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50 YEARS OF SERVICE TO THE PROFESSION AND THE NATION

MAJOR LEGISLATION OF INTEREST TO LAWYERS †

109th Congress
(Jan. 4, 2005 - Dec. 8, 2006)

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- * ABA testified or submitted statement or letter to Congress
- ◆ ABA legislative priority during the 109th Congress, including issues encompassed in broad priorities
- † This chart includes legislative issues on which the ABA House of Delegates or Board of Governors has approved association policy, unless otherwise noted.

Note: The term “enacted” generally refers to the date the president signed the bill into law.



Subject	Description and Status	ABA Position
<h2>Administrative Law</h2>		
<p>*Administrative Conference of the United States (ACUS)</p>	<p>No funding was provided for ACUS, which was reauthorized in 2004 for the first time since 1995, when the program was terminated after 25 years of advising the government on administrative procedural reform. A House Judiciary subcommittee held hearings on ACUS and other administrative law reforms as part of a series of programs and hearings for the committee's Administrative Law, Process and Procedure Project for the 21st Century. The subcommittee approved the project's interim report, which recommended reactivation of ACUS.</p>	<p><i>Supports reauthorization and funding for ACUS.</i></p>
<p>*Administrative Procedure Act (APA)</p>	<p>A House Judiciary subcommittee held hearings in conjunction with the 60th anniversary of the Administrative Procedure Act of 1946 as part of a series of programs and hearings for the committee's Administrative Law, Process and Procedure Project for the 21st Century. The subcommittee approved the project's interim report.</p>	<p><i>Supports amending the APA to apply the act's adjudication provisions to all federal agency adjudications in which an evidentiary hearing is required by statute.</i></p>
<h2>Alternative Dispute Resolution</h2>		
<p>*Alternatives to Medical Malpractice Litigation</p>	<p>S. 1337 would have authorized funding for states to create demonstration programs to test alternatives to medical tort litigation, including early disclosure and compensation, administrative determination of compensation, and special health care courts. H.R. 1546 would have provided grants to states to develop, implement and evaluate health care tribunals. The Senate Health, Education, Labor and Pensions Committee held a hearing on S. 1337 and alternatives to medical malpractice litigation such as health courts. A House Energy and Commerce subcommittee held a hearing on alternatives to medical malpractice litigation, including the creation of health courts.</p>	<p><i>Supports use of and experimentation with voluntary alternative dispute resolution techniques entered into after a dispute has arisen, but opposes establishment of health courts that take away the right to a trial by jury.</i></p>
<p>*Federal Consent Decrees</p>	<p>S. 489 and H.R. 1229 would have permitted state and local government officials to reopen and relitigate, for any reason, existing federal consent decrees to which they are a party. The Senate Judiciary Committee scheduled, but failed to conduct, a markup of S. 489. A House Judiciary subcommittee held a hearing on H.R. 1229.</p>	<p><i>Opposes.</i></p>



Subject	Description and Status	ABA Position
Ombuds	H.R. 1043 would have clarified and expanded the duties of the Environmental Protection Agency's Office of Ombudsman, an entity that helps citizens resolve complaints and grievances against the agency. The bill was referred to the House Energy and Commerce Committee. There was no comparable Senate legislation.	<i>Supports greater use of ombuds to receive and resolve complaints involving public and private entities, and endorses the Standards for the Establishment and Operation of Ombuds Offices.</i>
Business Law		
◆*Attorney-Client Privilege – Thompson Memorandum	The U.S. Chamber of Commerce, the ABA Task Force on Attorney-Client Privilege, and members of a coalition of diverse organizations cosponsored a conference in November 2005 on governmental policies and practices that erode the attorney-client privilege. S. 30 would have reversed the privilege waiver and employee rights provisions in the Justice Department's 2003 Thompson Memorandum and other similar federal agency policies that instruct federal law enforcement officials to consider certain factors in determining whether corporations and others should receive cooperation credit – hence leniency – during government investigations. The Senate Judiciary Committee held a hearing on the Thompson Memorandum. S. 30 was referred to the Senate Judiciary Committee, where there was no action. There was no comparable House legislation, although a House Judiciary subcommittee held a hearing on the topic. On 12/12/06, Deputy Attorney General Paul McNulty issued revisions to the Thompson Memorandum that require high-level department approval before prosecutors can demand waiver, but which fail to end the practice entirely. See also Business Law – Attorney-Client Privilege – Sentencing .	<i>Supports S. 30. Believes the McNulty Memorandum falls short of what is needed to prevent further erosion of fundamental attorney-client privilege, work product, and employee protections during investigations.</i>
◆*Attorney-Client Privilege – Sentencing	The U.S. Sentencing Commission voted unanimously 4/5/06 to remove language from the Federal Sentencing Guidelines that authorized and encouraged the government to require companies, associations and other entities to waive their attorney-client privilege and work-product protections during investigations to qualify for leniency under the guidelines. The language had been added in 2004 to the Commentary for Chapter 8, Section 8C2.5, of the Sentencing Guidelines.	<i>Supports changes to the Section 8C2.5 Commentary to clarify that the waiver of attorney-client privilege and work-product protection should not be a factor in determining whether a sentencing reduction is warranted.</i>



Subject	Description and Status	ABA Position
◆*Bankruptcy – Attorney Liability	P.L. 109-8 (S. 256), bankruptcy overhaul legislation enacted 4/20/05, includes attorney liability provisions requiring attorneys to certify the accuracy of the debtor’s schedules of assets and liabilities under penalty of harsh court sanctions; certify the ability of the debtor to make future payments under reaffirmation agreements; and identify and advertise themselves as “debt relief” agencies subject to a host of intrusive regulations that will interfere with the confidential attorney-client relationship. Draft legislation would have repealed the attorney liability provisions of P.L. 109-8 and imposed new nondischargeable sanctions against debtors who file false schedules. A Senate Judiciary subcommittee held an oversight hearing on P.L. 109-8.	<i>Opposes attorney liability provisions; supports the draft legislation.</i>
*Bankruptcy – Direct Appeals	P.L. 109-8 (S. 256), bankruptcy overhaul legislation enacted 4/20/05, provides for direct appeals of many final bankruptcy orders to the circuit courts of appeals and permits bankruptcy attorneys to pay referral fees to non-profit attorney referral programs. A Senate Judiciary subcommittee held an oversight hearing on P.L. 109-8.	<i>Supports provisions providing for direct appeals and for sharing of fees with attorney referral programs.</i>
*CAN-SPAM Act	The Federal Trade Commission (FTC) issued proposed rules on 5/12/05 regarding definitions and reporting requirements for the 2003 CAN-SPAM Act, which established strict civil and criminal penalties for the sending of misleading, predatory or abusive commercial e-mail and created a single, national uniform standards for the regulation of other commercial e-mail that is not otherwise prohibited. The final rules have not been issued.	<i>Supports the act, but recommends changes to several proposed FTC rules that could interfere with the ability of the ABA and other associations to honor requests of their members who wish to opt out of receiving certain future commercial e-mail messages but not others.</i>
*Federal Communications Commission (FCC) – Do-Not-Fax Rules	P.L. 109-21 (S. 714), enacted 7/9/05, allows businesses and associations to send unsolicited facsimiles to members and customers with whom they have an established business relationship (EBR), overriding FCC rules issued in 2003 that would have eliminated the EBR exception to the Telephone Consumer Protection Act’s general prohibition against such unsolicited facsimiles. The FCC issued a notice of proposed rulemaking on 12/19/05 that sought comments on a variety of proposed rules relating to P.L. 109-21, including the creation of a nonprofit exemption to the notice requirements of the new act. On 4/5/06, the FCC adopted final rules that, among other things, declined to establish the proposed nonprofit exemption.	<i>Supports the new law and the proposed FCC rule exempting nonprofit organizations from the new law’s notice requirements.</i>



Subject	Description and Status	ABA Position
◆*Gramm-Leach-Bliley Act	The U.S. Court of Appeals for the District of Columbia Circuit on 12/6/05 affirmed the lower court's ruling that the Federal Trade Commission exceeded its statutory authority when it determined that attorneys engaged in the practice of law were "financial institutions" covered under the Title V privacy notice provisions of the Gramm-Leach-Bliley Act, a law enacted in 1999 to regulate financial institutions (<i>American Bar Association v. Federal Trade Commission</i> , No. 04-5257, Dec. 6, 2005). The FTC did not appeal the decision.	<i>Maintains that attorneys engaged in the practice of law were not intended to be, and should not be, subject to the Title V privacy notice provisions of the Gramm-Leach-Bliley Act.</i>
Civil Rights/Constitutional Law		
Discrimination – Sexual Orientation	H.R. 288 would have amended the Civil Rights Act of 1964 and the Fair Housing Act to prohibit discrimination on the basis of affectional or sexual orientation with respect to public accommodations, public facilities, federally assisted programs, equal employment opportunities, housing sales and rentals, and brokerage services. H.R. 3128 would have affirmed that federal employees are protected from discrimination on the basis of sexual orientation. The House Government Reform Committee approved H.R. 3128. H.R. 288 was referred to the House Committees on Judiciary, and Education and the Workforce. There was no comparable Senate legislation.	<i>Supports legislation prohibiting discrimination on the basis of sexual orientation in employment, housing and public accommodations.</i>
*Flag Desecration	S. J. Res. 12 and H. J. Res. 10 proposed an amendment to the Constitution to permit Congress to enact laws prohibiting the physical desecration of the flag of the United States. The Senate Judiciary Committee approved S.J. Res. 12, but the Senate failed to garner the two-thirds vote required to pass a proposed constitutional amendment. The House passed H.J. Res. 10.	<i>Opposes a constitutional amendment prohibiting flag desecration, or enactment of federal legislation that would criminalize flag desecration.</i>
Individuals with Disabilities Education Act (IDEA)	S. 2185, H.R. 1107 and H.R. 3145 would have amended the IDEA to provide full funding for assistance for education of all children with disabilities. P.L. 109-149 (H.R. 3010), fiscal year 2006 appropriations legislation enacted 12/20/05, includes \$11.8 billion for special education programs over the next two years. S. 2185 was referred to the Senate Health, Education, Labor and Pensions Committee. H.R. 1107 and H.R. 3145 were referred to the House Education and the Workforce Committee.	<i>Supports.</i>



Subject	Description and Status	ABA Position
*Native Hawaiian Self-Determination	S. 147, S. 3064 and H.R. 309 would have allowed Native Hawaiians to choose a political framework that could be recognized by the federal government and would have supported an indigenous governing entity for Native Hawaiians within the state of Hawaii. The Senate failed to invoke cloture to end debate and proceed to a vote on S. 147. S. 3064 was placed directly on the Senate calendar, but no vote was taken. H.R. 309 was referred to the House Resources Committee.	<i>Supports.</i>
◆*Pledge of Allegiance	H.R. 2389 would have stripped jurisdiction from all federal courts to hear constitutional challenges to the interpretation of, or the validity of, the Pledge of Allegiance. The House passed H.R. 2389. There was no comparable Senate legislation.	<i>Opposes.</i>
◆Racial Profiling	P.L. 109-59 (H.R. 3), a federal highways bill enacted 8/10/05, establishes a \$7.5 million grant program for those states that have enacted and are enforcing laws prohibiting the use of racial profiling in the enforcement of state laws regulating the use of federal-aid highways and are maintaining public records in this area. S. 2138 would have prohibited racial profiling. S. 2138 was referred to the Senate Judiciary Committee.	<i>Supports enactment of legislation requiring the collection of data on traffic stops to determine use of race-based profiling by law enforcement authorities and to identify the best methods for ending such practices.</i>
Religious Liberty/ School Prayer	P.L. 109-149 (H.R. 3010), fiscal year 2006 appropriations legislation enacted 12/30/05, prevents the Department of Education Office of Inspector General from using funds appropriated under the act to prevent implementation of programs of voluntary prayer and meditation in the public schools. P.L. 109-383 (H.J. Res. 102), a continuing appropriations resolution enacted 12/9/06, continues the restriction through 2/15/07. H.J. Res. 7, H.J. Res. 21 and H.J. Res. 57 proposed an amendment to the Constitution to allow voluntary prayer in public schools and institutions. S.J. Res. 35 and H.J. Res. 85 proposed an amendment to the Constitution to clarify that the Constitution neither prohibits voluntary prayer nor requires prayer in schools. H.J. Res. 7, H.J. Res. 21, H.J. Res. 57 and H.J. Res. 85 were referred to the House Judiciary Committee. S.J. Res. 35 was referred to the Senate Judiciary Committee.	<i>Opposes adoption of a constitutional amendment or federal legislation that would allow for officially sanctioned prayer in public schools.</i>



Subject	Description and Status	ABA Position
*Reporters' Shield	S. 1419, S. 2831 and H. R. 3323 would have protected reporters by providing immunity under limited conditions from the federally compelled disclosure of information regarding the identity of a reporter's source. The Senate Judiciary Committee held hearings on S.1419 and S. 2831. H.R. 3323 was referred to the House Judiciary Committee.	<i>Supports a federal shield law that would require any party seeking to subpoena a journalist to disclose his or her source of information to demonstrate that the information sought is essential to a critical issue in the matter, all reasonable alternative sources for acquiring the information have been exhausted, and the need for the information clearly outweighs the public interest in protecting the free flow of information.</i>
*Same-Sex Marriage	S. J. Res. 1, S.J. Res. 13, H. J. Res. 39, H.J. Res. 88 and H.J. Res. 91 proposed an amendment to the Constitution to prohibit same-sex marriage. H.R. 1100 would have limited federal court jurisdiction over questions under the Defense of Marriage Act. H.R. 72 would have defined marriage for all legal purposes in the District of Columbia to consist of the union of one man and one woman. The Senate considered S.J. Res. 1, but failed to invoke cloture to limit debate and proceed to a vote. The House failed to pass H.J. Res. 88 by the required two-thirds vote. S.J. Res. 13 was referred to the Senate Judiciary Committee. H.J. Res. 39, H.J. Res. 91 and H.R. 1100 were referred to the House Judiciary Committee. H.R. 72 was referred to the House Government Reform Committee.	<i>Opposes any federal enactment that would usurp the traditional authority of a state to determine its own rules governing marriage.</i>



Subject

Description and Status

ABA Position

Courts/Judiciary

***Administrative Law
Judges (ALJs)**

On 7/1/05, the Department of Health and Human Services Office of Medicare Hearings and Appeals assumed responsibility from the Social Security Administration for administering Medicare appeals before ALJs. The Office of Personnel Management proposed regulations 12/13/05 for the ALJ program and issued a proposed qualification standard for ALJ positions. A House Judiciary subcommittee held hearings on creation of a Conference of Administrative Law Judges, among other things, as part of a series of programs and hearings for the committee's Administrative Law, Process and Procedure Project for the 21st Century. A House Government Reform subcommittee held hearings on ALJ pay and legislation (H.R. 1864) to enhance ALJ retirement as part of its oversight hearings on executive and judicial compensation in the federal government. On 12/22/05, the president issued an executive order providing a 2.1 percent pay increase and an average 1 percent locality pay adjustment for ALJs for 2006. On 12/21/06, the president issued an executive order authorizing a 1.7 percent pay increase and an average 0.5 percent locality pay adjustment for ALJs in 2007.

Supports fair and adequate compensation for ALJs, including enhanced retirement benefits. Supports the rights of Medicare claimants to a due process hearing on the record before an ALJ appointed under the Administrative Procedure Act.

***Cameras in the
Courtroom**

S. 829, H.R. 2422 and H.R. 1751, court security legislation as passed by the House, would have established a three-year experiment under which judges in appellate and district courts would have had the authority to allow the photographing, electronic recording, broadcasting and televising of any federal court proceedings over which they preside. S. 1768 and H.R. 4380 would have permitted the televising of Supreme Court proceedings. The Senate Judiciary Committee approved S. 829 and S. 1768. The House passed H.R. 1751 with media coverage provisions. The Senate passed H.R. 1751 without media coverage provisions.

Supports continuation of the debate on televising federal court proceedings and urges the Judicial Conference of the United States to authorize further experimentation with electronic media coverage.



Subject	Description and Status	ABA Position
◆*Court Security	<p>P.L. 109-13 (H.R. 1268), fiscal year 2005 supplemental appropriations legislation enacted 5/11/05, provided \$12 million to the U.S. Marshals Service for improving court security. S. 1968 and H.R. 1751 would have provided enhanced security for judges, prosecutors, witnesses, victims and their family members. Both bills, among other things, would have required greater consultation between the Marshals Service and the Administrative Office of the U.S. Courts over the security needs of the judicial branch and would have permanently authorized redaction of potentially endangering information from the judges' federal financial disclosure statements prior to disclosure to the public. H.R. 4311 would have provided permanent redaction authority, and S. 1558 would have provided a four-year extension of redaction authority. S. 1710 would have prohibited knowingly making restricted personal information about a judge or other officer or employee of a court publicly available through the Internet. The Senate passed S. 1558. The House and Senate passed different versions of H.R. 1751 and H.R. 4311, but no further action was taken to reconcile the differences and enact either bill. Court security provisions also were passed by the House as part of H.R. 4472, an omnibus crime bill, and by the Senate as part of S. 2766, Defense Department authorization legislation. The provisions were dropped from both bills by conference committees.</p>	<p><i>Supports some of the provisions in H.R. 1751, but opposes provisions in the legislation to impose mandatory minimum sentences. Supports permanent redaction authority.</i></p>
◆*Court Stripping	<p>S. 1046 and H.R. 2389 would have stripped jurisdiction from all federal courts to hear constitutional challenges to the interpretation of, or the validity of, the Pledge of Allegiance. The House passed H.R. 2389. S. 1046 was referred to the Senate Judiciary Committee. H.R. 2682, fiscal year 2006 appropriations legislation as passed by the House, included an amendment to prohibit funds from being used to enforce the 1/31/05 district court decision in <i>Russelburg v. Gibson County</i>, 2005 WL 2175527 (S.D. Ind. Sept. 7, 2005), concerning a display of a monument of the Ten Commandments. Conferees dropped the amendment from the final version of the legislation. S. 520 and H.R. 1070 would have limited the jurisdiction of federal courts in cases involving religious expression and citation of foreign judgments. H.R. 5528 would have limited federal court jurisdiction over state laws restricting pornography. H.R. 1100 would have limited federal court jurisdiction over questions under the Defense of Marriage Act. H.R. 4379 would have prohibited the federal courts from adjudicating cases concerning state laws and policies relating to religious liberties or privacy, including cases involving sexual practices, sexual orientation or reproduction. H.R. 5231 would have limited federal court jurisdiction over certain suits pertaining to royalties for offshore oil and gas leases. H.J. Res. 84 proposed a constitutional amendment to deny the Supreme Court and any inferior court the power to instruct a state or local government or official to levy or increase taxes or how to spend, allocate, or budget fiscal resources. See also Alternative Dispute Resolution – Federal Consent Decrees, Civil Rights/ Constitutional Law – Pledge of Allegiance, Criminal Law – Habeas Corpus, and Immigration Law – Asylum-REAL ID.</p>	<p><i>Opposes legislation that seeks to curtail the jurisdiction of federal courts or the remedies available to federal courts in cases involving constitutional rights.</i></p>



Subject	Description and Status	ABA Position
◆* Emergency Relocation of Courts	P.L. 109-63 (H.R. 3650), enacted 9/9/05, allows the federal circuit courts of appeals and district courts to conduct business outside their designated circuits or districts upon a finding that, because of emergency conditions, no location within the courts' regular circuits or districts is reasonably available.	<i>Supports.</i>
◆* Foreign Judgments	S. Res. 92 and H. Res. 97 would have affirmed the sense of Congress that judicial decisions should not rely on any foreign laws, court decisions or pronouncements of foreign governments unless they have been incorporated into U.S. law by Congress or inform an understanding of the original meaning of the laws of the United States. A House Judiciary subcommittee approved H. Res. 97. S. Res. 92 was referred to the Senate Judiciary Committee. This provision also was incorporated into S. 520 and other court-stripping legislation on which there was no action.	<i>Opposes.</i>
◆* Inspector General – Judiciary	S. 2678 and H.R. 5219 would have established a statutory Office of Inspector General for the judiciary for the purpose of conducting investigations of matters pertaining to the judicial branch, including possible misconduct in office of judges. Under both bills, the Inspector General would have been appointed by the chief justice only after consultation with congressional leaders and would have been required to make prompt reports to Congress on any matters requiring attention. S. 2678 would have extended the Inspector General's oversight to the U.S. Supreme Court. S. 2678 was referred to the Senate Judiciary Committee. The House Judiciary Committee approved H.R. 5219.	<i>Opposes any congressional proposal that would create an Office of Inspector General for the judiciary with broad investigative powers and close ties to Congress.</i>
◆* Judicial Compensation	P.L. 109-115 (H.R. 3058), fiscal year 2006 appropriations legislation enacted 11/30/05, waived Section 140 of P.L. 99-92 to authorize a 1.9 percent cost-of-living adjustment (COLA) for federal judges. S. 2276 and H.R. 5014 would have provided federal judges with a 16.5 percent salary increase, terminated the linkage between judicial and congressional COLAs, and provided judges with automatic COLAs based on the Employee Cost Index whenever General Schedule employees are entitled to receive a COLA. H.R. 5454 would have waived Section 140 to authorize a COLA for 2007. H.R. 5454 was referred to the House Judiciary Committee. There was no final action on fiscal year 2007 appropriations legislation that covers the judiciary. Instead, P.L. 109-383 (H.J. Res. 102), a continuing appropriations resolution enacted 12/9/06, maintains funding at fiscal year 2006 levels through 2/15/07 and delays any COLA for members of Congress (and therefore also for judges). Section 140 also will have to be waived during the 110 th Congress before judges receive a 2007 COLA.	<i>Supports legislation to increase the compensation of federal judges, ensure regular COLAs, provide periodic review of judicial salary levels, and de-link congressional and judicial pay.</i>



Subject	Description and Status	ABA Position
◆* Judicial Discretion	<p>The chair of the House Judiciary Committee sent a letter assailing the decision of a three-judge panel of the Court of the Appeals of the Seventh Circuit in the case of <i>United States v. Lissett Rivera</i>, No. 02-3238 (June 16, 2005), which affirmed the 97-month sentence of a convicted drug dealer rather than increasing the sentence to a 120-month mandatory minimum sentence. The court maintained that it did not have the power to increase the sentence; the chair asserted that it is essential for Congress to intervene when judicial actions are contrary to the law. H. Res. 916 called for the impeachment of Manuel L. Real, a judge in the U.S. District Court for the Central District of California, for improper conduct in a bankruptcy case even though the Ninth Circuit Judicial Council dismissed the charges after reviewing Real's actions under the Judicial Conduct and Disability Act of 1980. The House Judiciary Committee held a hearing on H. Res. 916, but took no further action. P.L. 109-3 (S. 686), enacted 3/21/05, ensured that the federal courts had jurisdiction to hear, determine and render judgment in a suit requesting that the federal courts reverse a Florida Supreme Court decision ordering the removal of the feeding tube of Terri Schiavo, who was in a vegetative state. See also Health Law – Incapacitated Persons Legal Protection Act.</p>	<p><i>Opposes congressional interference in court decisions.</i></p>
◆* Judicial Selection/ Vacancies	<p>During the 109th Congress, the Senate confirmed two Supreme Court nominees: John G. Roberts Jr. as chief justice and Samuel A. Alito Jr. as an associate justice. In addition, the Senate confirmed 16 appellate court nominees, 35 district court nominees, and one nominee to the Court of International Trade. At the end of the 109th Congress, there remained 53 vacancies, and 38 nominations were returned to the president. In related action earlier in the Congress, a “memorandum of understanding” created by a bipartisan group of moderate senators averted use by the Republicans of a parliamentary move known as the “nuclear” or “constitutional” option to engineer a rule that in effect would prohibit the use of the filibuster for judicial nominations. The agreement, which stated that the signatories will support the use of filibusters only under extraordinary circumstances, ended a standoff over judicial confirmations.</p>	<p><i>Urges the president and the Senate to fill judicial vacancies expeditiously and urges selection and confirmation of individuals of racial and ethnic diversity to all levels of the federal bench.</i></p>
◆* Ninth Judicial Circuit Division	<p>S. 1296, S. 1301, S. 1845, H.R. 211, H.R. 212 and H.R. 4093 would have proposed various two-way or three-way divisions of the Ninth Judicial Circuit. Similar provisions were included in H.R. 4241, budget reconciliation legislation as passed by the House, but were not included in the final enacted version. The House Judiciary Committee approved H.R. 4093. The Senate Judiciary Committee held an oversight hearing and a subcommittee held a hearing on specific bills.</p>	<p><i>Opposes restructuring of the Ninth Judicial Circuit.</i></p>



Subject	Description and Status	ABA Position
State Justice Institute (SJI)	P.L. 109-108 (H.R. 2862), fiscal year 2006 appropriations legislation enacted 11/22/05, includes \$3.5 million for the SJI. P.L. 109-383 (H.J. Res. 102), a continuing resolution enacted 12/9/06, maintains the same funding level through 2/15/07. H.R. 5622, fiscal year 2007 appropriations legislation as passed by the House, included \$2 million for the SJI; the Senate Appropriations Committee included \$4.5 million for the SJI in its version of H.R. 5622.	<i>Supports continued adequate federal funding for the SJI.</i>
Criminal Law		
*Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE) Enforcement	H.R. 5092 would have restructured BATFE oversight of gun dealer licensing to, among other things, revise the civil penalties for violations of firearms law and the procedures for assessing such penalties. The House passed H.R. 5092. There was no comparable Senate legislation.	<i>Opposes.</i>
*Death Penalty Juries	H.R. 5040 would have amended federal law regarding the required appointment of two “learned counsel” at the time of indictment for a capital offense and provided new procedures for a jury’s mental retardation verdict and aggravation evidence in capital cases. A House Judiciary subcommittee held a hearing on H.R. 5040. There was no comparable Senate legislation. The House-passed version of H.R. 3199, USA PATRIOT Act reauthorization legislation, included provisions to allow federal prosecutors to nullify or disregard a split or hung jury and to provide prosecutors a “second chance” jury if they fail to gain a unanimous verdict from the first. That version of the bill also would have permitted the court, on its own motion, to reduce the number of capital jurors to fewer than 12. Conferees dropped the jury provisions from the reauthorization legislation, which was enacted into law on 3/9/06 as P.L. 109-177.	<i>Opposes H.R. 5040 and the jury provisions in the House-passed version of H.R. 3199.</i>
*Firearms Trace Data	H.R. 5005 would have barred disclosure of information in the firearms trace system database to anyone but law enforcement and would have further restricted release of information pertaining to the geographic jurisdiction of the agencies or prosecutors requesting the disclosure. The House Judiciary Committee approved H.R. 5005. There was no comparable Senate legislation.	<i>Opposes.</i>



Subject	Description and Status	ABA Position
* Gang Violence	<p>H.R. 1279 would have authorized prosecutors to bring charges against 16- and 17-year-olds directly in adult court without any opportunity for judicial review and would have added new mandatory minimum sentences to federal law and increased the minimum penalties for several other offenses. S. 155 would have made participation in a criminal street gang a federal crime and authorized \$650 million over the next five years to support federal, state and local law enforcement efforts against violent gangs. The House passed H.R. 1279. The Senate Judiciary Committee held hearings on gang violence and began marking up S. 155.</p>	<p><i>Opposes prosecutorial discretion and mandatory minimum sentencing provisions in H.R. 1279.</i></p>
Gun Violence – D.C. Gun Laws	<p>S. 1082 and H.R. 1288 would have repealed the District of Columbia ban on handguns and semiautomatic firearms designed to shoot more than 12 shots without loading, as well as a safe storage law. S. 1082 was referred to the Senate Homeland Security Committee and the Senate Governmental Affairs Committee. H.R. 1288 was referred to the House Government Reform Committee.</p>	<p><i>Opposes.</i></p>
* Gun Violence – Sales at Gun Shows	<p>H.R. 3540 would have closed a loophole in gun safety laws by requiring instant criminal background checks for all firearm sales at gun shows. H.R. 3540 was referred to the House Judiciary Committee. There was no comparable Senate legislation.</p>	<p><i>Supports.</i></p>
◆* Habeas Corpus	<p>S. 1088 and H.R. 3035, titled the Streamlined Procedures Act (SPA), would have stripped the federal courts of jurisdiction to review state criminal convictions in a wide range of circumstances and would have overturned numerous Supreme Court decisions interpreting the Anti-Terrorism and Effective Death Penalty Act, comprehensive habeas corpus reform enacted in 1996. The Senate Judiciary Committee held hearings on S. 1088 and began marking up the bill. A House Judiciary subcommittee held hearings on H.R. 3035. P.L. 109-177 (H.R. 3199), USA PATRIOT Act reauthorization legislation enacted 3/9/06, includes SPA provisions to shift the responsibility from the federal appeals courts to the U.S. attorney general to determine whether states are meeting certain requirements for providing competent counsel in state court proceedings. Numerous other bills introduced in the 109th Congress also contained provisions to restrict federal habeas review. P.L. 109-163 (H.R. 1815), fiscal year 2006 Defense Department authorization legislation enacted 1/6/06, includes provisions to limit access to the federal courts by detainees at Guantanamo Bay, Cuba, and the scope of appeals of their incarceration. P.L. 109-366 (S. 3930), military commissions legislation enacted 10/17/06, strips judicial review of existing habeas corpus claims for detainees in U.S. custody. See also National Security –Enemy Combatants and Military Commissions.</p>	<p><i>Opposes restrictions on federal habeas corpus jurisdiction.</i></p>



Subject	Description and Status	ABA Position
◆*Indigent Defense Funding	P.L. 109-115 (H.R. 3058), fiscal year 2006 appropriations legislation enacted 11/20/05, included \$717 million for the Defender Services Program. P.L. 109-383 (H.J. Res. 102), a continuing resolution enacted 12/9/06, maintains the same funding level through 2/15/07.	<i>Supports sufficient funding for appropriate indigent defense services.</i>
*Mandatory Minimum Sentencing	H.R. 1528 would have amended the Controlled Substances Act to expand penalties for drug distribution to persons under age 21 and to cover attempts, conspiracy and distribution without regard to the type of controlled substance and schedule. The bill also would have effectively limited all downward departures under the federal sentencing guidelines except for substantial assistance to the government or participation in an authorized “fast track” program. S. 3725, H.R. 48, H.R. 1501 and H.R. 2456 address the disparity in sentencing between crack and powder cocaine. A House Judiciary subcommittee approved H.R. 1528. There was no comparable Senate legislation. S. 3725 was referred to the Senate Judiciary Committee. H.R. 48, H.R.1501 and H.R. 2456 were referred to the House Judiciary Committee. The Inter-American Commission on Human Rights held a hearing on the impact of mandatory minimum sentencing on the U.S. criminal justice system.	<i>Opposes mandatory minimum sentences and H.R. 1528. Support efforts to eliminate the disparity in cocaine sentencing.</i>
*National Instant Criminal Background Check System (NICS)	H.R. 1415 would have improved the NICS by requiring federal agencies to provide relevant records to the attorney general for inclusion in the NICS, and by providing grants to state and Indian tribal governments to establish or upgrade information and identification technologies and improve the automation and transmittal to federal and state record repositories of criminal history determinations. A House Judiciary subcommittee approved H.R. 1415. There was no comparable Senate legislation.	<i>Supports.</i>
*Prison Phone System Contracting Reform	H.R. 4433 would have amended the Communications Act of 1934 to require the Federal Communications Commission to prescribe rules regulating inmate telephone service rates to assure a reasonable opportunity for prison and jail inmates to maintain telephone communication with those outside the prison system and to assure the lowest possible rates for telephone service in the correctional setting. H.R. 4433 was referred to the House Energy and Commerce Committee. There was no comparable Senate legislation.	<i>Supports.</i>



Subject	Description and Status	ABA Position
*Prisoner E-mail Access	The Bureau of Prisons is testing TRULINC, an electronic e-mail program, at several federal correctional institutions. The program enhances the attorney-client relationship by supplementing unmonitored forms of communications and affords attorneys and their incarcerated clients the possibility of expedited contact when quick decisions must be made or nonprivileged information must be relayed.	<i>Supports TRULINC and recommends the program be amended to provide greater access.</i>
*Second Chance Act	S. 1934 and H.R. 1704 would have reauthorized the grant program of the Department of Justice for reentry of offenders into the community and established a task force on federal programs and activities relating to the reentry of offenders. The House Judiciary Committee approved H.R. 1704. S. 1934 was referred to the Senate Judiciary Committee	<i>Supports prisoner reentry programs, including substance abuse treatment, educational and job training, and mental health counseling and services.</i>
*Sentencing Guidelines – Booker-Fanfan Decision	On 1/12/05, the U.S. Supreme Court ruled in the consolidated cases of <i>United States v. Booker</i> and <i>United States v. Fanfan</i> , 543 U.S. 220 (2005), that key elements of the Federal Sentencing Guidelines are unconstitutional and that the guidelines must be considered as merely advisory. The conference report on H.R. 3058 (P.L.109-115), fiscal year 2006 appropriations legislation enacted 11/20/05, directs the Administrative Office of the U.S. Courts to report on all new trends in caseload changes, including those resulting from the <i>Booker/Fanfan</i> decision. The U.S. Sentencing Commission issued a report in March 2006 analyzing the impact of the decision. H.R. 6254 would have made key changes in federal sentencing law to comply with the decision. H.R. 6254 was referred to the House Judiciary Committee. There was no comparable Senate legislation.	<i>Supports sentencing guidelines that provide guided discretion to sentencing courts to minimize disparities but allow judicial departures to take into account individual characteristics of offenders.</i>
*Teen Dating Violence	H.R. 2947 would have amended the Elementary and Secondary Education Act of 1965 to authorize the use of funds for the inclusion in domestic violence education programs of information on legal rights available to teenage victims of dating violence. H.R. 2947 was referred to the House Education and the Workforce Committee. There was no comparable Senate legislation.	<i>Supports.</i>
*Victims of Crime Act (VOCA)	Congress rejected fiscal year 2006 and 2007 rescissions proposed by the president to reduce the amount of money in the Crime Victims Fund that was established in 1984 under VOCA. H.R. 1664 would have required the director of the Office of Victims of Crime to ensure that all sums in the Fund in any fiscal year are obligated for the subsequent fiscal year. H.R. 1664 was referred to the House Judiciary Committee. There was no comparable Senate legislation.	<i>Supports full funding of the Crime Victims Fund.</i>



Subject	Description and Status	ABA Position
<h2>Elder Law</h2>		
*Elder Abuse	<p>P.L. 109-365 (H.R. 6197), Older Americans Act reauthorization legislation enacted 10/17/06, includes narrow provisions authorizing designation within the Department of Health and Human Services (HHS) of an individual to be responsible for elder abuse and prevention services and for the coordination of the department's elder justice activities. P.L. 109-432 (H.R. 6111), tax relief and health care legislation enacted 12/20/06, requires HHS, in consultation with the Justice Department, to conduct a study on establishing a uniform national database on elder abuse, limiting the duration of the study to a period of not more than two years and authorizing \$500,000 each for fiscal years 2007 and 2008. S. 2010 and H.R. 4993 (the "Elder Justice Act") would have amended the Social Security Act to establish offices within HHS and the Department of Justice to provide a combined public health and law enforcement approach at the federal level to address elder abuse. The Senate Finance Committee approved S. 2010. H.R. 4993 was referred to the House Committees on Ways and Means, Judiciary, Energy and Commerce, and Education and the Workforce.</p>	<p><i>Supports comprehensive legislation to improve the response of federal, state, territorial and local governments and of the criminal and civil justice systems to address elder abuse, neglect and exploitation.</i></p>
*Guardianship	<p>The Senate Special Committee on Aging held a hearing on state adult guardianship systems to discuss whether there is a need for federal leadership.</p>	<p><i>Maintains that federal guardianship legislation is unnecessary, but recognizes the growing need for a federal role in offering resources and incentives for quality improvement and reform.</i></p>
*Older Americans Act (OAA)	<p>P.L. 109-365 (H.R. 6197), OAA reauthorization legislation enacted 10/17/06, extends numerous programs for the elderly through 2011 and maintains the OAA mandate to fund legal assistance and a national legal assistance support system. P.L. 109-149 (H.R. 3010), fiscal year 2006 appropriations legislation enacted 12/30/05, includes \$1.4 billion for the Administration on Aging within the Department of Health and Human Services. P.L. 109-383 (H.J. Res. 102), a continuing resolution enacted 12/9/06, maintains the same funding level through 2/15/07.</p>	<p><i>Supports adequate funding for OAA advocacy and elder rights programs.</i></p>



Subject	Description and Status	ABA Position
*Social Security Administration (SSA) – Disability Appeals Process	The SSA issued a proposed rule 7/27/05 for restructuring the administrative review processes for determining eligibility for the Disability Insurance and Supplemental Security Income programs. Two House Ways and Means subcommittees held joint hearings on the proposed rule. The SSA issued the final rule 3/28/06 and began implementation. A House Ways and Means subcommittee held a hearing assessing the new procedures.	<i>Supports the new rule's provisions for a quick disability determination process for those who are clearly disabled and retention of non-adversarial hearings before an administrative law judge.</i>
Election Law		
*Continuity of Government	P.L. 109-55 (H.R. 2985), fiscal year 2006 appropriations legislation enacted 8/2/05, requires states to hold special elections to fill vacancies in the House no later than 49 days after an announcement by the speaker of the House that vacancies exceed 100 members due to extraordinary circumstances. S.J. Res. 6 proposed to amend the Constitution to permit the House and Senate to set terms for replacing members whenever one-fourth of the seats in either chamber are vacant because of death or incapacitation. S.J. Res. 6 was referred to the Senate Judiciary Committee. There was no comparable House resolution.	<i>Supports enactment of uniform expedited special election procedures to fill vacancies in the House in the event of a catastrophe.</i>
◆*D.C. Voting Rights	S. 195 and H.R. 398 would have provided for full voting representation in the Senate and House for the citizens of the District of Columbia. H.R. 2043 would have established the District of Columbia as a congressional district for purposes of representation in the House. H.R. 5388 would have provided voting representation in the House for D.C. residents and included provisions for an at-large House seat for the state of Utah. The House Government Reform Committee approved H.R. 5388. S.195 was referred to the Senate Homeland Security and Governmental Affairs Committee.	<i>Supports the extension of the right of suffrage, both in this country and abroad, and securing voting representation in Congress for citizens of the District of Columbia.</i>
*Voting Rights Act Reauthorization	P.L. 109-246 (H.R. 9), enacted 7/27/06, extends the expiring provisions on the Voting Rights Act of 1965 for 25 years and clarifies that the legal standard for discriminatory effect of voting changes is the retrogression of political strength of a minority community and the failure to preserve the ability of minority voters to elect candidates of their choice. A House Judiciary subcommittee held a series of oversight hearings examining the impact and effectiveness of the Voting Rights Act of 1965 over the last 40 years and the act's continued relevance in protecting minority voting in the future.	<i>Supports.</i>



Subject	Description and Status	ABA Position
<h2>Environmental Law</h2>		
*Oceans and Fisheries Reform	P.L. 109-479 (H.R. 5946), enacted 1/12/07, strengthens regulation of the offshore fishing industry by reauthorizing and reforming the Magnuson-Stevens Fishery Conservation and Management Act. The new law also establishes annual catch limits, requires science-based management of fisheries based on the “best scientific information available,” and encourages the development of ecosystem-based fishery management. Prior to enactment of P.L. 109-479, the House Resources Committee and the Senate had passed their own competing versions of the legislation, H.R. 5018 and S. 2012, respectively. The Senate approved the U.N. Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. S. 1224 and H.R. 2939 would have established a national policy for the oceans and strengthened the National Oceanic and Atmospheric Administration (NOAA). H.R. 50 and H.R. 5450 would have restructured NOAA. The House passed H.R. 5450. The House Science Committee approved H.R. 50. S. 1224 was referred to the Senate Commerce, Science and Transportation Committee. H.R. 2939 was referred to the House Resources Committee and the House Science Committee.	<i>Supports P.L. 109-479. Urges the U.S. government to improve federal regulation of the nation’s oceans, coastal resources and fisheries and to enhance the U. S. role in international initiatives to protect the world’s marine ecosystems and resources.</i>
Price-Anderson Act	P.L. 109-58 (H.R. 6), comprehensive energy legislation enacted 8/8/05, reauthorizes through 2025 the Price-Anderson Act, a federal law requiring utilities to maintain a certain level of insurance coverage for nuclear accidents while capping the industry’s liability.	<i>Supports reauthorization of the act.</i>
<h2>Families/Children</h2>		
Adoption Promotion	S. 246, H.R. 268, H.R. 305 and H.R. 347 would have made permanent the adoption expense tax credit established by the Economic Growth and Tax Relief Reconciliation Act of 2001. H.R. 2968 would have amended the Internal Revenue Code of 1986 to allow penalty-free withdrawals from individual retirement plans for adoption expenses. S. 1539 would have amended Part E of Title IV of the Social Security Act to promote the adoption of children with special needs. H.R. 4092 would have amended the Internal Revenue Code of 1986 to allow an additional tax credit for the adoption of an older child. H.R. 6180 would have amended the Internal Revenue Code to encourage the adoption of children with special needs or those age nine or older. S. 246 and S. 1539 were referred to the Senate Finance Committee. H.R. 268, H.R. 305, H.R. 347, H.R. 2968, H.R. 4092 and H.R. 6180 were referred to the House Ways and Means Committee.	<i>Supports efforts to encourage adoption.</i>



Subject	Description and Status	ABA Position
*Adoption - Indian and Alaskan Native Children	S. 672 would have amended Part E of Title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas. The bill was referred to the Senate Finance Committee. There was no comparable House legislation.	<i>Supports.</i>
*Child Abuse Prevention and Treatment Act (CAPTA)	P.L. 109-149 (H.R. 3010), fiscal year 2006 appropriations legislation enacted 12/20/05, increased funding for programs under CAPTA to \$42 million in FY06 for CAPTA basic state grants and \$66 million for CAPTA Title II community-based prevention grants. P.L. 109-383 (H.J. Res. 102), a continuing resolution enacted 12/9/06, maintains the same funding level through 2/15/07.	<i>Supports.</i>
*Child Support Enforcement – Pass-Through Payments	P.L. 109-171 (S. 1932), budget reconciliation legislation enacted 2/8/06, reauthorizes programs under the Temporary Assistance to Needy Families (TANF) program and provides matching funds to encourage state to pass through more child support funds to TANF and former TANF families.	<i>Supports the pass-through provisions.</i>
Domestic Violence – Insurance Discrimination	S. 1796 and H.R. 3185, among other things, would have prohibited the denial or restriction of insurance coverage based on abuse or abuse-related claims. S. 1796 was referred to the Senate Health, Education, Labor and Pensions Committee. H.R. 3185 was referred to the House Financial Services Committee.	<i>Supports.</i>
*Foster Care/ Promoting Safe and Stable Families Act (PSSF)	P.L. 109-149 (H.R. 3010), fiscal year 2006 appropriations legislation enacted 12/30/05, includes \$305 million for the PSSF. P.L. 109-383 (H.J. Res. 102), a continuing resolution enacted 12/9/06, maintains the same funding level through 2/15/07.	<i>Supports.</i>
*Interstate Compact on Placement of Children	P.L. 109-239 (H.R. 5403), enacted 7/3/06, amends the Social Security Act to require each state plan for foster care and adoption assistance to include provisions to speed up the process of placing children in foster homes across state lines, especially when children can be reunited with relatives. The new law also increases the frequency of state caseworker visits and provides incentive payments to encourage timely home studies.	<i>Supports.</i>
*Temporary Assistance to Needy Families (TANF) - Due Process in Sanctions	S. 1385 would have amended Part A of Title IV of the Social Security Act to ensure fair treatment and due process protections under the TANF program and to facilitate enhanced data collection and reporting requirements under the program, including a pre-sanction review process for those who fail to meet work-related mandates. S. 1385 was referred to the Senate Finance Committee. There was no comparable House legislation.	<i>Supports.</i>



Subject	Description and Status	ABA Position
*Temporary Assistance to Needy Families (TANF) Reauthorization	P.L. 109-171 (S. 1932), budget reconciliation legislation enacted 2/8/06, reauthorizes through 2011 the TANF program and keeps the number of work hours required to qualify for TANF benefits at 30 hours per week, requires states to implement improved work verification procedures, authorizes an additional \$1 billion per year for child care, and includes pass-through provisions for child support payments.	<i>Supports child support pass-through provisions.</i>
*Violence Against Women Reauthorization	P.L. 109-162 (H.R. 3402), Department of Justice authorization legislation enacted 1/5/06, reauthorizes the Violence Against Women Act through 2009 and includes provisions authorizing \$65 million for legal assistance to victims.	<i>Supports.</i>
*Youth at Risk	P.L. 109-365 (H.R. 6197), enacted 10/17/06, includes provisions establishing a Federal Youth Development Council to improve the administration and coordination of federal programs serving at-risk youth and issue a report within two years assessing the needs of youth and recommending ways to improve federal efforts.	<i>Supports.</i>
Federal Government		
*Law Library of Congress	P.L. 109-55 (H.R. 2985), fiscal year 2006 appropriations legislation enacted 8/2/05, includes \$395.6 million for the Library of Congress. P.L. 109-383 (H.J. Res. 102), a continuing resolution enacted 12/9/06, maintains the same funding level through 2/15/07.	<i>Supports increased funding for the Law Library of Congress to allow for electronic development.</i>
Health Law		
*Advance Directives	S. 347, S. 570 and H.R. 2058 would have amended Titles XVIII and XIX of the Social Security Act and Title III of the Public Health Service Act to improve access to information about individuals' health care options and legal rights for care near the end of life, to promote advance care planning and decision-making so that individuals' wishes are known should they become unable to speak for themselves, and to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care. S. 347 was referred to the Senate Finance Committee. S. 570 was placed on the Senate calendar. H.R. 2058 was referred to the House Committees on Energy and Commerce, and Ways and Means.	<i>Supports.</i>



Subject	Description and Status	ABA Position
*AIDS Funding	<p>P.L. 109-415 (H.R. 6143), enacted 12/19/06, revises and extends the Ryan White Comprehensive AIDS Resource Emergency Act through 2009 to provide services to individuals with HIV/AIDS. The law includes a 25 percent cap on use of available funds for social services, including legal services, that are not defined as “core medical services” under the act. P.L. 109-149 (H.R. 3010), fiscal year 2006 appropriations legislation enacted 12/30/05, includes \$797.5 million for State AIDS Drug Assistance Programs authorized by Section 2616 of the Public Health Service Act, \$123.9 million for international HIV/AIDS prevention through 9/30/07, and \$52.4 million for minority AIDS prevention and treatment activities. P.L. 109-102 (H.R. 3057), fiscal year 2006 appropriations legislation enacted 11/14/05, includes \$2 billion for the Global HIV/AIDS Initiative. P.L. 109-383 (H.J. Res. 102), a continuing resolution enacted 12/9/06, maintains the same funding levels through 2/15/07.</p>	<p><i>Supports reauthorization of the Ryan White statute, but opposes a cap on funding for legal services.</i></p>
*Biomedical Research/ Cloning	<p>P.L. 109-129 (H.R. 2520), enacted 12/20/05, provides for the collection and maintenance of human cord blood stem cells for research and the treatment of patients, and amends the Public Health Service Act to authorize the C.W. Bill Young Cell Transplantation Program. P.L. 109-242 (H.R. 3504), enacted 7/20/06, makes it illegal to obtain for research any human fetal tissue that results from a human pregnancy deliberately initiated to provide such tissue or from a human embryo or fetus gestated in the uterus of a nonhuman animal. H.R. 810 would have amended the Public Health Service Act to provide for human embryonic stem cell research. S. 2754 would have supported research for developing stem cells with properties similar to embryonic cells without destroying embryos. The Senate and House passed H.R. 810, which was then vetoed by the president. The House failed to override the veto. The Senate passed S. 2754, but the House failed to pass the bill under suspension of the rules.</p>	<p><i>Supports legislation to permit the continuation of biomedical research involving embryonic stem cells that is undertaken with accepted scientific research safeguards against misuse.</i></p>
Consumer Assistance	<p>S. 1012, H.R. 2259 and H.R. 2650, patients’ rights legislation, would, among other things, have directed the Secretary of Health and Human Services to establish a Health Care Consumer Assistance Fund for grants to eligible states to carry out consumer assistance activities designed to provide information, assistance and referrals regarding health insurance products. S. 1012 was referred to the Senate Finance Committee. H.R. 2259 and H.R. 2650 were referred to the House Committees on Energy and Commerce, Education and the Workforce, and Ways and Means.</p>	<p><i>Supports.</i></p>



Subject	Description and Status	ABA Position
Disclosure of Financial Incentives by Doctors	S. 1012, H.R. 2259 and H.R. 2650, patients' rights legislation, would, among other things, have prohibited physician incentive plans except when certain requirements are met. S. 1012 was referred to the Senate Finance Committee. H.R. 2259 and H.R. 2650 were referred to the House Committees on Energy and Commerce, Education and the Workforce, and Ways and Means.	<i>Supports legislation requiring employer-sponsored health plans to disclose financial incentive programs for physicians with whom they interact.</i>
*Incapacitated Persons Legal Protection Act	The Terri Schiavo case brought national attention to medical decision-making and prompted congressional action. P.L. 109-3 (S. 686), enacted 3/21/05, ensured that the federal courts had jurisdiction to hear, determine, and render judgment in an appeal of the Florida Supreme Court decision ordering the removal of Schiavo's feeding tube. The federal courts affirmed the decision of the Florida Supreme Court. S. 539 would have amended Title 28, United States Code, to provide the protections of habeas corpus for certain incapacitated individuals whose lives are in jeopardy. S. 539 was placed on the Senate calendar, but the Senate did not vote on the bill.	<i>Opposes broad federal legislation in this area until Congress has an opportunity for careful and appropriate examination of the complex issues of due process in end-of-life medical decision-making for incapacitated persons.</i>
*Indian Health Care Improvement	S. 1057 and H.R. 5312 would have amended the Indian Health Care Improvement Act to revise and extend that act, including creation of a National Bipartisan Commission on Indian Health Care. The Senate Indian Affairs Committee approved S. 1057. The House Resources Committee approved H.R. 5312.	<i>Supports.</i>
*Medicaid	P.L. 109-171 (S. 1932), deficit reduction and budget reconciliation legislation enacted 2/8/06, cuts spending on Medicaid by a net total of \$6.9 billion over five years, reallocating \$2.1 billion for health care costs related to Hurricane Katrina. The new law increases the cost-sharing and reduces benefits for Medicaid recipients, reduces the price Medicaid pays for drugs, tightens asset transfer rules, and expands state flexibility to offer home- and community-based services options.	<i>Opposes significant cuts in the Medicaid program.</i>
*Needle-Exchange Programs	P.L. 109-115 (H.R. 3058), fiscal year 2006 appropriations legislation enacted 11/30/05, prohibits the District of Columbia from using any federal or local funds to operate needle-exchange programs, which are designed to stem the spread of HIV/AIDS and transmission of other deadly infectious diseases. P.L. 109-383 (H.J. Res. 102), a continuing resolution enacted 12/9/06, maintains the same funding levels and restrictions through 2/15/07.	<i>Opposes legal barriers to establishment and operation of approved needle-exchange programs that include a component of drug counseling and drug treatment referrals.</i>



Subject	Description and Status	ABA Position
*Pain Relief	S. 999 and H.R. 1020 would have provided for the promotion and advancement of scientific understanding of pain management and palliative care and for the dissemination of effective protocols and evidence-based practices. S. 999 was referred to the Senate Health, Education, Labor, and Pensions Committee. H.R. 1020 was referred to the House Committees on Energy and Commerce, Ways and Means, Armed Services, and Veterans' Affairs.	<i>Supports legislation promoting better pain management practices.</i>
*U.N. Population Fund (UNFPA)	P.L. 109-102 (H.R. 3057), fiscal year 2006 appropriations legislation enacted 11/14/05, includes \$34 million for the UNFPA and continues current policy prohibiting making funds available for the UNFPA if the president determines that the fund supports or participates in the management of a program of coercive abortion or involuntary sterilization. The new law specifically prohibits UNFPA funds from being used in China. P.L. 109-383 (H.J. Res. 102), a continuing resolution enacted 12/9/06, maintains the same funding levels and conditions through 2/15/07.	<i>Supports UNFPA funding as critical to fighting the HIV/AIDS crisis.</i>
Housing/Homelessness		
Homeless Assistance	P.L. 109-115 (H.R. 3058), fiscal year 2006 appropriations legislation enacted 11/30/05, includes \$1.34 billion for emergency shelter and other matching grant programs under Title IV of the McKinney-Vento Homeless Assistance Act. P.L. 109-383 (H.J. Res. 102), a continuing resolution enacted 12/9/06, maintains the same funding level through 2/15/07.	<i>Encourages public and private initiatives to increase the supply of affordable, habitable low-income housing.</i>
Housing Choice Voucher Program	P.L. 109-115 (H.R. 3058), fiscal year 2006 appropriations legislation enacted 11/30/05, includes \$14.089 billion for the Housing Choice Voucher Program, which allows very low-income families to choose and lease or purchase safe, decent, and affordable privately-owned rental housing. P.L. 109-383 (H.J. Res. 102), a continuing resolution enacted 12/9/06, maintains the same funding level through 2/15/07.	<i>Supports.</i>
National Affordable Housing Trust Fund	S. 4063 and H.R. 4347 would have, among other things, established a National Affordable Housing Trust Fund to produce, rehabilitate and preserve 1,500,000 units of affordable housing that serves the needs of low-income communities by 2010. H.R. 1461 would have created the fund with significant restrictions. The House passed H.R. 1461. S. 4063 was referred to the Senate Banking, Housing and Urban Affairs Committee. H.R. 4347 was referred to the House Financial Services Committee.	<i>Supports creation of the fund but opposes the restrictions.</i>



Subject	Description and Status	ABA Position
Public Housing Capital Fund	P.L. 109-115 (H.R. 3058), fiscal year 2006 appropriations legislation enacted 11/30/05, includes \$2.5 billion for the Public Housing Capital Fund of the Department of Housing and Urban Development for improving and modernizing public housing projects. P.L. 109-383 (H.J. Res. 102), a continuing resolution enacted 12/9/06, maintains the same funding level through 2/15/07.	<i>Supports.</i>
Immigration Law		
◆*Asylum/REAL ID Act	H.R. 418, known as the REAL ID bill, would have allowed immigration officers and judges to determine an asylum applicant's credibility based on demeanor and oral statements made at any time, whether or not under oath, and would have barred courts from review of discretionary judgments. The House passed H.R. 418 and included the bill in its version of H.R. 1268, fiscal year 2005 supplemental appropriations legislation. Conferees considering H.R. 1268 dropped some of the provisions of H.R. 418. The final legislation, P.L. 109-13 (H.R. 1268), enacted 5/11/05, includes provisions requiring asylum applicants to prove that one of the reasons they face persecution is from among five reasons that are recognized as grounds for asylum; eliminating the annual caps on the number of asylees eligible to adjust their status to permanent residence and on the number of persons who can be granted asylum because they were subject to coercive population controls; lifting the cap on H-2B visas for temporary seasonal workers; and requiring uniform national standards for issuing drivers' licenses.	<i>Opposes provisions in H.R. 418 that threatened due process safeguards in immigration and asylum adjudications and judicial review of such decisions. Supports provisions lifting certain caps.</i>
◆*CLEAR Law Enforcement	S. 1362 and H.R. 3137 would, among other things, have authorized state and local law enforcement personnel to investigate, apprehend or remove aliens in the enforcement of immigration laws; withhold federal incarceration assistance from states that do not have statutes authorizing enforcement of federal immigration laws; establish criminal penalties for aliens unlawfully present in the United States; and require listing immigration violators in a National Crime Information Center database. H.R. 6095 would have declared that state and local law enforcement officers have the inherent authority to apprehend any illegal immigrants and transfer them to federal custody. The House passed H.R. 6095. S. 1362 was referred to the Senate Judiciary Committee. H.R. 3137 was referred to the House Judiciary Committee.	<i>Opposes.</i>



Subject	Description and Status	ABA Position
◆*Educational Opportunities for Immigrant Minors	S. 2075, H.R. 5131, and S. 2611, immigration overhaul legislation, would have amended the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit states to determine state residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain immigrant students who are long-term U.S. residents and who entered the United States as children. The Senate passed S. 2611. S. 2075 was referred to the Senate Judiciary Committee. H.R. 5131 was referred to the House Committees on Judiciary, and Education and the Workforce.	<i>Supports providing noncitizens who reside in the United States and who demonstrate significant ties to this country with an opportunity to acquire lawful permanent residence.</i>
◆*Expedited Removal	H.R. 6094 would have permitted expedited removal of individuals determined by Department of Homeland Security officials, not by immigration or other courts, to be inadmissible into the United States for criminal and other specified reasons. The individual would not have had the right to legal counsel, an interpreter, an impartial adjudicator or judicial review. The House passed H.R. 6094. There was no comparable Senate legislation.	<i>Opposes.</i>
◆*Immigration Overhaul	S. 1033 and H.R. 2330 would have allowed undocumented aliens who meet specified requirements and pay a fine to apply for a new worker visa program and work toward legal status. S. 1438 would have required illegal immigrants to return to their home countries before applying for a new temporary guestworker program. S. 2611, immigration overhaul legislation, would have combined border security and worksite enforcement with a guestworker program and path to citizenship for most of the illegal immigrants in the United States. S. 2611 also included provisions to expand expedited removal, allow mandatory and indefinite detention, and place new restrictions on judicial review. S. 2454 and H.R. 4437 would have eliminated judicial review in a broad array of situations, including visa revocations; required individuals entering on non-immigrant visas to waive a number of rights; created new barriers for asylum-seekers; and required employers to verify their employees' immigration status. The Senate passed S. 2611, and the House passed H.R. 4437, but no conference committee was convened to resolve differences between the two bills.	<i>Opposes provisions in all bills that would eliminate judicial review and create new barriers for asylum-seekers. Supports comprehensive immigration reform that includes temporary worker programs, with a path to permanent residence, for undocumented laborers currently in the United States and any necessary future workers.</i>
◆*Unaccompanied Immigrant Children	S. 119 and H.R. 1172 would have provided for legal representation and guardians ad litem for unaccompanied alien children, directed the Office of Immigration Review to develop model guidelines for legal representation of children, and exempted unaccompanied children from certain removal and asylum provisions. The Senate passed S. 119. H.R. 1172 was referred to the House Judiciary Committee.	<i>Supports.</i>



Subject	Description and Status	ABA Position
<h2>Intellectual Property Law</h2>		
◆*Patent and Trademark Office (USPTO)	<p>P.L. 109-108 (H.R. 2862), fiscal year 2006 appropriations legislation enacted 11/22/05, includes \$1.7 billion for the USPTO. P.L. 109-383 (H.J. Res. 102), a continuing resolution enacted 12/9/06, maintains the same funding level through 2/15/07 and extends through 2/15/07 temporary USPTO fee increases at levels called for in H.R. 2791, a bill that would have revised permanently the schedule of fees for USPTO services and provided statutory prohibitions on diversion of patent user fees. The House Judiciary Committee approved H.R. 2791. There was no comparable Senate legislation.</p>	<p><i>Opposes the diversion of patent user fees to fund other programs.</i></p>
*First-Inventor-to-File Rule	<p>S. 3818 and H.R. 2795, patent reform legislation, included provisions to amend Title 35, United States Code, relating to the procurement, enforcement and validity of patents, and would have instituted a “first-inventor-to-file” rule to replace the current “proof of invention date” system for obtaining a patent. A House Judiciary subcommittee held hearings on H.R. 2795 as introduced and on a revised version of the bill. S. 3818 was referred to the Senate Judiciary Committee, which held hearings on patent reform.</p>	<p><i>Supports the proposed “first-inventor-to-file” rule.</i></p>
*Trademark Dilution	<p>P.L. 109-312 (H.R. 683), enacted 10/6/06, amends the Trademark Act of 1946 with respect to dilution by blurring or tarnishment by providing that cases of trademark dilution brought before the federal courts and the Trademark Trial and Appeal Board of the USPTO be uniformly decided under a “likelihood-of-dilution” standard rather than an “actual dilution” standard.</p>	<p><i>Supports institution of a “likelihood-of-dilution” standard.</i></p>



Subject

Description and Status

ABA Position

International Law

***Anti-Torture**

P.L. 109-148 (H.R. 2863), Defense Department (DoD) appropriations legislation enacted 12/30/05, and P.L. 109-163 (H.R. 1815), DoD authorization legislation enacted 1/6/06, bar cruel, inhuman or degrading treatment of detainees in U.S. custody, make the Army Field Manual the standard for U.S. military interrogations, but protect U.S. interrogators from lawsuits. Both laws also eliminate habeas review for Guantanamo Bay detainees and replace it with a limited opportunity for review of their status and of certain military commission convictions.

Condemns any use of torture or other cruel, inhuman or degrading treatment or punishment upon persons within the custody or under the physical control of the U.S. government or its contractors and any endorsement or authorization of such measures by government lawyers, officials and agents.

***Darfur**

The U.N. Security Council approved, with the United States abstaining from the vote, a resolution on 3/31/05 to refer investigation and prosecution of the crisis in Darfur, Sudan, to the International Criminal Court (ICC). P.L. 109-344 (H.R. 3127), enacted 10/13/06, imposes sanctions against individuals responsible for genocide, war crime, and crimes against humanity, supports measures for the protection of civilians and humanitarian operations, and support peace efforts in Darfur.

Urges the U.S. government to take all necessary and proper actions to end the ongoing atrocities (including genocide, crimes against humanity, and war crimes) in Darfur; to provide humanitarian assistance to the refugees in Eastern Chad; and to take steps to secure the referral of the situation in Darfur to the ICC for investigation and prosecution of the individuals responsible for these crimes.



Subject	Description and Status	ABA Position
◆*International Affairs Budget	P.L. 109-102 (H.R. 3057), fiscal year 2006 appropriations legislation enacted 11/14/05, includes \$21 billion for foreign aid programs. P.L. 109-108 (H.R. 2862), fiscal year 2006 appropriations legislation enacted 11/22/05, includes \$1.2 billion for international organizations and \$1 billion for international peacekeeping activities over the next two years. P.L. 109-383 (H.J. Res. 102), a continuing resolution enacted 12/9/06, maintains the same funding levels through 2/15/07.	<i>Supports funding for various international assistance programs.</i>
◆International Criminal Court (ICC)	P.L. 109-102 (H.R. 3057), fiscal year 2006 appropriations legislation enacted 11/14/05, includes provisions prohibiting Economic Support Fund assistance to the government of any country that is part of the ICC and has not signed a bilateral immunity agreement with the United States that would protect U.S. military and other personnel from prosecution by the ICC.	<i>Urges that the United States accede to the treaty establishing the ICC.</i>
International Development Association (IDA)	P.L. 109-102 (H.R. 3057), fiscal year 2006 appropriations legislation enacted 11/14/05, includes \$950 million for the IDA, part of the World Bank that helps the poorest countries by offering interest-free loans with 10-year grace periods and maturities of up to 40 years. P.L. 109-383 (H.J. Res. 102), a continuing resolution enacted 12/9/06, maintains the same funding level through 2/15/07.	<i>Supports adequate IDA funding.</i>
*Latin America	A House International Relations subcommittee held a hearing on democratization and rule of law efforts, crime and drug trafficking, and trade in Latin America.	<i>Supports targeted foreign assistance to promote democracy in Latin America.</i>
*Rule of Law Programs	P.L. 109-102 (H.R. 3057), fiscal year 2006 appropriations legislation enacted 11/14/05, would, among other things, provide \$95 million for the promotion of democracy, governance, human rights, independent media, and the rule of law globally; and \$56 million for democracy, governance and rule of law programs in Iraq, including \$5 million for rule of law programs for the training of judges and prosecutors. P.L. 109-383 (H.J. Res. 102), a continuing resolution enacted 12/9/06, maintains the same funding levels through 2/15/07.	<i>Supports.</i>
*Trade Promotion Authority	S. 3137 would have repealed the Bipartisan Trade Promotion Authority Act of 2002, which provides a fast-track procedure for approval of trade agreements. S. Res. 100 would have expressed the sense that the Senate disapproves of a presidential request to extend the provisions of the act. S. 3137 was referred to the House Ways and Means committee. S. Res. 100 was referred to the Senate Finance Committee.	<i>Opposes efforts to repeal the act.</i>



Subject	Description and Status	ABA Position
*U.N. Reform	S. 1394 and H.R. 2745 would have required withholding a portion of the United States' assessed contributions unless specific reforms are implemented at the United Nations. The House passed H.R. 2745. S. 1394 was placed directly on the Senate calendar, but no action was taken. The U.N. General Assembly established a Human Rights Council in March 2006.	<i>Supports fundamental reform of the UN human rights process, including the establishment of a new Human Rights Council, and supports strengthening the operations of the recently created Democracy Caucus. Opposes withholding U.S. contributions to the United Nations.</i>
◆*U.N. Treaties	The U.N. Convention Against Corruption is the first global multilateral treaty to comprehensively address the problems relating to corruption. The Senate Foreign Relations Committee held a hearing on the convention and approved a resolution of ratification, which was passed by the Senate. H. Res. 67 would have expressed the sense of the House of Representatives that the Senate should ratify the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The Senate took no action on CEDAW, the Convention on the Rights of the Child, or the Convention on the Law of the Sea.	<i>Supports.</i>
*World Trade Organization (WTO)	H.J. Res. 27 would have ended U.S. participation in the WTO, the only global international organization dealing with the rules of trade between nations. The House defeated the resolution. There was no comparable Senate legislation.	<i>Supports U.S. participation in the WTO.</i>

Legal Education

◆*Council on Legal Education Opportunity (CLEO)

P.L. 109-149 (H.R. 3010), fiscal year 2006 appropriations legislation enacted 12/30/05, includes \$2.976 million for the Thurgood Marshall Legal Educational Opportunity Program, which is administered by CLEO to provide practical and financial assistance to low-income minority or disadvantaged students to help them gain access to and complete legal studies. P.L. 109-383 (H.J. Res. 102), a continuing resolution enacted 12/9/06, maintains the same funding level through 2/15/07. S. 1614 and H.R. 609, Higher Education Act reauthorization bills, would have reauthorized the Thurgood Marshall program at \$5 million annually for six years. The Senate Health, Education, Labor and Pensions Committee approved S. 1614. The House passed H.R. 609. The program currently is authorized through 6/30/07 under a temporary extension, P.L. 109-272 (H.R. 6138), enacted 9/30/06.

Supports reauthorization and funding for the Thurgood Marshall program.



Subject	Description and Status	ABA Position
*Higher Education Act (HEA) Reauthorization	<p>P.L. 109-171 (S. 1932), budget reconciliation legislation enacted 2/8/06, reauthorized the Federal Family Education Loan Program and the William D. Ford Direct Loan Program but cut spending for the loan programs by \$12.7 billion over five years by raising fees and interests rates. S. 1614 and H.R. 609 would have reauthorized all programs under the HEA, which expired on 9/30/05 and is currently functioning through 6/30/07 on a temporary extension provided by P.L. 109-272 (H.R. 6138), enacted 9/30/06. Both bills and H.R. 1184 would have amended the HEA to allow persons with drug offense convictions to receive federal student financial aid under certain circumstances. The Senate Health, Education, Labor, and Pensions Committee approved S. 1614. The House passed H.R. 609. H.R. 1184 was referred to the House Education and the Workforce Committee.</p>	<p><i>Supports HEA reauthorization of certain programs and believes prospective students should not be denied access to federal student financial aid because of a past drug offense if there is no current evidence of drug abuse and their debt to society has been paid.</i></p>
◆*Loan Forgiveness and Repayment Assistance	<p>S. 371, H.R. 1293, H.R. 1859 and S. 1614 would have provided student loan forgiveness to lawyers in public interest careers by shortening the period of time under the Income Contingent Repayment Option of the William Ford Direct Loan Program at which point forgiveness occurs. S. 1431 would have provided loan forgiveness for lawyers who work with low-income families in domestic relations matters. S. 2039 would have provided loan forgiveness for prosecutors and public defenders who work in such positions for three years. H.R. 1753 would have provided loan forgiveness for law school graduates accepting public interest positions. H.R. 2527 would have permitted lawyers in public interest fellowships or similar work to elect a deferment on appropriate loan repayment for up to two years. S. 371 was incorporated into S. 1614, a bipartisan Higher Education Act (HEA) reauthorization bill that was then incorporated into S. 1932, fiscal year 2006 budget reconciliation legislation. The loan forgiveness provisions were stripped out of S. 1932 during conference. The Senate Health, Education, Labor and Pensions Committee approved S. 1614. The House passed public interest lawyer student loan relief provisions as part of H.R. 609, HEA reauthorization legislation. The Senate Judiciary Committee approved S. 2039. H.R. 1293, H.R. 1753 and H.R. 2527 were referred to the House Education and the Workforce Committee.</p>	<p><i>Supports loan repayment assistance, loan forgiveness and income-sharing programs for law school graduates accepting low-paying legal, public interest employment.</i></p>



Subject	Description and Status	ABA Position
<h2>Legal Services</h2>		
◆*Legal Services Corporation (LSC)	<p>P.L. 109-108 (H.R. 2862), fiscal year 2006 appropriations legislation for Science, State, Justice and Commerce enacted 11/22/05, included \$330.8 million for the LSC, subject to a .28 percent across-the-board reduction that brought the amount to \$329.8 million. P.L. 109-148 (H.R. 2863), fiscal year 2006 Defense Department appropriations legislation enacted 12/20/05, included a one percent government-wide reduction (except for veterans affairs and emergency spending) that further reduced LSC funding to \$326.5 million. For fiscal year 2007, the president requested \$311 million for the LSC, and the LSC Board of Directors requested \$411 million. The House approved \$338 million and the Senate Appropriations Committee approved \$358 million for fiscal year 2007. No final action was taken on the appropriations bills. P.L. 109-383 (H.J. Res. 102), a continuing resolution enacted 12/9/06, maintains the fiscal year 2006 funding level through 2/15/07.</p>	<p><i>Supports adequate LSC funding and opposes restrictions that limit types of legal services available to the poor.</i></p>
<h2>Military Law</h2>		
◆*Legal Assistance to Low-Income Servicemembers and Their Families	<p>P.L. 109-163 (H.R. 1815), Defense Department authorization legislation enacted 1/6/06, includes provisions for mandatory consumer education for servicemembers informing them of financial services offered or available to the military; consumer counseling to servicemembers and their families; and education and outreach to military personnel and their spouses on protections under the Servicemembers' Civil Relief Act.</p>	<p><i>Supports.</i></p>
*Servicemembers' Civil Relief Act Amendments – Predatory Lending	<p>P.L. 109-364 (H.R. 5122), Defense Department fiscal year 2007 authorization legislation enacted 10/16/06, provides comprehensive protections for military servicemembers and their families from predatory lending practices. P.L. 109-290 (S. 418), enacted 9/29/06, provides state insurance regulators with the authority to prohibit on military installations the sale of certain insurance and investment products to members of the military. Enactment of the legislation followed the August 2006 release of a Defense Department study of predatory lending practices directed at members of the Armed Forces and their families and the negative effect of such practices.</p>	<p><i>Supports.</i></p>



Subject	Description and Status	ABA Position
*Veterans' Representation	P.L. 109-461 (S. 3421), enacted 12/22/06, repeals certain limitations on attorney representation of claimants for benefits under laws administered by the Secretary of Veterans Affairs.	<i>Supports.</i>
<h2>National Security</h2>		
◆* Enemy Combatants	The Department of Defense established Combatant Status Review Tribunals in 2005 as a forum for detainees at Guantanamo Bay, Cuba, to contest their status as “enemy combatants.” P.L. 109-366 (S. 3930), military commissions legislation enacted 10/17/06, defines an unlawful enemy combatant as a person who “has engaged in hostilities or who has purposefully and materially supported hostilities against the United States or its co-belligerents” in the war on terrorism. The new law also prohibits, retroactive to 9/11/01, any court from considering an application for a writ of habeas corpus from any detainee who is determined to be an “enemy combatant” or who is awaiting such a determination. See also International Law – Anti-Torture, and National Security - Military Commissions.	<i>Urges that U.S. citizens and residents detained as enemy combatants are afforded the opportunity for access to counsel and meaningful judicial review of their status. Urges Congress and the executive branch to establish clear standards and procedures governing the designation and treatment of enemy combatants.</i>
◆*Foreign Intelligence Surveillance Act (FISA)	P.L. 109-177 (H.R. 3199), USA PATRIOT Act reauthorization legislation enacted 3/9/06, includes provisions to enhance congressional oversight of FISA. Numerous proposals addressed the revelation that the Bush administration had authorized the National Security Agency (NSA) to conduct surveillance on overseas telephone calls and e-mails from U.S. citizens without obtaining warrants as required under FISA. S. 2453, S. 2455, S. 3001, S. 3931 and H.R. 5825 included different approaches regarding the government’s surveillance activities. H.R. 5825 would have granted enormous leeway to the administration to conduct electronic surveillance outside the traditional FISA and Title 18 processes requiring court approval. S. 2453 would have required the administration to seek approval for its surveillance program, but not individual searches, from the FISA court. The Senate Judiciary Committee approved S. 2453, S. 2455 and S. 3001. S. 3931, a revised version of S. 2453, also was introduced. There was no final action on the surveillance bills.	<i>Urges that any future surveillance in the United States by the government for foreign intelligence purposes comply with FISA provisions.</i>



Subject	Description and Status	ABA Position
◆* Military Commissions	P.L. 109-366 (H.R. 3930), enacted 10/17/06, authorizes military commissions to try individuals designated as “enemy combatants” and sets guidelines for treatment of those detained by the United States as part of the nation’s anti-terrorism efforts. The new law includes provisions stripping judicial review of existing habeas corpus claims for detainees in U.S. custody. The Senate rejected an amendment that would have deleted the habeas corpus language. See also Criminal Law – Habeas Corpus.	<i>Calls on the president and Congress to assure that, among other things, the procedures for trials and appeals by military commissions are generally governed by the Uniform Code of Military Justice and that all defendants tried by military commissions have the opportunity to receive zealous and effective assistance from civilian defense counsel. Opposes the habeas corpus provisions in P.L. 109-366.</i>
* USA PATRIOT Act Reauthorization	P.L. 109-177 (H.R. 3199), enacted 3/9/06, reauthorizes 16 anti-terrorism provisions in the 2001 USA PATRIOT Act, making 14 of the 16 provisions permanent and reauthorizing for four years two provisions regarding wiretapping and access to business records. P.L. 109-178 (S. 2271), enacted 3/9/06, includes provisions to address civil liberties concerns raised by the act’s provisions.	<i>Expressed concerns about various provisions of the USA PATRIOT Act.</i>
Tax Law		
◆* Prepaid Legal Services	S. 1160, H.R. 897 and H.R. 1231 would have restored and permanently reauthorized Section 120 of the Internal Revenue Code of 1986, which before expiring on 6/30/92 allowed employers to offer on a pretax basis group legal services benefits to their employees. H.R. 897 and H.R. 1231 would have eliminated the dollar limitation for the tax exclusion for amounts received under a qualified group legal services plan. S. 1160 was referred to the Senate Finance Committee. H.R. 897 and H.R. 1231 were referred to the House Ways and Means Committee.	<i>Supports permanent reauthorization for Section 120.</i>



Subject	Description and Status	ABA Position
◆*Tax Simplification	Numerous tax simplification bills were introduced. The House Ways and Means Committee held a hearing on tax reform. The President's Advisory Panel on Federal Tax Reform issued its final report and recommendations on 11/1/05.	<i>Supports simplification of the tax laws.</i>
Tort and Insurance Practice		
◆*Asbestos Compensation	S. 852 and H.R. 1360 would have created a \$140 billion trust fund to compensate workers exposed to asbestos and prohibited those workers from suing their former employers. The fund would have used medical criteria and occupational exposure history to determine claimants' awards. H.R. 1957 would have required claimants to meet specific criteria before they could file a cause of action in an asbestos case and would have made numerous changes to the tort laws affecting asbestos cases. H.R. 1957 was referred to the House Judiciary Committee. H.R. 1360 was referred to the House Financial Services Committee and several other committees. S. 852 was brought to the floor of the Senate but pulled from consideration after there were insufficient votes to waive a budget point of order.	<i>Supports federal legislation that would require claimants to meet specific medical criteria before filing action in nonmalignant asbestos cases and would toll all applicable statutes of limitation until such time as the criteria are met. Takes no position on whether trust fund legislation should be enacted but urges that certain principles be followed if an administrative process such as a trust fund were established to deal with asbestos cases.</i>
◆*Class Action	P.L. 109-2 (S. 5), enacted 2/18/05, makes it easier to shift certain class action lawsuits from state to federal courts. The legislation allows a class action to be filed in or removed to a federal court if there is \$5 million or more in controversy or if any plaintiff class members and any defendants are citizens of different states. An in-state exception will apply to class actions where at least two-thirds of the class members and the primary defendants are citizens of the state where the suit is brought. The law also treats certain mass actions with more than 10 plaintiffs as class actions as long as each plaintiff seeks \$75,000 in relief.	<i>No position on specific legislation, but recommended principles to be considered in the drafting of class action legislation – factors that Congress took into consideration in enacting P.L. 109-2 (S. 5).</i>



Subject	Description and Status	ABA Position
◆*Firearm Industry Tort Immunity	P.L. 109-92 (S. 397), enacted 10/26/05, preempts state substantive law standards for most negligence and product liability actions in which the defendant is a gun manufacturer, gun seller or gun trade association, insulating this class of potential defendants from almost all ordinary civil liability actions.	<i>Opposes.</i>
◆*Health Care Tribunals	S. 1337 and H.R. 1546 would have provided grants to states to set up health courts, which would be operated by an administrative agency, would replace judges and juries with fact-finders with training in science or medicine, and force injured patients to give up their right to a jury trial. The Senate Health, Education, Labor, and Pensions Committee held a hearing on S. 1337. A House Energy and Commerce subcommittee held a hearing on alternatives to medical malpractice litigation.	<i>Opposes establishment of health courts that take away the right to a trial by jury, but supports the use of voluntary alternative dispute mechanisms that are entered into after a dispute has arisen.</i>
◆*Lawsuit Abuse Reduction Act	H.R. 420 would have altered Rule 11 of the Federal Rules of Civil Procedure to require judges to sanction those who violate the rule, would have applied the amended rule for the first time to cases filed in states courts if such cases affect interstate commerce, and would have imposed specific rules related to jurisdiction and venue upon personal injury claims filed in state or federal court. The House passed H.R. 420. There was no comparable Senate legislation.	<i>Opposes.</i>
◆*Managed Care - Access to Court	S. 1012 and H.R. 2259, patients' rights legislation, would have amended the Employee Retirement Income Security Act (ERISA) to remove the ERISA shield and permit patients injured by decisions made by their employer-sponsored health care plans to bring cases regarding medically reviewable issues in state court under state tort laws. S. 1012 was referred to the Senate Finance Committee. H.R. 2259 was referred to subcommittees of the House Committees on Energy and Commerce, Education and the Workforce, and Ways and Means.	<i>Supports removing the ERISA shield and permitting injured patients to bring actions against their health insurers in state court under state laws.</i>
Managed Care / Internal and External Review	S. 1012, H.R. 2650 and H.R. 2259, patients' rights legislation, would have given patients the right to have adverse coverage decisions by health maintenance organizations reconsidered through a system of internal and external review. S. 1012 was referred to the Senate Finance Committee. H.R. 2650 and H.R. 2259 were referred to subcommittees of the House Committees on Energy and Commerce, Education and the Workforce, and Ways and Means.	<i>Supports the rights of all consumers to a fair and efficient process for resolving differences with managed health care providers and the institutions that serve such plans and providers, including a rigorous system of internal and external review.</i>



Subject	Description and Status	ABA Position
◆*McCarran-Ferguson Act	S. 1525 would have removed the antitrust exemption under the McCarran-Ferguson Act for medical malpractice insurance. The Senate Judiciary Committee held a hearing on repeal of the McCarran-Ferguson exemption and on S. 1525. There was no comparable House legislation.	<i>Supports repeal of the McCarran-Ferguson Act.</i>
◆*Medical Professional Liability	S. 354, H.R. 5, H.R. 534 and S. 22 would have preempted substantial portions of the state medical liability laws and, among other things, imposed a cap of \$250,000 on pain and suffering awards, limited punitive damages, eliminated joint liability on damages, and imposed a statute of limitations. Several other Senate and House bills, including S. 23 and H.R. 2731, would have limited liability specifically in the areas of emergency care and obstetrics and gynecological care. The House passed H.R. 5. Both S. 22 and S. 23 reached the Senate floor but failed to garner enough votes to invoke cloture to end debate and proceed to a vote. S. 354 was referred to the Senate Health, Education, Labor and Pensions Committee. H.R. 534 was referred to the House Committees on Judiciary, and Energy and Commerce. H.R. 2731 was referred to the House Judiciary Committee.	<i>Opposes caps on pain and suffering awards and federal preemption of state medical malpractice law, but supports certain changes at the state level.</i>
Medicare Secondary Payer Act	H.R. 5309 would have amended Title XVIII of the Social Security Act to create an exception to Medicare secondary payer requirements for certain workers' compensation settlement agreements and provided for the satisfaction of such requirements through use of qualified Medicare set-asides under workers' compensation settlement agreements. H.R. 5309 was referred to the House Committees on Ways and Means, and Energy and Commerce. There was no comparable Senate legislation.	<i>Supports.</i>

Governmental Affairs Office celebrates 50 years

The ABA Governmental Affairs Office (GAO) has reached a milestone this year, celebrating 50 years of service to the legal profession.

In 1957, the ABA Board of Governors hired Donald E. Channell to be the first director of the ABA's Washington Office to serve as the association's liaison in Washington.

One of Channell's first tasks was to send out a periodic Washington letter to provide the ABA leadership and state and

local bar associations with information on federal legislation.

That letter became the monthly *Washington Letter*, a newsletter that continues today as an online publication.


Watch for more "GAO History Notes" in upcoming issues of the *Washington Letter* as the office marks its 50th anniversary.





2007 Congressional Schedule 110th Congress - First Session

Senate		House	
110th Congress convenes	Jan. 4	110th Congress convenes	Jan. 4
State of the Union	Jan. 23	State of the Union	Jan. 23
President submits budget	Feb. 5	President submits budget	Feb. 5
Presidents' Day Recess	Feb. 19-23	Presidents' Day Recess	Feb. 19-23
Spring Recess	April 2-13	Spring Recess	April 2-13
Memorial Day Recess	May 28-June 1	Memorial Day Recess	May 28-June 1
Independence Day Recess	July 2-6	Independence Day Recess	July 2-6
Summer Recess	Aug. 6-Sept. 3	Summer Recess	Aug. 6-Sept. 3
Columbus Day (observed)	Oct. 9	Columbus Day (observed)	Oct. 9
Target Adjournment	TBA	Target Adjournment	Oct. 26



The monthly *Washington Letter* reports news of national public interest to the legal profession, including congressional, executive branch and ABA activities concerning the association's legislative priorities. The newsletter is published by the Governmental Affairs Office as a service to ABA members in the national, state and local bar associations. Full text is available on the Internet at <http://www.abanet.org/poladv/publications.shtml>. © 2007 American Bar Association. All rights reserved. Please address correspondence to:
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