

PRELIMINARY AGENDA

**AMERICAN BAR ASSOCIATION
HOUSE OF DELEGATES
2009 Annual Meeting
Chicago, Illinois**

REPORT # SUBJECT

- 11-1 CONSTITUTIONAL AMENDMENT**
Amends §1.2 of the Constitution to include the following language as one of the purposes of the Association: “to defend the right to life of all innocent human beings, including all those conceived but not yet born.”
- 11-2 CONSTITUTIONAL AMENDMENT**
Amends Article 6 of the Constitution to provide for a delegate in the House of Delegates from American Samoa.
- 11-3 CONSTITUTIONAL AMENDMENT**
Amends §6.3(c) to provide the Board of Elections with the option of using paper ballots, electronic ballots or a combination of paper and electronic ballots in conducting State Delegate elections.
- 11-4 AMENDMENT TO BYLAWS**
Amends §30.5 of the Bylaws to provide that non-U.S. lawyer associates may serve on the Council of the Section of Business Law.
- 11-5 CONSTITUTION, BYLAWS AND HOUSE RULES AMENDMENTS**
The Standing Committee on Constitution and Bylaws will propose the following housekeeping amendments to the Association’s Constitution, Bylaws and House Rules of Procedure.
- A) Amends §6.8 of the Constitution to change the name of the National Lesbian and Gay Law Association to the National LGBT Bar Association.
 - B) Amends §29.5 and §45.2 to authorize the Secretary to correct punctuation, grammar or numbering of recommendations adopted by the House.

- 100 SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR**
 Concurs in the action of the Council of the Section of Legal Education and Admissions to the Bar in deleting from the Standards for Approval of Law Schools, Standard 104, Seek to Exceed Requirements, and Interpretation 104-1.
- 101 STANDING COMMITTEE ON PARALEGALS**
 Grants approval, reapproval and extension of the term of approval to several paralegal education programs, and withdraws the approval of two programs at the request of the institutions.
- 102A STANDING COMMITTEE ON PRO BONO AND PUBLIC SERVICE
 SECTION OF BUSINESS LAW
 BAR ASSOCIATION OF SAN FRANCISCO
 COMMISSION ON HOMELESSNESS AND POVERTY
 STANDING COMMITTEE ON LEGAL AID & INDIGENT DEFENDANTS**
 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.
- 102B STANDING COMMITTEE ON PRO BONO AND PUBLIC SERVICE
 STANDING COMMITTEE ON LEGAL AID & INDIGENT DEFENDANTS
 SPECIAL COMMITTEE ON DISASTER RESPONSE AND
 PREPAREDNESS
 COMMISSION ON LAWYER TRUST ACCOUNTS
 NATIONAL LEGAL AID AND DEFENDER ASSOCIATION**
 Urges federal, state and local governments to address the unmet legal needs of low-income residents of communities affected by major disasters by authorizing, appropriating and providing additional funding for not-for-profit legal services providers, bar associations and pro bono programs.
- 103 SECTION OF LITIGATION
 STANDING COMMITTEE ON LEGAL AID & INDIGENT DEFENDANTS**
 Adopts the ABA Model Act Governing the Representation of Children in Abuse, Neglect and Dependency Proceedings, dated August 2009.
- 104 STANDING COMMITTEE ON SPECIALIZATION**
 Grants reaccreditation to the Family Law Trial Advocacy, Civil Law Trial Advocacy and Criminal Law Trial Advocacy programs of the National Board of Legal Specialty Certification, DUI Defense Law of the National College for DUI, Estate Planning Law of the Estate Law Specialist Board and Business Bankruptcy, Consumer Bankruptcy, Creditors' Rights programs of the American Board of Certification.

- 105 SECTION OF STATE AND LOCAL GOVERNMENT LAW**
Urges Congress to enact and the President to sign legislation authorizing the annual appropriation of general revenue sharing funds to the several states of the United States of America and their respective local governments and political subdivisions in 2011 and thereafter to ensure continuity of funding of essential state and local government programs, projects and services.
- 106 SECTION OF BUSINESS LAW
SECTION OF SCIENCE AND TECHNOLOGY LAW**
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.
- 107A SECTION OF INTELLECTUAL PROPERTY LAW**
Opposes the elimination of the defense of unenforceability of a patent based upon inequitable conduct in the United States Patent and Trademark Office.
- 107B SECTION OF INTELLECTUAL PROPERTY LAW**
Urges that the defense of unenforceability of a patent based upon inequitable conduct 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.
- 107C SECTION OF INTELLECTUAL PROPERTY LAW**
Urges that, in considering whether to hold a United States patent unenforceable based upon an applicant's alleged inequitable conduct in the United States Patent and Trademark Office, information not be deemed 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.
- 107D SECTION OF INTELLECTUAL PROPERTY LAW**
Urges that the defense of unenforceability of a patent based on inequitable conduct 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.

- 108** **COMMISSION ON LAWYER ASSISTANCE PROGRAMS**
Amends the Model Rule on Conditional Admission to Practice Law, including the commentary, dated August 2009, which addresses the standard for conditional admission, notification of violations and terms of art within the language of the Model Rule.
- 109** **STANDING COMMITTEE ON ETHICS AND PROFESSIONAL RESPONSIBILITY**
SECTION OF LITIGATION
STANDING COMMITTEE ON PROFESSIONALISM
Proposes a housekeeping amendment to amend 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.
- 110** **CENTER FOR HUMAN RIGHTS**
SECTION OF INTERNATIONAL LAW
SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES
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 endorses 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.
- 111A** **SECTION OF CRIMINAL JUSTICE**
Urges courts to distinguish between attorney misconduct and attorney error and urges courts to refrain from declaring in any order, opinion, or other public statement that an attorney engaged in misconduct unless the courts finds that the attorney’s act or omission was purposeful, knowing or intentional or otherwise violated an applicable disciplinary rule or law.
- 111B** **SECTION OF CRIMINAL JUSTICE**
SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES
STANDING COMMITTEE ON LEGAL AID & INDIGENT DEFENDANTS
Supports the enactment of legislation such as S. 714 (111th 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.

- 112 SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES
SECTION OF FAMILY LAW
BEVERLY HILLS BAR ASSOCIATION**
Urges Congress to repeal 1 U.S.C. § 7, which denies federal marital benefits and protections to lawfully married same-sex spouses.
- 113 COMMISSION ON IMMIGRATION
CRIMINAL JUSTICE SECTION
STANDING COMMITTEE ON LEGAL AID & INDIGENT DEFENDANTS**
Supports legislation, policies and practices that preserve the use of the categorical approach 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.
- 114 SECTION OF INTERNATIONAL LAW**
Supports the use of commercial arbitration to resolve disputes involving international business and supports federal, state or territorial legislation or regulations that recognize and aid in the enforcement of international commercial arbitration agreements and awards.
- 115 TORT TRIAL AND INSURANCE PRACTICE SECTION**
Adopts the Model Act Governing “Emergency Holding Periods for Disaster Animals”, dated August 2009, as appropriate legislation and recommends its adoption by state legislative bodies.
- 116 STANDING COMMITTEE ON ELECTION LAW**
Amends the ABA Election Administration Guidelines and Commentary, and the Model Statutory Language on Provisional Balloting and Commentary, dated August 2009, to provide greater detail concerning the administration of provisional ballots on election day.
- 117 SECTION OF ENVIRONMENT, ENERGY AND RESOURCES
STANDING COMMITTEE ON ENVIRONMENTAL LAW**
Adopts the Model Sustainability Policy and Implementation Guidelines for Law Organizations and urges law firms and other law organizations to use the Model.
- 118A COMMISSION ON YOUTH AT RISK
COMMISSION ON HOMELESSNESS AND POVERTY**
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 encourages 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.

- 118B** **COMMISSION ON YOUTH AT RISK**
COMMISSION ON HOMELESSNESS AND POVERTY
Urges federal, state, territorial and tribal 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.
- 118C** **COMMISSION ON YOUTH AT RISK**
COMMISSION ON HOMELESSNESS AND POVERTY
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, by establishing the right and facilitating its exercise through eliminating barriers to returning.
- 119** **STANDING COMMITTEE ON LEGAL AID & INDIGENT DEFENDANTS**
SPECIAL COMMITTEE ON DEATH PENALTY REPRESENTATION
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.
- 120** **SECTION OF HEALTH LAW**
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 subjects research.
- 121** **SENIOR LAWYERS DIVISION**
Changes the name of the Senior Lawyers Division to the Elder Law and Experienced Lawyers Division.
- 122** **STANDING COMMITTEE ON PUBLIC EDUCATION**
Recommends that assessments of educational progress such as the National Assessment of Educational Progress for civics and U.S. history be conducted every four years and be reported at both the national and state levels.
- 400** **REPORT WITH RECOMMENDATION ON ARCHIVING**
Recommends that certain Association policies that pertain to public issues and are 10 years old or older be archived.