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## *New law funds loan repayment programs*

# Appropriations measure gives increased funding to LSC, SSA

Fiscal year 2010 appropriations legislation enacted late last year recognizes a number of legal priorities ranging from the Legal Services Corporation (LSC) to providing funding to attack the backlog of disability claims before the Social Security Administration.

Included in the new law, P.L. 111-117, is a \$30 million funding increase to \$420 million for the LSC and elimination of the restriction on the collection of statutorily authorized attorneys' fees by LSC attorneys.

The legislation, signed by the president Dec. 16, also includes \$5 million for a new loan repayment assistance programs for civil legal assistance attorneys and provides \$10 million in funding to the John R. Justice Prosecutors and Defenders Incentive Act for student loan repayment assistance for lawyers employed as federal and state prosecutors and public defenders.

The ABA strongly supports the increased funding for the LSC, which it considered to be the central foundation for the legal aid system. The association supports the lifting of the attorneys' fees restriction as well as other restrictions on the use of non-LSC funding and on the filing of class action lawsuits by LSC programs.

The association also urged increased funding for the federal judiciary's defender services program. The \$977.7 million appropriated for the program will increase the hourly compensation level for panel attorneys in non-capital cases from \$110 to \$125 and the capital panel attorney hourly rate from \$175 to \$178. The total \$6.9 billion appropriation for the judiciary also includes \$5 billion for court operations, \$452.6 million for court security, and \$289 million for court-house construction.

Increased funding for the SSA is a priority for the ABA. Under the new law, the SSA will receive \$11.4 billion for administrative expenses to be used for disability review and redetermination of eligibility under SSA disability programs.

Other fiscal year 2010 funding for various programs supported by the ABA includes:

- \$100 million for Second Chance Act grants to states and localities to pro-

*see "ABA-supported," page 5*

## LEGISLATIVE BOXSCORE

ABA LEGISLATIVE PRIORITY	HOUSE	SENATE	FINAL	ABA POSITION
<p><b>Independence of the Legal Profession.</b> On 7/29/09, the Federal Trade Commission (FTC) announced a 90-day delay until 11/1/09 for a "Red Flags Rule" that would include attorneys in the definition of "creditor" and require lawyers to implement programs to detect, identify and respond to activities that could indicate identity theft. The ABA filed a lawsuit against the FTC on 8/27/09 and a motion for partial summary judgment on 9/23/09 to block the Rule's application to lawyers. On 10/30/09, the court ruled that the FTC has exceeded its authority. The FTC delayed implementation of the rule until 6/1/10.</p>				<p><b>Opposes the application of the FTC's "Red Flags Rule" to lawyers. Supports preservation of the attorney-client privilege and work product doctrine and opposes governmental policies, practices and procedures that erode these protections, including the routine practice by government officials of seeking to obtain a waiver of the attorney-client privilege or work product doctrine through the granting or denial of any benefit or advantage.</b></p>
<p><b>Health Care Law.</b> The president held a Forum on Health Reform at the White House on 3/5/09. Numerous bills have been introduced and hearings held on various aspects of the health care system, including H.R. 3200, H.R. 3962, S. 1679, S. 1796, and H.R. 3590 as amended by the Senate. S. 1347 and H.R. 1478 would repeal the <i>Feres</i> Doctrine, which prohibits members of the armed forces and their families from suing the military for negligent medical care during their service.</p>	<p>Judiciary subcommittee held a hearing on H.R. 1478 on 3/25/09, and approved the bill on 5/19/09. House passed H.R. 3962 on 11/7/09.</p>	<p>S. 1347 was referred to Judiciary Committee on 6/24/09. Health, Education, Labor and Pensions approved draft health care legislation (introduced as S. 1679) on 7/15/09. Finance Committee concluded markup of draft (introduced as S. 1796 ) on 10/2/09. Senate passed H.R. 3590 on 12/24/09.</p>		<p><b>Supports increased access to health care for all Americans. Opposes federal legislation to preempt state medical liability laws or legislation to require patients injured by malpractice to use "health courts" that take away jury trials. Supports S. 1347 and H.R. 1478.</b></p>
<p><b>Judicial Independence.</b> No cost-of-living adjustment was provided for federal judges for fiscal year 2010. S. 220 and H.R. 486 would create an inspector general for the judicial branch. S. 1653 and H.R. 3362 would authorize new federal judgeships.</p>	<p>H.R. 486 was referred to the Judiciary Cmte. on 2/9/09. H.R. 3362 was referred to the Judiciary Cmte. on 9/29/09.</p>	<p>S. 220 was referred to the Judiciary Committee on 1/13/09. Judiciary subc. held a hearing on S. 1653 on 9/30/09.</p>		<p><b>Supports increased judicial pay. Opposes initiatives that infringe upon the separation of powers between Congress and the courts.</b></p>
<p><b>Legal Services Corporation.</b> P.L. 111-117 (H.R. 3288) includes \$420 million for the LSC in fiscal year 2010 and lifts a restriction on collection of statutorily authorized attorneys' fees by LSC lawyers. S. 718 and 3467 would reauthorize the LSC and lift several restrictions.</p>	<p>House passed H.R. 2847 on 6/18/09. Judiciary subc. held an LSC reauthorization hearing on 10/27/09.</p>	<p>Senate passed H.R. 2847 on 11/5/09. S. 718 was referred to Health, Education, Labor and Pensions Committee on 4/1/09.</p>	<p>President signed P.L. 111-117 (H.R. 3288) on 12/16/09.</p>	<p><b>Supports an independent, well-funded LSC. See front page.</b></p>

## ABA says death penalty process “broken”

The ABA urged a House subcommittee in December to address the “broken death penalty system,” citing three broad reforms that should be a priority for Congress and the Obama administration.

The reforms – according to tes-

The opt-in process currently authorizes the attorney general, rather than the courts, to determine whether state systems for providing competent legal representation to death row prisoners in state post-conviction proceedings qualify for

stages of a capital case the cornerstone of its reform efforts. The association also has adopted a series of recommendations to strengthen the courts’ authority and responsibility to exercise independent judgment on the merits regarding claims during state post-conviction and federal habeas corpus proceedings.

Also testifying at the hearing was retired Florida Chief Justice Gerald Kogan, who chairs the Constitution Project’s Death Penalty Committee. Kogan said that while the AEDPA was enacted to streamline and expedite the habeas corpus process, the act has done the opposite.

“AEDPA has distracted public officials and courts from the merits of constitutional claims and buried them in technical procedural problems,” he said. Kogan recommended that Congress address questions that arise when habeas corpus petitioners advance claims that depend on changes in the law, and address longstanding questions about whether or when a federal court should decide to consider a federal constitutional claim on the ground that the prisoner failed to raise it properly in state court and thereby forfeited an opportunity for state court adjudication.

The subcommittee is considering H.R. 3986, a bill introduced by Rep. Henry C. “Hank” Johnson (D-Ga.) to amend the federal judicial code. Johnson’s bill would make federal habeas corpus relief available to persons sentenced to death if adjudication on the merits in state courts proceedings of the claim in the writ application resulted in or left in force a death sentence imposed without consideration of newly discovered evidence, which in combination with evidence presented at trial demonstrates that the applicant is probably not guilty of the underlying offense. ■



**ABA witness Stephen F. Hanlon (left) appeared on a panel with retired Florida Chief Justice Gerald Kogan, director of the Constitution Project’s Death Penalty Committee; Michael E. O’Hare, of the Connecticut Chief State’s Attorney’s Office; and John H. Blume, director of the Cornell Death Penalty Project at Cornell University Law School.**

timony by Stephen F. Hanlon, chair of the ABA Death Penalty Moratorium Project Steering Committee – include the following:

- suspend all federal executions pending a thorough data collection and analysis of racial and geographical disparities and the adequacy of legal representation in the penalty system;

- create an institutionalized federal commitment to fund defender organizations that provide state trial and post-conviction representation and are independent of the judiciary in every capital jurisdiction; and

- amend the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) so that prisoners have better access to federal court review, eliminate the requirement of federal courts to defer to state court decisions, and eliminate or revise the USA PATRIOT ACT amendments to restore the appropriate role of federal courts in the opt-in certification process.

expedited habeas procedures.

Maintaining that there is “simply no excuse for executing individuals who were not first afforded their constitutional rights,” Hanlon told the House Judiciary Subcommittee on the Constitution, Civil Rights, and Civil Liberties Dec. 8 that a dedicated, institutionalized federal commitment to effective capital representation is more important than ever.

He explained that the ABA has not taken a position on the constitutionality or appropriateness of the death penalty but opposes the death penalty for individuals who committed their crimes while juveniles, individuals with mental retardation, and individuals with serious mental illness.

In the decades since the death penalty was reinstated in 1976, the ABA has adopted a series of policies concerning the administration of capital punishment and made the right to effective assistance of counsel for all defendants at all

## ABA president applauds introduction of I-VAWA

### *Lamm says bill will go a long way to address gender-based violence*

ABA President Carolyn B. Lamm applauded introduction Feb. 4 of the International Violence Against Women Act (I-VAWA), which she said “will go a long way in addressing gender-based violence by making it a priority for U.S. policy and linking assistance, including development aid, with efforts to combat that violence.”

“By treating the problem holistically, in a multidisciplinary fashion, we can make great strides in ending this scourge that denigrates women and girls, and truly all of society,” Lamm said.

The bipartisan legislation, S. 2982 and H.R. 4594, would create new institutional authorities, responsibilities and funding for fighting violence against women and girls around the world. The lead sponsors in the Senate are Senate Foreign Relations Committee Chairman John F. Kerry (D-Mass.) and Sens. Barbara Boxer (D-Calif.), Olympia Snowe (R-Maine) and Susan Collins (R-Maine). House lead sponsors are Reps. William Delahunt (D-Mass.), Ted Poe (R-Texas), and Jan Schakowsky (D-Ill.).

“Societies where women are safe, where women are empowered to realize their aspirations and move their communities forward, are healthier and more stable societies,” Kerry said.

Delahunt pointed out that during congressional hearings last fall, members of Congress found that the nations with the worst track records in preventing violence against women are also the most unstable and are breeding grounds for terrorism. “It is crucial for our own national security that we be a global leader in addressing this epidemic of gender violence and build a global network of groups who are equipped to stop the horrific abuse of women,” he said.

In letters sent for the record of both House and Senate hearings, ABA Governmental Affairs Director Thomas M. Susman expressed the ABA’s strong support for the legislation, emphasizing that despite international efforts to address gender-based violence, victims still face many obstacles to achieving justice. Such obstacles, he said, usually involve the absence of legal protections, the degree to which victims know of their rights and have access to legal services, and the prevalence of untrained or biased legal institutions.

Susman maintained that key elements in the legislation should be: funding for legal assistance for global victims of gender-based violence in criminal and civil cases; funding for training and education globally about gender-based violence and the needs of victims for those in the legal and law enforcement systems; efforts to foster a multidisciplinary and community approach

to serving victims and ending gender-based violence; and establishment of mechanisms to ensure that perpetrators of gender-based violence are held accountable. ■

### **ABA-supported programs fare well under FY2010 legislation**

*continued from front page*

vide coordinated assistance to prepare inmates and ex-offenders to successfully return to their communities;

- \$1.5 million for the Administrative Conference of the United States, which advises federal agencies on administrative procedural reform;

- \$41 million for the Legal Assistance for Victims Grants Program, which awards grants for funding and training attorneys to represent survivors of domestic violence, dating violence, sexual assault and stalking in a wide range of increasingly complex matters; and

- \$3 million for the Thurgood Marshal Legal Opportunity Educational Program, which provides practical and financial assistance to low-income minority or disadvantaged students to help them gain access to and complete their legal studies.

The new law also removed a federal ban on the use of federal funds for syringe-exchange programs designed to stop the spread of disease among intravenous drug users – a step the ABA supports.

ABA President Carolyn B. Lamm praised Congress and the administration for enacting the omnibus appropriations legislation, which she said recognizes that in difficult economic times, it is more important than ever that struggling Americans have access to good legal help and a functioning justice system.

“Crucially, the measure underscores the value of a fully funded federal judiciary during a time of rising demands,” she said.

Looking ahead, President Obama’s proposed fiscal year 2011 budget includes another increase for the LSC to \$435 million and \$7.7 billion for the federal judiciary.

## Juvenile justice bill ready for Senate floor

The Senate Judiciary Committee has approved a bill supported by the ABA that would authorize \$4 billion for Juvenile Justice and Delinquency Prevention Act programs to provide grants to states for improving the juvenile justice system.

S. 678, which cleared the committee on a 12-7 vote Dec. 17, would expand core protections in the act, including Deinstitutionalization of Status Offenders (DSO). Non-delinquent status offenders include children who are truant or runaway or who have violated curfew, alcohol and tobacco laws. Under current law, these non-delinquent offenders can be held in juvenile lock-ups under the Valid Court Order (VCO) exception that allows judges to issue such detention orders.

The bill generally would require that states eliminate the use of the VCO within three years and provide extra safeguards for status offenders in locked facilities, limiting to seven days the time a youth can be held under a VCO and requiring certain procedural findings by judges before a youth is held.

The legislation also would strengthen the Disproportionate Minority Contact (DMC) core protection by, among other things, listing specific steps to be taken by states to determine where disparities exist and developing a work plan to eliminate them.

For the first time, youth who are charged with adult crimes would see expanded jail removal and sight and sound core protections. This is in response to recent research showing that youth in adult facilities are at great risk of assault, abuse and suicide and are at increased risk of re-offending.

The legislation also would permit many states to continue allowing youth convicted in adult court to serve their sentences in juvenile

facilities until they reach the extended juvenile jurisdiction age.

During markup of the bill, the committee added an amendment to require the Government Accountability Office to conduct an audit on how OJJDP grant funds are spent and rejected an amendment that would have allowed juveniles age 16 and 17 to be prosecuted as adults for the crimes of murder, rape or the assault, kidnapping or murder of certain federal officials. The bill also was amended to establish a National Commission on Public Safety Through Crime Prevention.

In a Dec. 14 letter to the committee as it prepared to consider the bill, ABA President Carolyn B. Lamm expressed the ABA's sup-

port for prompt approval of the legislation, which she said makes meaningful improvements not only in the core protections but in the overall juvenile justice system. She pointed out that the bill takes steps to improve conditions in juvenile facilities and to provide alternatives to detention, improve assessments and treatment for mental health and substance abuse, enhance child welfare and juvenile justice integration, support effective assistance of counsel, and improve case management and transitional care for youth upon re-entry.

In related action, ABA Governmental Affairs Director Thomas M. Susman sent comments Jan. 15 on

*see "Juvenile justice," page 8*

### Crime Commission bill moves forward

A National Criminal Justice Commission created by legislation approved Jan. 21 by the Senate Judiciary Committee would conduct an 18-month, top-to-bottom review of the nation's entire criminal justice system and make recommendations to Congress.

"America's criminal justice system has deteriorated to the point that it is a national disgrace," according to Sen. Jim Webb (D-Va.), who introduced the legislation, S. 714, with 15 bipartisan cosponsors.

Webb pointed out that the United States, with five percent of the world's total population, houses 25 percent of the world's prison population.

A substitute amendment adopted during markup struck a section specifying subjects that the commission should review, and substituted a simplified statement that the commission should review and recommend changes in the oversight policy, practices and laws designed to prevent, deter and reduce crime and violence, and increase cost-effectiveness. The amendment also assured that the commission would be required to review tribal criminal justice policy as well as federal, state and local criminal justice systems.

As amended and approved by the committee, the 14-member commission would be comprised of an equal number of Democrats and Republicans with two co-chairs (one from each party) appointed by the president. Eight of the members would be appointed by House and Senate leadership, and the remaining members could be state or local representatives appointed by the president in consultation with congressional leaders.

The ABA adopted policy in August 2009 supporting legislation to provide for a national study of the state of criminal justice in the United States that would focus on ways to reduce crime, lower incarceration rates, save taxpayer money, enhance the fairness and accuracy of criminal justice outcomes, and increase public confidence in the system.

## Bill would provide equal access to justice for military

The House Judiciary Committee approved a bill Jan. 27 that would remove procedural barriers that limit court-martialed servicemembers who face grave sentences from petitioning the U.S. Supreme court for discretionary review through writ of certiorari.

According to the ABA, the legislation, H.R. 569, would “restore due process and equal treatment under the law to our servicemembers.” In a Jan. 12 letter to the committee, ABA Governmental Affairs Director Thomas M. Susman explained that under current law a servicemember is only permitted to petition the Supreme Court for review in cases that have first been reviewed by the U.S. Court of Appeals for the Armed Forces (CAAF).

If CAAF does not grant review – which happens in 80 percent or more of the cases in which a petition is filed – the accused is precluded from even applying for, much less ever obtaining, review by the Supreme Court. In contrast to that, Susman said, the Judge Advocate General can assure that any issue that the government desires to raise will be heard by CAAF by certifying that issue for appellate review and then seeking Supreme Court review of decision of that court.

“While we recognize that the military system of justice is governed by rules and procedures that are purposely distinct from those of the Article III judicial system, there is no justification for a system that permits the government access to the Supreme court on any issue certified by a Judge Advocate General while completely denying access in all non-capital cases to servicemembers who cannot persuade CAAF to grant

discretionary review,” Susman wrote.

The ABA also strongly disagrees with an estimate from the Congressional Budget Office that said that enactment of the legislation would cost \$1 million or more a year. That estimate erroneously is based on an assumption that several hundred cases would be filed when past patterns indicate that the number would be minimal. The burden on military resources will be limited by the fact that not all servicemembers will request the legal assistance of the Defense Appellate Division, the division is required to deny assistance if the appeal appears to be based on frivolous claims, and the government is not constitutionally required to provide defense counsel.

In a statement on H.R. 569 submitted last summer during hearings before the House Judiciary Subcommittee on Courts and Competition Policy, then ABA President H. Thomas Wells Jr. emphasized that military servicemembers regularly place their lives on the line in defense of freedoms that are frequently taken for granted.

“The very least they deserve is to be accorded the same due process right in uniform to which they would be entitled out of uniform. To do otherwise demeans their service and denigrates the democratic ideals for which they risk their lives,” he said.

In the last Congress, the House passed similar legislation, and the Senate Judiciary Committee approved a similar bill. This Congress, there has been no action on S. 357, a companion bill pending in the Senate Judiciary Committee. ■

### Judicial Vacancies/Confirmations — 111th Congress (as of 2/19/10)

<u>Court</u>	<u>Current Vacancies</u>	<u>Pending Nominations</u>	<u>Confirmations</u>
US Supreme Court (9 judgeships)	0	0	1
US Courts of Appeals (179 judgeships)	20	7	5
US District Courts (678 judgeships)	83	20	10
Court of International Trade (9 judgeships)	0	0	0
<b>Totals</b>	<b>96</b>	<b>27</b>	<b>16</b>

## Washington News Briefs

**ALJ PAY:** President Obama issued an executive order Dec. 24 providing an ABA-supported 1.5 percent pay increase and locality pay adjustments for administrative law judges for 2010. In a Dec. 11 letter to the John Berry, the president's pay agent at the Office of Personnel Management, ABA Governmental Affairs Director Thomas M. Susman wrote that salary equity issues of ALJs appointed under 5 U.S.C. §3105 of the Administrative Procedure Act is a subject of great concern to the association. The ABA also is urging Congress to enact enhanced retirement benefits for ALJs and expressed support last fall for H.R. 2580, a bill sponsored by Rep. Dennis Kucinich (D-Ohio). In a letter to the House Oversight and Government Reform Subcommittee on Federal Workforce, Postal Service and the District of Columbia, Susman explained that administrative law is complex and demanding and that many ALJs do not enter the system until they are experienced trial lawyers at a later stage in life. There has been no action on H.R. 2850.

**IMMIGRATION:** ABA President Carolyn B. Lamm last month urged U.S. Attorney General Eric H. Holder Jr. to maintain the categorical approach to determine the immigration consequences of criminal convictions. In a Jan. 22 letter to Holder, Lamm urged him to withdraw former Attorney General Michael Mukasey's opinion in *Matter of Silva-Trevino*, 24 I. & N. Dec 687 (AG 2008), which authorized a novel fact-based inquiry that requires relitigation of criminal convictions without due process of law. She explained that in removal proceedings, immigration judges are routinely called on to make determinations about how to classify a past conviction. Under the categorical approach for doing this, immigration adjudicators rely on the criminal statute and the record of conviction rather than conducting a new factual inquiry into the basis for the conviction. The decision in *Matter of Silva-Trevino* transforms this legal determination into a re-trial of the criminal case requiring de novo fact finding on the conduct underlying the criminal court conviction, but without the due process protection integral to criminal trials. The Board of Immigration Appeals has cut back on the categorical approach in cases involving classification of crimes as meeting the "aggravated felony" ground for deportation. While *Silva-Trevino* arose in the context of immigration court removal proceedings, its framework, unless corrected, will also be utilized in many other types of agency determinations that are non-judicial and where immigrants are afforded even

less procedural protections, Lamm said. "The categorical approach provides uniformity and predictability while *Silva-Trevino* creates uncertain consequences that will disrupt plea negotiation and the settled expectations of criminal defendants, courts and prosecutors," she wrote. "It is fundamentally unfair to force immigrants to relitigate their criminal cases in immigration court hearings that are not governed by formal rules of evidence, where the Sixth Amendment right to appointed counsel and to a trial by jury do not apply, and where the Fourth Amendment exclusionary rule and Fifth Amendment privilege against self-incrimination do not apply with full force." Lamm concluded.

**REPORTERS' SHIELD:** A bill to codify a qualified federal shield law for journalists is ready for Senate floor action after approval in December by the Senate Judiciary Committee. The committee approved a bipartisan compromise version of S. 448 that reflects months of negotiations over the bill's provisions, which would establish a definitive, uniform federal standard that would ensure reporters, bloggers and others covered by the bill qualified immunity from compelled disclosure of their news sources in clearly defined situations. In a letter to the committee last November, ABA Governmental Affairs Director Thomas M. Susman said the compromise includes significant features that improve the bill, including a broadening of the definition of who is covered by the bill to reflect the changing nature of the delivery of news to the public. The provisions also shift the burden of proof in criminal cases, requiring journalists to show through "clear and convincing" evidence that revealing source materials would be contrary to the public interest. In addition, the national security exception was broadened to apply if the information would materially assist the government in preventing, mitigating, or identifying the perpetrator of an act of terrorism or other significant and articulable harm to national security. The substitute also would authorize a federal judge, upon showing of good cause to review evidence in camera or ex parte. The House passed its version of the legislation, H.R. 985, last March with a narrower definition of journalist. Currently, 49 states and the District of Columbia have shield laws that are working and not interfering with criminal investigations or the daily work of the government. "There is a pressing need for Congress to follow the lead of the states and enact a qualified federal shield statute," Susman said.

## Supreme Court in Illinois strikes down damage caps

The Illinois Supreme Court struck down the state's cap on non-economic damages in medical malpractice cases Feb. 4, finding for the third time since 1976 that such a cap is unconstitutional.

The decision could have implications for proposals at the federal level to impose caps on damages in medical liability cases.

The Illinois cap, enacted in 2005, limited damages against physicians at \$500,000 and against hospitals at \$1 million. The court held that the Illinois legislature violated separation of powers by enacting a cap that intruded on judges' and courts' authority to decide compensation that should be paid to a catastrophically injured patient (*Lebron v. Gottlieb Memorial Hospital*, Supreme Court of the State of Illinois, Consolidated Dockets 105741 & 105745).

The plaintiff in the case suffered serious injuries at birth that resulted in severe brain injury, cerebral palsy, cognitive mental impairment, an inability to feed normally, and an inability to develop normal neurological function. The lawsuit against the hospital claimed that doctors did not perform the necessary tests on the plaintiff's mother that would have indicated the need for immediately delivery. The suit alleged that the injuries would greatly exceed the applicable limitations on non-economic damages.

"Non-economic damage caps undermine the ability of a significant number of injured plaintiffs with meritorious cases to seek redress for their injuries in court," the ABA maintained in an amicus curiae brief filed in the case, calling the ability to seek redress in the courts "fundamental to the Ameri-

can system of justice."

Citing more than 30 years of study on the issues that have given rise to calls for caps on non-economic damages, the association has concluded that caps are not an appropriate way to reform the compensatory tort system. The amicus brief detailed research on the issue and specifically highlighted the work of American Bar Foundation researchers Stephen Daniels and Joanne Martin, who reported in 2008 that Texas' cap on non-economic damages in medical malpractice cases resulted in a 50 percent drop annually in the average number of claims filed over a three-year period.

According to Daniels and Martin, caps in part are aimed at reducing the number of malpractice cases, without reference to the merits of the claims, by making them less economically attractive for lawyers to take. Their research and studies in other states reveal that such caps diminish access to the civil justice system for specific classes of potential malpractice plaintiffs, particularly, women, children and the elderly.

The ABA adopted policies in 1978 and 1987 opposing caps on non-economic damage awards. The 1987 policy was based on a report of the ABA Commission to Improve the Tort Liability System chaired by Robert B. McKay, former dean of the New York University School of Law. ■

## Juvenile justice priorities announced

*continued from page 4*

the OJJDP's announced priorities for fiscal year 2010. He applauded the identification of worthy initiatives, particularly the establishment of a National Juvenile Delinquency Court Improvement Project and the development of the National Training and Technical Center for Youth in Custody.

Susman recommended additional attention by OJJDP in the following areas: status offenders and their families; development and support of ombudsman/child advocate offices to receive and address complaints related to the care of youth in residential facilities; and improvement of the juvenile court prosecution and defense function. He also recommended additional policy and research issues and increased collaboration with courts and state and local bars and the broader legal community on issues of school-related prevention programs. ■

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 and national, state and local bar associations. Full text is available on the Internet at <http://www.abanet.org/poladv/publications.shtml>. © 2010 American Bar Association. All rights reserved. Please address correspondence to:

American Bar Association, 740 15th Street, N.W., Washington, D.C. 20005-1022. (202) 662-1017.

Rhonda J. McMillion, editor; [mcmillionr@staff.abanet.org](mailto:mcmillionr@staff.abanet.org)

Justine R. Gregory, legislative associate; [gregoryj@staff.abanet.org](mailto:gregoryj@staff.abanet.org)