

DAILY JOURNAL

AMERICAN BAR ASSOCIATION HOUSE OF DELEGATES

2010 ANNUAL MEETING SAN FRANCISCO, CALIFORNIA AUGUST 5-10, 2010

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
10A	ALABAMA STATE BAR ASSOCIATION DELAWARE STATE BAR ASSOCIATION NEW YORK STATE BAR ASSOCIATION STATE BAR OF NEW MEXICO OKLAHOMA BAR ASSOCIATION NEW JERSEY STATE BAR ASSOCIATION TENNESSEE BAR ASSOCIATION SECTION OF LITIGATION PENNSYLVANIA BAR ASSOCIATION KANSAS BAR ASSOCIATION STATE BAR OF NEVADA	Acknowledges the 50 th Anniversary of the publication of Harper Lee's novel, " <i>To Kill a Mockingbird</i> ", 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.	Approved
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."	Postponed Indefinitely
11-2	CONSTITUTIONAL AMENDMENT	Amends §6.2 and various other sections of the Constitution and House Rules of Procedure, to provide that each territory, as defined, shall have a seat in the House of Delegates.	Not Approved (301;155); Motion to Reconsider Approved; Not Approved (248;149)
11-3	AMENDMENT TO BYLAWS	Amends §31.7 of the Bylaws to increase the size of the Standing Committee on Federal Judicial Improvements from nine to eleven members.	Approved
11-4	CONSTITUTION, BYLAWS AND HOUSE RULES AMENDMENTS	Proposes several housekeeping amendments to the Association's Constitution, Bylaws and House Rules of Procedure.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
11-5	AMENDMENT TO HOUSE RULES OF PROCEDURE	Amends Sections 45.9 (a) and (b) of the House Rules of Procedure regarding the role of the House of Delegates in the law school accreditation process in order to comply with Department of Education regulations.)	Approved
100A	CRIMINAL JUSTICE SECTION SECTION OF LITIGATION STANDING COMMITTEE ON PROFESSIONAL DISCIPLINE	Urges the United States Department of Justice ("the Department") 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 interests and law enforcement confidentiality concerns.	Approved
100B	CRIMINAL JUSTICE SECTION YOUNG LAWYERS DIVISION SECTION OF ANTITRUST LAW	Urges trial and appellate courts, in criminal cases, when reviewing the conduct of prosecutors to differentiate between "error" and "prosecutorial misconduct."	Approved as Amended*
100C	CRIMINAL JUSTICE SECTION STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS SECTION OF INTERNATIONAL LAW COMMISSION ON IMMIGRATION SANTA CLARA COUNTY BAR ASSOCIATION GOVERNMENT AND PUBLIC SECTOR LAWYERS DIVISION SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES YOUNG LAWYERS DIVISION	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.	Approved as Revised*
100D	CRIMINAL JUSTICE SECTION NEW YORK STATE BAR ASSOCIATION GOVERNMENT & PUBLIC SECTOR LAWYERS DIVISION	Urges federal, state, local 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.	Approved as Revised*

* See Attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
100D cont'd	AMERICAN JUDICATURE SOCIETY SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES SECTION OF SCIENCE AND TECHNOLOGY LAW		
100E	CRIMINAL JUSTICE SECTION NEW YORK STATE BAR ASSOCIATION SECTION OF SCIENCE AND TECHNOLOGY LAW TORT TRIAL AND INSURANCE PRACTICE SECTION GOVERNMENT & PUBLIC SECTOR LAWYERS DIVISION AMERICAN JUDICATURE SOCIETY SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES	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.	Approved as Revised*
100F	CRIMINAL JUSTICE SECTION NEW YORK STATE BAR ASSOCIATION SECTION OF SCIENCE AND TECHNOLOGY LAW	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.	Approved
100G	CRIMINAL JUSTICE SECTION TORT TRIAL AND INSURANCE PRACTICE SECTION SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES SECTION OF SCIENCE AND TECHNOLOGY LAW	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.	Approved as Revised*
100H	CRIMINAL JUSTICE SECTION SCIENCE AND TECHNOLOGY LAW SECTION AMERICAN JUDICATURE SOCIETY	Urges Congress to enact legislation and authorize and appropriate funds necessary to achieve nationwide interoperability of the Automated Fingerprint Identification System.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
100I	CRIMINAL JUSTICE SECTION SECTION OF SCIENCE AND TECHNOLOGY LAW SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES AMERICAN JUDICATURE SOCIETY STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS	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, and 2) is provided expert testimonial or other assistance when necessary to assure a fair trial or sentencing proceeding.	Approved as Revised*
101	YOUNG LAWYERS DIVISION SENIOR LAWYERS DIVISION TORT TRIAL AND INSURANCE PRACTICE SECTION SECTION OF HEALTH LAW SECTION OF LABOR AND EMPLOYMENT LAW SECTION OF REAL PROPERTY, TRUST AND ESTATE LAW	Urges Congress to amend the Medicare, Medicaid and SCHIP Extension Act of 2007 (the "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.	Approved
102	NATIONAL CONFERENCE OF SPECIALIZED COURT JUDGES COMMISSION ON YOUTH AT RISK SECTION OF FAMILY LAW SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES NATIONAL CONFERENCE OF THE ADMINISTRATIVE JUDICIARY	Adopts the black letter Principles and Standards of the <i>Judicial Excellence in Child Abuse and Neglect Proceedings: Principles and Standards for Court Organization, Judicial Selection and Assignment, Judicial Administration and Judicial Education</i> , 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.	Approved
103	STANDING COMMITTEE ON CLIENT PROTECTION COMMISSION ON INTEREST ON LAWYER TRUST ACCOUNTS SECTION OF LAW PRACTICE MANAGEMENT STANDING COMMITTEE ON PARALEGALS NATIONAL ORGANIZATION OF BAR COUNSEL	Adopts the black letter <i>Model Rules for Client Trust Account Records</i> , dated August 2010, to replace the <i>Model Rule on Financial Recordkeeping</i> , adopted February 1993, to address issues arising from changes in banking laws, advances in technology and methods of lawyer practice.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
103 cont'd	STATE BAR ASSOCIATION OF NORTH DAKOTA STANDING COMMITTEE ON ETHICS AND PROFESSIONAL RESPONSIBILITY STANDING COMMITTEE ON PROFESSIONAL DISCIPLINE SECTION OF LABOR AND EMPLOYMENT LAW BAR ASSOCIATION OF SAN FRANCISCO		
104	SECTION OF LITIGATION STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS COMMISSION ON IMMIGRATION SPECIAL COMMITTEE ON DEATH PENALTY REPRESENTATION COMMISSION ON HOMELESSNESS AND POVERTY COALITION FOR JUSTICE JUDICIAL DIVISION SENIOR LAWYERS DIVISION SANTA CLARA COUNTY BAR ASSOCIATION COMMISSION ON INTEREST ON LAWYER TRUST ACCOUNTS TORT TRIAL AND INSURANCE PRACTICE SECTION STANDING COMMITTEE ON FEDERAL JUDICIAL IMPROVEMENTS PHILADELPHIA BAR ASSOCIATION NEW YORK STATE BAR ASSOCIATION KING COUNTY BAR ASSOCIATION PENNSYLVANIA BAR ASSOCIATION MASSACHUSETTS BAR ASSOCIATION	Adopts the <i>ABA Model Access Act</i> , dated August 2010, which is a model statute for implementing jurisdictions to establish and administer a civil right to counsel, consistent with ABA policy adopted in August 2006.	Approved as Revised and Amended*

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
104 cont'd	STANDING COMMITTEE ON PRO BONO & PUBLIC SERVICE COMMISSION ON DOMESTIC VIOLENCE LOS ANGELES COUNTY BAR ASSOCIATION NEW YORK COUNTY LAWYERS ASSOCIATION ATLANTA BAR ASSOCIATION BAR ASSOCIATION OF SAN FRANCISCO WASHINGTON STATE BAR ASSOCIATION SECTION OF ADMINISTRATIVE LAW AND REGULATORY PRACTICE SECTION OF FAMILY LAW GOVERNMENT & PUBLIC SECTOR LAWYERS DIVISION SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES YOUNG LAWYERS DIVISION THE BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA COMMISSION ON YOUTH AT RISK SECTION OF BUSINESS LAW NATIONAL CONFERENCE OF THE ADMINISTRATIVE JUDICIARY		
105	STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS SECTION OF LITIGATION COMMISSION ON IMMIGRATION SPECIAL COMMITTEE ON DEATH PENALTY REPRESENTATION COMMISSION ON HOMELESSNESS AND POVERTY	Adopts the black letter and commentary <i>ABA Basic Principles of a Right to Counsel in Civil Legal Proceedings</i> , 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.	Approved as Revised and Amended*

* See Attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
105 cont'd	COALITION FOR JUSTICE JUDICIAL DIVISION SENIOR LAWYERS DIVISION TORT TRIAL AND INSURANCE PRACTICE SECTION STANDING COMMITTEE ON FEDERAL JUDICIAL IMPROVEMENTS COMMISSION ON INTEREST ON LAWYER TRUST ACCOUNTS SANTA CLARA COUNTY BAR ASSOCIATION PHILADELPHIA BAR ASSOCIATION NEW YORK STATE BAR ASSOCIATION KING COUNTY BAR ASSOCIATION MASSACHUSETTS BAR ASSOCIATION PENNSYLVANIA BAR ASSOCIATION NEW YORK COUNTY LAWYERS ASSOCIATION STANDING COMMITTEE ON PRO BONO & PUBLIC SERVICE COMMISSION ON DOMESTIC VIOLENCE LOS ANGELES COUNTY BAR ASSOCIATION NATIONAL LEGAL AID AND DEFENDER ASSOCIATION BAR ASSOCIATION OF SAN FRANCISCO ATLANTA BAR ASSOCIATION WASHINGTON STATE BAR ASSOCIATION SECTION OF ADMINISTRATIVE LAW & REGULATORY PRACTICE SECTION OF FAMILY LAW GOVERNMENT & PUBLIC SECTOR LAWYERS DIVISION		

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
105 cont'd	YOUNG LAWYERS DIVISION THE BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA COMMISSION ON YOUTH AT RISK SECTION OF BUSINESS LAW NATIONAL CONFERENCE OF ADMINISTRATIVE JUDICIARY		
106A	COMMISSION ON LAW AND AGING COMMISSION ON MENTAL AND PHYSICAL DISABILITY LAW SECTION OF REAL PROPERTY, TRUST AND ESTATE LAW SENIOR LAWYERS DIVISION STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS SECTION OF STATE AND LOCAL GOVERNMENT LAW TORT TRIAL AND INSURANCE PRACTICE SECTION GOVERNMENT & PUBLIC SECTOR LAWYERS DIVISION SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES YOUNG LAWYERS DIVISION	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.	Approved
106B	COMMISSION ON LAW AND AGING SENIOR LAWYERS DIVISION SECTION OF STATE AND LOCAL GOVERNMENT LAW STANDING COMMITTEE ON DELIVERY OF LEGAL SERVICES	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.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
106B cont'd	TORT TRIAL AND INSURANCE PRACTICE SECTION INDIVIDUAL RIGHTS AND RESPONSIBILITIES SECTION YOUNG LAWYERS DIVISION SECTION OF REAL PROPERTY, TRUST AND ESTATE LAW		
107A	SECTION OF INTERNATIONAL LAW INDIVIDUAL RIGHTS AND RESPONSIBILITIES SECTION HEALTH LAW SECTION	Urges the United State 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.	Approved
107B	SECTION OF INTERNATIONAL LAW JUDICIAL DIVISION SECTION OF ANTITRUST LAW TORT TRIAL AND INSURANCE PRACTICE SECTION SECTION OF REAL PROPERTY, TRUST AND ESTATE LAW SECTION OF BUSINESS LAW	Encourages education and training for judges in the United States and abroad, regarding financial market products and practices, and that judges be provided with accurate, timely, and reliable educational resources.	Approved as Revised*
108	STANDING COMMITTEE ON PARALEGALS	Grants approval and reapproval to several paralegal education programs, withdraws the approval of two programs at the requests of the institutions and extends the term of approval to several paralegal education programs.	Approved
109A	COMMISSION ON YOUTH AT RISK COMMISSION ON HOMELESSNESS AND POVERTY JUDICIAL DIVISION STANDING COMMITTEE ON SPECIALIZATION SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES YOUNG LAWYERS DIVISION	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.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
109A cont'd	THE BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS		
109B	COMMISSION ON YOUTH AT RISK COMMISSION ON HOMELESSNESS AND POVERTY INDIVIDUAL RIGHTS AND RESPONSIBILITIES SECTION	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.	Approved
110	STANDING COMMITTEE ON PUBLIC EDUCATION NEW YORK COUNTY LAWYERS ASSOCIATION SECTION OF ANTITRUST LAW AMERICAN JUDICATURE SOCIETY STANDING COMMITTEE ON JUDICIAL INDEPENDENCE	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.	Approved
111	SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES NEW YORK STATE BAR ASSOCIATION GENERAL PRACTICE, SOLO AND SMALL FIRM DIVISION SECTION OF TORT TRIAL AND INSURANCE PRACTICE COMMISSION ON MENTAL AND PHYSICAL DISABILITY LAW COMMISSION ON SEXUAL ORIENTATION AND GENDER IDENTITY COMMISSION ON WOMEN IN THE PROFESSION ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK BAR ASSOCIATION OF SAN FRANCISCO	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.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
111 cont'd	MASSACHUSETTS BAR ASSOCIATION VERMONT BAR ASSOCIATION WASHINGTON STATE BAR ASSOCIATION NATIONAL LGBT BAR ASSOCIATION BEVERLY HILLS BAR ASSOCIATION NEW YORK COUNTY LAWYERS ASSOCIATION SECTION OF DISPUTE RESOLUTION MINNESOTA BAR ASSOCIATION LOS ANGELES COUNTY BAR ASSOCIATION NEW JERSEY STATE BAR ASSOCIATION SANTA CLARA COUNTY BAR ASSOCIATION SECTION OF STATE AND LOCAL GOVERNMENT LAW HISPANIC NATIONAL BAR ASSOCIATION SECTION OF FAMILY LAW NATIONAL CONFERENCE OF WOMEN'S BAR ASSOCIATION YOUNG LAWYERS DIVISION NATIONAL ASIAN PACIFIC AMERICAN BAR ASSOCIATION CENTER FOR RACIAL & ETHNIC DIVERSITY		
112	STANDING COMMITTEE ON SPECIALIZATION	Grants reaccreditation of the Social Security Disability Advocacy program of the National Board of Social Security Disability Advocacy, division of the National Board of Legal Specialty Certification of Wrentham, Massachusetts, until the adjournment of the House of Delegates meeting in August 2015.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
113	STANDING COMMITTEE ON ETHICS AND PROFESSIONAL RESPONSIBILITY YOUNG LAWYERS DIVISION AMERICAN JUDICATURE SOCIETY JUDICIAL DIVISION	Amends the Application Section of the 2007 ABA Model Code of Judicial Conduct to ensure consistency in judicial ethics standards nationwide.	Approved
114	STANDING COMMITTEE ON ELECTION LAW SECTION OF STATE AND LOCAL GOVERNMENT LAW SECTION OF SCIENCE AND TECHNOLOGY LAW	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.	Approved as Revised*
115	STANDING COMMITTEE ON GUN VIOLENCE COMMISSION ON DOMESTIC VIOLENCE NATIONAL CONFERENCE OF FEDERAL TRIAL JUDGES ALAMEDA COUNTY BAR ASSOCIATION BEVERLY HILLS BAR ASSOCIATION PHILADELPHIA BAR ASSOCIATION SANTA CLARA BAR ASSOCIATION CHICAGO BAR ASSOCIATION LOS ANGELES COUNTY BAR ASSOCIATION BOSTON BAR ASSOCIATION INDIVIDUAL RIGHTS AND RESPONSIBILITIES SECTION YOUNG LAWYERS DIVISION	Urges federal, state and territorial governments to enact laws requiring that all newly-manufactured semi-automatic pistols be fitted with microstamping technology which 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.	Approved

* See Attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
116	TASK FORCE ON GATEKEEPER REGULATION AND THE PROFESSION SECTION OF REAL PROPERTY, TRUST AND ESTATE LAW CRIMINAL JUSTICE SECTION SECTION OF BUSINESS LAW SECTION OF TAXATION SECTION OF LAW PRACTICE MANAGEMENT	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.	Approved as Revised*
117	TASK FORCE ON FEDERAL AGENCY PREEMPTION OF STATE TORT LAWS SECTION OF STATE AND LOCAL GOVERNMENT LAW SECTION OF HEALTH LAW SECTION OF TORT TRIAL AND INSURANCE PRACTICE STANDING COMMITTEE ON MEDICAL PROFESSIONAL LIABILITY SECTION OF ADMINISTRATIVE LAW & REGULATORY PRACTICE	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.	Approved as Revised*
118	STANDING COMMITTEE ON MEMBERSHIP	Recommends a new dues structure for lawyer members of the Association effective for dues commencing with the 2011-2012 fiscal year and each year thereafter.	Withdrawn
119	SECTION OF STATE AND LOCAL GOVERNMENT LAW SPECIAL COMMITTEE ON DISASTER RESPONSE AND PREPAREDNESS SECTION OF REAL PROPERTY, TRUST AND ESTATE LAW	Endorses the <i>Recommendations for an Effective National Mitigation Effort</i> , a white paper on national mitigation prepared by the National Emergency Management Association.	Withdrawn

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
300	SECTION OF BUSINESS LAW SECTION OF ANTITRUST LAW SECTION OF INTERNATIONAL LAW SECTION OF REAL PROPERTY, TRUST AND ESTATE LAW	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.	Approved*
301	SECTION OF INTELLECTUAL PROPERTY LAW SECTION OF ANTITRUST LAW SECTION OF INTERNATIONAL LAW	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, and thereby to improve protection available abroad to holders of U.S. copyrights.	Approved*
302	JAYNE E. FLEMING, ABA MEMBER	Urges the federal government to intensify its efforts to provide adequate food, water, shelter and physical security to displaced women and children in Haiti.	Approved*
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.	Approved

* See Attached

ATTACHMENT

100B AMENDED

RECOMMENDATION

RESOLVED, That the American Bar Association urges trial and appellate courts, in criminal cases, when reviewing the conduct of prosecutors to differentiate between “error” and “prosecutorial misconduct.”

100C REVISED

RECOMMENDATION

RESOLVED, That the American Bar Association urges federal, state, territorial, tribal and local governments to provide funding to state and federal public defender offices and ~~or other criminal defense~~ legal aid programs specifically for the provision of immigration advice about the immigration consequences of criminal proceedings to for indigent non-U.S. citizen defendants, and about any available relief from such consequences.

FURTHER RESOLVED, That the American Bar Association urges federal, state, territorial and local bar associations to provide training to prosecutors, judges, criminal defense lawyers, and legal aid lawyers and ~~volunteer attorneys~~ in the immigration consequences of criminal proceedings and available relief, convictions, and in the duty of defense attorneys to advise counsel defendants about such the immigration consequences, as set forth by the Supreme Court of the United States in *Padilla v. Kentucky* and ~~to provide pro bono or reduced fee support services to public defender organizations in counseling indigent defendants as to the immigration consequences of criminal convictions.~~

FURTHER RESOLVED, That the American Bar Association urges federal, state, territorial and local bar associations to provide pro bono or reduced fee support services to public defender and legal aid organizations in counseling indigent defendants as to the immigration consequences of criminal convictions.

(Deletions struck through; Additions underlined)

RECOMMENDATION

RESOLVED, That the American Bar Association urges federal, state, local, tribal and territorial government to provide sufficient funding and resources necessary to accomplish the following goals:

1. facilitate basic and applied scientific research to improve and/or further develop forensic science disciplines ~~including forensic pathology~~, especially where the scientific validation or the limits of specificity are unclear or in doubt;
2. annually assess and establish a prioritized agenda of research, development and other needs; identify and evaluate already existing but not yet published research to forensic science disciplines and make such research publicly available; and
3. enable the development of future forensic technologies and methods that will assist in answering questions posed in criminal investigations or that will increase laboratory capacity to meet the demand for forensic science services and the means to meet such demands.

RECOMMENDATION

RESOLVED, That the American Bar Association urges the federal government to provide funding and resources sufficient to:

1. Facilitate the examination of existing standards, accreditation (such as ISO 17025), and certification for (a) laboratories, government and private, (b) examiners/analysts in government and private laboratories, and (c) identified forensic science service providers who offer examination conclusions and/or interpretations of forensic laboratory results. The examination should include a review of applicable timelines and enforcement provisions for implementation and compliance with such standards, accreditation, or certification criteria. Further, the examination should identify gaps and issues existing within such standards and criteria for accreditation and certification. The findings of such ~~study~~ examination should be made publicly available.

...

7. Conduct research into the study of human error, contextual and confirmational bias and methods and strategies for overcoming such limitations with the goal of informing the development of applicable standards;

(Deletions struck through; Additions underlined)

8. Establish a process to regularly assess the adequacy of existing forensic education and training programs (at all levels) across disciplines against recognized standards, accreditation and certification criteria, "best practices," and protocols; and define an enforcement mechanism for remediation of identified deficiencies. This assessment should take into consideration whether such training or education in the forensic disciplines includes (a) relevant research, (b) changes or modifications to standards for laboratory accreditation, (c) examiner certification, (d) new and developing technologies and protocols for their use, and (e) ethical issues pertinent to the role of the forensic practitioner.

RECOMMENDATION

RESOLVED, That the American Bar Association 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 investigation meet mandatory accreditation, certification or professional practice standards within a reasonable time frame; that in consultation and collaboration with the National Institutes of Health and ~~its~~ the Center for Disease Control and Prevention (CDC), the National Association of Medical Examiners, and the American Board of Medico-legal Death Investigators the federal government provide for the development of appropriate standards; require that, when possible, all death investigations be conducted under the supervision of a board certified forensic pathologist; and ensure that all death investigation facilities meet current CDC requirements. If no board certified forensic pathologist is reasonably available, a death investigation shall be conducted by the most experienced forensic pathologist who is reasonably available and may be submitted for review to a board certified forensic pathologist.

RECOMMENDATION

RESOLVED, That the American Bar Association 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 the testing or re-testing of evidence, when feasible, by qualified experts ~~who meet appropriate accreditation and certification requirements~~, and (2) is provided expert testimonial or other assistance when necessary to assure a fair trial or sentencing proceeding.

(Deletions struck through; Additions underlined)

RECOMMENDATION

1 RESOLVED, That the American Bar Association adopts the black letter and commentary of the
2 ABA Model Access Act, dated August 2010.

1 **ABA Model Access Act**
2 **(August 2010)**

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6 **SECTION 2. DEFINITIONS.**
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10 B. "Basic human needs" means shelter, sustenance, safety, health, and child custody.

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13 v. "Child custody" means proceedings in which: (i) the parental rights of a party are
14 at risk of being terminated ~~or restricted~~, whether in a private action or as a result
15 of proceedings initiated or intervened in by the state for the purpose of child
16 protective intervention, (ii) a parent's right to residential custody of a child or the
17 parent's visitation rights are at risk of being terminated, severely limited, or subject to
18 a supervision requirement, or (iii) a party seeks sole legal authority to make major
19 decisions affecting the child. This definition includes the right to representation
20 for children only in proceedings initiated or intervened in by the state for the
21 purposes of child protective intervention.
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23 ...
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25 E. "Limited ~~legal~~ scope representation" is the performance by a licensed legal professional
26 of one or more of the tasks involved in a party's dispute before a court, an administrative
27 proceeding, or an arbitration body, only to the extent permitted by Rule 1.2(c) of the
28 ABA Model Rules of Professional Conduct or the jurisdiction's equivalent, and when
29 such limited representation is sufficient to afford the applicant fair and equal access to
30 justice consistent with criteria set forth in Section 3 hereof. Depending on circumstances,
31 this form of assistance may or may not be coupled with self-help assistance.
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33 F. "Public legal services" includes full legal representation or limited ~~legal~~ scope
34 representation, through any delivery system authorized under this Act, and funded by the
35 State Access Fund provided in Section 5 hereof.
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37 **Commentary:**

104 Revised and Amended

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41 In proceedings in which a parent who meets the eligibility requirements set forth herein is
42 threatened with loss of child custody as defined in Section 2.B.v, representation should be
43 provided by the State as set forth in the Act. Recognizing that needs, priorities and
44 resources may differ from jurisdiction to jurisdiction, implementing jurisdictions may wish
45 to consider some or all of the following factors: (i) the number of private child custody
46 disputes likely to meet these standards, (ii) the impact of providing legal services in private
47 child custody cases on the ability of the state to serve other basic needs as set forth herein;
48 (iii) the relative impact on the state courts of a lack of representation in private child
49 custody cases as compared to other basic needs cases; and (iv) the availability of alternative
50 financial resources to pay for representation for the applicant, such as cases in which the
51 parent seeking to terminate or to severely limit the other parent’s child custody rights has
52 the ability to pay for the applicant’s representation. Additionally, implementing
53 jurisdictions are referred to the ABA Standards on the Representation of Children in Child
54 Custody Cases (2003) for suggested criteria to decide when counsel should be appointed for
55 children in custody cases. All children subject to proceedings in which the state is involved
56 due to allegations of child abuse or neglect should have legal representation as long as
57 jurisdiction continues.

58
59 In light of the extraordinary level of unmet need, and the limited resources likely to be available
60 to support additional positions for state-funded legal services or other sources of legal
61 representation for the poor, to the extent the jurisdiction permits their use, jurisdictions may
62 consider authorizing paralegals, or other lay individuals who have completed appropriate training
63 programs, to provide certain types of limited, carefully-defined legal services in administrative
64 proceedings to persons qualifying under this Act for representation. If permitted, such services
65 should always be provided under the direct supervision of a licensed lawyer. Moreover, limited
66 **legal scope** representation should not be considered a substitute for full legal representation
67 when full legal representation is necessary to provide the litigant fair and equal access to justice,
68 but rather should be employed only when consistent with Section 3 below, and when limited
69 **legal scope** representation is determined to be sufficient to meet that high standard.

70 71 **SECTION 3. RIGHT TO PUBLIC LEGAL SERVICES.**

72
73 A. Subject to the exceptions and conditions set forth below, public legal services shall be
74 available at State expense, upon application by a financially-eligible person, in any
75 adversarial proceeding in a state trial or appellate court, a state administrative proceeding,
76 or an arbitration hearing, in which basic human needs as defined in Section 2.B hereof
77 are at stake. Depending on the circumstances described in the following Sections,
78 appropriate public legal services may include full legal representation or limited **legal**
79 **scope** representation as necessary for the person to obtain fair and equal access to justice
80 for the particular dispute or problem that person confronts, including, where necessary,
81 translation or other incidental services essential to achieving this goal.

82

104 Revised and Amended

83 B. In a State trial or appellate court, administrative tribunal, or arbitration proceeding, where
84 by law or established practice parties may be represented only by a licensed legal
85 professional, public legal services shall consist of full legal representation as defined
86 herein, provided pursuant to the following conditions and with the following exceptions:
87

88 ...

89
90 d. if under standards established by the Board, and under the
91 circumstances of the particular matter, the Board deems a certain type and
92 level of limited ~~legal~~ scope representation is sufficient to afford fair and
93 equal access to justice and is sufficient to ensure that the basic human needs
94 at stake in the proceeding are not jeopardized due to the absence of full
95 representation by counsel (however, limited ~~legal~~ scope representation shall
96 be presumed to be insufficient when the opposing party has full
97 representation);
98

99 ...

100
101 iv. Limited ~~legal~~ scope representation as defined herein shall be available to
102 financially eligible individuals where the limited service provided is required because
103 self-help assistance alone would prove inadequate or is not available and where such
104 limited ~~legal~~ scope representation is sufficient in itself or in combination with
105 self-help assistance to provide the applicant with effective access to justice in the
106 particular case in the specific forum. In matters before those courts or other forums in
107 which representation can be provided only by licensed legal professionals, however,
108 limited ~~legal~~ scope representation can only be substituted for full representation when
109 permitted by Section 3.B.iii above.
110

111 ...

112 113 SECTION 4. STATE ACCESS BOARD.

114
115 ...

116
117 E. The Board shall:
118

119 ...

120
121 iii. Establish and administer a system that timely considers and decides
122 appeals by applicants found ineligible for legal representation at public expense,
123 or from decisions to provide only limited ~~legal~~ scope representation.
124

125 ...

126
(DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED)

105 REVISED AND AMENDED

RECOMMENDATION

1 RESOLVED, That the American Bar Association adopts the black letter and commentary ABA
2 Basic Principles of a Right to Counsel in Civil Legal Proceedings, dated August 2010.

1 ABA Basic Principles for a 2 Right to Counsel in Civil Legal Proceedings

3
4 *August 2010*

5
6 ...

7 8 The Principles

9
10 ...

11 *Commentary*

12
13 Principle 1 echoes the ABA resolution (adopted by its House of Delegates on August
14 7, 2006) advocating for governments to fund and supply counsel to indigent civil litigants as
15 a matter of right in those categories of adversarial proceedings in which basic human needs
16 are at stake.⁵ The resolution specifies the following five examples of categories involving
17 interests so fundamental and critical as to trigger the right to counsel⁶:

- 18 • ...
- 19 • “Child custody” ~~embraces proceedings where the custody of a child is determined~~
20 ~~or the termination of parental rights is threatened.~~ includes proceedings in
21 which: (i) the parental rights of a party are at risk of being terminated ~~or~~
22 restricted, whether in a private action or as a result of proceedings initiated or
23 intervened in by the state for the purposes of child protective intervention, (ii) a
24 parent’s right to residential custody of a child or the parent’s visitation rights
25 are at risk of being terminated, severely limited, or subject to a supervision
26 requirement, or (iii) a party seeks sole legal authority to make major decisions
27 affecting the child. The right to representation for children should be limited

⁵ AMERICAN BAR ASSOCIATION, RECOMMENDATION 112A (Aug. 7, 2006), available at <http://www.abanet.org/legalservices/sclaid/downloads/06A112A.pdf>.

⁶ American Bar Association’s Task Force on Access to Civil Justice, *Report to the House of Delegates* 13 (Aug. 2006), available at <http://www.abanet.org/legalservices/sclaid/downloads/06A112A.pdf>.

105 REVISED AND AMENDED

28 only to proceedings initiated by the state, or in which the state intervened, for
29 the purposes of child protective intervention.

30 ...

31
32 The right to counsel described in Principle 1 applies in adversarial proceedings
33 occurring in both judicial and “quasi-judicial” tribunals, including administrative agencies.¹¹
34 Inherent in the Principle is the strong presumption that full representation is required in all
35 such adversarial proceedings; nevertheless, in some situations, “limited ~~legal~~ scope
36 representation” may provide an appropriate, cost-effective route to ensuring fair and equal
37 access to justice.¹² “Limited ~~legal~~ scope representation” is reasonably defined as the
38 performance by a licensed legal professional of one or more of the tasks involved in a party's
39 dispute before a court, an administrative proceeding, or an arbitration body, to the extent
40 permitted by Rule ~~1.2.1.2(c)~~ of the ABA Model Rules of Professional Conduct or the
41 jurisdiction’s equivalent, and when such limited representation is sufficient to afford the
42 applicant fair and equal access to justice.

43 ...

44

45

46

47

(DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED)

¹¹ American Bar Association’s Task Force on Access to Civil Justice, *Report to the House of Delegates*, *supra* note 3, at 13.

¹² American Bar Association’s Task Force on Access to Civil Justice, *Report to the House of Delegates*, *supra* note 3, at 14. In light of the extraordinary level of unmet need, and the limited resources likely to be available to support additional positions for state-funded legal services or other sources of legal representation for the poor, some states may wish to consider authorizing paralegals or other lay individuals who complete appropriate training programs to provide certain types of limited, carefully-defined legal services in administrative proceedings to those eligible for representation. If permitted, such services should always be provided under the direct supervision of a lawyer.

RECOMMENDATION

RESOLVED, That the American Bar Association encourages education and training for judges in the United States and abroad, regarding financial market products and practices, and that judges be provided with accurate, timely, balanced, and reliable educational resources.

RECOMMENDATION

RESOLVED, That the American Bar Association supports State and Federal initiatives to modernize and improve voter registration practices, databases, and networks.

FURTHER RESOLVED, That the American Bar Association supports State and Federal legislative and administrative efforts to achieve ongoing improvements of the statewide voter registration systems, including databases, network connections, and related operational practices that include the following elements:

- Delegation to a federal agency with expertise in technical standards ~~setting entity~~ the duty to specify minimum, uniform technical, security ~~and~~ including defense-in-depth, and privacy ~~security~~ standards and reporting for statewide voter registration systems, including the certification of database software, provided that a State may exceed such minimum standards.
- Periodic independent technical and security assessments of all Statewide voter registration systems ~~shall be~~ conducted by highly qualified technical auditors and researchers who are not employees of the administrative entity supervising the State's voter registration system, and who report a summary of their findings publicly without providing information that could compromise the security of the system.

FURTHER RESOLVED, That an independent technical and security assessment of a diverse sampling of statewide voter registration databases should be conducted under the auspices of a federal technical standards-setting or research entity as soon as feasible. Such evaluation should focus on security – including defense-in-depth security, reliability, accuracy, privacy, usability, mechanisms for updating or synchronizing with other government databases, ~~and mechanisms for accountability and auditability.~~

(Deletions struck through; Additions underlined)

RECOMMENDATION

RESOLVED, That the American Bar Association acknowledges and supports the United States Government's efforts to combat money laundering and terrorist financing;

FURTHER RESOLVED, That the American Bar Association 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;

FURTHER RESOLVED, That the American Bar Association adopts the Voluntary Good Practices Guidance for Lawyers to Detect and Combat Money Laundering and Terrorist Financing (“Good Practices Guidance”), and

FURTHER RESOLVED, That the American Bar Association encourages state, local, and specialty bar associations to embrace the Good Practices Guidance and to educate legal professionals and law students regarding the risks addressed by the Guidance.



RECOMMENDATION

...

FURTHER RESOLVED, That the American Bar Association urges the President to improve ensure agency compliance with Executive Order 13132; by requiring ~~that a proposed rule in which an executive agency has expressed a preemptive effect on state tort law be reviewed by a federal government entity separate from the regulatory office responsible for the rule before its publication and that the reviewing entity have sufficient autonomy, authority, and resources to conduct an effective review, whether the entity is part of or outside of that federal agency.~~ inclusion of an entity independent of the agency regulatory office with sufficient autonomy, authority, and resources to conduct an effective review in the rule-making process before a preemptive rule is adopted.

FURTHER RESOLVED, That the American Bar Association urges independent regulatory agencies, which are not covered by Executive Order 13132, to comply voluntarily with that order regarding federal actions that may have preemptive effect on state tort law and follow the procedures set out in the fourth and fifth RESOLVED clauses above.

(Deletions struck through; Additions underlined)

AMERICAN BAR ASSOCIATION
SECTION OF BUSINESS LAW
SECTION OF ANTITRUST LAW
SECTION OF INTERNATIONAL LAW
SECTION OF REAL PROPERTY TRUST AND ESTATE LAW

REPORT TO THE HOUSE OF DELEGATES

RECOMMENDATION

- 1 **RESOLVED**, That the American Bar Association urges Congress to enact laws that provide for
2 an immigration classification whereby foreign nationals intending to form businesses are
3 provided a mechanism (such as Startup Visa) under which they can enter or remain in the United
4 States to obtain permanent resident status in order to build such businesses; and
5
6 **FURTHER RESOLVED**, That the American Bar Association recommends that the
7 laws and regulations relating to such immigration classification provide for an appropriate
8 duration to establish such businesses.

AMERICAN BAR ASSOCIATION**SECTION OF INTELLECTUAL PROPERTY
SECTION OF ANTITRUST LAW
SECTION OF INTERNATIONAL LAW****REPORT TO THE HOUSE OF DELEGATES****RECOMMENDATION**

1 RESOLVED, That the American Bar Association supports the principle that under the
2 Copyright Clause of the Constitution of the United States (Article I, section 8, clause 8),
3 Congress has the power to implement U.S. obligations under international copyright
4 treaties by restoring copyrights in certain works of foreign origin that have gone into the
5 public domain.
6 FURTHER RESOLVED, That the Association favors the position that section 514 of the
7 Uruguay Round Agreements Act, Pub. L. No. 103-465, 108 Stat. 4809, 4976 (1994),
8 including the transitional protection it provides for prior users of restored works, does
9 not violate, and is fully in accordance with, the Copyright Clause and the First
10 Amendment of the Constitution of the United States.

AMERICAN BAR ASSOCIATION**JAYNE E. FLEMING, ABA MEMBER****REPORT TO THE HOUSE OF DELEGATES****RECOMMENDATION**

1 RESOLVED, That the American Bar Association urges the federal government to
2 intensify its effort to provide adequate food, water, shelter and physical security to
3 displaced women and children in Haiti, and to fund and support regional, sub-regional
4 and international programs which prioritize the protection of these vulnerable groups, in
5 conformity with international human rights principles.
6

7 FURTHER RESOLVED, That the American Bar Association urges federal, state,
8 territorial and local agencies involved in aid and rebuilding efforts in Haiti to adopt
9 programs and policies that specifically address situations that place women and
10 children in marginalized and at-risk situations.
11

12 FURTHER RESOLVED, That the American Bar Association urges the federal
13 government to fund and support national, regional, sub-regional and international
14 policies and programs that: (1) prevent sexual violence against Haitian women and
15 children; (2) combat sexual exploitation and trafficking of Haitian women and children;
16 (3) bring to justice perpetrators of such crimes; and, (4) provide effective assistance and
17 rehabilitation to victims.