



## Inside This Issue

*SEC whistleblower rules recognize importance of attorney-client privilege* 1

*ABA says immigration court problems continue* 3

*ABA opposes bill to extend DHS detention authority* 4

*ABA president urges less costly criminal justice alternatives* 5

*Justice for Troops Act introduced in Senate* 5

*Association recommends technical changes to arbitration bill* 6

*Comments recommend ways to address bullying* 8

## Regular Features

*Legislative Boxscore* 2

*Judicial Vacancies/Confirmations* 6

*Washington News Briefs* 7



## **ABA calls confidential relationship “sacred”**

### **SEC whistleblower rules recognize importance of attorney-client privilege**

The Securities and Exchange Commission (SEC) – in response to concerns raised by the ABA, the U.S. Chamber of Commerce and numerous other legal and business organizations – recognized the importance of protecting the attorney-client privilege and the confidential lawyer-client relationship in its final whistleblower rules issued May 25.

The whistleblower program is mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act, which was enacted last year to establish broad financial regulatory reforms and protect consumers and investors.

The final rules provide that whistleblowers who voluntarily provide the SEC with original information regarding violations of federal securities law may be entitled to receive substantial cash awards. To be considered for an award, the information must lead to successful SEC enforcement of a federal court or administrative action in which the SEC obtains monetary sanctions totaling more than \$1 million. Lawyers, however, will not be eligible to receive awards if the information they divulge is privileged or confidential information they obtained from clients during the course of their professional representation and is divulged in violation of a lawyer’s ethical obligations.

ABA President Stephen N. Zack commended the SEC for acknowledging the vital importance of the attorney-client privilege and the lawyer’s duty to maintain client confidentiality. Zack also pointed out that the expectation of confidentiality encourages clients to seek out and obtain informed guidance regarding compliance with the law, which benefits not just the clients but also the investing public and society at large.

“Incentivizing lawyers to use confidential client information for the lawyer’s own personal benefit would undermine the lawyer-client relationship and the effectiveness of the privilege, deny the client’s right to effective counsel, and reduce – not increase – compliance with the law,” Zack said.

Specifically, the final SEC rules:

- preserve the principle that lawyers will only be eligible for whistleblower awards to the extent that their disclosures to the SEC are consistent with their ethical obligations and SEC Rule 205.3;
- clarify that the attorney exclusion also will apply to non-attorneys who provide information learned through a confidential attorney-client relationship;

*see “SEC rules,” page 4*

## LEGISLATIVE BOXSCORE

ABA LEGISLATIVE PRIORITY	HOUSE	SENATE	FINAL	ABA POSITION
<p><b>Independence of the Legal Profession.</b> P.L. 111-219 (S. 3987) clarifies that lawyers are not “creditors” under the Fair and Accurate Credit Transactions Act of 2003. The ABA scored a victory in a lawsuit against the FTC regarding application of the act to lawyers when the circuit court dismissed an FTC appeal and declared the case moot. The Securities and Exchange Commission issued final whistleblower rules under the Dodd-Frank Wall Street Reform and Consumer Protection Act that recognize the importance of protecting the attorney-client privilege and the confidential lawyer-client relationship.</p>			<p>President signed P.L. 111-219 (H.R. 3987) on 12/18/10.</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. See front page.</b></p>
<p><b>Health Care Law.</b> P.L. 111-148 (H.R. 3590), the Patient Protection and Affordable Care Act, and P.L. 111-152 (H.R. 4872), the Health Care and Education Reconciliation Act, overhaul the nation’s health care system. H.R. 2 would repeal health care reform law. An amendment proposed to S. 223, transportation legislation, would have repealed the law. H.R. 5 and S. 218 would preempt state medical liability laws.</p>	<p>House passed H.R. 2 on 1/19/11. Judiciary Cmte. held a hearing on H.R. 5 on 1/20/11 and approved the bill on 2/16/11.</p>	<p>Senate rejected health care repeal amendment to S. 223 on 2/2/11. S. 218 was referred to the Judiciary Committee on 1/27/11.</p>	<p>President signed P.L. 111-148 (H.R. 3590) on 3/23/10 and P.L. 111-152 (H.R. 4872) on 3/30/10.</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.</b></p>
<p><b>Judicial Independence.</b> No cost-of-living adjustment was provided for federal judges in 2010 and 2011. S. 348 and H.R. 727 would establish an inspector general for the federal judiciary. S. 755 and H.R. 1416 would help state courts collect overdue court-ordered financial obligations through interception of federal tax refunds. S. 410 would authorize cameras in federal district and appellate court for civil trials.</p>	<p>H.R. 727 was referred to the Judiciary Cmte. on 2/15/11. H.R. 1416 was referred to the Ways and Means Committee on 4/7/11.</p>	<p>S. 348 was referred to the Judiciary Cmte. on 2/15/11. S. 755 was referred to the Finance Committee on 4/7/11. Judiciary Cmte. approved S. 410 on 4/7/11.</p>		<p><b>Supports prompt filling of judicial vacancies. Opposes initiatives that infringe upon the separation of powers between Congress and the courts.</b></p>
<p><b>Legal Services Corporation.</b> P.L. 112-10 (H.R. 1473), continuing appropriations for fiscal year 2011, includes \$404.2 million for the LSC. The president requested \$450 million for the program in his fiscal year 2012 proposed budget.</p>	<p>House passed H.R. 1473 on 4/14/11. A House Appropriations subcommittee held a hearing on LSC on 4/5/11.</p>	<p>Senate passed H.R. 1473 on 4/14/11.</p>	<p>President signed P.L. 112-10 (H.R. 1473) on 4/15/11.</p>	<p><b>Supports an independent, well-funded LSC.</b></p>

## ABA cites ways to improve immigration courts

The ABA testified before the Senate Judiciary Committee May 18 that, although progress is being made toward improving the immigration court system, significant problems remain.

Committee Chairman Patrick J. Leahy (D-Vt.) convened the hearing following media reports about the challenges and delays that asylum-seekers face in the system. He noted in his opening statement that improvements are being made by the Justice Department's Executive Office of Immigration Review (EOIR), which houses the immigration judges and courts as well as the Board of Immigration Appeals (BIA), but the administration's heavy emphasis on immigration enforcement has led to a sharp increase in caseloads. The purpose of the hearing, he said, was to have a constructive discussion about what can be done with current resources to increase efficiency and improve the quality of administration in the immigration courts.

Karen T. Grisez, chair of the ABA Commission on Immigration, testified that "without question the most serious issue facing the immigration courts, and the one with the most significant impact on the speed and quality of case processing, is the lack of resources throughout the entire system." She explained that the immigration courts have too few immigration judges for the workload for which they are responsible, and a lack of adequate staff to support immigration judges compounds the problem.

Grisez highlighted the findings of an ABA report released last year after a complete examination of the structure and processes of the immigration removal adjudication system. In addition to EOIR, the report studied the Department of Homeland Security's U.S. Citizen-



**Senate Judiciary Committee Chairman Patrick J. Leahy (D-Vt.) greets ABA witness Karen T. Grisez before her testimony at a May 18 hearing on improving immigration courts.**

ship and Immigration Services, Customs and Border Protection, and Immigration and Customs Enforcement (ICE). The study also included the federal circuit courts.

At its February 2010 meeting, the ABA House of Delegates adopted many of the report's recommendations for reform, including suggestions for making significant improvements in the operation of the immigration courts. Grisez said those recommendations include:

- hiring enough immigration judges to bring the immigration judges' caseloads down to a level roughly on par with the number of cases decided each year by judges in other federal administrative adjudicatory systems, and providing one law clerk per judge;
- increasing access to counsel and legal information through various measures such as the Legal Orientation Program and the BIA Pro Bono Project; and
- recognizing priorities and implementing smart procedures

such as greater use of prosecutorial authority and prehearing conferences.

Addressing the asylum issues, Grisez recommended that asylum officers be authorized to approve defensive asylum claims, which include cases now heard in immigration courts involving those who are caught entering the country illegally or those who express an interest in applying for asylum when entering legally. The officers would be authorized either to grant asylum if warranted or otherwise refer the claim to the immigration court.

She also recommended the elimination of the one-year deadline for filing asylum applications because genuine refugees often have good reasons for failing to file their claims immediately or soon after arrival. Many of these cases could be resolved by DHS without a substantial amount of immigration court time being spent examining whether the filing deadline was met or if an individual is eligible for an exception to the deadline.

*see "Immigration courts," page 4*

## ABA opposes extending DHS civil detention authority

The ABA expressed opposition May 31 to a bill to expand Department of Homeland Security (DHS) detention authority, emphasizing that Congress should be taking steps to shorten and provide alternatives to, not prolong, detention.

“The ABA believes that the overuse of immigration detention does irreparable harm to individuals who lack adequate counsel, are separated from their families and may be unjustly deported,” ABA Governmental Affairs Director Thomas M. Susman wrote for the record of a hearing held May 24 by the House Judiciary Subcommittee on Immigration Policy and Enforcement. The panel is considering H.R. 1932, a bill sponsored by House Judiciary Committee Chair-

man Lamar Smith (D-Texas) that would allow DHS to detain certain immigrants beyond six months if they are under orders of removal but cannot be deported for various reasons. Smith said he introduced the bill to prevent dangerous criminal immigrants from being released from detention.

Two Supreme Court decisions – *Zadvydas v. Davis*, 533 U.S. 678 (2001) and *Clark v. Martinez*, 543 U.S. 371 (2005) – have articulated limits on the allowable duration of detention. Under those decisions, DHS may detain a person for longer than six months after the issuance of a final removal order only if there is a significant likelihood of removal in the reasonably foreseeable future. Regulations currently permit continued detention, however, when the government asserts that a person has a highly contagious disease posing a threat to public safety, a person’s release would have adverse foreign policy consequences, a person is a national security concern, or a person is determined to be “specially dangerous” due to a “mental condition or personality disorder” or prior criminal history.

“The ABA opposes proposals to expand the categories of people who can be detained indefinitely and supports full compliance with the Supreme Court’s decisions,” Susman wrote. He emphasized that, prior to the Supreme Court decisions (and even afterwards, in some cases) too many individuals languished needlessly in immigration detention at taxpayer expense. unable to be rejoined with families, seek medical and other care at their own expenses, or productively contribute to the economy.

“Prolonged detention, including post-final order detention, unnecessarily taxes the American people, creates liability issues for the government, and deprives noncitizens of access to the basics of human existence, including appropriate medical treatment,” he wrote.

Susman pointed out that there are cost-effective alternatives to detention that have proven effective in ensuring that noncitizens appear in court and for removal. Expansion of the Justice Department’s Legal Orientation Program (LOP), which educates detainees on the removal

*see “Detention,” page 8*

---

### SEC rules

*continued from front page*

and

- clarify that the attorney exclusion applies to both in-house attorneys and outside counsel.

In earlier [comments](#) submitted May 20 to SEC Chairman Mary L. Shapiro on the draft rules, Zack emphasized that the “confidential relationship between the client and the lawyer is sacred” and that lawyers are ethically bound to maintain all confidential client information, not just information that is privileged or protected by the work product doctrine.

He added that court rulings allowing the government to obtain and use non-privileged information from whistleblowers do so in the context of information not arising from the confidential lawyer-client relationship. The lawyer, he explained, is never allowed to be the source of confidential client information except in very narrow circumstances. ■

---

### Immigration courts

*continued from page 3*

Julie Myers Woods, president of ICS Consulting and a former assistant secretary for ICE, testified that Congress should increase support of programs that provide basic education to immigrants about their rights so they may make informed decisions about going through the court process or participating in some sort of voluntary removal option. Myers, who also serves on the advisory committee for the ABA commission, highlighted current efforts by the pro bono community, assisted by the ABA, to develop a revised video on legal issues faced by immigration detainees and potential options for them. The video will be played at all detention facilities and should be played at intake/processing centers as well, she said.

EOIR Director Juan P. Osuna described improvements that have been made in the courts and said the DOJ will continue to seek additional resources. He noted that the president’s fiscal year 2012 budget proposes funding to support an increase of 125 EOIR positions (21 immigration judge teams and 10 BIA attorney positions). ■

## ABA urges less costly criminal justice alternatives

ABA President Stephen N. Zack last month urged [House](#) and [Senate](#) leaders of the Budget, Appropriations and Judiciary Committees to rethink the country's approach to criminal justice and corrections spending and look toward less costly and more effective alternatives.

Zack told the legislators that the bipartisan successes in this area at the state level offer ideas for what can be done at the federal level.

One step is the broader use of proven alternatives to prison, especially for low-level and nonviolent offenders, he said. Since 1980, the federal prison population has increased by 700 percent to 210,000 as the spending has gone up 1,700 percent to \$6 billion – an explosion caused significantly by increased incarceration of nonviolent drug offenders.

“The federal government wastes precious taxpayer dollars when it incarcerates nonviolent officers whose actions would be better addressed through alternatives that will hold them equally accountable at a substantially lower cost to taxpayers,” Zack wrote.

Successful bipartisan state level reforms include: requiring that drug possession offenders with less than a gram of drugs be sentenced to probation in Texas; expanding eligibility for community sentencing and increasing the use of parole for nonviolent offenders in Oklahoma; and removing mandatory minimums for first-time offenders in Mississippi.

Reforms being implemented in numerous states have led to the first overall decline in state prison populations since 1980, Zack said. He called on the congressional leaders to work with many legal, criminal justice, civil rights and faith-based organizations to enact the following reforms at the federal level that are designed to increase public safety

while reducing the federal deficit:

- expanding use of probation and expungement of criminal convictions for low-level offenders;
- instituting a review process to accelerate supervised release eligibility;
- making congressional reforms to crack cocaine sentencing retroactive;
- enhancing early release pro-

gram for elderly nonviolent offenders;

- expanding time credits for good behavior; and
- restoring proportionality to drug sentencing.

“Policy makers can replace unnecessary and excessive prison sentences with proven alternatives that hold people accountable while, at the same time, saving taxpayer dollars,” Zack concluded. ■

### Justice for Troops Act to provide access to pro bono legal help for servicemembers

A bipartisan bill introduced last month in the Senate would authorize the Defense Department (DoD) to support approved programs designed to provide pro bono legal representation to low-income military families – a move strongly supported by the ABA.

S. 1106, sponsored by Sens. Herb Kohl (D-Wis.) and Lindsey Graham (R-S.C.), would authorize the DoD to use up to \$500,000 to help provide these servicemembers the full range of legal representation they require.

Introducing the bill May 26, Kohl pointed out that while Judge Advocate Generals (JAGs) and civilian military legal assistance attorneys from all branches of the military provide servicemembers with significant legal services, there are situations that go beyond what those military legal assistance programs can provide in a given case, such as prolonged and complex custody battles that involve in-court representation. Without specialized representation, “troops run the risk of losing custody of their children, being evicted from their homes, or facing financial ruin,” he said.

The legislation would build on a patchwork of private sector programs that work in cooperation with military legal assistance to better meet the range of civil legal needs these low-income families may face. Law school clinics, state and local bar association programs and the ABA Military Pro Bono Project all are examples of such efforts. These programs often maintain lists of attorneys who volunteer to provide their services at no cost, either in consultation with military base programs or by accepting referrals from military legal assistance offices.

According to Kohl, the \$500,000 authorized in the bill would allow pro bono projects to build their databases, form connections, and ensure that every JAG office knows about these resources and how to refer servicemembers to the programs.

“This small investment would be leveraged into providing free legal assistance to countless men and women who serve our country. We will no doubt enhance our military readiness by eliminating the stress and anxiety caused by legal problems,” Kohl said.

“Our troops serve our country bravely and deserve our support,” according to ABA President Stephen N. Zack. He noted in a recent President’s Page in the *ABA Journal* that even though the ABA Military Pro Bono Project, in just three years, has involved more than 1,100 attorneys and directed approximately 325 cases in 41 states, “we are not even close to meeting the need.”

## ABA suggests changes to arbitration bill

The ABA urged key congressional leaders to make additional changes to this year's version of the proposed Arbitration Fairness Act, maintaining that even though the bills include some of the association's earlier suggestions, the legislation still would have certain profound and unintended negative consequences.

In a May 12 [letter](#) to Rep. Hank Johnson (D-Ga.) and Sens. Al Franken (D-Minn.) and Richard Blumenthal (D-Conn.), ABA Governmental Affairs Director Thomas M. Susman explained that the ABA has not taken a position on the overall legislation, which has been introduced as H.R. 1873 and S. 987. The association believes, however, that language in the bills could inadvertently void many existing international commercial arbitration agreements, add significant costs and delays to the commercial arbitration process, and discourage international commercial parties from engaging in com-

merce with U.S. companies.

The association also maintains that some provisions would put the United States at risk of breaching the spirit – if not the letter – of longstanding treaty obligations.

H.R. 1873 and S. 987, which would establish a new Chapter 4 within Title 9 of the U.S. Code governing arbitration, would declare that no pre-dispute arbitration agreement shall be valid or enforceable if it requires arbitration of an employment, consumer or civil rights dispute.

Susman wrote that the legislation's definition of "civil rights dispute" – and related language dealing with "collective bargaining agreements" – is overly broad and ambiguous and could lead to extensive litigation and significant costs and delays in the commercial arbitration process. The ABA therefore urged the bills' sponsors to adopt several technical amendments to clarify these key terms.

In addition, the association is

suggesting several other technical changes that would protect international commercial arbitration by clarifying that the legislation will not affect key provisions in Chapter 2 (the Convention on the Recognition and Enforcement of Foreign Arbitral Awards) and Chapter 3 (the Inter-American Convention on International Commercial Arbitration) of Title 9.

The bills, introduced May 12, were referred to the House and Senate Judiciary Committees, and no further action is scheduled. ■

**ABA  
Annual Meeting  
Aug. 4-9, 2011  
Toronto, Canada**



### Judicial Vacancies/Confirmations — 112th Congress\* (as of 6/8/11)

<u>Court</u>	<u>Vacancies</u>	<u>Pending Nominations</u>	<u>Confirmations</u>
US Supreme Court (9 judgeships)	0	0	0
US Courts of Appeals (179 judgeships)	16	9	3
US District Courts (678 judgeships)	78	48	21
Court of International Trade (9 judgeships)	0	0	0
<b>Totals</b>	<b>94</b>	<b>57</b>	<b>24</b>

\*Includes territorial judgeships

## Washington News Briefs

**LAW LIBRARY OF CONGRESS:** The Library of Congress, which now houses more than 147 million items in its law library and other collections, is running out of space, and in response the ABA is recommending that funding be provided for construction of Module 5 (Mod5), the fifth of 13 planned archival facilities at Ft. Meade in Maryland. In a May 4 [letter](#) to Reps. Ander Crenshaw (R-Fla.) and Michael Honda (D-Calif.), the chair and ranking member of the House Appropriations Subcommittee on Legislative Branch Appropriations, ABA Governmental Affairs Director Thomas M. Susman warned that the Law Library of Congress is projected to run out of shelf space in just two years if Mod5 is not built. Susman explained that if Congress does not provide the necessary resources, the Library and Law Library will be forced to consider costly alternative off-site storage or allow their collections to become incomplete and out of date. The deterioration of the Law Library collection – particularly the foreign law collection – would not likely be rectifiable, Susman said. He emphasized that the laws and legal resources from many nations of interest to Congress, particularly those that do not post official versions of their laws online, are at best difficult and sometimes impossible to acquire within a year or two after initial printing. “These collections are invaluable tools for, among other things, empowering American entrepreneurs and corporations to enter and comply with the law in foreign markets and bring international business to ours,” he said. He noted that the urgency of the storage crisis has caused the ABA and its Standing Committee on the Law Library of Congress to set aside its usual request for funding to eliminate the 554,000-volume backlog of unclassified documents in the Law Library and the conversion of approximately 4.8 million pages of foreign nations’ official legal gazettes to microfilm. “Without the timely construction of Mod5, these other projects will be dwarfed by new and more costly problems,” Susman concluded.

**SUNSHINE IN LITIGATION:** The Senate Judiciary Committee approved a bill May 19 by a 12-6 vote that the ABA maintains would “impose additional unnecessary requirements on, and restrict the discretion of, federal courts in a way that will only increase the time and expense of litigation.” S. 623, sponsored by Sen. Herb Kohl (D-Wis.) and known as the “Sunshine in Litigation Act of 2011,” would amend Rule 26 (c) of the Federal Rules of Civil Procedure, which currently gives judges authority to determine when to enter a protective

order and the scope of the order in light of the particular facts and circumstances of each case. The bill would require judges to make a particularized finding of fact that a discovery protective order would not restrict the disclosure of information relevant to the protection of public health and safety. During markup, the committee approved substitute language that would ensure that information related to national security would not be subject to disclosure and that the bill’s provisions would not apply retroactively. In [correspondence](#) to the committee in early May, ABA President Stephen N. Zack pointed out that the U.S. Judicial Conference of the United States has found no significant problems indicating that protective orders have impeded access to information that affects public health or safety. The association also opposes the bill because it circumvents the Rules Enabling Act, the procedure established by Congress to make sure that changes to the federal rules are thoroughly reviewed. There has been no action in the House on similar legislation, H.R. 592, which is pending in the House Judiciary Committee.

**USA PATRIOT ACT:** President Obama signed a bill May 26 that extends for four years the “library,” “lone wolf” and “roving wiretap” anti-terrorism provisions in the USA PATRIOT Act that were set to expire May 27. The legislation, S. 990 (P.L. 112-14), passed by a 72-23 Senate vote and a 250-153 House vote after a compromise was reached to reauthorize the provisions for four years rather than approving a longer authorization through 2017 or making the provisions permanent. The “library” provision allows the government to seek surveillance orders from the Foreign Intelligence Surveillance Court for tangible things, including medical and library records, that the government states are related to a terrorism investigation. Under the “lone wolf” provision, the government may apply to the court to conduct surveillance on suspected terrorists who are not connected to larger terrorist organizations. The “roving wiretap” provision authorizes court-approved roving wiretaps of terrorism suspects using multiple communications devices. Prior to passing the bill, the Senate rejected proposed amendments to: clarify that the authority to obtain information under the USA PATRIOT Act does not include authority to obtain certain firearms records; and limit suspicious activity reporting requirements to requests from law enforcement agencies. The ABA urges Congress to thoroughly review executive branch powers under the USA PATRIOT Act and to conduct regular oversight of the use of the Foreign Intelligence Surveillance Act.

## ABA urges stop to bullying, other youth-to-youth violence

In May 23 [comments](#) to the U.S. Commission on Civil Rights, the ABA commended the commission for its attention to bullying and other types of peer-to-peer violence where students are targeted because of their actual or perceived sexual orientation or gender identity or expression.

ABA Governmental Affairs Director Thomas M. Susman submitted the ABA comments, which were developed by the association's Section of Individual Rights and Responsibilities and Commission on Sexual Orientation and Gender Identity. The comments were in response to a May 13 Civil Rights Commission briefing held as part of a 2011 statutory enforcement project on the federal response to incidents of bullying based on race, national origin, religion, disability, gender or lesbian, gay, bisexual and transgender (LGBT) status.

Topics covered in a final report to be issued in September will discuss student needs, promising programs, jurisdictional issues and the enforcement efforts of the U.S. Departments of Education and Justice.

Susman told the commission that ABA policy adopted in February 2011 urges the prevention of bullying, including cyberbullying and youth-to-youth sexual and physical harassment on a variety of bases, including sexual orientation and gender identity. The policy, among other things, recommends that officials at all government lev-

els define bullying, develop education programs to help identify victims, analyze existing laws and policies and monitor their effectiveness in preventing bullying, and provide institutional protections to children at risk.

In the comment letter, Susman noted that 90 percent of LGBT youth report having been verbally or physically harassed or assaulted.

"The ABA has a long and proud tradition of actively opposing discrimination on the basis of sexual orientation, and the association recently extended that opposition to discrimination on the basis of gender identity," he wrote.

He described numerous ABA policies opposing discrimination on the basis of sexual orientation in family law, including child custody, adoption, foster care, victim compensation and victim assistance for surviving partners of victims of terrorism and other crimes, and civil marriage. In addition, the association condemns crimes of violence based on prejudice, including prejudice on the basis of sexual orientation, and has adopted policies urging federal, state and local governments to enact legislation prohibiting discrimination in employment, housing and public accommodations on the basis of sexual orientation or actual or perceived gender identity or expression.

The association also amended its law school accreditation standards

to require law schools to provide equal education and employment opportunities without regard to, among other things, sexual orientation. The association's aspirational Goal III includes a commitment to promote the full and equal participation of LGBT people in the legal profession.

Susman also pointed out that the association has submitted amicus briefs in a number of cases relating to the issue of discrimination based on sexual orientation or sexual or gender identity. ■

---

## Detention

*continued from page 4*

process and whether they qualify for relief, would improve the administration of justice and save the government money by expediting case completions, he said.

During the hearing, Ahilan T. Arulanantham, of the American Civil Liberties Union, testified against the bill, emphasizing that the government already has substantial authority available to deal with cases of truly dangerous aliens who cannot be removed.

Those supporting the legislation were Thomas H. Dupree Jr., former principal deputy attorney general during the Bush administration, and Douglas E. Baker, chief of police in Fort Myers, Florida. ■

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.americanbar.org/advocacy/governmental legislative work/publications.html](http://www.americanbar.org/advocacy/governmental_legislative_work/publications.html). © 2011 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; [Rhonda.McMillion@americanbar.org](mailto:Rhonda.McMillion@americanbar.org)  
Jacklyn Schay, legislative associate; [Jacklyn.Schay@americanbar.org](mailto:Jacklyn.Schay@americanbar.org)