *ABA Model Rules of Professional Conduct*, dated August 2002. 02A201C;
- (4) Adopts amendments to Rules 6 and 22 of the *ABA Model Rules for Lawyer Disciplinary Enforcement*, dated August 2002. 02A201D;
- (5) Encourages the use of the National Lawyer Regulatory Data Bank to promote interstate disciplinary enforcement mechanisms and urges jurisdictions to adopt the International Standard Lawyer Numbering System. 02A201E;
- (6) Adopts the *Model Rules on Pro Hac Vice Admission*, dated August 2002. 02A201F;
- (7) Adopts the *Model Rule on Admission by Motion*, dated August 2002. 02A201G;
- (8) Encourages jurisdictions to adopt the *ABA Model Rule for Legal Consultants*, dated August 1993. 02A201H; and
- (9) Adopts the Model Rule for Temporary Practice by Foreign Lawyers, dated August 2002. 02A201J.

**Participation in Professional Associations.** Opposes proposed limitations and restrictions upon participation in professional associations of employees of the Executive Branch of the United States government such as those set forth in the proposed rule 5 CFR §2635.806 as published by the Office of Government Ethics in the Federal Register on July 23, 1992. 8/91

Encourage governmental entities at all levels to permit government lawyers, including those in judicial

administrative positions, to serve in leadership capacities within professional associations and societies. Encourage governmental entities to adopt standards that would authorize government lawyers, including those in judicial administrative positions, to (1) make reasonable use of government law office and library resources and facilities for certain activities sponsored or conducted by bar associations and similar legal organizations, and (ii) utilize reasonable amounts of official time for participation in such activities. 99A112

Urge law firms and companies employing lawyers to encourage their lawyer employees to participate actively in bar association activities and not to penalize lawyer employees for their active participation in bar association activities. 01A110A

**Practice of Law.** Urges each jurisdiction that regulates the practice of law to continue to define what constitutes the practice of law by case law decisions of its highest court or by court rule. 03A10B (*See also* Unauthorized Practice of Law.)

Recommends that each state and territory (1) adopt a definition of the practice of law that should include the basic premise that the practice of law is the application of legal principles and judgment to the circumstances or objectives of another person or entity, and (2) determine who may engage in the practice of law and under what circumstances, based upon the potential harm and benefit to the public. The determination should include consideration of minimum qualifications, competence and accountability. 03A100 (*See also* Unauthorized Practice of Law.)

**Pro Bono Work.** Encourages state and territorial bar associations and other attorney licensing entities to adopt practice rules that establish guidelines to allow pro bono legal service by qualified retired or otherwise inactive lawyers, under the auspices of qualified legal services or other non-profit programs. 06A118

Urges solo and small firm attorneys, larger law firms, corporate law departments and government and military law offices to encourage their lawyers, partners as well as associates, to serve their communities through pro bono and public service activities consistent with applicable rules of professional conduct and adopts *Pro Bono Policies and Procedures*, dated August 2006, to provide their lawyers with opportunities to do pro bono work and to adopt specific internal policies and procedures to support such work. 06A121A

Reaffirms the ABA's commitment to the core values of the legal profession including the pro bono provision of legal services to those in need and the independence of the legal profession. Commends those lawyers and law firms that provide pro bono services. Urges state, local, specialty and territorial bar associations to educate the public on the vital role the lawyers who provide services to unpopular clients or causes perform for the benefit of the American system of justice and condemns governmental attacks on the independence of the legal profession. 07M10C

Urges corporate counsel to work with the corporation and outside counsel to waive certain limited positional conflicts in areas related to mortgage, bankruptcy and consumer finance in order to reduce the number of pro bono matters declined by outside counsel due to conflicts, so long as the waivers are not inconsistent with applicable rules of professional conduct. 09A102A

Urges federal, state and local governments to address the unmet legal needs of low-income residents of communities affected by major disasters by action which includes providing additional emergency funding for not-for-profit legal services providers, bar associations and pro bono programs. 09A102B

**Professional Discipline.** Support the adoption of the Model Federal Rules of Disciplinary Enforcement by the Judicial Conference of the United States and by each federal court. 2/78

Endorse federal legislation that would negate implied agency authority to prescribe professional rules of conduct for, and to discipline, attorneys, except as immediately necessary to maintain order in, or to assure the integrity

of, proceedings before them or in conformity with action taken by state disciplinary authorities; and recognize it is important that state disciplinary authorities afford federal agencies an effective means of securing review of charges by such federal agencies of professional misconduct arising out of the practice of attorneys before the agencies. 8/82

**Ranking of Law Firms and Law Schools.** That the American Bar Association examine any efforts to publish a national, state, territorial and local rankings of law firms and law schools. 10M10A

**"Red Flags" Rule (Identity Theft).** Urges the Federal Trade Commission and Congress to clarify that the Commission's Red Flags Rule imposing requirements on creditors relating to identity theft is not applicable to lawyers while they are providing legal services to clients. 609BOG2.4

**Regulation of the Profession.** Oppose legislation that would authorize the Federal Trade Commission to preempt state regulation of the legal profession in the absence of any preliminary showing of lack of effectiveness to prevent unfair or deceptive acts or practices; or in the absence of any such preliminary showing, to regulate all lawyers or groups of lawyers in their respective states, especially in the areas of codes of ethics, disciplinary rules, and commercial business practices. 8/83

**Regulation of the Profession-Consumer Financial Protection Agency Act.** Opposes the provisions in the proposed Consumer Financial Protection Agency Act (H.R. 3126, 111<sup>th</sup> Congress), or in any other similar proposed legislation establishing or expanding the regulatory jurisdiction of any federal financial regulatory agency, which seek to regulate lawyers engaged in the practice of law, except to the extent that lawyers are currently subject to regulation by a federal agency under existing law. 10-09BOG2.5

**Release of Net Worth Information.** Oppose the automatic release of net worth information in conjunction with fee award applications under the Equal Access to Justice Act; support certain procedural protections that provide those who have filed such information the opportunity to keep it confidential. 2/83

**Representation.** Encourage lawyers to represent any client or group of clients in regard to any cause, no matter how unpopular. 2/70

**Retirement Policies of Law Firms.** Recommends that mandatory age-based law firm retirement policies be discontinued and that law firms evaluate senior partners individually consistent with the firm's performance criteria. 07A10A

**Rights of the Child, U. N. Convention on.** Support in principle the ratification by the United States of the provisions of the United Nations Convention on the Rights of the Child (articles 1-54); urges the convening of a working group to work with the executive branch and the Senate on the identification and clarification of issues related to possible reservations that might be considered as part of the ratification process. 2/91

**SEC.** Adopt statement of principles regarding the responsibilities and liabilities of lawyers in advising clients with respect to their compliance with laws administered by the Securities and Exchange Commission. 8/75

**Solicitation Practices.** Express strong disapproval of the American lawyers who seek to personally benefit from the recent tragedy in Bhopal, India, by engaging in solicitation practices which are contrary to Rule 7.3 of the American Bar Association's Model Rules of Professional Conduct and urge the lawyers engaging in such improper solicitation practices to adhere to the standards of conduct with respect to solicitation set forth in the Model Rules. 7/85

**Specialization in the Legal Profession.** The ABA should not promulgate a national plan to regulate voluntary specialization at this time. The determination whether to promulgate such a plan should not be made until experimental programs have been conducted at the state level and the experiences thus obtained have become

available. 1/69

Approve as a model for consideration by the states certain principles relating to the regulation of lawyer specialization, including certification, designation and other types of specialization regulation programs. 2/78

Approve, as model standards and guidelines for the voluntary use of states seeking to adopt a state program for regulation of specialization, the Model Plan of Specialization dated June 1979. 8/78

**Standards for Accreditation of Specialty Certification Programs for Lawyers.** Standard adopted with amendments to Section 2.01(c) defining "Certifying Organization," Section 4.04, concerning Uniform

Applicability of Certification Requirements and Nondiscrimination; and Section 4.08 concerning Requirements to Re-Certification. 2/93

Section 5 amended to extend the period of accreditation from three years to five years. 99A107A

**Standards for Imposing Lawyer Sanctions.** Adopted 2/86. Black letter amendments adopted. 2/92

**Standards for Lawyer Discipline and Disability Proceedings.** Amend to conform to the ABA Model Rules for Lawyer Disciplinary Enforcement. 8/86

**Subpoenas to Attorneys.** Oppose the issuing of a subpoena to an attorney to appear before a grand jury for the purpose of compelling the attorney to provide information concerning a person who is represented by the attorney, unless prior judicial approval has been obtained. Urge that prior judicial approval be withheld in certain circumstances and adopt specific recommendations concerning the hearing and an affirmative finding. 2/86

Urge that a prosecutor shall not subpoena an attorney without prior judicial approval after an opportunity for an adversarial proceeding for the purpose of compelling the attorney to provide evidence obtained as a result of the attorney-client relationship concerning a person who is or was represented by the attorney; and urge that prior judicial approval be withheld, except in certain circumstances; urge that at the hearing the prosecutor be required to submit an affidavit making a particularized showing of the facts establishing certain requirements; and urge that any hearing seeking judicial approval for a grand jury subpoena be conducted with consideration for the need for secrecy. 2/88

Recommend that federal agencies adopt procedures and policies to ensure that access to information under the Freedom of Information Act not be diminished by virtue of the fact that the information is maintained in electronic form, and recommend enactment of clarifying legislation to ensure compliance with three specified principles. 2/90

***To Kill a Mockingbird.*** Acknowledges the 50<sup>th</sup> Anniversary of the publication of Harper Lee's novel, *To Kill a Mockingbird*, and honors the positive role that the book has played in the lives of lawyers, their families and the American public over the past 50 years. 10A10A

**Unauthorized Practice of Law.** Urge each jurisdiction to establish and implement effective procedures for the discovery and investigation of any apparent violation of its laws prohibiting the unauthorized practice of law, to pursue active enforcement of those laws, and to encourage all members of the public to report any such violations. Urge bar associations to establish and support a mechanism for reporting and eliminating unauthorized practice of law. Encourage members of the bar to report unauthorized practice of law. Resolve to establish and support a mechanism for identifying and reporting instances of unauthorized practice of law in more than one jurisdiction. 00M8A

(See also Practice of Law.)

## BANKRUPTCY LAW

**Attorney Discipline Amendments to Federal Rules of Bankruptcy Procedure.** Supports the Proposed Attorney Discipline Amendments to the Federal Rules of Bankruptcy Procedure that would clarify the authority of bankruptcy courts to discipline attorneys engaging in a pattern of misconduct and require district or bankruptcy courts to adopt and enforce local disciplinary rules and procedures with respect to attorneys practicing before bankruptcy courts and which comply with the *ABA Model Federal Rules of Disciplinary Enforcement* and the *ABA Standards for Imposing Lawyer Sanctions*. 06A117

**Bankruptcy Act.** Urge enactment of a new Bankruptcy Act by the Congress with appropriate changes to reconcile the proposals, correct defects and carry out certain principles. 2/76

**Bankruptcy Appellate Panels.** Supports the enactment of federal legislation urging each circuit to create Bankruptcy Appellate Panels (BAPs) and that the requirement of consent by the parties be retained as a precondition to a BAP's jurisdiction over the case. 2/92

**Bankruptcy Code Amendment.** Oppose amendment of the Bankruptcy Code by a legislative process which avoids fair opportunity for open hearings, on well-publicized notice, before the judiciary committees of Congress; oppose the enactment, in the absence of the most compelling circumstances, of special interest legislation designed to increase the types of claims entitled to priority under the Bankruptcy Code. 8/91

Approve amendments to the Bankruptcy Code generally in accordance with specified form dated July 31, 1996, and urge approval and adoption of the amendments by the National Bankruptcy Review Commission and Congress as the basis for administration and resolution of partnership cases under the Bankruptcy Code. 8/96

Urge amendment of the United States Bankruptcy Code to allow an attorney to remit a percentage of a fee awarded or received under the Bankruptcy Code to a bona fide public service lawyer referral program, operating in accordance with state or territorial laws regulating lawyer referral services or the rules of professional responsibility governing the acceptance of referrals. 2/97

Oppose enhanced attorney liability provisions in bankruptcy reform legislation (S. 420/H.R. 333) pertaining to bankruptcy schedules, reaffirmation procedures, and "Debt relief agency " regulations. 01A10C

Urges Congress to amend Section 363(f) of the Federal Bankruptcy Code, 11 U.S.C. §363(f) to clarify that a sale of real property free and clear of an unexpired lease under which the debtor is the lessor, can be accomplished only if the non-debtor lessee is granted the same rights afforded to non-debtor lessees when their leases are rejected. 07A102A

Supports the retention of the 10-day time limit in Rule 8002 of the Federal Rules of Bankruptcy Procedure for filing a notice of appeal from a judgment, order or decree in a bankruptcy case and opposing any proposed amendments to Rule 8002 that would lengthen the time for filing a notice of appeal. 08M10C

**Bankruptcy Court Judges.** Urge Congress to adopt legislation regarding the bankruptcy courts that would continue the judges as Article I adjuncts of the district courts, vesting in federal district courts jurisdiction for all cases arising under bankruptcy laws, authorizing the bankruptcy courts to exercise district court jurisdiction but allowing district courts to recall cases in which the parties have not consented to bankruptcy court jurisdiction, and authorizing district courts to refer any recalled case to a bankruptcy judge as a special master or magistrate. 9/82

Urge authorization of significant salary increases for bankruptcy judges and U.S. magistrates in order to restore

the relative pay levels that historically have existed between those salaries and the salaries of U.S. district judges. 8/87

Support amendment of the Bankruptcy Amendments and Federal Judgeship Act of 1984 to authorize the U.S. Courts of Appeals to use a streamlined procedure for bankruptcy judge reappointments whereby a court of appeals, if it wishes to consider the reappointment of an incumbent bankruptcy judge, may evaluate that judge on the basis of his or her record of performance in office, after public comment, and without mandatory solicitation of additional applications for the vacancy. 8/96

**Bankruptcy-Related Legal Advice.** Opposes provisions in legislation that impose restrictions upon the bankruptcy-related legal advice lawyers can provide to individual clients. 09A10B

**Electronic Case Filing in Bankruptcy Cases.** Recommends the United States Bankruptcy Courts in each federal district permit attorneys who have received electronic case filing (ECF) training in any district to file documents electronically in bankruptcy cases in any other district. 06M301

**Evaluation of Bankruptcy Appellate System.** Urge the National Bankruptcy Review Commission, the Judicial Conference, the Judiciary Committees and other governmental organs concerned with the operation of the bankruptcy courts and the appellate courts to conduct a thorough evaluation of the bankruptcy appellate system and to develop long-term solutions which will ensure prompt, inexpensive resolution of bankruptcy cases and foster coherent, consistent development of bankruptcy precedents; encourage such organs to draw upon the resources of the organized bar in aid of that study and endeavor; urge enactment of legislation to permit direct appeals from dispositive orders of bankruptcy judges to the circuit courts of appeals; and make decisions of each bankruptcy appellate panel binding upon all bankruptcy courts in its circuit, except where contrary district court authority already exists in the district. 8/95

**Federal Priority.** Support legislation to bring the priority of federal claims in nonbankruptcy administrations for the benefit of creditors and in cases of insolvent decedent's estates generally into conformity with the federal priorities under the Bankruptcy Code. 2/86

**Filing Fees.** Support amendment to the Bankruptcy Act to permit waiver of filing fees for persons who are financially unable to pay in involuntary bankruptcy proceedings. 8/66

**Revision of Bankruptcy Laws.** Support in principle legislation, such as HR 8200, 95th Congress, to provide a comprehensive bankruptcy law, provided separate bankruptcy courts are not established and a planning agency is created to study the appropriate stature for bankruptcy courts. 2/78; 8/78

## CIVIL RIGHTS AND CONSTITUTIONAL LAW

Statement approved on the necessity for law and order, the necessity for communication and local service, the lawyer's concern with educational and economic problems, membership in bar associations regardless of race or creed and the lawyer's duty to aid defendants in unpopular causes, upon recommendation of the Committee of Civil Rights and Racial Unrest. 8/63

**Abortion.** Opposes state or federal legislation which restricts the right of a woman to choose to terminate a pregnancy (1) before fetal viability; or (2) thereafter, if such termination is necessary to protect the life or health of the woman; supports state and federal legislation which protects the right of a woman to choose to terminate a pregnancy (1) before fetal viability; or (2) thereafter, if such termination is necessary to protect the life or health of the woman. 8/92

**Access to Campus Placement Facilities.** Opposes efforts by government to withhold funds from, or otherwise

penalize, educational institutions for denying access to campus placement facilities to government employers who contravene university policies by discriminating on the basis of sexual orientation. 2/92

**AIDS.** Support enactment of legislation that promotes an increased level of voluntary counseling and testing for AIDS; mandates that identifying information obtained as a result of such counseling or testing may not be disclosed without the consent of the individual except in certain circumstances; prohibits discrimination against an "otherwise qualified individual" solely by reason of the fact that such individual is, or is regarded as being, infected by the HIV virus or having AIDS or an AIDS-related condition. 2/88

Urge that federal, state and local law and the policies of private entities concerning the Human Immunodeficiency Virus (HIV) be consistent with specified principles, as amended. 8/89

Endorse the global strategy of the World Health Organization for the worldwide prevention and control of AIDS. Urge (a) the government of the United States to strengthen its support for the WHO global program on AIDS and for bilateral programs of research, prevention and control; and (b) the effective coordination of international AIDS programs conducted by the WHO/GPA, PAHO, and other global, regional, bilateral arrangements, and private voluntary organizations. 8/89

Urges the federal government to implement HIV/AIDS-related initiatives in a manner consistent with international human rights law and science-based prevention, care, support and treatment objectives and endorses the United Nations Declaration of Commitment on HIV/AIDS, dated June 2001. 04M103B

**Alcohol/Drugs.** Urges federal, state, territorial and local governments to eliminate policies that sanction discrimination against people seeking treatment or recovery from alcohol or other drug disease, including specific recommendations in the area of public benefits. 04A112

Urges all state, territorial and local legislative bodies and governmental officials to repeal laws and discontinue practices that permit insurers to deny coverage for alcohol or drug related injuries or losses covered by accident and sickness insurance policies that provide hospital, medical and surgical expense coverage. 05A105

Affirms the principle that dependence on alcohol or other drugs is a disease and supports the principle that insurance coverage for the treatment of alcohol and drugs disorders should be at parity with that for other diseases. 07A106A

**American Indian Religious Freedom Act.** Support federal legislation to amend the American Indian Religious Freedom Act to require that federal lands containing specific, authenticated sites historically used by Native Americans for religious purposes be reasonably managed to minimize impacts which would impair Native Americans in the exercise of their religion, and recommend that where there is a substantial federal interest, the least intrusive means of satisfying the federal interest be required. 2/90

**Bicentennial of Constitution and Bill of Rights.** Encourage the organized bar to join with educational, media, governmental, business and community groups in conducting educational programs commemorating the bicentennial of the Bill of Rights. 2/91

**Bullying.** Urges federal, state, territorial and local officials to prevent and remediate the existence and dangers of bullying, including cyberbullying and youth-to-youth sexual and physical harassment, by defining these acts and developing education programs to assist teachers, parents, and children in identifying victims and enhancing appropriate interventions, analyzing existing laws and policies designed to prevent and respond to these acts and adopting and/or revising them as appropriate, monitoring the effectiveness of measures to prevent these acts and fostering interventions successfully implemented to reduce and respond to them. Further, the application of bullying, cyberbullying, and related laws and policies should not be used to compromise the protected First Amendment free speech rights of students. 11M107A

**Capital Punishment and Mental illness.** Without taking a position supporting or opposing the death penalty, urges each jurisdiction that imposes capital punishment to implement specific policies and procedures as it relates to mental illness. 06A122A

**Citizenship Education .** Reaffirms support for citizenship education in elementary and secondary schools, including as essential components, study of the Constitution, the extended Bill of Rights and law generally; and urges the legal profession, policy makers, educators, members of the private sector, the media, and the general public to support effective citizenship education in public policy at the federal, state, territorial, and local levels. 2/92

**Civic Education and Separation of Powers.** (1) Encourages all lawyers and judges to be personally and actively engaged in civic education in their communities and schools. (2) Urges all lawyers and judges to work to increase Americans' understanding of the role of separation of powers in our constitutional democracy. (3) Urges policymakers at all levels of government to ensure that all students experience high quality civic learning, that civic learning is regularly and appropriately assessed, and that civic learning is accorded national educational priority on a par with reading and mathematics. 06A102

**Civic Learning.** Urges amendment of the No Child Left Behind Act, if reauthorized, or the adoption of other legislation, to ensure that (1) all students experience high quality civic learning, including study of the law, government and history; (2) civic learning is regularly and appropriately assessed; and (3) civic learning is accorded national educational priority on a par with reading and mathematics. 07A114

Encourages all lawyers to consider it part of their fundamental responsibility to ensure that all students experience high quality civic learning, including the study of law, government and history. 10A110

Urges federal, state, territorial, and local governments to require civic education for elementary, middle, and secondary students in the nation's public schools and to provide competitive grant funding for programs to meet this requirement. 11M300

**Civic Literacy.** Resolve that the American Bar Association (1) commit its support for public education to foster understanding of the Constitution and the rights and responsibilities of citizenship and advance this goal of civic literacy as fundamental to the continued functioning of the United States as a constitutional democracy and a nation under the rule of law; and (2) urge the legal profession and the organized bar to engage the support of policy makers, educators, the media and the general public to further this goal through implementation of the national education goals and voluntary standards for civics education at the elementary and secondary school levels. 2/95

**Civil Marriage.** To preserve the authority of the states and territories to regulate marriage under our federal system, opposes any federal enactment that would restrict the ability of a state or territory to: (1) prescribe the qualifications for civil marriage between two persons within its jurisdiction; and (2) determine when effect should be given to a civil marriage validly contracted between two persons under the laws of another jurisdiction. 04103D

Urges state, territorial and tribal governments to eliminate all of their legal barriers to civil marriage between two persons of the same sex who are otherwise eligible to marry. 10A111

**Civil Rights Attorney's Fees Awards Act.** Urge Congress to enact legislation amending the Civil Rights Attorney's Fees Awards Act of 1976 and other federal civil rights fee-shifting statutes to permit the award to a prevailing party of reasonable expert fees for testimonial and nontestimonial services. 8/91

**Civil Rights Tax Relief Act.** Recommends that congress enact the Civil Rights Tax Relief Act (H.R. 840 and S.

917) or similar legislation that would provide relief to civil rights and employee complainants by, in whole or in part: (1) treating compensatory damages (other than back pay and front pay) in civil rights and employee cases in the same manner as compensatory damages in personal physical injury cases; (2) providing that no portion of the award or settlement paid in civil rights or employment cases to cover attorneys fees and expenses should be taxable to the client; and (3) allowing income averaging for complainants who receive in one year awards or settlements of back pay or front pay covering more than one year. 03M115

**Cloning.** Supports law and public policy, both national and international, that oppose or prohibit reproductive cloning. Notwithstanding the above, recognizes that attempts at reproductive cloning may have been made, are currently being made, or may be made in the near future, either in the United States or elsewhere in the world, and therefore, supports national law and public policy that: (1) establish a presumption that a live birth resulting from such attempts is a human being; (2) guarantee that any such human being is a person, legally separate and distinct from its biological progenitor, with all rights accorded to any other live born human being under existing law; and (3) establishes legal parentage, including the legal rights and obligations that flow there from, of such person. 04A109

**Court-Related Needs of the Elderly.** Support efforts to make the state and territorial judicial systems more responsive to the needs of the elderly and persons with disabilities and to that end adopt and urge implementation of the Recommendations of the National Conference on the Court-Related Needs of the Elderly and Persons with Disabilities. 8/91

**Crime Victims Compensation.** Urges federal, state, territorial, and local governments to enact legislation, promulgate regulations or take other necessary action to ensure that an unmarried surviving partner who shares a mutual, interdependent, committed relationship with a victim of terrorism or other crime can qualify for crime victim compensation and assistance funds provided by that government to eligible spouses. Further recommends that eligibility for such funds should be determined without reference to intestate succession laws and should not affect the operation of such laws. 02A117A

**Crimes of Violence.** Condemn crimes of violence including those based on bias or prejudice against the victim's race, religion, sexual orientation or minority status, and urge vigorous efforts by federal, state and local officials to prosecute the perpetrators and to focus public attention on the problem. 8/87

**Death Penalty Legislation and Native Americans.** Without taking a position on the enactment of general federal death penalty legislation, support in principle legislative measures, which would prevent or minimize any disproportionate effects of general federal death penalty legislation on Native Americans subject to federal jurisdiction. 8/91

**Desecration of the Flag.** In the interest of preserving intact the right to freedom of speech and expression under the First Amendment of the United States Constitution, oppose the adoption of an amendment to the Constitution concerning the desecration of the American flag. Oppose enactment of federal legislation that would seek to criminalize the desecration of the American flag as a political protest. Deplore any desecration of the flag and declare its full support for the proposition that the flag is a revered national symbol that ought to be treated with great respect by all citizens of the United States of America. 8/89

**Detainees' Treatment Under Geneva Convention.** Urges Congress to override the President's Executive Order of July 20, 2007, which alters the U.S. government's international obligations under the Geneva Conventions of August 12, 1949, regarding the treatment of detainees under its authority or control, and to reaffirm those obligations. 07A10B

**Disabled Persons.** Support in principle federal legislation which prohibits discrimination on the basis of disabilities in a manner parallel to existing prohibitions on discrimination based on race, sex, national origin and religion. Seek to ensure equal opportunities for individuals with disabilities in employment; public accommodations and services (including mass transportation); telecommunications; and activities of state and

local governments, taking into consideration the economic benefits and costs. Provide clear standards for identifying such discrimination. 8/89

Urges federal, state, territorial and municipal courts to make courthouses and court proceedings accessible to individuals with disabilities, including lawyers, judges, jurors, litigants, court employees, witnesses and observers. Recommends that the appropriate judicial or administrative official in each courthouse designate a "disability accommodations coordinator" to develop procedures to receive and respond to requests for accommodations from persons with disabilities. 02M112

Urges those in the legal profession to make their websites accessible to individuals with visual, hearing, manual and other disabilities and to make legal entities aware of the problems associated with inaccessible websites. 07A108

Urges federal, state, local and territorial governments to improve the administration of elections to facilitate voting by all individuals with disabilities, including people with cognitive impairments that increase in frequency with age. 07A121

Urges the United States to ratify and implement the United Nations Convention on the Rights of Persons with Disabilities. 10M108B

**Discrimination.** Whereas, the policy of the ABA is not to discriminate against any person because of race, color, creed or national origin, officers and sections of the Association should endeavor to use all reasonable means to effectuate this policy. 8/65

Reaffirm, in light of the decision in the *Bakke* case, ABA position taken in 1972 encouraging "programs at law schools having as their purpose the admission to law school and ultimately to the legal profession of greater numbers of interested but disadvantaged members of minority groups who are capable of successful completion of law school"; urge the law schools of this nation to renew their commitment to provide adequate and appropriate opportunity for members of disadvantaged groups; and also urge that efforts be made by the legal profession to provide greater means of financial assistance for all students admitted to law school with financial need and that adequate and appropriate employment opportunities be provided to persons who complete their legal education, are admitted to the bar and are members of groups which have previously encountered discrimination in seeking employment. 8/78

Support federal legislation to restore Title VII of the Civil Rights Act of 1964 and 42 U.S.C. Section 1981 to their status before the 1989 Supreme Court decisions in *Patterson v. McLean Credit Union*, *Wards Cove Packing Co. v. Atonio*, *Price Waterhouse v. Hopkins*, *Lorance v. AT&T Technologies, Inc.*, and *Martin v. Wilks*; support federal legislation amending Title VII of the Act to grant all protected classes the same rights to recover damages for employment discrimination which are enjoyed by victims of racial/ethnic discrimination under 42 U.S.C. Section 1981. 2/90

Urge the EEOC and Congress to provide resources sufficient to enable the EEOC to carry out its congressionally-mandated duties to investigate, conciliate and, where appropriate, take legal action to enforce laws prohibiting discrimination in an effective, fair and efficient manner. 98M116A

**Discrimination Based on Sex.** Urge law schools and law firms to refrain from discriminating against women. 8/72

Favor enactment of legislation to ensure that employers are prohibited from discriminating against applicants or employees on the basis of marital status. 2/74

Support legislation that prohibits discrimination in credit practices by creditors against individuals on the basis of sex or marital status. 2/74

Reaffirms policy adopted in 1975, urging the vigorous and effective enforcement of Title IX of the Education Amendments of 1972, to clarify that retaliation constitutes a form of discrimination prohibited by Title IX for which a private right of action exists to enforce the statute. 04A301

Support legislation that prohibits discrimination in the sale and rental of housing on the basis of sex. 8/74

Urge prompt, vigorous and effective implementation of Title IX of the Education Amendments Act of 1972, which promotes equal educational opportunity without regard to sex, to the full extent of the powers granted in the statute. 8/75

**Discrimination in Capital Sentencing.** Oppose discrimination in capital sentencing on the basis of the race of either the victim or the defendant; support legislation that strives to eliminate racial discrimination in capital sentencing and which provides that a challenge to a death sentence can result in relief in certain instances. 8/88

Urge jurisdictions that impose capital punishment not to carry out the death penalty until the jurisdiction implements policies and procedures that are consistent with four longstanding Association policies intended to (1) ensure that death penalty cases are administered fairly and impartially, in accordance with due process; and (2) minimize the risk that innocent persons may be executed, with the understanding that, apart from existing policies relating to offenders who are mentally retarded or under the age of 19 at the time of the commission of the offenses, the Association takes no position on the death penalty. 2/97

**Discrimination in Compensation.** Urges Congress to amend Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e-5(e), and federal age and disability employment discrimination laws to ensure that in claims involving discrimination in compensation, the statute of limitations runs from each payment reflecting the claimed unlawful disparity. 07A302

Urges Congress to enact legislation that would provide more effective remedies, procedures and protections to those subjected to pay discrimination, including discrimination on the basis of gender, and would help overcome the barriers to the elimination of such pay discrimination that continue to exist. 10M107

**Discrimination in Government Funded Services.** Urge Congress and the President to restore to legal immigrants the same rights to Supplemental Security Income, food stamps and other federal and state funded services, benefits, and assistance, which were available to them prior to enactment of Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Oppose legislative or administrative action that restricts, denies or otherwise discriminates against legal immigrants, in the provision of government funded services, benefits or assistance. 8/97

**Discrimination in the Judiciary.** Urge appointing authorities to ensure that there are no barriers to the selection of women and minorities as judges and for service on merit selection judicial nominating commissions. 8/86

**Discrimination in the Legal Profession.** Oppose bias and discrimination based on race and gender that prevent multicultural women from gaining full and equal participation in the legal profession, and actively support efforts to eradicate such bias and discrimination. 2/95

**Discrimination, Tax.** Recommend careful study of the U.S. Internal Revenue Code and income tax laws of the states to determine whether there is tax discrimination against a person on the basis of marital status. 8/74

**Discriminatory Hiring Practices.** Strongly condemn all forms of discriminatory hiring practices within the legal profession, whether on the basis of sex, religion, race or national origin. 2/72

**Domestic Electronic Surveillance.** (1) Calls upon the President to abide by the limitations which the Constitution imposes on a president under our system of checks and balances and respect the essential roles of the Congress and the judicial branch in ensuring that our national security is protected in a manner consistent with constitutional guarantees. (2) Opposes any future electronic surveillance inside the United States by any U.S. government agency for foreign intelligence purposes that does not comply with the provisions of the Foreign Intelligence Surveillance Act (FISA) and urges the President, if he believes that FISA is inadequate to safeguard national security, to seek appropriate amendments or new legislation rather than acting without specific statutory authorization. (3) Urges Congress to affirm that the Authorization for Use of Military Force of September 18, 2001, did not provide a statutory exception to the FISA requirements, and that any such exception can be authorized only through affirmative and explicit congressional action. (4) Urges Congress to conduct a thorough, comprehensive investigation to determine the nature and extent of electronic surveillance of U.S. persons conducted by any U.S. government agency for foreign intelligence purposes that does not comply with FISA, what bases were advanced for the legality of such surveillance, whether Congress was properly informed, the nature of the information obtained, and whether the information was used in legal proceedings against any U.S. citizen. (5) Urges Congress to ensure that such proceedings are open, except to the extent Congress determines that any portions of such proceedings must be closed to prevent the disclosure of classified or other protected information. (6) Urges Congress to thoroughly review and make recommendations concerning the intelligence oversight process and urges the President to ensure that the House and Senate are fully and currently informed of all intelligence operations as required by the National Security Act of 1947. 06M302

**Due Process in Public Housing.** Recognize that the drug problem plaguing the nation has a deleterious effect on the lives of poor people in public housing projects and that actions to evict persons from their homes must comport with accepted principles of due process. Support compliance with the due process protections of the United States Constitution in actions to seize public housing units under state and federal civil forfeiture and eviction laws, including, at a minimum, notice and an opportunity to be heard for household members prior to their eviction. 8/90

Supports federal, state, local and territorial legislation that prohibits discrimination in housing against victims of domestic violence and urges all relevant federal, state, local and territorial administrative agencies to adopt and vigorously enforce regulations to combat such discrimination. 03M106B

**Elder Abuse.** Supports efforts to improve the response of the federal, state, territorial and local governments and of the criminal and civil justice systems to elder abuse, neglect and exploitation and urges implementation of recommendations adopted by the National Policy Summit on Elder Abuse in December 2001. 02A108A

**Enemy Combatants.** Urges that U.S. citizens and residents who are detained within the United States based on their designation as “enemy combatants” (1) be afforded the opportunity for meaningful judicial review of their status, and (2) not be denied access to counsel in connection with the opportunity for such review. Further, urges that Congress, in coordination with the Executive Branch, establish clear standards and procedures governing the designation and treatment of enemy combatants and consider how national policy set by the United States may affect the response of other nations to future acts of terrorism. 03M109

Consistent with the United States' Supreme Court's June 2008 decision in *Boumediene v. Bush*, urges that the procedural framework for pending habeas cases brought by detainees should be determined by the District Court rather than by Congress, consistent with Federal statutory habeas criminal law principles, where applicable, and the Uniform Code of Military Justice, appropriate to the facts and circumstances of that petitioners' case. 09M10A

**Environmental Equality.** Support actions to achieve implementation and enforcement of environmental laws, regulations and policies so that a disproportionate share of the burden of environmental harm does not fall on minority and/or low-income individuals, communities or populations; urge that certain appropriate steps be taken to give priority attention to this problem; and urge enactment of legislation, as appropriate, and other appropriate measures to redress and eliminate situations in which minority and/or low-income people have borne a disproportionate share of harm to the environment. Urge further documentation of the causes and consequences of the inequitable distribution of environmental burdens, and certain other actions to address these concerns. 8/93

**Equal Rights Amendment.** Support ratification of the proposed Twenty-seventh Amendment to the Constitution. 2/72; 8/74

**Fair Housing.** Recommend amendment of federal fair housing legislation to enhance the ability of the Department of Housing and Urban Development to resolve housing discrimination complaints through conciliation, to authorize administrative law judges to hear and decide the outcome of housing discrimination complaints provided that full due process rights and the right to appeal such decisions to a court of appeals are afforded, and to extend the protection of fair housing legislation to the handicapped and to families with children. 8/87

**Federal Funding.** Oppose federal financial assistance for institutions that discriminate in any of their operations, and support enactment of legislation to restore the principle of requiring nondiscrimination throughout an institution receiving federal financial assistance. 2/86

**Federal Rules of Criminal Procedure-Fifth Amendment/Double Jeopardy.** Opposes any amendment to the Federal Rules of Criminal Procedure that would eliminate the authority of federal district judges to enter final judgments of acquittal during trial and that would require the accused to waive his or her Fifth Amendment Double Jeopardy rights as a condition of seeking a judgment of acquittal during trial. 07M301

**Financing of Abortions for Indigent Women.** Support legislation on the federal and state level to finance abortion services for indigent women. 8/78

**Foreign Intelligence Surveillance Act.** Urges Congress to conduct regular and timely oversight of the government's use of the Foreign Intelligence Surveillance Act (FISA) to ensure that government investigations undertaken pursuant to the FISA do not violate the First, Fourth, and Fifth Amendments to the Constitution and adhere to the FISA's purposes of accommodating and advancing both and the individual's interest in being free from proper government intrusion. 03M118

**Free Speech.** Oppose the use of government funding programs as a vehicle to suppress or discourage speech activities by government grantees based on the government's disapproval of the particular content of the speech. 2/93

**Full Faith and Credit.** Support efforts to implement the "full faith and credit" mandate of the Violence Against Women Act of 1994 which directs states and territories to enforce civil and criminal protection orders issued by foreign states, territorial and tribal courts as if the orders had been issued by the enforcing court; urge full funding of efforts to implement the full faith and credit mandate including (1) development of interstate and intrastate computer registries of protection orders; (2) training to educate community members who come in contact with victims and perpetrators of domestic violence about the mandate and the enforceability of protection orders issued by foreign states; and (3) development of protocols which would remove barriers to the enforcement of foreign protection orders and would prioritize victim safety. 8/96

Approves the Uniform Interstate Enforcement of Domestic-Violence Protection Orders Act, promulgated in 2000 and amended in 2002, as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The Act, as promulgated in 2000, addresses the interstate enforcement of protection orders

arising in a domestic-violence or family-violence context. In 2002, the Act was substantively amended to also cover orders arising under an issuing state's anti-stalking laws. The Act as amended is designed to make implementation of the "full faith and credit" mandates of these orders more feasible. 03M113E

**Funding for Tribal Justice Systems.** Urges Congress to support quality and accessible justice by ensuring adequate, stable, long-term funding for tribal justice systems. 08A117A

**Gender Identity or Expression.** Urges the federal, state, local and territorial governments to enact legislation prohibiting discrimination on the basis of actual or perceived gender identity or expression, in employment, housing and public accommodations. 06A122B

Encourages measures to promote the permanent placement of lesbian, gay, bisexual, transgender and questioning (LGBTQ) youth in the foster care system in LGBTQ-friendly homes and that protect LGBTQ youth in the homeless youth and foster care systems from discrimination and violence. 07A104B

**Government Investigations of Organizations and Employees.** Opposes government policies, practices and procedures that have the effect of eroding the constitutional and other legal rights of current or former employees, officers, directors or agents ("Employees") by requiring, encouraging or permitting prosecutors or other enforcement authorities to take into consideration any of the following factors in making a determination of whether an organization has been cooperative in the context of a government investigation: (1) that the organization provided counsel to, or advanced, reimbursed or indemnified the legal fees and expenses of an Employee; (2) that the organization entered into or continues to operate under a joint defense, information sharing and common interest agreement with an Employee with whom the organization believes it has a common interest in defending against the investigation; (3) that the organization shared its records or other historical information relating to the matter under investigation with an Employee; or (4) that the organization chose to retain or otherwise declined to sanction an Employee who exercised his or her Fifth Amendment right against self-incrimination in response to a government request for an interview, testimony, or other information. 06A302B

**Haitian Women and Children.** Urges the federal government to intensify its effort to provide adequate food, water, shelter and physical security to displaced women and children in Haiti, and to fund and support regional, sub-regional and international programs which prioritize the protection of these vulnerable groups, in conformity with international human rights principles. 10A302

**Handicapped Persons Employment.** Support federal, state and local legislation designed to further equal employment opportunities for the handicapped. 8/77

**Hawaiian Governing Entity.** Urges Congress to pass legislation to establish a process to provide federal recognition for a native Hawaiian governing entity, defined as an authority similar to that which American Indian and Alaska Native governments possess. 06M108B

**Homeless.** Support legislation to (1) prohibit discrimination on the basis of transient or homeless status; (2) address the need for emergency relief to individuals and families without permanent shelter; (3) encourage public and private initiatives to increase the supply of habitable low-cost housing in the United States; and (4) adopt public policies and programs that will contribute to the ability of homeless people to become productive citizens. 8/86

Support efforts to insure the participation of homeless persons in the electoral process. Recommend that election laws, regulations and policies regarding residency determinations and the methods by which persons vote and by which voter registration is verified should not hinder or prevent registration and voting by homeless persons who are otherwise qualified to vote. Recommend and support legislation to assure that no voting qualification or

prerequisite to voting, standard, practice, or procedure, shall be imposed or applied by any state or political subdivision to deny or abridge the right to vote of any citizen who resides at or in a nontraditional abode. Encourage election officials to undertake active outreach efforts to inform homeless persons of voter registration and voting procedures. 8/93

Urge bar associations to join in preventing homelessness by developing, supporting, and leading state and local initiatives, projects and programs which result in certain specified actions; resolve to cooperate in supplying expertise, clearinghouse services, and other assistance to those state and local bar associations which undertake the programs and projects consistent with the intent of this resolution. 8/94

**Homeless Assistance Act.** Urges Congress to amend Subtitle VII-B, Part C of the McKinney-Vento Homeless Assistance Act to clarify that the Act applies to all children and youth in foster care and to significantly increase funding to support the school stability, enrollment, attendance, and success of all eligible children and youth. 07A107

**Homeless Children and Youth.** Supports policies to help assure uninterrupted educational access, special education and related services, and stability for homeless children and youth as well as children and youth placed by public agencies in out-of-home settings. 04A113

- (1) Urges Congress to increase funding for programs under the Runaway and Homeless Youth Act and other laws in order to more effectively intervene and end homelessness for youth, ages 12 through 24.
- (2) Urges state, local, and territorial governments to revise their laws, policies and practices in light of the emergence of new models and best practices in the law to help runaway and homeless youth and their families. 10M105B

**Homeless Person.** Urges federal agencies to include in the definition of "homeless person" individuals who lack a fixed, regular, and adequate nighttime residence, including those who, due to loss of housing, economic hardship, or similar reasons, are sharing the housing of others or living in motels, hotels or camping grounds. 06A108B

**Homelessness.** Support the adoption of creative and comprehensive measures to address homelessness by eliminating illegal residential segregation, increasing the availability of affordable transitional and permanent housing and improving the accessibility of such housing to employment, schools, transportation, and human services, with such efforts to include (1) stronger enforcement of existing laws designed to eradicate discrimination in housing; (2) affirmative plans to increase and preserve the supply of adequate affordable housing; (3) regional initiatives to provide affordable housing that is accessible to employment, schools, transportation and human services; (4) programs to integrate communities by race and income; (5) provision of incentives and rewards to encourage the planning and development of affordable housing in integrated communities; and (6) enactment of specific affordable housing laws. 8/95

Urges Congress, the U. S. Postal Service and other appropriate federal entities to ensure the prompt delivery of and adequate customer access to the U. S. mail for people experiencing homelessness. 05A112

Opposes the enactment of, and supports the repeal of, laws and policies that punish persons experiencing homelessness for carrying out otherwise non-criminal life-sustaining practices or acts in public spaces when no alternative private spaces are available and urging the legal community to recognize the problems faced by homeless individuals who may be forced to engage in life-sustaining practices. 07M106

**Housing and Community Economic Development Initiatives.** Urge governments to support the implementation of housing and community economic development initiatives and programs in order to revitalize low- and moderate-income communities in accordance with six specific efforts. Encourage pro bono activities

that support and assist housing and community economic development initiatives and programs that benefit low- and moderate-income individuals or areas. 99A105

**Housing Voucher Program.** Opposes legislation to repeal the federal Section 8 low-income housing voucher program or similar legislative proposals that would eliminate the present funding structure based on actual costs for the number of vouchers used and replace it with a state-administered block grant system. Urges state, local and territorial bar associations to promote better understanding of the Section 8 low-income housing voucher program and to ensure fair administration and access to the program for those entitled to participate. 03A121

**Hurricanes Katrina and Rita, Response to.** Urges Congress to create an independent, bipartisan commission to investigate and recommend the appropriate measures to rebuild the infrastructure of the Gulf Coast damaged by Hurricanes Katrina and Rita, to provide reasonable hurricane and flooding protection for the people living in disaster prone areas, and to recommend appropriate measures designed to prevent or mitigate problems in responding to natural disasters in the future.

**Independence of the Judiciary.** Recommends that the ABA join in efforts by state, local and territorial bar organizations to defend against attacks on the judiciary and oppose any measure that is proposed by any state legislation, referendum, or ballot initiative that would interfere with or impede the ability of courts to apply independently the law and the Constitution fairly and impartially. 07M10B

**Indian Treaty Obligations.** Urge federal government to follow policy of strict adherence to Indian treaty obligations except for compelling circumstances of national security or emergency. 2/80

**Japanese Americans.** Urge Congress to provide appropriate legislative recognition to those denied equal justice under law pursuant to Executive Order No. 9066 and subsequent laws subjecting Japanese Americans to detention during World War II. 8/84

**Legal Remedies to Eliminate Discrimination.** Endorse legal remedies and voluntary actions that take into account as a factor race, national origin, or gender to eliminate or prevent discrimination. 8/95

**Medicaid Benefits.** Recognizes the financial burden of maintaining the Medicaid program and the need for innovation in shaping more effective health care systems, but opposes any structural or financial changes in the Medicaid program that would weaken the current entitlement nature of the program or shared legal obligation that the federal, state and territorial governments have to provide a comprehensive set of benefits to all individuals who meet eligibility criteria. Supports Medicaid restructuring that adheres to specific criteria. 05A113B

**Medical Options Relating to Pregnancy.** Support legislation which ensures the right of patients of federally funded family planning clinics to receive full counseling and referrals on all medical options relating to pregnancy, and the right of health care professionals in such facilities to advise their patients in accordance with their best medical judgement and professional ethics. 8/91

**Mentally Disabled Advocacy Programs.** Urge the establishment of advocacy programs for the representation of the mentally disabled and call on the Legal Services Corporation to increase its activities in this area. 8/78

**Military Commission Trials.** Calls upon Congress and the Executive Branch to ensure that all defendants in any military commission trials that take place have the opportunity to receive the zealous and effective assistance of Civilian Defense Counsel. 03A301

**National Constitutional Convention.** Support legislation to provide recommended procedures and controls for a national constitutional convention. 8/73

**Participation in Association.** Continue to make substantial efforts to increase the participation of women and

minorities in all levels of the Association. 8/84

**PATRIOT Act of 2001.** Opposes efforts to repeal the sunset provision of the USA PATRIOT Act of 2001 and urges Congress to conduct a thorough review of the implementation of the powers granted to the Executive Branch under the Act before considering any extension or expansion of surveillance authority under the Act. 03A112B

**Physically Handicapped.** Support efforts to ensure access to public buildings and transportation for the physically handicapped. 8/76

**Prayer in Public Schools.** Oppose adoption of a Constitutional amendment or federal legislation that would allow for officially sanctioned prayer in public schools; oppose any action by the United States Congress to remove from any federal Court the jurisdiction to consider the validity of governmental actions under the Religion Clauses of the First Amendment of the United States Constitution. 2/95

**President's Commission on Mental Health.** Commend the report of the Commission as a valuable study and endorse those recommendations providing for protection of the human and legal rights of the mentally disabled [the report's section entitled "Protecting Basic Rights"]. 8/78

**Privacy Act of 1974.** Support amendment of the Privacy Act of 1974 to prohibit the nonconsensual use of income tax, census, political activity, religious affiliation and other sensitive data files for the purpose of verifying the eligibility of citizens for government benefit programs, and to provide more specific notice requirements and stronger due process protections. 8/86

**Privacy of Electronic Communications.** Support amendment of federal wiretap law to protect the privacy of electronic communications and the transmission of all forms of information including voice, data and video; and support a statutory framework for government access to messages stored by electronic mail systems and remote data processing services as well as the creation of civil and criminal sanctions against unauthorized access by third parties. 8/86

**Private Clubs.** Endorse amendments to Title II of the Civil Rights Act to include in the definition of the term "public accommodation" any private club or other establishment that derives a substantial portion of its income from business sources; and provide an adequate objective standard by which to measure "a substantial portion of income from business sources." 8/83

Direct that the ABA communicate with its members concerning the use of discriminatory clubs for professional and business purposes, and specifically urge law firms not to hold firm functions at business clubs that discriminate and urge lawyers who belong to those clubs to work to reform their policies. 8/88

**Protection of Women's Human Rights.** Endorse international and domestic efforts to promote and protect women's human rights through the adoption and enforcement of legal provisions for equality and equal protection law; recommend that the United States Government and Nongovernmental Organizations participating in the United Nation's Fourth World Conference on Women in Beijing, China, in 1995, actively support the inclusion in the Platform for Action of Effective measures to accelerate the removal of the remaining obstacles to the realization of women's basic rights. 11/94

**Racial and Ethnic Profiling.** Support legislation requiring the systematic collection and annual reporting of certain data by all law enforcement agencies that engage in traffic stops, including the race and ethnicity of each person stopped. Support legislation that requires the Department of Justice and attorneys general to undertake a study using the data to determine whether, how and the degree to which race-based profiling or other methods that disproportionately target or affect persons of color are being employed by law enforcement authorities and to identify the most efficient and effective method of ending such practices. 99A10A

Opposes the text of the “Racial Privacy Initiative” or any similar measure, which would prohibit any public entity (including schools, employers, or law enforcement agencies) from collecting or sorting any data on the basis of race or ethnicity, and urges bar organizations and associations to join in opposing such measures. Urges state, local and territorial bar associations to engage in educational programs for the electorate, the media and other organizations to inform those groups about the compelling reasons to collect and maintain ethnic and racial data. 03A10C

Urges federal, state, local and territorial governments to enact effective legislation, policies and procedures to ban law enforcement’s use of racial or ethnic characteristics not justified by specific and articulable facts suggesting that an individual may be engaged in criminal behavior. 08A104C

**Racial and Ethnic Youth in the Justice System.** Encourages state, local and territorial bar associations, judges, prosecutors, defenders and police to instill public confidence in the fairness of the justice system by making concerted efforts to ensure that the justice system provides fair and equal treatment for all youth. Urges these entities to address overrepresentation and disparate treatment of racial and ethnic minority youth in the justice system by adhering to certain principles. 03A101B

**Racial Injustice and Slavery, (Creation of Commission on).** Urges Congress to appropriate funds for and create a Commission to study and make findings relating to the present day social, political and economic consequences of both slavery and the denial thereafter of equal justice under the law for persons of African descent living in the United States. Urges Congress to propose public policies or governmental actions, if any, that may be appropriate to address such consequences. (Does not take a position on the form or substance of that Commission's findings.) 06M108A

**Record Lyrics.** Oppose the enactment of any federal, state, territorial or local legislation regulating the content of recorded music. Support the adoption of a voluntary advisory logo to assist recorded-music buyers in identifying materials containing explicit lyrics. 8/91

**Religion Clauses of U.S. Constitution.** Encourages efforts to increase public understanding of the Establishment Clause and the Free Exercise Clause (the “Religion Clauses”) of the U.S. Constitution as they apply in the public elementary and secondary schools and encouraging bar associations to help school officials to better understand and apply the Religion Clauses. 08M106

**Religious Liberty Restoration Act.** Support in principle the enactment of federal legislation such as the Religious Liberty Restoration Act of 1990, requiring that the federal and state governments demonstrate that any law interfering with the free exercise of religion (1) is essential to furthering a compelling governmental interest; and (2) is the least-restrictive means of furthering that interest. 2/91

**Representation for Indigents.** Recommend that all jurisdictions ensure that defendants are represented by counsel at their initial judicial appearance where bail is set and that each jurisdiction provide adequate resources to support effective implementation of such representation by counsel for indigent defendants. 98A112D

Urges that the following steps be taken to fulfill the constitutional guarantee of effective assistance of counsel under the Sixth Amendment as prescribed in decisions of the United States Supreme Court: (1) Increased funding for indigent defense by state, territorial and local governments; (2) stronger oversight mechanisms; (3) substantial federal financial support to states and territories for the provision of indigent defense services; (4) remedies to avoid work overload of defense counsel; (5) increased judicial scrutiny of ethical duties and lapses by prosecutors and defenders; (6) greater involvement of bar associations in monitoring criminal proceedings; and (7) involvement of community groups and individual citizens in improving the indigent defense system. 05A107

**Representation in ABA House of Delegates.** Urge all organizations represented in the ABA House of Delegates to increase the number of solo and small firm practitioners within their delegations to the House of Delegates. 8/95

Amends §6.4 of the ABA Constitution to expand the range of prohibited discrimination by state and local bar associations as it relates to representation in the House of Delegates. 02A11-2

**Required Use of Contraceptives.** Oppose legislation of judicial action that requires a woman to use any method of contraception or sterilization, or to otherwise refrain from bearing children, as a penalty for any conduct or as a condition of probation or parole. Oppose legislation, or rule or regulation, that (1) requires a woman to use any method of contraception or sterilization, or to otherwise refrain from bearing children, in order to be eligible for the receipt or continuation of public benefits; or (2) offers financial incentives or otherwise conditions the level of public benefits received upon a woman's use of a method of contraception or sterilization or her agreement to refrain from child bearing. For purposes of this recommendation, reimbursement for medical expenses or other actual costs associated with the purchase or use of a method of contraception or sterilization does not constitute a financial incentive. 8/93

**Right to Food.** Support the recognition of a fundamental right to food and urge the U.S. government to make the right to food a principal objective of U.S. foreign policy. 8/86

**Rights of Children in Foster Care.** Support and reaffirm the (1) rights of children in foster care homes to be protected from abuse, physical violence, and sexual assault while in foster custody; (2) the obligation of relevant state and local officials to provide for the continued safety of the foster care environment; and (3) the legal responsibility and liability of state and local governments and their agents for injury and abuse caused to children in foster care custody when they exhibit gross negligence or reckless disregard in failing to respond or affirmatively protect children from such dangers. Call upon legislatures, members of the bar and child advocates everywhere to seek to strengthen recognition and implementation of this interest in children in safe foster care. 8/90

Urges Congress, the states and territories to enact and/or adopt laws and policies consistent with the recommendations of the national bipartisan May 2004 Pew Commission on Children in Foster Care for improving the outcomes for abused and neglected children under dependency court jurisdiction. Urges Congress, and the state and territorial legislatures, to maintain commitments for adequate resources, and enact laws and implement policies to increase resources and maintain flexibility in the use of those resources, that support the needs of children and families at risk regardless of whether an abused or neglected child is removed from home, and without limiting the protections, support, and rights of children in foster care or their families. Urges state and local bars to actively support the development and implementation of these laws and policies. 05A10B

**Rights of Farmworkers.** Support efforts to improve wages, working conditions and housing for farmworkers; enhanced enforcement of laws regulating the rights of farmworkers and according legal resident status to noncitizen farmworkers presently working in the United States. Oppose any expansion of the existing H-2A nonimmigrant visa category for admitting temporary agricultural farmworkers to the United States either by changing the temporary labor certification process or by repealing or lowering existing H-2A requirements. 99A106

**Rights of the Institutionalized.** Support legislation to permit U.S. Attorney General to bring suit on behalf of persons confined in state institutions. 8/76

**Scientific Research, Prohibitions on.** Opposes governmental actions that would: (1) prohibit scientific research conducted for therapeutic purposes, including research involving cell nuclear transfer that is not intended to replicate a human being, provided that such research is conducted in conformity with accepted research, ethical, and legal safeguards; or (2) penalize individuals or research entities that participate in such research. 02A117B

**Secrecy of Grand Jury Process.** Support that grand jurors, court personnel and lawyers respect the secrecy of the grand jury process and refrain from dissemination of information that would jeopardize the fair trial rights of the parties and the integrity of the grand jury proceedings. 8/74

**Sex Discrimination in Employment.** Support federal and state legislation assuring that prohibitions against sex discrimination in employment will also prohibit employment discrimination because of pregnancy. 2/78

**Sex Discrimination in Public Accommodations.** Urge the amendment of the public accommodations section of the 1964 Civil Rights Act to prohibit sex discrimination in public accommodations, provided however that such amendment not require access by both sexes to the same facilities where legitimate privacy concerns are involved. 8/80

**Sexual Harassment.** Recognizes that sexual harassment is a serious problem in all types of workplace settings, including the legal profession, and constitutes a discriminatory and unprofessional practice that must not be tolerated in any work environment. Resolves to educate the profession about the scope and harm of sexual harassment in the workplace, and to call upon members of the legal profession to provide leadership and education in eradicating it. Recognizes that sexual harassment is not confined to interactions between co-workers in the workplace, but may also arise in the context of employee and non-employee. 2/92

**Sexual Orientation.** Urge the federal government and states and local governments to enact legislation, subject to such exceptions as may be appropriate, prohibiting discrimination on the basis of sexual orientation in employment, housing and public accommodations. "Sexual orientation" means heterosexuality, bisexuality and homosexuality. 2/89

Support the enactment of laws and implementation of public policy that provide that sexual orientation shall not be a bar to adoption when the adoption is determined to be in the best interest of the child. 99M109B

Supports state and territorial laws and court decisions that permit the establishment of legal parent-child relationships through joint adoptions and second parent adoptions by unmarried persons who are functioning as a child's parents when such adoptions are in the best interests of the child. 03A112A

Opposes legislation and policies that prohibit, limit, or restrict placement into foster care of any child on the basis of sexual orientation of the proposed foster parent when such foster care placement is otherwise appropriate under the applicable law of the state, territory, or tribe. 06M102

Encourages measures to promote the permanent placement of lesbian, gay, bisexual, transgender and questioning (LGBTQ) youth in the foster care system in LGBTQ-friendly homes and that protect LGBTQ youth in the homeless youth and foster care systems from discrimination and violence. 07A104B

Urges Congress to repeal 1 U.S.C. § 7, which denies federal marital benefits and protections to lawfully married same-sex spouses. 09A112

**Signing Statements.** (1) Opposes, as contrary to the rule of law and our constitutional system of separation of powers, the misuse of presidential signing statements by claiming the authority or stating the intention to disregard or decline to enforce all or part of the law the President has signed, or to interpret such a law in a manner inconsistent with the clear intent of Congress. (2) Urges the President, if he/she believes that any

provision of a bill pending before Congress would be unconstitutional if enacted, to communicate such concerns to Congress prior to passage. (3) Urges the President to confine any signing statements to his/her views regarding the meaning, purpose and significance of bills presented by Congress, and if he believes that all or part of a bill is unconstitutional, to veto the bill. (4) Urges Congress to enact legislation requiring the President promptly to submit to Congress an official copy of all signing statements issued and a report setting forth in full the reasons and legal basis for the statement; and further requiring that all such submissions be available in a publicly accessible database. (5) Urges Congress to enact legislation enabling the President, Congress, or other entities or individuals, to seek judicial review, to the extent constitutionally permissible, in any instance in which the President claims the authority, or states the intention, to disregard or decline to enforce all or part of a law he/she has signed, or interprets such a law in a manner inconsistent with the clear intent of Congress, and urges Congress and the President to support a judicial resolution of the President's claim or interpretation. 06A304

Supports the enactment of legislation and the implementation of public policy to enable a United States citizen or lawful permanent resident who shares a mutual, interdependent, committed relationship with a non-citizen of the same sex to sponsor that person for permanent residence in the United States. 09M108

**Social Security Act.** Supports continuation of the federal Old Age, Survivors, and Disability Insurance (OASDI) program, commonly known as Social Security and authorized by Title II of the Social Security Act, 42 U.S.C. § 401 *et seq.*, as a national system of social insurance. Supports preservation of the Social Security Trust Funds and long term solvency of the program. Identifies hallmarks of the existing system by which to measure future proposals. 05A113A

**Social Security Act Amendments.** Recommend that Congress enact legislation amending the Social Security Act that would require the Secretary of Health and Human Services to implement six practices at the initial determination process of disability claims; and to require the Secretary of Health and Human Resources take specific affirmative steps to ensure that applicants unable to adequately access the social security system, in particular homeless people, receive assistance in applying for benefits to which they may be entitled. 8/91

**Solo and Small Firm Practitioners.** Urge all organizations represented in the ABA House of Delegates to increase the number of solo and small firm practitioners within their delegations to the House of Delegates. 8/95

**State Secrets Privilege.** Supports procedures and standards designed to ensure that whenever possible, federal civil cases are not dismissed based solely on the state secrets privilege. 07A116A

**Tolerance and Anti-Bias Education.** Urges legislative as well as other community-based initiatives that promote tolerance and anti-bias instruction, multicultural awareness training, hate crime/violence prevention education, and anti-bullying/harassment programs for children, parents, teachers, and school administrators. 02A104B

**Torture.** Condemns any use of torture or other cruel, inhuman or degrading treatment upon persons within the custody or under the physical control of the United States Government (including its contractors) and any endorsement or authorization of such measures by government lawyers, officials and agents. Urges the United States government to comply fully with the Constitution and laws of the United States and treaties to which the United States is a party, to take all measures necessary to ensure that no person within the custody or under the physical control of the United States government is subjected to torture or other cruel, inhuman or degrading treatment or punishment. 04A10B

**Use of Non-U.S. Government Funds to Provide Health or Medical Services.** Oppose any federal law, regulation or policy that prohibits foreign nongovernmental organizations that receive United States government assistance from using non-U.S. government funds to provide health or medical services that are legal in the country receiving the United States' assistance. 01A118

**Veterans' Treatment Courts.** (1) Supports the development of comprehensive, systemic approaches to address the special needs of veterans within civil and criminal court contexts, including but not limited to proceedings involving veterans service-related injuries, disorders, mental health and substance abuse needs, through programs that connect veterans to appropriate housing, treatment and services through partnerships with the local Veterans Affairs Medical Centers, community-based services and housing providers. (2) Urges state, local, and territorial courts to facilitate the development of Veterans Treatment Courts, including but not limited to, specialized court calendars or the expansion of available resources within existing civil and criminal court models focused on treatment-oriented proceedings. (3) Adopts six principles for Veterans Treatment Courts to the extent appropriate and feasible for each jurisdiction. 10M105A

**Violence Against Women Act and Similar Legislation.** Urges Congress to reauthorize and fully fund the Violence Against Women Act and similar legislation that promotes access to justice and safety for victims of domestic violence, dating violence, sexual assault, and stalking within the United States. 10M115

**Voting Rights Act.** Supports the reauthorization of the Voting Rights Act of 1965 as amended through 1992. 05A108

**Voting Rights for American Territories.** Supports the amendment to the United States Constitution to provide for participation of citizens in American territories to vote in national elections. 8/92

**Wards Cove Exemption.** Support enactment of legislation to repeal the Wards Cove exemption (Section 402 (b)) to the Civil Rights Act of 1991. 2/93

**Welfare Programs.** Urges that welfare programs be funded at a level required to meet the need for the basic essentials of life, that reductions should not occur unless justified by careful study and analysis with full regard for their short and long-term impact on individuals and budgets and their compliance with state and federal constitutions, and opposes linking public assistance for needy persons to requirements which infringe on the right to privacy and on other individual freedoms, such as the right to travel. 8/92

Support the enactment or amendment of welfare legislation to require due process protections in the administration of welfare programs, particularly notice and an opportunity to be heard, before the imposition of financial sanctions against families for noncompliance with program requirements. 01A105B

Urges Congress to change laws to broaden federal review of the disproportionate representation of racial and ethnic minority children in the child welfare system and require and fund states to track, report, analyze and take and report on corrective action. 08A107

**Women in the Legal Profession.** Recognize that persistence of overt and subtle barriers denies women the opportunity to achieve full integration and equal participation in the work, responsibilities and rewards of the legal profession; affirm the fundamental principle that there is no place in the profession for barriers that prevent the full integration and equal participation of women in all aspects of the legal profession; and call upon members of the legal profession to eliminate such barriers. 8/88

**Youth in the Juvenile or Criminal Justice Systems.** Urges federal, state, territorial and local governments to increase the opportunities of youth involved with the juvenile or criminal justice systems and to prevent the continuing discrimination against those who have been involved with these systems in the past by limiting the collateral consequences of juvenile arrests, adjudications, and convictions. 10M102A

**Administrative Law Judges.** Encourages Congress to establish The Administrative Law Judge Conference of the United States as an independent agency to assume the responsibility of the United States Office of Personnel Management with respect to Administrative Law Judges, including their testing, selection, and appointment. 05A106A

**Code of Investigative Procedure.** Support adoption of congressional rules requiring consent of witnesses before testimony is broadcast or reproduced. 8/74

**Congressional Appointments.** Urge that (1) Congress avoid statutory limits provisions that disqualify senior executive or judicial appointees on the basis of clients they have previously represented; (2) Congress and the administration continue to utilize traditional mechanisms, rather than special pre- or post-employment rules, to ensure that senior executive and judicial positions are filled only by highly qualified persons who will fulfill the responsibilities of their positions with complete integrity; and (3) ethics-in-government rules should not single out foreign policy or trade functions for special, restrictive treatment and that certain amendments which restrict the pre-and post- employment activities be repealed. 2/97

**Congressional Committee Review of Prosecutorial Agencies.** Urge that (1) federal prosecutorial agencies should respond in a timely, open and candid manner to requests from congressional committees trying to determine whether the prosecutorial agencies are enforcing laws under their jurisdiction effectively or whether these laws need revision; and (2) congressional committees and federal prosecutorial agencies should work jointly to establish informal guidelines which properly balance the needs for congressional oversight of the executive function and prosecutorial independence from political interference in accordance with two specified principles. 8/96

**Congressional Review of Agency Regulations.** Recommend that Congress, the General Accounting Office (GAO) and Executive Branch agencies take eight specific actions to provide a more practical process for Congressional review of agency regulations. 8/97

**Congressional Review of Military Decisions.** Oppose Congressional subpoena or other Congressional deposition of any individuals in the Armed Forces who exercise decisional responsibility under the Uniform Code of Military Justice (10 U.S.C. § 801, et seq.) to provide testimony before Congress concerning their discretionary decisions in individual cases. 11/96

**Congressional Testimony.** Reaffirm position that no witness shall be compelled to give Congressional testimony for broadcast or direct reproduction unless witness consents to such action in writing. 8/74

**Continuity in Government.** Urges Congress, the states and territories to enact special election procedures for filling vacancies in the United States House of Representatives in the event of a catastrophe. Urges Congress to consider and study whether additional measures, including but not limited to a constitutional amendment, may be necessary to ensure continuity of Congressional operations in the event of a catastrophe. 04A118

**Criminal Justice Act.** Urge Congress to fully fund the Criminal Justice Act, including sufficient money to fund the statutory increase to \$75 per hour and annual cost-of-living increases for CJA attorneys, so that the attorneys appointed under the Act receive full and fair compensation; and urge the Judicial Conference to make every effort to obtain funding for and to fund such increases for the 77 districts currently authorized to receive that rate and CJA attorneys. 98A112E

**Discipline for Ethical Violations.** Recommend seven specified steps to be taken by each house of Congress in the exercise of its constitutional power to discipline its members for ethical violations; urge nine specified steps to be taken by members of Congress and their staffs in order to obtain the benefits to American citizens of constituent service contacts with administrative agencies, while minimizing the risk that agencies will be induced to violate the substantive and procedural statutes that govern their decisions. 2/96

**District of Columbia Representative in House of Representatives.** Urges the House and the Senate to complete enactment of legislation, such as S. 160 granting a vote to the Representative from the District of Columbia in the House of Representatives, expeditiously during the current session of Congress. 09M10D

**Executive Privilege.** Recommend procedures for the resolution of disputes between the Congress and the President of the United States over executive privilege, including steps to be taken by the political branches, consideration of a central body in Congress with responsibility for participation in executive privilege negotiations, and consideration as to whether specific disputes might lend themselves to nonbinding mediation efforts. 8/87

**Federal Distributive Funding.** Urges Congress to enact and the President to sign legislation authorizing the annual appropriation of federal distributive funding to the several states of the United States of America and their respective local governments and political subdivisions in 2011, and thereafter, in order to ensure continuity of funding of essential state and local government programs, projects and services following appropriations from the American Recovery and Reinvestment Act of 2009. 09A105

**Federal Grant Funds for Lobbying, Use of.** Support existing prohibitions on the use of federal grant funds for lobbying activities and open access to the legislative process, and oppose legislation which would compromise the principle of access by limiting the amount of public policy advocacy in which organizations receiving federal grants can engage using private funds. Urge that Congress carefully examine legislation in this area to ensure that it does not chill the constitutional right of citizens to petition their government or deprive the public of the benefit of the experience and government or deprive the public of the benefit of the experience and expertise such organizations can bring to bear on the challenges facing our nation at the federal, state and local levels. 10/95

**Foreign Intelligence Surveillance Act.** Urges Congress to conduct regular and timely oversight of the government's use of the Foreign Intelligence Surveillance Act (FISA) to ensure that government investigations undertaken pursuant to the FISA do not violate the First, Fourth, and Fifth Amendments to the Constitution and adhere to the FISA's purposes of accommodating and advancing both and the individual's interest in being free from proper government intrusion. 03M118

**House in Committee of the Whole.** Urges the United States House of Representatives to restore the right of D.C. citizens, as well as citizens of American Samoa, Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico and the United States Virgin Islands to have their elected Congressional representatives vote on proposed legislation considered by the House in Committee of the Whole. 11M10C

**Hurricanes Katrina and Rita, Response to.** Urges Congress to create an independent, bipartisan commission to investigate and recommend the appropriate measures to rebuild the infrastructure of the Gulf Coast damaged by Hurricanes Katrina and Rita, to provide reasonable hurricane and flooding protection for the people living in disaster prone areas, and to recommend appropriate measures designed to prevent or mitigate problems in responding to natural disasters in the future. 07A116B

**Inspector General Office for Judicial Branch.** (1) Opposes legislation that would establish a statutory Office of Inspector General for the Judicial Branch for the purpose of conducting investigations of matters pertaining to the Judicial Branch, including possible misconduct in office of judges and judicial proceedings. (2) Opposes any legislative proposal creating the statutory position of Inspector General for the Judicial Branch that: (a) requires the Chief Justice of the United States to consult with congressional leaders over the appointment of an inspector general; (b) confers on the inspector general broad power to subpoena judges and judicial entities to compel testimony and production of documents; or (c) requires the inspector general to make prompt reports to Congress in open or closed sessions on matters that the inspector general believes require action. (3) Applauds the recent efforts of the Judicial Conference of the United States to examine and respond to concerns raised by Congress and

the public over judicial adherence to, and oversight of, its rules, guidelines and procedures governing judicial recusal, financial disclosure statements, the Judicial Discipline and Procedures Act and judicial attendance at privately funded, expense-paid seminars. 06A308

**Insurance Information Office.** Urges Congress to enact legislation to establish a non-regulatory insurance information office within the Treasury Department. 09A303

**National Endowment for the Arts.** Support reauthorization of the National Endowment for the Arts with no restrictions on the content, the subject matter, message or idea of what the Endowment may fund. 8/90

**PATRIOT Act of 2001.** Opposes efforts to repeal the sunset provision of the USA PATRIOT Act of 2001 and urges Congress to conduct a thorough review of the implementation of the powers granted to the Executive Branch under the Act before considering any extension or expansion of surveillance authority under the Act. 03A112B

**Political Activities.** Oppose the enactment of any legislation, such as H.R. 3485, which would (1) obligate exempt organizations to obtain the prior approval of their members before engaging in “political activities”; (2) define “political activities” so broadly as to preclude the traditional types of communications between citizens and public officials, upon which public officials have frequently drawn for a fuller understanding of issues under debate; and (3) require exempt organization to add an additional layer of classifying activities and administrative procedures to the rigorous record keeping requirements already imposed by the Internal Revenue Service, the Federal Election Commission, and the Lobbying Disclosure Act of 1995. 498BOG 5.7.

**Preemption.** Urges Congress to address foreseeable preemption issues clearly and explicitly when it enacts a statute that has the potential to displace, supplement or otherwise affect state tort law. Urges Congress to remain mindful of the historic responsibility that States have exercised over the health and safety of their populace and balance the competing concerns relating to preemption. Urges the President to require an agency to follow four specific procedures before it attempts to preempt state tort law. Recommends that independent regulatory agencies which are not covered by Executive Order 13132 voluntarily comply with that order regarding federal actions that may have preemptive effect and sets forth procedures for compliance. 10A117

**Securities and Exchange Commission.** Urges the Administration and Congress to increase federal support for the U.S. Securities and Exchange Commission. 03M301

**Sentencing Guidelines for Organizations.** Urges Congress to make changes to the proposed amendments to the Sentencing Guidelines for Organizations regarding a) attorney-client privilege and work product protection, b) compliance programs, and c) periodic assessments. 04A303

**Sentencing Practices (Federal).** Urges Congress to take specified steps to assure that federal sentencing practices are effective, fair and just, and effectuate the goals of sentencing set forth in the Sentencing Reform Act. 05M301

**Signing Statements.** (1) Opposes, as contrary to the rule of law and our constitutional system of separation of powers, the misuse of presidential signing statements by claiming the authority or stating the intention to disregard or decline to enforce all or part of the law the President has signed, or to interpret such a law in a manner inconsistent with the clear intent of Congress. (2) Urges the President, if he/she believes that any provision of a bill pending before Congress would be unconstitutional if enacted, to communicate such concerns to Congress prior to passage. (3) Urges the President to confine any signing statements to his/her views regarding the meaning, purpose and significance of bills presented by Congress, and if he believes that all or part of a bill is unconstitutional, to veto the bill. (4) Urges Congress to enact legislation requiring the President promptly to submit to Congress an official copy of all signing statements issued and a report setting forth in full

the reasons and legal basis for the statement; and further requiring that all such submissions be available in a publicly accessible database. (5) Urges Congress to enact legislation enabling the President, Congress, or other entities or individuals, to seek judicial review, to the extent constitutionally permissible, in any instance in which the President claims the authority, or states the intention, to disregard or decline to enforce all or part of a law he/she has signed, or interprets such a law in a manner inconsistent with the clear intent of Congress, and urges Congress and the President to support a judicial resolution of the President's claim or interpretation. 06A304

**Witnesses.** Support, in the U.S. House and Senate, rules providing that no witness shall be compelled to give testimony in any hearing for public broadcast. 8/74.

**Y2K Legislation.** Recommend that legislation addressing concerns for litigation and claims arising out of the potential hardware or software failures of computers or imbedded devices because of Year 2000 failure be amended to exclude certain provisions. Support reasonable pre-litigation notice and encouragement of potential litigants to utilize alternative dispute resolution methods during any pre-litigation period. Support encouragement of the disclosure of known Y2K defects and the encouragement of business, with appropriate antitrust relief, to cooperate in the development and implementation of remediation of Y2K defects. 6/99

## CONSUMER LAW

**Disputes in Health Care.** Support the right of all consumers to a fair and efficient process for resolving differences with managed health care plans, health care providers, and the institutions that serve such plans and providers, including (1) timely written notification and explanation of a decision to deny, reduce or terminate services or deny payment for services; (2) a rigorous system of internal review; and (3) an independent system of external review. Resolve that consumer education and ombudsman programs should provide information and assistance in resolving health care complaints, and that health care dispute resolution processes should be fully accessible. 98A103

**Fraudulent Lending Practices.** Urges: (1) the United States Congress to enact uniform national legislation that, without reducing access to legitimate home mortgage loans for consumers, provides objective standards to define and curb lending practices that are abusive, deceptive or fraudulent; and (2) national, state, territorial and local bar associations to establish and support bar programs to educate consumers about, and protect them from, lending practices that are abusive, deceptive or fraudulent. 02A109

**Home Equity Conversion.** Recognize that home equity conversion offers older homeowners a viable option for accessing the equity in their homes and that the rapid growth of home equity conversion products reinforces the need for consumer education and safeguards, including full disclosure of the legal and financial consequences of these products, and counseling about other housing and service options that may be appropriate; support the development and promulgation of policies ensuring the loan proceeds from home equity conversion products are disregarded in determining borrower eligibility for government benefits. 8/95

**Product Liability Law.** Support the continued right of the states and territories to regulate product liability law; oppose federal legislation abolishing strict seller liability and oppose the product seller provision set forth in Section 103 (b) of H.R. 10. 2/95

## CORPORATE, BANKING, AND SECURITIES LAW

**Arbitrators in Commercial Disputes.** Adopts the revised Code of Ethics for Arbitrators in Commercial Disputes, dated February 2004. 04M107

Comment to Paragraph G of Canon IV of the Code (*ex parte* requests for interim relief) amended. 04A116

**Attorney-Client Privilege in the Audit Context.** Supports the preservation of the attorney-client privilege and work product doctrine in connection with audits of company financial statements and urges the Securities and Exchange Commission and other relevant organizations to adopt standards, policies, practices and procedures and take other appropriate steps to ensure that attorney-client privilege and work product protections are preserved throughout the audit process. 06A302A

**Bank Chartering and Branching Proceedings.** Support making public the staff findings and recommendations in *de novo* proceedings conducted by the comptroller of the currency and by the Federal Home Loan Bank board, with due opportunity for the parties to comment thereon, and support a prohibition on *ex parte* communications between the staff and the agency head. 2/77

**Banking Reform Act of 1971.** Oppose provisions of the Act prohibiting a director, officer, employee or the like of a commercial bank, savings and loan association or mutual savings bank from representing a customer in connection with a transaction with the institution. 4/71

**Bankruptcy Code Amendment.** Oppose amendment of the Bankruptcy Code by a legislative process which avoids fair opportunity for open hearings, on well-publicized notice, before the judiciary committees of Congress; oppose the enactment, in the absence of the most compelling circumstances, of special interest legislation designed to increase the types of claims entitled to priority under the Bankruptcy Code. 8/91

Approve amendments to the Bankruptcy Code generally in accordance with specified form dated July 31, 1996, and urge approval and adoption of the amendments by the National Bankruptcy Review Commission and Congress as the basis for administration and resolution of partnership cases under the Bankruptcy Code. 8/96

Urge amendment of the United States Bankruptcy Code to allow an attorney to remit a percentage of a fee awarded or received under the Bankruptcy Code to a bona fide public service lawyer referral program, operating in accordance with state or territorial laws regulating lawyer referral services or the rules of professional responsibility governing the acceptance of referrals. 2/97

Urge amendment of the United States Bankruptcy Code to allow an attorney to remit a percentage of a fee awarded or received under the Bankruptcy Code to a bona fide public service lawyer referral program, operating in accordance with state or territorial laws regulating lawyer referral services or the rules of professional responsibility governing the acceptance of referrals. 2/97

**CAN-SPAM Act of 2003.** (1) Supports federal legislation and regulations that would prohibit the sending of false, misleading, predatory, or abusive commercial e-mail messages, but opposes measures such as Section 106 (a) of S.877, the “CAN-SPAM Act of 2003,” that would impose on law abiding entities a duty to prevent third parties from promoting the entities’ products or services in an improper way; (2) supports federal legislation, regulations, and other measures that would protect and strengthen the ability of associations and other tax-exempt nonprofit organizations to communicate with, or otherwise serve, their members and the public, including the sending of commercial and non-commercial e-mail messages; and (3) opposes any legislation, regulations, or other measures prohibiting or regulating commercial or non-commercial e-mail messages to the extent that such measures could interfere with the ability of associations and other tax-exempt nonprofit organizations to communicate with, or otherwise serve, their members and the public. 1103BOG 2.9

**Community Reinvestment Programs.** Support creation of effective community reinvestment programs in all financial institutions to help avoid discrimination and to stabilize housing and business in low- and moderate-income communities by providing credit to residents, small businesses and projects in such communities. Resolve commitment to placing ABA accounts in financial institutions that have shown outstanding or satisfactory performance in helping to meet the credit needs of their entire communities, including low- and moderate-income neighborhoods. Encourage specific actions consistent with fiduciary prudence. 2/91

**Corporate Governance and Corporate Responsibility.** Adopts and endorses corporate governance policies and related governance practices that involve structural and procedural reforms designed to: (1) enhance the independence and resources of outside directors of public corporations; (2) increase the flow of material information and analysis to those directors; and (3) enhance the ability of the lawyers representing public corporations to exercise and bring to bear independent professional judgment and thereby promote corporate responsibility without undermining the constructive and collaborative relationship that must exist so that compliance with the law can be most effectively promoted. 03A119C

**Debtor's Counsel in Bankruptcy.** Support the enactment of legislation to amend the Bankruptcy Code to make clear that an attorney who represents a debtor-in-possession need not be a "disinterested person," as that term is defined in the Bankruptcy Code, but that such counsel should comply with certain nonbankruptcy standards of professional responsibility, and should not hold or represent an interest materially adverse to the estate. Recommend the adoption of certain additions to the bankruptcy rules and to the official bankruptcy forms. 8/91

**Depository Netting Rules.** Support federal legislation that would give binding effect on all parties in the case of an insolvency, to netting contracts between depository institutions and netting rules of payments clearing organizations. 2/90

**Electronic Commerce.** Support electronic commerce as an important means of commerce among nations. Support commerce through electronic networks that are global in nature and require international communication and cooperation among all nations, including developing nations. Encourage continued discussion in open international forums to remove unnecessary legal and functional obstacles to electronic commerce. Encourage cooperation to establish a legal framework within which global electronic commerce can flourish in an environment that provides appropriate legal protection to all interested parties, while eliminating unnecessary legal and functional barriers to electronic commerce. Encourage the private sector to develop self-regulating practices that will protect the rights of individuals and promote the public welfare. 8/97

**FCC Do-Not-Fax Rules.** Opposes the Federal Communications Commission (FCC) rules and regulations implementing the Telephone Consumer Protection Act of 1991, published July 25, 2003, that would eliminate the "established business relationship" exception to the general rule prohibiting the sending of unsolicited facsimile advertisements and urges the FCC to revise the rules and regulations accordingly. Urges the FCC to issue a clarification that the rules and regulations do not prohibit unsolicited facsimile advertisements sent by tax-exempt nonprofit organizations in pursuit of their authorized tax-exempt nonprofit purposes. Urges Congress and the FCC to take appropriate action to restore the established business relationship exception and to permit tax-exempt nonprofit organizations to send unsolicited facsimile advertisements in pursuit of their authorized tax-exempt nonprofit purposes. 803BOG 2.12

**Federal Deposit Insurance Act.** Support legislation to (1) amend the Federal Deposit Insurance Act to clarify that federal banking agencies, when taking action against individuals affiliated with insured depository institutions are authorized to obtain asset preservation orders only through judicial proceedings under Section 8(I)(4) of the Act; and to require the federal banking agencies, when seeking an asset preservation order under that section to demonstrate that the person against whom the order is being sought is likely to dissipate or otherwise improperly transfer assets of the institution concerned; and (2) clarify that the federal banking agencies are not authorized to use their power to issue cease-and-desist orders as a means of securing money damages relief that is ordinarily only available through the prosecution of a damages suit in court. Recommend that the

agencies refrain from using asset preservation orders against lawyers on account of their conduct in representing clients before the agencies, except in certain cases. Urge development and announcement of policy positions through the notice-and-comment rulemaking procedures of the Administrative Procedure Act. Oppose certain agencies' interpretations of the Model Rules of Professional Conduct. 8/93

**Federal Securities Code.** Support the Code in the form proposed by the American Law Institute and recommend its enactment by the Congress. 2/79

**Financial Regulatory System Reform.** Urges the United States Government to reform the nation's financial regulatory system in a manner that will promote economic growth, stability, and competitive and innovative financial markets, and that will better protect consumers, investors, employees and businesses and the nation as a whole. 09A301

**Formation of Business Entities.** Addresses certain proposed legislation and international policy initiatives intended to impose obligations on company formation agents, including lawyers, to undertake extensive due diligence and determine "beneficial owners" when assisting in the formation of non-publicly traded business entities and trusts, and urging Congress to refrain from enacting legislation that would regulate lawyers in the formation of business entities. 08A300

**SEC Standards of Conduct.** Urge the Securities and Exchange Commission to refrain from adopting proposed standards of conduct constituting unethical practice by lawyers before the commission. (*See also* Discipline of Lawyers.) 11/81

**Securities and Exchange Commission.** Urges the Administration and Congress to increase federal support for the U.S. Securities and Exchange Commission. 03M301

**Securities and Exchange Commission Authority.** Oppose pending federal legislation (the Levin-Nelson Amendment to S. 476, which has passed the Senate and H.R. 2179, pending in the House) that would grant the Securities and Exchange Commission new administrative authority to: (1) impose civil monetary penalties on any individual or company alleged to have violated, or caused another to violate, any federal securities law or regulation, without regard to whether the individual or company is a regulated person; and (2) subpoena financial records without the need to notify the subject of the request. 603BOG2.3

**Sentencing Guidelines for Organizations.** Urges Congress to make changes to the proposed amendments to the Sentencing Guidelines for Organizations regarding a) attorney-client privilege and work product protection, b) compliance programs, and c) periodic assessments. 04A303

**Tender Offers.** Urge Congress not to enact legislation directed at problems associated with tender offers for corporate control where such legislation would intrude in traditional state law or limit the ability of courts to evolve solutions to such problems; and oppose legislation that would reverse or restrict the courts in applying the long-standing principle which has afforded a presumption of validity to business decisions made by boards of directors in the good faith exercise of their business judgment. 2/85

**Uniform Limited Offering Exemption.** Favor adoption in all states of ULOE subject to three specified qualifications. 8/84

## CORRECTIONS

**Accreditation for Corrections.** Encourage detention and correctional facilities and programs to seek and to maintain accreditation by the Commission on Accreditation for Corrections and the National Commission on Correctional Health Care as a step toward maintaining proper conditions of detention and corrections. Urge the Commission on Accreditation for Corrections and the National Commission on Correctional Health Care to

review their processes, procedures and standards on an ongoing and open basis to ensure that only facilities and programs that comply with constitutional requirements, meet sound professional standards, and provide a decent, safe and humane environment are accredited. 8/93

**Adult Community Corrections Act.** Urges each State and Territory to enact an Adult Community Corrections Act to facilitate the establishment of a comprehensive adult community corrections program, and offers the "Model Adult Community Corrections Act" (May 9, 1991) as a suggested example. 2/92

**Certificates Setting Aside Convictions.** Support legislation to establish limits for such certificates. 8/73

**Coordinating Councils on Crowded Jails.** Urge establishment of coordinating councils composed of key figures in the criminal justice system who have the authority to ameliorate the problems of crowded jails and the related issue of court delay. 2/90

**Correctional Education.** Support legislation to create an office or center of correctional education within the U.S. Department of Education to perform certain functions. Support legislation that provides for funding of vocational education in adult and juvenile correctional institutions and programs. Support legislative initiatives at the federal and state levels that specifically recognize, address and attempt to correct illiteracy within adult and juvenile correctional institutions and programs. 2/90

**Correctional Management Impact Procedures.** Urge adoption of procedures ensuring that legislatures consider the impact of proposed legislation, resolutions, or executive orders on correctional management. Recommend four specified activities for inclusion in legislative review and study of proposed resolutions and legislation; endorse the concept that any legislation affecting correctional institutions shall comport with ABA principles that: (1) prisoners retain the constitutional rights of free citizens, with specified exceptions; (2) prisoners are encouraged to engage in productive activities and that there should not be an increase in inmate idleness; (3) the conditions of confinement and methods of discipline provide incentives to prisoners to encourage proper discipline; and (4) prisoners should be given the opportunity for meaningful job assignment, subject to their mental and physical fitness. 8/95

**Detention Standards.** Urge all states to enact and implement legislation to eliminate deplorable conditions and deficiencies in so many of the nation's jails and juvenile detention facilities by authorizing the promulgation, monitoring and enforcement of appropriate detention standards. 8/75

**Drug Offense Sentencing.** Endorse in principle the U.S. Sentencing Commission proposal transmitted to Congress to amend the federal sentencing guidelines and manual to eliminate current differences in sentences based upon drug quantity for offenses involving crack versus powder cocaine, and assign greater weight in drug offense sentencing to other factors that may be involved in the offense, such as weapons used, violence, or injury to another person. 8/95

**Elderly Inmates.** Recommend that correctional systems review sentencing and correctional policies and practices related to the growing population of elderly prisoners. Recommend adoption of institutional classification, health and human services programs that address the special needs of the elderly and adoption of release procedures and community based programs with treatment, and supervision for certain older inmates.

Urge development of humanitarian residential placements for elderly offenders. 00M102B

**Exoffender Employment.** Support elimination of law putting limitations on employment and occupational licensing of ex-offenders. 8/75

**Family Accessibility in Correctional Institutions.** Support initiatives that seek to preserve and promote healthy relationships between children and their parents in correctional custody, with such initiatives to consider family accessibility to the facility in making assignment of inmates. Assist parents in correctional custody in developing parenting skills; allow extended contact visitation by such parents and children and support the emotional well-being of the children. 8/96

**Federal Sentencing Guidelines System Study.** Endorses the recommendation of the Federal Courts Study Committee for an immediate, in depth and independent study of the actual operation of the Federal Sentencing Guidelines System to determine whether the system is fair and effective, and whether it meets Congressional objectives. 2/92

**Grievances.** Urge all states to implement effective administrative procedures for resolving grievances of prisoners and the involuntary residents of mental hospitals and endorse legislation designed to allow the Attorney General of the United States to institute suit, or intervene in pending litigation, in order to secure to those confined the full enjoyment of rights, privileges and immunities secured or protected by the Constitution or laws of the United States as long as such legislation should continue existing law and not require exhaustion of state administrative remedies as a precedent condition for securing relief. 8/76

**Illiteracy Among Criminal Offenders.** Urges appropriate steps to increase literacy among criminal offenders; supports a mandate requiring every correctional system to make available to criminal offenders a wide array of adult basic education programs; and endorses the use of mandatory literacy programs to reduce illiteracy among criminal offenders, provided that the programs meet certain requirements; and offers "Model Literacy Act for Adult Offenders" (July 1991) as a suggested example for jurisdictions considering mandatory literacy programs for adult offenders. 2/92

**Jail Overcrowding Impact Statement.** Recommend adoption of procedures ensuring that a prison and jail impact statement be prepared for and considered by a state legislature or Congress before the passage of laws involving the sentencing of convicted criminals, parole policies, and other issues whose resolution may directly lead to an increase in the number of persons incarcerated in correctional facilities or the length of their incarceration; recommend that the statement include certain information and that Congress and the state legislatures not enact legislation that will increase the number of persons incarcerated in correctional facilities or the length of their confinement without taking certain steps. 2/90

**Job Opportunities and Training for Inmates.** Urges all jurisdictions to enact legislation to expand voluntary and productive work opportunities for jail and prison inmates and to provide job training and job placement assistance in conjunction with community based correctional programs. 02M101B

**Justice Kennedy Commission Recommendations.** Urges states, territories and the federal government to ensure that sentencing systems provide appropriate punishment without over reliance on incarceration as a criminal sanction and also urges Congress to take specific action with regard to existing federal sentencing laws and procedures. 04A121A

Urges states, territories and the federal government to strive to eliminate actual and perceived racial and ethnic bias in the criminal justice system and recommends the establishment of Criminal Justice Racial Task Forces to reduce or eliminate racial disparities at each stage of the criminal justice process. 04A121B

Urges states, territories and the federal government to establish: (1) standards and provide an accessible process by which prisoners may request a reduction of sentence in exceptional circumstances; and (2) standards governing applications for executive clemency and specify procedures an individual must follow in order to qualify for a grant of clemency and ensure that clemency procedures are reasonably accessible to all persons. 04A121C

Urges states, territories and the federal government to ensure that prisoners are effectively supervised in safe and secure environments and to implement policies and programs to prepare prisoners for release back into the community and to identify legal barriers for reentry of convicted persons. 04A121D

**Medical Release of Terminally Ill Inmates.** Recommend that each jurisdiction review its procedures relating to medical release of terminally ill inmates to ensure that (1) they are fully integrated into the general law of sentencing, particularly with respect to issues such as eligibility for such release; (2) they provide for expedited handling of requests for medical release; and (3) they provide for the collection and dissemination of statistical data relating to the disposition of requests for medical release; recommend that correctional authorities be encouraged to initiate consideration of medical release in appropriate cases and to make prisoners aware of the procedures for medical release. 2/96

Support compassionate release of terminally ill prisoners and endorse adoption of administrative and judicial procedures for compassionate release consistent with the Administrative Model for Compassionate Release Legislation and the Judicial Model for Compassionate Release Legislation, each dated April 1996. Support alternatives to sentencing for non-violent terminally ill offenders in which the court, in certain specified circumstances, may accept a plea of guilty to any lesser included offense of any count of the accusatory instrument, to satisfy the entire accusatory instrument and to permit the court to sentence the defendant to a non-incarceratory alternative. 8/96

**Military Correctional System.** Recommend that the military continue to operate a system of corrections for military prisons and oppose any transfer of management or operations of the military correctional system to the Federal Bureau of Prisons. 8/90

**Monitoring of Correctional Facilities.** Urges federal, state, tribal, local and territorial governments to develop comprehensive plans to ensure that the public is informed about conditions in correctional and detention facilities for adults and juveniles and that there is greater accountability to the public in the operation of those facilities. Adopts the “Key Requirements for the Effective Monitoring of Correctional and Detention Facilities, dated August 2008. 08A104B

**National Commission for Correctional Facilities.** Recommend the establishment of a national commission to consider federal policies, which affect correctional facilities and to make recommendations concerning certain matters. Urge governments to attend to and, where appropriate, take steps to work together to implement such policies. 99A113C

**Parents in Correctional Custody.** Urges federal, state, local and territorial governments to ensure that judicial, administrative, legislative and executive authorities expand, as appropriate in light of security and safety concerns, initiatives that facilitate contact and communication between parents in correctional custody and their children in the free community. 10M102E

**Parole Release.** Urge all states utilizing parole as a means of terminating confinement to reexamine and restructure the parole release process to promote sound decision making governed by rules or standards of general applicability. 8/76

**Pretrial Detention, Sentencing and Corrections Systems.** Urges that reviews be undertaken to improve the cost-effectiveness of pre-trial detention, sentencing and correctional systems, urges the use of alternatives to incarceration, and recommends implementation of principles contained in the “Blueprint for Cost-effective Pretrial Detention, Sentencing and Corrections Systems.” 02A107

**Prison Industries.** Support repeal of legislative impediments to remunerative prisoner employment, indicate that

correctional authorities should be empowered to contract with private enterprise for establishing and operating prison industry and service facilities, and provide that work release and community correctional center programs should be encouraged to promote relevant occupational training for prisoners. Adopt certain standards with respect to prisoner wage scales. 7/85

**Prisoner Education.** Urge all states to make basic education available to all prisoners needing it, especially reading skills and instruction leading to attainment of high school equivalency diplomas and to encourage voluntary participation in such programs by providing payment for education or additional good-time credits to participants. 8/76

**Privatization of Prisons.** Urge that jurisdictions that are considering the privatization of prisons and jails not proceed to so contract until the complex constitutional, statutory and contractual issues are satisfactorily developed and resolved. 2/86

Urge jurisdictions considering authorization of contracts with private corporations or other private entities for the operation of prisons or jails to do so with extreme caution. Urge jurisdictions contemplating entering into contracts with private corporations or other private entities for the operation of prison or jail facilities to recognize certain issues. Disapprove of any jurisdiction undertaking a privatization program in order to avoid certain fundamental questions. Recommend that jurisdictions seeking to contract with private entities for the operation of prison or jail facilities do so in accordance with the Guidelines Concerning Privatization of Prisons and Jails. 2/90

**Reduction or Modification of Sentence.** Urges federal state, territorial and local governments to (1) evaluate their existing laws, as well as their practices and procedures, relating to the consideration of prisoner requests for reduction or modification of sentence based on extraordinary and compelling circumstances arising after sentencing, to ensure their timely and effective operation; (2) develop criteria for reducing or modifying a term of imprisonment in extraordinary and compelling circumstances, provided that a prisoner does not present a substantial danger to the community. Rehabilitation alone shall not be considered an extraordinary and compelling circumstance; and (3) develop and implement procedures to assist prisoners who by reason of mental or physical disability are unable on their own to advocate for, or seek review of adverse decisions on, requests for sentence reduction. 03M103B

**Sanctions for Non-Violent Offenders.** Urge development and implementation of sanctions for violators of probation, parole, and other forms of supervised release, in lieu of prison and jail terms, for persons whose original conviction was a non-violent felony or a misdemeanor and whose violation is not considered criminal conduct, and encourage judges to sentence appropriate violators to these sanctions. Urge jurisdictions to designate intermediate function agencies to assist legislatures in developing a range of sanctions, including community service and intermittent confinement, and to provide for adequate means to operate such programs, with judges, attorneys, criminal justice agency representatives and victims of crime participating. 2/97

**Sentencing Commission Rules.** Recommend that the United States Sentencing Commission adopt and publish internal rules of practice and procedure, including procedures commonly used by other rulemaking agencies to invite and structure public participation, disclose information, and justify promulgated rules. 8/95

**Sentencing Practices (Federal).** Urges Congress to take specified steps to assure that federal sentencing practices are effective, fair and just, and effectuate the goals of sentencing set forth in the Sentencing Reform Act. 05M301

**Telephone Services for Inmates.** Encourages federal, state, territorial and local governments, consistent with sound correctional management, law enforcement and national security principles, to afford prison and jail inmates

reasonable opportunity to maintain telephonic communication with the free community, and to offer telephone services in the correctional setting with an appropriate range of options at the lowest possible rates. 05A115B

**United States Sentencing Commission.** Urge the President and Congress to take all action necessary to nominate and confirm persons to fill the current vacancies on the United States Sentencing Commission as expeditiously as possible. 98A10A

**Youth in the Criminal Justice System.** Supports specialized facilities, programs and treatment for youth transferred to the criminal justice system, while recognizing the developmental differences between youth and adults and urges policymakers to take into account the unique needs of youth in the criminal justice system. 02M101D

## COURTS/JUDGES

**Access to Justice.** Reaffirm support for access to the American system of justice without regard to financial wherewithal. Support the availability of access to the federal courts under the grant of diversity jurisdiction without regard to financial wherewithal. Oppose loser pays legislation that would apply to all cases brought in the federal court pursuant to the grant of diversity jurisdiction. 2/95

Support the inclusion of safeguards which protect a litigant from being deprived of access to the judicial system based on the litigant's economic status in any proposed Rule of Procedure or legislation which includes the concept of fee shifting based on a rejection of settlement offers or demands. Without endorsing its enactment, urges that any such proposed Rule of Procedure or legislation, should consider, as a minimum, the "Offer of Judgement Procedure," dated February 1996. 2/96

**Additional Article III Judges Along United States/Mexico Border.** Support enactment of legislation to authorize permanent and temporary judgeships for the five district courts situated along the border of the United States and Mexico in order to provide those courts with enough Article III judges to handle their dockets and dispense justice promptly, efficiently and fairly. Urge that existing and future vacancies in these courts be filled in a timely fashion. 01A119

**Additional Judge for D.C. Circuit.** Urge Congress to enact legislation that would provide for an additional judge for the U.S. Court of Appeals for the District of Columbia Circuit. 8/80

**Administrative Law Judges.** Support in principle legislation to enhance the judicial independence and efficiency of federal administrative law judges through the establishment of a government-wide corps of administrative law judges, consistent with seven specified provisions. 8/88

Support legislation to exempt ALJs from civil service veterans' preference hiring requirements and support legislation with respect to the appointment, tenure and discipline of ALJs. 8/76; 6/79

Urge that no action be taken by the Administrative Conference of the United States in plenary session on the recommendations made in the Draft Report on the Federal Administrative Judiciary until the Association has had an opportunity to present its considered views on the fundamental changes to the administrative judiciary proposed by the report. Urge the U.S. Office of Personnel Management to reopen the register to new applicants for administrative law judge positions within thirty days. 11/92

With respect to the recruitment and selection of administrative law judges (ALJs) employed by federal agencies, recommend that the Office of Personnel Management (OPM), and Congress, where necessary, develop strategies to increase the percentages of women and minority candidates, eliminate veterans' preferences from this process, allow selection by agencies from a broader range of candidates for ALJ positions, and enhance OPM's Office of Administrative Law Judges. With respect to the performance and professional capabilities of ALJs employed by

federal agencies and the handling of complaints by and against such ALJs, support the implementation of appropriate procedures for handling complaints against ALJs including allegations of bias or prejudice, support the use of three-judge panels of ALJs for handling charges against ALJs before the Merit Systems Protection Board and support the implementation of appropriate procedures for handling complaints by ALJs. 8/94

Encourages Congress to establish The Administrative Law Judge Conference of the United States as an independent agency to assume the responsibility of the United States Office of Personnel Management with respect to Administrative Law Judges, including their testing, selection, and appointment. 05A106A

Urges the Office of Personnel Management as part of its mandate to select the best qualified candidates for federal administrative law judge positions, to consider judicial status in good standing as a satisfactory alternative to any requirement that candidates be active licensed attorneys in good standing. 09M112

**Administrative Law Judges Compensation.** Support and encourage enactment of special pay legislation designed to provide compensation levels for the federal administrative judiciary that establishes and maintains parity, which previously existed with other federal senior executive personnel. 2/89

Believe state and territorial administrative law judges perform functions vital to the public interest and should be well qualified, experienced, dedicated and independent. Recommend states and territories to review the compensation of full-time members of the administrative judiciary to consider whether such members receive compensation commensurate with the functions they perform in relation to the functions performed by other state and territorial judges. 98A104

**Appellate Court Procedure.** Oppose rules of certain U.S. courts of appeals which curtail or eliminate oral argument in nonfrivolous appeals, and, *a fortiori*, to the disposition of cases prior to the filing of briefs. 8/74

**Arbitration.** Urge Congress to amend Title 9 of the United States Code (arbitration) or enact comparable legislation to provide for appeals from interlocutory orders of a trial court either refusing a stay of litigation pending arbitration, or denying an application to compel arbitration, or granting, continuing, or modifying an injunction against an arbitration. 2/86

**Assessment of Judicial Systems.** Urges state and territorial judiciaries, in cooperation with state, local and specialty bar associations, to undertake assessments of their judicial systems, using as an assessment tool the *State Court Assessment Project*, developed by the Standing Committee on Judicial Independence. 08A10D

**Bankruptcy Judges.** Urge authorization of significant salary increases for bankruptcy judges and U.S. magistrates in order to restore the relative pay levels that historically have existed between those salaries and the salaries of U.S. district judges. 8/87

Support amendment of the Bankruptcy Amendments and Federal Judgeship Act of 1984 to authorize the U.S. Courts of Appeals to use a streamlined procedure for bankruptcy judge reappointments whereby a court of appeals, if it wishes to consider the reappointment of an incumbent bankruptcy judge, may evaluate that judge on the basis of his or her record of performance in office, after public comment, and without mandatory solicitation of additional applications for the vacancy. 8/96

**Bias in Judicial System.** Support the enactment of authoritative measures, requiring studies of the existence, if any, of bias in the federal judicial system, including bias based on race, ethnicity, gender, age, sexual orientation and disability, and the extent to which bias may affect litigants, witnesses, attorneys and all those who work in the judicial branch; urge that such studies should include the development of remedial steps to address and eliminate any bias found to exist. 8/91

Condemn the manifestation by lawyers in the course of their professional activities of bias or prejudice against clients, opposing parties and others, unless such words or conduct are otherwise permissible as legitimate advocacy on behalf of a client or a cause. Oppose unlawful discrimination by lawyers in the management or operation of a law practice in hiring, promoting, discharging or otherwise determining the conditions of employment, or accepting or terminating representation of a client. Condemn any conduct by lawyers that would threaten, harass, intimidate or denigrate any other person. Discourage members from belonging to any organization that practices invidious discrimination. Encourages affirmative steps to discourage such discriminatory speech and conduct. 8/95

Urge state, territorial and local bar associations to study bias in their community against gay and lesbians within the legal profession and the justice system and make appropriate recommendations to eliminate such bias. 8/96

**Cameras in Federal Courts.** Commend the Judicial Conference of the United States for its three-year experiment with photograph, recording, and broadcast coverage of civil proceedings in selected federal courts. Encourage the conference to include, in the evaluation of such coverage, an assessment of its impact on public knowledge and attitudes of the law, the courts and the justice system. Express the hope that the Supreme Court of the United States will participate in the experiment some time prior to its conclusion. 8/91

Urge authorization of further experimentation with cameras in federal civil proceedings by reinstating a pilot project to permit photographing, recording and broadcasting of civil proceedings in selected federal courts under guidelines promulgated by the U.S. Judicial Conference. 2/95

**Certification of State Law Questions.** Urge states to adopt a procedure whereby the highest state court may answer a question of state law certified from an Article III federal court in certain circumstances. 2/83

**Challenge of State Law Passed by Referendum.** Oppose enactment of legislation which would require: (1) a three-judge district court to hear applications for interlocutory or permanent injunctions when the constitutionality of a state law passed by referendum is challenged and (2) direct appeal of such actions to the U.S. Supreme Court. 8/95

**Citation System.** Recommend that all jurisdictions adopt a system for official citation to case reports that is equally effective for printed case reports and for case reports electronically published on computer disks or network services, in accordance with five key elements. 8/96

Urges jurisdictions to participate in the creation of an American universal system of citation for case reports, statutes, administrative documents and other resources upon which the legal profession relies. 03M101

**Citizen Participation in Jury Service.** Urge the ABA to study and evaluate the issues and the factors that contribute to low participation in jury service and to develop methods to help increase citizen participation. 01M8B

**Civil Discovery Standards.** Approved. 99A108, Standards amended in August 2004 as they relate to electronic discovery. 04A103B

**Civil Juries.** Support legislative efforts to restore the size of a federal civil jury to 12 persons and to enable 10 of the 12 jurors to render a verdict in a civil trial. 2/90

**Civil Rights Attorney's Fees Awards Act.** Urge Congress to enact legislation amending the Civil Rights Attorney's Fees Awards Act of 1976 and other federal civil rights fee-shifting statutes to permit the award to a prevailing party of reasonable expert fees for testimonial and non-testimonial services. 8/91

**Civil Trial Practice Standards.** Adopt the black letter of the Civil Trial Practice Standards dated February 1998 to address practical aspects of trial that regularly recur but are not fully addressed by Rules of Evidence and Procedure. 98M100

Adopts the black letter of the revised and/or new Standards that have been integrated into *The Civil Trial Practice Standards* to become the *Updated Civil Trial Practice Standards* which address practical aspects of trial that regularly recur but are not fully addressed by rules of evidence or procedure. 07A301

**Civility Standards.** Encourage bar associations and courts to adopt standards of civility, courtesy and conduct as aspirational goals to promote professionalism of lawyers and judges. 8/95

**Claims Court.** Urge the Congress to enact legislation that would provide claims court judges with benefits, compensation, disability protection and retirement provisions sufficient to attract and retain well-qualified judges, and to adopt certain specified provisions necessary for effective administration of the claims court. 2/85

**Class Action Practice.** Believes that some concerns over class action practice should be addressed with federal legislation providing for expanded federal court jurisdiction and recommends that any expansion should preserve a balance between legitimate state-court interests and federal-court jurisdictional benefits. 03M304

**Conduct of Litigation Filed in Federal, State and Territorial Courts.** Supports the establishment of methods of cooperation and coordination between federal (including bankruptcy), state and territorial courts for the conduct of litigation filed in federal (including bankruptcy), state and territorial courts arising out of common facts. Supports the exploration of methods for consolidation of such litigation for some or all purposes within the context of constitutional limitations. 2/92

**Court of Appeals Jurisdiction.** Urge Congress to expand the jurisdiction of the United States Court of Appeals for the Federal Circuit to include review of all purely legal issues decided by the United States Court of Appeals for Veterans Claims, formerly the Court of Veterans Appeals. 00A116B

**Court Costs and Delay.** Encourage all courts, court supervisory bodies, and state and local bar associations to take an active role in reducing delay and excessive costs in litigation. 8/81

Approved Standards Relating to Court Delay Reduction. 8/84

**Court Funding.** Urges states and territories to support quality and accessible justice by adopting judicial branch procedures that will ensure adequate, stable, long-term funding of their courts under all economic conditions.

Adopts the black letter recommendations of the ABA Commission on State Court Funding, dated August 2004. 04A107

**Court Interpreters.** Recommend that all courts be provided with qualified language interpreters, including sign language interpreters, in order that parties and witnesses with no or limited command of English and those who are

deaf or hearing-impaired may fully and fairly participate in court proceedings; and that court interpreters should be qualified and should maintain their proficiency through continuing education and should adhere to standards of professional conduct. 8/97

**Court Organization Standards.** Amend Standards Relating to Court Organization in accordance with the draft dated October 1989. 2/90

Adopts the black letter standard 1.65, *Court Use of Electronic Filing Processes*, as an amendment to the Standards Relating to Court Organization, dated February 2004. 04M113A

Adopts the black letter of Sections 1.60 through 1.64, (relating to court system automation), to amend the Standards Relating to Court Organization and replace current Sections 1.60 through 1.64. 05A106B

**Court-Related Needs of the Elderly.** Support efforts to make the state and territorial judicial systems more responsive to the needs of the elderly and persons with disabilities and to that end adopt and urge implementation of the recommendations of the National Conference on the Court-Related Needs of the Elderly and Persons with Disabilities. 8/91

**Courts of Appeals Decisions.** Urge the courts of appeals to provide in case dispositions (except in those appeals the court determines to be wholly without merit), at a minimum, reasoned explanations for their decisions. Urge Congress and legislatures to provide the courts of appeals with resources that are sufficient to enable them to meet this responsibility. 00M8B

**Criticism of Judges.** Encourage all state, local and territorial bar associations to adopt programs enabling timely and effective responses to criticism of judges such as the “Model Program Outline for State, Local and Territorial Bar Associations: Suggested Program for the Appropriate Response to Criticism of Judges and Courts,” dated February 1998. 98M102

**Delay.** Adopt certain recommendations concerning the delay in courts recommended by the Committee on Automobile Accident Reparations. 8/69

**Disabled Persons.** Urges federal, state, territorial and municipal courts to make courthouses and court proceedings accessible to individuals with disabilities, including lawyers, judges, jurors, litigants, court employees, witnesses and observers. Recommends that the appropriate judicial or administrative official in each courthouse designate a “disability accommodations coordinator” to develop procedures to receive and respond to requests for accommodations from persons with disabilities. 02M112

Supports the reauthorization, funding and authority of the Protection and Advocacy System and related programs of legally based advocacy services protecting the rights of persons with disabilities and opposes legislation that would place limits on class actions on behalf of persons with disabilities beyond what is required under the Federal Rules of Civil Procedure. 10A106A

**Disclosure Obligations Prior to Criminal Trial.** Urges federal, state, local and territorial courts to adopt a procedure whereby a criminal trial court shall conduct at a reasonable time prior to a criminal trial, involving felony or serious misdemeanor charges, a conference with the parties to ensure that they are fully aware of their respective disclosure obligations under applicable discovery rules, statutes, ethical standards and the federal and state constitutions and to offer the court's assistance in resolving disputes over disclosure obligations. 10M102D

**Disclosure of Materials Protected by Attorney-Client Privilege/Work Product.** Urges federal and state courts to adopt consistent rules to address how the courts and counsel should resolve issues involving claims of inadvertent disclosure of materials protected by the attorney-client privilege or work product doctrine. 06A120D

**Discovery Guidelines for State Courts.** Discovery Guidelines for State Courts dated August 1998 adopted to encourage state and territorial judicial rulemaking authorities to incorporate the guidelines and applicable rules of procedures in an effort to improve the civil litigation process by curbing discovery abuses and promoting expense and delay reduction in civil courts. 98A122

**Discrimination in the Court System.** Urge judicial leaders to encourage and promote the full participation in the work forces of the court systems under their jurisdiction of all persons regardless of their race, sex, color, national origin, religion, age or handicap. Encourage adoption of merit-based personnel systems that encompass

all facets of court personnel management, including recruitment, hiring, training, promotion and advancement; urge incorporation of affirmative action values in deciding whom to recommend and appoint to judicial positions.

Encourage implementation of equal employment opportunity and affirmative action plans and programs in the courts. 2/90

**Discrimination in the Judiciary.** Urge appointing authorities to ensure that there are no barriers to the selection of women and minorities as judges and for service on merit selection judicial nominating commissions. 8/86

**Dispute Resolution.** Support in principle the proposed Dispute Resolution Act, which would provide federal funds to states to create or improve small claims courts and other means of dispute resolution such as mediation and arbitration. 7/66 (enacted in 1980 but not funded)

Support the increased use of alternative means of dispute resolution by federal administrative agencies consistent with several specified principles. 8/88

Support continued use of and experimentation with certain "alternative" dispute resolution techniques, both before and after suit is filed, as necessary and welcome components of the justice system in the United States. All "alternative" dispute resolution techniques should assure that every disputant's constitutional and other legal rights and remedies are protected. 8/89

Recommend that the Council of the Commission for Environmental Cooperation consider the Model Rules of Procedure for Dispute Resolution under the North American Agreement on Environmental Cooperation dated February 1995, with a view to their adoption. 2/95

Support legislation and programs that authorize any federal, state, territorial or tribal court, including Courts of Indian Offenses, in its discretion, to utilize systems of alternative dispute resolution such as early neutral evaluation, mediation, settlement conferences and voluntary, but not mandatory, arbitration. 2/97

Due Process Protocol for Mediation and Arbitration of Statutory Disputes Arising Out of the Employment Relationship. Approved. 2/97

**District Court for the Northern Mariana Islands.** Support the establishment of the District Court for the Northern Mariana Islands as an Article III Court; and urge the enactment of such legislation by the United States Congress as may be necessary or proper to that end. 2/95

**District Court of Virgin Islands.** Urge Congress to establish the District Court of the Virgin Islands as a district court under Article III of the United States Constitution. 99M107

**Diversionsary Drug Court Programs.** Support development of a comprehensive, systemic approach to addressing the needs of defendants with drug and alcohol problems through multidisciplinary strategies that include coordination among the criminal justice, health, social service and education systems, and the community; urge the courts to adopt certain treatment-oriented, diversionsary drug court programs as one component of a comprehensive approach. Urge bar associations to facilitate the development of such programs that result in dismissal of drug-related charges upon the completion of drug rehabilitation. 2/94

**Diversity Jurisdiction.** Oppose legislation that would either abolish diversity jurisdiction in the federal courts or curtail it by precluding a resident plaintiff from invoking federal jurisdiction. 6/78

Reaffirm opposition to efforts either (a) to abolish federal jurisdiction based on diversity of citizenship or (b) to curtail the scope of diversity jurisdiction by precluding a resident plaintiff from invoking such jurisdiction;

believe that proposals to increase the minimum amount in controversy for diversity cases from \$50,000 to \$75,000 are premature and should not be considered unless and until diversity filings begin to exceed pre-1989 levels. Oppose legislative proposals to index the diversity jurisdictional amount for inflation or to eliminate consideration of certain types of claimed damages when determining whether a plaintiff has satisfied the amount-in-controversy requirement. 8/96

**Domestic Violence.** Condemn the manifestation by lawyers or judges by words or conduct of acts which would either constitute domestic violence or approval, in the course of their professional activities, of the use of domestic violence, stalking, or sexual assault under the laws of their jurisdictions. Urge judges and lawyers to adopt workplace protocols, guidelines, and policies to assist employees who are victims of domestic violence and to protect the safety of employees who may come in contact with batterers during the course of business. Encourage affirmative steps to educate judges and lawyers about the nature and effects of domestic violence. 8/96

**Elder Abuse.** Support efforts to improve the response of the state courts to elder abuse; adopt “Recommended Guidelines for State Courts Handling Cases Involving Elder Abuse,” dated August 1996; and urge the implementation of the Guidelines by courts at the state, territorial and local level. 8/96

**Electronic Access to Information.** Recognize that the coherent, integrated electronic provision of information relating to the legal system, including the judicial system, in a way that makes full use of the capabilities of existing technology, will provide significant benefits and efficiencies for governmental entities, the bar, and the public. Urge (1) the provision of public electronic access to governmental information through the Internet at no cost to the user and to forego the required use of proprietary networks for such access; (2) the provision for electronic filing and retrieval of appropriate documents through the Internet using open data interchange standards; and (3) the development of a uniform approach to the electronic provision and exchange of public information, including within the respective jurisdictions. 98A100

**Electronic Case File and Case Management System of Federal Judiciary.** Supports the ongoing efforts by the Administrative Office of the United States Courts to update and enhance the functionality of the Federal Judiciary’s Case Management/Electronic Case File system, to continue to meet the case filing needs of judges, chambers, clerks’ offices, the bar, debtors, litigants, claimants, trustees, and other users in light of changing technology. 11M10A

**Electronic Case Filing in Bankruptcy Cases.** Recommends the United States Bankruptcy Courts in each federal district permit attorneys who have received electronic case filing (ECF) training in any district to file documents electronically in bankruptcy cases in any other district. 06M301

**Electronic Mail Communication.** Urge state, local and territorial courts to accord a lawyer-client electronic mail communication, whether by the Internet or any other means, the same expectation of privacy and confidentiality as lawyer-client communications by telephone calls, United States mail and other means of communication traditionally deemed private and confidential. 98A119A

**Evaluation of Judicial Performance.** Adopts Guidelines for the Evaluation of Judicial Performance, dated February 2005, to replace the original guidelines of 1985, which were updated to reflect developments in judicial performance evaluation. 05M103

**Expert Witness Discovery.** Urges federal and state courts to adopt consistent rules to govern the scope of required disclosures for discovery of testifying experts and their reports and that draft expert reports and attorney-expert communications relating to the expert's report be protected from discovery in accordance with the proposed resolution. 06A120A

**Federal Court Facility Construction.** Urge the Administration to support FY 1999 funding for federal court facility construction projects. Urge the appropriate committees of Congress, if necessary, to act on their own initiative to further the construction of federal court facility projects determined to be most urgent. 98A126

Urge Congress to (1) authorize the Judicial Branch to submit its annual budget request, including its request for court facility construction projects, directly to Congress; and (2) strengthen the statutory prohibition against the President altering the judiciary's request when he submits the annual, unified federal budget request to Congress. 99A110B

Urge support of FY 2000 funding for federal court facility construction projects. Urge authorization and appropriation of funds for the construction of federal court facility projects determined to be most urgent. Urge the transmittal without modification to congress funding requests for federal court facility projects that have been prepared by the General Services Administration and approved by the Judicial Conference of the United States. 499 BOG

**Federal Court Jurisdiction.** Support enactment of federal legislation that provides that a federal court to which an action is removed from state court will not be barred from hearing and determining a claim because the state court lacked jurisdiction over it. 2/86.

Urge that Congress not enact legislation restricting or modifying the jurisdiction of federal courts, or modifying the remedies available therein, in cases involving military selection boards, as proposed in the Department of Defense Authorization Act for 2001, unless and until Congress has had an opportunity to hold hearings on the proposed legislation. Urge rejection of the proposal in Section 554 of the proposed Act or any similar proposal which would apply such legislation retroactively for cases already pending. 00A10C

**Federal Court Subject Matter Limitations.** Oppose legislation to curtail the jurisdiction of the Supreme Court of the United States or the inferior federal courts for the purpose of effecting changes in constitutional law. 8/81

Support in part and oppose in part certain provisions of the omnibus court reform legislation; e.g., oppose creation of Federal Circuit Court of Appeals, U.S. Claims Court and U.S. Court of Tax Appeals, and support in principle the deleted provisions of the Federal Courts. Improvement Act of 1979, permitting a circuit court of appeals to entertain an appeal from an interlocutory order in a civil action under certain circumstances. 8/79

**Federal Courts Study Committee Implementation Act.** Support deferral of Section 202 of the Federal Courts Study Committee Implementation Act, concerning the authority of the Judicial Conference of the United States to issue administrative rules, until the study of the Federal Judicial Center and other appropriate studies regarding matters affected by Section 202 have been completed. Support the redesignation of the United States magistrates as magistrate judges and to oppose their redesignation as assistant United States district judges. 8/90

**Federal Judgeships.** Support legislation creating additional district and appeals court judgeships. 8/81

**Federal Judicial Rulemaking.** Support changes in relevant statutes and procedures applicable to adopting federal rules including vesting rulemaking authority in the Judicial Conference of the United States, assuring broad representation of legal profession on advisory committees of the Judicial Conference performing that function, and promoting openness in the rulemaking process. 2/82

**Federal Judicial Work Criteria.** Agree that a policy that a senior federal judge perform 25 percent of the work load of an active judge is not unreasonable, but oppose legislation such as H.R. 1930 on the basis that Congress mandating work criteria for federal judges is unwise, counterproductive and contrary to the spirit of judicial independence and separation of powers. 8/89

**Federal Judiciary Space and Facilities.** Supports in principle legislation which provides the federal judiciary with control over its space and facilities. 8/92

**Federal Rules of Civil Procedure.** Urge Congress to defer consideration of proposed amendments to Rules 26, 30, 31, 33 and 37 (relating to disclosure) of the Federal Rules of Civil Procedure to permit completion of the local district experimentation plans and the assessment of the impact of those programs mandated by the Civil Justice Reform Act of 1990, and to allow time to analyze the major changes proposed in the pending amendments to the Civil Rules within the framework of the CJRA. 6/93

Urge Congress to reject amendments to Rule 26 (a) of the Federal Rules of Civil Procedure approved by the Judicial Conference of the United States, Advisory Committee on Civil Rules, requiring disclosure of discovery materials without specific written requests. 8/93

Express general support for the proposed revision of the following provisions of Rule 23 of the Federal Rules of Civil Procedure recommended by the Advisory Committee on Civil Rules in April 1996, and approved by the Standing Committee on Rules of Practice and Procedure of the Judicial Conference of the United States for publication and public comment: 23(b)(4); 23(e); 23(b)(3)(A) and (B); 23(b)(3)(C) and 23(c); and opposes proposed revisions to provisions 23(b)(3)(F) and 23(f). 2/97

Urge (1) that local rules be conveniently and fully accessible to the public in both written and electronic format in a single national location; (2) that the uniform numbering system required by Rule 83 of the Civil Rules should be universally implemented; (3) that variations on procedures prescribed by the Civil Rules or by local rules should be accomplished by issuance of case-specific orders tailored to each case; and (4) that federal districts should be authorized to opt out of a Civil Rule only under very limited circumstances, and that a similar limit should apply to the authority of an individual judge to opt out of a local rule. 00M107

Supports the judicial rulemaking process set forth in the Federal Rules Enabling Act and opposes those portions of the proposed "Lawsuit Abuse Reduction Act" of the 108th Congress (H.R. 4571) or other similar legislation that would circumvent that process. Opposes enactment of any Congressional legislation that would violate principles of federalism by (1) imposing the provisions of Rule 11 of the Federal Rules of Civil Procedure upon any civil action filed in a state or territorial court; or (2) imposing venue designation rules or provisions upon a personal injury claim filed in a state or territorial court. Supports the current version of Rule 11, which became effective December 1, 1993, as a proven and effective means of discouraging dilatory motions practice and frivolous claims and defenses. Opposes enactment of any Congressional legislation that would: (1) change the current version of Rule 11 for the purpose of imposing mandatory sanctions and removing its current provisions that encourage attorneys to correct, modify or withdraw pleadings or motions; (2) impose any form of mandatory suspension due to prior violations of Rule 11; or (3) extend Rule 11 to problematic discovery motions, requests, responses or non-responses that are subject to Rule 26 (g) or Rule 37. 05M109C

Opposes the Sunshine in Litigation Act of 2007 (S 2449) or other legislation that would impose similar requirements of burdens for entering or modifying protective orders beyond those in Federal Civil Rule of Procedure 26(c). 09M10C

**Financing of Judicial Elections.** While reaffirming its long-standing support of selection of judges by merit selection, (1) urges states and territories that select judges in contested elections to finance judicial elections with public funds; and (2) adopts principles concerning public financing of judicial elections and supports legislation that incorporates these principles. 02M103

**Funding for Tribal Justice Systems.** Urges Congress to support quality and accessible justice by ensuring adequate, stable, long-term funding for tribal justice systems. 08A117A

**Funding of the Federal Judiciary.** Urges Congress and the Administration to fund the Federal Judiciary, recognizing competing fiscal demands, at levels sufficient to enable the courts to fulfill their separate constitutional and statutory duties. In order to avert a funding crisis in Fiscal Year 2005, at a minimum the Federal Judiciary should be provided appropriations sufficient to maintain their current level of services in order to avoid further staff and operational cutbacks at a time when court workload continues to grow. 04A10A

**Guidelines for Reviewing the Qualifications of Candidates for Judicial Office.** Approved 8/83

**Homeless Court Programs.** Supports the development of a comprehensive, systemic approach to addressing the needs of homeless misdemeanor defendants through multidisciplinary strategies that include coordination among the criminal justice, health, social service and education systems, and the community. Urges state, local and territorial courts and bar associations to facilitate the development of homeless court programs as treatment-oriented diversionary proceedings that may result in the dismissal of misdemeanor offenses upon completion of shelter/service agency activities. 03M116

Adopts principles for Homeless Court Programs and approves the criteria for individual participation, recognizing that administration of the programs will differ depending on the particular needs, goals and challenges of a jurisdiction. 06A108A

**Housing Courts.** Urges all jurisdictions to adopt the *Best Practices for Judges in the Settlement and Trial of Cases Involving Unrepresented Litigants in Housing Courts*, dated August 2008. 08A10A

**Impeachment of Federal Judges.** Urge the House of Representatives promptly to consider impeaching any federal judge who is convicted of a felony and who has exhausted his appeals but who has failed to resign from office forthwith. 8/86

**Independence of the Judiciary.** Oppose the recent 1995-96 Congressional initiatives that infringe upon the separation of powers between Congress and the courts, and have the potential to inhibit the independence of the judiciary. 2/96

The Board of Governors expressed concern over recent political attacks by both Democrats and Republicans on the independence of the judiciary and called on lawyers everywhere to speak out on the critical role that an able, competent and independent judiciary plays in protecting the rights and freedoms of all Americans under the rule of law. 4/96

Reaffirm support for the lifetime appointment of federal judges, during good behavior, as provided in Article III of the Constitution. Oppose any proposals, whether by statute or constitutional amendment, to limit the lifetime tenure or independence of Article III federal judges by establishing a term-of-years or by other limitation. 5/97

Support four principles to preserve and strengthen federal judicial independence and separation of powers. Resolve that the ABA should take the lead in the formation of a consortium of organizations dedicated to an independent judiciary and impartial system of equal justice to (1) continue to research into the causes of eroding confidence in the judicial and justice systems throughout the country; and (2) develop and implement long-term educational programs focused upon improving public understanding of our system of justice and within it the vital concept of an independent judiciary. 98M112

Adopts the *Principles and Conclusions of the Commission on the 21<sup>st</sup> Century Judiciary*, dated August 2003, to ensure judicial independence, accountability and efficiency. Urges all state, local and territorial bar associations to ensure the integrity of state and territorial judiciaries by promoting the implementation of the Commission's Principles and Conclusions. 03A103

Deplores attacks on the independence of the judiciary that demean the judiciary as a separate and co-equal branch

of government. Affirms the belief that a fair, impartial, and independent judiciary is fundamental to a free society and calls on all Americans, including elected officials, to support and defend our judiciary and its role in maintaining the fundamental liberties under the Constitution of the United States. Will accelerate effort to provide public education on the system of justice and assist organized bars in responding to unjustified criticisms and inaccuracies regarding the justice system. 05A10A

Recommends that the ABA join in efforts by state, local and territorial bar organizations to defend against attacks on the judiciary and oppose any measure that is proposed by any state legislation, referendum, or ballot initiative that would interfere with or impede the ability of courts to apply independently the law and the Constitution fairly and impartially. 07M10B

Adopts the *Principles on Judicial Independence and Fair and Impartial Courts*, dated August 2007. 07A110D

Supports the following international standards on judicial independence: *The United Nations Basic Principles on the Independence of the Judiciary*; *The International Bar Association Minimum Standards for Judicial Independence*; and *The Bangalore Principles of Judicial Conduct*, and urging the United States government to support these standards. 07A110E

**Inspector General Office for Judicial Branch.** (1) Opposes legislation that would establish a statutory Office of Inspector General for the Judicial Branch for the purpose of conducting investigations of matters pertaining to the Judicial Branch, including possible misconduct in office of judges and judicial proceedings. (2) Opposes any legislative proposal creating the statutory position of Inspector General for the Judicial Branch that: (a) requires the Chief Justice of the United States to consult with congressional leaders over the appointment of an inspector general; (b) confers on the inspector general broad power to subpoena judges and judicial entities to compel testimony and production of documents; or (c) requires the inspector general to make prompt reports to Congress in open or closed sessions on matters that the inspector general believes require action. (3) Applauds the recent efforts of the Judicial Conference of the United States to examine and respond to concerns raised by Congress and the public over judicial adherence to, and oversight of, its rules, guidelines and procedures governing judicial recusal, financial disclosure statements, the Judicial Discipline and Procedures Act and judicial attendance at privately funded, expense-paid seminars. 06A308

**International Criminal Court.** Recommends that the U.S. Government work toward finding solutions to the numerous important legal and practical issues identified in the reports of the Task Force on an International Criminal Court and the New York State Bar Association with a view toward the establishment of an international criminal court considering four specified principles and issues. 8/92

**Judges, Liability.** Support exclusion of state and federal judges acting in a judicial capacity from liability for attorneys' fees under the Civil Rights Attorneys' Fees Awards Act of 1976. 6/83

**Judges, Selection.** Urge state and local bar associations to persuade governors to establish by executive order judicial nominating commissions in those states where such commissions have not been established by law. 2/72

Recommend that the nomination and appointment process for the selection of judges for the Court of International Trade reflect the specialized nature of the court's substantive jurisdiction, the nationwide impact of the court's decisions and the status of the court as an Article III court, and that nominees should be selected without reference to geographic considerations, and in addition to other qualifications, should have experience with the international trade and customs laws administered by the court. 2/87

Recommend that the nomination and appointment process for the selection of judges for the U.S. Court of Appeals for the Federal Circuit reflect consideration of (a) the court's exclusive appellate jurisdiction over all patent cases; (b) the number, size and complexity of the patent cases before the court; and the time spent by the court's judges on patent cases. 8/87

Urge that (1) Congress avoid statutory limits provisions that disqualify senior executive or judicial appointees on the basis of clients they have previously represented; (2) Congress and the administration continue to utilize traditional mechanisms, rather than special pre- or post-employment rules, to ensure that senior executive and judicial positions are filled only by highly qualified persons who will fulfill the responsibilities of their positions with complete integrity; and (3) ethics-in-government rules should not single out foreign policy or trade functions for special, restrictive treatment and that certain amendments which restrict the pre-and post- employment activities be repealed. 2/97

Reaffirm support for the lifetime appointment of federal judges, during good behavior, as provided in Article III of the Constitution. Oppose any proposals, whether by statute or constitutional amendment, to limit the lifetime tenure or independence of Article III federal judges by establishing a term-of-years or by other limitation. 5/97

Recommend that when making character and fitness determinations of state and territorial judicial candidates, nominees or appointees, any nominating or evaluating entity: (1) consider the privacy concerns of the candidates; (2) narrowly tailor questions concerning physical and mental disabilities or physical and mental health treatment in order to elicit information about current fitness to serve as a judge, with such reasonable modifications as may be required; and (3) take steps to ensure that the process does not have the effect of discouraging those who would seek judicial office from pursuing professional assistance when needed. 98M114

Encourages: (1) the dissemination of information in judicial elections that advances the public's knowledge about the justice system and urges all participants in judicial campaigns to conduct themselves with honesty and integrity so as not to undermine public trust and confidence in the justice system; (2) the study of judicial campaigns to determine the impact of campaign spending and advertising on the public's knowledge about and trust and confidence in the justice system; and (3) in order to further the public's knowledge about and trust and confidence in the justice system, encourages state, local and territorial bar associations in states and territories that conduct judicial elections to establish judicial campaign conduct committees to promote honesty and integrity in judicial campaigns. 02A113

Supports the recommendations contained in the 2003 Report of the National Commission on the Public Service urging Congress to enact an immediate and significant increase in federal judicial salaries and break the statutory link between Congressional and judicial salaries. 03M303

Reaffirms support for adequate levels of compensation for state and territorial judges in order to attract and retain the best qualified persons to serve on the judiciary. Encourages state, local and territorial bar associations to take a leadership role in promoting adequate compensation for state and territorial judges and independent mechanisms for determining judicial compensation levels. Encourages states and territories to determine judicial compensation levels through the use of independent judicial compensation commissions that have certain characteristics and authority. 03A105A

Urges states and territories to take appropriate steps, through legislation or administrative regulation consistent with the constitutional principles articulated in the decision of the Supreme Court of the United States in *McConnell v. Federal Election Commission*, 540 U.S.\_\_\_\_ (2003), to require the timely public disclosure of expenditures, and the source and amount of all contributions exceeding a specified amount, for electioneering communications regarding judicial elections. 04M8C

Encourages Senators in each state to jointly establish bipartisan commissions to evaluate the qualifications of prospective candidates for nomination to the U.S. district and courts of appeals and to recommend possible nominees whom their Senators might suggest for the President's consideration. 08A118

Urges state, local and territorial bar associations and the highest court of each state to establish, for those who

have an interest in serving in the judiciary, a voluntary pre-selection/election program designed to provide individuals with a better appreciation of the role of the judiciary and to assist them in making a more informed decision regarding whether to pursue a judicial career. 09M113

**Judicial Compensation.** Urge federal and state governments to adjust compensation schedules for judicial officers to provide relief from inflation. 8/80

Oppose legislation such as the proposed Federal Judicial Salary Control Act, S. 1847, 97th Congress, which would subject the federal judiciary to the annual authorization process of Congress. 4/82

Recommend that salaries of justices of the highest courts of the states be substantially equal to those of judges of the U.S. courts of appeals, and salaries of state trial judges be substantially equal to those of judges of U.S. district courts. 8/81

Resolve that the compensation currently paid to the federal judiciary is grossly insufficient, inadequate and inappropriate. Urge Congress to permit the judicial salaries recommended by Presidents Reagan and Bush and the 1988 Commission on Executive, Legislative and Judicial Salaries to go into effect. 2/89

Strongly reaffirm support of efforts to improve state judicial salaries and fringe benefits. 2/89

Urge regular, periodic review of salary levels of federal, state and territorial judges and the administrative judiciary and adjustment to ensure that judicial salaries are not, in effect, diminished by increases in the cost of living. 2/94

Supports the recommendations contained in the 2003 Report of the National Commission on the Public Service urging Congress to enact an immediate and significant increase in federal judicial salaries and break the statutory link between Congressional and judicial salaries. 03M303

Reaffirms support for adequate levels of compensation for state and territorial judges in order to attract and retain the best qualified persons to serve on the judiciary. Encourages state, local and territorial bar associations to take a leadership role in promoting adequate compensation for state and territorial judges and independent mechanisms for determining judicial compensation levels. Encourages states and territories to determine judicial compensation levels through the use of independent judicial compensation commissions that have certain characteristics and authority. 03A105A

Urges Congress to take immediate action to enact a substantial pay increase for the federal judiciary, consistent with the recent analysis by Paul Volcker, former chair of the National Commission on the Public Service, which recognized the inadequacy of federal judicial salaries and that increases in federal judicial salaries have not even kept pace with increases in average American worker wages. 07M10D

Urges Congress to amend the current method by which Federal Judges are given cost-of-living adjustments (COLAs) to their salaries, to provide that Federal Judges are entitled to annual, automatic COLAs equal to the overall average percentage increase in pay (including both base pay and the national average of locality pay adjustments) received by federal employees under the General Schedule as provided in the Federal Employees Pay Comparability Act. Further, Congress should repeal Section 140 of P.L. 97-92, and refrain from any other action that would prevent Federal Judges from receiving a COLA whenever General Schedule employees receive a COLA. Further, Congress should consider taking similar action to provide that members of Congress are entitled to the same increases pursuant to the General Schedule. 10M300

**Judicial Compensation Standards.** Adopt Standards for Judicial Compensation, dated February 1990; urge state and local jurisdictions to use these principles in setting fair and adequate compensation for judges. 2/90

**Judicial Conference Committees.** Support federal legislation requiring that practicing lawyers comprise at least 50% of the membership of each Committee of the Judicial Conference of the United States recommending rules to be prescribed under 28 U.S.C., Section 2072. 8/94

**Judicial Discipline and Removal.** Support in principle legislation that provides machinery for judicial discipline short of removal, while continuing to support legislation that provides for removal of unfit judges. 8/80

Support in principle the Judicial Discipline and Impeachment Reform Act of 1989, which provides for a national commission on judicial impeachment to report to the chief justice, the Congress and the President. 2/90

Reaffirm support in principle for the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980 which provides a mechanism within the Judicial Branch for handling complaints against and disciplining federal judicial officers. Conclude that no significant benefit would be realized by adding statutory removal from office to the methods of discipline under the Act, especially in light of the serious constitutional questions whether Article III judges may be removed by means other than impeachment. 2/93

Support efforts within the ABA and by bar associations to increase the awareness and understanding among the practicing bar regarding the availability of procedures for handling complaints against and disciplining federal judicial officers under the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980, 28 U.S.C. Sections 332, 372. Support the appointment by circuit judicial councils of one or more committees within the circuit, its districts or its divisions, to accomplish certain objectives. Urge a chief judge who dismisses a non-frivolous complaint or concludes a proceeding to prepare a supporting memorandum that sets forth the allegations of the complaint and the reasons for the disposition, and request that the Judicial Conference devise and monitor a system for the dissemination of information about the complaint dispositions. 2/94

Approved Model Rules for Judicial Discipline Enforcement as corrected. 8/94

**Judicial Education, Association Standards for.** Approve amendments to standard 6A of the Standards. 2/88

**Judicial Education Programs.** Encourage and recommend the creation in each state of education programs for judges, establishment of minimum requirements for continuing general education of judges, and full allowance of expenses for judicial educational board in each state. 2/78

Recommend that state and federal education programs for judges include a course devoted to fairness and the judiciary's role in ensuring a courtroom free of race and sex bias and an analysis of race and sex-biased stereotypes, myths, beliefs and biases that may affect judicial decision making. 8/86

Support educational programs designed to inform and train judges about the civil, criminal, psychological, evidentiary and procedural issues relating to domestic violence. Strongly believe that such education and training is essential to ensure the proper disposition of cases in which domestic violence issues may arise, including six specified types of cases. Resolve that such programs include information about community resources and programs which would facilitate assistance to victims and their children. Urge governmental and agency funding of such training programs. 2/96

Encourages education and training for judges in the United States and abroad, regarding financial markets products and practices, and that judges be provided with accurate, timely, balanced, and reliable educational resources. 10A107B

**Judicial Impact Statements.** Supports legislation mandating the preparation of judicial system impact statements. Urges establishment of budgeting mechanism to prepare such statements. 8/91

**Judicial Improvements Act of 1990.** Support the general principles reflected in Title I of S. 2648 but believe

that the bill would be improved by changes along the lines included in the specific recommendations in the report of the Civil Justice Coordinating Committee. Support enactment of legislation that is consistent with congressional intent that the district courts shall develop plans for cost and delay reduction which are to take into consideration certain guidelines. 6/90

**Judicial Leave.** Urge each state to adopt standards for judicial leave. Urge that national minimum standards for evaluating judicial leave policies be in accordance with the Recommended Criteria for Evaluating Judicial Leave Policies draft dated December 1, 1988, as revised. 2/89

**Judicial Participation in Public Education Programs.** Urges judges, courts, and judicial organizations to support and participate actively in public education programs about the law and justice system, and further that judges be allotted reasonable time away from their primary responsibilities on the bench to participate in such public education programs, consistent with the performance of their primary responsibilities and the Code of Judicial Conduct. 8/92

Urges judges, court personnel and judicial organizations to: (1) incorporate as an integral function of their position, furtherance of the public's understanding of and confidence in the American system of justice; and (2) develop, support and actively participate in public education programs about the law and the justice system in order to promote the trust and confidence of the public that is crucial to maintaining an independent judiciary. 03A104

**Judicial Practices Concerning Guardianship.** Support efforts to improve judicial practices concerning guardianship; adopt Recommended Judicial Practices and urge implementation at the state level. 8/87

Standards for State Judicial Retirement Plans. Approved 8/84

**Judicial Retirement Plans.** Support federal legislation similar to H.R. 1314 which excepts state judicial retirement plans from the non-discrimination rules of sections 401(a)(3), 401(a)(4) and 410(b) of the Internal Revenue Code of 1986. Resolve that any legislation which excepts governmental plans generally from these non-discrimination rules should also except state judicial retirement plans. 2/96

Encourages Congress to establish a retirement plan for federal administrative law judges that is appropriate to their judicial status and functions and that is separate from retirement plans of other career civil servants. 04M113B

**Judicial Review.** Recommend that Congress repeal 28 U.S.C. Sections 2281 and 2282, which provide for a three-judge district court with direct appeal to the U.S. Supreme Court when the constitutionality of a state or federal statute is challenged, and of 28 U.S.C. Section 2325 which provides for three-judge district courts with direct appeal to the U.S. Supreme Court for review of orders of the Interstate Commerce Commission. 2/73

Approve legislation to bring judicial review of orders of the Interstate Commerce Commission into general conformity with judicial review of other major federal regulatory agencies. 2/70

Support the principles of the payment of attorneys' fees and costs by the government in administrative proceedings and the judicial review of such proceedings considered to be in the public interest. 2/77; 2/78

Oppose those portions of legislation that would expand the scope of the Antitrust Procedures and Penalties Act (Tunney Act) to compel judicial review of voluntary dismissals of antitrust proceedings brought by the United States and more extensive judicial and third-party roles in the approval of consent judgments subject to the Tunney Act. 8/84

In recognition and commemoration of the bicentennial anniversary of the decision of the United States Supreme Court in *Marbury v. Madison*, the Association supports the United States Constitution as the supreme law of the land and reaffirms its commitment to the doctrine of “judicial review” as a fundamental principle for a nation governed by the rule of law. 03M112

**Judicial Review of Military Personnel Actions.** Recommend that current procedures for judicial review of military administrative personnel actions not be modified, and that the legislation entitled “Military Personnel Review Act of 1997” not be enacted, until Congress has had an opportunity to hold hearings and to conduct a thorough review of the entire system for correction of military records, including a review of both the report of the Secretary of Defense mandated by Congress in §554 of the National Defense Authorization Act of 1996 and the report of the Advisory Committee mandated by §551 of that Act. 8/97

**Judicial Review of Signing Statements.** (1) Opposes, as contrary to the rule of law and our constitutional system of separation of powers, the misuse of presidential signing statements by claiming the authority or stating the intention to disregard or decline to enforce all or part of the law the President has signed, or to interpret such a law in a manner inconsistent with the clear intent of Congress. (2) Urges the President, if he/she believes that any provision of a bill pending before Congress would be unconstitutional if enacted, to communicate such concerns to Congress prior to passage. (3) Urges the President to confine any signing statements to his/her views regarding the meaning, purpose and significance of bills presented by Congress, and if he believes that all or part of a bill is unconstitutional, to veto the bill. (4) Urges Congress to enact legislation requiring the President promptly to submit to Congress an official copy of all signing statements issued and a report setting forth in full the reasons and legal basis for the statement; and further requiring that all such submissions be available in a publicly accessible database. (5) Urges Congress to enact legislation enabling the President, Congress, or other entities or individuals, to seek judicial review, to the extent constitutionally permissible, in any instance in which the President claims the authority, or states the intention, to disregard or decline to enforce all or part of a law he/she has signed, or interprets such a law in a manner inconsistent with the clear intent of Congress, and urges Congress and the President to support a judicial resolution of the President's claim or interpretation. 06A304

**Judicial Rulemaking.** Reaffirm support for the Congressionally-enacted, judicial rulemaking process set forth in the Rules Enabling Act and opposing those portions of the Common Sense Legal Reform Act or other legislation that would circumvent that process. 2/95

**Judicial Sabbaticals.** Endorse the concept of judicial sabbaticals, urge the states to adopt legislation to allow a program providing for sabbaticals consistent with certain specified provisions, and urge that state funds be allocated to implement such programs commencing in 1990. 8/88

**Judicial Security.** (1) Urges Congress, the Department of Justice Judicial Security Review Group, and the Department of Justice Office of Inspector General (IG) to: (a) determine whether the United States Marshals Service (USMS) has corrected the significant vulnerabilities to critical elements of its judicial security program that were identified by the IG in its March 2004 report entitled "Review of the United States Marshals Service Judicial Security Process"; (b) review on a regular basis whether additional improvements or enhancements are necessary for the USMS to discharge properly its primary duty of providing judicial and court security; and (c) make public non-classified information and recommendations resulting from these reviews in order to maintain public confidence in the safety of the courts. (2) Urges Congress to enact legislation to require the USMS and the Administrative Office of the Courts to consult on a continuing basis regarding the security requirements for the judicial branch. (3) Urges Congress to include sufficient funds in its annual appropriation for the federal judiciary and for the USMS Court and Judicial Security Program. (4) Urges Congress to explore ways to provide assistance to state courts to assess and improve court safety and security. (5) Urges all federal and state governmental departments and agencies to assess the security needs of the administrative adjudication programs within their respective control and to take all reasonable steps to ensure the safety of all participants in the adjudication process. 05A106C

**Judicial Term Limits.** Oppose efforts to adopt any measure to place an automatic limit on the number of terms a person may serve in a judicial position and urge voters and legislators to oppose such efforts. Urge all bar associations and other organizations whose goals include the improvement of the legal profession, judiciary and system of justice in the United States to speak against such measures. 8/96

**Judicial Vacancies.** Urge the President of the United States to expedite the appointment to vacancies existing in the U.S. judicial system and that the Senate take prompt action in considering confirmation of such nominees. Urge the President and Senate to act expeditiously with respect to the district court of the Virgin Islands where there is currently no sitting judge, other than those temporarily assigned from time to time by the Third Circuit Court of Appeals. 2/90

Urge the President of the United States promptly to advance nominees for current vacancies for federal judicial positions and the Senate of the United States to hear and vote on those nominations in an expeditious manner.

Urge ABA members and bar associations to contact the President and appropriate members of the Senate to urge prompt action on the nominations. 98M8A

Urge the United States Senate promptly to hear and vote on pending nominations for United States District Courts and Courts of Appeal and that such action is essential for the effective and efficient administration of justice in the United States. 1097BOG 2.11

Urges that: (1) the President of the United States should promptly nominate candidates to fill vacancies in the federal courts of the United States; (2) the Senate Committee on the Judiciary should promptly act on nominees; and (3) the Senate of the United States should promptly advise and consent to or reject the nominees. Further, urges American Bar Association members and state, local, and territorial bar associations to encourage the President to make prompt appointments to fill federal judicial vacancies and to contact the appropriate members of the Senate to urge prompt hearings and votes on pending nominations for the federal courts of the United States. 02A10A

**Juries and Jury Trial Principles.** Adopts the *ABA Principles Relating to Juries and Jury Trials* dated February 2005. Recommends that the ABA Criminal Justice Section, Judicial Division, and the Section of Litigation review and revise, as appropriate, their respective Standards so as to eliminate any conflicts with the Principles so as to eliminate any conflicts with the Principles. Urges all state and federal courts and state, local and territorial bar associations to improve the management of jury trials by promoting the implementation of the Principles. 05M113

*ABA Principles for Juries and Jury Trials*, adopted February 2005, replace *Judicial Division Standards Relating to Juror Use and Management*. 08A110

**Jurisdiction of Civil Tax Cases.** Oppose proposals to grant to a specialized court exclusive jurisdiction over the trial or appeal of civil tax cases. 2/90

**Jury Service.** Support legislation to require that excuse of prospective jurors from federal jury service on the grounds of distance from trial be based on demonstrated hardship. 2/78

**Justice System Funding.** Recognize that the highest priority of the bar and bench must be to promote improvements in the American system of justice by ensuring balanced and adequate funding for, and timely access to, the entire justice system and urge Association entities, state and local bars and affiliated organizations to form coordinated action committees with nonlawyer groups to take certain steps with respect to the justice system. 8/91

**Justice System Impact Statements.** Supports legislation mandating the use of Justice System Impact Statements to be attached to all legislation or resolutions and executive branch orders or actions that have an identifiable and measurable impact on the operation of one or more elements of the criminal and civil justice system. Urges the establishment of appropriate mechanisms to ensure the preparation of the justice system impact statements that examine and analyze the funding, workload, and resource impact of proposed legislation and executive branch orders or actions for each and every element of the criminal and civil justice system. 8/92

**Language Interpreters.** Urges the federal government and the states, territories and possessions to commit sufficient resources to all courts and administrative agencies to enable them to provide qualified language interpreters to ensure that all parties and witnesses may fully and fairly participate in all proceedings. 02M110

**Lawsuit Data Collection.** Urges the United States Congress and state and territorial legislative bodies to allocate sufficient funding to ensure that appropriate federal, state and territorial agencies have means and resources to accomplish standardized data collection and retention of lawsuit data. 04A103A

**Litigation Conduct Guidelines.** Guidelines for Litigation Conduct dated August 1998 adopted as purely aspirational goals to promote professionalism of lawyers and judges, and should not serve as a basis for litigation, liability, discipline, sanctions, or bar or disciplinary enforcement. 98A107

**Litigation Reform.** Support litigation reform to deter meritless litigation where it is apparent that rule amendments cannot reasonably address abusive practices. Support (1) prohibition of certain referral fees and bonus payments, (2) a reasonable class organization procedure that discourages a race to the courthouse, (3) improved disclosure of settlement terms, (4) limitations on award of fees to private counsel, (5) a court's authority to supervise class actions, (6) early and fair settlement practices, (7) promotion of voluntary non-binding alternative dispute resolution procedures. Support private enforcement of securities laws. Oppose (1) legislation and requirements that would eliminate the concept of recklessness, (2) proof of actual reliance by individual investors, (3) responsibility of on a non-prevailing party for the legal fees of the prevailing party, (4) changes that would undermine the role and obligation of counsel for the class to fulfill counsel's fiduciary duty, and (5) that would bar access to the courthouse to shareholders with small holdings. 2/95

**Long Range Plan for Federal Courts.** Support efforts by the Judicial Conference of the United States to plan for the future of the Federal courts and adopts the policy positions in response to the Proposed Long Range Plan for the Federal Courts which was submitted to the Judicial Conference of the United States in March 1995. 8/95

**Mandatory Arbitration Programs.** Oppose enactment by the United States Congress of any legislation authorizing the installation of any mandatory arbitration program in United States District Courts where involuntary participation in such programs is made a condition precedent to the right of litigants in civil cases to a trial before a jury or a federal judge. 8/94

Recommend that court-mandated mediation include an opt-out prerogative in any action in which one party has perpetrated domestic violence upon the other party. 00A109B

**Mediators.** Adopts the *Model Standards of Conduct for Mediators*, dated August 2005, which are intended to guide individual mediators in their practice, provide a model for entities that establishes standards of conduct for mediators and informs potential and actual participants in mediation about what they should expect in mediation. 05A104A (*See also* Dispute Resolution under "COURTS/ JUDGES" and "Lawyer/Mediators under ""FAMILY LAW/CHILDREN."")

**Megatrials.** Recommend that the Judicial Conference of the United States' Advisory Committee on Criminal Rules encourage the United States district courts to fashion remedies in appropriate individual cases, or encourage adoption of local rules in selected districts, to address the issue of long trials involving numerous defendants, often referred to as "megatrials," which create substantial risks to the fair administration of justice. 8/91

**Merit Selection of Judges.** Reaffirm support of merit selection and retention of judges; urge opposition to judicial selection by vote of the electorate. Support participation of bar associations in merit selection mechanisms for judicial appointment. 2/72

Establish procedures to encourage the appointment of all federal judges strictly on the basis of merit and without regard to extraneous political considerations. 8/77

Urge all presidential candidates to disavow any platform plank inconsistent with concept of merit selection. 8/80  
Support the participation of state and local bar associations in merit selection mechanisms developed to assist in evaluating and recommending candidates for judicial appointment. 2/91

Urge bar associations in jurisdictions where judges are elected in partisan or non-partisan elections to work for the adoption of merit selection and retention, and to consider means of improving the judicial elective process, including improving campaign conduct and financing, and adopting programs that are best suited to the needs of their jurisdictions.

Recommends seven specified types of actions for consideration for such adoption. 8/94

Support the merit selection of judges, and constitutional provisions setting out procedures for the merit selection and either appointment or retention election of their judges. Encourage establishment of judicial nominating commissions and appointment only of judges recommended by the nominating commission. Urge development of educational initiatives to inform the public regarding the nature of judicial responsibilities, the importance of the independence of the judiciary, the qualifications of candidates for judicial office, and the proper operation of the nation's courts. Amend the Code of Judicial Conduct. 99A123

**Model Act Creating a State Central Hearing Agency.** Recommend to state and territorial legislatures the Model Act Creating a State Central Hearing Agency, dated February 1997. 2/97

Reaffirms the judicial independence and authority granted to the Central Panel Administrative Law Judges in the Model Act Creating a State Central Hearing Agency, adopted by the House of Delegates in February 1997. 11M112

**Model Asbestos Case Management Order.** Recommends that federal, state, and territorial courts without any existing Case Management Order governing asbestos litigation, or with an existing Case Management Order that has proven unworkable, utilize the Model Case Management Order, with referenced exhibits, dated August 2005. 05A103

**Model Code of Judicial Conduct.** Adopt the revised Model Code of Judicial Conduct dated February 2007, including the Preamble, Scope, Terminology Section, Application Section, Canners and Rules there under, to replace the Model Code of Judicial Conduct that was adopted in August 1990 and amended in August 1997 and February 2003. 07M200

Application Section of 2007 Model Code amended to ensure consistency in judicial ethics standards nationwide. 10A113

**Model Judicial Article.** Amended in accordance with the Final Draft dated November 1994. 2/95

**National Vaccine Injury Compensation Program.** Urge repeal of provisions of the National Vaccine Injury Compensation Program that involve the federal courts in rendering advisory opinions and performing inappropriate administrative functions before funding the program. 8/87

**Nominations for Court of Appeals of Federal Circuit.** Favor in principle the creation of a national commission to consider and recommend to the President of the United States candidates for nomination to the Court of Appeals for the Federal Circuit. 2/91

**Online Access to Court Information.** Urge courts to provide computer on-line access to court and docket information to members of the profession and to the general public at no direct cost to the user. 8/95

**Patents/Scope of Subject Matter.** Urges courts to provide guidance for the determination of the scope of subject matter that is eligible to be considered for patenting. 09A302

**Peremptory Challenges.** Urge enactment of legislation permitting the peremptory challenge of a federal district judge, magistrate or bankruptcy judge in civil cases. 2/80

**Pretrial Discovery.** Approve an additional grand jury principle relating to pretrial discovery. 8/87

Make recommendations, with certain understandings, with respect to the imposition of limits on pretrial discovery in civil cases and whether additional discovery should be permitted based on market incentives, including the placing of appropriate limitations on pretrial discovery, not permitting additional discovery beyond limits determined by the court to be reasonable, and authority of the judicial officer entering a protective order to condition particular discovery upon the discovering party's payment in whole or in part of the expenses incurred by the person from whom the discovery is sought. 2/92

**Pretrial Drug Testing Programs.** Concerning pretrial drug testing programs, encourage adoption of such voluntary programs to assist judicial officers in determining appropriate conditions of release; that adequate treatment be provided to assist individuals in complying with a release order requiring such testing; that the framework for conditional release should include graduated sanctions; that there be procedures to ensure the integrity of the test program and accuracy of test results; and that results of the testing or refusal to submit to testing should not be admissible as evidence of the guilt of a defendant on an underlying charge. 2/94

**Pro Hac Vice Admission.** Adopts the *Model Rules on Pro Hac Vice Admission* pursuant to the recommendations of the Commission on Multijurisdictional Practice. 02A201F

**"Problem-Solving"/Specialized Courts.** Support (1) the use of the term "problem-solving" courts to refer to specialized initiatives such as drug courts, community courts and mental health courts, as well as programs such as unified family courts; (2) the continued development of problem-solving courts to improve court processes and

court outcomes for litigants, victims and communities; and (3) the consideration of the use of the principles and methods employed by problem-solving courts in the daily administration of justice. Promote education about problem-solving courts. 01A117

**Prosecutorial Misconduct or Error.** Urges trial and appellate courts, in criminal cases, when reviewing the conduct of prosecutors, to differentiate between "error" and "prosecutorial misconduct." 10A100B

**Remand Proceedings.** Recommend that (1) when a reviewing court holds that a rule or order issued by a federal administrative agency must be remanded to the agency for further consideration, the court may exercise

discretion in determining whether or not to refrain from vacating the agency's action pending the remand proceedings; (2) in exercising this discretion, a reviewing court should normally strike the balance in favor of vacating the agency's action unless special circumstances exist; (3) where the court orders the remedy of remand without vacation, it should (a) give serious consideration to specifying a time frame within which the agency is to comply with the terms of the remand order; and (b) consider certain directions until agency action to cure the previous error has become final; and (4) courts should encourage parties to address remedial issues in their briefs and at oral argument. 8/97

**Rent Relief for Judiciary.** Supports legislation (currently embodied in S. 2292 and H.R. 4710) which provides relief from the excessive rents charged to the Judiciary by the General Services Administration (GSA) by (1) requiring that the rent charges for courthouses and other judicial facilities provided to the judiciary not exceed GSA's actual costs of operating and maintaining the facilities; and (2) prohibiting GSA from including in rents charged to the judiciary any capital costs, real estate taxes (except for taxes actually paid by GSA) or administrative fees (except on a cost-only basis). 06A115

**Representation for Indigents.** Recommend that all jurisdictions ensure that defendants are represented by counsel at their initial judicial appearance where bail is set and that each jurisdiction provide adequate resources to support effective implementation of such representation by counsel for indigent defendants. 98A112D

Urges all federal, state, local and territorial courts to develop programs, in collaboration with state, local and territorial bar associations and pro bono programs and legal services offices, to encourage, facilitate and recognize pro bono representation of indigent parties in civil cases. 06A121C

**Restructuring of Ninth Circuit.** Oppose restructuring of the Ninth Circuit Court of Appeals in view of the absence of compelling empirical evidence to demonstrate adjudicative or administrative dysfunction. Based on such evidence, does not support any other restructuring of the federal circuits at this time. Support ongoing efforts by the federal circuit courts of appeal to utilize technological and procedural innovations in order to continue to enable them to handle increased caseloads efficiently while maintaining coherent, consistent law in the circuit. 498BOG2.1

Oppose (1) legislation that mandates restructuring of the Ninth Circuit Court of Appeals into adjudicative divisions, in view of the absence of compelling empirical evidence to demonstrate adjudicative dysfunction, (2) creation of district court appellate panels within the circuits, and (3) use of two-judge panels by any federal appellate court. 99A110A

**Revenue Generation as Criteria.** Urge that appointing authorities for judges or judicial officers not use as a criteria, for appointment or reappointment, revenue generation or conviction rate goals. 2/95

**Science and Technology in Judicial Decision Making.** Support in principle five specified conclusions and recommendations set forth in the March 1993 Report of the Carnegie Commission on Science, Technology and Government entitled Science and Technology in Judicial Decision Making. 2/94

**Social Security Act Amendments.** Support an amendment to the Social Security Act, or other applicable laws, allowing the use of social security numbers to exempt courts and other judicial agencies responsible for preparation of lists of prospective jurors. 2/91

Support amendments to the Social Security Act that would (1) allow working widows who delay receipt of benefits under the Act to be granted delayed retirement credits in addition to their widow benefits, and (2) eliminate the restriction requiring a divorced person age 62 and over to wait two years after divorce to receive Social Security benefits if the former spouse is still in the work force. 8/95

**Social Security Claims—Attorneys Fees.** Urges Congress to enact legislation amending Title 28 of the United States Code, to provide for the direct payment of attorney fees and costs to the attorney representing a prevailing party in certain Social Security Disability Insurance and Supplemental Security Income claims. 09M10B

**Social Security Court.** Oppose legislation to create an Article I social security court to hear appeals from final decisions of the Social Security Administration. 8/86

**Social Security Reform.** Support reforms in the Social Security disability adjudication process to eliminate the backlog that threatens the ability of Social Security administrative law judges to assure due process, including: (1) actions by the Social Security Administration in reengineering the initial decision process to (a) assure appropriate legal standards by establishment of one standard for disability determination at all levels of decision making, (b) encourage disability claims managers to consult with legal as well as medical resources as appropriate, and (c) designation of federal adjudication officers with certain supporting staff; (2) that certain measures be taken at the hearing level to assure the integrity of the factfinding function; and (3) that claimants for disability benefits continue to be entitled to a due process hearing before an administrative law judge. 8/95

**Standards for Child Abuse and Neglect Proceedings.** Adopts the black letter Principles and Standards of the *Judicial Excellence in Child Abuse and Neglect Proceedings: Principles and Standards for Court Organization, Judicial Selection and Assignment, Judicial Administration and Judicial Education*, dated August 2010, to improve, at the state and local levels, the quality of judicial practice, and court processes, related to civil child abuse and neglect cases. 10A102

**Standards for Final Pretrial Submissions and Orders.** Black letter Standards adopted August 2008. 08A113B

**Standards for the Education of the Administrative Judiciary.** Approved. 99A101

**Standards Relating to Appellate Courts.** Adopted 2/77. Amend to set forth the role of staff attorneys in appellate courts. 2/86

Amend to reflect revisions in the black letter appellate time standards in accordance with a draft dated August 1987, as amended. 2/88

Amend 8/94, with further amendment to include a minority report concerning Section 3.50 - Caseflow Management and Delay Reduction, and Section 3.52 - Standards of Timely Disposition of Appellate Cases. 8/94

Standard 20 on Juror Privacy dated August 1998 adopted. 98A120

**Standards Relating to Trial Courts.** Amended in accordance with draft dated November 1991, as amended. 2/92

Amend by adopting the black letter of Standard 2.77, Procedures in Drug Treatment Courts, dated August 2001. 01A101A

Adopts the black letter of Section 2.80 (trial court responsibilities for court automation) to amend the Standards Relating to Trial Courts to replace current Sections 2.80 through 2.83. 05A106B

**Standards for State Judicial Retirement.** Standards dated July 2000, approved. 00A114

**Standards on State Judicial Selection.** Black letter Standards dated July 2000 adopted. 00A108

**State Bar Membership Requirements.** Support efforts to lower barriers to practice before U.S. District Courts based on state bar membership by eliminating state bar membership requirements in cases in U.S. District Courts through amendment of the Federal Rules of Civil and Criminal Procedure to prohibit such local rules. 2/95

**State Justice Institute.** Urges the Administration and Congress to maintain federal support for the State Justice Institute and to adequately fund it. 02M301

**Supreme Court Mandatory Jurisdiction.** Support legislation to abolish all cases of obligatory U.S. Supreme Court review by appeal except for appeals from determinations by three-judge courts. 2/79

**Tax Court.** Approve recommending to Congress that the Tax Court be constituted as a court under Article III of the Constitution. 2/71

**Tax Court Jurisdiction.** Approve establishment of concurrent jurisdiction in the U.S. district courts and the Court of Claims with the Tax Court in the determination of tax deficiencies and establishment of concurrent jurisdiction in the Tax Court, the U.S. district courts and the Court of Claims for civil actions for refund of taxes. 2/71

**Transfer of Litigation Act.** Designed to provide for the transfer of litigation from a court in one judicial system to a court in another judicial system. Approved as an appropriate act for those states desiring to adopt the substantive law suggested therein. 2/92

**Trial Management Standards.** Black letter standards adopted. 2/92

**Unified Children and Family Courts.** Reaffirm 1980 commitment to unified children and family courts and set forth in the Standards Relating to Court Organization and Administration, Standard 1.1. Pledge to promote the implementation of unified children and family court systems as described in Standard 1.1 recognizing that the manner of administering these courts may differ among states and jurisdictions. Endorse seven specified clarifications and additions to the components of unified children and family courts. 8/94

**Unpublished Opinions of Federal Courts of Appeal.** Oppose the practice of various federal courts of appeal in prohibiting citation to or reliance upon their unpublished opinions as contrary to the best interests of the public and the legal profession. Urges federal courts of appeal to make their unpublished decisions more widely available through various print or electronic means, and to permit citation to relevant unpublished opinions. 01A115

**Veterans' Disability Claims.** Recommends that the U.S. Court of Appeals for Veterans Claims and Congress take a series of procedural steps to seek more efficient and effective resolution of veterans' disability claims. 03M102

**Veterans' Treatment Courts.** (1) Supports the development of comprehensive, systemic approaches to address the special needs of veterans within civil and criminal court contexts, including but not limited to proceedings involving veterans service-related injuries, disorders, mental health and substance abuse needs, through programs that connect veterans to appropriate housing, treatment and services through partnerships with the local Veterans Affairs Medical Centers, community-based services and housing providers. (2) Urges state, local, and territorial courts to facilitate the development of Veterans Treatment Courts, including but not limited to, specialized court calendars or the expansion of available resources within existing civil and criminal court models focused on treatment-oriented proceedings. (3) Adopts six principles for Veterans Treatment Courts to the extent appropriate and feasible for each jurisdiction. 10M105A

**Violent Crime Control Act.** Opposes certain provisions of the Biden Thurmond Violent Crime Control Act of 1991 or similar legislation which would give federal prosecutors concurrent jurisdiction with state prosecutors in virtually all crimes where a gun transported in interstate commerce was used in the commission of a homicide or other violent or drug-trafficking crime. 10/91

**Voir Dire.** Propose *voir dire* amendments to Federal Rules of Civil Procedure. 2/81

**Waiting Rooms for Children.** Encourage state, local and territorial governing bodies and court systems, in conjunction with bar associations, to support and assist in the organization and implementation of waiting rooms for children in every appropriate courthouse. 8/96

**Witness Fees Under Federal Fee-Shifting Status.** Recommend enactment of legislation to allow a prevailing party in a case covered by a federal fee-shifting statute to recover the costs of reasonable expert witness fees. 8/90

**Women Federal Judges.** Support notification to the President of the United States urging his consideration, in the appointment process, of the fact that there are extraordinarily few women federal judges. 8/75

**Work Criteria for Federal Judges.** Agree that a policy that a senior federal judge perform 25 percent of the workload of an active judge is not unreasonable, but oppose legislation such as H.R. 1930 on the basis that Congress's mandating work criteria for federal judges is unwise, counterproductive and contrary to the spirit of judicial independence and separation of powers. 8/89

**Youth Courts.** Encourage legislatures, court systems and bar associations to support and assist in the formation and expansion of diversionary programs, known as Youth Courts, where juvenile participants, under supervision of volunteer attorneys and advisory staff, act as judges, jurors, clerks, bailiffs, and counsel for first time juvenile offenders who are charged with misdemeanors and consent to the program. 8/95

Urges federal, state, territorial, tribal and local governments to create and provide appropriate support for Youth or Teen Courts that will divert youth from the formal consequences of juvenile court petitions, proceedings, adjudications or juvenile justice sanctions. 11M107B

## CRIMINAL JUSTICE STANDARDS

The following standards have been approved.

**Appellate Review of Sentences.** 2/68, amended 8/78

Black letter amendments adopted. 2/93

**Collateral Sanctions and Discretionary Disqualification.** Adopts the black letter ABA *Criminal Justice Standards on Collateral Sanctions and Discretionary Disqualification of Convicted Persons*, dated August 2003, as an addition to the Third Edition American Bar Association Standards, which addresses issues related to legal disabilities that flow from a criminal conviction over and above the sentence imposed by the court. 03A101A  
**Criminal Appeals.** 8/71, amended 8/78

**Defense Function.** 2/71, amended 2/79, 2/91

**Discovery and Procedure Before Trial.** 8/70, amended 8/78

Black letter amendments adopted. 8/94

**DNA Evidence.** Adopt black letter standards on DNA evidence, dated August 2006, which address the collection, preservation and use of DNA evidence; testing of DNA evidence; pre-trial proceedings; trial; post-conviction; charging by DNA profile; and DNA databases. O6A107

**Electronic Surveillance.** 2/71, amended 8/78, amended 01M103A

Adopt black letter standards on technologically assisted physical surveillance dated August 1998. 98A112A

Adopt revisions to the Second Edition of the ABA Criminal Justice Standards on Electronic Surveillance, which expand the scope of the Standards so that they apply to aural communications and non-aural electronic communications, and which result in the Third Edition of the Standards that supercedes the two previous editions of Standards on aural communications. The Third Edition encompasses the revised standards as well as the standards on technologically assisted physical surveillance adopted in August 1998. 01M103A

**Fair Trial and Free Press.** 2/68, amended 8/78, 2/91

**Function of the Trial Judge.** 8/72, amended 8/78

Adopt black letter amendments to address the basic duties and role of the trial judge. 99M116B

**Joinder and Severance.** 8/68, amended 8/78

**Mental Health Standards.** 8/84, amended 2/87, 8/87, 8/88

**Pleas of Guilty.** 2/68, amended 2/79, Black letter amendments adopted 8/97

**Postconviction Remedies.** 2/68, amended 8/78

**Pretrial Release.** 8/68, amended 2/79, 7/85

Adopts Third Edition, *ABA Criminal Justice Standards on Pretrial Release*, dated February 2002, which address the issue of when and under what specific conditions defendants should be released or detained prior to trial. 02M101A

**Prosecution Function.** 2/71, amended 2/79, Black letter amendments adopted, as amended 2/92

**Prosecutorial Investigations.** Adopts the black letter *ABA Criminal Justice Standards on Prosecutorial Investigations*, dated February 2008 to supplement the *ABA Criminal Justice Standards on the Prosecution Function*. 08M105D

**Providing Defense Services.** 2/68, amended 2/79, 8/90

**Sentencing Alternatives and Procedures.** 8/68, amended 8/79  
Black letter amendments adopted. 2/93

**Speedy Trial.** 2/68, amended 8/78

Adopts the Speedy Trial and Timely Resolution of Criminal Cases, dated August 2004, to supplant the Second Edition, Criminal Justice Standards on Speedy Trial, which addresses the defendant's right to a speedy trial, the public's interest in timely resolution of criminal cases and organization of justice system resources to improve criminal caseflow.

**Treatment of Prisoners.** Black letter dated February 2010 adopted to supplant Criminal Justice Standards on the Legal Status of Prisoners. 10M102I

**Trial by Jury.** 8/68, amended 8/78

Adopted black letter amendments to Chapter Fifteen, "Trial by Jury" of the Second Edition, dated August 1993. 8/93

**Urban Police Function.** 2/73, amended 2/79

### CRIMINAL LAW PROCEDURE

(For additional policy positions, see the ABA Criminal Justice Standards and Juvenile Justice Standards.)

**Abused Children.** Encourage attorneys and state and local bar organizations to work more actively to improve the handling of cases involving abused and neglected children as well as children in foster care. 8/81

**Administrative Summonses by FBI.** Recommend that the Congress of the United States not enact legislation granting the Federal Bureau of Investigation the unrestricted authority to issue administrative summonses in criminal investigations. Recommend that prior to consideration of any legislation granting the Federal Bureau of Investigation authority to issue administrative summonses, full hearings be held by the appropriate committees of the House and the Senate. 2/91

**AIDS.** Support certain specified recommendations recognizing the special problems which the criminal justice system faces in dealing with issues related to the Human Immunodeficiency Virus (HIV) epidemic. 2/89

**Alternate Dispositions.** Urge all states to establish by legislation, court rule or other appropriate means procedures for the diversion of eligible defendants from the criminal justice process to alternate dispositions as long as the vital function of prosecutorial discretion is preserved; society is accorded protection through the criminal justice system; adequate safeguards for the participants' legal rights exist; and such programs are adequately funded, managed and evaluated. 8/76

**Animals That Have Been Seized.** Urges federal, state, territorial and local legislative bodies and governmental agencies to enact laws and implement policies to ensure the humane treatment and disposition of seized animals in a timely manner. 11M108B.

**Anti-Drug Abuse Amendments Act.** Recommend that Congress reconsider section 6486 of the Anti-Drug Abuse Amendments Act of 1988, which provides for civil penalties for personal-use possession of controlled substances, and that if Congress wishes to retain civil penalties for such possession, it revise those provisions of 6486 that pertain to the standards of proof in judicial proceedings involving such penalties and consider certain additional revisions. 2/90

**Arrest and Conviction-Effect on Custodial and Parental Rights.** Urges bar associations and law schools to consider and expand, as appropriate, initiatives to assist criminal defendants and prisoners in avoiding undue consequences of arrest and conviction on their custodial and parental rights and urges Congress to eliminate restrictions that prohibit recipients of Legal Services Corporation funds from providing legal assistance to prisoners on family law issues. 10M102F

**Arrest Disposition Data.** Encourage legislation to mandate the reporting of final arrest disposition data applicable to each arrest to the central file at the state or national level to which an arrest fingerprint record was submitted. 2/73

**Assault Weapons.** Support laws prohibiting the purchase, importation, domestic sale, transfer or possession of "assault weapon" firearms by private citizens and suggesting certain characteristics to be included among the elements used by the laws to define "assault weapons." 6/89

Support federal territorial and state legislation, which would restrict the sale and possession of assault weapons to the military and law enforcement organizations. Urge state, territorial and local bar associations, and all of their respective members to join with the ABA in the effort to pass such legislation. 8/93

**Attorney General.** Support restrictions on appointment of person to be Attorney General who played "leading partisan role" in President's political campaign. 2/76

**Bail on Appeal.** When an appeal has been instituted by a convicted defendant after a sentence of imprisonment has been imposed, the question of the appellant's custody pending final decision on appeal should be reviewed and a fresh determination made by the trial court. The burden of seeking a stay of execution and release should be placed on the appellant. Release should not be granted by the court unless the appellant establishes by clear and convincing evidence that appellant will not appear to answer the judgment following conclusion of the appellate proceedings or is likely to commit a serious crime, intimidate witnesses or otherwise interfere with the administration of justice. 2/84

**Bail Reform Act.** Support numerous improvements in pretrial procedures such as are contained in the Act. 2/72

**Biological Evidence.** Urge jurisdictions to adhere to four specified principles concerning Biological Evidence collected in conjunction with the investigation of a criminal case. 00A115

**Capital Punishment.** Oppose in principle the imposition of capital punishment upon any person for any offense committed while under the age of 18. 8/83

Urge that no person with mental retardation, as now defined by the American Association on Mental Retardation, should be sentenced to death or executed. Support enactment of legislation barring the execution of defendants with mental retardation. 2/89

Urge jurisdictions that impose capital punishment not to carry out the death penalty until the jurisdiction implements policies and procedures that are consistent with four longstanding Association policies intended to (1) ensure that death penalty cases are administered fairly and impartially, in accordance with due process; and (2) minimize the risk that innocent persons may be executed, with the understanding that, apart from existing policies relating to offenders who are mentally retarded or under the age of 19 at the time of the commission of the offenses, the Association takes no position on the death penalty. 2/97

Without taking a position supporting or opposing the death penalty, urges each jurisdiction that imposes capital punishment to implement specific policies and procedures as it relates to mental illness. 06A122A

**Child Victims of Criminal Conduct.** Urges federal, state, tribal, local and territorial governments to ensure that child victims of criminal conduct have prompt access to legal advice and counsel and to specialized services and protections such as those provided by child advocacy centers approved and accredited by the National Children's Alliance. 09M101D

**Child Witnesses.** Adopt Guidelines for the Fair Treatment of Child Witnesses in Cases Where Child Abuse Is Alleged. 7/85

**Civil and Criminal Forfeiture.** Urge the United States Department of Justice and state and local prosecutor agencies to promulgate guidelines to govern the use of civil or criminal forfeiture. Resolve that these internal

guidelines should contain provisions that require consideration of and protections for the interests of innocent third parties that may be affected directly or indirectly by forfeiture or asset-freezing orders. Urge implementation of a procedure for appropriate internal agency review of forfeiture charges and asset-freeze orders to ensure compliance with applicable guidelines, the appropriate use of forfeiture provisions, and the protection of innocent third-party interests. 2/91

**Commissions on the Drug Crisis.** Urge state and local bar associations to establish special committees to inform the bar on all aspects of the drug crisis; to study the impact, consequences and effectiveness of current drug policies on their areas' entire justice system; to participate in an examination and improvement of our nation's drug policies; and to facilitate the participation by their members in antidrug programs in their communities. 8/91

**Community Service Programs.** Urge establishment of policies in support of community service programs that (1) challenge teens and young adults to develop a sense of purpose and self-worth, (2) revitalize urban areas by fostering civic pride and volunteerism, and (3) join with coalitions to help prevent the erosion of families and communities through drug abuse and related crime and violence. Urge encouragement of participation in community service programs by bar members, law firms, and law schools. 8/93

**Community Supervision Programs.** Encourages jurisdictions, with prosecutors and others, to develop community supervision programs that allow all but the most serious offenders to avoid incarceration and a conviction record. 07M103A

**Comprehensive Crime Control Act.** Disapprove of the use of forfeiture provisions of the Comprehensive Crime Control Act of 1984 directed to attorneys actively representing defendants in such criminal cases. 7/85

**Consequences of Conviction.** Urges jurisdictions to assist defenders in advising their clients of collateral consequences of conviction, and to provide funds to public defender and legal aid offices to enable them to assist offenders in removing or neutralizing those collateral consequences. 07M103E

**Costs of Counsel in Criminal Cases.** Adopts the black letter ABA Guidelines on Contribution Fees for Costs of Counsel in Criminal Cases, dated August 2004, and urges compliance with these guidelines to ensure satisfactory procedural safeguards when accused persons are ordered to make a payment for representation furnished to them at government expense. 04A110

**Counsel in Death Cases.** Urge the U.S. Supreme Court to adopt a rule providing for appointment of counsel to pursue postconviction remedies in death penalty cases, and recommend that the Criminal Justice Act be amended to provide for adequate compensation to counsel in such cases. 2/79

Recommend adoption of Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases, subject to such exceptions as may be appropriate in the military, by entities providing counsel in death penalty cases. 2/89, revised 03M107

Urge implementation of certain measures in the litigation of death penalty cases, including the provision of competent and adequately compensated counsel, and commend to Congress sample legislation as a way to implement the recommendations. 2/90

**Crime Laboratories/Medical Examiner Offices.** Recommends the accreditation of crime laboratories and medical examiner offices, the certification of examiners, and the standardization and publication of lab procedures and urges adequate funding for crime labs and medical examiner offices for improving scientific and expert testimony in criminal cases. 04A111B

**Crime Victims.** Support legislation to compensate victims of federal crimes and authorize payment to states to

carry out the program. 8/67; 5/74

Support legislation to amend the Victims of Crime Act of 1984 (1) to recognize that victims of crimes committed under the Uniform Code of Military Justice are entitled to receive the benefits intended to compensate other victims under the Act; (2) to make compensation available to nonworking spouses and children who are victims under the Act; and (3) to expand the geographic applicability of the Act to include U.S. citizens and their family members who may be outside the United States and who may become victims of crimes committed under the Uniform Code of Military Justice. 2/93

Continue to support protection for victims' rights and adoption of further statutory measures to protect these rights, and urge federal, state and territorial legislatures considering measures to recognize victims' rights in the criminal justice system to do so consistent with 7 specified principles. Urge that, in considering provisions to protect crime victims' rights, consideration be given to certain Association policies. 8/97

Urge trial judges to encourage processes which inform and educate victims of crimes about programs, procedures and restitution, while observing the legal rights of criminal defendants and assuring impartiality to all who appear before them, including the use of videos, brochures and educational materials, presented to victims by law enforcement officials, at an early stage of the criminal proceeding. 98M104B

Recommend in cases where a state or territorial compensation board pays a victim for harm inflicted by a defendant and thereafter a court orders the defendant to pay restitution, that the compensation board should be notified of the order of restitution and should be a beneficiary of the order of restitution after the victim is made whole, to the extent that the board has compensated the victim. 98M104C

**Crimes of Violence.** Condemn crimes of violence including those based on bias or prejudice against the victim's race, religion, sexual orientation or minority status, and urge vigorous efforts by federal, state and local officials to prosecute the perpetrators and to focus public attention on the problem. 8/87

**Criminal Code.** Support rectification of all federal criminal laws and favor numerous specific amendments to and deletions from such code. 2/73; 8/73; 8/75

**Criminal History Records Act.** Provides fundamental law to govern criminal history records information, such as the responsibilities of the collecting agency, its rulemaking powers, what it collects and who may have access to the information once it is collected. 2/87

**Criminal Justice Act.** Urge Congress to increase, or to provide a mechanism for administratively increasing, the per-hour and maximum total of compensation authorized under the Criminal Justice Act of 1964 so that attorneys receive reasonable compensation in accordance with prevailing standards. 2/82

Urge Congress to fully fund the Criminal Justice Act with sufficient monies to increase the compensation for panel attorneys appointed under the CJA to represent indigent defendants to a flat rate of \$113.00 per hour, plus annual federal pay adjustments. 401BOG2.2

**Criminal Justice Information.** Support legislation to restrict unauthorized and harmful dissemination of criminal justice data identifiable to a person. 2/76

**Criminal Justice National Study.** Supports the enactment of legislation such as S. 714 (111<sup>th</sup> Congress) which would provide for a national study of the state of criminal justice in the United States to consider ways to reduce crime, lower incarceration rates, save taxpayer money, enhance the fairness and accuracy of criminal justice outcomes and increase public confidence in the administration of the criminal justice system. 09A111B

**Criminal Justice Planning Groups.** Urge members, state and local bar associations and affiliated groups to

become active participants in their state and local criminal justice planning groups, and to consider the ABA Standards for Criminal Justice, other ABA standards and codes, and the National Advisory Commission Standards and Goals in developing their own thorough comprehensive criminal justice planning. Encourage maximum citizen participation in criminal justice planning consistent with the ABA's traditional role of leadership in light of LEAA's expressed policy of encouraging lay participation. 2/75

**Cross-Racial Eyewitness Identification Jury Instruction.** Urges federal, state, local and territorial jurisdictions to (1) recognize that in particular cases cross-racial identification may increase the risk of erroneous conviction and (2) seek to assure that, in cases where the trial judge finds a sufficient risk of misidentification based on cross-racial factors, expert testimony that satisfies the applicable rules of evidence is admissible, adequate funding is available to enable both the government and indigent defendants to obtain such testimony, and trial judges have available model jury instructions that inform juries of all of the factors that may enhance or detract from the reliability of an eyewitness identification, one of which may be the cross-racial nature of the identification. 08A104D

**Death Penalty Cases.** Recommend that when attorneys are appointed to represent defendants in the trial of death penalty cases, two attorneys shall be appointed as trial counsel to represent the defendant, and the primary attorney shall have substantial trial experience which includes the trial of serious felony cases. 2/85

Support full utilization of certain provisions pertaining to representation in federal *habeas corpus* death penalty proceedings and acknowledge the efforts of the federal judges to implement them. Urge federal district and circuit courts to adopt and federal circuit judicial councils to approve (1) a plan for providing representation in federal *habeas corpus* death penalty proceedings in accordance with certain procedures, and (2) certain amendments to its Criminal Justice Act plan. Urge the federal courts to consult extensively with appropriate state criminal justice leaders in developing and carrying out such implementation plans. 2/88

Recommend adoption of Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases, subject to such exceptions as may be appropriate in the military, by entities providing counsel in death penalty cases. 2/89

Urge implementation of certain measures in the litigation of death penalty cases, including the provision of competent and adequately compensated counsel, and commend to Congress sample legislation as a way to implement the recommendations. 2/90

**Death Penalty Legislation and Native Americans.** Without taking a position on the enactment of general federal death penalty legislation, support in principle legislative measures, which would prevent or minimize any disproportionate effects of general federal death penalty legislation on Native Americans subject to federal jurisdiction. 8/91

**Death Sentence.** The Association has no position with regard to the death sentence, except in relation to juveniles (*see* Capital Punishment above). The Standards Relating to Sentencing Alternatives and Procedures do not deal with whether the death penalty should be an available sentencing alternative. 2/72

**Decriminalization of Noncommercial Sexual Conduct.** Urge the legislatures of the several states to repeal all laws that classify as criminal conduct any form of noncommercial sexual conduct between consenting adults in private, saving only those portions which protect minors or public decorum. 8/73

**Department of Justice Attorneys.** Urges the President and the Attorney General to assure that lawyers in the Department of Justice do not make decisions concerning investigations or proceedings based upon partisan political interests and do not perceive that they will be rewarded for, or punished for not, making a decision based upon partisan political interests. 10M102G

**Deportation/Removal of Non-Citizen Based Upon Conviction of a Crime.** Urges Congress to restore

authority to state and federal sentencing courts to waive a non-citizen's deportation or removal based upon a conviction of a crime, by making a "judicial recommendation against deportation" upon a finding at sentencing that removal is unwarranted in the particular case or, alternatively, to give such waiver authority to an administrative court or agency. Urges federal immigration authorities to avoid interpretations of the immigration laws that extend the reach of the "aggravated felony" mandatory deportation ground. Urges states, territories and the federal government to expand the use of the pardon power to provide relief to non-citizens otherwise subject to deportation or removal on grounds related to conviction, where the circumstances of the particular case warrant it. 06M300

**Disclosure Obligations Prior to Criminal Trial.** Urges federal, state, local and territorial courts to adopt a procedure whereby a criminal trial court shall conduct at a reasonable time prior to a criminal trial, involving felony or serious misdemeanor charges, a conference with the parties to ensure that they are fully aware of their respective disclosure obligations under applicable discovery rules, statutes, ethical standards and the federal and state constitutions and to offer the court's assistance in resolving disputes over disclosure obligations. 10M102D

Urges federal, state, territorial, tribal, and local courts (1) to adopt a procedure whereby a criminal trial court shall, at a reasonable time prior to a criminal trial, disseminate to the prosecution and defense a written checklist delineating in detail the general disclosure obligations of the prosecution under *Brady v. Maryland*, 373 U.S. 83 (1963), its progeny and applicable ethical standards, and (2) in implementing the above procedure to require a criminal trial court to create a standing committee of local prosecutors and criminal defense attorneys to assist the court in formulating and updating the written checklist delineating in detail the prosecution's general disclosure obligations. Further, any omissions or deficiencies in the written checklist provided by the court should not relieve either the prosecutor or defense counsel of their legal and ethical responsibilities with respect to providing or seeking disclosures. 11M104A

**Domestic Violence Victims and Incarceration.** Recommends that victims of domestic violence be included in the group of individuals targeted by programs that encourage and train lawyers to assist persons in applying for pardon, restoration of legal rights and privileges, relief from other collateral sanctions and reduction of sentence. 07M102A

**Domestic Violence/Sexual Assault/Stalking-Protection Orders.** Adopts the black letter Standards of Practice for Lawyers Representing Victims of Domestic Violence, Sexual Assault and Stalking in Civil Protection Order Cases, including the preface, dated August 2007. 07A109

**Drug Offense Sentencing.** Endorse in principle the U.S. Sentencing Commission proposal transmitted to Congress to amend the federal sentencing guidelines and manual to eliminate current differences in sentences based upon drug quantity for offenses involving crack versus powder cocaine, and assign greater weight in drug offense sentencing to other factors that may be involved in the offense, such as weapons use, violence, or injury to another person. 8/95

**Drug Recognition Program.** Endorse and support the Drug Recognition Program initiated by the National Highway Safety Administration and the Bureau of Justice Assistance, provided that it is applied in a manner fully respecting the subject's constitutional rights. Encourage adoption and use of the Drug Recognition Program by the states and other jurisdictions. 2/90

**Economic Crimes.** Urges the U.S. Sentencing Commission to assess current federal policy regarding sentences for economic crimes and, based on that assessment, to reconsider its approach to ensure that the guidelines are proportional to offense severity by (1) reducing emphasis on monetary loss and combinations of multiple specific offense characteristics that, in combination, tend to overstate the seriousness of the offense, and (2) placing greater emphasis on factors such as *mens rea* and motive in relation to an offense, the defendant's role in the offense, whether the defendant received monetary gain, and the nature of the harm suffered by victims. 11M104C

**Elder Abuse.** Urges federal, state, local, tribal and territorial governments and their prosecutors to vigorously prosecute cases of elder abuse, neglect and financial exploitation by the creation of special elder abuse units within the prosecutor's office or by the designation of a specially trained prosecutor to handle elder abuse cases. 08M105A

**Electronic Monitoring/Home Detention.** Urges federal, state, local and territorial governments to use electronic monitoring and home detention at government expense for juvenile offenders who are legally subject to secure detention but whose risk of flight or further offending does not necessitate secure pre-trial detention or incarceration. 11M104D

**Electronically Monitored Home Confinement.** Approve principles for the use of electronically monitored home confinement as a criminal sanction. 8/88

**Employment of People with Convictions.** Urges state agencies and licensing boards to develop and enforce policy on the employment of people with convictions, including the contractors and vendors who do business with the state. 07M103C

**Enemy Combatants.** Urges that U.S. citizens and residents who are detained within the United States based on their designation as "enemy combatants" (1) be afforded the opportunity for meaningful judicial review of their status, and (2) not be denied access to counsel in connection with the opportunity for such review. Further, urges that Congress, in coordination with the Executive Branch, establish clear standards and procedures governing the designation and treatment of enemy combatants and consider how national policy set by the United States may affect the response of other nations to future acts of terrorism. 03M109

Consistent with the United States' Supreme Court's June 2008 decision in *Boumediene v. Bush*, urges that the procedural framework for pending habeas cases brought by detainees should be determined by the District Court rather than by Congress, consistent with Federal statutory habeas criminal law principles, where applicable, and the Uniform Code of Military Justice, appropriate to the facts and circumstances of that petitioners' case. 09M10A

**Evidence in Sexual Assault.** Oppose Rules 413, 414, and 415 of the Federal Rules of Evidence (concerning the admission of evidence in sexual assault and child molestation cases) as enacted by the Violent Crime Control and Law Enforcement Act of 1994. 2/95

**Exclusionary Rule.** Support retention in its current form of the exclusionary rule and oppose legislation that would restrict the application of the rule. 2/73

**Extradition.** Support the Uniform Extradition and Rendition Act promulgated in 1980 by NCCUSL. 2/81

Recommend that federal, state and domestic territorial authorities dealing with the rendition of individuals from foreign territories, by extradition or otherwise, shall fully respect international law. 2/93

**Extrinsic Evidence.** Urge amendment of Rule 404(b) of the Federal Rules of Evidence and similar state rules which govern the purposes for which extrinsic evidence of crimes, wrongs or acts may be admitted, with respect to (1) questions of preliminary fact regarding the admissibility of evidence of the extrinsic act; and (2) the existence of any preliminary fact required as a precondition to the admission of evidence of the extrinsic act. 2/89

**Eyewitness Testimony.** Adopts the statement of Best Practices for Promoting the Accuracy of Eyewitness Identification Procedures, dated August 2004, and recommends that police and prosecutors develop guidelines for improving the accuracy of lineups and photospreads. 0A111C

**FBI Director.** Support enactment of legislation providing for a definite term of office for the director of the FBI. 2/76

**FBI Jurisdiction.** Support legislation carefully defining the responsibilities of the FBI. 2/76

**Federal Asset Forfeiture Laws.** Urge that federal asset forfeiture laws be amended to comply with the Statement of Principles on the Revision of the Federal Asset Forfeiture Laws, dated November 11, 1995. 2/96

**Federal Financial Assistance.** Support legislation to provide federal financial assistance to states and localities to help their crime-fighting efforts. 2/79

**Federal Rules of Criminal Procedure.** Urge Congress to retain Rule 35(b) of the Federal Rules of Criminal Procedure to allow a criminal defendant to move and a federal judge to consider a possible reduction of a sentence. 2/87

Urge amendment of (1) Rule 16 with respect to furnishing of evidence which tends to exculpate the defendant of the crimes charged in the indictment or tends to mitigate the defendant's sentence; and (2) Rule 17 with respect to materials required to be produced. 2/92

Support amendment of the Federal Rules of Criminal Procedure to embody the principle that a summons should issue upon indictment, unless good cause is shown at an *ex parte* proceeding for the issuance of a warrant. 2/95

Opposes any amendment to the Federal Rules of Criminal Procedure that would eliminate the authority of federal district judges to enter final judgments of acquittal during trial and that would require the accused to waive his or her Fifth Amendment Double Jeopardy rights as a condition of seeking a judgment of acquittal during trial. 07M301

Urges that Rule 32 of the Federal Rules of Criminal Procedure be amended to require that information received by a probation officer from parties and non-parties be made available to ensure that both the government and the defense have an opportunity to review information to be considered by the sentencing court in determining the appropriate punishment. 08A104A

**Federal Rules of Evidence.** Encourages federal agencies to examine whether rules of evidence patterned after the Federal Rules of Evidence should be utilized in certain adjudications. Recommends that agencies consider the adoption of evidentiary regulations that clearly confer on presiding officers discretion to exclude unreliable or cumulative evidence and to use a weighted balancing test to the extent that agency regulations do not already so provide. 2/92

**Federal Witness Immunity Act.** Urge amendment of the Act to permit the court to compel a defense witness to testify over a claim of privilege against self-incrimination. 8/80

**Federalization of Crimes.** Oppose the trend toward greater federalization of state, local and territorial crime and urge Congress to take into account when considering the creation of new federal crimes certain principles derived from the 1998 Report of the Task Force on Federalization of Criminal Law. Urge Congress to respond effectively to constituent concerns about public safety by taking constructive steps that aid law enforcement, but not create new federal crimes which duplicate state crimes merely because the conduct at issue is deemed important. 99A113A

**Firearms and Children.** Support the enactment of legislation that (1) encourages the establishment of educational programs directed at public school children, their parents and juvenile services professionals on firearm safety for children, including the dangers of use of such weapons; (2) provide for stricter regulation of, and manufacturers' warnings on, BB guns and air rifles; and (3) provide criminal penalties for adults' failure to

properly safeguard firearms and ammunition they own or control, thereby placing minors at risk of death or injury. 8/91

**Firearms Industry Immunity.** Oppose federal, state or territorial legislation to create special legal immunity for the firearms industry from civil tort liability. 01A10B

**Forensic Science.** Urges state, local and territorial legislatures and regulatory bodies to refrain from requiring private investigator licenses for persons engaged in computer or digital forensic work, including expert testimony; and supporting the development of certification and competency requirements for such forensic activities. 08A301

Urges federal, state, local, tribal and territorial governments to provide sufficient funding and resources necessary to facilitate basic and applied scientific research to improve and/or further develop forensic science disciplines, especially where the scientific validation or the limits of specificity are unclear or in doubt. 10A100D

Urges the federal government to provide funding and resources sufficient to facilitate the examination of existing standards, accreditation and certification for government and private laboratories, examiners/analysts in government and private laboratories, and identified forensic science service providers who offer examination conclusions and/or interpretations of forensic laboratory results. 10A100E

Urges the federal government to provide the funds, resources and other support necessary to effectively integrate the forensic science community into the nation's system of homeland security. 10A100F

Urges federal, state, and territorial governments to provide funding and enact legislation necessary to support requiring that all offices charged with conducting medico-legal death investigations meet mandatory accreditation, certification or professional practice standards within a reasonable time frame. 10A100G (*See also: Crime Laboratories/Medical Examiner Offices.*)

Urges Congress to enact legislation and authorize and appropriate funds necessary to achieve nationwide interoperability of the Automated Fingerprint Identification System. 10A100H

Urges federal, state, local and territorial governments, legislative bodies and courts to provide the funds and other resources necessary to assure that in criminal cases an accused (1) is able to obtain testing or re-testing of evidence, when feasible, by qualified experts, and (2) is provided expert testimonial or other assistance when necessary to assure a fair trial or sentencing proceeding. 10A100I

**Forfeiture Provisions.** Disapprove the use of statutory forfeiture provisions in pretrial and other orders to prevent a defendant in a criminal case from paying counsel of choice or paying other expenses incident to presenting an effective defense absent reasonable grounds. 8/86

**Full Faith and Credit.** Support efforts to implement the “full faith and credit” mandate of the Violence Against Women Act of 1994 which directs states and territories to enforce civil and criminal protection orders issued by foreign states, territorial and tribal courts as if the orders had been issued by the enforcing court. Urge full funding of efforts to implement the full faith and credit mandate including (1) development of interstate and intrastate computer registries of protection orders; (2) trainings to educate community members who come in contact with victims and perpetrators of domestic violence about the mandate and the enforceability of protection orders issued by foreign states; and (3) development of protocols which would remove barriers to the enforcement of foreign protection orders and would prioritize victim safety. 8/96

Approves the Uniform Interstate Enforcement of Domestic-Violence Protection Orders Act, promulgated in 2000

and amended in 2002, as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The Act, as promulgated in 2000, addresses the interstate enforcement of protection orders arising in a domestic-violence or family-violence context. In 2002, the Act was substantively amended to also cover orders arising under an issuing state's anti-stalking laws. The Act as amended is designed to make implementation of the "full faith and credit" mandates of these orders more feasible. 03M113E

**Gambling.** Approve the model antigambling act drafted by the ABA Commission on Organized Crime and subsequently submitted to and approved by the National Conference of Commissioners on Uniform State Laws. Emphasis of the Act is an outright prohibition. The Act is designed to strike at the professional gambler with every enforcement device that has proved effective, to strike at the patron of the professional with lesser penalties and to insulate the social gambler from all embarrassment and interference. 8/52

**Government Appeal of Sentences.** Oppose in principle government appeal of sentences on grounds that they are too lenient; oppose inclusion of such a provision in pending legislation to recodify the Federal Criminal Code. 2/80

**Graduated Sanctions.** Urges jurisdictions to develop and implement meaningful graduated sanctions (including brief periods of community detention where appropriate) for violations of probation or parole. 07M103B

**Grand Jury.** Oppose constitutional amendment which would eliminate the requirement of an indictment in criminal cases and support legislation implementing 31 improvements in grand jury proceedings, including the right to counsel. 8/75; 8/77; 8/80; 2/81; 2/84

**Grand Jury Act.** Approve Model Grand Jury Reform Act of 1982. 2/82

**Guidelines for Fair Treatment of Crime Victims and Witnesses in the Criminal Justice System.** Adopted 8/83

**Guidelines Governing Restitution to Victims of Criminal Conduct.** Approved 8/88

**Gun Control.** Support legislation limiting the sale or possession of "Saturday night special" handguns, and favoring numerous other law changes in such areas as sentencing to effectuate strong federal gun control. 2/73; 8/75; 2/83

**Gun Violence.** Remind the public of the Association's long-standing opposition to uncontrolled use and sale of guns and its commitment to public safety. Issues the warning that guns have now become the most visible instrument of violence in what has become a culture of violence of which children and youth have become victims. Reaffirms Association policies adopted in 1965, 1973, 1975, 1983, 1991, and 1993 respecting regulation of firearms. Urge legislative bodies to vigorously pursue solutions to the problem of gun violence consistent with existing ABA policy. Instruct the Task Force on Gun Violence to report to the House of Delegates as to policy recommendations further addressing the problem of gun violence. 2/94

Call upon the ABA and all other concerned institutions to address the myriad of problems which contribute to the culture of violence in society, and develop a national agenda to address these problems. Urge leaders of the legal profession to join and work with counterparts in the medical, teaching, religious, civil, law enforcement and other professions to prevent and reduce gun violence, including certain specified efforts. support a national approach and a strengthened federal role to reduce gun violence through the regulation of the sale, transfer and possession of firearms, and support legislation to make four specified amendments to the Gun Control Act of 1968. Recognizing the singular role of handguns in the epidemic of gun violence in our society, support enactment of legislation to accomplish certain specified objectives. 8/94

Support the right of the victims of gun violence to seek private redress, and support legislation to amend the Gun

Control Act of 1968 to provide a private cause of action, with concurrent state and federal jurisdiction, for those persons sustaining injury or damage as a result of violation of the Act. Adopt and extend state and territorial laws to provide civil claims for relief for those persons sustaining injury or damage as a result of the violation of state, territorial or municipal laws regulating the use, sale, possession, license, ownership, or control of firearms and ammunition. 2/96

Support a comprehensive approach to address gun violence by young persons at schools that includes preventative school-based peer mediation programs, firearms education programs, support for increased efforts to enforce laws to prevent unauthorized or illegal access to firearms by minors, and enactment of firearm laws that emphasize prevention, adult responsibility, and safety. 98A10E

Urges federal, state, and territorial efforts to implement and enforce the nation's existing gun laws and specifically calls for more federal prosecutorial and investigative resources to be devoted to enforcement of existing laws dealing with illegal trafficking in firearms, corrupt dealer practices and illegal sales to minors and others. 04A115

Supports federal, state and territorial laws that would restrict the sale, distribution, transfer and possession of .50 caliber sniper weapons except to the United States military, and the National Guard and law enforcement agencies. Urges state and local bar associations, and all their respective members, to join with the ABA in the effort to pass such legislation. 05A10C

Supports the traditional property rights of private employers and other private property owners to exclude from the workplace and other private property, persons in possession of firearms or other weapons and opposing federal, state, territorial and local legislation that abrogates those rights. 07M107

Urges federal, state and territorial governments to enact laws requiring that all newly-manufactured semi-automatic pistols be fitted with microstamping technology which would ensure that when a firearm is fired, an alphanumeric and/or geometric code would be stamped on the cartridge casing by way of the firing pin, breech face or other internal surfaces of the firearm, that would enable law enforcement to identify the serial number of the pistol and hence the first known purchaser of a weapon used in a crime. 10A115

**Habeas Corpus.** Oppose legislation to (1) limit state prisoner access to the federal courts by means of petitions for writs of *habeas corpus*; (2) similarly limit federal petitioners; and (3) support specific procedures to expedite the processing of *habeas corpus* cases and to provide competent representation at all stages in the process. 8/82

**Homeless Court Programs.** Supports the development of a comprehensive, systemic approach to addressing the needs of homeless misdemeanor defendants through multidisciplinary strategies that include coordination among the criminal justice, health, social service and education systems, and the community. Urges state, local and territorial courts and bar associations to facilitate the development of homeless court programs as treatment-oriented diversionary proceedings that may result in the dismissal of misdemeanor offenses upon completion of shelter/service agency activities. 03M116

Adopts principles for Homeless Court Programs and approves the criteria for individual participation, recognizing that administration of the programs will differ depending on the particular needs, goals and challenges of a jurisdiction. 06A108A

**Identity Theft (Representation of Victims).** Urges national, federal, state, tribal, territorial and local bar associations, in cooperation with state and local pro bono, lawyer referral, and legal aid programs, to establish programs to assist or provide legal representation for victims of identity theft who need assistance in recovery from the crime. 08M102B

**Immigration Consequences of Criminal Proceedings.** Urges federal, state, territorial, tribal and local

governments to provide funding to state and federal public defender offices and legal aid programs specifically for the provision of immigration advice about the immigration consequences of criminal proceedings to indigent non-U.S. citizen defendants, and about any available relief from such consequences. 10A100C

**Immigration Consequences of Past Criminal Convictions.** Supports legislation, policies and practices that preserve the categorical approach used to determine the immigration consequences of past criminal convictions, under which the adjudicator relies on the criminal statute and the record of conviction rather than conducting a new factual inquiry into the basis for the conviction. 09A113

**Independent Counsel** (*See* also Special Prosecutor). Support creation of mechanism for appointment by attorney general or special court of temporary special prosecutor. 2/76

Support amendments to the special prosecutor provisions of the Ethics in Government Act to accomplish 11 specific goals. 8/82

Urge adoption of certain amendments to the Independent Counsel provisions of the Ethics in Government Act, including (1) allowing the Attorney General to decline cases involving technical, yet benign, violations of the law, subject to the review of an independent counsel; (2) allowing the Department of Justice the use of subpoenas *duces tecum* during the preliminary investigation; (3) increasing the time allowed for the initial review of allegations from 15 days to 30 days; (4) imposing certain initial pre-indictment tenure limitations and certain initial pre-indictment budgetary limitations on an independent counsel, subject to certain court authorized extensions of equal terms and/or amounts; and (5) expanding the eligibility for service on the Special Division of the Court and requiring the establishment of rules of procedure and avenues of appellate review relating to actions of the Special Division. 8/93

Oppose reauthorization of the Independent Counsel provisions of the Ethics in Government Act in any form. Should Congress determine that there is a need for reauthorization of the Act, recommend that the reauthorization adhere to appropriate safeguards in accordance with six principles. 99M116A

**Indigent Defense Programs.** Support congressional legislation mandating the inclusion of state and local indigent defense programs among those eligible for funding under the AntiDrug Abuse Act of 1988 and similar federal laws, and further mandating the inclusion of research, training and technical assistance programs for state and local indigent defense systems in the discretionary grant programs under the Bureau of Justice Assistance and similar agencies. Urge Congress to authorize and appropriate funding to assist state and local governments in implementing the constitutional obligation to provide effective assistance of counsel for indigent defendants in state and local proceedings. Urge state legislatures in those states where funding for indigent defense services is primarily provided at the local level to increase the level of state funding. 2/91

Urge adoption of minimum standards for the creation and operation of its indigent defense delivery systems based on four specified sets of guidelines/standards. Urge encouragement and support of the adoption of minimum standards for the creation and operation of indigent defense systems. Urge that substantial compliance with such minimum standards be required as a condition for receiving funds. 98A115

Adopts or reaffirms “the Ten Principles of a Public Defense Delivery System,” dated February 2002, (Principles) which constitute the fundamental criteria to be met for a public defense delivery system to deliver effective and efficient, high quality, ethical, conflict-free representation to accused persons who cannot afford to hire an attorney. Recommends that each jurisdiction use the Principles to assess promptly the needs of its public defense delivery system and clearly communicate those needs to policy makers. 02M107

Urges that the following steps be taken to fulfill the constitutional guarantee of effective assistance of counsel under the Sixth Amendment as prescribed in decisions of the United States Supreme Court: (1) Increased funding for indigent defense by state, territorial and local governments; (2) stronger oversight mechanisms; (3) substantial federal financial support to states and territories for the provision of indigent defense services; (4) remedies to

avoid work overload of defense counsel; (5) increased judicial scrutiny of ethical duties and lapses by prosecutors and defenders; (6) greater involvement of bar associations in monitoring criminal proceedings; and (7) involvement of community groups and individual citizens in improving the indigent defense system. 05A107

**Inhalant Abuse.** Urge bar associations to join the ABA in developing and encouraging initiatives aimed at preventing inhalant abuse. 8/95

**Insanity Defense.** Support a defense of nonresponsibility for crime focusing solely on whether a defendant, as a result of mental disease or defect, was unable to appreciate the wrongfulness of his or her conduct at the time of the offense charged. Support allocating the burden of proof in insanity cases according to the insanity test employed. Oppose the enactment of guilty but mentally ill statutes. 2/83

**Inspector General.** Support statute to perpetuate an office of professional responsibility, or inspector general, in the Department of Justice. 2/76

**Investigative Procedure.** Recommend to Congress the adoption of a code of investigative procedure, which embodies certain principles (appears at pages 125-32 of ABA Reports for 1954). 8/54

**IRS Jurisdiction.** Support legislation to restrict IRS activities by prohibiting intelligence gathering or investigations based on political or ideological considerations unrelated to administering tax laws. 2/76

**John R. Justice Prosecutors and Defenders Incentive Act.** Urges Congress to ensure that funding for the John R. Justice Prosecutors and Defenders Incentive Act (Section 951 of P.L. 110-315) is expanded beyond its original authorization of \$25 million to cover the actual national need. 10M102J

**Justice Kennedy Commission Recommendations.** Urges states, territories and the federal government to ensure that sentencing systems provide appropriate punishment without over reliance on incarceration as a criminal sanction and also urges Congress to take specific action with regard to existing federal sentencing laws and procedures. 04A121A

Urges states, territories and the federal government to strive to eliminate actual and perceived racial and ethnic bias in the criminal justice system and recommends the establishment of Criminal Justice Racial Task Forces to reduce or eliminate racial disparities at each stage of the criminal justice process. 04A121B

Urges states, territories and the federal government to establish: (1) standards and provide an accessible process by which prisoners may request a reduction of sentence in exceptional circumstances; and (2) standards governing applications for executive clemency and specify procedures an individual must follow in order to qualify for a grant of clemency and ensure that clemency procedures are reasonably accessible to all persons. 04A121C

Urges states, territories and the federal government to ensure that prisoners are effectively supervised in safe and secure environments and to implement policies and programs to prepare prisoners for release back into the community and to identify legal barriers for reentry of convicted persons. 04A121D

**Juvenile Courts.** Urge Office of Juvenile Justice and Delinquency Prevention of the U.S. Department of Justice to support the implementation of adequate defense and prosecution services in the nation's juvenile courts. 8/84

Urge state and local bar associations to support amendments to the statutory law and court rules in their states with respect to the right to counsel in juvenile court proceedings to bring them into compliance with the Institute of Judicial Administration/American Bar Association Standards Relating to Counsel for Private Parties. 2/87

**Juvenile Justice and Delinquency Prevention Act.** Supports the reauthorization of the Juvenile Justice and

Delinquency Prevention Act but urges that Congress conduct comprehensive public hearings to determine the effectiveness of the Act and to examine its future goals and objectives. Recommends that in the event Congress decides to reauthorize the Act, the reauthorization include several principles. 2/92

**Law Enforcement Activities by White House Personnel.** Support legislation to prohibit such activities. 2/76

**Logging of Contacts with Department of Justice.** Support legislation requiring Justice Department personnel to record all outside contacts. 2/76

**Mandatory Minimum Prison Sentences.** Oppose legislatively or administratively imposed mandatory minimum sentences or parole, including sentences for drug offenders. 2/74

**Marijuana.** Support federal legislation to remove federal prohibition against the treatment of patients with marijuana under the supervision of a physician and under controls adequate to prevent diversion or improper use. 2/84

**Mediation in Criminal Matters Prior to Actual Case Filing.** Urges federal, state, territorial and local governments to initiate, continue and expand the use of mediation as a means to resolve criminal matters, specifically at a time prior to actual case filing. 09M101B

**Medicaid Eligibility.** Urges federal, state, local and territorial governments to maintain the Medicaid eligibility of otherwise-eligible incarcerated persons and provide continuity of Medicaid eligibility to persons newly-released from custody. 07A122

**Mental or Emotional Illness in Criminal Justice System.** Urges Congress to enact legislation that would address the complex problem presented by the large number of adults with mental illness and juveniles with mental or emotional disorders who come into contact with the criminal and juvenile justice systems. Urges federal, state, local and territorial governments to: (1) increase funding for public mental health systems so that adults with mental illness and juveniles with mental or emotional disorders can obtain the support necessary to enable them to live independently in the community, and to avoid contact with the criminal and juvenile justice systems; and (2) improve their response to these adults and juveniles who come into contact with the criminal and juvenile justice systems by developing and promoting appropriate programs, policies and laws. 04M116

**Military Commission Trials.** Calls upon Congress and the Executive Branch to ensure that all defendants in any military commission trials that take place have the opportunity to receive the zealous and effective assistance of Civilian Defense Counsel. 03A301

**Miranda Rights.** Support the principle that persons subject to custodial interrogation by law enforcement authorities should be fully advised of their Miranda rights. 99A113D

Urges federal, state, territorial and local legislative bodies and governmental agencies to support the development of simplified *Miranda* warning language for use with juvenile arrestees. 10M102B

**Misdemeanor Provisions of Criminal Laws.** Urges federal, state, local and territorial governments to undertake a comprehensive review of the misdemeanor provisions of their criminal laws, and, where appropriate, to allow the imposition of civil fines or nonmonetary civil remedies instead of criminal penalties, including fines and incarceration. 10M102C

**Money Laundering.** Support enactment of federal legislation to assist federal law enforcement agencies in combatting money laundering in accordance with specified principles, and oppose certain provisions in proposed legislation dealing with money laundering. 2/86

Urge amendment of the Money Laundering Control Act to exempt monetary transactions involving the bona fide fees an attorney accepts for representing a client subject to criminal investigation or any proceeding arising therefrom. 2/87

Urges the United States government to seek to protect and uphold the attorney/client relationship, including the attorney/client privilege, in dealing with international money laundering. 02M101C

Supports the enactment of reasonable and balanced initiatives designed to protect and prevent domestic and international money laundering and terrorist financing. Recommends that any efforts to establish and implement international and United States policies to combat money laundering and terrorist financing should be consistent with principles regarding the independence of the bar, adherence to the highest standards of professional and lawful conduct, and the confidentiality of lawyer-client communications.

03M104

**Parallel and Concurrent Proceedings.** Urge appropriate committees of the Judicial Conference of the United States to address problems that may arise as a result of parallel and concurrent civil and criminal proceedings, including amendment of relevant federal procedural rules. 2/93

**Parents in Correctional Custody.** Urges federal, state, local and territorial governments to ensure that judicial, administrative, legislative and executive authorities expand, as appropriate in light of security and safety concerns, initiatives that facilitate contact and communication between parents in correctional custody and their children in the free community. 10M102E

**Peremptory Challenges.** Support equal numbers of peremptory challenges for the prosecution and defense in all criminal trials where there is one defendant. 2/86

**Postconviction Procedures.** Support the uniform act promulgated by NCCUSL in 1980. 2/81

**Post Conviction Relief.** Urges Congress to amend 28 U.S.C. §§ 2241(d) and 2255(f)(1) to provide equitable tolling of the one-year statute of limitations for filing for post-conviction relief when the prisoner who has an attorney has timely requested post-conviction counsel to file a §2254 petition or a §2255 motion. 11M104B

**Preindictment Review.** Support the long-standing system of centralized preindictment review and the prosecution of criminal tax cases by the Department of Justice Tax Division, and oppose the elimination or transfer of this function. 6/87

**Prisoner Litigation.** Urges jurisdictions to afford prisoners meaningful access to the courts and ensure that they are subject to procedures applicable to the general public when bringing lawsuits and urges Congress to repeal or amend specified provisions of the Prison Litigation Reform Act (PLRA). 07M102B

**Prosecutorial Misconduct or Error.** Urges trial and appellate courts, in criminal cases, when reviewing the conduct of prosecutors, to differentiate between "error" and "prosecutorial misconduct." 10A100B

**Prosecutors' Obligations.** Amends Rule 3.8 of the ABA Model Rules of Professional Conduct to identify prosecutors' obligations when they know of new evidence establishing a reasonable likelihood that a convicted defendant did not commit the offense of which he was convicted. 08M105B

**Punitive Damages.** Urge amendment of the Federal Rules of Civil Procedure with respect to pleading and discovery as they relate to punitive damages. 8/87

**Racial and Ethnic Profiling.** Urges federal, state, local and territorial governments to enact effective legislation, policies and procedures to ban law enforcement's use of racial or ethnic characteristics not justified by specific

and articulable facts suggesting that an individual may be engaged in criminal behavior. 08A104C

**Racketeer Influenced and Corrupt Organizations Act.** Support amendments to the RICO statute to reduce the possibility of misuse or abuse of the statute. 8/82

Urge Congress to limit statutorily the availability in civil cases of the Racketeer Influenced and Corrupt Organizations Act. 8/86

Support legislation to amend the RICO provisions of the Organized Crime Control Act to require a prior conviction of racketeering activity or a violation of section 1962 of the Act as a prerequisite to the filing of a private civil RICO action. 8/86

Support legislation to reform the Racketeer Influenced and Corrupt Organizations Act to delete the treble-damages provisions of civil RICO for actions covered by state or federal commodities laws. 4/88

Support enactment of federal legislation to amend the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§1961-1968, to make certain limitations on the availability of private civil RICO actions, with respect to Punitive Damages, Statute of Limitations, "Person" and "Enterprise" Amendments, "Conduct" Amendment, Investment-Use Injury, and Conspiracy. 8/93

**Rape Law Revision.** Support for redefinition of rape in terms of persons, amendment of rules of evidence to protect the victims' privacy and other reform measures. 2/75

**Records of Criminal History.** Urges jurisdictions to limit access to and use of criminal history records for non-law enforcement purposes that would balance the public's right to information against the government's interest in encouraging successful offender reentry and reintegration. 07M103D

**Reduction or Modification of Sentence.** Urges federal state, territorial and local governments to (1) evaluate their existing laws, as well as their practices and procedures, relating to the consideration of prisoner requests for reduction or modification of sentence based on extraordinary and compelling circumstances arising after sentencing, to ensure their timely and effective operation; (2) develop criteria for reducing or modifying a term of imprisonment in extraordinary and compelling circumstances, provided that a prisoner does not present a

substantial danger to the community. (Rehabilitation alone shall not be considered an extraordinary and compelling circumstance.); and (3) develop and implement procedures to assist prisoners who by reason of mental or physical disability are unable on their own to advocate for, or seek review of adverse decisions on, requests for sentence reduction. 03M103B

**Reimbursement of Costs.** Support reimbursement of costs, but not attorney fees, for nonconvicted criminal defendants. 8/76

**Retention of Counsel.** Support the principle that the act of contacting or retaining an attorney should not be admissible as evidence of consciousness of guilt. 2/94

**Rights of Witnesses.** Approve guidelines regarding rights of witnesses in congressional investigations. 8/88

**Sentencing Practices (Federal).** Urges Congress to take specified steps to assure that federal sentencing practices are effective, fair and just, and effectuate the goals of sentencing set forth in the Sentencing Reform Act. 05M301

**Special Prosecutor.** (*See* also Independent Counsel.) Support creation of mechanism for appointment by attorney general or special court of temporary special prosecutor. 2/76

Support amendments to the special prosecutor provisions of the Ethics in Government Act to accomplish 11 specific goals. 8/82

**Substance Abuse.** Recognizes that substance abuse is a serious problem in the workplace and endorses lawyers efforts to assist employers in the implementation of Drug-Free Workplace programs and policies, taking into account applicable laws and concerns outlined in the monograph Attorney's Guide to Drugs in the Workplace, dated May 1996. 98M116B

**Suggested Guidelines for Reducing Adverse Effects of Case Continuances and Delays on Crime Victims and Witnesses.** Adopted 2/86; amended 11/86

**Supreme Court Jurisdiction.** Oppose any legislation limiting criminal law jurisdiction of the U. S. Supreme Court. 5/68; 5/75

**Task Force on Crime.** Support "statement of proposal" portions of Task Force on Crime Report on gun control, delays in the appellate process, resources for criminal justice system, corrections, juvenile justice and the role of the legal profession. 2/83

**Training of Criminal Justice Professionals.** Urges governments to support professional associations and organizations in order to develop programs to train all criminal justice professionals in understanding, adopting and utilizing factors that promote the sound exercise of their discretion. 07M103F

**Unanimous Verdicts.** Oppose less-than-unanimous verdicts in federal criminal cases. 8/74

**Victim-Offender Mediation/Dialogue Programs.** Urge governments to incorporate publicly or privately operated victim-offender mediation/dialogue programs into their criminal justice processes, consistent with the "Victim-Offender Mediation/Dialogue Program Requirements," dated April 1994. Encourage governments to support continuing research regarding victim-offender mediation/dialogue programs and the dissemination of those research results. 8/94

**Videotaping or Audiotaping of Custodial Interrogations.** Urges all law enforcement agencies to videotape the entirety of custodial interrogations of crime suspects at police precincts, courthouses, detention centers, or other places where suspects are held for questioning, or, where videotaping is impractical, to audiotape the entirety of such custodial interrogations. Further urges legislatures and/or courts to enact laws or rules of procedure requiring videotaping of the entirety of custodial interrogations of crime suspects at police precincts, courthouses, detention centers, or other places where suspects are held for questioning, or, where videotaping is impractical, to require the audiotaping of such custodial interrogations, to provide necessary funding, and to provide appropriate remedies for non-compliance. 04M8A

**Violence Against Women Act and Similar Legislation.** Urges Congress to reauthorize and fully fund the Violence Against Women Act and similar legislation that promotes access to justice and safety for victims of domestic violence, dating violence, sexual assault, and stalking within the United States. 10M115

**Violent Crime Control Act.** Opposes certain provisions of the Biden Thurmond Violent Crime Control Act of 1991 or similar legislation which would give federal prosecutors concurrent jurisdiction with state prosecutors in virtually all crimes where a gun transported in interstate commerce was used in the commission of a homicide or other violent or drug-trafficking crime. 10/91

**Voir Dire.** Oppose FRCP amendments prohibiting *voir dire* by counsel; propose *voir dire* amendments to FRCP.

2/75; 8/76; 2/81

**Workplace Violence.** Urge employers to address workplace violence by adopting policies and practices to help them better prevent and manage on-site violence and threats. 98A110

**Wrongful Conviction.** Urges federal, state, local and territorial governments to establish and fund investigative procedures designed to ensure accuracy in criminal investigation and prevent wrongful conviction of the innocent, as well as training programs to ensure the procedures are carried out, and disciplinary procedures in cases where they are not. 04A111E

Adopts principles and standards to be used by prosecutors to reduce the risk of wrongly convicting the innocent and urges the government to fund prosecutors' offices adequately in order to perform these procedures while also urging that workload standards for prosecutors be established. 04A111F

Urges jurisdictions to enact statutes to adequately compensate individuals who have been convicted and incarcerated for crimes they did not commit and sets forth factors that should be considered in drafting such statutes. 05M108A

Urges federal, state, local and territorial governments to reduce the risk of convicting the innocent, while increasing the likelihood of convicting the guilty, by ensuring that no prosecution should occur based solely upon uncorroborated jailhouse informant testimony. 05M108B

Urges federal, state, local and territorial governments to reduce the risk of convicting the innocent by establishing standards for practice for defense counsel in serious non-capital criminal cases, using as a guide the requirements enumerated in the ABA Standards for Criminal Justice Providing Defense Services and in the ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases. 05M108C

Urges federal, state and territorial governments to identify and attempt to eliminate the causes of erroneous convictions and urges state and local bar associations to assist in the effort. 05A115A

**Youth in the Criminal Justice System.** Supports specialized facilities, programs and treatment for youth transferred to the criminal justice system, while recognizing the developmental differences between youth and adults and urges policymakers to take into account the unique needs of youth in the criminal justice system. 02M101D

Encourages state, local and territorial bar associations, judges, prosecutors, defenders and police to instill public confidence in the fairness of the justice system by making concerted efforts to ensure that the justice system provides fair and equal treatment for all youth. Urges these entities to address overrepresentation and disparate treatment of racial and ethnic minority youth in the justice system by adhering to certain principles. 03A101B

Urges federal, state, tribal, local and territorial governments to authorize and implement sentencing laws and rules of procedure that both protect public safety and give mitigating consideration to youthful offenders. 08M105C

Urges the federal government, states, territorial, and tribal governments to revise laws, court rules, policies, and prosecutorial practices related to "dual jurisdiction" youth (abused and neglected youth with juvenile "dependency" cases who are charged with acts of delinquency). 08M300

Urges Congress and state legislatures to re-examine and revise laws, policies and practices that require youth to register as sex offenders or be subject to community notification provisions otherwise imposed upon adult sex offenders, based upon a juvenile court adjudication. 09M101A

Urges federal, state, territorial and local governments to increase the opportunities of youth involved with the juvenile or criminal justice systems and to prevent the continuing discrimination against those who have been

involved with these systems in the past by limiting the collateral consequences of juvenile arrests, adjudications, and convictions. 10M102A

Urges federal, state, local and territorial governments to use electronic monitoring and home detention at government expense for juvenile offenders who are legally subject to secure detention but whose risk of flight or further offending does not necessitate secure pre-trial detention or incarceration. 11M104D

## CUSTOMS AND INTERNATIONAL TRADE

**Access to Confidential Information.** Support amendment of the International Trade Commission General Procedures for the Conduct of Investigations and of the Trade Agreements Act of 1979 to ensure that corporate counsel have the same right of access to confidential information under protective orders as do retained counsel. 8/82

**Competition Law in International Trade.** Urge actions by the Government of the United States in the application of competition law principles and policies in the international trade area: (1) elimination of private restraints that have the effect of excluding U.S. exports from access to foreign markets through the application of U.S. or foreign antitrust laws as appropriate, in accordance with four specified principles; and (2) focus of attention on market entry barriers that involve governmental action and that are frequently not reachable by application of competition law, and identification of whether there is a category of private restraints that do not violate the antitrust laws but significantly restrict access to foreign markets. 2/95

**Court of International Trade.** Recommend that (1) the nomination and appointment process for the selection of judges for the Court of International Trade reflect the specialized nature of the Court's substantive jurisdiction, the nationwide impact of the Court's decisions, and the status of the Court as an Article III Court; and (2) nominees should be selected without reference to geographic considerations, and in addition to other qualifications, should have experience with the international trade and customs laws administered by the Court. 2/87

**Dispute Settlement Procedures.** Support the further development of the dispute settlement procedures in international trade matters created under the Uruguay Round Agreements establishing the World Trade Organization (WTO). Endorse procedures to assure all parties the right to be represented by counsel of their selection, in all phases of the dispute settlement process, from the request for consultation to the implementation of panel and WTO Appellate Body decisions. Urge that, in the context of the scheduled 1998 review of the WTO's Dispute Settlement Understanding (DSU), the United States Government supports appropriate policies, rules and procedures to enable any party in a dispute subject to the DSU to seek, employ and use counsel of such party's selection for participation on behalf of such party at all phases of the proceedings. 98M118A

**Fast-Track Negotiating Authority.** Support the two-year extension, without limitation, of the fast-track negotiating authority of the President of the United States under Section 1103(b) of the Omnibus Trade and Competitiveness Act of 1988. 5/91

Support renewal of legislation providing for the fast track negotiating authority of the President of the United States, as introduced in the Trade Act of 1974 and later extended. 2/97

Support the conclusion without undue delay of the Uruguay Round with sound agreements that are essential to the future of the world trading system and to global economic prosperity. Urge support of the strengthening of existing GATT multilateral dispute resolution procedures, through the adoption of certain measures. Urge support of the establishment of an effective multilateral trade organization that would serve as the institutional framework for better implementation of the substantive rules resulting from the Uruguay Round. 8/93

**Government-to-Government Trade Agreements.** Supports the contribution that the negotiated liberalization of international trade in goods and services, through government-to-government trade agreements, makes to the spread of the Rule of Law, both at the state-to-state level and within participants' domestic legal systems. 08A108B

**Hazardous Chemicals and Pesticides in International Trade.** Supports prompt ratification and implementation by the United States of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade. 02M113A

**International Trade.** Urge the U.S. government to seek, during current multilateral trade negotiations in Geneva, reform of the procedures for resolving disputes between nations, incorporating specified principles. 2/78

**Receivables in International Trade.** Recommends that the United States sign and ratify the United Nations Convention on the Assignment of Receivables in International Trade. 02M113C

**Tariff Act.** Urge that the International Trade Commission expeditiously determine the extent to which the Government in the Sunshine Act permits the Members of the Commission to meet in a non-public manner prior to determination in matters assigned to the Commission under the Tariff Act of 1930, as amended. In the event the Commission is unable to resolve this issue in a satisfactory manner, support such initiatives as may be appropriate to clarify the Commission's ability to hold non-public meetings in such proceedings, whether by administrative or judicial interpretation of present law or by amendment of existing legislation. 2/93

Support the prompt amendment of Section 337 of the Tariff Act of 1930, as amended, to the extent that Section relates to investigations based on U.S. intellectual property rights in accordance with 6 specified principles. 8/93

**U.S. Trade Laws.** Urge Congress to provide adequate resources to enable U.S. trade agencies to: (1) implement fully the requirements of U.S. trade laws; (2) enforce vigorously the commitments made under international agreements to the United States by our trading partners to open their markets to our goods, services, investments and intellectual property; and (3) further a "rule based" world trading system through diligent negotiations and active participation in multilateral organizations. 99M100

## ELECTION LAW

**Administration of Elections.** Adopts *Election Administration Guidelines and Commentary*, dated August 2005, to supplant the *Ballot Integrity Standards Applying to Election Officials*, dated August 1989, and the *Election Administration Guidelines and Commentary*, dated August 2001, and recommends that all election officials ensure the integrity of the election process through the adoption, use and enforcement of these Guidelines. Urges federal, state, local and territorial governments to provide state and local election authorities with adequate funding in order to ensure the integrity and efficiency of the electoral process. 05A102; amended 08A119A; amended 09A116

**Balloting Statutes.** Adopts *Model Statutory Language on Provisional Balloting and Commentary*, dated August 2003, which provides specific guidance to states that must draft provisional balloting statutes according to the Help America Vote Act of 2002. 03A115; amended 09A116

**Campaign Financing.** Urges state legislatures to enact legislation concerning campaign financing which includes specific principles with respect to disclosure, contribution limitations and independent enforcement agencies. 8/92

Urge that any changes to the current campaign finance system must be framed in a constitutionally sound

manner, and the need for government regulation must be balanced against First Amendment protections of political speech. Urge that efforts must be taken to ensure that there is full disclosure of money spent in federal elections, the perception of corruption is reduced, and there is a full opportunity for voters to hear the views of candidates. Support seven specified principles regarding federal campaign finance legislation. 98A113

Urge adoption of campaign finance reform legislation that strives to achieve the following goals: (1) ensure full disclosure of all money raised in election campaigns; (2) promote full participation by all Americans in the electoral process; (3) establish realistic limits on hard money campaign contributions to eliminate corruption; (4) provide adequate enforcement resources and authority and organizational structure to campaign regulatory agencies; (5) and adopt existing ABA policy opposing the solicitation and use of soft money contributions. 00A10A

**Continuity in Government.** Urges Congress, the states and territories to enact special election procedures for filling vacancies in the United States House of Representatives in the event of a catastrophe. Urges Congress to consider and study whether additional measures, including but not limited to a constitutional amendment, may be necessary to ensure continuity of Congressional operations in the event of a catastrophe. 04A118

**District of Columbia Voting Rights.** Support the principle that citizens of the District of Columbia shall no longer be denied the fundamental right belonging to other American citizens to vote for voting members of the Congress, which governs them. 99A115

**Districting.** Support fair redistricting of congressional, legislative and local government districts with full citizen participation, and recommend that state and local governments adopt procedures for redistricting which accomplish seven specific objectives. 2/91

Urges each state, territory and the District of Columbia to assign the redistricting process for congressional and legislative districts to an independent commission, leaving to each state, territory and the District of Columbia the precise manner of configuring such commission and the specific redistricting criteria to be applied. 08M102A

**Federal Campaign Financing.** Support legislation for federal campaign financing that includes principles concerning contribution and expenditure limits and standards for providing matching federal funds for presidential and congressional candidates. 8/75

**Federal Election Commission.** Urge consideration of certain recommendations regarding the structure and administration of the Federal Election Commission (FEC) as a necessary part of any new legislation affecting the regulation of federal campaign finances, including disclosure, structure of the FEC, biennial budget authorization, enforcement authority, adequacy of audit program and general funding levels. 2/95

**Initiatives and Referenda, Guidelines for.** Support adoption of guidelines (1) to improve public comprehension of the issues raised by Initiatives and Referenda on the ballots in those states which allow Initiatives and Referenda; and (2) to provide a fair opportunity to present or to challenge proposed Initiatives or Referenda. Endorse Model Guidelines for Initiatives and Referenda, dated August 1993, as amended, as suggested examples of such guidelines for jurisdictions allowing Initiatives or Referenda. 8/93

**Internet, Election and Campaign Activity on.** Urge review of election laws as they relate to election and campaign activity on the Internet and application of those laws in a manner that does not discourage political activity through this medium, upholds First Amendment guarantees of free speech and association, and seeks to eliminate opportunities for unfairness, corruption or undue influence through the use of this medium. Urge appropriate steps to encourage and facilitate the use of the Internet by all segments of society in order to promote widespread, fair and equitable citizen participation in the political process. Urge five specified actions to promote the availability and reliability of political information and discourse on the Internet. 00A107

**National Voter Registration Act.** Oppose legislation that would repeal the National Voter Registration Act and support certain specified efforts as a means of increasing the number of persons registered to vote and the number of registered voters actually voting in federal, state, territorial and local elections. Support governmental procedures to prevent fraud in the voter registration process as set forth in the Ballot Integrity Standards Applying to Election Officials. 99A104

**Poll Workers.** Urges law firms and other legal employers to allow time spent by lawyers as official poll workers (not poll watchers) to qualify as community service or voluntary public service hours and for non-lawyer staff to be allowed paid leave to serve as official poll workers. 08A119B

**Political Campaign Contributions/Pay to Play.** Condemn conduct of lawyers making political campaign contribution to public officials in return for being considered eligible to perform professional services. Recommend enforcement of existing Rules of Professional Conduct to prohibit such conduct. Condemn conduct of public officials considering as eligible for engagement by public agencies only those lawyers who make political campaign contributions. Call for enactment or adoption and enforcement of laws, rules and regulations to discourage such conduct. 8/97

Oppose the solicitation and use in Presidential and Congressional election campaigns of contributions of “soft money,” i.e. contributions to political party committees in unlimited amounts by corporations, labor organizations, and individuals. Support efforts in Congress, and before the Federal Election Commission, to prohibit such contributions. 98A10D

Urge four specified actions to address any conduct by lawyers making or soliciting campaign contributions to public officials for the purpose of being considered or retained for government legal engagements. Urge, where local circumstances warrant, that a rule be considered for adoption that would limit or prevent a lawyer from accepting a legal engagement to perform professional services after making or soliciting a political contribution to a public official for the purpose of being retained, or being considered eligible for retention, by public agencies if the official is involved in selecting the lawyer to be retained. 98A301A

Oppose any diminution of the existing rights of legal permanent residents to make campaign contributions and expenditures to the same extent as U.S. citizens. 99M118

**Voter Registration By Mail.** Support legislation creating a federal administration of, and procedures and funding for, voter registration by mail for federal elections. 8/74

**Site Specific Zoning.** Recommends that in site specific zoning cases, administrative and judicial processes established by law should be followed and state and territorial legislature should not authorize, or if necessary, should prohibit initiative or referendum in such cases. Recommends that in states or territories which have the right of initiative and referendum, a proposal which is inconsistent with a community's land use plan should not be allowed on the ballot unless certain legislation is enacted. 2/92

**Twenty-fifth Amendment.** Support joint congressional hearings pursuant to Twenty-fifth Amendment procedures for filling vacancy in the office of Vice President. 8/74

**Voter Participation.** Urge the President of the United States to appoint a commission to study the decline in voter participation. Support the enactment of legislation that encourages voter participation, including fair congressional redistricting. Urge the state and local bars to aid the Association in improving voter participation. 2/79

Urge all lawyers to register and vote, and to encourage and assist employees of their offices or firms to participate in the election process by disseminating information about registration and voting in local, state and national elections, and providing necessary leave to register and vote. 8/89

Supports state and federal initiatives to modernize and improve voter registration practices, databases and networks and urges an independent technical and security assessment of statewide voter registration databases as well as supporting efforts to achieve ongoing improvements to such databases. 10A114

**Voting by Persons with Disabilities.** Urges federal, state, local and territorial governments to improve the administration of elections to facilitate voting by all individuals with disabilities, including people with cognitive impairments that increase in frequency with age. 07A121

**Voter Registration.** Support efforts to increase voter registration through state and local agencies that have direct contact with the public (e.g., licensing agencies). Encourage efforts that make the opportunity to vote easy and convenient. Support educational programs to teach all citizens, particularly youth, that voting is a responsibility as well as a privilege of citizenship. 8/90

**Voting Rights Act.** Supports the reauthorization of the Voting Rights Act of 1965 as amended through 1992. 05A108

Supports (1) extension of Sections 5 (pre-clearance), 203 (minority language assistance), and 6-9 (federal observers) of the Voting Rights Act of 1965, as amended, for 25 years; (2) restoration of the proper legal standard for Sections 2 and 5 (pre-clearance), the expansion of Section 203 in order to protect and assure the voting rights of all citizens; and (3) permission for the recovery of expert fees and expenses. 606BOG2.3

**Voting Rights for American Territories.** Supports the amendment to the United States Constitution to provide for participation of citizens in American territories to vote in national elections. 8/92

**Voting Rights for the Homeless.** Support efforts to insure the participation of homeless persons in the electoral process. Recommend that election laws, regulations and policies regarding residency determinations and the methods by which persons vote and by which voter registration is verified should not hinder or prevent registration and voting by homeless persons who are otherwise qualified to vote. Recommend and support legislation to assure that no voting qualification or prerequisite to voting, standard, practice, or procedure, shall be imposed or applied by any state or political subdivision to deny or abridge the right to vote of any citizen who resides at or in a nontraditional abode.

Encourage election officials to undertake active outreach efforts to inform homeless persons of voter registration and voting procedures. 8/93

**Year 2000 Presidential Election.** Support (1) review of the nature and causes of the problems experienced in the 2000 Presidential election in connection with the casting, counting and challenging of votes for a State's presidential electors; (2) appropriate statutory, administrative or constitutional changes designed to improve and simplify the presidential election process and ensure that it accurately reflects the will and intentions of the voters; and (3) fair and expeditious means for administrative and judicial review and resolution of potentially outcome-determinative disputes in the contests for presidential electors; and further, that appropriate ABA entities such as the Standing Committee on Election Law, the Sections of State and Local Government Law, Administrative Law and Regulatory Practice, and state, local, and territorial bar associations are urged to undertake these efforts. 01M104

**Year 2004 Presidential Election.** Urges state and local election authorities to give the highest priority to ensuring the fairness and reliability of the procedures prescribed for voting, and for the tabulation of votes, in the 2004 election of the President of the United States. 04A106

## ENERGY/PUBLIC UTILITIES

**Regulatory Conflicts.** Urge Congress to enact legislation enabling the federal courts to resolve by declaratory judgements controversies with respect to jurisdiction to regulate a public utility. 5/63; 5/73

## ENVIRONMENT/NATURAL RESOURCES

**CERCLA.** Urge Congress and the Environmental Protection Agency to recognize the necessity for clarification of the "security interest" exemption under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and recommend to Congress and the EPA six steps to achieve the clarification. 2/91

**Climate Change.** Urges the United States government to take a leadership role in addressing the issue of climate change through legal, policy, financial and educational mechanisms and to engage in active international discussions to address climate change. Urges Congress to enact and the President to sign appropriate climate change legislation. 08M109

**Comprehensive Environmental Response, Compensation and Liability Act.** Recommend amendment of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) based on certain principles concerning Allocation of Responsibility and Cleanup Procedures. 2/94

**Department of Energy and Natural Resources.** Support creation of a federal department of energy and natural resources. 8/72; 8/73

**Ecosystems.** Urges federal, state, territorial and tribal governments, when considering and approving legislation, regulations and policies, to preserve and enhance the benefits that people derive from ecosystems, with due regard for economic, human and social impacts. Urges the United States government to engage in active discussions and

to negotiate treaties or other agreements with the Canadian and Mexican governments to address cross-border ecosystem services issues in a coordinated and collaborative manner. 08M101

**Environmental Equality.** Support actions to achieve implementation and enforcement of environmental laws, regulations and policies so that a disproportionate share of the burden of environmental harm does not fall on minority and/or low-income individuals, communities or populations. Urge that certain appropriate steps be taken to give priority attention to this problem. Urge enactment of legislation, as appropriate, and other appropriate measures to redress and eliminate situations in which minority and/or low-income people have borne a disproportionate share of harm to the environment. Urge further documentation of the causes and consequences of the inequitable distribution of environmental burdens, and certain other actions to address these concerns. 8/93

**Environmental Management Systems.** Recommend (1) that federal, state, local and territorial legislative bodies, departments and agencies responsible for environmental protection adopt and implement legal and policy incentives designed to support and encourage businesses, governmental agencies, and other entities subject to environmental regulation to implement voluntary environmental management systems; and (2) encourage these entities to recognize and champion voluntary EMS as an increasingly important means of enhancing compliance assurance and environmental stewardship supplementing existing and future environmental control regulations and enforcement. 01A108

**Environmental Protection Agency.** Urges Congress and the Administration to elevate protection of the environment of the United States to its highest level by enacting legislation elevating the U.S. Environmental Protection Agency to cabinet level status. 03A109

**Fiduciary Liabilities.** Support, in connection with federal legislation relating to the liability of fiduciaries under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, exemptions for

fiduciaries from liability under CERCLA that encompass all fiduciaries and not just corporate fiduciaries. Urge Congress to clarify the bases, if any, for imposition of such liabilities on parties to a fiduciary relationship. 2/90

**Hazardous Chemicals and Pesticides in International Trade.** Supports prompt ratification and implementation by the United States of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade. 02M113A

**Hurricanes Katrina and Rita, Response to.** (1) Urges the federal government and state and local governments affected by Hurricanes Katrina and Rita to establish and appropriately fund flood control plans and redevelopment plans for the Gulf Coast region. (2) Urges federal and affected state and local governments to take all steps necessary to ensure that the civil and criminal justice systems in the affected states have the resources available to maintain the continuity of the rule of law. (3) Urges that appropriate entities work with state supreme courts to develop model emergency orders for these courts to enact that permit lawyers not admitted to practice in the state to provide pro bono legal services to disaster victims. (4) Urges Congress to investigate the response by federal and affected state and local governments to Hurricanes Katrina and Rita. (5) Urges state legislatures in the affected states to explore mitigation efforts for future natural disasters, including but not limited to the need for more stringent building codes and revised zoning laws to address problems in flood zones. (6) Supports the principle that emergency preparedness plans should take into account the needs of individuals with household pets or service animals. (7) Urges both federal and affected state governments to act to afford relief to individuals, businesses and property owners from legal deadlines that adversely affect them. (8) Urges Congress to reexamine all aspects of the federal flood insurance program to assure that those living in areas subject to hurricane and flood damage are aware of the risks inherent in living in such areas. 06M305

Urges Congress to create an independent, bipartisan commission to investigate and recommend the appropriate measures to rebuild the infrastructure of the Gulf Coast damaged by Hurricanes Katrina and Rita, to provide reasonable hurricane and flooding protection for the people living in disaster prone areas, and to recommend appropriate measures designed to prevent or mitigate problems in responding to natural disasters in the future. 07A116B

**Indian Water Right Claims.** Endorses the use of negotiation and settlement processes to resolve Indian reserved water rights claims provided the concerned Indian tribes elect to pursue such processes, as well as the availability of adequate technical resources as an important precondition for achieving successful settlements. Specifically urges Congress and the Administration to support these settlement processes by: (1) continuing to make the negotiation of these settlements a high priority of the U.S. Department of the Interior and the U.S. Department of Justice; (2) appointing and funding federal negotiating teams and requiring the teams to regularly elicit and incorporate the views of the Tribes involved and to bear a fair share of mediation costs and work; (3) providing

timely and adequate funding for the negotiation and implementation of these settlements; and (4) ensure that the resources necessary for the settlements do not compete with other Department of Interior funding priorities. 02A110

**Law Office Climate Challenge** Urges law firms and other law organizations to adopt the ABA-EPA Law Office Climate Challenge, which is designed to encourage law offices to take specific steps to conserve energy and resources, as well as reduce emissions of greenhouse gases (which cause global climate change) and other pollutants. 09M103

**Legal Reform.** Recommend distribution of the report of the Special Committee on Environmental Law entitled "Development and the Environment: Legal Reform to Facilitate Industrial Site Selection" to governmental agencies and legislative bodies for study and consideration. 8/74

**Model Rules of Procedure for Dispute Resolution.** Recommend that the Council of the Commission for

Environmental Cooperation consider the Model Rules of Procedure for Dispute Resolution under the North American Agreement on Environmental Cooperation dated February 1995, with a view to their adoption. 2/95

**Model Statute on Local Land Use Planning Procedures.** Adopts the *Model Statute on Local Land Use Planning Procedures*, dated August 2008, which addresses local land use procedures, incorporates the accumulated legal experience of the last eighty years and provides a uniform and fair method of treating land use applications and urges its enactment by states, territories and local legislative bodies. 08A111A

**Oceans/Marine Policy.** Urges the United States Government to improve the system of federal regulation of the United States' ocean and coastal resources to better protect the integrity of the nation's marine ecosystems and ensure ecologically sustainable use and development of the nation's marine resources. Urges Congress and the President to ensure coordination of the national oceans policy and of federal regulatory authority over the United States' ocean waters and resources by enacting an organic act for the National Oceanic and Atmospheric Administration (NOAA) or some other centralized federal oceans agency. Urges Congress to enact legislation requiring a federal entity - whether NOAA, some other centralized federal oceans agency, or the Committee on Ocean Policy in the Executive Office of the President - to coordinate all federal department and agency planning and ocean-related activities to ensure proper implementation of the national oceans policy. 05A101A

Urges Congress to ensure that the nation's living marine resources are not overexploited and that the coastal habitat and marine ecosystems that sustain those resources are protected and preserved for future generations by enacting legislation that would: (1) amend the Magnuson-Stevens Fishery Management and Conservation Act; (2) eliminate subsidies and legal procedures that encourage over-fishing; (3) fund programs to promote and establish statutory goals to improve knowledge of living marine resources necessary to ensuring their sustainable management and use; and (4) create a statutory, scientifically supported national system of marine protected areas, including marine wilderness areas and international marine protected areas. 05A101B

Urges the United States Government to continue and enhance efforts to play a leadership role in the development and implementation of international initiatives to protect the world's marine ecosystems and ensure the ecologically sustainable use and development of the world's marine resources, emphasizing good stewardship, ecosystem-based management, preservation of biodiversity, use of best available science, and international responsibility, including by: (1) ratifying certain United Nations Conventions; (2) encouraging other countries to ratify certain international Agreements; (3) reviewing and updating regional and bilateral fishery agreements to which the United States is a party, and amending and initiating, as appropriate, international agreements to address

critical concerns not yet adequately addressed; (4) ensuring trade and oceans-related objectives, agreements, policies and practices are mutually supportive; and (5) increasing United States funding and technical assistance to build scientific and management capacity in developing nations. 05A101C

**Persistent Organic Pollutants.** Supports prompt ratification and implementation by the United States of the Stockholm Convention on Persistent Organic Pollutants. 02M113B

**Private U.S. Investment in Foreign Minerals.** Support U.S. governmental action to assure that foreign governments agree not to expropriate mineral deposits owned by U.S. concerns. 8/73

**Public Lands.** Approve resolutions concerning the report of the Public Land Law Review Commission, with recommendations dealing with the management, administration and environmental quality aspects of public lands. 7/71

**Public Participation in Environmental Laws.** Resolve that the public participation provisions of environmental laws and international environmental agreements and treaties should recognize and express the principle that the public and all affected interests should be provided meaningful and effective involvement and should be expected to participate in consensus building efforts to ensure that government decision making

regarding the administration, regulation and enforcement of environmental laws is open, fair, efficient and credible. Further resolve that the provisions also include express authority to allow government agencies to choose innovative public participation, stakeholder-involvement and shared decision-making models which involve all affective stakeholders. Encourage further use of the Administrative Dispute Resolution Act and the Negotiated Rulemaking Act for making environmental decisions; and reauthorization of the acts on a permanent basis with certain specified clarifications; and that the framework established under the Acts provide the means by which interested parties can reach agreement on the appropriate issues. 2/95

**Regulation of Environmental Litigation Matters.** Resolve that (1) governments, when regulating environmental matters, should take account of all appropriate scientific knowledge; (2) in environmental litigation and other forms of dispute resolution, efficiency and justice are aided by the availability and utilization of the latest and most reliable scientific knowledge; (3) in matters of international commerce and environmental regulation, treaties and other agreements should be based upon all appropriate scientific knowledge and if it exists, consensus among scientists; and (4) the Executive Branch and Congress should develop and implement through administrative and legislative means, as appropriate, all necessary measures to provide for the ongoing assessment of the state of scientific environmental knowledge. 8/95

**Rule of Law and Global Environmental Issues.** Urges governments, businesses, nongovernmental organizations and other organizations to consider and integrate Rule of Law initiatives with global environmental issues. 07A110A

**State Brownfields Programs.** Recommend that Congress promote the economic use of properties affected by environmental contamination, and reduce unnecessary litigation, by enacting legislation providing that upon the affected property's entry into and compliance with a State brownfields program, there should be no additional liability to the federal government or any other person under the Comprehensive Environmental Response, Compensation and Liability Act, as amended, provided certain conditions are met. Recommend that legislation authorize State brownfields programs to take advantage of alternative state approaches to land use, institutional controls and zoning regulations that facilitate property reuse. 99A121

**Sustainable Development.** Urge each nation to (1) adopt and implement appropriate measures to ensure that activities within its jurisdiction or control will be conducted with respect for nature, and in a manner that accounts for the interests of present and future generations; (2) develop and foster policies and long-term strategic plans for sustainable development, encouraging the betterment of human life through conservation and efficient use of natural resources; and (3) cooperate with other nations and with international organizations in developing regional and worldwide arrangements to preserve and protect the environment and to mitigate the effects of environmental damage. 8/91

Recognizes the role of sustainable development in promoting the ABA's commitment to good governance and the rule of law. Adopts the internationally accepted definition of sustainable development. Encourages governments, businesses and other entities to promote sustainable development as well as to adopt and implement legal and policy incentives to support and encourage sustainable development. Urges the U.S. government to meet, and to help other countries to meet, agreed-on targets and timetables contained within the Plan of Implementation adopted at the 2002 World Summit on Sustainable Development. Resolves that the ABA enter into appropriate partnerships to help foster sustainable development and that the ABA consider and promote sustainable development principles in its work and encourage communication and cooperation in these endeavors. Urges bar associations to adopt similar resolutions. 03A108

**Toxic Substances Control Act.** Urges Congress to enact legislation to reform the Toxic Substances Control Act that will reflect developments in the state of science as well as regulatory developments world-wide, enhance the U.S. Environmental Protection Agency's ability to ensure the safety of chemical substances in commerce while retaining the country's competitiveness in the international marketplace for chemical substances and products produced using chemicals. 11M118

## FAMILY LAW/CHILDREN

**Adoption (International).** Supports international adoption as an integral part of a comprehensive child welfare strategy to address the worldwide problem of children without permanent homes and supports policies that make the process of international adoption more timely, less costly and less burdensome, while ensuring that international adoption practices are ethical and legal. 08A102

**Adoption of Juveniles.** Urge the United States Congress to enact legislation providing incentives to encourage individuals throughout the country to adopt juveniles, including 7 specified incentives. 2/93

**Adult Guardianship.** Recommends that state, territorial and local policy-making bodies implement principles derived from the 2001 Wingspan Conference that resulted in recommendations on: (1) broad-based overarching adult guardianship issues; (2) guardianship diversion and mediation; (3) procedural due process; (4) fiduciary issues; (5) monitoring and accountability; and (6) agency guardianship. 02A108B

Encourages the federal government to provide funding and support for training, research, exchange of information on practices, consistent collection of data, and development of state, local and territorial standards regarding adult guardianship. 09M111A

**Arrest and Conviction-Effect on Custodial and Parental Rights.** Urges bar associations and law schools to consider and expand, as appropriate, initiatives to assist criminal defendants and prisoners in avoiding undue consequences of arrest and conviction on their custodial and parental rights and urges Congress to eliminate restrictions that prohibit recipients of Legal Services Corporation funds from providing legal assistance to prisoners on family law issues. 10M102F

**Bullying.** Urges federal, state, territorial and local officials to prevent and remediate the existence and dangers of bullying, including cyberbullying and youth-to-youth sexual and physical harassment, by defining these acts and developing education programs to assist teachers, parents, and children in identifying victims and enhancing appropriate interventions, analyzing existing laws and policies designed to prevent and respond to these acts and adopting and/or revising them as appropriate, monitoring the effectiveness of measures to prevent these acts and fostering interventions successfully implemented to reduce and respond to them. Further, the application of bullying, cyberbullying, and related laws and policies should not be used to compromise the protected First Amendment free speech rights of students. 11M107A

**Child Abuse.** Encourage support for and implementation of "Resource Guidelines: Improving the Child Abuse and Neglect Court Process" published by the National Council of Juvenile and Family Court Judges, dated August 1995. 8/95

Adopt Standards of Practice for Representing a Child in Abuse and Neglect Cases, including preface and commentary, dated November 1995. 2/96

Encourage state, local and territorial governing bodies and court systems, in conjunction with bar associations, to support and assist in the organization and implementation of waiting rooms for children in every appropriate courthouse. 8/96

Adopts the black letter Principles and Standards of the *Judicial Excellence in Child Abuse and Neglect Proceedings: Principles and Standards for Court Organization, Judicial Selection and Assignment, Judicial Administration and Judicial Education*, dated August 2010, to improve, at the state and local levels, the quality of judicial practice, and court processes, related to civil child abuse and neglect cases. 10A102

**Child Abuse Prevention and Treatment Act.** Support increased efforts to identify, prevent and treat child abuse and neglect and urge Congress to support extension of the Act. 8/80

Reaffirm policy supporting increased efforts that prevent, identify and treat child abuse and neglect through the federal Child Abuse Prevention and Treatment Act, and federal Adoption Assistance and Child Welfare Act, with improvements adopted by the House of Delegates. Reaffirm commitment to legal system reform to help assure safe and permanent homes for abused, neglected, and abandoned children. Support enactment of legislation to study and address barriers to permanency, including adoption, for abused, neglected, and abandoned children. 2/97

**Child Care Resources.** Support enactment of legislation to provide creative mechanisms for extending the availability and affordability of quality childcare. 8/83

**Child Care Resources for Children of Deployed Parents.** Urges federal, territorial, state and local lawmakers to respond to the increasing social and family support needs of the young and teenage children of deployed American military members by: (1) enacting laws entitling designated caregivers of children and families of deployed American service members to use employment leave time or sick time that such employees have already earned or accrued, to provide direct care and support to those children and families; and (2) ensuring that all state public school residency laws permit, and make clear that, children of deployed parents who are living with temporary non-parental caretakers, such as grandparents, other relatives or family friends, may attend their local public school tuition-free, or such children may attend their pre-deployment public school tuition-free even when required to move outside that school district to reside with a temporary caretaker. 07M108B

**Child Custody-Federal-Question Jurisdiction.** Opposes the enactment of federal legislation that would create a federal-question jurisdiction in child custody cases, including cases involving servicemember-parents and urging states to enact legislation prohibiting denial of child custody to a servicemember based solely on absence due to military deployment. 09M106

**Child Custody and Sexual Orientation.** Support enactment of legislation and the implementation of public policy providing that child custody and visitation shall not be denied or restricted on the basis of sexual orientation. 8/95

**Child Snatching/International.** Urge approval and ratification of the Convention on Civil Aspects of International Child Abduction as proposed by the Hague Conference on Private International Law. 2/81

**Child Support Orders.** Support efforts to ensure adequate and fair child support awards and to improve the enforcement of child support orders in accordance with nine recommended procedures. 2/87

Endorse the recommendations of the U.S. Commission on Interstate Child Support to improve the interstate establishment and enforcement of child support orders. Oppose the federalization of child support establishment, modification or enforcement; supports strengthening establishment, modification and enforcement remedies through reform of the present state-based system; and urge Congress to pass legislation and to give priority to 11 recommendations of the Interstate Commission. 2/93

**Child Welfare Agency, Standards of Practice for Lawyers Representing.** Adopts Standards of Practice for Lawyers Representing Child Welfare Agencies, dated August 2004, which focus on improving representation of the child welfare system in abuse and neglect cases so that children and families are better served by the legal system. 04A105

**Child Welfare Financing Laws.** Urges federal, state, tribal, local and territorial governments to enact child welfare financing laws and/or implement policies to reform the current child welfare financing structure to end

the current fiscal incentives to place children in foster care. 10M110

**Child Welfare System.** Urges Congress to change laws to broaden federal review of the disproportionate representation of racial and ethnic minority children in the child welfare system and require and fund states to track, report, analyze and take and report on corrective action. 08A107

**Children in Foster Care.** Support amendments to the federal Adoption Assistance and Child Welfare Act of 1980 that would strengthen the role of the legal system in planning for children in foster care and ensure better and more consistent services for children in accordance with eight specified provisions. 8/88

Urge Congress to amend Part E of Title IV of the Social Security Act to provide direct access for foster care and adoption services for Indian children under tribal court jurisdiction. 01A105C

**Children's Issues.** Urge legal profession to direct attention to issues affecting children including the preservation of children's legal rights; the needs of children who have no effective voice of their own in government; establishment of character, citizenship, parenting skills and child safety programs in public education; implementation of statutory and programmatic resources to meet the health and welfare needs of children; missing and molested children; and establishment of *guardian ad litem* programs. 2/84

**Civic Learning.** Urges amendment of the No Child Left Behind Act, if reauthorized, or the adoption of other legislation, to ensure that (1) all students experience high quality civic learning, including study of the law, government and history; (2) civic learning is regularly and appropriately assessed; and (3) civic learning is accorded national educational priority on a par with reading and mathematics. 07A114

Encourages all lawyers to consider it part of their fundamental responsibility to ensure that all students experience high quality civic learning, including the study of law, government and history. 10A110

Urges federal, state, territorial, and local governments to require civic education for elementary, middle, and secondary students in the nation's public schools and to provide competitive grant funding for programs to meet this requirement. 11M300

**Civil Marriage.** To preserve the authority of the states and territories to regulate marriage under our federal system, opposes any federal enactment that would restrict the ability of a state or territory to: (1) prescribe the

qualifications for civil marriage between two persons within its jurisdiction; and (2) determine when effect should be given to a civil marriage validly contracted between two persons under the laws of another jurisdiction. 04103D

Urges state, territorial and tribal governments to eliminate all of their legal barriers to civil marriage between two persons of the same sex who are otherwise eligible to marry. 10A111

**Cloning.** Supports law and public policy, both national and international, that oppose or prohibit reproductive cloning. Notwithstanding the above, recognizes that attempts at reproductive cloning may have been made, are currently being made, or may be made in the near future, either in the United States or elsewhere in the world, and therefore, supports national law and public policy that: (1) establish a presumption that a live birth resulting from such attempts is a human being; (2) guarantee that any such human being is a person, legally separate and distinct from its biological progenitor, with all rights accorded to any other live born human being under existing law; and (3) establishes legal parentage, including the legal rights and obligations that flow therefrom, of such person. 04A109

**Community Service Programs.** Urge establishment of policies in support of community service programs that

(1) challenge teens and young adults to develop a sense of purpose and self-worth; (2) revitalize urban areas by fostering civic pride and volunteerism; and (3) join with coalitions to help prevent the erosion of families and communities through drug abuse and related crime and violence. Urge encouragement of participation in community service programs by bar members, law firms, and law schools. 8/93

**Corporal Punishment.** Oppose the use of corporal punishment in institutions where children are cared for or educated, with certain specified qualifications, and urge that state laws that permit such corporal punishment be amended accordingly. 7/85

**Court-Appointed Special Advocates.** Endorse the concept of utilizing carefully selected, well-trained lay volunteers, Court-Appointed Special Advocates, in addition to providing attorney representation independency proceedings to assist the court in determining what is in the best interests of abused and neglected children. Encourage ABA members to support the development of CASA programs in their communities. 8/89

**Crime Victims Compensation.** Urges federal, state, territorial, and local governments to enact legislation, promulgate regulations or take other necessary action to ensure that an unmarried surviving partner who shares a mutual, interdependent, committed relationship with a victim of terrorism or other crime can qualify for crime victim compensation and assistance funds provided by that government to eligible spouses. Further recommends that eligibility for such funds should be determined without reference to intestate succession laws and should not affect the operation of such laws. 02A117A

**Custody Case Standards of Practice.** Adopts *Standards of Practice for Lawyers Representing Children in Custody Cases*, dated August 2003. The Standards distinguish two distinct types of lawyers for children (The Child's Attorney, who provides independent legal representation in a traditional attorney-client relationship, and The Best Interests Attorney, who independently advocates for the child's best interest as an attorney) and seek to keep the best interests of the child at the center of courts' attention. 03A116B

**Denial of Insurance Benefits.** Urge enactment of legislation to provide that no person or entity could deny insurance benefits solely on the basis of the applicant's status as a victim of domestic violence. 2/95

**Denial of Public Benefits.** Oppose any legislation, rule or regulation that denies the public benefits or the incremental increase in public benefits to which a family otherwise would be entitled upon the birth of a child, based on the family's receipt of public assistance at the time of the child's conception or birth, or the mother's age or marital status at the time of the child's birth, or the fact that the child's paternity has not been established. 2/95

**Dispute Resolution Curricula.** Recommend and encourage school boards and school administrators to incorporate into their elementary through high schools, (1) curricula on dispute resolution for all students and (2) school-based peer mediation programs. 2/95

**Domestic Violence.** Support federal, state and local efforts to combat family violence, and recommend the adoption of certain procedures by the police, prosecution and the courts to make the criminal justice system more responsive to the problem. 2/78; 8/78

Urge support of efforts to pass legislation and secure funding for the development of multidisciplinary, community-based programs to respond to the current epidemic of domestic violence. Recommend that any government or private entity developing multidisciplinary programs in response to domestic violence ensure that such programs contain 7 specified essential elements, including (1) participation by various professionals having services to offer victims of domestic violence; (2) coordinated information-sharing among appropriate offices to ensure that all aspects of the justice system are adequately informed about each other's action in domestic violence cases; (3) multidisciplinary public education programs about domestic violence; (4) multidisciplinary domestic violence prevention and intervention through employee assistance programs; (5) enhanced legal representation for victims of domestic violence and their children and expanded attorney training; (6) data collection; and (7) policies, procedures and practices which place primary emphasis on the safety of the victim

and the victim's children. 8/95

Support educational programs designed to inform and train judges about the civil, criminal, psychological, evidentiary and procedural issues relating to domestic violence. Strongly believe that such education and training is essential to ensure the proper disposition of cases in which domestic violence issues may arise, including six specified types of cases. Resolve that such programs include information about community resources and programs which would facilitate assistance to victims and their children. Urge governmental and agency funding of such training programs. 2/96

Encourage courts to ensure that counseling, treatment, advocacy and other assistance are made available to child victims of abuse and domestic violence through all available means including the imposition of fines, restitution and court orders. Encourage courts, in appropriate circumstances, to require the perpetrators of child abuse and domestic violence to undergo counseling and other treatment. In those jurisdictions where courts do not presently have adequate authority to implement the recommendations, encourage the enactment of enabling legislation. 8/96

Condemn the manifestation by lawyers or judges by words or conduct of acts which would either constitute domestic violence or approval, in the course of their professional activities, of the use of domestic violence, stalking, or sexual assault under the laws of their jurisdictions. Urge judges and lawyers to adopt workplace protocols, guidelines, and policies to assist employees who are victims of domestic violence and to protect the safety of employees who may come in contact with batterers during the course of business. Encourage affirmative steps to educate judges and lawyers about the nature and effects of domestic violence. 8/96

Urge governments and entities to make the establishment of programs addressing domestic violence a priority. Urge that such responses to domestic violence make victim safety a primary concern, and that such programs be developed publicly and with input from all entities and agencies having experience in handling issues of domestic violence. Urge adoption of eleven specific standards by the federal government, Congress, state legislatures, governments and private domestic violence programs. 2/97

Encourage (1) governments to enact legislation requiring courts to consider the safety risks to victims of domestic violence and their children when drafting orders containing visitation and visitation exchange provisions; (2) courts to provide or identify and make use of, locations in which supervised visitation and visitation exchanges can

safely occur; (3) courts to inquire about domestic violence when addressing visitation issues in child custody matters, and if it determines there is a risk to the safety of a parent or child, to craft orders of visitation that create safe visitation exchanges; (4) attorneys to advocate for safe visitation and visitation exchanges. 00A109A

Recommend that court-mandated mediation include an opt-out prerogative in any action in which one party has perpetrated domestic violence upon the other party. 00A109B

Encourage legislatures to include within domestic violence statutes the same remedies, protections, and services to adolescents that are available to adults. Urge educational authorities, law enforcement officials, juvenile courts, and other government agencies to support more effectively adolescent dating awareness programs, domestic violence awareness programs, adolescent victim services, and teen offender intervention programs. 00A111

Encourages law schools and law students to promote awareness of domestic violence through law school activities and programs. 03A120

Urges federal, state, territorial, local, and tribal governments to reduce domestic violence by enforcing orders of protection as required under federal, state, local and territorial law. Urges enactment of appropriate remedies for failure to enforce the terms of civil and criminal protection orders. 05A114

Urges federal, state, territorial, local, and tribal governments to enact or to amend domestic violence civil protection order statutes to provide protection to victims who are in a romantic or intimate relationship with the perpetrator of domestic violence or have been in a romantic or intimate relationship with the perpetrator, but do not necessarily have a child with, live with, or are married to the perpetrator of the violence. 06A110

Urges federal, state, local, territorial and tribal governments to adopt legislation and appropriate funding to strengthen protection and assistance for victims of gender-based violence within the United States and abroad and urging Congress to enact and fund the International Violence Against Women Act of 2007 or similar legislation. 08A109.

**Dram Shop and Host Liability.** States should enact statutes to establish civil liability of persons who personally and negligently sell or serve alcoholic beverages to a customer or guest whom the server knows or should know to be under the legal age when that customer or guest, as the result thereof, becomes intoxicated and injures himself, a third person or such third person's property. 8/85

Adopts the black letter *Standards of Practice for Lawyers Representing Victims of Domestic Violence, Sexual Assault and Stalking in Civil Protection Order Cases*, including the preface, dated August 2007. 07A109

**"Dual Jurisdiction" Youth.** Urges the federal government, states, territorial, and tribal governments to revise laws, court rules, policies, and prosecutorial practices related to "dual jurisdiction" youth (abused and neglected youth with juvenile "dependency" cases who are charged with acts of delinquency). 08M300

**Economic Exploitation of Persons Under 18.** Urge the United States to work with the United Nations and the International Labor Organization to promote the abolition of the economic exploitation of persons under eighteen years of age by the adoption and enforcement of (1) domestic laws that regulate the employment of persons under the age of eighteen in a manner consistent with the minimum age standards set forth in the Convention on the

Rights of the Child and the Minimum Age Convention; and (2) laws that eliminate (a) the abduction, trading and selling of persons under the age of eighteen years; and (b) the use of such persons to work under conditions that are analogous to slavery. 8/96

**Elder Abuse.** Supports efforts to improve the response of the federal, state, territorial and local governments of the criminal and civil justice systems to elder abuse, neglect and exploitation and urges implementation of recommendations adopted by the National Policy Summit on Elder Abuse in December 2001. 02A108A

Urges federal, state, local, tribal and territorial governments and their prosecutors to vigorously prosecute cases of elder abuse, neglect and financial exploitation by the creation of special elder abuse units within the prosecutor's office or by the designation of a specially trained prosecutor to handle elder abuse cases. 08M105A

**Family Accessibility in Correctional Institutions.** Support initiatives that seek to preserve and promote healthy relationships between children and their parents in correctional custody, with such initiatives to consider family accessibility to the facility in making assignment of inmates. Assist parents in correctional custody in developing parenting skills. Allow extended contact visitation by such parents and children and support the emotional well-being of the children. 8/96

Urges federal, state, local and territorial governments to ensure that judicial, administrative, legislative and executive authorities expand, as appropriate in light of security and safety concerns, initiatives that facilitate

contact and communication between parents in correctional custody and their children in the free community. 10M102E

**Family and Medical Leave.** Support legislation establishing minimum requirements for reasonable, unpaid, job-protected family and medical leave for employees, for organizations which have more than a reasonable threshold number of employees. Support legislation mandating a study of means for providing salary replacement during all or part of such leave and the establishment of federal minimum requirements for unpaid leave pending the outcome of the study. 2/88

**Family Unity Demonstration Project.** Urge the immediate funding and reauthorization of the Family Unity Demonstration Project, passed as part of the violent Crime Control and Law Enforcement Act of 1994. 00M102A

**Firearms and Children.** Support the enactment of legislation that (1) encourages the establishment of educational programs directed at public school children, their parents and juvenile services professionals on firearm safety for children, including the dangers of use of such weapons; (2) provides for stricter regulation of, and manufacturers' warnings on, BB guns and air rifles; and (3) provides criminal penalties for adults' failure to properly safeguard firearms and ammunition they own or control, thereby placing minors at risk of death or injury. 8/91

**Foster Care.** Support and reaffirm the (1) rights of children in foster care homes to be protected from abuse, physical violence and sexual assault while in foster custody; (2) the obligation of relevant state and local officials to provide for the continued safety of the foster care environment; and (3) the legal responsibility and liability of state and local governments and their agents for injury and abuse caused to children in foster care custody when they exhibit gross negligence or reckless disregard in failing to respond or affirmatively protect children from such dangers. Call upon legislatures, members of the bar and child advocates everywhere to seek to strengthen recognition and implementation of this interest of children in safe foster care. 8/90

Urges Congress, the states and territories to enact and/or adopt laws and policies consistent with the recommendations of the national bipartisan May 2004 Pew Commission on Children in Foster Care for improving the outcomes for abused and neglected children under dependency court jurisdiction. Urges Congress, and the state and territorial legislatures, to maintain commitments for adequate resources, and enact laws and implement policies to increase resources and maintain flexibility in the use of those resources, that support the needs of children and families at risk regardless of whether an abused or neglected child is removed from home, and without limiting the protections, support, and rights of children in foster care or their families. Urges state and local bars to actively support the development and implementation of these laws and policies. 05A10B Encourages bar associations, judges and attorneys to lead and promote efforts to create comprehensive support and services for youth who "age out" of foster care ("transitioning youth") and other former foster youth until at least age 21, and urging amendment of applicable law, and court and child welfare practices. 07A104A

Encourages measures to promote the permanent placement of lesbian, gay, bisexual, transgender and questioning (LGBTQ) youth in the foster care system in LGBTQ-friendly homes and that protect LGBTQ youth in the homeless youth and foster care systems from discrimination and violence. 07A104B

Urges Congress to amend Subtitle VII-B, Part C of the McKinney-Vento Homeless Assistance Act to clarify that the Act applies to all children and youth in foster care and to significantly increase funding to support the school stability, enrollment, attendance, and success of all eligible children and youth. 07A107

**Foster Care Independence Act (1999).** Urges full implementation of the 1999 Foster Care Independence Act. Specifically, urges: (1) Congress and state and territorial legislatures to enact laws to provide youth in foster care full access, up to age 21, to independent and transitional living services and health care; (2) state and territorial legislatures to permit the extension of jurisdiction of dependency courts over youth transitioning from foster care

until age 21, when appropriate, to ensure that youth have access to the court, and to legal and social services through the court, and to fully implement the provisions of the federal Foster Care Independence Act, including implementation of the Medicaid expansion option. Supports access to competent counsel for youth transitioning out of foster care. 02A106

**Fostering Connections to Success and Increasing Adoptions Act.** Urges state, local, territorial and tribal governments to effectively implement the older youth provisions of the Fostering Connections to Success and Increasing Adoptions Act, in particular to extend foster care, independent and transitional living services, adoption assistance, and guardianship assistance to all youth and young adults through at least age 21. 10A109B

**Grandparent Visitation.** Encourage the further development of state law on grandparent visitation in accordance with four specified guidelines. 2/89

**Guardians Ad Litem.** Urge every state and territory to meet the full intent of the Federal Child Abuse Prevention and Treatment Act. Urge state, territory and local bar associations and law schools to become involved in setting standards of practice for guardians ad litem, to clarify their ethical responsibilities and establish minimum ethical performance requirements, and to provide comprehensive multidisciplinary training. Urges that where judges are given discretion to appoint guardians ad litem in private child custody and visitation related proceedings, guidelines be developed to aid the judges in determining when such an appointment is necessary to protect the best interests of the child. 2/92

**Guidelines for Kinship Care.** Encourage establishment of guidelines for courts, child welfare service agencies, and participating attorneys to follow when abused, neglected, and abandoned children are placed in kinship care, and for use in the provision of services to kinship providers for such children based on six specified principles. Encourage bar associations to develop and support pro bono and low-cost legal services projects for kinship care providers. 99M112B

**Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance.** Urges the Senate to give its advice and consent to the ratification of the 2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (the “Child Support Convention”), and urges Congress to enact the necessary implementing legislation. 08A106

**Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.** Urge that the Senate of the United States give its advice and consent to the ratification of the Hague Convention on

Protection of Children and Cooperation in Respect of Intercountry Adoption. Urge Congress of the United States to enact implementing legislation to permit the United States to participate in this multilateral Convention. 2/94

**Hague Convention on Respect of Parental Responsibility.** Urge ratification of the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation of Respect of Parental Responsibility and Measures for the Protection of Children; and the enactment of legislation to permit the United States to fully and uniformly implement this Convention which concerns custody matters and other measures taken for the protection of children and their property. 8/97

**Hormonally-assisted Pregnancy.** Oppose legislation that would restrict hormonally-assisted pregnancy in post-menopausal women. 8/95

**Individuals with Disabilities Act.** Support reauthorization of the Individuals with Disabilities Education Act, or similar legislation, that guarantees children with mental or physical disabilities a free appropriate public education in the least restrictive environment. Oppose efforts to eliminate, weaken or circumvent such legislation. Encourage lawyers, judges, and state and local bars to make available legal services to ensure that children with such disabilities are not deprived of such education. Support inclusion in the Act or legislation

provisions that permit individuals to pursue claims through medication. Support attorney's fees provisions in federal legislation that help ensure legal assistance for children with disabilities who seek to obtain or continue such education. 2/96

**Interstate Compact on the Placement of Children.** Encourages states, local and territorial officials to recognize the need for the timely disposition of requests for approval of interstate placements, the importance of cooperation between and among state, local and territorial officials responsible for seeking and granting approval of such placements, and the harm suffered by children when unnecessary delays occur in the approval of interstate placements. Supports ongoing continuing legal education concerning "best practices" principles for judges, lawyers, and social workers in accordance with the Interstate Compact on the Placement of Children. Urges evaluation and improvement of laws, policies, procedures and practices governing the interstate placement of children under the jurisdiction of a juvenile or family court or as a result of proceedings associated with child abuse, neglect, delinquency, adoption or guardianship. 03A118

**Jurisdiction over Child Custody Disputes.** Urge Congress to confirm that federal district courts have the power to resolve the issue of conflicting state claims concerning jurisdiction over child custody disputes, based on the Federal Parental Kidnapping Prevention Act and Title III of the Constitution. 8/88

**Jurisdictional Immunity.** Express concern regarding the use of jurisdictional immunity to insulate employees of international organizations from their family financial obligations. Support efforts to ensure prompt enforcement of orders of courts of competent jurisdiction and final judgments in family law matters involving employees of international organizations in certain matters, consistent with applicable United States and international law. 99A119

**Juvenile Justice and Delinquency Prevention Act.** Support reauthorization of the Juvenile Justice and Delinquency Prevention Act. Urge the Congress to conduct hearings on the Act and support adequate funding to facilitate ongoing implementation of the Act. 8/95

**Lawyer Mediators.** Approve Standards of Practice for Lawyer Mediators in Family Disputes. 8/84

**Learning-Disabled Children.** Encourage efforts to help improve the handling of cases involving children with learning disabilities. 8/83

**Medical Options Relating to Pregnancy.** Support legislation which ensures the right of patients of federally funded family planning clinics to receive full counseling and referrals on all medical options relating to pregnancy, and the right of health care professionals in such facilities to advise their patients in accordance with their best medical judgment and professional ethics. 8/91

**Military Retired Pay.** Support legislation recognizing spousal interests in military pensions. 8/79; 2/82

**Model Joint Custody Statute.** Approve the Model Joint Custody Statute dated August 1989, which makes joint custody an explicit option for families, that have experienced separation or divorce. 8/89

**Model Standards of Practice for Family and Divorce Mediation.** Approve the black letter of the Model Standards of Practice for Family and Divorce Mediation, dated February 2001, which supercedes the Standards of Practice for Lawyer Mediators in Family Law Disputes. 01M109B

**National Child Custody Registry.** Urge enactment of legislation establishing a national computerized child custody registry which identifies adjudications or pending cases concerning child custody and provides appropriate privacy protection procedures concerning the disclosure of and access to the names of individuals and confidential information contained in the registry. 8/95

**National Guardianship Symposium.** Support recommendations of the National Guardianship Symposium which aims to safeguard the rights and maximize the autonomy of adult disabled wards and proposed wards,

while providing for their needs. Urge the implementation of the recommendations at the state and local level through appropriate legislation, legal and judicial rules and practices, workable programs, and educational sessions. 2/89

**Parental Leave.** Support establishment of a reasonable federal minimum requirement for job-protected parental leave to allow parents to take unpaid leave on a full- or part-time basis to provide child care in certain instances. 8/87

**Pension Benefit Plans.** Supports amendments to the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code which would enable pension benefit plans and pension, profit sharing and stock bonus plans to honor the terms and provisions of premarital and postmarital agreements between spouses under certain circumstances. 8/92

**Putative and Unknown Fathers Act.** Attempt to codify U.S. Supreme Court decisions in this area. Seek to protect the child and his or her emotional and financial interest in having a father, the security of adoption, and the privacy of the mother and child - all while meeting constitutional requirements and dealing fairly with unwed fathers. Approved. 2/89

**Racial and Ethnic Youth in the Justice System.** Encourages state, local and territorial bar associations, judges, prosecutors, defenders and police to instill public confidence in the fairness of the justice system by making concerted efforts to ensure that the justice system provides fair and equal treatment for all youth. Urges these entities to address overrepresentation and disparate treatment of racial and ethnic minority youth in the justice system by adhering to certain principles. 03A101B

**Record Lyrics.** Oppose the enactment of any federal, state, territorial or local legislation regulating the content of recorded music. Support the adoption of a voluntary advisory logo to assist recorded-music buyers in identifying materials containing explicit lyrics. 8/91

**Reproductive Technology.** Approves the *Model Act Governing Assisted Reproductive Technology*, dated February 2008, as appropriate legislation and recommends consideration and adoption of the Model Act by appropriate governmental agencies. 08M107

**Rights of the Child, U.N. Convention on.** Support in principle the ratification by the United States of the provisions of the United Nations Convention on the Rights of the Child (Articles 1-54). Urges the convening of a working group to work with the executive branch and the Senate on the identification and clarification of issues related to possible reservations that might be considered as part of the ratification process. 2/91

**Rights of Children.** Urge respect of the rights of all children in the United States and its territories, including those rights articulated under the United States Constitution and the United Nations Convention on the Rights of the Child, and oppose discrimination against any child based on the child's citizenship or immigration status or the immigration or citizenship status of the child's parents. Oppose efforts to restrict or deny any child in the United States equal access to public education, health care, foster care, or social services on the basis of the child's citizenship or immigration status or the immigration or citizenship status of the child's parents; and to require that persons providing such services verify immigration status. Urge respect for the Constitutional rights to due process and civil liberties that apply to all persons in the United States. 2/95

**Rights of Children to a High-Quality Education.** Encourages the federal government, states and school districts to pass laws and implement policies that will secure the right of every child to a high-quality education and encouraging attorneys and bar associations to help secure that right through improvements in state and federal law, representation of students, parents and organizations and community legal education. 09A118A

Urges federal and state legislatures to pass laws and national, state and local education, child welfare and juvenile justice agencies to implement and enforce policies that will help advance the right to remain in school, promote a

safe and supportive school environment for all children and enable them to complete school. 09A118B

Urges the enactment and implementation of statutes and policies that support the right of youth who have left school to return to school to complete their education in high-quality, age appropriate programs. 09A118C

**School Discipline/"Zero tolerance" Policies.** Support the following principles concerning school discipline: (1) Schools should have strong policies against gun possession and be safe places for students to learn and develop; (2) in cases involving alleged student misbehavior, school officials should exercise sound discretion that is consistent with principles of due process and considers the individual student and the particular circumstances of misconduct; and (3) alternatives to expulsion or referral for prosecution should be developed that will improve student behavior and student climate without making schools dangerous. Further, oppose in principle "zero tolerance" policies that have a discriminatory effect, or mandate either expulsion or referral of students to juvenile or criminal court, without regard to the circumstances or nature of the offense or the student's history. 01M103B

**School Violence Prevention Education.** Encourages federal, state, territorial and local governments to adopt legislation that promotes school violence prevention education, instruction, awareness training and programs for children, parents, teachers and school administrators and encourages lawyers to support school violence prevention education in schools and community settings. 04M109

**Sexual Orientation and Adoption.** Support the enactment of laws and implementation of public policy that provide that sexual orientation shall not be a bar to adoption when the adoption is determined to be in the best interest of the child. 99M109B

Supports state and territorial laws and court decisions that permit the establishment of legal parent-child relationships through joint adoptions and second parent adoptions by unmarried persons who are functioning as a child's parents when such adoptions are in the best interests of the child. 03A112A

**Sexual Orientation of Foster Parent.** Opposes legislation and policies that prohibit, limit, or restrict placement into foster care of any child on the basis of sexual orientation of the proposed foster parent when such foster care placement is otherwise appropriate under the applicable law of the state, territory, or tribe. 06M102

**Sexual Orientation of Sponsor of Non-Citizen for Permanent Residence in U.S.** Supports the enactment of legislation and the implementation of public policy to enable a United States citizen or lawful permanent resident who shares a mutual, interdependent, committed relationship with a non-citizen of the same sex to sponsor that person for permanent residence in the United States. 09M108

**Spousal Consent Form.** Recommend that the Internal Revenue Service publish standard model spousal consent forms for qualified retirement plans under the Employee Retirement Income Security Act of 1974 (ERISA), in plain language advising the spouse of the financial effect of signing a spousal consent form waiving a survivor benefit and warning that once waived, the survivor benefits cannot be reinstated by agreement of the parties or by order of court unless permitted by the plan. 2/96

Urge Congress to amend the Social Security Act whereby remarriage at age 55 or older shall not prevent a divorced spouse, surviving spouse, or divorced surviving spouse from collecting benefits based upon his or her former spouse's earnings record. 2/96

**Spousal Interests.** Support legislation to make all deferred compensation subject to state property law, except as specifically exempted by explicit federal legislation. 8/82

**Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases.** Adopts Standards dated August 2006, which promote quality representation and uniformity of practice throughout the country for parents' attorneys in child abuse and neglect cases. 06A114

**Status of Children of Assisted Conception Act.** Address problems relating to the status of such children and their rights and well being. Approved 2/89

**Tolerance and Anti-Bias Education.** Urges legislative as well as other community-based initiatives that promote tolerance and anti-bias instruction, multicultural awareness training, hate crime/violence prevention education, and anti-bullying/harassment programs for children, parents, teachers, and school administrators. 02A104B

**Unified Children and Family Courts.** Reaffirm 1980 commitment to unified children and family courts and set forth in the Standards Relating to Court Organization and Administration, Standard 1.1. Pledge to promote the implementation of unified children and family court systems as described in Standard 1.1 recognizing that the manner of administering these courts may differ among states and jurisdictions. Endorse seven specified clarifications and additions to the components of unified children and family courts. 8/94

**United Nations Convention on the Rights of the Child.** Suggest that the United States' ratification of the United Nations Convention on the Rights of the Child be accompanied by eight specified Reservations, Understandings and Declarations. 2/94

**Violence Against Women Act and Similar Legislation.** Urges Congress to reauthorize and fully fund the Violence Against Women Act and similar legislation that promotes access to justice and safety for victims of domestic violence, dating violence, sexual assault, and stalking within the United States. 10M115

**Waiting Rooms for Children.** Encourage state, local and territorial governing bodies and court systems, in conjunction with bar associations, to support and assist in the organization and implementation of waiting rooms for children in every appropriate courthouse. 8/96

**Youth Alcohol and Drug Abuse.** Adopt a number of principles with respect to youth alcohol and drug abuse with respect to prevention, education, treatment, law reforms and strategies for raising the necessary fiscal resources attendant to such policies. 7/85

**Youth-at-Risk.** Urges federal, state, territorial, tribal, and local governments to assure that adequate and appropriate services are made readily available to at-risk youth and their caretakers by ensuring that: (1) community mental health systems serving youth are reinvigorated and significantly expanded to provide greater access to troubled youth and their caretakers; (2) stronger support is given to expanding availability of evidence-based programs for youth and greater investment is made in research to identify additional evidence-based programs worthy of replication and use for at-risk youth; (3) a positive youth development perspective is incorporated into services and programs, including opportunities that support young people in developing a sense of competence, usefulness, belonging, and empowerment, through access to developmental services and activities facilitating positive connections among youth and with adults, and also offering young people valuable information and learning experiences to help them choose healthy lifestyles; and (4) needed services and/or treatment should be provided to youth in need of such services by appropriate juvenile justice and child welfare intervention systems without the necessity or requirement of courts exercising jurisdiction over or adjudicating them. 06A10A

Encourages efforts to require the licensing, regulating and monitoring of residential treatment facilities that are not funded by public or government systems, but are privately-operated overnight facilities that offer treatment to at-risk children and youth for emotional, behavioral, educational, substance abuse and social issues and problems. 07M114

Encourages bar associations, judges and attorneys to lead and promote efforts to create comprehensive support and services for youth who “age out” of foster care (“transitioning youth”) and other former foster youth until at

least age 21, and urging amendment of applicable law, and court and child welfare practices. 07A104A

Encourages measures to promote the permanent placement of lesbian, gay, bisexual, transgender and questioning (LGBTQ) youth in the foster care system in LGBTQ-friendly homes and that protect LGBTQ youth in the homeless youth and foster care systems from discrimination and violence. 07A104B

Encourages jurisdictions to pass laws that require the provision of evidence-based pre-court diversion and early intervention services for youth who are alleged to have committed status offenses, such as truancy, ungovernability or running away and supporting the use of in-home or community-based services as an alternative to secure detention. 07A104C

Urges federal, state, tribal, local and territorial governments to authorize and implement sentencing laws and rules of procedure that both protect public safety and give mitigating consideration to youthful offenders. 08M105C

Urges Congress and state legislatures to re-examine and revise laws, policies and practices that require youth to register as sex offenders or be subject to community notification provisions otherwise imposed upon adult sex offenders, based upon a juvenile court adjudication. 09M101A

Urges federal, state, territorial and local governments to increase the opportunities of youth involved with the juvenile or criminal justice systems and to prevent the continuing discrimination against those who have been involved with these systems in the past by limiting the collateral consequences of juvenile arrests, adjudications, and convictions. 10M102A

Urges state, local, territorial and tribal governments to provide legal counsel to children and/or youth at all stages of juvenile status offense proceedings as a matter of right and at public expense. 10A109A

**Youth Jobs Program.** Urge local and state bar associations to adopt a youth jobs program similar to the Summer Law Internship of the Bar Association of Metropolitan St. Louis, providing summer employment, education, esteem and enhancement of future socio-economic potential for inner city youth, while simultaneously improving public perception of lawyers and the legal profession. 2/93

## FEDERAL GOVERNMENT

**1990 Census.** Call upon the United States Bureau of the Census to conduct as complete a count as statistically possible of all persons residing in the United States, regardless of citizenship or immigration status. Call upon ABA members and all state and local bar associations to take an active role in locally promoting full participation in the 1990 census through public education efforts. Urge the President and the Attorney General of the United States to encourage cooperation with the census bureau by assuring the public that no governmental agency will seek confidential census information. Encourage the Bureau of the Census to make any needed adjustments of the census figures to compensate for population undercounts. 8/89

**Affordable Housing Trust Fund.** Urges Congress and the President to support the establishment of a federal affordable housing trust fund to increase the availability of affordable housing consistent with certain principles. 05M111

**Access Charges.** Oppose the imposition of access charges on enhanced-service providers for use of local telephone exchanges. 4/89

**Access to Justice.** Reaffirm support for access to the American system of justice without regard to financial wherewithal. Support the availability of access to the federal courts under the grant of diversity jurisdiction

without regard to financial wherewithal. Oppose loser pays legislation that would apply to all cases brought in the federal court pursuant to the grant of diversity jurisdiction. 2/95

**American Association for the Advancement of Science (AAAS).** Support the efforts of the American Association for the Advancement of Science (AAAS) to obtain a commemorative postage stamp to be issued by the United States Postal Service at an appropriate time and place during 1998 to honor the AAAS during its 150th anniversary year. 2/95

**Benefit Programs.** Urge the federal government to establish uniform procedures for administering its benefit programs for the elderly. 2/80

Support application of existing Association policy regarding federal benefit programs where primary control and/or funding for such programs is transferred from the federal government. Urge governments in developing the transferred programs within their jurisdictions to utilize an open process that encourages public participation and that those programs provide clear standards for individual eligibility and a process for determining issues of eligibility which includes notice, an opportunity to be heard and represented, and the right of appeal. Urge those bars to work within their jurisdictions in support of these principles and standards. 2/97

**Committees on Aging.** Support the retention of and/or establishment of the U.S. Senate and House of Representatives special or select committees on aging as permanent committees. 8/93

**Consent Decrees.** Supports the use of federal consent decrees as an important tool for resolving litigation, and opposes legislation that constrains the efficacy of consent decrees when state, local or territorial governments are parties thereto, such as proposed S. 489 and H.R. 1229 (109<sup>th</sup> Congress), consistent with the following principles: (1) The duration and all other terms of the consent decree should be determined by the language of the decree itself as interpreted by courts of competent jurisdiction, or as otherwise modified by such courts for good cause shown, not through legislation; (2) consent decrees that do not state a specific duration should remain in effect until terminated or modified by a court of competent jurisdiction for good cause shown; and (3) the burden of proof with respect to a motion to modify or terminate a consent decree should remain on the party seeking modification or termination, not on the party that obtained the original consent decree. O6M109

**Coordinating Office of Civic Education.** Urges policymakers to establish a Coordinating Office of Civic Education in the U.S. Department of Education to enhance students' civic learning by offering competitive grant programs at the local, state and national levels and urging that the National Assessment of Educational Progress for civics and U.S. history be conducted every four years and that the results be reported at both the national and state levels. 09A122

**Denial of Public Benefits.** Oppose any legislation, rule or regulation that denies the public benefits or the incremental increase in public benefits to which a family otherwise would be entitled upon the birth of a child, based on the family's receipt of public assistance at the time of the child's conception or birth, or the mother's age or marital status at the time of the child's birth, or the fact that the child's paternity has not been established. 2/95

**Department of Justice.** Support implementation of increased oversight of Department programs through review and prior approval of programs by the Judiciary Committee. 2/76

Urges the President and the Attorney General to assure that lawyers in the Department of Justice do not make decisions concerning investigations or proceedings based upon partisan political interests and do not perceive that they will be rewarded for, or punished for not, making a decision based upon partisan political interests. 10M102G

**Department of Justice Attorneys-Investigation of Misconduct.** Urges the United States Department of Justice to continue in its commitment to investigate allegations of professional misconduct on the part of the Department's lawyers and to release as much information regarding completed investigations as possible,

consistent with privacy issues and law enforcement confidentiality concerns. 10A100A

**Discrimination in Government Funded Services.** Urge Congress and the President to restore to legal immigrants the same rights to Supplemental Security Income, food stamps and other federal and state funded services, benefits, and assistance, which were available to them prior to enactment of Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Oppose legislative or administrative action that restricts, denies or otherwise discriminates against legal immigrants, in the provision of government funded services, benefits or assistance. 8/97

**Diversity in the Federal Judiciary.** Reaffirm the longstanding policies and urge the President of the United States to appoint minority lawyers of racial and ethnic diversity to all levels of the federal judiciary, including the United States Supreme Court. 2/95

**Drug Recognition Program.** Endorse and support the Drug Recognition Program initiated by the National Highway Safety Administration and the Bureau of Justice Assistance, provided that it is applied in a manner fully respecting the subject's constitutional rights. Encourage adoption and use of the Drug Recognition Program by the states and other jurisdictions. 2/90

**Electronic Access to Information.** Recognize that the coherent, integrated electronic provision of information relating to the legal system, including the judicial system, in a way that makes full use of the capabilities of existing technology, will provide significant benefits and efficiencies for governmental entities, the bar, and the public. Urge (1) the provision of public electronic access to governmental information through the Internet at no cost to the user and to forego the required use of proprietary networks for such access; (2) the provision for electronic filing and retrieval of appropriate documents through the Internet using open data interchange standards; and (3) the development of a uniform approach to the electronic provision and exchange of public information, including within the respective jurisdictions. 98A100

**English Language, Use of.** Support the principle that federal, state, territorial and local governments permit the use of languages in addition to English to improve communication with government, to promote understanding of duties and responsibilities under the law, and to provide access to the justice system. 8/97

**Federal Distributive Funding.** Urges Congress to enact and the President to sign legislation authorizing the annual appropriation of federal distributive funding to the several states of the United States of America and their respective local governments and political subdivisions in 2011, and thereafter, in order to ensure continuity of funding of essential state and local government programs, projects and services following appropriations from the American Recovery and Reinvestment Act of 2009. 09A105

**Federal Funding for State and Local Government "First Responders".** Supports increased federal funding to state, local and territorial governments, including public authorities, to enable these "first responders" to prevent terrorist attacks and increase their readiness to respond to any attacks that do occur. 03A117

**Federal Judiciary Space and Facilities.** Supports in principle legislation, which provides the federal judiciary with control over its space and facilities. 8/92

**Federal Security Clearances.** Support the establishment of published standards and procedures for the granting, denial or revocation of security clearances for all employees of, and applicants for, employment by the federal government and federal government contractors and for defense contractors' facility clearances which balance the needs of national security and the interests of fair and accurate clearance determinations. 8/89

**Financial Disclosure by Federal Officials.** Support in principle legislation requiring reasonable financial reporting by federal officials and employees in positions of trust and responsibility, based on seven listed principles. 2/77

**Financial Regulatory System Reform.** Urges the United States Government to reform the nation's financial regulatory system in a manner that will promote economic growth, stability, and competitive and innovative financial markets, and that will better protect consumers, investors, employees and businesses and the nation as a whole. 09A301

**Funding of the Federal Judiciary.** Urges Congress and the Administration to fund the Federal Judiciary, recognizing competing fiscal demands, at levels sufficient to enable the courts to fulfill their separate constitutional and statutory duties. In order to avert a funding crisis in Fiscal Year 2005, at a minimum the Federal Judiciary should be provided appropriations sufficient to maintain their current level of services in order to avoid further staff and operational cutbacks at a time when court workload continues to grow. 04A10A

**Government Investigations of Organizations and Employees.** Opposes government policies, practices and procedures that have the effect of eroding the constitutional and other legal rights of current or former employees, officers, directors or agents ("Employees") by requiring, encouraging or permitting prosecutors or other enforcement authorities to take into consideration any of the following factors in making a determination of whether an organization has been cooperative in the context of a government investigation: (1) that the organization provided counsel to, or advanced, reimbursed or indemnified the legal fees and expenses of an Employee; (2) that the organization entered into or continues to operate under a joint defense, information sharing and common interest agreement with an Employee with whom the organization believes it has a common interest in defending against the investigation; (3) that the organization shared its records or other historical information relating to the matter under investigation with an Employee; or (4) that the organization chose to retain or otherwise declined to sanction an Employee who exercised his or her Fifth Amendment right against self-incrimination in response to a government request for an interview, testimony, or other information. 06A302B

**Hurricanes Katrina and Rita, Response to.** (1) Urges the federal government and state and local governments affected by Hurricanes Katrina and Rita to establish and appropriately fund flood control plans and redevelopment plans for the Gulf Coast region. (2) Urges federal and affected state and local governments to take all steps necessary to ensure that the civil and criminal justice systems in the affected states have the resources available to maintain the continuity of the rule of law. (3) Urges that appropriate entities work with state supreme courts to develop model emergency orders for these courts to enact that permit lawyers not admitted to practice in the state to provide pro bono legal services to disaster victims. (4) Urges Congress to investigate the response by federal and affected state and local governments to Hurricanes Katrina and Rita. (5) Urges state legislatures in the affected states to explore mitigation efforts for future natural disasters, including but not limited to the need for more stringent building codes and revised zoning laws to address problems in flood zones. (6) Supports the principle that emergency preparedness plans should take into account the needs of individuals with household pets or service animals. (7) Urges both federal and affected state governments to act to afford relief to individuals, businesses and property owners from legal deadlines that adversely affect them. (8) Urges Congress to reexamine all aspects of the federal flood insurance program to assure that those living in areas subject to hurricane and flood damage are aware of the risks inherent in living in such areas. 06M305

Urges Congress to create an independent, bipartisan commission to investigate and recommend the appropriate measures to rebuild the infrastructure of the Gulf Coast damaged by Hurricanes Katrina and Rita, to provide reasonable hurricane and flooding protection for the people living in disaster prone areas, and to recommend appropriate measures designed to prevent or mitigate problems in responding to natural disasters in the future. 07A116B

**Insurance Information Office.** Urges Congress to enact legislation to establish a non-regulatory insurance information office within the Treasury Department. 09A303

**Law Library of Congress.** Urges the Congress to approve continued adequate funding for the Law Library of the Library of Congress. 11/91

Support the continuance of the arrangement of the Library of Congress in two departments, a general library and a law library, and that any reorganization of the Library of Congress not change the status of the Law Library as a Department, or alter the status, autonomy or function of the Law Library. Supports the creation of a National Law Library as an independent, separate entity, to include the present Law Library of Congress, and that its mission be to serve Congress and the legal profession and to improve the nation's access to legal information. 2/92

Support the Library of Congress and its Law Library in their efforts to secure reasonable cost recovery for specialized services such as identification of foreign law sources and expedited document delivery, while also affirming the basic principle of free access to core library services for the public while providing adequate safeguards for copyrighted works and private sector competition. Support efforts to secure the level of appropriations necessary to enable the Library of Congress and its Law Library to maintain and enhance their many services to the nation and the legal community. 2/93

Supports efforts by the Law Library of Congress and the Library of Congress to create and continue programs that (1) develop, maintain and enhance the Law Library's services, facilities, operations and staff, and the acquisition of materials and their preservation and care, and (2) utilize the best technologies and methods available to make the Law Library's vast and growing collections accessible. 11M110

**Lobbying Disclosure Act.** Recommend to the Congress that the Lobbying Disclosure Act of 1992 or any similar legislation should not extend to executive branch officials except in certain specified circumstances where the interest of public disclosure may override legitimate confidentiality and privacy concerns. Resolve that any such extension include only certain contacts with executive branch officials. 2/93

Urges Congress to amend the Lobbying Disclosure Act of 1995 to extend the registration and reporting obligations with respect to lobbying coalition membership and grassroots lobbying. 06A119

**National Child Custody Registry.** Urge enactment of legislation establishing a national computerized child custody registry which identifies adjudications or pending cases concerning child custody and provides appropriate privacy protection procedures concerning the disclosure of and access to the names of individuals and confidential information contained in the registry. 8/95

**National Endowment for the Arts.** Support reauthorization of the National Endowment for the Arts with no restrictions on the content, the subject matter, message or idea of what the Endowment may fund. 8/90

**National Institute of Justice.** Support creation of an independent federal agency to conduct research and fund pilot projects aimed at improving the justice system. 8/79

**National Law Library.** Support the creation of an independent, separate department of the Library of Congress, which would include the present law library. 2/79; 2/81

**Office for Improvements in the Administration of Justice, Department of Justice.** Support (1) the reestablishment in the United States Department of Justice of the Office for Improvements in the Administration of Justice with broad authority to pursue a range of programs and projects relating to the entire justice system; (2) that the Office be headed by an Assistant Attorney General, under the direction of the Attorney General; and (3)

that the Office be authorized and responsible for developing ways to improve the operation of the civil and criminal justice system and to enhance citizen access to justice. 2/92

**Office of Personnel Management/Administrative Law Judges.** Urges the Office of Personnel Management as part of its mandate to select the best qualified candidates for federal administrative law judge positions, to consider judicial status in good standing as a satisfactory alternative to any requirement that candidates be active licensed attorneys in good standing. 09M112

**Participation in Professional Associations.** Oppose proposed limitations and restrictions upon participation in professional associations of employees of the Executive Branch of the United States government such as those set forth in the proposed rule 5 CFR §2635.806 as published by the Office of Government Ethics in the Federal Register on July 23, 1991. 8/91

Believe that it is in the government's and the legal profession's interests, and that it would enhance the work of bar associations, to have government lawyers at all levels participate in professional development and justice system improvement activities sponsored and conducted by bar associations. Urge governmental entities to take concrete steps to facilitate government lawyer participation in bar associations. 98A102

Encourage governmental entities at all levels to permit government lawyers, including those in judicial administrative positions, to serve in leadership capacities within professional associations and societies. Encourage governmental entities to adopt standards that would authorize government lawyers, including those in judicial administrative positions, to (1) make reasonable use of government law office and library resources and facilities for certain activities sponsored or conducted by bar associations and similar legal organizations, and (2) utilize reasonable amounts of official time for participation in such activities. 99A112

**Periodic Review of Regulations.** Recommend five specified principles to guide the review of existing regulations by federal administrative agencies with rulemaking authority: (1) commitment by agencies to a periodic review of regulations; (2) congressional review of programs; (3) choice of different approaches to review methods best tailored for the particular agency; (4) five specified requirements for an effective and meaningful review; and (5) adoption of regulations that are less likely to become obsolete or require amendment, and establishment of formal programs for issuing interpretations to lessen confusion concerning existing rules. 8/95

**Political Activities.** Oppose the enactment of any legislation, such as H.R. 3485, which would (1) obligate exempt organizations to obtain the prior approval of their members before engaging in "political activities"; (2) define "political activities" so broadly as to preclude the traditional types of communications between citizens and public officials, upon which public officials have frequently drawn for a fuller understanding of issues under debate; and (3) require exempt organizations to add an additional layer of classifying activities and administrative procedures to the rigorous record keeping requirements already imposed by the Internal Revenue Service, the Federal Election Commission, and the Lobbying Disclosure Act of 1995. 498 BOG5.7

**Revenue Sharing.** Various federal programs provide general and special revenue sharing to states and localities. (No position)

**Sentencing Commission Rules.** Recommend that the United States Sentencing Commission adopt and publish internal rules of practice and procedure, including procedures commonly used by other rulemaking agencies to invite and structure public participation, disclose information, and justify promulgated rules. 8/95

**State Secrets Privilege.** Supports procedures and standards designed to ensure that whenever possible, federal civil cases are not dismissed based solely on the state secrets privilege. 07A116A

**U.S. Attorneys.** Support implementation of procedures by which all U.S. attorneys would be selected solely on

the basis of merit. 2/76

Supports in principle that the appointment, retention and replacement of United States Attorneys and career government attorneys, and the exercise of their professional judgment and discretion, should be insulated from improper partisan political considerations. 07A10C

**Whistle-blower Protection.** Support enactment of federal legislation uniformly protecting the rights of employees to make good faith disclosures about certain unsafe or unlawful actions. Believe Congress should strengthen such private section "whistle-blower" protection legislation in accordance with four specified principles. 2/90

## HEALTH/MENTAL HEALTH

**Access to Medical Information and Medically Appropriate Care.** Opposes governmental actions and policies that interfere with patients' abilities to receive from their healthcare providers, including healthcare professionals and entities, in a timely manner: (1) all of the relevant and medically accurate information necessary for fully informed healthcare decision-making; and (2) information with respect to their access to medically appropriate care, as defined by the applicable medical standard of care, whether or not the provider chooses to offer such care. 05M104

**Access to Medicare/Medicaid Decisions.** Urge the Department of Health and Human Services to remedy its failure to comply with the mandate of the Freedom of Information Act in accordance with seven specified provisions. 2/89

**Access to Quality Health Care.** Reaffirm its support of legislation that would provide for every American to have access to quality health care regardless of the person's income, and provide five characteristics to be included in any such legislation. 2/90

Reaffirm support of legislation that would provide for every American to have access to quality health care regardless of the person's income, with any such legislation to include certain specified characteristics. 2/94

Supports federal legislation that would ensure every American access to quality health care regardless of the person's income. 09A10A

**AIDS.** Urge that federal, state and local law and the policies of private entities concerning the Human Immunodeficiency Virus (HIV) should be consistent with specified principles, as amended. 8/89

Approve certain language as a clarification of C.3 of 8/89 policy statement. 2/90

Urge enactment of state legislation providing that the fact or suspicion that an owner or occupant was infected with HIV, diagnosed with AIDS, or diagnosed with any other disease determined by medical evidence not to be transmittable through occupancy of improvements located on such property is not a material fact requiring disclosure in real estate transactions. 8/92

**Alcohol/Drugs.** Urges all state, territorial and local legislative bodies and governmental officials to repeal laws and discontinue practices that permit insurers to deny coverage for alcohol or drug related injuries or losses covered by accident and sickness insurance policies that provide hospital, medical and surgical expense coverage. 05A105

Urges all federal, state, territorial and local legislative bodies and governmental agencies to adopt laws and policies that require health and disability insurers who provide coverage for the treatment of both abuse and

dependence on drugs and alcohol to do so in a manner that is based on the most current scientific protocols and standards of care, so as significantly to enhance the likelihood of successful recovery for each patient. 06A109

**Asbestos Injuries and Litigation, Federal Government Study of.** Urges the federal government to undertake an urgent study of the impact that the federal government has had in the causation of asbestos-related injuries over time and identify the appropriate role for the federal government in the solution of the present asbestos litigation crisis, without altering the responsibility of others. 05M109A

**Asbestos-Related Disease Claims.** Supports enactment of federal legislation that would: (1) allow those alleging non-malignant asbestos-related disease claims to file a cause of action in state or federal court only if they meet the medical criteria in the “ABA Standard For Non-Malignant Asbestos-Related Disease Claims” dated February 2003 (which the House will be requested to update periodically in accordance with medical advances and scientific research) or an appropriate similar medical standard; and (2) toll all applicable statutes of limitations until such time as the medical criteria in such standard are met. Does not support limitations on the filing of claims for asbestos-related malignancies. Does not support the preemption of legal definitions for claiming or impairment as they may be found in regulations relating to certain federal laws; their state, territorial and local counterparts; Workers Compensation statutes and their regulations; and federal, state and territorial laws regulating employee benefit plans and employer health care coverage plans. 03M302

Recommends that states and territories adopt the Model Statute of Limitations for Asbestos, dated February 2005, governing the accrual of actions for injury, illness or wrongful death based upon exposure to asbestos. 05M300C

Without taking a position on the advisability of the establishment of an administrative process as an exclusive mechanism for the compensation of an asbestos-related injury subject to tort-based claims, recommends that any legislation establishing an administrative process in lieu of state, territorial or federal tort-based asbestos-related claims should insure access by claimants to adequate representation in the claims process, including: (1) a claimant's assistance program with adequate funding, personnel and resources; (2) in cases pending on the effective date of any such legislation, provisions that would adequately compensate claimants and their attorneys for attorney services and costs reasonably expended or incurred on their behalf in the terminated litigation in the courts or administrative systems; and (3) access to private attorneys without unreasonable restrictions as to fees or other aspects of necessary representation in the claims process, if desired by a claimant. 06M106A

Without taking a position on the advisability of the establishment of an administrative process as an exclusive mechanism for the compensation of an asbestos-related injury subject to tort-based asbestos-related claims, recommends that any legislation establishing an administrative process in lieu of state, territorial or federal tort-based claims should: (1) insure that awards to claimants not be depleted by subrogation from any private or governmental entity; (2) apply existing laws concerning taxation of awards to claimants (which generally are not subject to taxation); and (3) not unduly foreclose independent claims existing under state, territorial or federal law relating to safety or other obligations of employers. 06M106B

Without taking a position on the advisability of an administrative process as an exclusive mechanism for the compensation of an asbestos-related injury subject to tort-based claims, recommends that any legislation establishing an administrative process in lieu of state, territorial or federal tort-based asbestos-related claims should contain specific provisions to insure adequate up-front financing and disclosure of certain information concerning the contributors. 06M106C

Without taking a position on the establishment of an administrative process as an exclusive mechanism for the compensation of an asbestos-related injury subject to tort based claims, recommends that any legislation establishing an administrative process in lieu of state, territorial or federal tort-based asbestos related claims should contain the following contingent provisions to respond to any potential occurrence of a shortfall of funds: (1) speedy determination and announcement of shortfall; (2) if there are not sufficient funds to pay claims, there

should be a remedy in the courts; (3) claimants with mesothelioma and/or who have been certified to have a reasonable life expectancy of less than twelve months, should be allowed immediately to file suit in any appropriate court; and (4) any applicable statute of limitations or statute of repose should be tolled during the existence of any administrative process and for a period of 180 days after the time the claimant is eligible to return to the court system, unless applicable state, federal, or territorial law provides for a longer tolling period. 06M106D

**Asbestos Screening Standards.** Recommends that states and territories establish, by statute or regulation, standards for the operation of screening vans or other forms of mass screening for asbestos-related conditions. These standards should be enforced, as appropriate, by federal, state and territorial governmental agencies and judicial bodies; by the investigation and enforcement of bar professional ethics; and by the investigation and enforcement of medical societies' ethical standards. The objective of screening standards should be to prevent medical screenings from being conducted inaccurately and being misused, but not to prevent legitimate monitoring of health. 05M300B

**Assisted Living Facilities and Programs.** Support uniform and comprehensive state and territorial standards, regulation, and oversight of facilities and programs, commonly referred to as "assisted living," offering to persons in a residential setting some degree of supervision or assistance with personal services and health care, sufficient to enable consumers to make informed choices about their care options. 01A102

**Board and Care Facilities.** Support federal oversight and enactment of state legislation requiring licensure and regulation of board and care facilities for adults who need personal assistance, lodging and meals. Conclude that any scheme of licensing and regulation should be consistent with eight specified principles. 8/89

**Breast Cancer.** Resolve that the ABA should partner with the public health community and bar associations to improve access to legal services for breast cancer patients. Urge Congress and governments to provide adequate funding for basic research and clinical trials to find a cure for breast cancer and other women's health conditions in that the present level of spending is not adequate. 00A112

**Confidentiality of Personally Identifiable Health Information.** Support legislation that protects the confidentiality of personally identifiable health information in either paper or electronic form. Resolve that such legislation should include individual privacy protections that ensure three specified protections. Encourage, in the absence of legislative mandate, the parallel development of a code of fair health information practices, which should promote the confidentiality and protection against misuse of personally identifiable health information. 2/96

Support federal legislation that (1) explicitly acknowledges individuals' rights to privacy of their health care information; (2) protects the confidentiality of personally identifiable health information from any source, including medical record, electronic data and genetic material, and (3) ensures six specified principles. Encourages, in the absence of a federal legislative mandate, the development of strong institutional and organizational policies that adhere to such principles to protect the privacy and confidentiality of doctor/patient communication and protect against misuse of personally identifiable health information. 99M109A

**Death Definition.** Joins with the AMA and NCCUSL in creating a uniform public policy on this legal/medical issue. 2/81

**Disaster Preparedness Systems.** Supports the study of regionalization of the nation's Emergency Care System and Emergency Departments and the enactment of legislation and promulgation of rules, specifically as it relates to disaster preparedness, as an effective and efficient means of improving patient safety, health care quality, cost reduction, coordination of care, and increased accountability of the system. 07A120B

Adopts the Model Act Governing Standards for the Care and Disposition of Disaster Animals, dated February

2010, and recommends its adoption by state and territorial legislative bodies. 10M103A

**Disclosure of Mental Health Records.** Oppose legislation that would restrict discovery of mental health professionals' records, including raw test data and notes of interviews relating to evaluations in family law cases. 8/93

**Disputes in Health Care.** Support (1) the right of all consumers to a fair and efficient process for resolving differences with managed health care plans, health care providers, and the institutions that serve such plans and providers, including timely written notification and explanation of a decision to deny, reduce or terminate services or deny payment for services; (2) a rigorous system of internal review; and (3) an independent system of external review. Resolve that consumer education and ombudsman programs should provide information and assistance in resolving health care complaints, and that health care dispute resolution processes should be fully accessible. 98A103

Endorse certain principles contained in the *Health Care Due Process Protocol: A Due Process Protocol for Mediation and Arbitration of Health Care Disputes*, and support enactment of legislation consistent with those principles. Support enactment of legislation establishing alternative dispute resolution procedures as one remedy for resolving disputes between patients and group health plans, as part of a process that includes certain internal and external reviews. 99M114

Opposes the use of mandatory, binding, pre-dispute arbitration agreements between a long-term care facility and a resident of such facility or person acting on behalf of such resident, and opposing legislation and regulations that would authorize, encourage or enforce such agreements. 09M111B.

**Employer-Sponsored Health Care Plans.** Support legislation to amend the federal Employee Retirement Income Security Act (ERISA) to allow causes of action to be brought in the state and territorial courts against employer-sponsored health care plans under state and territorial health care liability laws. Support and encourage utilization of alternative dispute resolution mechanisms prior to the filing of such causes of action. 99M106

Urge Congress to enact legislation to require group health plans, other health insurers and similarly situated entities that are employer-sponsored to disclose to their enrollees any financial incentive programs they provide to physicians with whom they contract to provide patient care, and to display prominently information on these financial incentive programs. 01A103

**Health-Care Decisions Act (Uniform Health-Care Decisions Act).** Addresses the broader problem of health-care decision-making and the narrower problem of who decides when to withdraw treatment, allowing a patient to die. Approved as an appropriate Act for those states desiring to adopt the substantive law suggested therein. 2/94

**Health Care for Children.** Support legislation, which ensures the provision of comprehensive health care for children 18 years of age and younger and pre-natal care for pregnant women. 8/97

**Health Care for American Indians and Alaska Natives.** Supports the efforts of the National Tribal Steering Committee to address the inadequacy of health care for American Indians and Alaska Natives through the reauthorization of the Indian Health Care Improvement Act. Urges Congress and the Executive Branch to address the various areas where health care for American Indians and Alaska Natives is deficient. Supports the administration of health care services to American Indians and Alaska Natives consistent with the federal policies of tribal self-determination and self-governance. 04M103C

**Home Health Care Standards.** Support legislation and regulation to improve home health care and home help care regulatory standards, monitoring systems, and enforcement mechanisms aimed at ensuring the quality of care for the elderly and disabled in accordance with five specified principles. Oppose the granting of "deemed status" under federal or state programs to home health and home help providers who are accredited by private

accrediting bodies unless certain conditions are met. 8/87

**Human Clinical Trials.** Urges Congress to enact legislation and to direct the appropriate federal department(s) to issue regulations that establish uniform guidance on addressing conflicts of interest in all human clinical trials. 09A120

**Individuals with Disabilities Act.** Support reauthorization of the Individuals with Disabilities Education Act, or similar legislation, that guarantees children with mental or physical disabilities a free appropriate public education in the least restrictive environment, and oppose efforts to eliminate, weaken or circumvent such legislation. Encourage lawyers, judges, and state and local bars to make available legal services to ensure that children with such disabilities are not deprived of such education. Support inclusion in the Act or legislation provisions that permit individuals to pursue claims through mediation. Support attorney's fees provisions in federal legislation that help ensure legal assistance for children with disabilities who seek to obtain or continue such education. 2/96

**Long-Term Care.** Support enactment of federal and state legislation providing a coordinated and comprehensive system of care and support for Americans of all ages with long-term care needs. Recommend that any system of long-term care be consistent with, but not limited to, five specified principles. 2/89

Supports adoption of specified federal, state and territorial legislation, regulations and other initiatives which encourage the appropriate use of private insurance, employment related benefits and other mechanisms that will address long-term care needs. 2/92

**Long-Term Care (Compact for).** Urges all federal, state, territorial and local legislative bodies and governmental agencies to develop and assess innovative long-term care programs such as the "Compact for Long-term Care," as a reasonable and fair solution to long-term care financing. The Compact is intended to be a separate, additional program for Medicaid and not intended to replace it. 08M10A

**Long-Term Care for AIDS.** Support action to create legal mechanisms that allow people with HIV, AIDS or other debilitating, chronic, fatal illnesses to better plan for long-term care for themselves and their families, including standby guardianships, advance medical directives, and viatical settlements. Support educational activities and other efforts designed to encourage implementation of such mechanisms. Resolve that where legislation is implemented it should contain appropriate consumer safeguards. 8/95

**Medicaid Benefits.** Urge repeal of Section 217 of the Health Insurance Portability and Accountability Act of 1996, effective January 1, 1997, which criminalizes certain asset transfers made for the purpose of qualifying for Medicaid benefits. 2/97

Recognizes the financial burden of maintaining the Medicaid program and the need for innovation in shaping more effective health care systems, but opposes any structural or financial changes in the Medicaid program that would weaken the current entitlement nature of the program or shared legal obligation that the federal, state and territorial governments have to provide a comprehensive set of benefits to all individuals who meet eligibility criteria. Supports Medicaid restructuring that adheres to specific criteria. 05A113B

**Medicaid Coverage Expansion.** Support expansion of the Medicaid program to provide coverage for all children and all pregnant women with family incomes less than 200 percent of the federal poverty level. 2/90

**Medicaid Estate Recovery.** Support the repeal of Medicaid estate recovery mandate enacted under the Omnibus Budget Reconciliation Act (OBRA) of 1993 and the reinstatement of the pre-OBRA 1993 state option for Medicaid estate recover programs. In the absence of repeal, urge amendment of applicable laws and regulations to protect the poorest and most vulnerable recipients of Medicaid from shouldering the burden of estate recovery, with such amendments to include, but not be limited to, six specified options. 2/95

**Medical-Legal Partnerships.** Encourages lawyers, law firms, legal services agencies, law schools and bar associations to develop medical-legal partnerships with hospitals, community-based health care providers, and social service organizations to help identify and resolve diverse legal issues that affect patients' health and well-being. 07A120A

**Medical Release of Terminally Ill Inmates.** Recommend that each jurisdiction review its procedures relating to medical release of terminally ill inmates to ensure that (1) they are fully integrated into the general law of sentencing, particularly with respect to issues such as eligibility for such release; (2) they provide for expedited handling of requests for medical release; and (3) they provide for the collection and dissemination of statistical data relating to the disposition of requests for medical release. Recommend that correctional authorities be encouraged to initiate consideration of medical release in appropriate cases and to make prisoners aware of the procedures for medical release. 2/96

Support compassionate release of terminally ill prisoners and endorse adoption of administrative and judicial procedures for compassionate release consistent with the "Administrative Model for Compassionate Release Legislation" and the "Judicial Model for Compassionate Release Legislation," each dated April 1996. Support alternatives to sentencing for non-violent terminally ill offenders in which the court, in certain specified circumstances, may accept a plea of guilty to any lesser included offense of any count of the accusatory instrument, to satisfy the entire accusatory instrument and to permit the court to sentence the defendant to a non-incarceratory alternative. 8/96

**Medicare Claims Adjudication.** Recommends specific reforms in the Medicare claims adjudication process to assure that Medicare beneficiaries are afforded due process throughout all levels of the claims process. 03A107

**Medicare Procedures.** Support efforts to improve the administrative and judicial process utilized by the Department of Health and Human Services in accordance with certain specified principles recommended by the Symposium on Medicare Procedures. 8/88

**Medicare Reimbursement.** Support legislation to extend and expand the availability of Medicare reimbursement for hospice care services. 2/86

**Medicare Reporting Requirements.** Urges Congress to amend the Medicare, Medicaid and SCHIP Extension Act of 2007 (Act) to create a safe harbor provision precluding the assessment of civil penalties against responsible reporting entities as defined under the Act, that rely upon information verified by claimants regarding entitlement to or receipt of Medicare benefits. 10A101

**Medicare Secondary Payer Act.** Recommends that the federal government amend the Medicare Secondary Payer Act (42 U.S.C. §1395y(b) *et seq.*) to return an appropriate level of certainty, predictability, and efficiency to the Medicare set aside process that has significantly burdened, delayed and disrupted settlements in state, federal and territorial Workers' Compensation systems throughout the country. 05M109B

Urges Congress to acknowledge that there is no regulatory or statutory basis for Medicare Set Asides for third party liability settlements, judgments or awards under the Medicare Secondary Payer Act and provide clear, predictable, and consistent procedures for the submission, uniform determination, and timely approval of any third party medical set aside settlement proposals (MSASP) voluntarily submitted to the Centers for Medicare & Medicaid Services (CMS) in response to the non-binding recommendations of CMS. 11M108A

**Medicare/Medicaid Decertification Proceedings.** Urge the Department of Health and Human Services and the Health Care Financing Administration: (1) to establish more comprehensive rules of procedure for each of the various classes of HCFA administrative proceedings, including Medicare and Medicaid provider decertification proceedings; and (2) to publish in the *Federal Register* all of its interpretive guidelines, including procedural

guidelines, no matter how identified, that are used by HCFA in the performance of its enforcement functions. 2/89

**Medicare/Medicaid Fraud and Abuse Act.** Urge enactment of legislation to (1) provide that the Department of Health and Human Services shall issue advisory opinions upon request interpreting the Medicare/Medicaid Fraud and Abuse Act; (2) establish a federal advisory committee to review the Act and regulations interpreting it every two years in light of public comments, court decisions and changing circumstances; and (3) provide that HHS shall add to its distribution lists for information alerts and bulletins related to the Act those names of lawyers who request to be added to the list. 8/90

**Mental or Emotional Illness in Criminal Justice System.** Urges Congress to enact legislation that would address the complex problem presented by the large number of adults with mental illness and juveniles with mental or emotional disorders who come into contact with the criminal and juvenile justice systems. Urges federal, state, local and territorial governments to: (1) increase funding for public mental health systems so that adults with mental illness and juveniles with mental or emotional disorders can obtain the support necessary to enable them to live independently in the community, and to avoid contact with the criminal and juvenile justice systems; and (2) improve their response to these adults and juveniles who come into contact with the criminal and juvenile justice systems by developing and promoting appropriate programs, policies and laws. 04M116

**Military Survivor Benefit Plan Payments.** Urges Congress to enact legislation amending Title 10, United States Code, to permit the payment of military Survivor Benefit Plan benefits to a special needs trust for the benefit of a disabled beneficiary. 11M105

**National Institutes of Health Legislation.** Support legislation to include women and minorities in clinical trials performed by the National Institutes of Health and to appropriate funds for the NIH to study ailments affecting women. Support legislation to permanently authorize an Office of Research on Women's Health at the National Institutes of Health, and to create contraceptive and fertility research centers to conduct clinical and other applied research. Support certain legislation concerning federally funded fetal tissue transplantation research. Recommend that requirements and restrictions for such fetal tissue transplantation research prohibit certain actions. 2/92

**Naturalization Process.** Affirm the historic and societal importance of the naturalization process in integrating eligible lawful permanent residents into the mainstream of American life. Supports the current naturalization eligibility requirements, and opposes proposals to increase those requirements or disqualify an individual on the basis of conduct that was not a disqualification at the time it was engaged in. Support the naturalization process

and recommend improvements to the process to provide reasonable accommodations for people with mental and physical disabilities, to improve quality control in completing the required criminal record checks and required tests, and to achieve a six-month processing goal. 8/97

**Needle Exchange Programs.** Support the removal of legal barriers to the establishment and operation of approved needle exchange programs that include a component of drug counseling and drug treatment referrals in order to further scientifically-based public health objectives to reduce HIV infection and other blood-borne diseases and in support of the Association's long-standing opposition to substance abuse. 8/97

**Nursing Homes.** Urge the retention of effective enforcement mechanisms to ensure adequate quality of care in nursing homes participating in Medicare and Medicaid. 2/83

**Organ and Tissue Donations.** Support efforts to educate the public about the critical need for organ and tissue donations and to inform the legal community and clients of the opportunities to make these donations. Urge all attorneys to raise the topic with their clients. Urge the legal community to coordinate its efforts with respect to organ and tissue donations with those of the medical community and others. Support efforts to bring uniformity,

comity, and universality to the law and practice of organ and/or tissue donation and encourages all states to enact the 1987 version of the Uniform Anatomical Gift Act. Recommend revision of the Act to provide that an agent under a durable power of attorney may be granted authority to effectuate the principal's document of donation. 2/92

**Pain and Symptom Management.** Urge governments to construe, apply and if necessary, amend laws regulating the health professions, controlled substances, insurance and both public and private health benefit programs so that the laws do not impose barriers to quality pain and symptom management. Urge governments to support fully the right of individuals suffering from pain to be informed of, choose, and receive effective pain and symptom evaluation, management, and ongoing monitoring as part of basic medical care, even if such pain and symptom management may result in analgesic tolerance, physical dependence, or as an unintended consequence shorten the individual's life. 00A102

**Patient Safety.** Urges federal, state and territorial legislative bodies to adopt legislation establishing pilot programs that enable and encourage medical personnel to report hospital events which, if repeated, could threaten patient safety. 08A115

**Physician-Assisted Suicide.** Resolve that any consideration of the matter of physician-assisted suicide, which involves personal, religious, emotional, medical, legal and ethical considerations and consideration of appropriate care alternatives, supportive services, pain relief, potential for abuse, legal protection, competency and needed research in many fields, should be left to be resolved by state legislatures and territories and their electorates after extensive and informed public discussion. Recommend that in the event that any state or territory chooses to adopt legislation permitting physician-assisted suicide, it should ensure that information and reporting systems are established to achieve close monitoring of the impact of such practices, especially with respect to vulnerable populations who may be particularly at risk if such practices are authorized. 8/97

**Physicians Orders for Life-Sustaining Treatment.** Urges federal, state, tribal and territorial legislative bodies, governmental agencies and health care providers to establish and support decision-making protocols to ensure that the wishes, including those expressed in any prior advanced directive, of those who have advanced chronic progressive illnesses are appropriately translated into visible and portable medical orders such as "Physicians Orders for Life-Sustaining Treatment" or "POLST" that address higher probability medical contingencies, including hospitalization, cardiopulmonary resuscitation, artificial nutrition and hydration, antibiotics, and ventilation. 08A103

**Powers of Attorney.** Encourage the use and recognition of durable powers of attorney for delegating health care decision-making authority in the event of decisional incapacity of the principal, and include five specified steps to encourage such use and recognition. 8/89

**Public Health Law.** Urges American Bar Association members and lawyers throughout the United States to improve their knowledge of public health law in order to better serve their clients and the public who will be affected by new public health threats such as bioterrorism and infectious disease outbreaks. Encourages state, territorial and local bar associations to work with public health authorities to develop programs that train lawyers to provide pro bono legal assistance to public health authorities confronting biological and other health emergencies. Encourages ABA members and layers throughout the United states to become involved in assessing and improving the public health legal preparedness of the communities in which they live and work and ensuring that public health measures are protective of civil and constitutional rights. 04A102

**Qualified Medicare Beneficiary Program.** Support efforts to increase public awareness of and accessibility to the Qualified Medicare Beneficiary (QMB) program. Support efforts to identify, notify, and enroll currently eligible elderly persons and persons with disabilities who are not receiving the benefit. 2/93

**Representative Payees.** Urges the Administration to support and Congress to enact legislation that would strengthen the safeguards and protections of individuals receiving benefits under the Old Age, Survivors and Disability Insurance programs and the Supplemental Security Income program of the Social Security Act (Beneficiaries) which, because of such Beneficiary’s disabilities and incapacities, are being received and managed by organizations designated by the Social Security Administration as “representative payees.” 02M100

**Review of Medicare Reimbursement Controversies.** Urge Congress to hold public hearings addressing the need for legislation to ensure efficient administrative and judicial review of Medicare reimbursement controversies. 8/80

**Scientific Research, Prohibitions on.** Opposes governmental actions that would: (1) prohibit scientific research conducted for therapeutic purposes, including research involving cell nuclear transfer that is not intended to replicate a human being, provided that such research is conducted in conformity with accepted research, ethical, and legal safeguards; or (2) penalize individuals or research entities that participate in such research. 02A117B

**Sexually Transmitted Diseases.** Urges states, territories and tribes to support the removal of legal barriers to the appropriate use by health care providers of Expedited Partner Therapy, applied as specified in protocols promulgated by the U.S. Centers for Disease Control and Prevention (CDC) in the treatment of those sexually transmitted diseases, identified in the evidence-based recommendations of the CDC and the policy statements of the American Medical Association (adopted June 2006). 08A116A

**Social Security Act.** Supports continuation of the federal Old Age, Survivors, and Disability Insurance (OASDI) program, commonly known as Social Security and authorized by Title II of the Social Security Act, 42 U.S.C. § 401 *et seq.*, as a national system of social insurance. Supports preservation of the Social Security Trust Funds and long term solvency of the program. Identifies hallmarks of the existing system by which to measure future proposals. 05A113A

**Social Security Act Amendments.** Recommend that Congress enact legislation amending the Social Security Act that would require the Secretary of Health and Human Services to implement six practices at the initial determination process of disability claims; and to require the Secretary of Health and Human Services to take specific affirmative steps to ensure that applicants unable to adequately access the social security system, in particular homeless people, receive assistance in applying for benefits to which they may be entitled. 8/91

**Social Security Claims—Attorneys Fees.** Urges Congress to enact legislation amending Title 28 of the United States Code, to provide for the direct payment of attorney fees and costs to the attorney representing a prevailing party in certain Social Security Disability Insurance and Supplemental Security Income claims. 09M10B

**Standard of Care.** (1) Supports the development and use of evidence-based, clinical, or medical practice guidelines or standards regarding patient care and safety that are created by independent organizations comprised of experts, recognizing the need to incorporate updates on a continuous basis and further recognizing that such guidelines are not necessarily synonymous with the applicable standard of care in any particular jurisdiction. (2) Opposes federal or state legislation that provides that a healthcare provider is not negligent, or is presumptively not negligent, and is therefore not responsible, for an adverse outcome on the sole basis that the healthcare provider followed, or practiced in conformity with, evidence-based, clinical or medical practice guidelines or standards. (3) Opposes federal or state legislation that provides that a healthcare provider is negligent, or is presumptively negligent and is therefore responsible for an adverse outcome on the sole basis that the healthcare provider failed to follow, or failed to practice in conformity with, evidence-based, clinical or medical practice guidelines or standards. 11M113

**Supplemental Security Income Modernization Project.** Support in principle the recommendations of the Final Report of the Supplemental Security Income Modernization Project, to improve access to the Supplemental

Security Income program for all eligible persons, to ensure that claims are processed fairly and efficiently, and to eliminate rules and procedures that are unreasonable, demeaning and harsh. Support certain priorities as set forth in the above report. 2/94

**Surrogate Health Care Decisions.** Support the principles that individuals who are capable of making health care decisions generally have the right to consent to and to refuse suggested health care interventions, even if the result would be to shorten life's span, and that an appropriate surrogate may exercise this right on behalf of an individual who is incapable of making such decisions, with certain understandings. 2/90

**Telemedicine Licensure.** Urges states and territories to provide for mutual telemedicine licensure recognition, subject to continuing compliance with applicable licensure fees, discipline, and other applicable laws and regulations, and adherence to professional standards of medical care. Further, such legislation should specify a uniform definition of telemedical practice, the requisite procedures for telemedical licensure, jurisdictional requirements, and the continuing role of medical boards in physician licensure and discipline. 08A116B

**Universal 24-Hour Health Coverage.** Opposes the adoption of legislation by Congress that merges medical payment components of workers compensation and medical payment components of automobile insurance with health insurance, commonly referred to as "Universal 24-Hour Health Coverage." 10M103B

**Veterans' Federal Benefits.** Supports legislation to repeal the statutory provision preventing veterans from paying an attorney to represent them in connection with their claims for federal benefits. 05M8A

**Veterans' Treatment Courts.** (1) Supports the development of comprehensive, systemic approaches to address the special needs of veterans within civil and criminal court contexts, including but not limited to proceedings involving veterans service-related injuries, disorders, mental health and substance abuse needs, through programs that connect veterans to appropriate housing, treatment and services through partnerships with the local Veterans Affairs Medical Centers, community-based services and housing providers. (2) Urges state, local, and territorial courts to facilitate the development of Veterans Treatment Courts, including but not limited to, specialized court calendars or the expansion of available resources within existing civil and criminal court models focused on treatment-oriented proceedings. (3) Adopts six principles for Veterans Treatment Courts to the extent appropriate and feasible for each jurisdiction. 10M105A

## IMMIGRATION LAW

**Adjudication of Immigration Cases.** Supports the creation of an Article I court, with both trial and appellate divisions, to adjudicate immigration cases, which should have features substantially consistent with specific guidelines, or as an alternative to an Article I court, supports the creation of an independent agency for both trial and appellate functions. 10M114F

**Administration of U.S. Immigration Laws.** Supports (1) a system for administering our immigration laws that is transparent, user-friendly, accessible, fair, and efficient, and that has sufficient resources to carry out its functions in a timely manner; (2) the development of efficient interagency procedures to ensure that those involved in immigration matters have a clearly identified means for addressing and resolving issues that require action by more than one of the federal agencies that have jurisdiction; (3) vigilant enforcement against the unauthorized practice of law and ineffective assistance of counsel in immigration matters; (4) free availability of user-friendly legal resources for participants in immigration matters; (5) the adoption of reasonable discovery procedures for immigration proceedings that are consistent with best practices in other administrative agencies; and (5) the development of a standardized, efficient process for the timely handling of Freedom of Information Act requests for immigration matters that ensures compliance with statutory deadlines. 06M107D

**Administrative Appeal.** Oppose legislation that would not provide for appeal to an independent administrative

body for all persons subject to administrative orders of exclusion or deportation or to denial of asylum claims. 2/83

**Administrative Law Judges.** Support legislation that would require administrative law judges for immigration proceedings to be appointed pursuant to the Administrative Procedure Act. 2/83

**Alien Children.** Adopts the black letter ABA Standards for the Custody, Placement and Care; Legal Representation; and Adjudication of Unaccompanied Alien Children in the United States, dated August 2004, which addresses the comprehensive psychological, legal, medical, mental health, educational and other basic needs of unaccompanied immigrant alien children in federal custody. 04A117

**Amnesty for Illegal Aliens.** Support enactment of legislation recognizing that unlawful aliens now in the United States should be dealt with realistically and humanely, and those who are otherwise law-abiding should be accorded legal status. 2/83

**Asylum and Refugee Process and Procedures.** Express support for improving the asylum process and facilitating exercise of the right to counsel consistent with Section 292 of the Immigration Act, as amended, by calling upon the Immigration and Naturalization Service and the Executive Office of Immigration Review to implement certain recommendations of the ABA Coordinating Committee on Immigration Law, including three specified principles. Support a humane and enforceable safe-haven mechanism to provide protection to persons who are unable to return to their home countries because of conditions that endanger their safety and well-being; and urge that nationals of the People's Republic of China, El Salvador and Nicaragua should be among the first beneficiaries of the aforementioned protections. 2/90

Supports the establishment of laws, policies, and practices that ensure optimal access to legal protection for refugees, asylum seekers, torture victims, and others deserving of humanitarian refuge, including: (1) the elimination of unduly restrictive limitations that prevent asylum seekers from initiating claims; (2) the establishment of practices that ensure the prompt identification of asylum seekers; (3) the creation of fair screening procedures for refugees intercepted or interdicted in order to quickly identify refugees, asylum seekers, and torture victims; and (4) the development of refugee visa and pre-clearance policies to assist refugees in coming to the United States. 06M107F

Supports the repeal of annual numerical caps that result in undue delays in the granting of lawful permanent residence to those individuals who have already been granted asylum status in the United States. 05M112

**Board of Immigration Appeals.** Supports improving the efficiency, transparency and fairness of administrative review by the Board of Immigration Appeals through increasing the resources available to the Board, including additional staff attorneys and additional Board members, requiring three-member panel review in all non-frivolous merits cases that lack obvious controlling precedent, and allowing single-member review for purely procedural motions and motions unopposed by the Department of Homeland Security. 10M114C

**Citizenship Certificates.** Urge that the Immigration and Nationality Act be amended to provide for a 10-year statute of limitations within which proceedings must be instituted for revocation or cancellation of citizenship certificates. 2/68

**Civil Immigration Laws.** Urges that the federal government retain exclusive jurisdiction over civil immigration matters. Opposes delegation of legal authority to state, territorial and local police to enforce federal civil immigration laws. Opposes criminalization of civil violations of immigration law. 04M105

**Civil Penalties.** Oppose enactment of legislation that would authorize enforcement of civil penalties without opportunity for adjudicatory hearings before administrative law judges. 2/83

**Department of Homeland Security.** Urges the Department of Homeland Security to implement specific policies and procedures within the immigration removal adjudication system and urges Congress to amend the Immigration and Nationality Act regarding the removal of noncitizens convicted of certain crimes. 10M114A

**Deportation/Removal of Non-Citizen Based Upon Conviction of a Crime.** Urges Congress to restore authority to state and federal sentencing courts to waive a non-citizen's deportation or removal based upon a conviction of a crime, by making a "judicial recommendation against deportation" upon a finding at sentencing that removal is unwarranted in the particular case or, alternatively, to give such waiver authority to an administrative court or agency. Urges federal immigration authorities to avoid interpretations of the immigration laws that extend the reach of the "aggravated felony" mandatory deportation ground. Urges states, territories and the federal government to expand the use of the pardon power to provide relief to non-citizens otherwise subject to deportation or removal on grounds related to conviction, where the circumstances of the particular case warrant it. 06M300

**Detention.** Opposes the incommunicado detention of foreign nationals in undisclosed locations by the Immigration and Naturalization Service (INS) and urges protection of the constitutional and statutory rights of immigration detainees by: (1) disclosing the names, detention facilities and charges against them and ensuring immediate access to attorneys and family members; (2) promptly charging detainees and releasing them when charges are not brought or removal orders are not effectuated; (3) providing prompt custody hearings with meaningful administrative review and judicial oversight; (4) holding public removal hearings except when required to protect the individual's safety or when national security interests are involved; and (5) promulgating into regulation the four INS detention standards relating to access to counsel and legal information, and permitting independent organizations to visit the detention facilities and meet privately with detainees to monitor compliance. 02A115B

(1) Opposes the detention of non-citizens in immigration removal proceedings except in extraordinary circumstances which would include a determination, following a hearing and subject to judicial review, that a person presents a threat to national security or public safety, or presents a substantial flight risk. (2) Supports the

use of alternatives to detention, including supervised pre-hearing release and bond. (3) Supports prompt hearings, meaningful administrative review, and judicial oversight for detainees who are denied release. (4) For persons detained during immigration proceedings or under a final order of removal, supports the establishment of mechanisms to ensure full compliance with Supreme Court case law. 06M107E

Supports the issuance of federal regulations that codify the Department of Homeland Security Immigration and Customs Enforcement National Detention Standards, and supports improvement, periodic review, and increased oversight of detention standards implementation in order to ensure that detained non-citizens and their families are treated humanely and have meaningful access to counsel and to the legal process. 08M111B

**Discrimination in Government Funded Services.** Urge Congress and the President to restore to legal immigrants the same rights to Supplemental Security Income, food stamps and other federal and state funded services, benefits, and assistance, which were available to them prior to enactment of Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Oppose legislative or administrative action that restricts, denies or otherwise discriminates against legal immigrants, in the provision of government funded services, benefits or assistance. 8/97

**Due Process and Access to Legal Assistance in Workplace Enforcement Actions.** Supports legislation and/or administrative standards to ensure due process and access to appropriate legal assistance for persons arrested or

detained in connection with immigration enforcement actions and encourages bar associations to raise awareness of the rights available to individuals taken into custody during workplace immigration enforcement actions. 09M101C

**Due Process and Judicial Review.** (1) Urges an administrative agency structure that will provide all non-citizens with due process of law in the processing of their immigration applications and petitions, and in the conduct of their hearings or appeals, by all officials with responsibility for implementing U.S. immigration laws. Such due process in removal proceedings should include proceedings like those governed by the Administrative Procedure Act, including full, fair and meaningful administrative and judicial review. (2) Supports the neutrality and independence of immigration judges, both at the trial and appellate levels, and of any federal agency by which they are employed, so that such judges and agencies are not subject to the control of any executive branch cabinet officer. (3) Opposes retroactivity provisions in immigration laws that impose burdens or reduce benefits available to persons while depriving them of the ability to take such laws into account in making their decisions or shaping their conduct. 06M107C

**Employer Sanctions.** Oppose enactment of legislation imposing civil and criminal sanctions on employers who knowingly hire illegal aliens. 2/83

**Fee Levels for Benefits.** Supports fee levels for immigration and naturalization benefits that are not so burdensome as to deter eligible applicants from filing and urging Congress and the executive branch to ensure that adequate funds are appropriated to enable U.S. Citizenship and Immigration Services to implement these fee levels. 08M111A

**Gender-Based Persecution.** Urge that gender-based persecution be recognized as a ground for asylum under the Immigration and Nationality Act and support federal legislative or administrative action to ensure, in interpretations or applications of criteria for asylum under the Immigration and Nationality Act, that (1) the term, "social group" includes women who have been persecuted or have a well-founded fear of persecution on account of their gender; and (2) the term, "persecution" encompasses domestic violence, sexual abuse, rape, infanticide, genital mutilation, forced marriage, slavery, and forced abortion. 01M110

**Immigration Consequences of Criminal Proceedings.** Urges federal, state, territorial, tribal and local governments to provide funding to state and federal public defender offices and legal aid programs specifically for the provision of immigration advice about the immigration consequences of criminal proceedings to indigent non-U.S. citizen defendants, and about any available relief from such consequences. 10A100C

**Immigration Consequences of Past Criminal Convictions.** Supports legislation, policies and practices that preserve the categorical approach used to determine the immigration consequences of past criminal convictions, under which the adjudicator relies on the criminal statute and the record of conviction rather than conducting a new factual inquiry into the basis for the conviction. 09A113

**Immigration Courts and Judges.** Supports measures to improve immigration courts and create a more professional, independent and accountable immigration judiciary, including provisions to increase the number of a) immigration judges by approximately 100, b) law clerks to a ratio of one clerk per judge, c) support personnel, and d) Assistant Chief Immigration Judges and expand their deployment to regional courts. Supports additional opportunities for training of immigration judges and an increase in administrative time available to immigration judges. Also supports adoption of additional hiring criteria, the protection of immigration judges from removal without cause, and establishment and implementation of a new code of conduct tailored to the immigration adjudication system that is based on the ABA Code of Judicial Conduct. 10M114B

**Immigration of Foreign Nationals Investing in the United States.** Support legislation to reestablish a legal basis upon which foreign nationals who have invested or are in the process of investing a substantial amount may legally enter and immigrate to the United States, and to create a new nonimmigrant visa classification for

principal investors and their key employees. 8/87

**Immigration Legalization.** Urge Congress to extend the application period for legalization under the Immigration Reform and Control Act of 1986 (IRCA) beyond the existing expiration date of May 4, 1988. 2/88

**Immigration Reform (General Principles to Guide Immigration Reform Legislation).** Supports a regulated, orderly and safe system of immigration to the United States that promotes national security, and the creation of sufficient legal channels for the admission of needed workers and their immediate families. Supports a comprehensive approach to immigration reform that fairly and realistically addresses the U.S. undocumented population, the need for immigrant labor, the value of timely family reunification, and the need for an effective and credible immigration enforcement strategy to include: (1) a temporary worker program for undocumented laborers and for necessary future workers; (2) a path to lawful permanent residence and U.S. citizenship for undocumented persons who entered the United States as minors and have developed significant equitable ties to the U.S., subject to a good moral character requirement and security screening; (3) an immigration enforcement plan; and (4) expanded and coordinated government programs to teach immigrants English, prepare them for citizenship, acculturate them in core U.S. civic values, and otherwise promote their integration into their adopted nation. 06M107B

**Immigration Reform and Control Act.** Support development of activities and programs to promote public understanding and effective implementation of the Immigration Reform and Control Act in accordance with five methods. Urge Congress to appropriate sufficient funds to implement the legalization and other provisions of the Act. 11/86

**Increased Appropriations for Enforcement.** Support provision by Congress of sufficient resources to federal agencies charged with administering immigration, refugee and fair labor standards laws. 2/83

**Involuntary Transfer of Detained Immigrants and Asylum Seekers.** Oppose the involuntary transfer of detained immigrants and asylum seekers to facilities that impede an existing attorney-client relationship. 01M106B

**Judicial Review Availability.** Oppose legislation to limit availability and scope of judicial review of administrative decisions regarding reopening and reconsideration of exclusion or deportation proceedings or asylum determinations on constitutional and statutory writs of *habeas corpus*. Oppose legislation to limit to less than 60 days the time within which petitions for review must be filed. 2/83

Supports the restoration of federal judicial review of immigration decisions. Urges Congress to enact legislation to a) restore the U.S. Court of Appeals' authority to review discretionary decisions of the Attorney General under the abuse of discretion standard in effect prior to 1996 legislation, b) permit the courts of appeals to remand cases to the Board of Immigration Appeals for further fact finding, and c) amend the current 30-day deadline to file a petition for review with the court of appeals to 60 days, with a provision for an additional 30 days for good cause or upon a showing of excusable neglect. Urges the promulgation of regulations requiring that a final order of removal include notice of the right to appeal. 10M114D

**Judicial Review of Final Orders of Exclusion.** Support enactment of legislation creating jurisdiction for the judicial review of all final orders. 8/74

**Labor Certification Program.** Support amendment of Immigration and Nationality Act to improve labor certification and improvement by Department of Labor of certification program. 8/76

**Migration.** Supports multinational cooperation and consultation in the formulation of national laws and policies relating to migration and urges the United States government to enter into regional and international discussions and agreements governing the flow of workers. 06A123B

**Naturalization Process.** Affirm the historic and societal importance of the naturalization process in integrating eligible lawful permanent residents into the mainstream of American life. Supports the current naturalization eligibility requirements, and opposes proposals to increase those requirements or disqualify an individual on the basis of conduct that was not a disqualification at the time it was engaged in. Support the naturalization process and recommend improvements to the process to provide reasonable accommodations for people with mental and physical disabilities, to improve quality control in completing the required criminal record checks and required tests, and to achieve a six-month processing goal. 8/97

**Nonimmigrant Visas for Household Caregivers.** Urge amendment of the Immigration and Nationality Act to create a new non-immigrant visa category for household caregivers, control employment of alien caregivers to protect them and the U.S. market, and establish reasonable time limitations on the process for qualifying for permanent residence in the United States for qualified and eligible alien applicants. 8/93

**Nonimmigrant Visas for Intracompany Transferees.** Support amendment of federal regulations relating to nonimmigrant visas for intracompany transferees by clarifying and simplifying certain eligibility definitions and by lengthening the initial eligibility period for new offices. 8/88

**Permanent Residence.** Supports legislation providing noncitizens who both reside in the United States and demonstrate significant ties to the United States (such as employment, tax payment, family, length of residence) with an opportunity for them and their immediate relatives to acquire lawful, permanent residence. 02A115A

**Preference Categories.** Support amendments to the Immigration and Nationality Act of 1952, as previously amended, in order to further reform the basis upon which foreign nationals may seek lawful permanent resident status in the United States on a humane and equitable basis that reflects the historic emphasis on both family reunification and the economic and cultural interests of the United States in accordance with four specified principles. Oppose any overall numerical limitation, which would reduce visa numbers from the non-family-related preference categories by the number of visas issued to immediate relatives of U.S. citizens. 2/89

**Presidential Powers in Immigration Emergency.** Recommend to Congress that any legislation that would give the President powers to act in an immigration emergency preserve the right of judicial review and protect the right to travel. 8/83

**Protection for Immigrant Victims of Crime.** (1) Supports avenues for lawful immigration status, employment authorization, and public benefits for victims, and derivative family members, of human trafficking and other crimes (including rape, torture, domestic violence, sexual assault, and sexual exploitation) described in Section 101(a) (15) (U) (iii) of the Immigration and Nationality Act, which occur in the United States or its territories. (2) Further supports the use of Legal Services Corporation funding to provide services to such victims. (3) Opposes the apprehension of such victims for immigration violations at shelters, crisis centers, or courts where they are seeking protection orders. (4) Opposes placing such victims in removal proceedings or in immigration detention if they are eligible for immigration relief. 06M107G

**Protection for Refugees.** Urge the United Nations (1) to provide international protection for refugee health needs; (2) to review the adequacy of current international agreements to address the health and related humanitarian needs of refugees and other displaced persons; (3) to strengthen the protection of refugee health under the existing international agreements; and (4) to develop international agreements, or other mechanisms, to protect the health needs of all other displaced persons. 8/91

**Reform of Legal Immigration.** Existing laws and procedures for admission of aliens should be reformed to

assure increased economic and cultural benefits to the United States from such admission. Aliens should be permitted to change their status to that of a permanent resident even if they have not maintained continuous legal status since entering the United States. 2/83

**Right to Counsel.** Oppose legislation that would limit the rights of persons subject to exclusion, deportation or asylum proceedings to retain counsel. 2/83

Urge (1) law enforcement authorities to adopt a warning of rights similar to the "Miranda" standard, advising foreign nationals of their right to consular assistance, pursuant to Article 36 of the Vienna Convention on Consular Relations; (2) that the warning be given at the moment of detention and identification of the foreign national by the law enforcement authorities; (3) that such authorities adopt certain procedures and statements proposed by the Department of State and encourage efforts to disseminate the knowledge and enforcement of these rights. 98A125

Support the appointment of counsel at government expense for unaccompanied children for all stages of immigration processes and proceedings. Support the establishment within the Department of Justice of an independent office with child welfare expertise to ensure that children's interests are respected at all stages of the immigration process. 01M106A

Supports the due process right to counsel for all persons in removal proceedings, and the availability of legal representation to all non-citizens in immigration-related matters. Further supports (1) expansion of the federal "legal orientation program" to all detained and non-detained persons in removal proceedings; (2) establishment of a system to screen and refer indigent persons with potential relief from removal to pro bono attorneys, Legal Services Corporation sub-grantees, charitable legal immigration programs, and government funded counsel; (3) establishment of a system to provide legal representation, including appointed counsel and guardians *ad litem*, to mentally ill and disabled persons in all immigration processes and procedures, whether or not potential relief may be available to them; and (4) legislation to overturn the "no cost to the government" restriction on representation in removal proceedings. 06M107A

**Rights of Cuban and Haitian Refugees.** Urge that the United States Government take special measures to protect the rights of Cuban and Haitian refugees being detained in camps under United States control, including due process, access to independent legal counsel, humanitarian living conditions and adequate medical care.

Urge that United States lawyers be permitted to visit with any such refugee requesting legal counsel for the purposes of counseling them. 2/95

**Rights of Farmworkers.** Support efforts to improve wages, working conditions and housing for farmworkers; enhanced enforcement of laws regulating the rights of farmworkers and according legal resident status to noncitizen farmworkers presently working in the United States. Oppose any expansion of the existing H-2A nonimmigrant visa category for admitting temporary agricultural farmworkers to the United States either by changing the temporary labor certification process or by repealing or lowering existing H-2A requirements. 99A106

**Secret Evidence in Immigration Proceedings.** Oppose the use of secret evidence in immigration proceedings, including but not limited to (1) using secret evidence to deport noncitizens; (2) denying immigration benefits to noncitizens based on secret evidence; (3) refusing to release on bond noncitizens based on secret evidence; and (4) denying admission to returning lawful permanent residents, people who have been paroled into the United States, and asylum seekers, based on secret evidence. 01M106C

**Sexual Orientation of Sponsor of Non-Citizen for Permanent Residence in U.S.** Supports the enactment of

legislation and the implementation of public policy to enable a United States citizen or lawful permanent resident who shares a mutual, interdependent, committed relationship with a non-citizen of the same sex to sponsor that person for permanent residence in the United States. 09M108

**Startup Visa.** Supports full implementation of legislation by Congress to provide for the creation of Startup Visa (by way of the creation of the EB-6 Visa Program, the reformation of the EB-5 Visa Program or similar creation, reformation and/or restructuring of the current U.S. immigration regime) to provide for a mechanism whereby immigrant-founders of businesses can obtain legal status in the U.S. 10A300

**State and Local Police Authority.** Recommend that immigration law enforcement is a federal responsibility and that state and local police should not exercise the powers of immigration officers under immigration laws. 8/83

**Summary Exclusion.** Oppose summary exclusion legislation, and support legislation to provide (1) hearings before immigration judges when entry applicants may not appear to examining officers to have required entry documentation; and (2) hearings for asylum applicant on all issues, including issues not initially raised in asylum applications. 2/8

**Temporary Workers.** Support legislation that will preserve rights of aggrieved persons to pursue administrative, equitable or legal remedies where employers of nonimmigrant temporary aliens fail to comply with employment terms. 2/83

**Trafficking Victims.** Urges federal, state, local, territorial and tribal governments to pass legislation, authorize funding that strengthens protection and assistance for victims of trafficking in persons, within the United States or abroad, as well as bolsters prevention efforts and encouraging bar associations to engage members of the legal profession in raising awareness of trafficking in persons in their communities and in providing pro bono legal services to victims of trafficking. 07A110C

**Visa Denials.** Recommend that U.S. law concerning visa denials conform to a standard that opposes the denial of visas, in certain cases, solely on the basis of past or current political beliefs or political associations or on the basis of expected content of the person's statements in the United States. 2/86

Urge the amendment of applicable federal statutes and regulations to establish increased due process in consular visa adjudications and a system for administrative review of certain visa denials, including specified principles. Urge that a study be made concerning the feasibility of granting administrative review for permanent immigrants whose visas are denied abroad by consular officers. 2/90

**Visas, Issuance of.** Urges the Congress, Department of State, Department of Homeland Security, Federal Bureau of Investigation, and other relevant government agencies to ensure that the visa issuance process effectively protects the security of the United States, while allowing those persons who wish legitimately to study, work, or travel in the United States for scientific and scholarly purposes the opportunity to pursue those objectives. Supports efforts to establish more effective and efficient policies and procedures for issuing, denying, adjudicating and revoking visas to enter or re-enter the United States. 05M110

## INSURANCE LAW

**Alcohol/Drugs.** Urges all state, territorial and local legislative bodies and governmental officials to repeal laws and discontinue practices that permit insurers to deny coverage for alcohol or drug related injuries or losses covered by accident and sickness insurance policies that provide hospital, medical and surgical expense coverage. 05A105

Urges all federal, state, territorial and local legislative bodies and governmental agencies to adopt laws and

policies that require health and disability insurers who provide coverage for the treatment of both abuse and dependence on drugs and alcohol to do so in a manner that is based on the most current scientific protocols and standards of care, so as significantly to enhance the likelihood of successful recovery for each patient. 06A109

Affirms the principle that dependence on alcohol or other drugs is a disease and supports the principle that insurance coverage for the treatment of alcohol and drugs disorders should be at parity with that for other diseases. 07A106A

**Automobile Tort Insurance.** Support determining at the state and territorial rather than the federal level automobile tort insurance matters including automobile choice legislation such as those contained in S. 625 and H.R. 2021, the “Auto Choice Reform Act of 1997” (105<sup>th</sup> Congress). Oppose seven specified concepts and principles that are contained in S. 625 and H.R. 2021. 98A124

**Catastrophe/Disaster Insurance Coverage.** Recommends federal, state and territorial governments to enact legislation with appropriate funding that would eliminate any prohibitions or restrictions on participants in the private insurance and reinsurance markets from making available broadened insurance protection for property damage arising from storms, including damage from wind, wind-driven rain and flood caused by storm surge, but excluding damage arising from other types of floods. 09M107A

Urges Congress to address the consequences of natural catastrophes by strengthening the financial infrastructure and developing programs that increase availability of affordable insurance in areas highly-exposed to catastrophes, while not competing with the private market. 09M107B

Urges the federal government to take steps to encourage capital markets to finance catastrophic risks by: a) undertaking a study through the U.S. Treasury Department to determine what changes in federal laws and regulations would reduce barriers to the issuance of catastrophe (CAT)-linked securities in the United States; and b) enacting legislation as needed to encourage the issuance of catastrophe (CAT)-linked securities. 09M107C

Urges the federal government to address the liquidity needs of individuals and businesses in the aftermath of future natural catastrophes to reduce some of the losses by residents affected by the catastrophes. 09107D

Urges state, territorial and local governments to use specific tools to mitigate losses from future mega-catastrophes to ensure the ongoing availability and affordability of insurance for natural disasters. 09107E

Urges the federal government to use specific tools to mitigate losses from future mega-catastrophes by influencing building codes and land-use in certain situations. 09107F

Recommends state and territorial governments to adopt standards for handling residential and small business insurance claims for property damages resulting from hurricanes or storms. 09107G

**Denial of Insurance Benefits.** Urge enactment of legislation to provide that no person or entity could deny insurance benefits solely on the basis of the applicant's status as a victim of domestic violence. 2/95

**Denial of Public Benefits.** Oppose any legislation, rule or regulation that denies the public benefits or the incremental increase in public benefits to which a family otherwise would be entitled upon the birth of a child, based on the family's receipt of public assistance at the time of the child's conception or birth, or the mother's age or marital status at the time of the child's birth, or the fact that the child's paternity has not been established. 2/95

**Health Insurance Portability and Accountability Act** Urge repeal of Section 217 of the Health Insurance Portability and Accountability Act of 1996 as amended by Section 4734 of the Balanced Budget Act of 1997, P.L. 105-33, which makes it a crime to counsel or assist an individual for a fee to make lawful transfers for purposes of becoming eligible for Medicaid. 98M108

**Insolvent Insurance Companies.** Urges states (including the District of Columbia, Puerto Rico and U. S. territories) to improve procedures used for dealing with insolvent insurance companies and improve the operation of the current state receivership system by enacting legislation and/or adopting regulations to (1) improve the selection and oversight of insurance receivers and (2) enhance the ability of receivers to bring estates to more efficient and expeditious closure by providing a menu of options to be used in connection with long-term obligations. 03M105

**Insurance Information Office.** Urges Congress to enact legislation to establish a non-regulatory insurance information office within the Treasury Department. 09A303

**Liability Insurance.** Adopt several specific recommendations with respect to (1) causes of liability insurance availability and affordability; (2) the McCarran-Ferguson Act; (3) insurance data collection and reporting; (4) flex rating plans; (5) formation and modification of insurance contracts, declinations, nonrenewals, cancellations, and price adjustments; (6) assuring availability of essential liability insurance; (7) claims made and defense costs limits; and (8) liability insurance for mass torts. 2/89

**McCarran-Ferguson Act.** Urge repeal of the current McCarran-Ferguson exemption to the antitrust laws and replacement with legislation containing seven specific features. Recommend that states retain the authority to regulate the business of insurance, and that the federal government defer to state regulation except in unusual circumstances where the regulatory objective can only be effectively accomplished through federal involvement. 2/89

**No-Fault Automobile Insurance.** Oppose federal statute establishing, or federal standards for, no-fault insurance programs. Support improved state reparations laws. 8/72

**Non-Profit Charities for Children of Workers' Compensation Claimants.** Recommend that states and territories promote the establishment of non-profit charitable organizations to receive donations and establish college scholarships for the benefit of the children of workers' compensation claimants. 8/94

**Notification to Recipient of Judgments.** Support enactment of legislation or regulations in the states, territories, District of Columbia and other jurisdictions which regulate the insurance industry that would require notification to the recipients of funds paid out as settlements or in satisfaction of judgments by insurance companies when such payments are sent to a lawyer or other representative for final distribution. 8/91

**Pain and Symptom Management.** Urge governments to construe, apply and if necessary, amend laws regulating the health professions, controlled substances, insurance and both public and private health benefit programs so that the laws do not impose barriers to quality pain and symptom management. Urge governments to support fully the right of individuals suffering from pain to be informed of, choose, and receive effective pain and symptom evaluation, management, and ongoing monitoring as part of basic medical care, even if such pain and symptom management may result in analgesic tolerance, physical dependence, or as an unintended consequence shorten the individual's life. 00A102

**Product Liability.** Oppose enactment of broad federal legislation to codify the tort laws of the 50 states as they relate to product liability. Support federal legislation to address the issues of liability and damages in certain occupational disease claims and to allocate product liability risks between the federal government and its contractors. 2/81; 2/83

Support the continued right of the states and territories to regulate product liability law. Oppose federal legislation abolishing strict seller liability and oppose the product seller provision set forth in Section 103(b) of H.R. 10. 2/95

**Terrorism Risk Insurance.** Urges Congress and the Administration to protect property owners, consumers and

U.S. economy by partnering with the insurance industry to promote the availability of terrorism risk insurance through legislation that continues support for market mechanisms with federal government insurance backstop protection. 07M110

**Tort Liability System.** Adopt recommendations of the Commission to Improve the Tort Liability System concerning (a) establishment of a commission to improve the liability insurance system; (b) awarding of pain and suffering damages; (c) awarding of punitive damages; (d) modification of the doctrine of joint and several liability; (e) arrangements for attorneys' fees; (f) secrecy and coercive agreements; (g) streamlining the litigation process; (h) injury prevention/reduction; and (i) establishment of a commission on mass torts. 2/87

**Universal 24-Hour Health Coverage.** Opposes the adoption of legislation by Congress that merges medical payment components of workers compensation and medical payment components of automobile insurance with health insurance, commonly referred to as "Universal 24-Hour Health Coverage." 10M103B

**Workers' Compensation.** Oppose legislation mandating minimum federal standards for state plans of workers' compensation. Urge that workers' compensation systems remain responsibility of states. Oppose federal legislation infringing upon the states' systems. 2/74; 2/80

Recommend that the decisions of adjudicators in formal workers' compensation hearings state findings, conclusions, and the reasons or basis therefore, on all the material issues of fact, law, or discretion presented on the record, including the adjudicator's reasons for accepting the testimony of expert witnesses. 2/93

**Workers' Compensation Proceedings.** Recommend that state and territorial administrative and judicial appellate reviewers of findings of fact made in formal workers' compensation proceedings examine the record under a minimum standard of "Substantial Evidence upon the Whole Record," pursuant to which the determination of the substantiality of the evidence takes into account whatever in the record fairly detracts from its weight. 2/94

**Y2K Legislation.** Recommend that legislation addressing concerns for litigation and claims arising out of the potential hardware or software failures of computers or imbedded devices because of Year 2000 failure be amended to exclude certain provisions. Support reasonable pre-litigation notice and encouragement of potential litigants to utilize alternative dispute resolution methods during any pre-litigation period. Support encouragement of the disclosure of known Y2K defects and the encouragement of business, with appropriate antitrust relief, to cooperate in the development and implementation of remediation of Y2K defects. 6/99

## INTERNATIONAL LAW

**Adoption (International).** Supports international adoption as an integral part of a comprehensive child welfare strategy to address the worldwide problem of children without permanent homes and supports policies that make the process of international adoption more timely, less costly and less burdensome, while ensuring that international adoption practices are ethical and legal. 08A102

**Aids.** Urges the federal government to implement HIV/AIDS-related initiatives in a manner consistent with international human rights law and science-based prevention, care, support and treatment objectives and endorses the United Nations Declaration of Commitment on HIV/AIDS, dated June 2001. 04M103B

**Aircraft Protocol, Treaty and.** Urges the United States to sign and ratify the Convention on International Interests in Mobile Equipment and the related Protocol on Matters Specific to Aircraft Equipment, adopted in November 2001 by a Diplomatic Conference held in Cape Town, South Africa. 02A300

**American Convention of Human Rights.** Support accession of the United States to the convention subject to several reservations, understandings and declarations. 8/79

Reiterate support for the ratification by the United States of American Convention of Human Rights and for the enforcement of judgment of the Inter-American Court of Human Rights. 8/94

**Antiterrorist Convention.** Support in principle a convention against terrorist activities in the Americas. 2/82

**Apartheid.** Oppose the South African policy of apartheid and its various manifestations and urge the U.S. government to take appropriate action to oppose apartheid. Further, oppose those policies of any government that discriminates against its inhabitants on the basis of their race. 2/85

**Arctic Region.** Reject application of the "sector principle" in the Arctic region as inconsistent with the general provisions of international law that are applicable and endorse U.S. efforts regarding development of living and nonliving resources of Antarctica. 8/80

**Association Assistance to Other Countries.** Direct ABA President to (1) identify those countries struggling to find a path to greater freedom through more democratic governments and considering fundamental changes in their judicial systems; and (2) offer the assistance of attorneys from the United States to such countries, and, if the offer is accepted, or if assistance is otherwise requested, authorize the President to appoint panels of attorneys to provide such assistance to each requesting country. Resolve that every effort be made to convey that this is an initiative of substance and goodwill undertaken voluntarily by the attorneys of the United States to support those countries in their efforts to provide greater freedom and more just societies for their people, and that this initiative is not associated with any governmental enterprise. 2/90

**Attorney-Client Privilege/European Communities.** Requests the Commission of the European Communities, when conducting a competition inquiry pursuant to Article 11 or 14 of Regulation 17, to grant to an undertaking the same protection, including the same procedural safeguards, against disclosure of written communications with a U.S. lawyer that Community Law accords to a client's written communications with a lawyer of a Member State of the European Community. As a separate matter, the American Bar Association requests the Commission of the European Communities to study and extend the attorney-client privilege to house counsel, whether of Member States of the Communities, or otherwise. 2/83

**Biological Weapons.** Urge that all possible steps be taken to strengthen and secure respect for international law norms prohibiting the use in war of chemical, biological and toxin weapons. Commend the U.S. Government for its proposal of a Draft Convention on the Prohibition of Chemical Weapons. Urge that all possible efforts be devoted to achieving agreement on the basic terms of an effective and verifiable Draft Convention and its ultimate adoption as a widely ratified multilateral treaty. Urge the U.S. government to present to the United Nations proposals to improve existing mechanisms or create effective new ones for the prompt and comprehensive investigation of all serious reports of use of chemical or biological weapons in violation of the 1925 Geneva Protocol and of the 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction. 7/85

**Bosnia-Herzegovina.** Urge the United States Government and the Security Council of the United Nations to effect the investigation, and, if warranted, the prosecution and punishment, of persons who have committed war crimes or crimes against humanity in Bosnia-Herzegovina. Offer immediate assistance to the United States Government and the United Nations to identify qualified lawyers, law professors, and judges who would be willing to participate in any investigations, collection of information, gathering of testimony, and, if warranted, prosecution and trial of persons accused of having committed such crimes, and punishment of those convicted. 11/92

**Cambodia.** Condemn the documented genocide in Cambodia and resolve to work with other public and private institutions towards bringing those responsible to justice through all appropriate legal steps. 2/87

**Cayman Islands.** Support ratification of the Treaty Between the United States of America and the United Kingdom of Great Britain and Northern Ireland concerning the Cayman Islands Relating to Mutual Legal Assistance in Criminal Matters. 2/87

**Chemical Weapons.** Urge the U.S. Senate to give its advise and consent as soon as possible to the ratification of the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction. 8/94

**Chile.** Oppose the interference by the Chilean Government with the independence of judges and lawyers in Chile. Call upon the Chilean Government to honor any extradition request made by the U.S. Government on behalf of former Chilean Foreign Minister Orlando Letelier and Ronni Karpen Moffitt and to investigate and bring to justice all persons responsible for violation of fundamental human rights. Urge the Chilean Government to restore basic human rights by certain methods. Authorize sending a delegation to Chile to discuss with counterparts there the role of the independent judiciary, military courts, and the intimidation of lawyers who represent politically unpopular clients. 8/87

**Colombia.** Support the lawyers, judges and public officials of Colombia who have refused to surrender their country, their judicial system or the rule of law to those who traffic in drugs and death. Urge the President and the Congress to provide all appropriate assistance to help our brave colleagues stem the destructive flow of cocaine and other drugs which threaten not only their country but ours. Resolve to provide support to the judicial system of Colombia as may be appropriate. 2/90

**Commission on Security and Cooperation in Europe.** Support and encourage the work of the Commission on Security and Cooperation in Europe and attach great importance to the continuation of the implementation review process. 8/77

**Convention Against Corruption.** Supports the prompt ratification by the United States, and by other members of the United Nations of the United Nations Convention Against Corruption, subject to minimal reservations, understandings and declarations, and also supports the development of a mechanism to monitor the implementation and enforcement of the Convention. 05A110

**Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.** Urge the United States to promptly sign and ratify the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. 2/86

**Convention Establishing the Multilateral Investment Guarantee Agency.** Urge the ratification and implementation of the Convention Establishing the Multilateral Investment Guarantee Agency (MIGA). 2/86

**Convention on the Law Applicable to Trusts and on their Recognition.** Urge signing and ratification of the Convention on the Law Applicable to Trusts and on their Recognition, which was adopted as the final act of the Fifteenth Session of the Hague Conference on Private International Law. 8/86

**Convention on the Safety of the United Nations and Associated Personnel.** Support ratification by the United States of the Convention on the Safety of United Nations and Associated Personnel, and recommend that the United States and other parties interpret and apply the Convention in accordance with statements of understanding that (1) Article 20(a) requires application of international humanitarian and human rights law to operations authorized not only under Chapter VII of the United Nations Charter, but also to those authorized under Chapter VI and (2) the intent referred to in Article 9 means actual knowledge of the victim's status as United Nations or associated personnel. 2/96

**Conventional Arms Limitations.** Supports the Administration proposal to ban weapons of mass destruction in the Middle East and to regulate sales of conventional weapons in the region and recommends that the U.S. Government engage in efforts to establish and enforce limitations on the sale or transfer of conventional arms, recommending five specific actions. 8/92

**Corrupt Practices in International Business.** Support efforts to encourage the adoption and implementation of effective legal measures and mechanisms to deter corrupt practices in the conduct of international business. Urge steps to support the adoption and implementation by national governments and the international community of effective legal measures and mechanisms that are actively monitored and enforced to deter corrupt practices in the conduct of international business. 2/95

**Council of Europe's Criminal Law Convention on Corruption.** Support the United States' ratification of the Council of Europe's Criminal Law Convention on corruption, provided that a significant number of eligible States have demonstrated that they are prepared to accede to this agreement, and further provided that the terms of such accession by other acceding States provide satisfactory evidence that the Convention will not be used by the States to dilute their commitment under other international anti-corruption instruments, and subject to the adoption of reservations, understandings, and interpretive statements, as appropriate. 01M105A

**Crimes Aboard Aircraft.** Support strong U.S. and international measures to reduce the frequency of, and to punish such crimes. 2/63

**Czechoslovakia.** Condemn action of the Czechoslovakian government in instituting criminal proceedings in absentia against émigrés who left the country as a result of the Warsaw Pact military intervention of 1968. 2/71

**Darfur, Sudan.** Calls upon the United States Government to take all necessary and proper actions within its power to end the ongoing atrocities (including genocide, crimes against humanity, and war crimes) in Darfur, Sudan; to provide international humanitarian assistance to the refugees in eastern Chad; and to take steps to secure the referral of the situation in Darfur to the International Criminal Court for investigation and prosecution of the individuals responsible for such crimes. 05M106

Urges the United States Government to support the Darfur peace accord signed on May 5, 2006; and to support the work of the International Criminal Court in investigating and prosecuting the individuals responsible for crimes in Darfur, Sudan, the humanitarian work of the United Nations in Darfur, Sudan, the peacekeeping efforts of the African Union, and any eventual peacekeeping efforts of the United Nations in Darfur, Sudan. Further, urges the United States Congress to enact and the President of the United States to sign and implement legislation which would, in pertinent part, block the assets and restrict the visas of any individual determined to be complicit in or responsible for acts of genocide or war crimes in Sudan, provide assistance to support the African Union Mission, and appoint a Presidential Envoy for Sudan. 06A120B

**Depositions.** Recommend amendment of the federal judicial code to permit district courts to order service of documents and taking of depositions abroad for use by federal administrative tribunals. 7/71

**Detainees' Treatment Under Geneva Convention.** Urges Congress to override the President's Executive Order of July 20, 2007, which alters the U.S. government's international obligations under the Geneva Conventions of August 12, 1949, regarding the treatment of detainees under its authority or control, and to reaffirm those obligations. 07A10B

**Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism.** Urges that, with respect to the November 13, 2001 Military Order Regarding "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism," or any similar military order that is issued, the President and Congress should assure that the law and regulations governing any tribunal will: (1) not be applicable to United States citizens, lawful resident aliens, and other persons lawfully present in the United States; (2) not be applicable to

persons apprehended or to be tried in the United States, except for persons subject to the settled and traditional law of war who engage in conduct alleged to be in violation of such law of war; (3) not be applicable to cases in which violations of federal, state or territorial laws, as opposed to violations of such law of war, are alleged; (4) not permit indefinite pretrial detention of persons subject to the order; (5) require that its procedures for trials and appeals be governed by the Uniform Code of Military Justice, except Article 32; and (6) require compliance with Articles 14 and 15(1) of the International Covenant on Civil and Political Rights. Further urges the Executive and Legislative branches, in establishing and implementing procedures and selecting venues for trial by military tribunals, to give full consideration to the impact of its choices as precedents in (a) the prosecution of U.S. citizens in other nations and (b) the use of international legal norms in shaping other nations' responses to future acts of terrorism. 02M8C

Consistent with the United States' Supreme Court's June 2008 decision in *Boumediene v. Bush*, urges that the procedural framework for pending habeas cases brought by detainees should be determined by the District Court rather than by Congress, consistent with Federal statutory habeas criminal law principles, where applicable, and the Uniform Code of Military Justice, appropriate to the facts and circumstances of that petitioners' case. 09M10A

**Disarmament and Nonproliferation of Nuclear Weapons.** Support congressional approval of Interim Agreement on Certain Measures with respect to the Limitation of Strategic Offensive Arms, and urge prompt agreement on further measures providing for general and complete disarmament and nonproliferation. 8/72

**Economic Exploitation of Persons Under 18.** Urge the United States to work with the United Nations and the International Labor Organization to promote the abolition of the economic exploitation of persons under eighteen years of age by the adoption and enforcement of (1) domestic laws that regulate the employment of persons under the age of 18 in a manner consistent with the minimum age standards set forth in the Convention on the Rights of

the Child and the Minimum Age Convention; and (2) laws that eliminate (a) the abduction, trading and selling of persons under the age of 18 years; and (b) the use of such persons to work under conditions that are analogous to slavery. 8/96

**Electronic Commerce.** Support electronic commerce as an important means of commerce among nations. Support commerce through electronic networks that are global in nature and require international communication and cooperation among all nations, including developing nations. Encourage continued discussion in open international forums to remove unnecessary legal and functional obstacles to electronic commerce. Encourage cooperation to establish a legal framework within which global electronic commerce can flourish in an environment that provides appropriate legal protection to all interested parties, while eliminating unnecessary legal and functional barriers to electronic commerce. Encourage the private sector to develop self-regulating practices that will protect the rights of individuals and promote the public welfare. 8/97

**Electronic Communications in International Contracts.** Urges the U.S. Government to ratify the *United Nations Convention on the Use of Electronic Communications in International Contracts*. 08A100

**Enemy Combatants.** Urges that U.S. citizens and residents who are detained within the United States based on their designation as "enemy combatants" (1) be afforded the opportunity for meaningful judicial review of their status, and (2) not be denied access to counsel in connection with the opportunity for such review. Further, urges that Congress, in coordination with the Executive Branch, establish clear standards and procedures governing the designation and treatment of enemy combatants and consider how national policy set by the United States may affect the response of other nations to future acts of terrorism. 03M109

**European Community.** Support the European Community's commitment to create a single, integrated market. Urge the European Community to implement measures in such a manner as to ensure effective,

nondiscriminatory market access for non-EC-based business entities. Urge that companies organized under the laws of all EC member states are to be treated on an equal basis without regard to the ultimate beneficial ownership of the company. Recommend that measures relating to the integration of the legal profession be designed so as to ensure the preservation of the integrity of the legal profession and the continued recognition of its distinctive characteristics and responsibilities. Recommend that measures adopted by the European Community should not impose or permit restrictions upon the delivery of legal services by members of foreign legal professions that are not objectively required for the protection of the public. 8/90

**Export Administration Act.** Recommend that the Export Administration Act be applied extraterritorially only in ways that are consistent with generally recognized principles of international law. 8/83

**Export Control Measures.** Recommend that the United States adhere the following principles in the adoption and maintenance of export controls and economic sanctions measures: (1) to consult with, and seek the support and cooperation of, foreign governments sharing common objectives in devising and carrying out programs to constrain foreign trade and investment detrimental to shared U.S. national security and foreign policy objectives; and (2) to refrain from the adoption or maintenance of extraterritorial foreign trade control measures that do not conform to jurisdictional principles of international law as generally accepted by the international community and create the potential for conflicts with other nations, including three specified measures. 98A300

**Export-Import Bank.** Favor extension of the charter of the Export-Import Bank of the United States. 4/83

**Extradition Act of 1983.** Support enactment of legislation modernizing U.S. international extradition practices along the lines proposed in the Extradition Act of 1983, and recommend that the legislation: (1) preserve the jurisdiction of federal courts to make the initial determination whether extradition is barred by the political-offense exception; (2) exclude all acts of terrorist violence from the application of the political-offense exception; (3) preclude application of the political-offense exception to offenses that constitute serious breaches of the norms established under international humanitarian law; and (4) provide that a person sought for extradition shall be entitled to bail under the same conditions as though he was charged with an offense against the United States. 8/83

**Extradition Treaty with the United Kingdom.** Urge ratification of the Supplementary Extradition Treaty with the United Kingdom. 2/86

**Extraterritorial Application of U.S. Laws.** Recommend the implementation of a U.S. government policy requiring notification of the State Department before executive departments and independent regulatory agencies take enforcement actions directed beyond the territory of the United States. Recommend establishment of a national bipartisan commission to study the international aspects of the antitrust laws. 8/81

**Food and Agricultural Organization.** Recommend that the United States government take actions to (1) continue to give strong support to the Food and Agriculture Organization of the United Nations (FAO); (2) encourage FAO in its efforts to restructure itself, streamline its operations, and strengthen its transparency and accountability; and (3) endorse stronger coordination efforts within the United Nations system which clarify the mandate, roles and tasks, especially at the field level, of FAO and the organizations (United Nations, governmental and nongovernmental) with which it works most closely. 8/95

**Foreign Agents Registration Act of 1938.** Favor, in principle, the continuation of the existing exclusion of lawyers from requirements of the Foreign Agents Registration Act of 1938; specifically, oppose adoption of Section (c) of S.176 or its equivalent. 6/90

**Foreign Assistance Program.** Support fundamental reform of the U.S. foreign assistance program; support a program, which has among its central components certain specified types of foreign assistance, delivered through both bilateral and multilateral agencies as appropriate. 2/94

**Foreign Investment Review Process.** Supports several principles that should guide existing implementation of the foreign investment review process known as "Exon-Florio" and govern any new legislation addressed to the review of proposed foreign investment in the U.S. for national security issues. 07M109

**Foreign Lawyers' Appearance Before Federal Trade Commission.** Recommend that the Federal Trade Commission amend Section 4.1(a)(1) of its rules of practice to grant the right to appear before it to foreign lawyers who are authorized to practice before a foreign competition law tribunal or agency that extends reciprocal rights to American lawyers. 8/90

**Foreign Lawyers, Temporary Practice by.** Adopts the *Model Rule for Temporary Practice by Foreign Lawyers* pursuant to the recommendations of the Commission on Multijurisdictional Practice. 02A201J

**Foreign Legal Consultants.** Support the proposed amendment to Rule 46 of the rules of the District of Columbia Court of Appeals to provide for the licensing of qualified lawyers admitted to practice in foreign countries to engage in a limited consulting practice in the District of Columbia. 4/85

Model Rule for the Licensing of Legal Consultants, consisting of ten sections, approved. Recommend that each state not presently having a rule for the licensing of legal consultants adopt such a rule conforming to the Model

Revisions adopted August 2006, including change of name of Model Rule to *Model Rule for the Licensing and Practice of Foreign Legal Consultants*. 06A301A

Rule and that those states, territories and the District of Columbia having such rules conform them to the Model Rule. 8/93

Supports the negotiation proposals to the United States Trade Representative regarding access to foreign markets for U.S. lawyers through permanent establishments consistent with, and as expressed and incorporated in, the ABA's "Model Rule for the Licensing of Legal Consultants" in the United States, dated August 1993. 02M113E

Encourages jurisdictions to adopt the ABA *Model Rule for Legal Consultants* (dated August 1993), pursuant to the recommendations of the Commission on Multijurisdictional Practice. 02A201H

**Foreign Private Investment.** Urge the U.S. Government in its participation in international organizations as well as in its bilateral relations to insist on the application of certain rules of international law respecting foreign private investment. 8/73

**Foreign Secondary Economic Boycotts.** Support efforts by the United States, on the basis of uniform national policy, to end boycotts imposed by foreign countries and impacting on U.S. citizens. 8/78

**Foreign Sovereign Immunities Act.** Recommends that the Congress and the President of the United States enact amendments to the Foreign Sovereign Immunities Act to address language in the statute that has caused conflicting judicial decisions, ambiguities and confusion. 02A119

**Fourth World Conference on Women.** Support the focus of the Platform for Action adopted at the Fourth World Conference on Women in Beijing, China in September 1995, on the role of law in promoting the equality, equal protection and equal access to opportunities and benefits for women, and affirm the importance of legal literacy to the functioning of democracies and the exercise of human rights by all individuals in society. Support the Platform for Action's provisions calling for the integration of a gender perspective into development assistance programs. 2/96

Reaffirm support for the ratification by the United States of the Convention on the Elimination of All Forms of Discrimination Against Women, with the same reservations, understandings and declarations previously

supported. Support in principle, the development of an individual right of petition as an optional protocol to the Women's Convention as described in the Platform for Action adopted at the Conference. 2/96

Commend the United Nations and its Member States for the declaration and the Platform for Action adopted at the Conference, and in particular for the progress achieved in advancing the human rights of women and girls. Urge the United Nations and other international organizations to implement the relevant commitments/action items in the Platform for Action and call upon the United Nations to take prompt steps to facilitate cooperative follow-up work by nongovernmental organizations, governments and international organizations. 2/96

**Free Flow of Information.** Recommend that U.S. policy concerning the importation of ideas and information be guided by the principle that there should be no prohibition on the import into the United States of ideas and information if the circulation of the ideas and information in the United States is protected by the First Amendment to the Constitution with certain specified qualifications. 2/85

**Free Speech and Press.** Support free speech and press in international fora and support Article 19 of the Universal Declaration of Human Rights. 2/82

**Gas Warfare.** Support implementation, through multilateral agreements, of the Geneva Protocol of 1925 banning gas and bacteriological warfare. 8/76

**General Agreement on Trade in Services (GATS).** With respect to the legal services portion of GATS, the American Bar Association: (1) supports the efforts of the U.S. Trade Representative to encourage the development of transparency disciplines on domestic regulation in response to Article VI (4) of the GATS requiring the development of "any necessary disciplines" to be applicable to service providers; and (2) supports the U.S. Trade Representative's participation in the development of additional disciplines on domestic regulations that are: (a) "necessary" within the meaning of Article VI (4) of the GATS; and (b) do not unreasonably impinge on the regulatory authority of the states' highest courts of appellate jurisdiction over the legal profession in the United States. 06A105

**Genocide.** Urge the U.S. Senate to pass forthwith the Convention on the Prevention and Punishment of the Crime of Genocide, and to complete all necessary action, in cooperation with the House of Representatives, to provide for the implementation of the Convention. 8/88

Endorses the Responsibility to Protect doctrine set forth in the 2005 United Nations World Summit Outcome Document, under which states have a responsibility to protect their own and other populations from genocide, war crimes, ethnic cleansing, and crimes against humanity and also endorsing the report, Preventing Genocide: A Blueprint for U.S. Policymakers, by the joint Genocide Prevention Task Force of the United States Holocaust Memorial Museum, et. al. 09A110

**Germ Warfare.** Support implementation, through multilateral agreements, of the Geneva Convention on Biological Weapons of 1972, which bans manufacture and stockpiling of bacteriological weapons. 8/76

**Global Corporate Citizenship.** Encourages corporations, lawyers, law firms and other professionals to promote corporate citizenship by supporting: compliant and ethical corporate behavior globally; global pro bono services; promotion of the rule of law; encouraging governments to pursue policies that support corporate citizenship and the rule of law; and sharing best practices in corporate citizenship. 07A110B

**Government-to-Government Trade Agreements.** Supports the contribution that the negotiated liberalization of international trade in goods and services, through government-to-government trade agreements, makes to the spread of the Rule of Law, both at the state-to-state level and within participants' domestic legal systems. 08A108B

**Guatemala.** Urge the prompt reestablishment of constitutional order in Guatemala. 8/93

**Hague Conference on Private International Law.** Encourage the United States' initiative that the Hague Conference on Private International Law explore the feasibility of formulating a comprehensive multilateral convention on the international recognition and enforcement of judgments. 2/93

**Hague Convention Abolishing the Requirements of Legalization for Foreign Public Documents.** Support U.S. accession to this Convention. 2/75

**Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict.** Recommends United States ratification of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict. 01M105B

**Hague Convention on Choice of Courts Agreements.** Urges the United States government to promptly sign, ratify and implement the Hague Convention on Choice of Court Agreements. 06A123A

**Hague Convention on the International Protection of Adults.** Urge ratification of the Hague Convention on the International Protection of Adults, and the enactment of legislation implementing this Convention which concerns the protection of adults who, by reason of an impairment or insufficiency of their personal faculties, are not in a position to protect their personal, health care or property interests in an international context. 00M106

**Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance.** Urges the Senate to give its advice and consent to the ratification of the 2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (the "Child Support Convention"), and urges Congress to enact the necessary implementing legislation. 08A106

**Hague Convention on the Law Applicable to Certain Rights in Respect of Securities Held with an Intermediary.** Supports the prompt signature, ratification and implementation of the Hague Convention on the Law Applicable to Certain Rights in Respect of Securities Held with an Intermediary by the United States and by other countries. 03A111

**Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.** Urge that the Senate of the United States give its advice and consent to the ratification of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. Urge the Congress of the United States to enact implementing legislation to permit the United States to participate in this multilateral Convention. 2/94

**Hague Convention on Respect of Parental Responsibility.** Urge ratification of the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation of Respect of Parental Responsibility and Measures for the Protection of Children; and the enactment of legislation to permit the United States to fully and uniformly implement this Convention which concerns custody matters and other measures taken for the protection of children and their property. 8/97

**Haitian Women and Children.** Urges the federal government to intensify its effort to provide adequate food, water, shelter and physical security to displaced women and children in Haiti, and to fund and support regional, sub-regional and international programs which prioritize the protection of these vulnerable groups, in conformity with international human rights principles. 10A302

**Honduras' Compliance with Judgments of the Inter-American Court of Human Rights.** Calls upon the U.S. Government to urge the Government of Honduras to comply fully and without delay with the August 1990 judgments of the Inter-American Court of Human Rights in the *Velasquez* and *Godinez, Cruz* cases. 8/92

**Hong Kong.** Encourage the adoption of a bill of rights for Hong Kong which fully guarantees certain civil and political rights after July 1, 1997. Call upon the governments of the United Kingdom and the People's Republic of China to give effect in local law, enforceable after July 1, 1997, of certain provisions of the International Covenant on Civil and Political Rights. Call upon the government of the People's Republic of China to allow free movement of persons to and from Hong Kong after July 1, 1997. Urge the United States Government to use its influence in encouraging the continuance and growth of democratic institutions in Hong Kong. 2/91

**Human Rights.** Support implementation of the provisions of the Helsinki Accords, especially those concerning human rights and humanitarian cooperation. Encourage the review of implementation efforts by the Belgrade Conference and the U.S. Commission on Security and Cooperation in Europe. 2/78

Recommend that the United States Government and the United Nations work toward consolidating into two committees the six United Nations standing committees currently monitoring compliance with the United Nations human rights treaties: one committee to review all State reports, and the other to examine inter-state and individual communications. 98A118

Supports fundamental reform of the United Nations human rights process, the establishment of a Human Rights Council in place of the UN Human Rights Commission, and improvements in the human rights system at the United Nations. 605BOG2.4

**Income Tax Treaty Between Canada and United States.** Recommend adoption of a protocol to the Income Tax Treaty between Canada and the United States, pursuant to which the United States would treat the Canadian income tax imposed on U.S. citizens and residents with respect to property located in Canada as an estate tax, and Canada would treat the U.S. estate tax imposed on Canadian residents with respect to U.S. property as an income tax creditable against the income tax imposed on such residents pursuant to Section 70(5) of the Canadian Income Tax Act. 8/90

**Independent Guarantees Convention.** Recommend that the United States ratify the United Nations Convention on Independent Guarantees and Stand-by Letters of Credit. 98A128

**Intellectual Property Rights.** Support efforts to provide strong intellectual property rights protection in the United States and to strengthen intellectual property rights protection in the countries with which the United States trades. Support, in the absence of adequate and effective protection of intellectual property rights under GATT, effective measures in U.S. law to permit expeditious enforcement of intellectual property rights at the border. Support conclusion in the Uruguay Round multilateral trade negotiations of an agreement on intellectual property rights providing for three specified principles. 2/90

Favor in principle legislation which provides that intellectual property rights shall not be presumed to define a market or to establish market power in actions under the antitrust laws. Recommend such legislation cover specifically the licensing of or refusal to license such rights. 2/90 Support the prompt amendment of Section 337 of the Tariff Act of 1930, as amended, to the extent that Section relates to investigations based on U.S. intellectual property rights in accordance with six specified principles. 8/93

Supports the principle that under the Copyright Clause of the Constitution of the United States (Article I, section 8, clause 8), Congress has the power to implement U.S. obligations under international copyright treaties by restoring copyrights in certain works of foreign origin that have gone into the public domain. Favors the position that section 514 of the Uruguay Round Agreements Act (1994), including the transitional protection it provides for prior users of restored works, does not violate, and is fully in accordance with, the Copyright Clause and the First Amendment of the Constitution of the United States. 10A301

**Inter-American Convention Against Corruption.** Support the prompt ratification and full, effective and consistent implementation of the Inter-American Convention Against Corruption (Inter-American Convention) subject to minimal reservations and understandings. Support the criminalization of the bribery of foreign officials through the Convention and through other instruments consistent with the agreed upon common elements in the Annex to the Organization for Economic Cooperation and Development's (OECD) Revised Recommendation of the Council on Combating Bribery in International Business Transactions and with basic principles of the Foreign Corrupt Practices Act of the United States. Support efforts to promptly carry out, fully implement and actively enforce the recommendation in a manner to effectively deter foreign corrupt practices in the conduct of international business. 8/97

Support ratification and implementation of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; urge that such ratification be subject to minimal reservations and understandings and that it be full, effective and consistent; support prompt enactment of the legislative changes proposed by the Administration to conform the Foreign Corrupt Practices Act to the Convention; support meaningful and ongoing efforts to monitor the effective and consistent implementation and enforcement of the Convention as well as continuing efforts to further develop the convention so as to establish the most effective means for deterring corrupt practices in the conduct of international business. 98A302

**Inter-American Convention on International Commercial Arbitration.** Support signing and ratification by the United States, provided conflict is avoided with the Convention on Enforcement of Foreign Arbitral Awards (1958) and appropriate safeguards are provided with respect to future amendments in the IACIC arbitration rules. 2/78

**Inter-American Convention on the Taking of Evidence Abroad.** Recommend U.S. ratification of the Inter-American Convention on the Taking of Evidence Abroad and the Additional Protocol with certain reservations and declarations. 2/90

**International Antitrust Law.** Recommend that nations adopt strong, clear laws against cartels; that they strengthen their anticartel enforcement offices, the procedures for enforcing the law and the penalties for infringing it; and that they eliminate exceptions from the anticartel principle. Recommend that courts be reluctant to dismiss cases involving cartels that target or disproportionately affect their nationals or people or firms in their territory where dismissal is sought on grounds of allegedly conflicting foreign law or policy. Recommend that in the enforcement of laws dealing with transnational mergers, nations harmonize reporting and waiting requirements and that enforcers consult, lend aid in discovery, and in appropriate cases defer in exercising their own enforcement jurisdiction so as to facilitate and not frustrate salutary transactions. 8/91

**International Atomic Energy Agency.** Recommend that the United States government continue and enhance its support of the International Atomic Energy Agency, in accordance with three specified steps: (1) enhance the safeguards system and take four specified actions in support of steps initiated by the Agency since the 1991 Gulf War; (2) review and revise its historic position and insist that the Agency's safety standards, or authorized equivalents, be applied to all nuclear facilities that have received international assistance including all those to which the Agency applies safeguards pursuant to the Non-Proliferation Treaty or otherwise; and (3) consider whether there is a need to separate promotional and control activities relating to nuclear energy, including the relative merits of specified options. 8/95

**International Bills of Exchange and International Promissory Notes.** Recommend U.S. ratification of the United Nations Convention on International Bills of Exchange and International Promissory Notes. 2/90

**International Commercial Arbitration.** Favor recognition of freedom of parties to international commercial arbitration proceedings to choose as their representatives in those proceedings lawyers who need not be admitted

to practice law in the jurisdiction where the arbitration proceedings take place. 8/89

Amend Code of Ethics for Arbitrators in Commercial Disputes to provide that unless otherwise agreed, party-appointed arbitrators in international commercial arbitrations should, to the extent practicable in the circumstances, serve as neutrals. 2/90

Supports the use of commercial arbitration to resolve disputes involving international business transactions and supporting federal or state legislation or regulations that recognize and aid in the enforcement of international commercial arbitration agreements and awards. 09A114

**International Court of Justice.** Support Senate repeal of Connally Reservation in order to remove from sole U.S. determination the question of whether an international legal action subjects the United States to the jurisdiction of the court. 2/47

Urge expansion of advisory opinion jurisdiction to include questions of international law referred by national courts. 2/82

Reaffirm steadfast commitment to world order under law and to the policies and objectives of earlier resolutions concerning the acceptance by the United States of the jurisdiction of the International Court of Justice. Urge the government of the United States to initiate efforts to negotiate a series of treaties accepting the jurisdiction of the International Court of Justice with respect to certain categories of disputes. Welcome and support recent initiatives of the United States and the Soviet Union with regard to increasing recourse to the court for the settlement of legal disputes and recommend that the government of the United States conclude a treaty with the Soviet Union and with states or groups of states which have close links with the United States with respect to the settlement of certain categories of disputes. Recommend that the government of the United States explore with other states or groups of states the conditions under which they would be willing to submit specified categories of disputes to the International Court of Justice. 8/89

Recommend that the United States Government present a specified declaration recognizing as compulsory the jurisdiction of the International Court of Justice. 8/94

**International Criminal Court.** Urge the U.S. Department of State to open negotiations for a convention for the establishment of an international criminal court with expressly limited jurisdiction. 2/78

Recommends that the U.S. Government work toward finding solutions to the numerous important legal and practical issues identified in the reports of the Task Force on an International Criminal Court and the New York State Bar Association with a view toward the establishment of an international criminal court considering four specified principles and issues. 8/92

Recommend that the United States Government take an active role in the establishment of an International Criminal Court that would be based on the principles (1) that the consensual jurisdiction of the Court should be based on the consent of the state having custody over a person accused of a crime specified in a certain type of international convention; and (2) that the mandatory jurisdiction of the Court should be based on a decision by the Security Council issued pursuant to its powers under Chapter VII of the United Nations Charter in accordance with two specified principles. 8/94

Recommend the establishment of a permanent International Criminal Court by multilateral treaty in order to prosecute and punish individuals who commit the most serious crimes under international law. Recommend that the United States Government continue to play an active role in the process of negotiating and drafting a treaty establishing the ICC, and that the ICC treaty embody four specified principles. 98M118B

Urge Congress to enact legislation requiring the President to take specific actions to inform Congress after

receiving notice from the International Criminal Court Prosecutor that a United States National committed an act within the jurisdiction of the International Criminal Court and to take all reasonable steps to assure that the United States retains jurisdiction to investigate and/or prosecute the alleged act. 01M103C

Recommends the United States accede to the Rome Statute, adopted by 120 countries in July 1998, which describes the composition and operation of the International Criminal Court. 01M105C

Urges the United States Government to expand and broaden interaction with the International Criminal Court (“ICC”), including cooperation with the Court’s investigations and proceedings, and urges the government to participate in all future sessions of the ICC’s governing body, the Assembly of States Parties, and preparations for the Review Conference to be held in 2010. 08A108A

**International Factoring.** Recommend U.S. ratification of the International Institute for the Unification of Private Law (UNIDROIT) Convention on International Factoring. 2/90

**International Financial Leasing.** Recommend U.S. ratification of the International Institute for the Unification of Private Law (UNIDROIT) Convention on International Financial Leasing. 2/90

**International Human Rights.** Recommend that the U.S. Government take seven specified steps to advance the promotion and observance of international human rights. 8/94

**International Labor Organization.** Recommend that the United States continue to be an active supportive member of the International Labor Organization (ILO). Commend the United States Government for creating and maintaining the tripartite President's Committee on the ILO, Consultative Group on the ILO, and Tripartite Advisory Panel on International Labor Standards. Urge accelerated progress by these bodies toward ratification of those ILO conventions on human rights which are consistent with U.S. law and practice. 8/95

**International Labor Standards.** Urge ratification of the International Labor Organization Convention Concerning Tripartite Consultations to Promote the Implementation of International Labor Standards. 2/87

**International Monetary Fund.** Recommend that the United States Government (1) give strong support to the International Monetary Fund (IMF) and the World Bank Group by providing assistance in the ongoing scrutiny of their operations; (2) support the IMF undertaking a thorough reexamination of its role vis-a-vis international capital movements and private international capital markets; and (3) give increased attention to the development of the legal systems in member countries, particularly those countries undergoing major institutional reform. 8/95

Recommend that the United States government (1) give strong support to the International Monetary Fund (IMF) and the World Bank Group and provide assistance in the ongoing scrutiny of their operations; and (2) support the IMF undertaking a thorough reexamination of the IMF role vis-a-vis international capital movements and private international capital markets. Support the IMF and the World Bank Group giving increased attention to the development of the legal systems in member countries, particularly those countries undergoing major institutional reform. 2/96

**International Sale of Goods Convention.** Support signature and ratification by the United States of the United Nations Convention on Contracts for the International Sale of Goods, and urge the Senate to give its advice and consent to ratification of the convention subject to one reservation. 8/81

**International Terrorism.** Support U.S. action to encourage ratification of relevant conventions by maximum number of countries, to stimulate implementation of these conventions, and to continue development of new initiatives. 2/81

Approve in principle the Model American Convention on the Prevention and Punishment of Certain Serious

Forms of Violence Jeopardizing Fundamental Rights and Freedoms. 1/82

**International Trade Commission.** Supports the International Trade Commission's adoption of certain procedures relevant to its compliance with the Government in the Sunshine Act, 5 U.S.C § 552(b). 07A118B

**International War Crimes Tribunal.** Support the establishment by the Security Council of the United Nations under Chapter VII of the U.N. Charter of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 ("the Tribunal"). Recommend that the United States Congress promptly adopt appropriate implementing legislation to enable the President to give full support to the Tribunal, and including certain specified provisions. Recommend that the United States urge the United Nations to make every effort, through the rules of evidence and procedure to be adopted by the Tribunal and, if appropriate, through supplementary decisions of the Security Council, to ensure due process for the accused and adequate protection for victims and witnesses by certain specified measures. 8/93

**Internet Governance Forum of the United Nations.** Urges the Secretary of State and the Assistant Secretary of Commerce/Administrator of the National Telecommunications and Information Administration to support a renewal of the mandate of the Internet Governance Forum of the United Nations to operate substantially in accordance with its current mandate. 09A106

**Iran.** Support the U.S. claim filed with the International Court of Justice against Iran regarding the U.S. hostages held in Iran in violation of international law. Welcome the decision and order of the International Court of Justice on December 15, 1979, directing the immediate release of all Americans held hostage in Iran. Call upon all nations to adopt national measures and to cooperate in the adoption of international measures designed to secure compliance by Iran with such decision and order. 2/80

Deplore the persistent, gross violations of human rights committed by the government of the Islamic Republic of Iran. Call upon the new leadership of that government to protect basic human rights, to ensure that fair procedures are followed in political cases, and to eliminate torture and other inhuman punishment of prisoners and call upon the U.S. government to urge the government of the Islamic Republic of Iran to follow certain specified procedures. Urge that the United States of America, in consultation with its allies and other governments, consider a full range of multilateral economic and diplomatic sanctions against the government of the Islamic Republic of Iran in addition to existing sanctions. 8/89

**Iraqi Invasion of Kuwait.** Condemn (1) the unprovoked invasion and purported annexation of the Emirate of Kuwait by armed forces of the Republic of Iraq; (2) the detention, mistreatment and forced removal of persons living in or transiting Kuwait; and (3) closure of diplomatic and consular missions in Kuwait and unilateral withdrawal of the privileges and immunities of these missions. Condemn the failure of Iraq to comply with all Security Council resolutions adopted since August 2, 1990. Strongly support measures taken to comply with the decisions and recommendations of the U.N. Security Council and other actions taken in conformity with the Charter of the United Nations to protect the sovereignty, independence and territorial integrity of states in the region, and the determination of the Security Council to ensure compliance by Iraq with the decisions of the Council. Recommend use of all necessary means including force as well as diplomacy to restore international peace and security in conformity with the principles and purposes, and other provisions, of the Charter of the United Nations. 2/91

**Iraqi War Crimes.** Support efforts to strengthen the rule of law in international affairs by an appropriate investigation and, if found warranted, the apprehension, prosecution, and punishment of individuals with respect to any violations of the 1945 Nuremberg Principles and/or other grave breaches of the laws of war associated with Iraqi aggression against other states. Support the Nuremberg Principles as a part of customary international law. Urge the U.S. Government to support policies to strengthen these principles and ensure that, where possible, present and future war criminals are held criminally accountable for their conduct through certain judicial

procedures. 8/91

**Judicial Independence.** Adopts the *Principles on Judicial Independence and Fair and Impartial Courts*, dated August 2007. 07A110D

**Judicial Independence-International Standards.** Supports the following international standards on judicial independence: *The United Nations Basic Principles on the Independence of the Judiciary*; *The International Bar Association Minimum Standards for Judicial Independence*; and *The Bangalore Principles of Judicial Conduct*, and urging the United States government to support these standards. 07A110E

**Jurisdictional Immunity.** Express concern regarding the use of jurisdictional immunity to insulate employees of international organizations from their family financial obligations. Support efforts to ensure prompt enforcement of orders of courts of competent jurisdiction and final judgments in family law matters involving employees of international organizations in certain matters, consistent with applicable United States and international law. 99A119

**Know-How Licensing.** Urge the Commission of the European Communities to modify its draft regulation on the application of Article 85(3) of the Rome Treaty to certain categories of know-how licensing agreements in accordance with four principles. 2/88

**Law of the Sea.** Urge enactment of interim legislation to promote orderly development of mineral resources in the seabed, pending entry into force for the United States of a superseding international agreement. Endorse U.S. policy requiring that any law of the sea treaty to which the United States becomes a party assures the United States access to the resources of the seabed and subsoil beyond the limits of national jurisdiction. 2/80; 8/83

Recommend that the United States become a party to the 1982 United Nations Convention on the Law of the Sea and to the Agreement Relating to the Implementation of Part XI of the Convention. 8/94

**Letters Rogatory Convention.** Support ratification by the United States of the Inter-American Convention on Letters Rogatory and the Additional Protocol to the Convention, and urge the Senate to give its advice and consent to ratification of both, subject to several reservations. 8/81

**Middle East.** Urge all nations involved in the Middle East conflict to adhere to the provisions in the 1949 Geneva Convention relative to the treatment of prisoners of war. 2/74

**Migration.** Supports multinational cooperation and consultation in the formulation of national laws and policies relating to migration and urges the United States government to enter into regional and international discussions and agreements governing the flow of workers. 06A123B

**Money Laundering.** Supports the enactment of reasonable and balanced initiatives designed to protect and prevent domestic and international money laundering and terrorist financing. Recommends that any efforts to establish and implement international and United States policies to combat money laundering and terrorist financing should be consistent with principles regarding the independence of the bar, adherence to the highest standards of professional and lawful conduct, and the confidentiality of lawyer-client communications. 03M104

**Montreal Protocol on Substances That Deplete the Ozone Layer.** Recommend that the U.S. Government ratify the Montreal Protocol on Substances That Deplete the Ozone Layer. 2/88

**Moon Treaty.** Favor ratification by the United States of the Agreement Governing the Activities of States on the Moon and other Celestial Bodies. 2/82

**Multilateral Agreement on Investment.** Urge the United States government to conclude and to implement as expeditiously as possible a multilateral agreement on investment designed to liberalize existing national

investment restrictions. Provide the highest standards of investment protection, including the provision of prompt, adequate, and effective compensation for expropriation. Create effective dispute settlement mechanisms, and encourage the broadest possible participation by all states in any such accord. 8/96

**Multilateral Development Banks.** Urge the U.S. Government to instruct its representatives to each of the multilateral development banks to support the establishment of human rights departments in each such multilateral bank in which the United States is a member other than the International Monetary Fund. 8/89

**North American Free Trade Agreement.** Recommends the adoption by the governments of Canada, Mexico and the United States, in connection with the North American Free Trade Agreement (NAFTA), of adequate and sound dispute resolution procedures embodying certain shared legal values. Authorizes the joint Working Group on the Settlement of International Disputes to submit suitable comments and explanations to government officials of the three countries. 2/92

Support the efforts of the governments of Canada, Mexico and the United States to establish, through the North American Free Trade Agreement (NAFTA) principles, rules, procedures, and institutions for the conduct of trade and other economic relations among the participating countries which are designed to provide transparency, predictability, fairness and due process. 2/93

Urge the governments of the three signatories to the North American Free Trade Agreement (NAFTA) to work together in implementing the competition and antitrust aspects of NAFTA, with emphasis on certain specified goals. 8/94

**Nuclear Incidents.** Support amendment of the Price-Anderson Act provisions of the Atomic Energy Act, as amended, to extend and improve procedures for liability and indemnification for nuclear incidents. 2/87

**Nuclear Test Ban Treaty.** Urges the United States to ratify the Comprehensive Nuclear Test Ban Treaty, which is an international agreement designed to create a permanent, global, legally-binding and all-encompassing prohibition on any nuclear explosions. 10A107A

**Nuclear Weapons.** Urge immediate ratification of the Treaty on the Nonproliferation of Nuclear Weapons. 1/69  
Urge that the United States continue endeavors to strengthen the international regime aimed at preventing the proliferation of nuclear weapons, including support for adherence to the Treaty on the Nonproliferation of Nuclear Weapons. 2/85

Call upon the U.S. Government to undertake effective measures to promote the full participation of Argentina, Brazil, Chile and Cuba in the Treaty of Tlatelolco establishing a nuclear weapons free zone in Latin America. 2/85

**Nuclear Weapons Testing.** Support efforts by the United States to achieve effective verification measures for the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty. Urge ratification of the treaties, subject to agreement between the United States and the Soviet Union on the verification measures, and once the agreement on verification is obtained and the treaties ratified, negotiation on ways to implement a step-by-step program of limiting and ultimately ending nuclear testing. 8/87

**Oceans/Marine Policy.** Urges the United States Government to continue and enhance efforts to play a leadership role in the development and implementation of international initiatives to protect the world's marine ecosystems and ensure the ecologically sustainable use and development of the world's marine resources, emphasizing good stewardship, ecosystem-based management, preservation of biodiversity, use of best available science, and international responsibility, including by: (1) ratifying certain United Nations Conventions; (2) encouraging other countries to ratify certain international Agreements; (3) reviewing and updating regional and bilateral fishery agreements to which the United States is a party, and amending and initiating, as appropriate, international agreements to address critical concerns not yet adequately addressed; (4) ensuring trade and oceans-

related objectives, agreements, policies and practices are mutually supportive; and (5) increasing United States funding and technical assistance to build scientific and management capacity in developing nations. 05A101C (*See also* Law of the Sea.)

**Organization of American States.** Urge the U.S. Government to meet promptly and fully its financial obligations to the Organization of American States. Urge the U.S. Government to actively support a larger budget allocation within the Organization of American States for the activities of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. 8/89

**Overseas Private Investment Corporation.** Support adoption of legislation to continue OPIC, to increase participation by private insurers in writing political risk investment insurance, and to let OPIC continue to act as a primary insurer of political risks, as amendments of the Foreign Assistance Act. 2/77

**Pakistan.** Expresses support for and solidarity with the Pakistani bar and bench. Calls upon the President of Pakistan to restore Pakistan's constitution as it existed before the November 3, 2007, emergency decree; to

reinstate Pakistan's Supreme Court justices and high court judges who were removed from office and refused to take oaths of loyalty to the executive branch; and release all judges, lawyers and other people who were wrongly arrested during the state of emergency. 08M10D

**Peace in Central America.** Support efforts undertaken by the presidents of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua to establish a firm and lasting peace in Central America. Urge continued commitment of these presidents to the process of regional dialogue and democratization. Welcome commitment of the U.S. Government to facilitate the process of regional dialogue. Urge interested parties to observe their commitments pursuant to the U.N. Charter and principles of international law in the course of the implementation of the Arias Plan; and endorse the Arias Plan. 8/88

**Peaceful Settlement of Conflicts.** Urge the governments of the Americas to use appropriate national and international mechanisms for ensuring peaceful settlement of conflicts among individuals and between nations, and to guarantee the existence in each nation of an independent judiciary as essential for the realization of human and civil rights in the Americas. 8/86

**Peaceful Settlement of International Disputes.** Urge the government of the United States to start negotiations with other governments in order to implement the principles contained in the Draft General Treaty on the Peaceful Settlement of International Disputes to accept arbitration for the resolution of international disputes. 2/90

**Persistent Organic Pollutants.** Supports prompt ratification and implementation by the United States of the Stockholm Convention on Persistent Organic Pollutants. 02M113B

**Procurement.** Urge the United States to participate in negotiations to establish international norms of government procurement practices that would eliminate the discriminatory effects of buy-national legislation and promote competition in the government procurement sector of the world economy, including procurements substantially funded by national governments. 2/78

**Protection for Refugees.** Urge the United Nations (1) to provide international protection for refugee health needs; (2) to review the adequacy of current international agreements to address the health and related humanitarian needs of refugees and other displaced persons; (3) to strengthen the protection of refugee health under the existing international agreements; and (4) to develop international agreements, or other mechanisms, to protect the health needs of all other displaced persons. 8/91

**Protection of Women's Human Rights.** Endorse international and domestic efforts to promote and protect women's human rights through the adoption and enforcement of legal provisions for equality and equal protection law. Recommend that the United States Government and Non-Governmental Organizations participating in the United Nation's Fourth World Conference on Women in Beijing, China, in 1995, actively support the inclusion in the Platform for Action of effective measures to accelerate the removal of the remaining obstacles to the realization of women's basic rights. 11/94

**Racial Discrimination Convention.** Support accession of the United States to the International Convention on the Elimination of All Forms of Racial Discrimination, subject to certain understandings and reservations. 8/78

**Reduction of Conventional Arms in Europe.** Urge early agreement between the North Atlantic Treaty Organization countries and Warsaw Pact countries to reduce levels of conventional arms in Europe from the Atlantic to the Urals. Support the Convention Forces in Europe negotiations to reduce levels of NATO and Warsaw Pact forces in Europe from current levels to parity. 2/90

**Repayment of Debt to the United Nations.** Strongly urges that the executive and legislative branches of the United States Government pay immediately and in full the United States' debt to the United Nations for its regular and peacekeeping expenses. 8/92

**Rights of the Child, U.N. Convention on.** Support in principle the ratification by the United States of the provisions of the United Nations Convention on the Rights of the Child (Articles 1-54). Urge the convening of a working group to work with the Executive Branch and the Senate on the identification and clarification of issues related to possible reservations that might be considered as part of the ratification process. 2/91

**Rule of Law.** Support independence of lawyers, judges and legal processes in foreign countries through ABA communications to the U.S. Secretary of State. 2/75

Reaffirm support of the rule of law in the international community and its recognition of the need for an independent judiciary and for the independence of lawyers; note with concern the reported arrest, detention without charge and disappearance of lawyers in Argentina because of their representation of individual clients. Note also with concern the case of fellow attorney Lev Lukyanenko, presently imprisoned in the Soviet Union, reportedly for attempting to defend and preserve the integrity of the Rule of Law in that country. 8/80

Reaffirm commitment to dialogue between members of the legal profession throughout the world and other professional organizations in order to advance the Rule of Law in the world. 8/86

Reaffirm support for the Rule of Law in the international community and recognition of the need for an independent judiciary and for the independence of lawyers. Affirms its support for human rights advocates who are striving to uphold human rights and the Rule of Law. 8/97

Adopts the Statement of Core Principles of the legal profession, adopted at the international bar presidents meeting in Paris, France, on November 19, 2005. Urges bar associations throughout the world actively to support and advance the Rule of Law. 206BO, 2.7 and 06M111

**Rotterdam Rules.** Urges the United States Senate to ratify the United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Seas, also known as the "Rotterdam Rules." 10M101

**Rule of Law and Global Environmental Issues.** Urges governments, businesses, nongovernmental organizations and other organizations to consider and integrate Rule of Law initiatives with global environmental

issues. 07A110A

**Russia.** Urge Russian President Yelstin and other Russian authorities (1) to establish a democratic republic under the Rule of Law by holding free and democratic elections for the newly created legislative bodies and for the office of President; (2) to adopt a democratic constitution which will provide for individual liberties, democratically elected legislative bodies, and an independent judiciary with jurisdiction to determine constitutional issues; and (3) prior to any elections, to (a) enable widespread participation in all aspects of the electoral process, and (b) assure candidates and the Russian public full and equal rights of freedom of expression and access to media in order to foster full discourse on all relevant issues. Resolve to stand ready, through the provision of experts, information, and technical assistance, within its resources, to assist Russia, upon request in accomplishing these important tasks. 11/93

**START II Treaty.** Urge the ratification of the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Arms, the START II Treaty, which eliminates land-based ballistic missiles with multiple warheads and significantly reduces the overall number of long-range nuclear weapons possessed by both Parties to the U.S. level of the early 1960s and the Soviet level of the mid-1970s. 8/93

**Terrorism.** Support enactment of domestic laws that address certain terrorist activities. Support ratification of the Protocol for Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation and the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation. 8/88

Urge all governments not to make concessions to terrorists, including those who hold citizens of any such government hostage, or to the states whose leaders sponsor or otherwise participate in such terrorist acts. 2/89

Pursuant to its dedication to the Rule of Law, supports the call of the President of the United States to bring to justice the perpetrators of global terrorism and those who harbor the terrorists or give them aid. 02M104

**Torture.** Support the concept of federal legislation that would clearly establish a federal right of action by aliens and U.S. citizens against persons who, under color of foreign law, engage in acts of torture or extrajudicial killing. 7/85

Condemns any use of torture or other cruel, inhuman or degrading treatment upon persons within the custody or under the physical control of the United States Government (including its contractors) and any endorsement or authorization of such measures by government lawyers, officials and agents. Urges the United States government to comply fully with the Constitution and laws of the United States and treaties to which the United States is a party, to take all measures necessary to ensure that no person within the custody or under the physical control of the United States government is subjected to torture or other cruel, inhuman or degrading treatment or punishment. 04A10B

**Trafficking Victims.** Urges federal, state, local, territorial and tribal governments to pass legislation, authorize funding that strengthens protection and assistance for victims of trafficking in persons, within the United States or abroad, as well as bolsters prevention efforts and encouraging bar associations to engage members of the legal profession in raising awareness of trafficking in persons in their communities and in providing pro bono legal services to victims of trafficking. 07A110C

**Treaties Concerning the Reciprocal Encouragement and Protection of Investments.** Favor ratification by the United States of the treaties between the U.S. and the Arab Republic of Egypt, Republic of Panama, Republic of Senegal, Republic of Haiti, Republic of Turkey, Kingdom of Morocco, Republic of Zaire, Republic of Cameroon, People's Republic of Bangladesh and Republic of Grenada. 8/86

**Treaty Implementation.** (1) Urges that legislation be enacted to provide procedures for implementing commitments in existing treaties on an expedited basis where the President reports to Congress that binding

measures are necessary to avoid the imminent risk of breach by the U.S. (2) Urges that the Executive Branch, with respect to future treaties, seek treaty language consistent with its intent as to whether treaty provisions are self-executing; to identify in treaty transmittal documents which provisions are self-executing and how other provisions will be implemented; and if implementing legislation is required for U.S. compliance, not to bring the treaty into force until that legislation is enacted. (3) Urges the Senate, with respect to future treaties, to declare in resolutions of advice and consent which provisions are self-executing and its expectation, in instances where new implementing legislation is required, that the treaty will not be brought into force for the U.S. until such legislation is enacted. 10M108C

**U.N. Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons.** Urges the United States to sign and ratify the amended Article 1 and Protocol III, Protocol IV, and Protocol V of the *United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed To Be Excessively Injurious or To Have Indiscriminate Effects*, which ban the use of incendiary weapons and blinding laser weapons, as well as set standards on marking, clearance, removal, and destruction of unexploded or abandoned mortar shells, grenades, artillery rounds, and bombs. 07A300

**U.N. Convention of Recovery Abroad of Maintenance.** Support accession of the United States to the Convention and urge the U.S. Senate to give its advice and consent to ratification of the Convention. 8/80

**U.N. Convention on the Rights of the Child.** Suggest that the United States' ratification of the United Nations Convention on the Rights of the Child be accompanied by eight specified Reservations, Understandings and Declarations. 2/94

Urge that the United States expeditiously ratify the Optional Protocol to the U.N. Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts. 00A106A

Urge that the United States expeditiously ratify the Optional Protocol to the U.N. Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. 00A106B

**U.N. Convention on the Rights of Persons with Disabilities.** Urges the United States to ratify and implement the United Nations Convention on the Rights of Persons with Disabilities. 10M108B

**U.N. Convention on the Use of Electronic Communications in International Contracts.** Urges the U.S. Government to become a signatory to the United Nations Convention on the Use of Electronic Communications in International Contracts. 06A303

**United Nations.** Authorize application for ABA accreditation to the U.N. as a non-governmental organization. 2/66

Favor U.S. Government measures leading the General Assembly of the U.N. to adopt the principle that in all the organs and specialized agencies of the U.N., all nations having a population of over 200 million would be automatically entitled to representation on an equal basis with various regional blocs. 2/84

Urge the executive and legislative branches of the U.S. Government to take cooperative action so that payment will be made without delay to the United Nations, including its specialized agencies, of all amounts assessed to the United States. 2/88

Reaffirm support for an effective United Nations as essential to achieving peace, promoting sustainable development and advancing the Rule of Law, and urge the U.S. Government to enhance its relationship with the U.N. Urge the U.S. Government to honor its legal obligations to the U.N., and to work to assure effective financing of U.N. institutions in the future. Urge the Senate to expedite consideration of international agreements pending before it and in particular, urge prompt approval and ratification of four agreements that are supported

by the ABA. 00A10H

**United Nations Democracy Caucus.** Supports the creation of a United Nations Democracy Caucus within the United Nations (UN) framework to work towards the strengthening of democracy, human rights and the rule of law throughout the UN system. 04M106

**United Nations Educational, Scientific and Cultural Organization.** Support efforts of the United States and other nations to bring about specific reforms in the United Nations Educational, Scientific and Cultural Organization (UNESCO). Support U.S. participation in efforts to rehabilitate and improve UNESCO so that the United States will be in a position to consider a return to membership. 2/86

Support the return of the United States to membership in the United Nations Educational, Scientific and Cultural Organization (UNESCO). Support increasing efforts of the U.S. Government directed toward that purpose. Urge the U.S. Government to finalize arrangements necessary to enable the U.S. Government to renew at the earliest feasible time its membership in UNESCO. 2/89

Urge the United States Government to rejoin UNESCO at the earliest possible time, so that it may take part in UNESCO's mandate to promote international cooperation through education, science and culture. 8/95

**United Nations Member States.** Oppose any limitation on participation in General Assembly and all other U.N. activities by member states. 8/75

**United Nations Military Forces.** Recommend that the United States Government support the creation by the United Nations, in addition to trained peacekeeping forces, of trained standby military forces for peacemaking and peace enforcement, composed of units from the national military forces of State Members of the United Nations, which would be available on call by the Security Council under conditions prescribed in agreements to be concluded pursuant to Article 43 of the United Nations Charter. 8/94

**United States Agency for International Development (USAID).** Oppose pending legislation to abolish the United States Agency for International Development. 2/95

**Universal Criminal Jurisdiction.** Recognizes the principle of universal criminal jurisdiction. Enunciates policies that should govern the proper exercise of universal criminal jurisdiction and clarifies the right of a nation to preempt the exercise of such jurisdiction over one or more of its citizens or lawful residents accused of committing an international crime upon declaring its willingness to investigate the allegations and prosecute the accused in accordance with international human rights norms and standards. 04M103A

**Unsworn Declarations.** Urges the adoption by states and territories of a uniform law that would permit unsworn declarations under penalty of perjury to be executed by persons located outside the United States in lieu of affidavits, verifications, or other sworn documents, as is currently the federal practice under 28 U.S.C. §1746. Further resolved that the resolution be submitted to the National Conference of Commissioners on Uniform State Laws. 06M110

**Uruguay Round of Multilateral Trade Negotiations.** Urge Congress and the United States to approve and implement the agreements resulting from the Uruguay Round of multilateral trade negotiations. Endorse the Uruguay Round Understanding on Rules and Procedures Governing the Settlement of Disputes, which develops a unitary dispute resolution procedure, reforming the procedure for approval of dispute panel reports, increasing transparency and creates a procedure for appeal of GATT panel reports. Support the Agreement Establishing the World Trade Organization. 2/94

**U.S. Treaties.** Recommend that the U.S. Government take all steps necessary to bring up to date immediately the publication of the following series maintaining their traditional form and comprehensive content: *United States Treaties* and *Digest of United States Practice in International Law*. 2/89

**Vienna Convention on Consular Relations (Article 36) and Foreign Nationals.** Urges the United States, state and territorial governments to work to ensure that the fundamental protections of Article 36 to the Vienna Convention on Consular Relations are extended fully and without obstacle to foreign nationals within United States borders. 10M104

**Violence Against Women.** Urges federal, state, local, territorial and tribal governments to adopt legislation and appropriate funding to strengthen protection and assistance for victims of gender-based violence within the United States and abroad and urging Congress to enact and fund the International Violence Against Women Act of 2007 or similar legislation. 08A109.

**Weapons of Mass Destruction.** Recommend that the United States Government take certain specified actions with the cooperation and agreement of other nations whenever possible to maintain and strengthen the international regimes designed to control the proliferation of weapons of mass destruction. 8/94

**World Bank.** Oppose unilateral legislative restrictions on contributions to the World Bank and other international development banks that are inconsistent with their charters. 8/79

**World Health Organization.** Endorse the global strategy of the World Health Organization (WHO) for the worldwide prevention and control of AIDS. Urge support for the WHO global program on AIDS and the effective coordination of certain international AIDS programs. 8/89

Recommend that the government of the United States continue to give its strong support to the World Health Organization (WHO) and that it support more effective implementation of public health improvements through increased WHO standard setting and development of elements of model legislation, regulations and enforcement measures, adaptable to countries' individual needs. 8/95

**World Peace Through Law Conference.** Oppose the oppression of the Rule of Law and recommend that the World Peace Through Law Center Conference be cancelled or moved to another country. 6/89

**Zionism.** Oppose and deplore U.N. resolution branding Zionism as racist. 8/76

## **JUVENILE JUSTICE STANDARDS**

ABA approves the following volumes of the Juvenile Justice Standards:

**Adjudication.** 2/79

**Appeals and Collateral Review.** 2/79

**Architecture of Facilities.** 2/79

**Corrections Administration.** 2/79

**Counsel for Private Parties.** 2/79

**Court Organization and Administration.** 2/80

Reaffirmed. 8/94

**Dispositional Procedures.** 2/79

**Dispositions.** 2/79

**Interim Status.** 2/79

**Juvenile Delinquency and Sanctions.** 2/80

**Juvenile Probation Function.** 2/80

**Juvenile Records and Information Systems.** 2/79

**Monitoring.** 2/79

**Planning for Juvenile Justice.** 2/79

**Police Handling of Juvenile Problems.** 2/79

**Pretrial Court Proceedings.** 2/79

**Prosecution.** 2/79

**Rights of Minors.** 2/79

**Transfer Between Courts.** 2/79

**Youth Service Agencies.** 2/79

## LABOR LAW

**Asbestos-Related Disease Claims.** Supports enactment of federal legislation that would: (1) allow those alleging non-malignant asbestos-related disease claims to file a cause of action in state or federal court only if they meet the medical criteria in the “ABA Standard For Non-Malignant Asbestos-Related Disease Claims” dated February 2003 (which the House will be requested to update periodically in accordance with medical advances and scientific research) or an appropriate similar medical standard; and (2) toll all applicable statutes of limitations until such time as the medical criteria in such standard are met. Does not support limitations on the filing of claims for asbestos-related malignancies. Does not support the preemption of legal definitions for claiming or impairment as they may be found in regulations relating to certain federal laws; their state, territorial and local counterparts; Workers Compensation statutes and their regulations; and federal, state and territorial laws regulating employee benefit plans and employer health care coverage plans. 03M302

Recommends that states and territories adopt the Model Statute of Limitations for Asbestos, dated February 2005, governing the accrual of actions for injury, illness or wrongful death based upon exposure to asbestos. 05M300C

Without taking a position on the advisability of the establishment of an administrative process as an exclusive mechanism for the compensation of an asbestos-related injury subject to tort-based claims, recommends that any legislation establishing an administrative process in lieu of state, territorial or federal tort-based asbestos-related claims should insure access by claimants to adequate representation in the claims process, including: (1) a claimant's assistance program with adequate funding, personnel and resources; (2) in cases pending on the effective date of any such legislation, provisions that would adequately compensate claimants and their attorneys for attorney services and costs reasonably expended or incurred on their behalf in the terminated litigation in the courts or administrative systems; and (3) access to private attorneys without unreasonable restrictions as to fees or other aspects of necessary representation in the claims process, if desired by a claimant. 06M106A

Without taking a position on the advisability of the establishment of an administrative process as an exclusive mechanism for the compensation of an asbestos-related injury subject to tort-based asbestos-related claims, recommends that any legislation establishing an administrative process in lieu of state, territorial or federal tort-based claims should: (1) insure that awards to claimants not be depleted by subrogation from any private or governmental entity; (2) apply existing laws concerning taxation of awards to claimants (which generally are not subject to taxation); and (3) not unduly foreclose independent claims existing under state, territorial or federal law relating to safety or other obligations of employers. 06M106B

Without taking a position on the advisability of an administrative process as an exclusive mechanism for the compensation of an asbestos-related injury subject to tort-based claims, recommends that any legislation establishing an administrative process in lieu of state, territorial or federal tort-based asbestos-related claims should contain specific provisions to insure adequate up-front financing and disclosure of certain information concerning the contributors. 06M106C

Without taking a position on the establishment of an administrative process as an exclusive mechanism for the compensation of an asbestos-related injury subject to tort based claims, recommends that any legislation establishing an administrative process in lieu of state, territorial or federal tort-based asbestos related claims should contain the following contingent provisions to respond to any potential occurrence of a shortfall of funds: (1) speedy determination and announcement of shortfall; (2) if there are not sufficient funds to pay claims, there should be a remedy in the courts; (3) claimants with mesothelioma and/or who have been certified to have a reasonable life expectancy of less than twelve months, should be allowed immediately to file suit in any appropriate court; and (4) any applicable statute of limitations or statute of repose should be tolled during the existence of any administrative process and for a period of 180 days after the time the claimant is eligible to return to the court system, unless applicable state, federal, or territorial law provides for a longer tolling period. 06M106D

**Civil Rights Tax Relief Act.** Recommends that Congress enact the Civil Rights Tax Relief Act (H.R. 840 and S. 917) or similar legislation that would provide relief to civil rights and employee complainants by, in whole or in part: (1) treating compensatory damages (other than back pay and front pay) in civil rights and employee cases in the same manner as compensatory damages in personal physical injury cases; (2) providing that no portion of the award or settlement paid in civil rights or employment cases to cover attorneys fees and expenses should be taxable to the client; and (3) allowing income averaging for complainants who receive in one year awards or settlements of back pay or front pay covering more than one year. 03M115

**Discrimination in Compensation.** Urges Congress to amend Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(e), and federal age and disability employment discrimination laws to ensure that in claims involving discrimination in compensation, the statute of limitations runs from each payment reflecting the claimed unlawful disparity. 07A302

**Due Process Protocol for Mediation and Arbitration of Statutory Disputes Arising Out of the Employment Relationship.** Approved. 2/97

**Federal Black Lung Compensation Program.** Express opposition in principle to any revisions of the Code of Federal Regulations (20 CFR Part 725) recommended by the United States Department of Labor (62 Federal Register 3337 et seq.) pertaining to the Federal Black Lung compensation program which are contrary to the requirements of the Federal Administrative Procedure Act or the Black Lung Benefit Act and express opposition to certain specific revisions of the Code. 8/97

**International Labor Organization.** Recommend that the United States continue to be an active supportive member of the International Labor Organization (ILO). Commend the United States Government for creating and maintaining the tripartite President's Committee on the ILO, Consultative Group on the ILO, and Tripartite Advisory Panel on International Labor Standards. Urge accelerated progress by these bodies toward ratification of those ILO conventions on human rights which are consistent with U.S. law and practice. 8/95

**Workplace Violence.** Urge employers to address workplace violence by adopting policies and practices to help them better prevent and manage on-site violence and threats. 98A110

## LEGAL EDUCATION

**Admission by Motion.** Adopts the *Model Rule on Admission by Motion* pursuant to the recommendations of the

Commission on Multijurisdictional Practice. 02A201G; amended February 2011 to eliminate provisions that prohibit in-house counsel and judicial law clerks from qualifying on the basis of practice performed in the jurisdiction where admission on motion is being sought. 11M100C

**American Law Institute.** Approve a memorandum of understanding with the American Law Institute for collaboration to advance the continuing legal education of the bar. 8/70; revised 8/74

**Civil Immunity for Board of Law Examiners.** Urge (1) appropriate state and territorial officials to consider the adoption of a rule concerning civil immunity for members of the Board of Law Examiners (or other appropriate entity exercising bar admissions authority), members, employees and agents, and entities providing information to the Board regarding an applicant; (2) that such members are immune from all civil liability for damages for conduct; and (3) communications occurring in the performance of their official duties and that records, statements of opinion and other information regarding an applicant for admission to the bar communicated without malice to the Board or its members is privileged and civil suits for damages predicated thereon may not be instituted. 98M105

**Clinical Legal Education.** Support continued authorization of and appropriations for Title XI program of assistance for clinical legal education. 2/72; 5/74; 5/79

Reaffirms support for ethical independence of law school clinical programs consistent with the ABA Model Rules of Professional Conduct; and opposes attempts by persons or institutions outside law schools to interfere in the ongoing activities of law school clinical programs and courses. 11M100A

**Discrimination, Reverse.** Urge the strengthening of legal education and the uplifting of the legal profession by encouraging the training of law school applicants with high academic qualifications, and request the Section of Legal Education and Admissions to the Bar to investigate the applicants and report its finding, if any, to the House of Delegates. 8/76

**Domestic Violence Programs.** Encourages law schools and law students to promote awareness of domestic violence through law school activities and programs. 03A120

**Educational Loan Repayment Program.** Urge Congress to amend Section 125 of the Internal Revenue Code of 1986 to include an educational loan repayment program as part of a qualified benefit assistance program (cafeteria plan) that is sponsored by employers and offered to employees. Support legislation whose primary purpose is to give incentives to employers to provide educational loan repayment programs, which provisions should not impose income caps on the individuals receiving the benefit. 99A118

**Ethics and Professionalism Instruction.** Recommend five specified principles with respect to law school instruction in ethics and professionalism, new methods of dealing with legal problems, standards of ethics and professionalism in law schools, codes of student conduct, and law school admission and graduation standards. 8/89

Recommend that members of law school faculties throughout the United States be encouraged to provide, continue and expand the initial instruction and discussions about professionalism in addition to instruction on legal ethics, to invite practicing lawyers to participate, and to review the substance of ethics and professionalism courses currently being offered. Encourage courts and appropriate authorities to require instruction on professionalism. Encourage appropriate entities to include issues of professionalism within the content of their CLE programs. 8/91

**Federal Trial Advocacy.** Support that portion of the King Committee Report, which encourages law schools to continue improvements in practice-oriented training and bar associations to increase the availability of continuing legal education. Oppose that portion of the Devitt and King committees' recommendations regarding examination

and trial experience requirements for admission to practice in federal court. 8/86

**Law Practice Management/Client Relations Skills Training.** Urge (1) the training and education of lawyers and law students in current law practice management and client relations skills necessary effectively to deliver legal services; and (2) that mandatory continuing legal education governing bodies give full credit for courses which teach current law practice management and improved client relations. 8/94

**Legal Assistant Education Programs, Guidelines for Approval of.** Adopted 8/73

Guidelines G-303 and G-402 amended. 8/77

Guidelines G-303b and G-204 amended. 2/90

Guidelines G-202, G-203, G-204 and G-303 amended. 8/96

Amendments were made to the following Guidelines to reflect changes in terminology, grammatical changes, and reorganization of some sections for clarity: Guidelines G-101 through G-107 (General Purposes, Procedures, and Definitions), Guidelines G-201 through G-206 (Organization and Administration), Guidelines G-301 through 303 (Educational Programs), Guidelines G-401 through G-403 (Faculty), Guidelines G-501 and G-502 (Admissions and Student Services), Guideline G-601 (Library), Guidelines G-701 and G-702 (Physical Plant), and Guidelines G-801 and G-802 (Authority). 03M100B

**Legal Assistant Licensure and/or Certification Policy Statement.** Adopted 4/86; Definition of Legal Assistant revised. 8/97

**Legal Assistants.** Adopted the following definition of legal assistant: A legal assistant or paralegal is a person, qualified by education, training or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible. 8/97

**Legal Education.** Expressly disapprove the study of law by correspondence. Recommend that greater emphasis be placed on training lawyers for advocacy adopted. 8/69

Adopt the following statement concerning opportunities for the study of law and entry into the profession by qualified members of minority groups: Consistent with sound education policy and the Standards, the law schools are urged to demonstrate, by concrete action, a commitment to expanding opportunities for the study of law and entry into the profession by qualified members of the groups (notably racial and ethnic minorities) which have been victims of discrimination in various forms. This commitment would typically include a special concern for determining the potential of such applicants through the admission process, special recruitment efforts, and a program which assists in meeting the unusual financial needs of many such students, provided that no school is obligated to apply standards for the award of financial assistance to minorities different from those applied to other students. 8/80

**Loan Repayment and Forgiveness.** Recommends that the amount a law student may borrow annually in unsubsidized loans under the Stafford loan program be increased to at least \$30,000. 02M300A

Urges Congress to enact legislation, or the Secretary of the U.S. Department of Education to amend existing regulations by (1) permitting forgiveness sooner than 25 years after a borrower begins repaying loans and (2) eliminating or reducing the marriage penalty. 02M300B

Reaffirms encouragement of law schools, state, local and territorial bar associations and foundations, IOLTA programs, public service employers and federal, state and territorial lawmakers to establish programs, such as loan

repayment assistance or forgiveness programs and public service scholarships, to enable law graduates to accept and remain in lower paying government and public service legal employment. 03A113

Urges Congress to ensure that funding for the John R. Justice Prosecutors and Defenders Incentive Act (Section 951 of P.L. 110-315) is expanded beyond its original authorization of \$25 million to cover the actual national need. 10M102J

Urges Congress to enact and the President to sign legislation amending a) the Higher Education Opportunity Act of 2008 (HEOA) to expressly include all judge advocates as an enumerated public service position eligible for Perkins loan forgiveness, and b) Military Deferment statutes to delete the language "during a war or other military

operation or national emergency." Urges the Department of the Treasury and the Internal Revenue Service to issue published guidance for the exclusion from gross income discharges of student loans pursuant to the College Cost Reduction and Access Act (CCRAA) Public Service Loan Forgiveness Program. 10M113

Urges Congress, the Executive Branch and/or Commercial Lenders to develop and implement programs to assist students and recent graduates, including law students and recent law student graduates experiencing financial hardship due to deferred or lack of employment (and consequently lack of income) during a period of economic crisis with programs such as a) extending federal student loan repayment terms and federal student loan programs or comparable programs to such individuals who used alternative sources of credit from commercial lenders to fund their education in whole or in part, b) authorizing the use of Troubled Asset Relief Program (TARP) or other federal funds to provide such individuals with temporary assistance to meet their obligations to lenders with a corresponding obligation to repay such assistance, and/or c) making repayment terms in federal educational loans as beneficial to the borrower as possible to allow as many students and recent graduates as possible, including law students and recent law school graduates to qualify for such programs as income-based repayment, consolidation, and other forms of loan repayment assistance. 10M301

**Mandatory Continuing Legal Education.** Support the concept of mandatory continuing legal education for all active lawyers. Urge serious consideration of mandatory CLE by the various states that have not yet adopted such a program. 8/86

Urges all state and territorial continuing legal education accrediting agencies to approve for mandatory continuing legal education participatory credit the full spectrum of technology-based continuing legal education formats. 02M108

**Mandatory Continuing Legal Education on Chemical Dependency.** Encourage those bodies that govern attorneys and the practice of law in each state and territory which require mandatory continuing legal education to establish a requirement that every three years each attorney complete at least one hour of mandatory continuing legal education related to the prevention, detection, and treatment of chemical dependency in the profession. 2/95

**Minimum Continuing Legal Education.** Adopt Model Rule for Minimum Continuing Legal Education. 8/88; Amended 2/89

Sections 2(b), 6(a) and (b), 7(a) through (i) with Comments, and the Comments of Section 9 amended. 8/96

Comment to Section 2 amended (regarding MCLE programs related to promotion of diversity and the elimination of bias in the legal profession). 04M110

**Minorities in the Pipeline to the Profession.** Urges all state, territorial and local bar associations to work with

national, state and territorial bar examiners, law schools, universities and elementary and secondary schools to address significant problems facing minorities within the pipeline to the profession. 06A113

**National Service Legislation.** Support the enactment of and full funding for national service legislation which provides educational benefits for law students and law graduates in return for community service in our nation's system of justice. 8/93

**Privacy Concerns for Bar Admissions.** Recommend that when making character and fitness determinations for the purpose of bar admission, bar examiners (1) consider the privacy concerns of bar admission applicants; (2) tailor questions concerning mental health and treatment narrowly in order to elicit information about current fitness to practice law; and (3) take steps to ensure that their processes do not discourage those who would benefit

from seeking professional assistance with personal problems and issues of mental health from doing so. Recommend that fitness determinations may include specific, targeted questions about an applicant's behavior, conduct or any current impairment of the applicant's ability to practice law. 8/94

**Pro Bono Disclosure Requirements for Law School Recruiters.** Urges law schools to require legal employers that recruit on campus to disclose, and to make available to the schools' students and alumni, specific information regarding the employer's pro bono policies, practices and activities and urges law schools to adopt the *Pro Bono Disclosure Requirements for Law School Recruiters*, dated August 2006. 06A121B

**Pro Bono Programs for Law Schools.** Strongly encourage law schools to develop pro bono/public service programs as components of their skills training curricula or programs and to exchange information about such pro bono public service programs through the Section of Legal Education and Admissions to the Bar. 8/93

**Ranking of Law Firms and Law Schools.** That the American Bar Association examine any efforts to publish a national, state, territorial and local rankings of law firms and law schools. 10M10A

**Report of the Task Force on Law Schools and the Profession.** Urge bar associations and the judiciary to join with law schools to establish programs to inform students of the breadth, variety and differentiation of legal careers and to develop ways to build the education continuum envisioned by Legal Education and Professional Development – “An Educational Continuum,” the Report of the Task Force on Law Schools and the Profession: Narrowing the Gap. Urge law schools to consider the Statement of Skills and Values from the Report in assessing the extent to which their curricula advance their students' professional development and preparation for the practice of law and to take certain specified steps with respect to their students' professional development. Urge licensing authorities to consider modifying bar examinations which do not give appropriate weight to the acquisition of lawyering skills and professional values. Urge sponsors of programs of transition education to examine their programs to ensure the inclusion of significant skills and values instruction. Urge providers of continuing legal education to consider the Statement of Skills and Values and the developments in effective teaching of skills and values described in the Report. Direct the Council of the Section of Legal Education and Admissions to the Bar to consider the desirability of rescinding its policy of confidentiality of the information submitted annually by law schools to the Office of the ABA Consultant on Legal Education, and to consider amending the Interpretation to Standard 201(a) and invite the Section to report to the House on skills and values instruction issues. 2/94

**Standards for the Approval of Law Schools.** Standard 211 amended to add "including the employment of faculty and staff" to the nondiscrimination/equal opportunity provisions. 8/89

Standard 211 amended to add sexual orientation to the categories of prohibited discrimination. 8/94

Standard 301(a) amended to read as follows: A law school shall maintain an educational program that is designed to qualify graduates for admission to the bar and to prepare them to participate effectively in the legal profession. 8/93

Standard 505 amended to clarify the purpose of the original Standard 505. 2/94  
New Standard 215 concerning publication of consumer information and interpretation of Standard approved. 8/95

Standards 601-606, 704 and 706 pertaining to law libraries amended, and interpretations of the Standards approved. 8/95

Recodification approved as amended including revisions to specific Standards. 8/96

Urge bar associations to assist law schools within their jurisdictions with the development of curricula designed to accomplish the goals of Standards 301 (Objectives) and 302 (Curriculum). Urge bars to observe implementation of the new codification of the Standards within their jurisdictions in order to determine whether or not the new codification is helping to fulfill the law profession's duties to the public, law students, and the profession itself as stated in the Preamble to the Standards. 8/96

Standard 510 amended to require ABA-approved law schools to take certain steps to minimize student loan defaults. 8/97

Rules of Procedure 6(b)(1) and 16 amended and new Interpretation 509.4 adopted. 98M302

Standards 101, 106, 801 and 803, and various rules of the Rules of Procedure amended relative to the restructuring of the law school accreditation process. 99M117

Revisions to Standards 301-307 and 401-404 and their interpretations dated 1999 adopted. 99A111

Concur with the action of the Council of the Section of Legal Education and Admissions to the Bar in adopting revisions to the Standards for Approval of Law Schools dated July 2000. 00A300B

Additions and revisions to the following Standards for Approval of Law Schools, Interpretations thereto and Rules of Procedure for Approval of Law Schools, dated August 2001, were adopted: (1) Standards 302, 405(c), 405(d), 502(a), 511, 512; (2) Interpretations 105-1, 302-1, 405-6, 405-9, 701-3 - 701-5; and (3) Rules of Procedure 5, 6, 7, 9, 10, 14, 18, 19. 01A300A

Additions and revisions to the following Standards for Approval of Law Schools and the Interpretations thereto, dated August 2002, were adopted: (1) Standards 306 and Interpretations 306-1 through 306-9 and 305-4 (provide a new framework for the regulation of distance education at ABA approved law schools); (2) Standards 301 and 511 and Interpretations 301-2, 301-3, and 304-6 (residency and related rules for part-time programs); and (3) Interpretations 304-3 and 304-8 (credit for J.D. work done as a post-J.D. student). 01A301B

Additions and revisions to the following Standards for the Approval of Law Schools, Interpretations, and Rules of Procedure, dated February 2003, were adopted: Standards 105 and 106, Interpretations 105-1 through 105-5, and Rule 19 (Branch campus and Satellite campus); and Rule 20 (deleted). 03M300A

Additions and revisions to the following Standards for the Approval of Law Schools, Interpretations, and Rules of Procedure, dated August 2003, were adopted: Interpretations 102-5 and 102-6 (provides for electronic dissemination of information about a law school); Interpretation 102-9 (status of students if school loses provisional approval); Interpretation 304-9 (calculation of "regularly scheduled class sessions" to determine

credit); Standard 503 and Interpretations 503-1 through 503-3 (law school admission test); Interpretation 509-3 (basic consumer information); and Rule 24 (reports concerning law school non-compliance with the Standards). 03A300B

Additions and revisions to the following Standards for the Approval of Law Schools, Interpretations, and Rules of Procedure related to the Accreditation Process, dated August 2003, were adopted: Rule 9(e) (levels out site evaluation cycle of fully approved schools); revisions to various standards, Interpretations and Rules of Procedure concerning oversight of post-and non-J.D. programs; and Rule 29 (establishment of annual fee system for fully approved law schools and foreign programs). 03A300C

Additions and revisions to the following Standards for the Approval of Law Schools and Interpretations to these Standards, dated August 2004, were adopted: Standard 301 (Objectives); Standard 303 (Academic Standards and

Achievement); Standard 304 (Course of Study and Academic Calendar); Standard 305 (Study Outside the Classroom); Standard 307 (Participation in Studies or Activities in a Foreign Country); Standard 308 (Degree Programs in Addition to J.D.); Standard 511 (Student Services); and Standard 512 (Career Services). 04A300A

Additions and revisions to the following Standards for the Approval of Law Schools and Interpretations to these Standards, dated February 2005, were adopted: Standard 302 (Curriculum) and Standard 305 (Study Outside the Classroom). 05M105B

Additions and revisions to the following Standards for the Approval of Law Schools and Interpretations to these Standards, dated August 2005, were adopted: Standard 102 (General-Provisional Approval); Standard 103 (General-Full Approval); Standard 105 (General-Major Change in Program or Structure); Standard 401 (Faculty Qualifications); Standard 402 (Size of Full-Time Faculty); Standard 403 (Instructional Role of Faculty); Standard 404 (Responsibilities of Full-Time Faculty); Standard 405 (Professional Environment for Faculty); Standard 601 (Library and Information Resources--General Provisions); Standard 602 (Library Administration); Standard 603 (Director of the Law Library); Standard 604 (Library Personnel); Standard 605 (Library Services); Standard 606 (Library Collection); Standard 701 (Facilities-General Requirements); Standard 702 (Facilities-Law Library); Standard 703 (Facilities-Research and Study Space); and Standard 704 (Facilities-Technological Capacities). 05A300C

Comprehensive revisions to the Rules of Procedure for Approval of Law Schools and to Standard 103 and its Interpretations (Full Approval) of the Standards for Approval of Law Schools, dated February 2006. 06M100

Additions and revisions to the following Standards for the Approval of Law Schools and Interpretations to these Standards, dated August 2006, were adopted: Standard 210 (Non-Discrimination and Equality of Opportunity);

Standard 211 (Equal Opportunity and Diversity); and Standard 212 (Reasonable Accommodation for Qualified Individuals with Disabilities). 06A106B

Additions and revisions to Chapter 2 (Organization and Administration), Chapter 5 (Admissions and Student Services), and Chapter 8 (Council Authority, Variances and Amendments) of the Standards for the Approval of Law Schools and Interpretations to these Standards, dated August 2006. 06A301B

Adopts Interpretation 302-10 concerning opportunities for law student participation in pro bono activities, dated August 2007, as an addition to the Standards for Approval of Law Schools and the Interpretations of the Standards. 07A103A

Amends Standard 801(a) (re: when a decision of the Council becomes final) and adopting Interpretation 509-3 (re: consumer information-publication of school's academic calendar), dated August 2007, of the Standards for

Approval of Law Schools. 07A103B

Adopts amendments to Rule 13 (Action Concerning Apparent Non-Compliance with Standards); Rule 18 (Compliance with Sanctions or with Remedial or Probationary Requirements); Rule 20 (Major Change in the Organizational Structure of a Provisionally or Fully Approved Law School); and Rule 21 (Major Change in the Program of Legal Education of a Provisionally or Fully Approved Law School) of the Rules of Procedure for Approval of Law Schools, dated August 2007. 07A103C.

Adopts Interpretation 301-6, dated February 2008, of the Standards for Approval of Law Schools concerning the sufficiency of a law school's bar passage rate. 08M113

Deletes Interpretation 302-7 of the *Standards for Approval of Law Schools* concerning bar examination preparation courses. 08A112B

Deletes Standard 104 from the *Standards for Approval of Law Schools*, (Seek to Exceed Requirements), and Interpretation 104-1. 09A100

Adopts amendments to Standard 509 (Basic Consumer Information); Rule 10 (Appeal of an Adverse Decision of the Council); Rule 22 (Teach Out Plan and Agreement and Closure of a Law School); and Rule 24 (Complaints Concerning Law School Non-Compliance with the Standards) of the Standards and Rules of Procedure for Approval of Law Schools, dated February 2011. 11M100B

**Standards of Fair Conduct and Voluntary Cooperation for Continuing Legal Education.** Approved 1/69

**Thurgood Marshall Legal Educational Opportunity Program.** Urge Congress to appropriate funds for the Thurgood Marshall Legal Educational Opportunity Program at a level sufficient to carry out its objectives. 499BOG

## LEGAL SERVICES

**Acceptance of Voluntary Legal Services in the Military.** Support amendment to 10 U.S.C. §1588 expressly to allow Secretaries of the Army, Navy and Air Force and the Secretary of Transportation (for the Coast Guard) to accept voluntary legal services. The amendment would allow retired military and civilian lawyers to supplement the existing civil legal services currently provided by the military. 01A109

**Affordable Housing Trust Fund.** Urges Congress and the President to support the establishment of a federal affordable housing trust fund to increase the availability of affordable housing consistent with certain principles. 05M111

**Center for Defense Services.** Support the establishment of an independent, federally funded center for defense services for the purpose of strengthening state and local criminal defense service programs. 8/73; 2/79

**Civil Legal Aid (See also: Standards for the Provision of Civil Legal Aid).** Urges federal, state, and territorial governments to provide legal counsel as a matter of right at public expense to low income persons in those categories of adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health or child custody, as determined by each jurisdiction. 06A112A

Adopts the *Principles of a State System for the Delivery of Civil Legal Aid*, dated August 2006, which describe a system for the delivery of civil legal aid that provides a full range of high quality, coordinated and uniformly available civil law-related services to the state's or territory's low-income and vulnerable populations in sufficient quantity to meet their civil legal needs. 06A112B

Adopts the black letter and commentary *ABA Basic Principles of a Right to Counsel in Civil Legal Proceedings*, dated August 2010, which represent an effort to state, in a clear and accessible fashion, the fundamental requirements for effectively providing representation in certain high-priority civil proceedings to persons unable to afford an attorney. 10A105 (*See also*: Model Access Act.)

**Community Reinvestment Programs.** Support creation of effective community reinvestment programs in all financial institutions to help avoid discrimination and to stabilize housing and business in low- and moderate-income communities by providing credit to residents, small businesses and projects in such communities. Resolve commitment to placing ABA accounts in financial institutions that have shown outstanding or satisfactory performance in helping to meet the credit needs of their entire communities, including low- and moderate-income neighborhoods. Encourages specific actions consistent with fiduciary prudence. 2/91

**Community Service by Lawyers.** Urges all lawyers to contribute to the public good through community service in addition to exercising their professional responsibility to deliver pro bono service in accordance with Model Rules of Professional Conduct Rule 6.1, where applicable. Urges legal providers and other entities that employ lawyers to adopt policies and practices that afford lawyers the time and opportunity to engage in community service, and urges law schools and state, local and territorial bar associations to take all appropriate steps to facilitate and encourage lawyers to undertake such service. 06M105

**Contracts for Criminal Defense Services.** Oppose the awarding of government contracts for criminal defense services on the basis of cost alone or through competitive bidding without reference to quality of representation. Urge that the awarding of contracts should, in addition to cost, be based on certain specified qualitative criteria. 2/85

**Costs of Counsel in Criminal Cases.** Adopts the black letter ABA Guidelines on Contribution Fees for Costs of Counsel in Criminal Cases, dated August 2004, and urges compliance with these guidelines to ensure satisfactory procedural safeguards when accused persons are ordered to make a payment for representation furnished to them at government expense. 04A110

**Disclosure of Client Information.** Oppose provision in HEW Title XX regulations which requires reporting of client data. Oppose disclosure of client information as part of this audit procedure. 8/76

**Foster Care Independence Act (1999).** Urges full implementation of the 1999 Foster Care Independence Act. Specifically, urges: (1) Congress and state and territorial legislatures to enact laws to provide youth in foster care full access, up to age 21, to independent and transitional living services and health care; and (2) state and territorial legislatures to permit the extension of jurisdiction of dependency courts over youth transitioning from foster care until age 21, when appropriate, to ensure that youth have access to the court, and to legal and social services through the court, and to fully implement the provisions of the federal Foster Care Independence Act, including implementation of the Medicaid expansion option. Supports access to competent counsel for youth transitioning out of foster care. 02A106

**Homeless Court Programs.** Supports the development of a comprehensive, systemic approach to addressing the needs of homeless misdemeanor defendants through multidisciplinary strategies that include coordination among the criminal justice, health, social service and education systems, and the community. Urges state, local and territorial courts and bar associations to facilitate the development of homeless court programs as treatment-oriented diversionary proceedings that may result in the dismissal of misdemeanor offenses upon completion of shelter/service agency activities. 03M116

Adopts principles for Homeless Court Programs and approves the criteria for individual participation, recognizing that administration of the programs will differ depending on the particular needs, goals and challenges of a jurisdiction. 06A108A

**Housing and Community Economic Development Initiatives.** Urge governments to support the implementation of housing and community economic development initiatives and programs in order to revitalize low- and moderate-income communities in accordance with six specific efforts. Encourage pro bono activities that support and assist housing and community economic development initiatives and programs that benefit low- and moderate-income individuals or areas. 99A105

**Housing Courts.** Urges all jurisdictions to adopt the *Best Practices for Judges in the Settlement and Trial of Cases Involving Unrepresented Litigants in Housing Courts*, dated August 2008. 08A10A

**Housing Voucher Program.** Opposes legislation to repeal the federal Section 8 low-income housing voucher program or similar legislative proposals that would eliminate the present funding structure based on actual costs for the number of vouchers used and replace it with a state-administered block grant system. Urges state, local and territorial bar associations to promote better understanding of the Section 8 low-income housing voucher program and to ensure fair administration and access to the program for those entitled to participate. 03A121

**Identity Theft (Representation of Victims).** Urges national, federal, state, tribal, territorial and local bar associations, in cooperation with state and local pro bono, lawyer referral, and legal aid programs, to establish programs to assist or provide legal representation for victims of identity theft who need assistance in recovery from the crime. 08M102B

**Indigent Defense Programs.** Support congressional legislation mandating the inclusion of state and local indigent defense programs among those eligible for funding under the Anti-Drug Abuse Act of 1988 and similar federal laws, and further mandating the inclusion of research, training and technical assistance programs for state and local indigent defense systems in the discretionary grant programs under the Bureau of Justice Assistance and similar agencies. Urge Congress to authorize and appropriate funding to assist state and local governments in implementing the constitutional obligation to provide effective assistance of counsel for indigent defendants in state and local proceedings. Urge state legislatures in those states where funding for indigent defense services is primarily provided at the local level to increase the level of state funding. 2/91

Urge adoption of minimum standards for the creation and operation of its indigent defense delivery systems based on four specified sets of guidelines/standards. Urge encouragement and support of the adoption of minimum standards for the creation and operation of indigent defense systems. Urge that substantial compliance with such minimum standards be required as a condition for receiving funds. 98A115

Adopts or reaffirms “the Ten Principles of a Public Defense Delivery System,” dated February 2002, (Principles) which constitute the fundamental criteria to be met for a public defense delivery system to deliver effective and efficient, high quality, ethical, conflict-free representation to accused persons who cannot afford to hire an attorney. Recommends that each jurisdiction use the Principles to assess promptly the needs of its public defense delivery system and clearly communicate those needs to policy makers. 02M107

Urges that the following steps be taken to fulfill the constitutional guarantee of effective assistance of counsel under the Sixth Amendment as prescribed in decisions of the United States Supreme Court: (1) Increased funding for indigent defense by state, territorial and local governments; (2) stronger oversight mechanisms; (3) substantial federal financial support to states and territories for the provision of indigent defense services; (4) remedies to avoid work overload of defense counsel; (5) increased judicial scrutiny of ethical duties and lapses by prosecutors and defenders; (6) greater involvement of bar associations in monitoring criminal proceedings; and (7) involvement of community groups and individual citizens in improving the indigent defense system. 05A107

Adopts the Eight Guidelines of Public Defense Related to Excessive Workloads, dated August 2009, which contain essential steps to be taken by those organizations and lawyers who provide criminal defense services for persons in the United States who cannot afford to hire an attorney. 09A119

**Language Interpreters.** Urges the federal government and the states, territories and possessions to commit sufficient resources to all courts and administrative agencies to enable them to provide qualified language interpreters to ensure that all parties and witnesses may fully and fairly participate in all proceedings. 02M110

**Lawyer Referral Service.** Approve Statement of Standards and Practices for a Lawyer Referral Service as a model for consideration by the states. 2/78; 2/84

Support the exclusion of initial consultation fees established by bar sponsored lawyer referral services from the application of federal and state antitrust laws. 7/85

Adopted black letter "Model Supreme Court Rules Governing Lawyer Referral Services," dated August 1993, consisting of Rules I-XV, and the "Model Lawyer Referral and Information Service Quality Assurance Act," dated August 1993, consisting of Section 1-9. Recommend the adoption by each state and territory of these model regulations for the establishment and operation of lawyer referral services, as appropriate for those states and territories desiring to adopt the substantive law suggested therein, and which have determined that such regulation is needed to protect that state's or territory's consumers of legal services. 8/93

**Lawyer Referral Standards.** Encourage each state to develop minimum quality standards for all lawyer referral services, and provide seven specified client protection features which such standards should incorporate. 8/89

**Lawyers' Trust Accounts.** Approve in principle the concept of state programs, where authorized by the law of that state, for the use of interest on lawyer trust funds for the support of law-related public service activities. 4/83

Urge states that have voluntary interest on lawyers' trust accounts (IOLTA) programs to convert to and adopt a comprehensive IOLTA program in which all lawyers in the state who are required to maintain trust accounts will be required to participate. 2/88

Reaffirm its support for state programs which generate interest on lawyer trust account funds for the support of law-related public service activities, primarily civil legal services to the poor. Resolve that funds generated by IOLTA programs should not be used as a substitute for public funding for certain obligations of government, and that allocation of such funds should be determined in each state by an independent body, in light of that state's needs and priorities. 2/91

**Legal Aid.** Approve cooperation with the Office of Economic Opportunity. 2/65

Urge state and local bar associations and communities to take more vigorous steps to upgrade the quality and broaden the scope of the representation of defendants in criminal proceedings who are financially unable to employ counsel. 2/68

Approve position that the OEO legal services program should operate with full independence of lawyers within the program, including cases involving action against government agencies. 2/70

Approve Standards for Legal Aid and Defender Services, 2/66; approve revised standards, 8/70

Recommend establishment of a defender organization in those federal districts in which at least two hundred assignments of counsel are required annually, as authorized by the Criminal Justice Act of 1964 as amended by Pub. L. No. 91-447. 2/71

Authorize study of steps necessary to provide an affirmative response to the Supreme Court's mandate, in *Argersinger v. Hamlin*, that all misdemeanants be represented by counsel whenever imprisonment may be

involved. 8/72

Recommend that the U.S. Supreme Court adopt a rule providing for appointment of counsel to prepare petitions for discretionary review of state court convictions, including appropriate postconviction or clemency petitions if necessary, in death penalty cases where the defendant cannot afford to hire counsel. Offer its assistance in identifying qualified attorneys. Recommend the amendment of the Criminal Justice Act (19 U.S.C. §3600A) to provide adequate compensation to counsel so appointed. 2/79

Urge states to take immediate action to ensure adequate funding to provide counsel to indigent defendants. 8/81

Urge state and local bar associations to cooperate with state and local Legal Services Corporation grantees and other agencies providing civil legal services to indigent persons. Urge the Legal Services Corporation to cooperate with the American Bar Association and state and local bar associations in developing and implementing plans and procedures for involving private attorneys in providing and supporting civil legal services for indigent persons. 2/84

Urge that funding sources that provide for legal aid programs should not, in auditing receipts of funds, have access to client records when such access would be in violation of traditional precepts of attorney-client privilege. 01M8A

**Legal Assistance for Active-Duty Military Personnel.** Support amendment of 10 U.S.C. Section 1044 to make mandatory the provision of basic legal assistance for active-duty military personnel in pay grades E-6 and below and their dependents. 8/90

**Legal Assistance for the Institutionalized.** Support Legal Services Corporation efforts to provide assistance to the institutionalized equal to that provided to other eligible clients. 8/75

**Legal Assistance for Juvenile Status Offenders.** Urges state, local, territorial and tribal governments to provide legal counsel to children and/or youth at all stages of juvenile status offense proceedings as a matter of right and at public expense. 10A109A

**Legal Assistance by Law Students, Model Rule Relative to.** Adopt draft of a proposed Model Rule Relative to Legal Assistance by Law Students and urge its consideration by the several states. 1/69; Model Rule amended 2/79.

**Legal Assistance for Members of the Military Reserves.** Support the concept of armed forces programs providing legal assistance for members of military reserves for their personal affairs prior to actual mobilization in times of national emergency. 2/77

**Legal Assistance to Prisoners Regarding Family Law Issues.** Urges bar associations and law schools to consider and expand, as appropriate, initiatives to assist criminal defendants and prisoners in avoiding undue consequences of arrest and conviction on their custodial and parental rights and urges Congress to eliminate restrictions that prohibit recipients of Legal Services Corporation funds from providing legal assistance to prisoners on family law issues. 10M102F

**Legal Information Web Site Providers, Best Practice Guidelines for.** Adopted 03M110

**Legal Representation for Indigent Parents.** Urge state and local judicial systems and bar associations to work to ensure that competent attorneys be appointed for every indigent parent at all stages of protection proceedings,

and that all attorneys receiving such appointments have sufficient training or experience to provide effective legal representation to parents. 11/87

**Legal Services Corporation.** Support strengthening of charter and adequate funding for Corporation. 2/65; 5/73; 4/81

Strongly urge the President, the Executive Branch, the Legal Services Corporation Board of Directors, and Congress to support substantially increased funding of the Corporation so that there are adequate resources for a high-quality legal services program. Strongly urge the President and the Executive Branch to be supportive of the purposes for which the Legal Services Corporation was founded to ensure equal justice under law for all through a strong and independent legal services program. Strongly urge the President of the United States in nominating and the Senate of the United States in confirming members of the board of directors of the Legal Services Corporation to meet five specified requirements. Strongly urge Congress to pass a reauthorization bill for the Legal Services Corporation with certain specifications. 2/89

Opposes any proposal to cut funding for the Legal Services Corporation for the Fiscal Year 2011, and urges Congress to support increased funding of the Corporation necessary to provide needed services to low income Americans. 11M10E

**Legal Services Corporation Act.** Oppose legislation, which would amend the Legal Services Corporation Act in certain ways and urge state and local bar associations to adopt resolutions opposing the legislation and to communicate their opposition to their congressional delegations. 8/90

**Legal Services for Veterans and Members of the Armed Forces.** Urges Congress to enact legislation, like the Veterans Advocacy Act of 2007, which promotes the provision of legal services to veterans and members of the Armed Forces to assist them in obtaining the full range of health care, benefits and services to which they are lawfully entitled. 08M108

**Legal Services Program Funding.** Oppose attempts to diminish justice for poor people by reducing federal, state and local funding for legal services programs. Call upon bar associations and lawyers to exert strong leadership and advocacy to preserve existing funding for legal services, prevent the diversion of funds for other purposes and preclude limits on the purposes for which funds may be used. Urge bar associations and lawyers to undertake vigorous leadership and aggressive advocacy to identify, pursue and implement creative initiatives that will result in new funding mechanisms for legal services providers. 8/95

**Loan Repayment Assistance or Forgiveness Programs.** Reaffirms encouragement of law schools, state, local and territorial bar associations and foundations, IOLTA programs, public service employers and federal, state and territorial lawmakers to establish programs, such as loan repayment assistance or forgiveness programs and public service scholarships, to enable law graduates to accept and remain in lower paying government and public service legal employment. 03A113

Urges Congress to ensure that funding for the John R. Justice Prosecutors and Defenders Incentive Act (Section 951 of P.L. 110-315) is expanded beyond its original authorization of \$25 million to cover the actual national need. 10M102J

**Model Access Act.** Adopts the black letter and commentary of the *ABA Model Access Act*, dated August 2010, which is a model statute for implementing jurisdictions to establish administer a civil right to counsel, consistent with ABA policy adopted in August 2006. 10A104 (*See also:* Civil Legal Aid.)

**Model Expanded Legal Assistance Program Rule for Military Personnel.** Model adopted. States and territories urged to adopt the model rule in order to provide low-income military service members and their dependents free civil legal assistance and in-court representation by military attorneys. 03M111

**Monitoring and Evaluation of Providers of Legal Services, Standards for.** Adopt Standards for the Monitoring and Evaluation of Providers of Legal Services for the Poor, dated February 1991. Recommend appropriate application of the standards to the monitoring and evaluation of providers of free legal services to the poor by their public and private funding sources. 2/91

**Older Americans Act.** Urges Congress and the Administration to reauthorize and implement the Older Americans Act of 1965 as amended, giving increased priority to the delivery of legal services and elder justice. 4/81; 10A106B

**Poll Workers.** Urges law firms and other legal employers to allow time spent by lawyers as official poll workers (not poll watchers) to qualify as community service or voluntary public service hours and for non-lawyer staff to be allowed paid leave to serve as official poll workers. 08A119B

**Prepaid Legal Services.** Encourage development of prepaid legal service plans designed to make legal services available at reasonable cost. 2/83

**Private Lawyer Involvement.** Urge amendment of the Legal Services Corporation Act to mandate the opportunity for substantial involvement of private lawyers in providing legal services to the poor. 8/80

**Pro Bono.** Resolve that it is a basic professional responsibility of each lawyer engaged in the practice of law to provide public interest legal services without fee or at a substantially reduced fee in the following areas: poverty law, civil rights law, public rights law, charitable organizations representation and administration of justice. Resolve that it should always be provided in a manner consistent with the Model Rules of Professional Conduct. Resolve that the organized bar should assist each lawyer in fulfilling his or her responsibilities in providing such services as long as there is a need and should assist, foster, and encourage governmental, charitable, and other sources to provide public interest legal services. 8/75

Recognize and support the professional obligation of all attorneys to devote a reasonable amount of time, but in no event less than at least 50 hours per year, to pro bono and other public service activities. Urge law firms and corporate employers to promote and support the involvement of associates and partners in pro bono and public service activities. Urge law schools to adopt a policy under which they would request law firms recruiting on campus to provide a written statement of its policy, if any, concerning the involvement of its attorneys in such activities. 8/88

Along with other bar associations, resolve (1) to make the expansion of pro bono legal services by practicing lawyers a critical priority; (2) to develop effective and innovative strategies to promote pro bono service and to allocate sufficient bar resources to ensure that these strategies can be effectively implemented; (3) to coordinate development of the strategies with legal services providers and pro bono programs, and to consider including five specified activities. 8/95

Encourage bar associations to participate in planning efforts in partnership with legal services, lawyer referral services, pro bono programs, the judiciary and others to develop within each jurisdiction an integrated, comprehensive system for delivery of a full range of legal services to the poor and persons of modest means. Encourage bar organizations and affiliated young lawyer organizations to consider whether projects to provide persons of modest means with legal assistance at a reduced, reasonable rate are needed as part of the comprehensive delivery system and, if so, to take steps to establish and implement such projects. 2/97

Encourages state and territorial bar associations and other attorney licensing entities to adopt practice rules that establish guidelines to allow pro bono legal service by qualified retired or otherwise inactive lawyers, under the auspices of qualified legal services or other non-profit programs. 06A118

Urges solo and small firm attorneys, larger law firms, corporate law departments and government and military

law offices to encourage their lawyers, partners as well as associates, to serve their communities through pro bono and public service activities consistent with applicable rules of professional conduct and adopts *Pro Bono Policies and Procedures*, dated August 2006, to provide their lawyers with opportunities to do pro bono work and to adopt specific internal policies and procedures to support such work. 06A121A

Urges all federal, state, local and territorial courts to develop programs, in collaboration with state, local and territorial bar associations and pro bono programs and legal services offices, to encourage, facilitate and recognize pro bono representation of indigent parties in civil cases. 06A121C

Reaffirms the ABA's commitment to the core values of the legal profession including the pro bono provision of legal services to those in need and the independence of the legal profession. Commends those lawyers and law firms that provide pro bono services. Urges state, local, specialty and territorial bar associations to educate the public on the vital role the lawyers who provide services to unpopular clients or causes perform for the benefit of the American system of justice and condemns governmental attacks on the independence of the legal profession. 07M10C

Urges corporate counsel to work with the corporation and outside counsel to waive certain limited positional conflicts in areas related to mortgage, bankruptcy and consumer finance in order to reduce the number of pro bono matters declined by outside counsel due to conflicts, so long as the waivers are not inconsistent with applicable rules of professional conduct. 09A102A

Urges federal, state and local governments to address the unmet legal needs of low-income residents of communities affected by major disasters by action which includes providing additional emergency funding for not-for-profit legal services providers, bar associations and pro bono programs. 09A102B

**Senior Outreach Projects.** Urge lawyer referral programs to increase outreach to older persons and to create special panels and fee adjustments to serve the elderly of moderate means. 8/80

Encourage bar associations and affiliated bar young lawyer organizations to establish and implement Senior Outreach Projects to provide free legal services to homebound senior citizens without sufficient means to hire counsel. 99M112A

**Standards for the Operation of a Telephone Hotline Providing Legal Advice and Information.** Adopt the Standards for the Operation of a Telephone Hotline Providing Legal Advice and Information, dated August 2001, which provide operational direction to those who provide legal services in whole or in part through the telephone hotline structure. 01A114

**Standards for the Provision of Civil Legal Aid.** Adopt revised Standards, dated August 2006, and recommend implementation by entities providing civil legal aid to the poor. 06A111

Standards for Programs Providing Civil Pro Bono Legal Services to Persons of Limited Means, dated February 1996, including the Introduction adopted. Recommend appropriate implementation of the Standards by entities providing civil pro bono legal services to persons of limited means. 2/96

**Technology and Access to Justice.** Urge Congress, the Administration and other appropriate entities to enact legislation and/or strengthen and develop initiatives to bridge the "digital divide" and to establish and support technology-based access to justice by increasing access to technology and technology skills for underserved communities. 01A105A

**Utilization of Legal Assistant Services, Model Guidelines for.** Adopt black letter provisions of the Model Guidelines for the Utilization of Legal Assistant Services. 8/91, amended 04M101B

### MEDICAL MALPRACTICE

**Apology Legislation.** Supports enactment of apology legislation at the state and territorial levels which relate only to the pain, suffering or death of a person and would provide that certain apologies by a medical provider or the staff of a medical provider as the result of unanticipated outcomes of medical care shall be inadmissible as evidence of an admission of liability. 07M112

**Awards for Medical Malpractice.** Support several principles relative to the statute of limitations applicable to such claims. Oppose any monetary ceiling on awards. 2/78

Reaffirms opposition to legislation that places a dollar limit on recoverable damages that operates to deny full compensation to a plaintiff in a medical malpractice action. Recognizes that the nature and extent of damages in a medical malpractice case are triable issues of fact (that may be decided by a jury) and should not be subject to formulas or standardized schedules. Opposes the creation of health care tribunals that would deny patients injured by medical negligence the right to request a trial by jury or the right to receive full compensation for their injuries. 06M103

**Medical Professional Liability.** Oppose legislation, including the Medical Offer and Recovery Act, to provide for an alternative liability system for medical malpractice in the case of injuries under federally funded health care programs if states fail to provide for comparable alternative liability systems. 2/86

Adopts principles pertaining to medical professional liability that include regulation of medical professional liability, frivolous suits, strengthening of medical licensing and disciplinary boards, punitive damages, notice of intent to sue, malicious prosecution actions, qualification of experts, collateral source rule, contingent fees, structured settlements, and cost and causes of claims. 2/86

**Tort Law and Procedure.** Support tort law improvements in the area of medical malpractice concerning access to medical records, panels of experts, advance payments, *ad damnum* clauses, exchange of experts' reports, itemized verdicts and prejudgment interest. 2/78

### MILITARY LAW

**Acceptance of Voluntary Legal Services in the Militarys.** Support amendment to 10 U.S.C. §1588 expressly to allow Secretaries of the Army, Navy and Air Force and the Secretary of Transportation (for the Coast Guard) to accept voluntary legal services. The amendment would allow retired military and civilian lawyers to supplement the existing civil legal services currently provided by the military. 01A109

**Access to Counsel in the Military.** Urge that military capital prisoners be provided with the same opportunity for the assistance of counsel in seeking federal post-conviction habeas corpus relief as is now provided by federal law for persons sentenced to death in the civilian courts of this country. 8/96

**Access to Military Installations.** Supports the establishment of published standards and procedures governing the process by which military installation commanders may bar access, in whole or part, to military installations in the United States by vendors, civilian employees and other individuals, which balance the need to preserve and protect order, security and property on the installation and to safeguard the health, safety and welfare of the armed forces with the interests of fair, accurate, prompt and just access determinations. Recommends four procedures to be included and a provision for barment in emergency circumstances. 8/92

**Advance Medical Directives.** Support the enactment of federal legislation to provide that advance medical directives prepared for members of the Armed Forces, their spouses, and other persons eligible for legal

assistance be recognized as lawful and given full legal effect notwithstanding state and territorial law. 8/94

**Child Care Resources for Children of Deployed Parents.** Urges federal, territorial, state and local lawmakers to respond to the increasing social and family support needs of the young and teenage children of deployed American military members by: (1) enacting laws entitling designated caregivers of children and families of deployed American service members to use employment leave time or sick time that such employees have already earned or accrued, to provide direct care and support to those children and families; and (2) ensuring that all state public school residency laws permit, and make clear that, children of deployed parents who are living with

temporary non-parental caretakers, such as grandparents, other relatives or family friends, may attend their local public school tuition-free, or such children may attend their pre-deployment public school tuition-free even when required to move outside that school district to reside with a temporary caretaker. 07M108B

**Child Custody-Federal-Question Jurisdiction.** Opposes the enactment of federal legislation that would create a federal-question jurisdiction in child custody cases, including cases involving servicemember-parents and urging states to enact legislation prohibiting denial of child custody to a servicemember based solely on absence due to military deployment. 09M106

**Congressional Review of Military Decisions.** Oppose congressional subpoena or other congressional deposition of any individuals in the Armed Forces who exercise decisional responsibility under the Uniform Code of Military Justice (10 U.S.C. § 801, et seq.) to provide testimony before Congress concerning their discretionary decisions in individual cases. 11/96

**Continuation Pay.** Note with approval Section 629(b) of the National Defense Authorization Act for Fiscal Year 2000. Commend the armed services for steps they have taken to implement continuation pay and urge effective and ongoing utilization of such authority. 00A104

**Court of Appeals Jurisdiction.** Urge Congress to expand the jurisdiction of the United States Court of Appeals for the Federal Circuit to include review of all purely legal issues decided by the United States Court of Appeals for Veterans Claims, formerly the Court of Veterans Appeals. 00A116B

**Court of Military Appeals.** Support creation of a study group to address the issue of changing the status of the U.S. Court of Military Appeals to a court under Article III of the U.S. Constitution and that the Association become an integral part of the study group. 8/87

**Court-Martial.** Support changes to the Rules for Courts-Martial to provide an opportunity for convicted service members to review and submit matters for consideration at all stages of military administrative review, and petitions requesting certification to the United States Court of Military Appeals. Support amendments to certain Rules for Courts-Martials to permit convicted service members to review and submit matters for consideration by military administrative reviewing authorities, and petitions to the appropriate service Judge Advocate General for certification of a case to the United States Court of Military Appeals. 2/93

Recommend that defendants in military capital cases be given the right to trial before court-martial panels whose size is fixed at twelve members. 01A10A

Urges Congress to amend 28 U.S.C. §1259 (3) and (4) to permit discretionary review by the Supreme Court of the United States of decisions rendered by the United States Court of Appeals for the Armed Forces that deny petitions for review of courts-martial convictions or deny extraordinary relief. 06A116

**Court-Martial Manual.** Urge adoption of rules requiring that all recommendations for changes to the Manual for Courts-Martial (MCM) be promulgated with the same formality of public notice, opportunity for comment and analysis of comments received as are changes to other important rules and regulations published pursuant to

the Administrative Procedure Act and the Federal Register Act, and that no further changes to the MCM be implemented until such rules are adopted. 2/95

**Delivery of Legal Services in the Military.** Urges the Secretary of Defense temporarily to suspend implementation of the March 3, 1992 memorandum issued by the Deputy Secretary of Defense intended to reallocate responsibility for delivery of legal services within the Military Departments of the Department of Defense until such time as all interested parties have a full opportunity to review the memorandum and to provide the Department of Defense with their views on the legal and policy effects of the memorandum. 8/92

**Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism.** Urges that, with respect to the November 13, 2001 Military Order Regarding "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism," or any similar military order that is issued, the President and Congress should assure that the law and regulations governing any tribunal will: (1) not be applicable to United States citizens, lawful resident aliens, and other persons lawfully present in the United States; (2) not be applicable to persons apprehended or to be tried in the United States, except for persons subject to the settled and traditional law of war who engage in conduct alleged to be in violation of such law of war; (3) not be applicable to cases in which violations of federal, state or territorial laws, as opposed to violations of such law of war, are alleged; (4) not permit indefinite pretrial detention of persons subject to the order; (5) require that its procedures for trials and appeals be governed by the Uniform Code of Military Justice, except Article 32; and (6) require compliance with Articles 14 and 15(1) of the International Covenant on Civil and Political Rights. Further urges the Executive and Legislative branches, in establishing and implementing procedures and selecting venues for trial by military tribunals, to give full consideration to the impact of its choices as precedents in (a) the prosecution of U.S. citizens in other nations and (b) the use of international legal norms in shaping other nations' responses to future acts of terrorism. 02M8C

Calls upon Congress and the Executive Branch to ensure that all defendants in any military commission trials that take place have the opportunity to receive the zealous and effective assistance of Civilian Defense Counsel. 03A301

**Discharge of Armed Forces Personnel.** Urge Congress to establish an accessible, centralized system of judicial review for military administrative discharges and other military administrative actions significantly affecting the rights of service members, and that this review should be accomplished by the United States Court of Military Appeals. 2/93

**Feres Doctrine.** Support legislation to partially overturn the doctrine enunciated in *Feres v. United States* and allow members of the armed services to sue the United States for damages under the tort Claims Act for non-combat-related injuries caused by negligent medical or dental treatment. 8/87

Urges Congress to examine the "Incident to service" exception to the Federal Tort Claims Act created by the Supreme Court in *Feres v. United States*, 340 U.S. 135 (1950), provide that only the exceptions specifically provided in the Act limit active duty military members' access to the courts when they are victims of tortious government conduct, and amend the Act to provide that the exception limiting access for conduct that occurs in combatant activities applies "during time of armed conflict" rather than during "time of war." 08A10B

**Judge Advocate Career Program.** Support the career program for judge advocates serving on extended duty as set forth in standards. 5/73; 8/78

**Judicial Review of Military Personnel Actions.** Recommend that current procedures for judicial review of military administrative personnel actions not be modified, and that the legislation entitled "Military Personnel Review Act of 1997" not be enacted, until Congress has had an opportunity to hold hearings and to conduct a thorough review of the entire system for correction of military records, including a review of both the report of the Secretary of Defense mandated by Congress in section 554 of the National Defense Authorization Act of 1996 and the report of the Advisory Committee mandated by section 551 of that Act. 8/97

**Jurisdiction in Military Selection Board Cases.** Urge that Congress not enact legislation restricting or modifying the jurisdiction of federal courts, or modifying the remedies available therein, in cases involving military selection boards, as proposed in the Department of Defense Authorization Act for 2001, unless and until Congress has had an opportunity to hold hearings on the proposed legislation. Urge rejection of the proposal in Section 554 of the proposed Act or any similar proposal, which would apply such legislation retroactively for cases already pending. 00A10C

**Lawyers in the Armed Forces Serving in a Combat Zone.** Urges all bar associations and other appropriate regulatory bodies to adopt a policy that provides for the waiver or suspension of association dues, CLE requirements and other membership obligations for members who are serving in the U.S. Armed Forces and are performing services in a Combat Zone as designated by an Executive Order of the President of the United States. 07A115

**Legal Assistance for Active-Duty Military Personnel.** Support amendment of 10 U.S.C. § 1044 to make mandatory the provision of basic legal assistance for active-duty military personnel in pay grades E-6 and below and their dependents. 8/90; reaffirmed 07M108A

**Legal Assistance for Military Personnel and Dependents.** Support legislation creating a statutory, instead of the current voluntary, authorization for legal assistance. 2/71; 8/72; 8/75

**Legal Malpractice in U.S. Coast Guard.** Support legislation to extend to the legal staff of the U.S. Coast Guard the provisions of law currently applicable to such legal personnel within the Department of Defense relating to defense of certain suits arising out of legal malpractice. 8/87

**Legal Services for Veterans and Members of the Armed Forces.** Urges Congress to enact legislation, like the Veterans Advocacy Act of 2007, which promotes the provision of legal services to veterans and members of the Armed Forces to assist them in obtaining the full range of health care, benefits and services to which they are lawfully entitled. 08M108

**Loan Forgiveness.** Urges Congress to enact and the President to sign legislation amending a) the Higher Education Opportunity Act of 2008 (HEOA) to expressly include all judge advocates as an enumerated public service position eligible for Perkins loan forgiveness, and b) Military Deferment statutes to delete the language "during a war or other military operation or national emergency." Urges the Department of the Treasury and the Internal Revenue Service to issue published guidance for the exclusion from gross income discharges of student loans pursuant to the College Cost Reduction and Access Act (CCRAA) Public Service Loan Forgiveness Program. 10M113

**Military Bar Membership Category.** Urge consideration by bar admission and attorney registration authorities of a policy to afford a "military" membership or registration as a distinct category in which annual or periodic fees or dues are waived or reduced. 8/87

**Military Correctional System.** Recommend that the military continue to operate a system of corrections for military prisons and oppose any transfer of management or operations of the military correctional system to the Federal Bureau of Prisons. 8/90

**Military Defense Counsel.** Support amendment of the Uniform Code of Military Justice to avoid duplication of military defense counsel in trials by court-martial and to provide uniform standards for determining the reasonable availability of requested military defense counsel. 8/78

**Military Lawyers.** Endorse and urge adoption of S. 1362 and H.R. 4372 (94th Congress, 1st Session) which provides special pay and incentives for lawyers in uniform. 8/75

**Military Records.** Oppose any administrative requirement that interferes with an applicant's right to file an application directly with the boards for correction of military records. 8/83

**Military Survivor Benefit Plan Payments.** Urges Congress to enact legislation amending Title 10, United States Code, to permit the payment of military Survivor Benefit Plan benefits to a special needs trust for the benefit of a disabled beneficiary. 11M105

**Model Expanded Legal Assistance Program Rule for Military Personnel.** Model adopted. States and territories urged to adopt the model rule in order to provide low-income military service members and their dependents free civil legal assistance and in-court representation by military attorneys. 03M111

**Model State Code of Military Justice/Model Manual for Courts-Martial.** Urges states and territories to adopt the Model State Code of Military Justice and the Model Manual for Courts-Martial to provide an updated body of law for military forces not subject to the Uniform Code of Military Justice when military forces are serving under the exclusive jurisdiction of Chapter 47 of Title 10, United States Code. 11M103

**Polling Places for Elections.** Urge Congress to authorize the Department of Defense to permit buildings located on military installations and reserve component facilities to be used as polling places in federal, state, local and territorial elections for public office, where suitable alternative non-Department of Defense facilities do not exist. 01A112B

**Pro Bono Services by Military Lawyers.** Urge bar admission authorities to revise, where necessary, existing rules regarding admissions on motion to provide that military lawyers associated with organized legal service programs be specially admitted for the purpose of providing pro bono publico legal services. 8/95

**Professional Liability Protections.** Urge the Secretary of Defense to provide lawyers with the same professional liability protections when they are recalled to active duty from a civilian practice as are currently provided to health care professionals under the Soldiers' and Sailors' Civil Relief Act. 8/95

**Reserve or Guard Attorneys.** Urge that attorneys who are also in the reserve or guard are not prejudiced by reason of their military affiliation and receive the assistance of the legal community when ordered to extended duty. 8/79

**Reserve Judge Advocate Program.** Endorse for reserve judge advocates a program that includes an adequate number of reserve judge advocates to meet the military's legal needs, recognition of their professional status, utilization of their civilian skills, and sufficient military training. 8/79

**Servicemembers Civil Relief Act.** Urges Congress to amend the federal Servicemembers Civil Relief Act (the SCRA) to clarify that a private right of action exists under the SCRA and to provide that a prevailing plaintiff in such an action may recover reasonable attorney's fees. 09M114

**Servicemen's Group Life Insurance.** Urge action by the Secretary of Defense and the Secretary of Transportation (with regard to Coast Guard personnel) to publish appropriate directives requiring all service members who elect to purchase Servicemen's Group Life Insurance (SGLI) to designate beneficiaries by name, rather than "by law." 8/93

**Soldiers' and Sailors' Civil Relief Act.** Urge the amendment of the Soldiers' and Sailors' Civil Relief Act in the three specified areas to clarify the Act, and to update provisions of the Act, so as to reaffirm and strengthen the protections originally provided by the Act to men and women called to serve in this nation's armed forces. 2/91

Support action to clarify and modernize the civil protections offered by the Soldiers' and Sailors' Civil Relief Act, and urge adoption in the 103d Congress of legislation similar to H.R. 4763, 102d Congress. 2/93

**Supreme Court Review of Court of Military Appeals Decisions.** Urge amendment of the Uniform Code of Military Justice in accordance with certain specified principles. 7/85

Recommend the amendment of Article 67 of the Uniform Code of Military Justice: (1) to provide that a judge of the United States Court of Military Appeals who is not reappointed to the court shall upon the expiration of his term of office become a senior judge except in certain instances; (2) provide an effective system whereby senior judges of the court can be utilized on a temporary or continuing basis to perform judicial duties with the court; and (3) provide an effective system for the temporary performance of judicial duties with the court by judges of the United States Circuit Courts of Appeals in certain instances. 8/89

Support legislation to amend the Victims of Crime Act of 1984: (1) to recognize that victims of crimes committed under the Uniform Code of Military Justice are entitled to receive the benefits intended to compensate other victims under the Act; (2) to make compensation available to nonworking spouses and children who are victims under the Act; and (3) to expand the geographic applicability of the Act to include U.S. citizens and their family members who may be outside the United States and who may become victims of crimes committed under the Uniform Code of Military Justice. 2/93

Recommend that Article 93, Uniform Code of Military Justice (UCMJ) (10 USC 893) be amended to establish expressly sexual harassment of a military subordinate by a military superior in a duty setting as a criminal offense triable by court-martial, and to be gender-neutral. 8/93

**Veterans' Federal Benefits.** Supports legislation to repeal the statutory provision preventing veterans from paying an attorney to represent them in connection with their claims for federal benefits. 05M8A

**Veterans' Treatment Courts.** (1) Supports the development of comprehensive, systemic approaches to address the special needs of veterans within civil and criminal court contexts, including but not limited to proceedings involving veterans service-related injuries, disorders, mental health and substance abuse needs, through programs that connect veterans to appropriate housing, treatment and services through partnerships with the local Veterans Affairs Medical Centers, community-based services and housing providers. (2) Urges state, local, and territorial courts to facilitate the development of Veterans Treatment Courts, including but not limited to, specialized court calendars or the expansion of available resources within existing civil and criminal court models focused on treatment-oriented proceedings. (3) Adopts six principles for Veterans Treatment Courts to the extent appropriate and feasible for each jurisdiction. 10M105A

**Wrongful Withholding of Leasehold Security Deposits.** Encourage cooperation between the military services and bar associations to prevent wrongful withholding of military members' leasehold security deposits by assisting service members through educational programs and alternative dispute resolution and effective representation. 2/95

## PATENT, TRADEMARK AND COPYRIGHT LAW

**Claim Terms.** Urges Courts to apply certain principles in interpreting claim terms in patents. 04A302

**Combination/Modification of Previous Inventions.** Supports the retention of a test used to determine when a claimed invention that consists of combining or modifying previous inventions is obvious and therefore not eligible for a patent. 06A306

**Commissioner of Patents and Trademarks.** Favor in principle that any person selected to be commissioner or deputy commissioner of patents and trademarks be a lawyer having experience in patent and trademark law, knowledgeable in both domestic and international law concerning these matters, and well qualified to represent the U.S. Patent and Trademark Office domestically and to advocate U.S. positions on patent and trademark

matters internationally and that such person have management skills sufficient to oversee the operations of the Patent and Trademark Office. 98A106

**Copyright Licensing Protection.** Resolve that the ABA should negotiate an ABA member discounted rate for members seeking to receive copyright licensing protection from the Copyright Clearance Center. 00A10B

**Copyright Protection.** Favor the application of principles of copyright and neighboring rights protection to the digital electronic environment, and specifically, support ratification by the United States of the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, but without taking a position at this time on any implementing legislation. 2/97

**Dilution.** With respect to the proper interpretation and application of the Federal Trademark Dilution Act (the Act), supports interpretation and amendment of the federal trademark law (Lanham Act) to insure that questions of trademark dilution under the Act are uniformly resolved under the standard of whether the junior user's mark is likely to cause dilution of the senior user's mark (i.e., likelihood of dilution), rather than under a standard of actual dilution. 602BOG2.3

**DNA Technology.** Supports evaluation of inventions relating to DNA technology by the same uniform standards that apply in evaluating patent eligibility of inventions relating to other natural materials or subject matter, and opposes new exclusionary rules for DNA that go beyond the long-standing exceptions to patent eligibility recognized by the U.S. Supreme Court. 11M111

**Doctrine of Equivalents.** Favor in principle that in determining infringement under the doctrine of equivalents, consideration be given to any relevant factors supported by the evidence, including but not limited to certain specified factors. Favors in principle that the range of equivalents that may be determined to be an infringement be discretionary. 1/94

Adopt the following policies that are important in maintaining the doctrine of equivalence as a viable and useful principle of patent law: (1) Oppose in principle the concept that an amendment to a patent claim shall necessarily operate as a bar to all equivalents with respect to the amended language of the claim; and (2) oppose in principle an absolute bar to the application of the doctrine of equivalents with respect to unclaimed subject matter that is disclosed in the specification of a patent. 01M301

**Domain Names.** Favors in principle a requirement by the Internet Corporation for Assigned Names and Numbers (ICANN) that all accredited domain name registrars provide continued, free access to "Whois" information obtained from domain name applicants. 02M111A

**First Sale Doctrine/Importation Right.** Urges courts to interpret the statutory first sale doctrine in Section 109(a) of the U.S. Copyright Act and the copyright owner's importation right in Section 602(a) to exclude application of the first sale doctrine to importation of goods embodying a copyrighted work that were not manufactured in the United States. 10M109

**First-to-File.** Supports enactment of legislation providing that the right to a patent shall belong to the inventor who first files an application for patent containing an adequate disclosure under 35 U.S.C. § 112 of the invention, or in the event of an assignment of rights, shall belong to the assignee thereof. Further, supports concomitant efforts to conclude international patent harmonization agreements that incorporate such principles. 05M102

**International Registration of Trademarks.** Urge the United States to adhere to the Protocol to the Madrid Agreement for the International Registration of Trademarks, adopted in Madrid, Spain on June 27, 1989, and the amendment of the Lanham Act, 15 U.S.C. § 1051 et. seq., (1994 & Supp. II 1996), to the minimum extent required for United States adherence. 01A116C

**Opinion of Counsel in Patent Infringement Cases.** Oppose a blanket rule under which the failure of a defendant in an action for patent infringement to introduce an opinion of counsel at trial will permit an inference to be drawn that either no opinion was obtained or, if an opinion was obtained, it was contrary to the accused infringer's desire to initiate or continue its use of the patentee's invention. 01A116D

**Patent Infringement.** Favor in principle amendment of Section 337(a) of the Tariff Act of 1930, as amended, to eliminate the requirement for injury to or tendency to injure U.S. industry in certain instances. 8/88

Recommends that a party's assertion of the advice-of-counsel defense to a charge of willful patent infringement does not waive the attorney-client privilege with respect to communications with that party's trial counsel so long as such trial counsel is not the same counsel who provided the opinion upon which the accused infringer relies. 07M302

**Patent Licensing.** Supports the rule, reaffirmed by the Federal Circuit in *Medimmune v. Genentech, Inc.*, 427 F.3d 958 (Fed. Cir. 2005), requiring that a patent licensee commit a material breach of the license agreement (such as refusing to pay royalties) as a condition of bringing an action seeking a declaration of patent invalidity, unenforceability, or noninfringement. 606BOG2.4

**Patent and Trademark Office.** Support establishment of U.S. Patent and Trademark Office as a separate and independent agency. 2/80

Urge the continued administration of all trademark matters within the U.S. Patent and Trademark Office by an assistant commissioner for trademarks. 2/87

**Patent and Trademark Office Revenue.** Favor in principle that Congress provide that all revenue generated by fees paid by patent and trademark applicants and owners to the United States Patent and Trademark Office remain with the USPTO without limitation, and specifically, oppose the withholding or diversion of any such revenue to fund any unrelated programs. 00A301

**Patent Protection of Computer Implemented Inventions.** Support interpretation and application of patent law in such a manner that subject matter that is potentially eligible for patent protection includes novel and non-obvious computer implemented inventions encompassing business methods, user interfaces, algorithms, performance enhancements, data structures, and usability enhancements, that have a beneficial result or other practical application. 01A116B

**Patentability of Plants and Seeds.** Support the patentability of plants and seeds, on the same basis as other subject matter. 601BOG2.3

Favors in principle the enactment of legislation to broaden the scope of the Plant Patent Act (35 U.S.C. §161 – 164) by deleting language in 35 U.S.C. §161 which has denied patentability to tuber-propagated plants, and by deleting the word “asexually” from 35 U.S.C. §163. 02M111B

**Patents/Scope of Subject Matter.** Urges courts to provide guidance for the determination of the scope of subject matter that is eligible to be considered for patenting. 09A302

**Permanent Injunction.** Supports the granting of a permanent injunction enjoining a patent infringer from future infringement of a patent that has been adjudicated to be valid, enforceable, and infringed, in accordance with the principles of equity on such terms as the court deems reasonable. Opposes consideration of the extent to which the patent owner has practiced the patented invention or has licensed others to do so, except when determining whether grant of a permanent injunction would adversely affect public safety, public welfare, the national security or the like. 06M303

**Process Patents.** Support legislation that would (1) provide that process patentees may prevent others from using or selling products in the United States that were produced in accordance with a process patented in the United States; (2) provide that infringement of the process patent would occur whether the product was manufactured outside or inside the United States; and (3) qualify a proposed rebuttable presumption that a product that could have been made by use of a patented process was so made whenever the manufacturer is either subject to the jurisdiction of a U.S. district court or consents to such jurisdiction. 2/86

Favor in principle that the use or sale in the United States of a product produced by a process patented under the U.S. patent laws is an infringement of the process patent. Favor in principle legislation that provides remedies against infringement by parties who use or sell within, or import to, the United States a product produced by a process patented in the United States in certain instances, but opposes such legislation if it limits the availability of remedies by certain methods. 2/88

**Subject Matter Limitation.** Supports the role of U. S. patent law in encouraging and rewarding scientific and technical research and innovation. Opposes any restriction or limitation on the use of funds otherwise lawfully appropriated by Congress if that restriction or limitation has or may have the effect of imposing any subject matter

limitation on the patents which the Patent and Trademark Office may issue, in addition to the statutory limitations on the scope of patentable subject matter set forth in 35 U.S.C. §101. 04A104

**Unenforceability of a Patent Based Upon Inequitable Conduct Arising From Proceedings in Patent and Trademark Office.** Opposes the elimination of the defense of unenforceability of a patent based upon inequitable conduct arising from proceedings in the United States Patent and Trademark Office, without diminishing the authority of the United States Patent and Trademark Office to control the conduct of its own proceedings. 09A107A

Urges that any judicially administered defense of unenforceability of a patent based upon inequitable conduct arising from proceedings in the United States Patent and Trademark Office be predicated on principles of common law fraud and that any judgment of such unenforceability be entered only upon proof by clear and convincing evidence. 09A107B

Urges that, in considering whether to hold a United States patent unenforceable based upon an applicant's alleged inequitable conduct arising from proceedings in the United States Patent and Trademark Office, information not be found to be material if it would not have been material under statutory and regulatory standards applicable during the prosecution of the application for the patent or its reexamination. 09A107C

Urges that the defense of unenforceability of a patent based on inequitable conduct arising from proceedings in the United States Patent and Trademark Office (PTO) can be established only by proof by clear and convincing evidence of a specific intent to deceive the PTO by knowingly and willfully misrepresenting a material fact or material information to the PTO. 09A107D

**Uruguay Round Agreements Act.** Supports the principle that under the Copyright Clause of the Constitution of the United States (Article I, section 8, clause 8), Congress has the power to implement U.S. obligations under international copyright treaties by restoring copyrights in certain works of foreign origin that have gone into the public domain. Favors the position that section 514 of the Uruguay Round Agreements Act (1994), including the transitional protection it provides for prior users of restored works, does not violate, and is fully in accordance with, the Copyright Clause and the First Amendment of the Constitution of the United States. 10A301

## PRIVACY

**Bank Secrecy Act.** Support the Act in principle to protect privacy of financial records, but oppose certain proposed amendments inhibiting the ability of law enforcement personnel to carry out effective investigations. 2/75; 8/75

Recommend that the United States adopt prosecution policies to encourage compliance with the Bank Secrecy Act and Money Laundering Control Act by establishing guidelines and standards governing prosecution of financial institutions. Recommend that the standards and guidelines encourage financial institutions to adopt comprehensive Bank Secrecy Act compliance programs and anti-money-laundering programs and to cooperate with law enforcement authorities. 8/90

**CAN-SPAM Act of 2003.** (1) Supports federal legislation and regulations that would prohibit the sending of false, misleading, predatory, or abusive commercial e-mail messages, but opposes measures such as Section 106 (a) of S.877, the “CAN-SPAM Act of 2003,” that would impose on law abiding entities a duty to prevent third parties from promoting the entities’ products or services in an improper way; (2) supports federal legislation, regulations, and other measures that would protect and strengthen the ability of associations and other tax-exempt nonprofit organizations to communicate with, or otherwise serve, their members and the public, including the sending of commercial and non-commercial e-mail messages; and (3) opposes any legislation, regulations, or other measures prohibiting or regulating commercial or non-commercial e-mail messages to the extent that such measures could interfere with the ability of associations and other tax-exempt nonprofit organizations to communicate with, or otherwise serve, their members and the public. 1103BOG2.9

**Confidentiality of Personally Identifiable Health Information.** Support legislation that protects the confidentiality of personally identifiable health information in either paper or electronic form. Resolve that such legislation should include individual privacy protections that ensure three specified protections. Encourage, in the absence of legislative mandate, the parallel development of a code of fair health information practices, which should promote the confidentiality and protection against misuse of personally identifiable health information. 2/96

**Disclosure of Information Benefiting One Taxpayer.** Urge the Senate and House of Representatives to amend the rules that govern their respective bodies to require the disclosure of certain information with respect to all legislation drafted in a manner that would benefit only one taxpayer, project or transaction or a few identifiable taxpayers, projects or transactions. 8/90

**Domestic Electronic Surveillance.** (1) Calls upon the President to abide by the limitations which the Constitution imposes on a president under our system of checks and balances and respect the essential roles of the Congress and the judicial branch in ensuring that our national security is protected in a manner consistent with constitutional guarantees. (2) Opposes any future electronic surveillance inside the United States by any U.S. government agency for foreign intelligence purposes that does not comply with the provisions of the Foreign Intelligence Surveillance Act (FISA) and urges the President, if he believes that FISA is inadequate to safeguard national security, to seek appropriate amendments or new legislation rather than acting without specific statutory authorization. (3) Urges Congress to affirm that the Authorization for Use of Military Force of September 18, 2001, did not provide a statutory exception to the FISA requirements, and that any such exception can be authorized only through affirmative and explicit congressional action. (4) Urges Congress to conduct a thorough, comprehensive investigation to determine the nature and extent of electronic surveillance of U.S. persons conducted by any U.S. government agency for foreign intelligence purposes that does not comply with FISA, what bases were advanced for the legality of such surveillance, whether Congress was properly informed, the nature of the information obtained, and whether the information was used in legal proceedings against any U.S. citizen. (5) Urges Congress to ensure that such proceedings are open, except to the extent Congress determines that any portions of such proceedings must be closed to prevent the disclosure of classified or other

protected information. (6) Urges Congress to thoroughly review and make recommendations concerning the intelligence oversight process and urges the President to ensure that the House and Senate are fully and currently informed of all intelligence operations as required by the National Security Act of 1947. 06M302

**Electronic Mail Communication.** Urge state, local and territorial courts to accord a lawyer-client electronic mail communication, whether by the Internet or any other means, the same expectation of privacy and confidentiality as lawyer-client communications by telephone calls, United States mail and other means of communication traditionally deemed private and confidential. 98A119A

**FCC Do-Not-Fax Rules.** Opposes the Federal Communications Commission (FCC) rules and regulations implementing the Telephone Consumer Protection Act of 1991, published July 25, 2003, that would eliminate the "established business relationship" exception to the general rule prohibiting the sending of unsolicited facsimile advertisements and urges the FCC to revise the rules and regulations accordingly. Urges the FCC to issue a clarification that the rules and regulations do not prohibit unsolicited facsimile advertisements sent by tax-exempt nonprofit organizations in pursuit of their authorized tax-exempt nonprofit purposes. Urges Congress and the FCC to take appropriate action to restore the established business relationship exception and to permit tax-exempt nonprofit organizations to send unsolicited facsimile advertisements in pursuit of their authorized tax-exempt nonprofit purposes. 803BOG2.12

**Federal Shield Law for Journalists.** Urges Congress to enact a federal shield law for journalists, which incorporates specific principles, to protect the public's needs for information and to promote the fair administration of justice. 05A104B

**Federal Trade Commission Rules.** Urge the Federal Trade Commission to amend its rules concerning the treatment of confidential information to provide for the uniform and adequate treatment of all such information in accordance with five specific principles. 2/86

**Foreign Intelligence Surveillance Act.** Urges Congress to conduct regular and timely oversight of the government's use of the Foreign Intelligence Surveillance Act (FISA) to ensure that government investigations undertaken pursuant to the FISA do not violate the First, Fourth, and Fifth Amendments to the Constitution and adhere to the FISA's purposes of accommodating and advancing both and the individual's interest in being free from proper government intrusion. 03M118

**Freedom of Information Act.** Support enactment of legislation improving procedures and balancing more carefully interests of private and public parties under the FOIA and providing increased protection for financial, commercial and business information and national security and intelligence. 8/74; 2/82; 2/83; 8/83

Favor amendment of the Freedom of Information Act to define "agency record" to cover any record (1) prepared on behalf of the agency through direct government funding; (2) if the agency has a right to obtain possession of such record; and (3) if such record was relied on by the agency in the performance of any agency rulemaking or adjudicatory function. 8/83

Favor amendments to Exemption 7(D) to afford clearer protection to confidential sources. 2/84

Urge federal agencies to adhere to regulations which provide that, to the extent individuals seek access to individually identifiable records concerning themselves they shall receive, in addition to records they are entitled to receive under the Privacy Act, access to all records required to be disclosed under Freedom of Information Act. 2/84

Recommend that federal agencies adopt procedures and policies to ensure that access to information under the Freedom of Information Act not be diminished because the information is maintained in electronic form, and recommend enactment of clarifying legislation to ensure compliance with three specified principles. 2/90

**PATRIOT Act of 2001.** Opposes efforts to repeal the sunset provision of the USA PATRIOT Act of 2001 and urges Congress to conduct a thorough review of the implementation of the powers granted to the Executive Branch under the Act before considering any extension or expansion of surveillance authority under the Act. 03A112B

**Privacy Concerns for Bar Admissions.** Recommend that when making character and fitness determinations for the purpose of bar admission, bar examiners (1) consider the privacy concerns of bar admission applicants; (2) tailor questions concerning mental health and treatment narrowly in order to elicit information about current fitness to practice law; and (3) take steps to ensure that their processes do not discourage those who would benefit from seeking professional assistance with personal problems and issues of mental health from doing so. Recommend that fitness determinations may include specific, targeted questions about an applicant's behavior, conduct or any current impairment of the applicant's ability to practice law. 8/94

**Privacy of Criminal Justice Records.** Support legislation to facilitate and regulate the exchange of criminal justice information in a manner to protect against unauthorized use and to ensure privacy. 8/72

**Privacy of Consumer Financial Information/Gramm-Leach-Bliley Act.** Recommend (1) that attorneys at law engaged in the practice of law should not be subject to the notice provisions of the Gramm-Leach-Bliley Act (Public Law 106-102), applicable to providers of financial services, regarding privacy of consumer financial information and take such reasonable measures as are appropriate to determine the applicability of the Act to lawyers; and (2) if necessary seek a ruling or file a petition with the Federal Trade Commission or other appropriate governmental agency to obtain the exclusion of the practice of law from the applicability of the Act and particularly the exclusion of the practice of law from the definition of “the provision of financial services” and the applicability of the Act’s notice requirements. 601BOG2.9

**Privacy of Personal Records.** Support various principles to protect the privacy of personal records that are kept by the government or by organizations. 8/79

**Racial Privacy Initiative.** Opposes the text of the “Racial Privacy Initiative” or any similar measure, which would prohibit any public entity (including schools, employers, or law enforcement agencies) from collecting or sorting any data on the basis of race or ethnicity, and urges bar organizations and associations to join in opposing such measures. Urges state, local and territorial bar associations to engage in educational programs for the electorate, the media and other organizations to inform those groups about the compelling reasons to collect and maintain ethnic and racial data. 03A10C

**"Red Flags" Rule (Identity Theft).** Urges the Federal Trade Commission and Congress to clarify that the Commission’s Red Flags Rule imposing requirements on creditors relating to identity theft is not applicable to lawyers while they are providing legal services to clients. 609BOG2.4

**Subpoena of Confidential Communications.** Urge Congress to refrain from subpoenaing from administrative agencies documents that reveal confidential communications between agency administrators and their staffs except on the basis of a demonstrated need. Recommend factors to be considered in determining whether such a need exists. 8/88

**Use of Information in Electronic Form.** Supports actions designed to facilitate and promote the orderly development of legal standards to: (1) support and encourage the use of information in electronic form, and (2) encourage the use of appropriate and properly implemented security techniques, procedures and practices to assure authenticity and integrity of information in electronic form. Recognize that such information, where appropriate, may be considered to satisfy certain legal requirements to the same extent as information on paper or in other conventional forms, when appropriate security techniques, practices, and procedures have been adopted. 8/92

**Wireless Communications.** Urge courts to adopt principles that (1) wireless telephone communications should be accorded the same expectation of privacy as ordinary telephone calls; (2) that interception of a lawyer-client wireless telephone communication should not result in a waiver of the lawyer-client communications privilege; and (3) that a lawyer's use of a wireless telephone for a lawyer-client communication should not in itself subject the lawyer to civil liability. 99A117

## PUBLIC CONTRACT LAW

**Buy-National Laws.** Support U.S. participation in negotiations to establish international norms for government procurement practices to eliminate discriminatory effects of buy-national legislation. 2/78

**Contract Disputes Act.** Support comprehensive and uniform statutory approach to resolution of federal contract disputes through enactment of the Act. 2/70; 8/76

**Contractor Indemnification.** Support provisions in the reauthorization of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, and appropriate regulations, policy and contract clauses that would provide for effective contractor indemnification and insurance from liabilities arising out of contractual performance of services necessary to control or clean up hazardous waste, pollutants or contaminants. 4/85

**Cost-Plus-Fixed-Fee Research and Development Subcontracts.** Amend Model Terms and Conditions for Cost-Plus-Fixed-Fee Research and Development Subcontracts. Authorize the Section of Public Contract Law to update the model subcontract terms and conditions to the extent necessary to comply with new contract clauses mandated by changes in federal procurement law and regulations. 2/88

**Debarment and Suspension.** Support enactment of legislation incorporating the 38 principles of a proposed debarment and suspension act. 2/82

Opposes the adoption of legislation by Congress that would mandate suspension or debarment of a single entity or class from bidding on or receiving federal contracts and grants without regard to the existing regulatory framework which provides for agency discretion in suspension and debarment determinations. 11M116

**Fixed-Price Construction Contracts.** Approved Model FAR-Compatible Provisions for Subcontracts Under Federal Government Fixed-Price Construction Contracts. 2/87

Black letter amendments dated February 1993 adopted. 2/93

**Fixed-Price Supply Subcontracts.** Amend Model Terms and Conditions for Fixed-Price Supply Subcontracts. Authorize the Section of Public Contract Law to update the model subcontract terms and conditions to the extent necessary to comply with new contract clauses mandated by changes in federal procurement law and regulations. 2/88

**Government Contractor Indemnification.** Support federal legislation allocating product liability risks between the federal government and its contractors and providing, in certain instances, indemnity against those risks. 2/83

**Labor Standards in Government Contracts.** Urge Congress not to adopt certain proposed regulations relating to the Davis-Bacon Act, the Service Contract Act, the Contract Work Hours and Safety Standards Act, and Executive Order No. 11246 which are inflationary beyond their statutory authority or an unjustifiable burden to the procurement process. 8/80

**Mandatory Licensing.** Oppose in principle the adoption of agency regulations or the enactment of legislation requiring access to or mandatory licensing of a contractor's background patents as a prerequisite to approval of a government research and development contract. 8/77

**Model Procurement Code.** 2000 Model Procurement Code for State and Local Governments, dated July 2000, approved. 00A110

**OSHA Interpretation.** Support proposals to allow contract safety provisions of contracting agencies to control in case of conflict with OSHA regulations. 8/76

**Private Sector Development of Technologies.** Support the concept of establishing mechanisms to stimulate private-sector development or commercialization of technologies that are critical to national security and economic competitiveness. 2/93

**Public Acquisitions.** Urge that any public acquisition at the federal, state, territorial, and local levels adhere to ten specified principles of competition in obtaining supplies, services and construction. 98A111

Urge all parties to any public acquisition to adhere to six specified principles regarding the resolution of controversies and the availability of remedies at all stages of the process including formation, performance, and enforcement, and support legislation and regulations to implement such principles. 99M113

**Public Procurement Contracts.** Urge all parties to any public acquisition, when drafting public procurement contracts to (1) clearly identify the risks of performance for both parties; and (2) allocate those risks and the values exchanged in a commercially reasonable manner, consistent with the broader obligations of parties to public contracts. 99A120

**Renegotiation Act.** Urge Congress not to renew the Act nor to provide any new, similar authority for renegotiation during peace time. 8/78

## REAL PROPERTY/HOUSING LAW

**Bankruptcy Code Amendment-Debtor is Lessor.** Urges Congress to amend Section 363(f) of the Federal Bankruptcy Code, 11 U.S.C. §363(f) to clarify that a sale of real property free and clear of an unexpired lease under which the debtor is the lessor, can be accomplished only if the non-debtor lessee is granted the same rights afforded to non-debtor lessees when their leases are rejected. 07A102A

**CERCLA.** Urge Congress and the Environmental Protection Agency to recognize the necessity for clarification of the "security interest" exemption under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and recommend to Congress and the EPA six steps to achieve the clarification. 2/91

**Community Reinvestment Programs.** Support creation of effective community reinvestment programs in all financial institutions to help avoid discrimination and to stabilize housing and business in low- and moderate-income communities by providing credit to residents, small businesses and projects in such communities. Resolve commitment to placing ABA accounts in financial institutions that have shown outstanding or satisfactory performance in helping to meet the credit needs of their entire communities, including low- and moderate-income neighborhoods. Encourage specific actions consistent with fiduciary prudence. 2/91

**Condominium Sales.** Federal uniform standards are pending for condominium sales and advertising practices. (No position)

**Declaratory Judgment Action.** Recommends that the Internal Revenue Code of 1986 be amended to permit an estate to maintain a declaratory judgment action to contest the Internal Revenue Service's denial of its election to pay estate taxes in installments. 8/92

**Disclosure in Real Estate Transactions.** Urges enactment of state legislation providing that the fact or suspicion that an owner or occupant was infected with HIV, diagnosed with AIDS, or diagnosed with any other disease determined by medical evidence not to be transmittable through occupancy of improvements located on such property is not a material fact requiring disclosure in real estate transactions. 8/92

**Discrimination in the Sale or Rental of Housing.** Support legislation to prohibit discrimination on the basis of race, color, creed, sex or national origin in the sale or rental of housing. 2/80

Recommend amendment of federal fair housing legislation to enhance the ability of the Department of Housing and Urban Development to resolve housing discrimination complaints through conciliation. Authorize administrative law judges to hear and decide the outcome of housing discrimination complaints provided that full due process rights and the right to appeal such decisions to a court of appeals are afforded, and to extend the protection of fair housing legislation to the handicapped and to families with children. 8/87

**Funding for Public Housing.** Supports increased funding and development of well-managed, secure public and federally-assisted housing and housing programs which meet the needs of all tenants, particularly those who are low-income, elderly or have disabilities, and which do not violate the intent and principles of the civil rights laws and the goals of our nation's housing programs. 8/92

**Guardianship/Conservatorship Legislation.** Support certain initiatives to encourage continuing improvement of the guardianship and conservatorship laws and procedures within the several states. Believe that the enactment of federal legislation is unnecessary at this time. 8/91

**Home Equity Conversions.** Support the development and promulgation of local, state and federal policies that ensure that loan proceeds from home equity conversion mechanisms are disregarded in determining the eligibility of elders for the benefits of public assistance programs. 8/89

Recognize that home equity conversion offers older homeowners a viable option for accessing the equity in their homes and that the rapid growth of home equity conversion products reinforces the need for consumer education and safeguards, including full disclosure of the legal and financial consequences of these products, and counseling about other housing and service options that may be appropriate. Support the development and promulgation of policies ensuring that loan proceeds from home equity conversion products are disregarded in determining borrower eligibility for government benefits. 8/95

**Homelessness.** Support the adoption of creative and comprehensive measures to address homelessness by eliminating illegal residential segregation, increasing the availability of affordable transitional and permanent housing and improving the accessibility of such housing to employment, schools, transportation, and human services, with such efforts to include: (1) stronger enforcement of existing laws designed to eradicate discrimination in housing; (2) affirmative plans to increase and preserve the supply of adequate affordable housing; (3) regional initiatives to provide affordable housing that is accessible to employment, schools, transportation and human services; (4) programs to integrate communities by race and income; (5) provision of incentives and rewards to encourage the planning and development of affordable housing in integrated communities; and (6) enactment of specific affordable housing laws. 8/95

**Investment Advisers Act.** Urges that any amendment regarding the present lawyers' exemption in the Investment Advisers Act of 1940 be consistent with five specified principles. 2/91

**Mediation, Use of in Foreclosures.** Supports legislation, regulations or court rules that utilize mediation to

assist in resolving disputes that could lead to foreclosure of mortgages on residential real property. 09A300

**Planned Communities.** Support the Uniform Planned Community Act promulgated in 1980 by the National Conference of Commissioners on Uniform State Laws. 2/81

**Real Estate Settlement Procedures Act (RESPA).** Support legislation amending RESPA and favor continued review of the Act. 4/76

Urge amendment of certain rules and regulations pertaining to the Real Estate Settlement Procedures Act (RESPA) with respect to: (1) compensation of its employees for referral of settlement business to the employer and to third parties; (2) computerized loan origination services and (3) elimination of protection accorded to specified controlled business arrangements. Urge the reexamination of controlled business exceptions under Section 8(c)(iv) of the Act to further consumer protection and further competition in the settlement process. 8/94

**Refunds of Debtors Who Owe Debts to the State.** Urges Congress to enact legislation similar to H.R. 1956 and S. 3989 (111th Congress) that would amend the federal tax code to let states recover overdue debts due to them, including court-ordered victims' restitution, fines, fees and costs, by intercepting federal tax refunds that are due to the debtors who owe the debts to the states. 11M10B

**Refund of Estate Taxes.** Recommends that the Internal Revenue Code of 1986 be amended to permit an estate that has elected to pay estate taxes in installments to institute a suit for refund before full payment of those taxes. 8/92

**Sex Discrimination.** Support legislation to prohibit discrimination on the basis of sex in sale or rental of housing or in granting mortgage credit. 8/74

**Ticket to Work and Work Incentives Improvements Act.** Urge repeal of that portion of the Ticket to Work and Work Incentives Improvement Act of 1999 that imposes a 6.3 percent user fee tax on an approved attorney's fee for representation of disability claimants in Title II cases before the Social Security Administration. 00M111B

## TAX LAW

(For additional policy positions, see Summaries of Legislative and Administrative Recommendations, 1980, Section of Taxation.)

**Acquisitive Corporate Reorganization.** Support Internal Revenue Code amendment to simplify, redefine and make more uniform various forms of acquisitive corporate reorganization. 2/82

**Administrative Tax Tribunal Act.** Adopts the *Model State Administrative Tax Tribunal Act*, dated August 2006 and recommends to state and territorial legislatures the adoption of the Act. The Model Act guarantees that every tax payer aggrieved by a state tax assessment receives a *de novo* hearing of record, before paying the tax, from a judge with tax expertise who is independent from the state's tax collecting agency. 06A101

**Alternative Minimum Tax.** Urges Congress to reduce the federal tax burdens and compliance costs attributable to the Alternative Minimum Tax (AMT) on individuals by repealing the individual AMT or, if repeal is not feasible, then the AMT should be modified in a manner consistent with its original purpose. 04A120

**Appropriations for U.S. Tax Court.** Support adequate funding for the U.S. Tax Court to enable it to fully execute its judicial functions in a timely and effective manner. Support Fiscal Year '82 appropriation of U.S. Tax Court. 4/82

**Association Journal Advertising Income.** Taxation of advertising income as unrelated business income. (No position)

**Beneficiary.** Recommends that Congress amend Section 1361(e)(2) of the Internal Revenue Code of 1986, which defines the term "potential current beneficiary," to permit most common types of trusts to hold S Corporation stock under the Small Business Job Protection Act of 1996. 04M100

**Budget Reconciliation Bill.** Urge Congress to repeal Section 1021 of the Budget Reconciliation Bill (H.R. 2014, Code Sec. 6045 (f) as amended by 97 Act Section 1021 (a)) which, effective January 1, 1998, requires gross income tax 1099 reporting of all payments made to attorneys by a trade or business regardless of whether the attorney is the exclusive payee. 98M8B

**Capital Gains.** Support Internal Revenue Code amendment to permit long-term capital gain treatment on gains resulting from the sale of livestock acquired from a decedent. 2/82

**CERCLA.** Urge Congress and the Environmental Protection Agency to recognize the necessity for clarification of the "security interest" exemption under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and recommend to Congress and the EPA six steps to achieve the clarification. 2/91

**Civil Rights Tax Relief Act.** Recommends that Congress enact the Civil Rights Tax Relief Act (H.R. 840 and S. 917) or similar legislation that would provide relief to civil rights and employee complainants by, in whole or in part: (1) treating compensatory damages (other than back pay and front pay) in civil rights and employee cases in the same manner as compensatory damages in personal physical injury cases; (2) providing that no portion of the award or settlement paid in civil rights or employment cases to cover attorneys fees and expenses should be taxable to the client; and (3) allowing income averaging for complainants who receive in one year awards or settlements of back pay or front pay covering more than one year. 03M115

**Corporate Distributions.** Support Internal Revenue Code amendment to provide that stock indirectly reflected in the assets of a decedent's gross estate be taken into account in applying the criteria for exchange treatment on a redemption of stock to pay death taxes. 2/81

**Declaratory Judgment Action.** Recommends that the Internal Revenue Code of 1986 be amended to permit an estate to maintain a declaratory judgment action to contest the Internal Revenue Service's denial of its election to pay estate taxes in installments. 8/92

**Earned Income Tax Credit.** Support legislative and administrative actions to preserve and enhance the effectiveness of the earned income tax credit provided by Section 32 of the Internal Revenue Code of 1986, as amended (EITC), or of any program which replaces the EITC in whole or in part and achieves the purposes of the EITC as set forth in its legislative history. Support legislative and administrative actions which meet the goals set forth in the EITC's legislative history, including without limitation, five specified actions. 2/96

**Employment Taxes for Domestic Workers.** Recommend that the Internal Revenue Code of 1986 be amended to simplify rules concerning employment taxes for domestic workers to increase compliance, reduce taxpayer burden, and bring domestic workers within the social security and unemployment insurance safety nets. 8/94

**Enactment of Tax Legislation.** Recommend to Congress that tax legislation be enacted only after careful

consideration of its economic, social, and tax policy implications and after reasonable public exposure, preferably through public hearings, and that amendments to the Internal Revenue Code designed to raise revenue needed to offset revenue lost by other proposed amendments not be an exception to this procedure. 2/94

**Exemption of Capital Gains.** Urges Congress to continue the exemption for capital gains derived by foreign investors on sales of stock of U.S. corporations other than U.S. real property holding corporations so as not to burden foreign direct investment in the United States with a second level tax not imposed on U.S. individual investors similarly situated. 2/92

**Federal Transfer Tax System.** Urge Congress that there be a presumption in favor of stability in the federal transfer tax system and that if any changes are to be made, they be made in accordance with specified principles. 8/88

**Foreign Conventions.** Oppose restrictions imposed by the Tax Reform Act of 1976 on deductions by individuals for expenses incurred while attending foreign conventions. 2/78

**Generation Skipping.** Repeal provisions of Internal Revenue Code of 1954, as amended, relating to the tax on certain generation-skipping transfers. 8/81

**Gifts.** Support Internal Revenue Code amendment clarifying that existing rules for establishing the value of prior gifts for gift tax purposes extends to estate tax and generation-skipping transfer tax computations. 2/81

**Income Tax Equality Between Single and Married Persons.** Support legislation creating such equality. 2/74

**Independent Contractors.** Urge amendment of the Internal Revenue Code of 1954 to provide a safe harbor for independent contractors. 8/82

**Interest Paid on Student Loans.** Recommends that Congress amend the Internal Revenue Code to allow a full deduction for interest paid on student loans obtained for the purpose of attending an institution of post-secondary education. 8/92

**Internal Revenue Code.** Recommend to Congress that the Internal Revenue Code of 1986 be amended to (1) reinstate section 1275 (a) (4), as in effect before the enactment of the Revenue Reconciliation Act of 1990 and that certain modifications be made to the reinstated section; and (2) make the tax treatment of creditors in debt-for-debt exchanges consistent with that accorded debtors under section 1275 (a) (4). Recommends that the foregoing changes be effected through the enactment of proposed specified legislative language. 8/93

**Internal Revenue Code Amendment.** Recommend repeal of 6013(d)(3) and (e) and amendment of Section 66 of the Internal Revenue Code of 1986 to eliminate joint and several liability of a taxpayer who has signed a joint return with his or her spouse for tax on income properly attributed to his or her spouse. 2/95

Urge Congress to amend the Internal Revenue Code of 1986 to provide that mandatory minimum distributions from qualified pension plans need not be taken until after actual retirement in all cases, regardless of age, and regardless of percentage of ownership in the business. 2/97

Recommend amendment of Section 7430 of the Internal Revenue Code of 1986 to (1) eliminate the ceilings on net worth and on the number of employees; (2) eliminate the \$110 per hour cap on attorneys' hourly rates, and, instead, allow awards of reasonable attorneys' fees; and (3) permit awards of reasonable administrative costs incurred after the earlier of the date of (a) the first letter of proposed deficiency that allows for review by the Appeals Division, or (b) the notice of deficiency. Repeal February 1978 position stating that the award of costs should be permitted to prevailing party in tax litigation. 8/97

Recommend that Section 708(b)(1)(B) of the Internal Revenue Code of 1986 be repealed to eliminate terminations of partnerships upon the sale or exchange of 50 percent or more of the interests in partnership capital and profits within a twelve month period and that all necessary technical and conforming changes be made. 8/97

Recommend that Section 705(b) of the Internal Revenue Code of 1986, authorizing an alternative rule for the calculation of a partner's interest in a partnership, be repealed and that all necessary technical and conforming changes be made. 8/97

**Internal Revenue Service Funding.** Recommend that the Internal Revenue Service be provided with adequate funding and personnel to assure quality performance by the IRS of each of the functions comprising its mission without undue intrusiveness. 2/86

**Jurisdiction of Civil Tax Cases.** Oppose proposals to grant to a specialized court exclusive jurisdiction over the trial or appeal of civil tax cases. 2/90

**Lawyer Referral Service.** Support in principle the exclusion from federal taxation of income otherwise qualified for Section 501(c)(6) tax exemption derived by bar-sponsored lawyer referral services organized on a not-for-profit basis. 6/83

**Lawyers' Exemption for Regulation of Investment Advisers.** Urge that any state and territorial regulation of investment advisers and financial planners allow a lawyers' exemption consistent with the federal Investment Advisers Act. 8/94

**Legal Expenses.** Support legislation to amend the Internal Revenue Code to provide a deduction for expenses for legal services. 8/82

**Lobbying Expense.** Urge Congress to oppose the enactment of H.R.2264, Section 14222, or similar legislation, which would disallow all deductions for lobbying expenses in the computation of federal income tax. 6/93

**Low Income Taxpayer Clinic Program.** Recommends: (1) that Congress provide adequate funding to the Low Income Taxpayer Clinic (LITC) program under Section 7526 of the Internal Revenue Code of 1986; (2) that Section 7526 be amended to clarify that LITC funding should be considered not only as seed money but also as a source of continued funding; and (3) that the LITC program should only fund organizations that either engage in controversy representation on behalf of low income taxpayers or that provide taxpayer rights and responsibilities outreach to individuals who speak English as a Second Language, provided that this outreach does not generally include tax return preparation for the current year. 02A102

**Mutual Administrative Assistance in Tax Matters, Convention on.** Support ratification by the United States of the Council of Europe Organization for Economic Co-Operation and Development (OECD) Convention on Mutual Administrative Assistance in Tax Matters, subject to certain reservations, and predicated upon the establishment by the U.S. Treasury Department of certain procedures. 8/89

**Partnerships.** Recommend that Congress repeal section 707(c) of the Internal Revenue Code of 1986, which provides that, to the extent determined without regard to the income of the partnership, payments to a partner for services or for the use of capital will be treated for certain purposes as though made to a person who is not a member of the partnership. 99M104B

Recommend that Congress (1) simplify section 702(a) of the Internal Revenue Code of 1986 by substituting a requirement that each partner shall take into account separately his distributive share of any partnership item which, if separately taken into account by any partner, would result in an income tax liability for that partner

different from that which would result if the partner did not take the item into account separately; and (2) repeal section 702(c) which provides that, in any case where it is necessary to determine the gross income of a partner, a partner shall include his distributive share of the gross income of the partnership. 99M104D

Recommends that Section 751(b) of the Internal Revenue Code of 1986 be amended by removing the substantial appreciation requirement in order to conform the tax treatment of transactions under Sections 751(a) and 751(b). 03M108

**Penalty for Fraudulent Tax Returns.** Recommend that the Internal Revenue Code of 1986 be amended to clarify (1) that the purpose of the penalty authorized by Section 6701 is to penalize conduct that results in the submission of a false or fraudulent return or other document to the Internal Revenue Service; (2) that there is no statute of limitations regarding the assessment of this penalty; and (3) that the standard of proof necessary to support the assessment of the penalty is "clear and convincing evidence." 8/94

**Pension Benefit Plans.** Supports amendments to the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code which would enable pension benefit plans and pension, profit sharing and stock bonus plans to honor the terms and provisions of premarital and postmarital agreements between spouses under certain circumstances. 8/92

**Pension Plans.** Supports legislation, which makes employees of tax-exempt organizations, including bar associations, eligible for 401(k) pension plans. 8/92

Urge Congress to amend the Internal Revenue Code of 1986 to provide that mandatory minimum distributions from qualified pension plans need not be taken until after actual retirement in all cases, regardless of age, and regardless of percentage of ownership in the business. 2/97

**Phase-Outs of Itemized Deductions.** Recommend that Congress (1) repeal Section 68 and Subsection 151(d)(e) of the Internal Revenue Code of 1986, which phase out itemized deductions and personal exemptions if an individual taxpayer has adjusted gross income over a given threshold; and (2) replace the revenue currently raised by Subsection 151(d)(3) and Section 68 with adjustments to the explicit tax rates in the tax brackets of Section 1(a)-(d) to raise the same amount of revenue, distributed in substantially the same way among tax brackets. 99M104A

**Political Activities.** Oppose the enactment of any legislation, such as H.R. 3485, which would (1) obligate exempt organizations to obtain the prior approval of their members before engaging in "political activities"; (2) define "political activities" so broadly as to preclude the traditional types of communications between citizens and public officials, upon which public officials have frequently drawn for a fuller understanding of issues under debate; and (3) require exempt organization to add an additional layer of classifying activities and administrative procedures to the rigorous record keeping requirements already imposed by the Internal Revenue Service, the Federal Election Commission, and the Lobbying Disclosure Act of 1995. 498BOG

**Pooled-Income Funds.** Recommend that Congress amend Section 642(c)(5) of the Internal Revenue Code of 1986 in order to permit pooled income funds to be invested more prudently for total return and to permit the creation of a unitrust interest in assets transferred to pooled income funds. 01A106

**Preindictment Review.** Support the long-standing system of centralized preindictment review and the prosecution of criminal tax cases by the Department of Justice Tax Division, and oppose the elimination or transfer of this function. 6/87

**Prepaid Legal Services.** Support enactment of legislation providing tax exclusion from income of premiums paid to and benefits received from employer-funded prepaid legal services plans. 8/74

**Property Taxes.** Recommend model state legislation providing protest and appeal procedures to be followed in

connection with locally assessed property taxes, and model legislation providing uniform administrative procedures for the assessment of state taxes and the administrative determination of state tax controversies. 8/83

**Refund of Estate Taxes.** Recommends that the Internal Revenue Code of 1986 be amended to permit an estate that has elected to pay estate taxes in installments to institute a suit for refund before full payment of those taxes. 8/92

**Retroactive Tax Legislation.** Adopts and urges the Congress to follow six specified principles with respect to the issue of retroactive tax legislation that adversely affects taxpayers and the related issue of the effective dates of such tax legislation. 2/92

**S Corporations.** Recommend amendment of income tax statutes to provide a uniform system for the taxation of federal S corporations and their shareholders. Approve the Model S corporation Income Tax Act as an appropriate act for states desiring to adopt the substantive law therein. 2/90

**Sale of a Marital Residence.** Recommend to the Congress that Section 1034 of the Internal Revenue Code of 1986 be amended to permit a divorced or separated taxpayer to rollover the gain from the sale of a marital residence for a period of time following his or her separation from the marital residence. 2/93

**Social Security Benefits.** Support legislation to eliminate income earned by self-employed persons before retirement and received after retirement from the Social Security earnings test. 10/79

Support efforts to correct inequities in the present distribution of social security benefits as they affect two-wage-earner couples, widows and widowers, divorced persons and single elderly men and women. Support legislation based on the theory of earnings sharing to correct the inequities. 2/89

Support elimination of the restriction in the Social Security Act, which permits older widows and widowers to qualify for disability benefits based on their deceased spouses' earnings record only within the first seven years following the deceased spouse's death. Recommend that the option for widows and widowers to qualify for Social Security disability benefits based on deceased spouse earnings records should be made available to widows and widowers at an earlier age range than the present 50 to 59, preferably running from ages 40 to 59. 8/93

**Social Security Disability.** Support the continuation of effective representation and access to justice for Social Security disability claimants. Support the current system by which the Social Security Administration administers payment of attorney fees in disability insurance cases by authorizing and establishing reasonable fees, and withholds a portion of past-due benefits from successful claimants in order to make direct payment to attorney representatives. Oppose efforts to impose a \$2,500 fee limitation in administrative proceedings. 2/96

Urge Congress to amend the Social Security Act whereby remarriage at age 55 or older shall not prevent a divorced spouse, surviving spouse, or divorced surviving spouse from collecting benefits based upon his or her former spouse's earnings record. 2/96

**Social Security Laws.** Support efforts to correct inequities, if any, in the social security law that impact upon social security recipients born between the years 1917 and 1921. 2/88

**Social Security Tax Rates.** Oppose legislation, which would cut significantly current social security tax rates and return the financing of social security to a "pay-as-you-go" system; recognizing that the federal deficit is being misrepresented by including the social security trust fund, support legislation to remove the trust fund from the federal government's operating budget. 2/90

**Spousal Consent Form.** Recommend that the Internal Revenue Service publish standard model spousal consent

forms for qualified retirement plans under the Employee Retirement Income Security Act of 1974 (ERISA), in plain language advising the spouse of the financial effect of signing a spousal consent form waiving a survivor benefit and warning that once waived, the survivor benefits cannot be reinstated by agreement of the parties or by order of court unless permitted by the plan. 2/96

**State and Local Tax Procedures Standards.** Recommend adoption of standards for state and local tax procedures that call for: (1) identical statutes of limitations for deficiencies and refunds; (2) identical interest rates for deficiencies and refunds; (3) no automatic imposition of penalties; (4) payment of disputed taxes only after the taxpayer is provided a hearing; (5) no seizure of property until after final adjudication; (6) a period of at least 90 days between the date of the deficiency notice and the date a notice of appeal is due; (7) the elimination of state fees to cover audit expenses; (8) provision to taxpayers of due process; and (9) elimination of the need for taxpayers to relitigate identical legal issues in the same jurisdiction. 8/90

**State Taxation of Business.** Support enactment of federal legislation governing when a state may impose business taxes and exempting Edge Act corporations from non-domiciliary state taxation. 2/82

**Supplemental Security Income Modernization Project.** Support in principle the recommendations of the Final Report of the Supplemental Security Income Modernization Project, to improve access to the Supplemental Security Income Program for all eligible persons, to ensure that claims are processed fairly and efficiently, and to eliminate rules and procedures that are unreasonable, demeaning and harsh. Support certain priorities as set forth in the above report. 2/94

**Tax Indexing.** Support the enactment of legislation to provide for automatic cost-of-living adjustments to income tax rate brackets, personal exemptions and qualified plan limitations applicable to self-employed persons, shareholder-employees and individual retirement accounts. 8/74

**Tax Law Simplification.** Support numerous IRC amendments that would result in simplification. 4/76

**Tax on Legal Services.** Based on constitutional and policy considerations, oppose state or federal legislation that would authorize government agencies to levy a sales or use tax on professional services rendered by attorneys on behalf of their clients. 8/87

**"Top-heavy" Rules.** Recommend to the Congress to amend the Internal Revenue Code of 1986 by repealing Section 416, relating to special rules for qualified "top-heavy" retirement plans, effective for plan years beginning after December 31, 1988. 8/89

**Transactional Tax Overpayment Act.** Adopts the Model Transactional Tax Overpayment Act, dated February 2011 and recommends its adoption by appropriate legislative bodies. 11M101

**Trusts.** Support Internal Revenue Code amendment to provide an exemption, with exceptions, for charitable remainder trusts having unrelated business taxable income. 2/81

**Unrelated Business Income Tax.** Recommend that Congress not enact the proposal contained in the President's Fiscal Year 2000 Budget that would subject the investment income of organizations described in Section 501(c)(6) of the Internal Revenue Code of 1986 to the unrelated business income tax. 499BOG

**Venue.** Support amendment to the Judicial Code to allow, in the district courts, tax refund suits brought by nonresidents of the United States. 2/81

**White House Access.** Support enactment of statutory restrictions on the release by the IRS of personal tax information to the White House. 2/76.

**Zero Bracket Amount.** Urge amendment of the Internal Revenue Code to remove the zero bracket amount from the definition of taxable income and restore the concept of a standard deduction that would be fixed in amount and incorporated in the tax tables. 2/80

### UNIFORM ACTS

**Adoption Act (1994).** Designed to promote uniformity of adoption law among the states. Replaces the original Act of 1953 and the amended version of 1969. Approved as an appropriate Act for those states desiring to adopt the substantive law suggested therein. 2/95

**Alcoholism and Intoxication Treatment Act.** Provides for treatment of alcoholics and intoxicated persons instead of subjecting such persons to criminal penalties, establishes facilities and machinery for treatment of such persons, and provides for voluntary commitment to a treatment facility or involuntary commitment by court order. 2/72

**Antitrust Act.** Forbids "a contract, combination, or conspiracy between two or more persons in restraint of, or to monopolize, trade or commerce in a relevant market" or "the establishment, maintenance, or use of a monopoly, or an attempt to establish a monopoly, of trade or commerce in a relevant market by any persons, for the purpose of excluding competition or controlling, fixing or maintaining prices." 2/74

**Certification of Questions of Law (Act)(Rule) (1995).** Designed to serve the fundamental principle that any jurisdiction's own courts should always rule upon a point of that jurisdiction's common law. Approved as an appropriate Act for those states desiring to adopt the substantive law suggested therein. 2/96

**Commercial Code.** Provide for the governing of all commercial transactions. 1957, 1962; Amended 1978. Amendments, including substantial revision of Article 9 on Secured Transactions. 2/72.

Approve Article 2A, Leases, promulgated by the NCCUSL and the American Law Institute, while recognizing that due consideration will be given during the enactment process to divergent views. 8/88

Approve Article 6, Bulk Sales, and Article 4A, Funds Transfers, as appropriate articles for those states desiring to adopt the substantive law suggested therein. 2/90

Approve Article 2A Amendments as an appropriate article for those states desiring to adopt the substantive law suggested therein. 2/91

Approve Revised Article 3. Negotiable Instruments as an appropriate article for those states desiring to adopt the substantive law suggested therein. 2/91

Approve Article 4 Amendments (1990) as appropriate amendments for those states desiring to adopt the substantive law suggested therein. 2/91

Approved Section 3-312 as an amendment to the Uniform Commercial Code Article 3. 2/92

Approved Revised Article 8 - Investment Securities (with conforming and miscellaneous amendments to Articles 1, 4, 5, 9 and 10) as an appropriate Act for those states desiring to adopt the substantive law suggested therein. 2/95

Approved Revised Article 5 - Letters of Credit as an appropriate Act for those states desiring to adopt the

substantive law suggested therein. 2/96

Approve Revised Article 9 - Secured Transactions of the Uniform Commercial Code, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. 99M103C

Approve Revised Article 1 – Definitions and General Provisions, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. 02M106E

Approves Article 3 (Negotiable Instruments) and Article 4 (Deposits and Collections—the law of Checks) Amendments as appropriate Amendments for those States desiring to adopt the specific substantive law suggested therein. 03M113D

Approves Revised Article 7 – Documents of Title, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. 04M111A

Approves 2003 Amendments to Article 2A – Leases, as appropriate Amendments for those states desiring to adopt the specific substantive law suggested therein. 04M111B

Approves 2003 Amendments to Article 2 – Sales, as appropriate Amendments for those states desiring to adopt the specific substantive law suggested therein. 04M111C

Approves 2010 Amendments to Article 9 – Secured Transactions, as appropriate Amendments for those for those States desiring to adopt the specific substantive law suggested therein. 11M109D

**Common Interest Ownership Act.** Governs the formation, management, and termination of a common interest community, whether that community is a condominium, planned community, or real estate cooperative. Approved as an appropriate Act for those states desiring to adopt the substantive law suggested therein. 2/95

**Condominium Act.** Provide reasonable, balanced, coherent rules for the creation, sale, management and disposition of condominiums, as well as protection for purchasers and owners of condominium units. 2/78

**Conflict of Laws-Limitations Act.** Address the problems created by statutes of limitations when more than one state may be a forum for litigation and the substantive law of more than one state may be chosen to apply to the suit. Under this Act, when a state chooses the law of another state to decide a lawsuit, it also chooses that state's applicable statute of limitations. 8/83

**Construction Lien Act.** Permits any and all contractors, subcontractors and material suppliers to file liens against specific real property upon which the materials or contracted services are expended. Approved 8/89

**Consumer Credit Code.** Based on certain basic assumptions: That a statutory ceiling on the rate of interest or finance charge should apply only to transactions where the normal bargaining process may fail to produce terms reasonably set by the market. For competition effectively to determine the pricing of money, the Code provides for relatively easy entry by credit grantors into the market. It substitutes a ceiling applicable to all credit transactions involving natural persons and frees nearly all other transactions from controls on the cost of money. It imposes requirements as to disclosure, rate ceilings, contract terms, advertising of credit, creditors' and debtors' remedies, administrative regulation by state agency and, in some cases, licensing. 8/68  
Approve technical amendments to reflect existing federal regulatory practices. 8/70

**Consumer Sales Practices Act as Amended.** Simplifies state laws governing consumer sales practices, protects consumers from deceptive or unconscionable sales practices, and encourages development of fair consumer sales practices. 2/72

**Controlled Substance Act.** Would supersede the Uniform Narcotics Drug Act. Classifies dangerous drugs, provides for regulation of use by physicians and scientific experimenters, classifies possession of marijuana as a misdemeanor rather than a felony and outlines rehabilitation provisions for treatment of drug addicts. 2/71; amended 2/74

**Controlled Substances Act (1994).** Fundamental law pertaining to control of narcotic drugs in 46 states. Approved as an appropriate Act for those states desiring to adopt the substantive law suggested therein. 2/97

**Correction or Clarification of Defamation Act (Uniform Correction or Clarification of Defamation Act).** Seeks to remedy flaws in current law by providing strong incentives for individuals promptly to correct or clarify an alleged defamation as an alternative to costly litigation.

Approved as an appropriate Act for those states desiring to adopt the substantive law suggested therein. 2/94

**Crime Victims Reparations Act.** Establishes program of state reparations to persons injured or the dependents of those killed by criminally injurious conduct with the exception of crimes involving the use of motor vehicles. 2/74

**Criminal History Records Act.** Provides fundamental law to govern Criminal History Records Information (CHRI), such as the responsibilities of the collecting agency, its rule-making powers, what it collects and who may have access to the information once it is collected. 2/87

**Custodial Trust Act.** Allows for the creation of a custodial trust by execution of a simple statement that the property is being placed in trust under the Act. 2/88

**Determination of Death Act.** Defines death: An individual who has sustained either (1) irreversible cessation of circulatory and respiratory functions; or (2) irreversible cessation of all functions of the entire brain, including the brain stem, is dead. Determination of death must be made in accordance with accepted medical standards. 2/81

**Disclaimer of Property Interests Act (1999).** Supercedes the prior Uniform Disclaimer of Property Interests Act, the Uniform Disclaimer of Transfers by Will, Intestacy or Appointment Act and the Uniform Disclaimer of Transfers under Non-testamentary Instruments Act. Approved as an appropriate act for those states desiring to adopt the specific substantive law suggested therein. 00M101B

**Disposition of Community Property Rights at Death Act.** Provides procedures for use in common-law states for disposition of community property of couples moving from community property to common-law states. 2/72

**Dormant Mineral Interests Act.** Provides clear indicia of uses and events that maintain mineral interests and a procedure to terminate dormant mineral interests. 2/87

**Drug Dependence Treatment and Rehabilitation Act.** Provides for treatment services for all drug-dependent persons processed through the criminal justice system who desire treatment and for whom treatment is available, whether or not the criminal process is initiated or continued. For drug-dependent persons apprehended for simple possession or other consumption-related offenses, the therapeutic process must be utilized in lieu of criminal prosecution. 2/74

**Duties to Disabled Persons Act.** Good Samaritan Law. Provides for the use of identifying devices and also provides for the duty owed persons in a disabled condition. 8/73

**Electronic Transactions Act.** Provides uniform rules to govern transactions in electronic commerce that should serve in every state. Approved as an appropriate act for those states desiring to adopt the specific substantive law suggested therein. 00M101A

**Enforcement of Support Act.** Provides by reciprocal legislation for the enforcement across state lines of duties of support. 8/68

**Exemptions Act.** Establishes a basic category of exemptions that can reasonably be expected to provide for the debtor's continuance, and that of his or her family, after the bankruptcy. 8/77

**Extradition and Rendition Act.** Provides improved procedures for the transfer of fugitives back to a state with jurisdiction over the crime. 2/81

**Foreign-Money Claims Act.** Facilitates uniform judicial determination of claims expressed in the money of foreign countries. Approved as an appropriate act for those states desiring to adopt the substantive law suggested therein. 2/90

**Franchise and Business Opportunities Act.** Codifies minimum standards of conduct in franchise and business opportunity relationships and addresses franchise sales practices and business opportunities sold on the strength of representation of near-certain profitability. 2/88

**Fraudulent Transfer Act.** Classifies a category of transfers as fraudulent to creditors and provides defrauded creditors with a remedy. 2/85

**Guardianship and Protective Proceedings Act.** Amendments to Article V of the Uniform Probate Code to provide for the appointment and supervision of guardians and conservators for incapacitated adults and unemancipated minors. 2/83

Uniform Guardianship and Protective Proceedings Act (1998) refines the 1982 Act which provided procedures for appointment of guardians and conservators to serve minors or incapacitated persons, and represents experience with those states which have enacted it, the developed case law and thoughtful reassessment of provisions. Approved as an appropriate Act for those states desiring to adopt the substantive law suggested therein. 98A116

**Health-Care Decisions Act (Uniform Health-Care Decisions Act).** Addresses the broader problem of health-care decision-making and the narrower problem of who decides when to withdraw treatment, allowing a patient to die. Approved as an appropriate Act for those states desiring to adopt the substantive law suggested therein. 2/94

**Health Care Information Act.** Provide answers to questions pertaining to the control of and access to an individual's medical records. 2/86

**Jury Selection and Service Act.** Outline methods of obtaining the largest possible cross-section of a community to act as jurors and give control of venire lists to the supreme court of the state. 2/71; amendment approved 2/72

**Juvenile Court Act.** Provide for informal adjustment of juvenile matters but requires the court to make the availability of the full judicial process known to the child and parents. Provides for taking children into custody, detention and release, sealing of records and, after a lapse of time, that the proceedings shall be deemed never to have occurred. 8/68

**Land Transactions Act.** Simplify, clarify and modernize law governing contracts conveying interest in real estate and the law governing security interest in real estate. 2/78

**Limited Liability Partnership Act:** Amendments to Uniform Partnership Act (1994) to add significant option to partnership law. Approved as an appropriate Act for those states desiring to adopt the substantive law suggested therein. 2/97

**Marital Property Act.** Approve as an appropriate act for those states desiring to adopt the substantive law suggested therein. 8/84

**Marriage and Divorce Act.** Provide for dissolution of marriage based upon "irretrievable breakdown" which may be supported by evidence either of separation for 180 days or of serious marital discord adversely affecting the attitude of one or both of the parties toward marriage. The Act also deals with the subject of disposition of property, age of consent and marriage licenses and certificates among other things. 2/74

**Minor Students' Capacity to Borrow Act.** Provide for a uniform and certain rule applicable to a loan for college education regardless of the number of states involved. 8/69

**Notarial Acts.** Define the content and form of notarial acts and provide for the recognition of such acts performed in other jurisdictions. 8/83

**Parentage Act.** Provide for legal equality for all children regardless of the marital status of their parents. 2/74

**Partnership Act (Uniform Partnership Act).** Governs the creation of a partnership, establishes the nature of the business organization, and provides some rules respecting the rights and obligations of partners among themselves, and those between partners and other parties that do business with the partnership and the partners. Approved as an appropriate Act for those states and territories desiring to adopt the substantive law suggested therein. 8/94

**Periodic Payment of Judgments Act.** Approves the Uniform Periodic Payment of Judgments Act as an appropriate act for those states desiring to adopt the substantive law suggested therein. 2/91

**Planned Community Act.** Address all aspects of dealing with multiunit residential planned communities in which private ownership of individual units is coupled with community association ownership of property used in common by all residents. 2/81

**Postconviction Procedure Act.** Establish a means for efficient resolution of all claims for relief recognized by appropriate substantive law. 2/81

**Premarital Agreement Act.** Provide for an agreement between spouses, made in contemplation of marriage and to be effective upon marriage, concerning the rights and obligations of both parties with respect to property, the right to conduct any known transaction concerning property, and the disposition of property at dissolution of the marriage, separation or death. 2/84

**Pretrial Detention Act.** Authorize the pretrial detention of a criminal defendant charged with a violent crime, providing that the person detained is likely to commit further violent criminal acts if released. Approve as an appropriate act for those states desiring to adopt the substantive law suggested therein. 2/90

**Probate Code.** Propose to make probate more flexible and adaptable to the ordinary needs of transmitting wealth from one generation to the next, and to leave it to the adversary system to determine when court supervision is necessary. 1969. Amended 1978, 1980.

Article VI-Nonprobate Transfers on Death. Approved 8/90

Article II-Intestacy, Wills, and Donative Transfers (including the free-standing Uniform Act on Intestacy, Wills, and Donative Transfers, Uniform Testamentary Additions to Trusts Act and Uniform Simultaneous Death Act promulgated in 1991). Approved as appropriate Article for those states desiring to adopt the substantive law suggested therein. 2/92

**Prudent Investor Act.** Undertakes to update trust investment law in recognition of the alterations that have occurred in investment practice. Approved as an appropriate act for those states desiring to adopt the substantive law suggested therein. 2/95

**Putative and Unknown Fathers Act.** Attempt to codify U.S. Supreme Court decisions in this area. Seek to protect the child and his or her emotional and financial interest in having a father, the security of adoption, and the privacy of the mother and child - all while meeting constitutional requirements and dealing fairly with unwed fathers. 2/89

**Residential Landlord and Tenant Act.** Describe in detail the obligations, rights and remedies of the landlord and tenant in residential real estate based upon the theory that the relationship of landlord and tenant in a residential tenancy is to follow the law of contract. 2/74

**Revised Uniform Limited Liability Company Act (2006).** Approves the Revised Uniform Limited Liability Company Act (2006) promulgated since 2006 as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. The issues addressed in the Revised Act include: formation, relationships between members and managers, distributions, disassociation, and dissolution. The revised Act supersedes the 1996 Uniform Limited Liability Company Act. 07A111

**Rights of the Terminally Ill Act.** Provide various means by which an individual's preferences can be carried out with regard to the administration of life-sustaining treatment. Approve as an appropriate act for those states desiring to adopt the substantive law suggested therein. 2/90

**Rules of Criminal Procedure.** Approve the Uniform Rules of Criminal Procedure as a valuable resource for those interested in achieving criminal procedural reform in their respective jurisdictions. This is not, however, an endorsement of each and every uniform rule except insofar as such rules are in accord with the ABA Standards for Criminal Justice, which represent the approved policy of the Association. 8/75

Approve as an effective tool for implementing the American Bar Association Standards for Criminal Justice because such rules are in substantial accord with those Standards. 2/88

**Rules of Evidence.** Approve the Uniform Rules of Evidence. 8/75 Amended 2/87

**Simplification of Land Transfers Act.** Deal with conveyances, records, priorities, limitations, construction (mechanics' and materialmen's) liens, and land records. 2/78

**Status of Children of Assisted Conception Act.** Address problems relating to the status of such children and their rights and well-being. Approved 2/89

**Statute and Rule Construction Act (1995).** Designed to connect and bridge the activities of drafting and interpretation of statutes and administrative rules. Approved as an appropriate Act for those states desiring to adopt the substantive law suggested therein. 2/96

**Statutory Rule Against Perpetuities.** Alter the Common-Law Rule against Perpetuities by installing a workable wait-and-see element. 2/87

**Statutory Will Act.** Provide a scheme of testamentary disposition of broad utility. 7/85

**Trade Secrets Act.** Codify the basic principles of common-law trade secret protection, preserving its essential distinctions from patent law. 2/80. Adopt amendments 2/86

**Transfer of Litigation Act.** Designed to provide for the transfer of litigation from a court in one judicial system to a court in another judicial system. Approved as an appropriate act for those states desiring to adopt the substantive law suggested therein. 2/92

**Transfers to Minors Act.** Propose a custodianship, in an adult or appropriate institution, of property that otherwise transfers directly to the minor. 2/84

**Unclaimed Property Act.** Designed to change the common law and the law of escheat pertaining to abandoned intangible personal property. Approved as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. 8/96

**Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.** Approves the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, promulgated in 2007, as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. 08M110C

**Uniform Anatomical Gift Act (2006).** Approves the Uniform Anatomical Gift Act (2006) Promulgated in 2006 as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. Supersedes the 1968 and 1987 Acts previously approved. The 2006 Act seeks to improve the system for allocating organs to transplant recipients and resolve inconsistencies between the 1968 and 1987 versions. 07M105A

**Uniform Apportionment of Tort Responsibility Act.** Approves the Uniform Apportionment of Tort Responsibility Act, promulgated in 2002 and amended in 2003, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. The Act reconciles the inherent conflicts in the uneven development of comparative fault doctrine and the issue of multiple tortfeasors. 04M111D

**Uniform Arbitration Act.** Approve the Uniform Arbitration Act, promulgated in 2000, as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The Act replaces the Uniform Arbitration Act promulgated in 1955 and maintains the basic policy authorizing agreements to arbitrate before there is a dispute. However, the procedural side of arbitration is greatly augmented to meet modern needs. 01M100E

**Uniform Assignment of Rents Act.** Approves the Uniform Assignment of Rents Act promulgated in 2005 as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. The Act provides basic rules that establish the "security interest" of the creditor, the rights of tenants to notice and the effect of notice, and the priority of the security interest against other creditors. 06M104D

**Uniform Athlete Agent Act.** Approves the Uniform Athlete Agent Act promulgated in 2000 as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. The Act establishes significant disclosure, registration, and record-keeping requirements for sports agents seeking to represent student athletes who are or may be eligible to participate in intercollegiate sports. 02M106D

**Uniform Certificate of Title Act.** Approves the Uniform Certificate of Title Act promulgated in 2005 as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. The Act contains uniform rules addressing paper and electronic certificates of title for motor vehicles, including basic rules for creation and transfer of certificates of title, the perfection of security interests through the certificate of title system and for electronic certificates of title in parallel with paper certificates. 06M104C

**Uniform Child Abduction Prevention Act.** Approves the Uniform Child Abduction Prevention Act promulgated in 2006 as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The Act gives the courts the means to identify risk factors for child abduction and a system for imposing appropriate abduction prevention measures. 07M105B

**Uniform Child Custody Jurisdiction and Enforcement Act.** Replaces the Uniform Child Custody Jurisdiction Act (UCCJA). Reconciles UCCJA principles with the Parental Kidnapping Prevention Act and adds interstate civil enforcement for child custody orders. Approve as an appropriate Act for those states and territories desiring to adopt the specific substantive law suggested therein. 98M101B

**Uniform Child Witness Testimony by Alternative Methods Act.** Approves the Uniform Child Witness Testimony by Alternative Methods Act promulgated in 2002 as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The Act gives presiding officers clear authority to allow children to testify using alternative methods in criminal, civil and administrative matters. 03M113C

**Uniform Collateral Consequences of Conviction Act.** Approves the Uniform Collateral Consequences of Conviction Act, promulgated in 2009, as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The Act is an effort to improve public and individual understanding of collateral consequences of convictions and to provide modest means by which people who suffer from collateral consequences may, in appropriate circumstances, gain partial relief. Collateral consequences are the legal disabilities that attach as an operation of law when an individual is convicted of a crime (e.g., denial of government issued licenses or permits, ineligibility for public services and public programs, elimination or impairment of civil rights) but are not part of the sentence of the crime. 10M111B

**Uniform Common Interest Owners Bill of Rights Act.** Approves the Uniform Common Interest Owners Bill of Rights Act, promulgated in 2008, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. 09M102C

**Uniform Common Interest Ownership Act.** Approves the Uniform Common Interest Ownership Act, promulgated in 2008, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. The original version of the UCIOA was promulgated in 1982 and amended in 1994. It governs the formation, management, and termination of a common interest community (e.g., condominium, planned community or real estate cooperative.) The 2008 amendments seek to address critical aspects of association governance, with particular focus on the relationship between the association and its individual members, foreclosures, election and recall of officers, and treatment of records. 09M102D (*See Also:* Uniform Common Interest Owners Bill of Rights Act below.)

**Uniform Consumer Leases Act.** Approves the Uniform Consumer Leases Act promulgated in 2001 as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. 02M106H

**Uniform Debt-Management Services Act.** Approves the Uniform Debt-Management Services Act promulgated in 2005 as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. The Act provides states with a comprehensive mechanism to govern debt management services in the areas of registration of services, service-debtor agreements, and enforcement. 06M104B

**Uniform Electronic Recordation of Custodial Interrogations Act.** Approves the Uniform Electronic Recordation of Custodial Interrogations Act, promulgated in 2010, as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The Act mandates the electronic recording of the entire custodial interrogation process by law enforcement, while allowing individual states to decide where and for what types of crimes this mandate applies as well as how the recording must be done. 11M109C

**Uniform Emergency Volunteer Healthcare Practitioners Act.** Approves the Uniform Emergency Volunteer Healthcare Practitioners Act promulgated in 2006 as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. The Act provides for interstate recognition of licenses held by professionals responding to disasters and emergencies. 06A305

**Uniform Environmental Covenants Act.** Approves the Uniform Environmental Covenants Act as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. The Uniform Environmental Covenants Act relies on the common law base of covenants but re-creates it for the specific purpose of controlling the use of contaminated real estate, perpetually if necessary, while allowing that real estate to be conveyed from one person to another subject to those controls. 04M111F

**Uniform Estate Tax Apportionment Act.** Approves 2003 revision of Uniform Estate Tax Apportionment Act and new Article 3, Part 9A of the Uniform Probate Code as appropriate Acts for those states desiring to adopt the specific substantive law suggested therein. Under these revisions, estate tax is apportioned ratably to each person that has an interest in the apportionable estate. 04M111E

**Uniform Faithful Presidential Electors Act.** Approves the Uniform Faithful Presidential Electors Act, promulgated in 2010, as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The Act addresses the issue of electors who decide to vote inconsistently with the way they were elected to vote by the people of the state by creating a procedure that helps assure that all states attempting to appoint a complete complement of electors will succeed. 11M109B

**Uniform Foreign-Country Money Judgments Recognition Act.** Approves the Uniform Foreign-Country Money Judgments Recognition Act promulgated in 2005 as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. 06M104A

**Uniform Interstate Depositions and Discovery Act.** Approves the Uniform Interstate Depositions and Discovery Act, promulgated in 2007, as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. 08M110D

**Uniform Interstate Enforcement of Domestic-Violence Protection Orders Act.** Approves the Uniform Interstate Enforcement of Domestic-Violence Protection Orders Act, promulgated in 2000 and amended in 2002, as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The Act, as promulgated in 2000, addresses interstate enforcement of protection orders arising in a domestic-violence or family-violence context. In 2002, the Act was substantively amended to also cover orders arising under an issuing state's anti-stalking laws. The Act as amended is designed to make implementation of the "full faith and credit" mandates of these orders more feasible. 03M113E

**Uniform Interstate Family Support Act.** Developed to respond to new developments in state child support enforcement law. Intended to completely revise and replace the Uniform Reciprocal Enforcement of Support Act (URESA) and its revised version (RURESA). Approved as appropriate act for those states desiring to adopt the substantive law suggested therein. 2/93; amendments adopted 2/02 (02M106C); amendments adopted 2/09 (09M102E)

**Uniform Limited Cooperative Association Act.** Approves the Uniform Limited Cooperative Association Act, promulgated in 2007, as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. 08M110E

**Uniform Limited Partnership Act.** Approves the Uniform Limited Partnership Act (ULPA) promulgated in 2001 as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. The 2001 ULPA replaces the Revised ULPA adopted by the ABA in 1976 (with amendments adopted by the ABA in 1985) and reflects modern business practices as well as a greater refinement of the scope and uses for limited partnerships. It is a stand-alone act that has been de-linked from both the original general partnership act and the revised Uniform Partnership Act. 02M106B

**Uniform Management of Public Employee Retirement Systems Act.** Provides legal rules that permit public employee retirement systems to invest their funds in the most productive and secure manner. Approve as an appropriate Act for those states and territories desiring to adopt the specific substantive law suggested therein.

98M101D

**Uniform Mediation Act.** Approves the Uniform Mediation Act (UMA) promulgated in 2001 as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. The UMA is intended to address the core concern of the confidentiality of mediation proceedings. For this reason, the central rule of the UMA is that mediation communication is confidential and, if privileged, is not subject to discovery or admissible in evidence in a proceeding. 02M106G

**Uniform Military and Overseas Voters Act.** Approves the Uniform Military and Overseas Voters Act, promulgated in 2010, as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The Act extends to state and local elections the assistance and protections for military and overseas voters currently found in federal law. 11M109E

**Uniform Money Services Act.** Approves the Uniform Money Services Act (UMSA) promulgated in 2000 as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. The UMSA provides that persons may not engage in specific regulated activities (money transmission, check cashing, and currency exchange) unless they hold a qualifying license or are an authorized delegate of a person holding a qualifying license. 02M106I

**Uniform Nonjudicial Foreclosure Act.** Approves the Uniform Nonjudicial Foreclosure Act promulgated in 2002 as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The Act provides for three methods of nonjudicial foreclosure (conventional foreclosure by means of an auction sale, foreclosure by negotiated sale, and foreclosure by appraisal) and permits the secured creditor to elect the method to be used. 03M113B

**Uniform Parentage Act.** Approves the Uniform Parentage Act, promulgated in 2000 and amended in 2002, as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The Act, as promulgated and amended, addresses technological changes, especially the development of DNA testing, in establishing legal parentage. 03M113A

**Uniform Partition of Heirs Property Act.** Approves the Uniform Partition of Heirs Property Act, promulgated in 2010, as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The Act provides narrowly focused statutory procedures and a hierarchy of remedies for use in partition actions involving heirs' property only. 11M109A

**Uniform Power of Attorney Act.** Approves the Uniform Power of Attorney Act promulgated in 2006 as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The Act enhances the usefulness of durable powers of attorney, while protecting the principal, the agent and those who deal with the agent. The Act supersedes the Uniform Durable Power of Attorney Act, the applicable sections of the Uniform Probate Code relating to durable power of attorney, and the Uniform Statutory Form Power of Attorney Act. 07M105D

**Uniform Principal and Income Act (1997).** Provides some basic answers to questions that any trustee must ask in dealing with trust assets, and that personal representatives need to ask in the administration of an estate. Approve as an appropriate Act for those states and territories desiring to adopt the specific substantive law suggested therein. 98M101A

**Uniform Probate Code.** Article V - Protection of Persons Under Disability and their Property Revised to add standby guardianship, a reporting requirement for guardian and a financial plan and report requirement. Approved as an appropriate revision to the Code for those states desiring to adopt the substantive law suggested therein. 99M103A

Article VI - Amended to provide for the rights of creditors of a deceased owner in assets transferred under Article

6. Approved as appropriate amendments to the Code for those states desiring to adopt the substantive law suggested therein. 99M103B

Approves 2003 revision of Uniform Estate Tax Apportionment Act and new Article 3, Part 9A of the Uniform Probate Code as appropriate Acts for those states desiring to adopt the specific substantive law suggested therein. Under these revisions, estate tax is apportioned ratably to each person that has an interest in the apportionable estate. 04M111E

**Uniform Prudent Management of Institutional Funds Act.** Approves the Uniform Prudent Management of Institutional Funds Act promulgated in 2006 as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The Act supersedes the Uniform Management of Institutional Funds Act by providing a more exact set of rules for investing in a prudent manner. Specifically, the 2006 Act requires investment "in good faith and with the care an ordinarily prudent person in a like position would exercise under similar purposes." 07M105E

**Uniform Real Property Electronic Recording Act.** Approves the Uniform Real Property Electronic Recording Act, promulgated in 2004, as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The Act establishes that any requirement for originality is satisfied by an electronic document and signature, establishes what standards a recording office must follow and what the office is required to do to make electronic recording effective, and establishes the board that sets state-wide standards and requires the board to set uniform standards that must be implemented in any recording office. 05M107B

**Uniform Real Property Transfer on Death Act.** Approves the Uniform Real Property Transfer on Death Act, promulgated in 2009, as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The Act enables an owner of real property to pass the property to a beneficiary upon the owner's death, without probate, by means of a recorded transfer on death (TOD) deed. 10M111A

**Uniform Residential Mortgage Satisfaction Act.** Approves the Uniform Residential Mortgage Satisfaction Act, promulgated in 2004, as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The Act establishes a uniform system of dealing with payoff statements and mortgage satisfactions nationally. 05M107C

**Uniform Rules of Evidence.** Approves the Uniform Rules of Evidence, promulgated in 1999, as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The Act amends the original Uniform Rules of Evidence and updates certain existing provisions including expert testimony, sexual crime victim's past sexual behavior, and evidence of past crimes. 01M100C

**Uniform Rules Relating to the Discovery of Electronically Stored Information Act.** Approves the Uniform Rules Relating to the Discovery of Electronically Stored Information Act, promulgated in 2007 as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. 08M110A

**Uniform Securities Act.** Approves the Uniform Securities Act promulgated in 2002 as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The purpose of the 2002 Act, which replaces Acts promulgated in 1956 and 1985, is to reconcile and achieve better coordination of federal and state securities regulation. 03M113F

**Uniform Statutory Trust Entity Act.** Approves the Uniform Statutory Trust Entity Act, promulgated in 2009, as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The Act brings clarity and uniformity to the law pertaining to statutory trusts, which are legal entities, separate from their trustees and beneficial owners, that have the capacity to sue, be sued, and transact business on their own. 10M111D

**Uniform Trust Code.** Approves the Uniform Trust Code as an appropriate Act for those States desiring to adopt

the specific substantive law suggested therein. The Act codifies the basic law of voluntary trusts, including rules for formation of a trust, trustee's fiduciary obligations, trustee's powers, spendthrift trusts, revocable trusts, certain honorary trusts, and remedies for breach of trusts. 01M100A

**Uniform Unincorporated Nonprofit Association Act (Revised).** Approves the Revised Uniform Unincorporated Nonprofit Association Act (2008), promulgated in 2008, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. The Revised Act establishes, in pertinent part, the definition of the types of organizations covered, the relation of the Act to other existing laws, the recognition that an unincorporated nonprofit association is a legal entity and the legal implications flowing from this status, and internal governance, fiduciary duties, and agency authority. 09M102B

**Uniform Unsworn Foreign Declaration Act.** Approves the Uniform Unsworn Foreign Declarations Act, promulgated in 2008, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. The UUFDA harmonizes state and federal treatment of unsworn declarations. The Act alleviates the foreign affiant's burden in providing important information for state proceedings while at the same time helping to reduce congestion in U.S. consular offices and allowing U.S. consular offices to focus on core responsibilities. 09M102A

**Uniform Wage Withholding and Unemployment Insurance Procedure Act.** Approves the Uniform Wage Withholding and Unemployment Insurance Procedure Act, promulgated in 2004, as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. The Act establishes uniform exclusions from the compensation of every employee to determine the wage base for withholding the taxes and establishes uniform reporting requirements so that each employer will report to each state in exactly the same way and at the same time. 05M107A

**Victims of Crime Act.** Designed to provide effective, comprehensive, and systematic protection of the best interests of victims of crime. Approved, to the extent that the Act is not inconsistent with Association policies and standards, as an appropriate act for those states desiring to adopt the substantive law suggested therein. 2/93