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RESOLUTION

RESOLVED, that the American Bar Association urges Congress to enact legislation that creates and adequately funds alternative avenues of redress for victims of unwanted sexual contact in the military by: (1) ensuring an alternate path within the military, but outside of chain of command, to raise claims of unwanted sexual contact; (2) authorizing entities outside of chain of command, such as military investigation organizations, to investigate and obtain prosecution of the crime of unwanted sexual contact; and, (3) prohibiting retaliation against or coercion of those who make or participate in the investigation of such a charge.

FURTHER RESOLVED that federal, state and local jurisdictions ensure efficient and comprehensive collaboration among jurisdictions that have received reports of unwanted sexual contact involving military victims, witnesses, and perpetrators to determine promptly the lead agency for support to victims and witnesses, and jurisdiction for prosecution of offenders.
EXECUTIVE SUMMARY

1. Summary of Resolution

The resolution seeks to provide reasonable access to justice to military service men and women who are victims of unwanted sexual contact. It urges the ABA to support legislation which creates that alternative avenue of redress for victims of unwanted sexual contact in the military by (1) authorizing military investigation organizations to receive complaints of and obtain remedies for unwanted sexual contact outside of chain of command (2) ensuring an alternate path within the military but outside of chain of command to raise claims of unwanted sexual contact, and (3) prohibiting retaliation against or coercion of those who make or participate in the investigation of such a charge.

2. Summary of the Issue that the Resolution Addresses

A recent Pentagon report shows sexual assault in the military to be a growing problem victimizing lower ranking service men and women. According to the Pentagon report, the number of unwanted sexual contacts grew from 19,000 in 2010 to 26,000 in 2012. Over 80% of those assaults go unreported because of fear of indifference and retaliation from the "chain of command" officers to whom these charges must be raised. There is no appropriate and effective alternative reporting mechanism available to these victims.

3. Please explain How the Proposed Policy Will Address the Issue

This recommendation supports the establishment of a separate path within the military by which claims of unwanted sexual contact may be raised without risk of retaliation, and empowers military intelligence organizations to assist in the investigation and prosecution of those claims outside of "the chain of command". It also provides added safeguards against retaliation against or coercion of complaining victims and witnesses.

4. Summary of Minority Views

Opposition within the ABA is unknown. Opponents of this proposal would argue that (1) the authority of the chain of command is central to military combat readiness, and this proposal would undercut that authority and (2) this problem will be adequately addressed by new military rules and regulations, without removing authority from the chain of command.
RESOLVED, That the American Bar Association approves the Uniform Powers of Appointment Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested herein.
EXECUTIVE SUMMARY

1. **Summary of the Resolution**

   That the American Bar Association approves the Uniform Powers of Appointment Act promulgated by the National Conference of Commissioners on Uniform State Laws in July 2013 as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.

2. **Summary of the Issue that the Resolution Addresses**

   The Uniform Powers of Appointment Act provides a core device in modern estate planning practice. Powers of appointment are routinely included in trusts for tax reasons and to add flexibility to property arrangements.

3. **Please Explain How the Proposed Policy Position will address the issue**

   Approval of the Uniform Powers of Appointment Act by the American Bar Association House of Delegates would demonstrate to states that the Act is an appropriate approach for addressing the issues described above.

4. **Summary of Minority Views**

   None known.
RESOLUTION

RESOLVED, That the American Bar Association approve the following programs: Technical Career Institute, Paralegal Studies Program, New York, NY; and Stautzenberger College, Paralegal Studies Program, Brecksville, OH.

FURTHER RESOLVED, That the American Bar Association reapprove the following paralegal education programs: University of California Riverside, Paralegal Certificate Program, Riverside, CA; Manchester Community College, Legal Assistant Program, Manchester, CT; University of Hartford, Paralegal Studies Department, West Hartford, CT; Wesley College, Legal Studies Program, Dover, DE; Valencia College, Legal Assisting Program, Orlando, FL; Illinois Central College—North Campus, Paralegal Program, East Peoria, IL; Bay Path College, Legal Studies Program, Longmeadow, MA; North Shore Community College, Paralegal Program, Danvers, MA; Hamline University, Legal Studies Program St. Paul, MN; Inver Hills Community College, Paralegal Program, Inver Grove Heights, MN; Truckee Meadows Community College, Paralegal Program, Reno, NV; Marist College, Paralegal Program, Poughkeepsie, NY; Roane State Community College, Paralegal Studies Program, Harriman, TN; Lone Star College—North Harris, fka North Harris College, Paralegal Program, Houston, TX; Utah Valley University, Department of Legal Studies, Orem, UT; Northern Virginia Community College, Paralegal Studies Program, Alexandria, VA; and Highline Community College, Paralegal Program, Des Moines, WA.

FURTHER RESOLVED, That the American Bar Association withdraw the approval of Kellogg Community College, Paralegal Program, Battle Creek, MI, at the request of the institution.

FURTHER RESOLVED, That the American Bar Association extend the terms of approval until the August 2014 Annual Meeting of the House of Delegates for the following programs: Community College of the Air Force, Paralegal Program, Maxwell AFB, AL; Gadsden State Community College, Paralegal Program, Gadsden, AL; Everest College Phoenix, Paralegal Program, Phoenix, AZ; Phoenix College,
28 Paralegal Studies Program, Phoenix, AZ; California State University East Bay, Paralegal
29 Studies Program, Hayward, CA; Fremont College, Paralegal Studies Program, Cerritos,
30 CA; Fullerton College, Paralegal Studies Program, Fullerton, CA;
31 University of California, San Diego, Legal Assistant Training Program, La Jolla, CA;
32 University of California Santa Barbara, Paralegal Professional Certificate Program, Santa
33 Barbara, CA; Nova Southeastern University, Paralegal Studies Program, Fort Lauderdale,
34 FL; University of North Georgia, fka Gainesville State College, Paralegal Studies
35 Program, Gainesville, GA; Elgin Community College, Paralegal Program, Elgin, IL;
36 Robert Morris University, Chicago, Paralegal Studies Program, Chicago, IL; Robert
37 Morris University, Springfield, Paralegal Studies Program, Springfield, IL; Johnson
38 County Community College, Legal Studies Program, Overland Park, KS; Sullivan
39 University, Louisville, Institute for Legal Studies, Louisville, KY; Suffolk University,
40 Applied Legal Studies Program, Boston, MA; Harford Community College, Paralegal
41 Studies Program, Bel Air, MD; Davenport University, Paralegal Studies Program, Grand
42 Rapids, MI; Henry Ford Community College, Paralegal Studies Program, Dearborn, MI;
43 Madonna University, Paralegal Studies Program, Livonia, MI; North Hennepin
44 Community College, Paralegal Program, Brooklyn Park, MN; Webster University, Legal
45 Studies Program, St. Louis, MO; University of Great Falls, Paralegal Studies Program,
46 Great Falls, MT; University of Montana—Missoula, Paralegal Studies Program,
47 Missoula, MT; Carteret Community College, Paralegal Technology Program, Morehead
48 City, NC; Pitt Community College, Paralegal Technology Program, Greenville, NC;
49 Mercer County Community College, Paralegal Program, Trenton, NJ; Bronx Community
50 College, Paralegal Studies Program, Bronx, NY; Mercy College, Legal Studies Program,
51 Dobbs Ferry, NY; New York City College of Technology, Paralegal Program, Brooklyn,
52 NY; St. John’s University, Paralegal Studies Program, Jamaica, NY; Cuyahoga
53 Community College, Paralegal Studies/Legal Nurse Consulting Program, Parma, OH;
54 Kent State University, Paralegal Studies Program, Kent, OH; Rhodes State College,
55 Paralegal/Legal Studies Program, Lima, OH; University of Cincinnati, Paralegal
56 Program, Cincinnati, OH; Ursline College, Legal Studies Program, Pepper Pike, OH;
57 University of Tulsa, Paralegal Studies Program, Tulsa, OK; Clarion University of
58 Pennsylvania, Paralegal Studies Program, Oil City, PA; Delaware County Community
59 College, Paralegal Studies Program, Media, PA; Duquesne University, Paralegal
60 Institute, Pittsburgh, PA; Gannon University, Legal Assistant Program, Erie, PA; Lehigh
61 Carbon Community College, Paralegal Studies Program, Schnecksville, PA; Manor
62 College, Department of Legal Studies, Jenkintown, PA; Pennsylvania College of
63 Technology, Legal Assistant Program, Williamsport, PA; Villanova University, Paralegal
64 Program, Villanova, PA; Roger Williams University, Paralegal Studies Program,
65 Providence, RI; Horry-Georgetown Technical College, Legal Assistant/Paralegal
66 Program, Conway, SC; National American University, Paralegal Studies Program, Rapid
67 City, SD; Western Dakota Technical Institute, Paralegal Program, Rapid City, SD;
68 University of Memphis, Paralegal Studies Program, Memphis, TN; Volunteer State
Community College, Paralegal Studies Program, Gallatin, TN; Amarillo College, Paralegal Studies Program, Amarillo, TX; Kaplan College, General Practice Paralegal Program, Dallas, TX; Lamar State College, Legal Assistant Program, Port Arthur, TX; Marymount University, Paralegal Studies Program, Arlington, VA; Mountwest Community and Technical College, fka Marshall Community and Technical College, Legal Assistant Program, Huntington, WV; Spokane Community College, Paralegal Program, Spokane, WA; Tacoma Community College, Paralegal Program, Tacoma, WA; and Northeast Wisconsin Technical College, Paralegal Program, Green Bay, WI.
EXECUTIVE SUMMARY

1. **Summary of the Resolution**

   The Standing Committee on Paralegals resolve(s) that the House of Delegates grants approval to two programs, grants reapproval to seventeen programs, withdraws the approval of one program, and extends the term of approval of sixty programs.

2. **Summary of the issue which the Resolution Addresses**

   The programs recommended for approval and reapproval in the enclosed report meet the Guidelines for the Approval of Paralegal Education Programs.

3. **An explanation of how the proposed policy position Will Address the Issue**

   The programs recommended for approval and reapproval in this report have followed the procedures required by the Association and are in compliance with the Guidelines for the Approval of Paralegal Education Programs.

4. **A summary of any minority views or opposition which have been identified**

   No other positions on this resolution have been taken by other Association entities, affiliated organizations or other interested groups.
RESOLVED, That the American Bar Association urges executive, judicial and legislative governmental bodies at the federal, state, and territorial levels to engage in actions designed to reduce unnecessary tension, expense and litigation and to foster inter-court, inter and intra-agency, and inter-party cooperation and coordination in cases where parallel actions or proceedings arise under both (i) bankruptcy or insolvency law and (ii) asset forfeiture or analogous regulatory enforcement law.

FURTHER RESOLVED, That these actions by governmental bodies should include, as appropriate to those bodies’ respective charges and missions:

1. (1) education and training;
   (2) development and implementation of policies, procedures, guidelines and protocols for:
      (a) internal processes within those governmental bodies;
      (b) interaction with other governmental bodies; and
      (c) interaction with other external parties and entities, including creditors, victims, class representatives, holders of interests and others with an interest in parallel proceedings arising under both bankruptcy or insolvency law and asset forfeiture or analogous regulatory enforcement law;
   (3) enactment of appropriate statutory amendments;
   (4) adoption of appropriate evidentiary and procedural rules; and
   (5) negotiation of appropriate international, cross-border and multi-lateral agreements, including Mutual Legal Assistance Treaties.
EXECUTIVE SUMMARY

1. **Summary of the Resolution**

   That the American Bar Association urges executive, judicial and legislative governmental bodies at the federal, state, and territorial levels to engage in actions designed to reduce unnecessary tension, expense and litigation and to foster inter-court, inter and intra-agency, and inter-party cooperation and coordination in cases where parallel actions or proceedings arise under both (i) bankruptcy or insolvency law and (ii) asset forfeiture or analogous regulatory enforcement law.

2. **Summary of the Issue that the Resolution Addresses**

   The issue this Resolution addresses is the tension that arises from the interaction of conflicting legal frameworks governing bankruptcy proceedings and asset forfeiture proceedings.

3. **An Explanation of How the Proposed Policy Position Will Address the Issue**

   This Resolution addresses this tension by encouraging the essential entities to engage in education and the development of protocols, rules and processes to resolve these tensions. This Resolution does not, itself, recommend particular substantive reconciliation of these tensions.

4. **Summary of Any Minority or Opposing Views that Have Been Identified**

   No minority views or opposition to this Resolution have been identified.
RESOLVED, That the American Bar Association adopts the black letter *ABA Model Business and Supplier Policies on Labor Trafficking and Child Labor*, dated February 2014.

FURTHER RESOLVED, That the American Bar Association urges businesses to adopt and implement their own business and supplier policies on labor trafficking and child labor that are consistent with the black letter *ABA Model Business and Supplier Policies on Labor Trafficking and Child Labor*, dated February 2014.
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PART I. INTRODUCTION
(Please see the Glossary for an explanation of the capitalized terms used throughout this Introduction)

These Model Business and Supplier Policies address two specific human rights issues that potentially arise in the Operations of a business enterprise: Labor Trafficking and Child Labor.

The UN Guiding Principles on Business and Human Rights (Guiding Principles) are the globally recognized guidelines on the roles of States and business enterprises in addressing human rights issues.\(^1\) The Guiding Principles are grounded in the recognition that (1) States have existing obligations to respect, protect and fulfill human rights and fundamental freedoms; (2) business enterprises, including suppliers, are required to comply with all applicable laws and respect human rights; and (3) there is a need for rights and obligations to be matched to appropriate and effective remedies when breached.\(^2\)

The International Labour Organization (ILO) estimates that 20.9 million men, women and children are subject to forced labor around the world,\(^3\) with 68% (14 million) involved in forced labor exploitation in economic activities, such as agriculture, construction, domestic work or manufacturing.\(^4\) 22% (4.5 million) are involved in forced sexual exploitation, and 10% are involved in State-imposed forced labor.\(^5\) On child labor, the ILO reports that the number of children in situations of child labor has declined by one-third since 2000, but still stands at 168 million, with 60% (98 million) found in agriculture and more than half (85 million) involved in
hazardous work. Despite the positive trend, 168 million children is more than ½ of the entire population of the United States. As former UN Secretary-General Kofi Anan stated about Child Labor, “[f]ew human rights abuses are so widely condemned, yet so widely practiced.”

Consequently, Labor Trafficking and Child Labor increasingly have become—or are becoming—the subject of laws criminalizing such conduct, imposing civil liability based upon that conduct, and requiring public disclosure of efforts taken to address Labor Trafficking and Child Labor. In addition, ethical principles related to business enterprises are recognized in the Guiding Principles when they state:

The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate. It exists independently of States’ abilities and/or willingness to fulfill their own human rights obligations, and does not diminish those obligations. And it exists over and above compliance with national laws and regulations protecting human rights. Addressing adverse human rights impacts requires taking adequate measures for their prevention, mitigation and, where appropriate, remediation. Business enterprises may undertake other commitments or activities to support and promote human rights, which may contribute to the enjoyment of rights. But this does not offset a failure to respect human rights throughout their operations.

Therefore, business enterprises around the world have recognized the importance of addressing Labor Trafficking and Child Labor in their Operations. Toward that end, the American Bar Association (ABA), through its Business Law Section and its Task Force on Human Trafficking, offer the following Model Business and Supplier Policies for business enterprises to use as guidelines for review of their own policies and practices.

The Model Policies adopt a risk-based approach to ensure that measures to address issues of Labor Trafficking and Child Labor are commensurate with the risks identified, so that the sources of the greatest risk receive the most attention, thereby facilitating efficient allocation of resources. The business enterprises that adopt and implement a form of these Model Policies should identify general areas where the risk of Labor Trafficking or Child Labor is more significant so they can prioritize those for greater Due Diligence, Monitoring, Verification or appropriate action under a given Model Policy.

This approach is facilitated by Risk Assessments conducted by a Business or Supplier to ascertain whether or not in a given circumstance there is a risk of Labor Trafficking or Child Labor. Risk Assessments are part of Due Diligence, the scope of which may appropriately vary depending on the Risk Assessment conducted in a given circumstance. Similarly, the scope of Monitoring and Verification and the decision on utilizing either specially-trained Employees or Qualified Independent Third Party Monitors to conduct them, may appropriately vary depending on the Risk Assessment conducted in a given case. The Risk Assessment considers factors such as the type of business being conducted, where the business will be conducted, the history of Labor Trafficking or Child Labor in an industry or sector, operating context, the particular Operations, products or services involved, and any other factors a Business or Supplier deems relevant.
These Model Policies are specifically intended to apply to only the Business and its first tier Suppliers, unless:

1. After conducting a Risk Assessment, or upon receipt of other credible information as a result of Monitoring, Due Diligence, Verification or other activities, the Business or Supplier determines that there is a material risk of Labor Trafficking or Child Labor with a specific Supplier, or elsewhere in the Supply Chain; and

2. Taking appropriate action (e.g. Monitoring, Verification, or Remediation) with respect to the finding of a material risk of Labor Trafficking or Child Labor is practicable and not cost prohibitive in comparison to the value of the materials purchased from those Suppliers. This could also be done through broader industry initiatives; and

3. The product or service involved is material to the Business, Supplier or their Operations.

However, consistent with UN Guiding Principle 19, even if the Business or Supplier does not have an obligation under these Model Policies to cause a business enterprise lower in the Supply Chain to Remedy a Labor Trafficking or Child Labor impact, the Business or Supplier should still use whatever leverage it does have with that business enterprise or others dealing with this enterprise to encourage the business enterprise that caused the impact to Remedy the impact.

The Model Policies are intended to be of assistance both to Businesses and Suppliers that do not currently have policies relating to Labor Trafficking and Child Labor, as well as to Businesses and Suppliers that have adopted policies but wish to consider possible modification of those policies to reflect evolving practices. As such, these Model Policies are intended to be adopted as, or be adapted and incorporated into, the Businesses’ and Suppliers’ codes of conduct or policies relating to Labor Trafficking and Child Labor. The Model Policies are designed as a resource for companies seeking to put in place their own policies and should be adapted by the Businesses and Suppliers based on their particular facts and circumstances. For example, while sex trafficking is not the focus of the Model Policies, where forced commercial sex is supplied by the Business, Supplier or their employees or agents as a condition of employment or otherwise, it is the subject of these Model Policies and a Business or Supplier may adapt these Model Policies as necessary to better address it within its specific operating context.

These Model Policies are not intended to be viewed as prescriptive, and failure of a Business or Supplier to adopt the Model Policies as written – or to comply with them once adopted – is not intended to be the basis for criminal or civil liability. Rather, these Model Policies are intended to assist Businesses and Suppliers in developing their own policies to guard against Labor Trafficking and Child Labor. The ABA, through its Business Law Section, also is developing a Database of Resources to supplement the Model Policies to further assist Businesses and Suppliers in this regard. In addition, we encourage each Business or Supplier to use these resources to address the specific Labor Trafficking and Child Labor issues facing the business enterprise. These Model Policies also recognize that business enterprises have varying resources and that some business enterprises may be in a better position to implement and ensure
compliance with the Model Policies than others due to size or capacity. The Model Policies are intended to be relevant for all business enterprises regardless of size, sector and location. However, various aspects of the Model Policies may be inappropriate to certain Businesses or Suppliers based upon their particular circumstances or Operations. Nevertheless, these Model Policies are designed to be a starting point or guide for those Businesses that choose to adopt policies, and their respective Suppliers, in order to effectively address issues of Labor Trafficking and Child Labor in their Operations.

The Model Policies are presented in ways that provide options to a business enterprise that wishes to develop its own policies based in part on the Model Policies. These range from adopting only general business and supplier policies based on the Model Principles—or modifying existing policies to be consistent with those Model Principles (See Part II) to a more comprehensive approach of adopting more detailed business and supplier policies—or modifying existing detailed policies—in a manner consistent with the Model Principles and the related Commentary and Guidance applicable to each (See Parts III and IV), together with the soon-to-be-provided Database of Resources. In either case, the business enterprise is encouraged to adapt the Model Policies to fit its operating environment.
PART II. THE MODEL PRINCIPLES

A. MODEL BUSINESS PRINCIPLES

Principle 1—The Business will Prohibit Labor Trafficking and Child Labor in its Operations.

Principle 2—The Business will Conduct a Risk Assessment of the Risk of Labor Trafficking and Child Labor and Continually Monitor Implementation of this Policy.

Principle 3—The Business should: (i) Train Relevant Employees, (ii) Engage in Continuous Improvement, and (iii) Maintain Effective Communications Mechanisms with its Suppliers.

Principle 4—The Business will Devise a Remediation Policy and Plan that Addresses Remediation for Labor Trafficking or Child Labor in its Operations.

B. MODEL SUPPLIER PRINCIPLES

Principle 1—The Supplier will Prohibit Labor Trafficking and Child Labor in its Operations.

Principle 2—The Supplier will Conduct a Risk Assessment of the Risk of Labor Trafficking and Child Labor and Continually Monitor Implementation of this Policy.

Principle 3—The Supplier should: (i) Train Relevant Employees, (ii) Engage in Continuous Improvement, and (iii) Maintain Effective Communications Mechanisms with its Suppliers.

Principle 4 —The Supplier will Devise a Remediation Policy and Plan that Addresses Remediation for Labor Trafficking or Child Labor in its Operations.
PART III. MODEL BUSINESS POLICY

Principle 1—The Business will Prohibit Labor Trafficking and Child Labor in its Operations.

Commentary and Guidance on Principle 1:

A. The Business will:
   1. Adopt a policy prohibiting the use of Labor Trafficking and Child Labor in its Operations;
   2. Not knowingly tolerate any Labor Trafficking or Child Labor in its Operations; and
   3. Comply with the laws regarding Labor Trafficking and Child Labor in the country or countries in which the Business has Operations.

B. The remaining Commentary and Guidance on this Principle are provisions that the Business may want to adopt depending on the results of the Risk Assessment.

C. The Business should encourage and, where appropriate, require that its first tier Suppliers adopt the Model Supplier Policy set forth in Part IV.

D. The Business should include a provision in its supply contracts that the Business’s policies, including this Policy, are essential to the contract and that Supplier agrees to indemnify the Business and hold it harmless with respect to any violation of relevant laws and regulations, or for any civil or criminal liability arising from the contravention of the Business’s Policies by Supplier or any of its Suppliers, including, but not limited to, indemnification for Remedies paid to any victim or any other Remediation hereunder. In the event that the Business determines that Supplier has not made a good faith effort to Remedy or Remediate the potential violation or contravention in order to comply with the law and/or the Business’s Policy, then the Business may terminate its Supplier contract immediately, and such termination will be with cause. In the event that the Business determines that Supplier has acted in good faith but has nonetheless failed to Remedy or Remediate the potential violation or contravention, the Business may execute any other appropriate remedy, including but not limited to the training and capacity building called for in Principle 3.
Principle 2—The Business will Conduct a Risk Assessment of the Risk of Labor Trafficking and Child Labor and Continually Monitor Implementation of this Policy.

Commentary and Guidance on Principle 2:

A. The Business will:
   1. Conduct ongoing Risk Assessments of the risk of Labor Trafficking and Child Labor in its Operations. In conducting Risk Assessments, the Business should identify general areas where the risk of Labor Trafficking and Child Labor is more significant in terms of severity, scale, or probability and prioritize those for greater Due Diligence, Monitoring, Verification or other appropriate action under a given Principle, and
   2. Require its Suppliers to conduct ongoing Risk Assessments.

B. The remaining Commentary and Guidance on this Principle are provisions that the Business may want to adopt depending on the results of the Risk Assessment.

C. The Business should draw on internal or external human rights expertise and, as appropriate to the size of the Business and the nature and context of its Operations, engage relevant Stakeholders in conducting all Risk Assessments.

D. Based on the result of the Risk Assessment, the Business should examine areas of Business’s Operations, its Suppliers and other parts of the Supply Chain with a material risk of Labor Trafficking and Child Labor to identify the extent to which it should:
   1. Monitor its Suppliers’ implementation of this Policy;
   2. Perform Due Diligence on Suppliers; and
   3. Adopt a Verification program to ensure its own implementation of this Policy with appropriate executive oversight based on its governance structure.

Principle 3—The Business should: (i) Train Relevant Employees, (ii) Engage in Continuous Improvement, and (iii) Maintain Effective Communications Mechanisms with its Suppliers.

Commentary and Guidance on Principle 3:

A. The remaining Commentary and Guidance on this Principle are provisions that the Business may want to adopt depending on the results of the Risk Assessment.

B. The Business should train relevant employees, engage in continuous improvement, and maintain effective communication mechanisms with its Suppliers.

C. The Business should communicate this Policy to key Stakeholders, including:
   1. Employees, including managers, supervisors, and other staff with Supply Chain oversight;
   2. Suppliers or agents, if applicable; and
   3. Labor brokers, recruiters, and employment agencies, if used by the Business.

D. The Business should also publish this Policy or otherwise make it available to the public such as
by posting this Policy on the Business’s website so that it is available to relevant Stakeholders.

E. The Business should implement a system that allows Employees, and Employee representatives where applicable, to raise issues regarding Labor Trafficking and Child Labor acts with the Business anonymously, without fear of reprisal, and in accordance with applicable privacy laws. In addition to establishing this system, the Business should publicize the availability of the system, such as by posting it on its website and requiring its prominent display at the workplace so that it is readily available to Supplier Employees at all levels.

**Principle 4—The Business will Devise a Remediation Policy and Plan that Addresses Remediation for Labor Trafficking or Child Labor in its Operations.**

**Commentary and Guidance on Principle 4:**

A. The Business should consult with relevant Stakeholders to devise a Remediation policy and plan that addresses:
   1. Remedies for individual victims where the Business itself directly caused the Labor Trafficking or Child Labor; and
   2. Remediation of broader patterns of non-conformance with the Model Policy caused by deficiencies in the Business’s systems or processes.

B. The remediation policy and plan may appropriately vary depending on the Risk Assessment conducted in a given case.

C. The Remediation policy and plan of the Business should take into consideration all findings reported through Monitoring, Due Diligence, and Verification efforts or other sources.

D. Remediation for individual victims should include protocols for appropriate immediate action to eliminate the Labor Trafficking and Child Labor and resources for reasonable and appropriate victim services designed to offset the harm experienced.
   1. The business enterprise immediately responsible for the Labor Trafficking or Child Labor should remEDIATE any harm to the individual victims.
   2. To the extent that the responsible business enterprise is unwilling or unable to provide such Remediation, then the Business may choose to do so itself in coordination with a number of others including:
      a. the Supplier and other business enterprises in the Supply Chain;
      b. other Businesses that utilize the responsible business enterprise; and
      c. local government, NGOs and other Stakeholders.
   3. If the Business chooses to provide all or part of the victim Remediation, then it may be able to rely on the indemnification recommended in Principle 1 for reimbursement.
PART IV. MODEL SUPPLIER POLICY

Principle 1—The Supplier will Prohibit Labor Trafficking and Child Labor in its Operations.

Commentary and Guidance on Principle 1:

A. The Supplier should:
   1. Adopt a policy prohibiting the use of Labor Trafficking and Child Labor in its Operations;
   2. Not knowingly tolerate any Labor Trafficking or Child Labor in its Operations; and
   3. Certify to the Business that the product or service provided to the Business complies with the laws regarding Labor Trafficking and Child Labor of the country or countries in which the Business and Supplier has Operations relating to the products or services being provided by the Supplier to the Business.

B. The Supplier should notify the Business immediately if it learns of instances of Labor Trafficking or Child Labor.

C. The remaining Commentary and Guidance on this Principle are provisions that the Supplier may want to adopt depending on the results of the Risk Assessment.

D. The Supplier should encourage and, where appropriate, require its first-tier Suppliers to adopt the Model Supplier Policy set forth in this Part IV.

E. Where part of a supplier contract, the Supplier agrees that failure to comply with the relevant provisions is grounds for immediate termination of the contract.

F. The Supplier agrees to indemnify the Business and hold it harmless with respect to any violation of relevant laws and regulations, or for any civil or criminal liability arising from the contravention of the Business’s Policy by Supplier or any of its Suppliers of goods or services, including, but not limited to, any Remediation. Supplier also agrees that, in the event that the Business determines that a violation or contravention of relevant laws and regulations or the Business’s Policies may have occurred, the Business shall notify Supplier and Supplier shall immediately Remedy or Remediate or cause to be Remedied or Remediated, the potential violation or contravention. In the event that the Business determines that Supplier has not made a good faith effort to Remedy or Remediate the potential violation or contravention in order to comply with the law and/or the Business’s Policies, then the Business may terminate its Supplier contract immediately, and such termination will be with cause. In the event that the Business determines that Supplier has acted in good faith but has nonetheless failed to Remedy or Remediate the potential violation or contravention, the Business may execute any other appropriate remedy, including but not limited to the training and capacity building called for in Principle 3.
Principle 2—The Supplier will Conduct a Risk Assessment of the Risk of Labor Trafficking and Child Labor and Continually Monitor Implementation of this Policy.

Commentary and Guidance on Principle 2:

A. The Supplier will:
   1. Conduct ongoing Risk Assessments of the risk of Labor Trafficking and Child Labor in its Operations. In conducting Risk Assessments, the Supplier should identify general areas where the risk of Labor Trafficking and Child Labor is more significant in terms of severity, scale, or probability and prioritize those for greater Due Diligence, Monitoring, Verification or other appropriate action under a given Policy; and
   2. Require its Suppliers to conduct ongoing Risk Assessments.

B. The remaining Commentary and Guidance on this Principle are provisions that the Supplier may want to adopt depending on the results of the Risk Assessment.

C. The Supplier should draw on internal or external human rights expertise and, as appropriate to the size of the Business and the nature and context of its Operations, engage relevant Stakeholders in conducting all Risk Assessments.

D. Based on the Result of the Risk Assessment, the Supplier should examine areas of the Supplier’s Operations, its Suppliers and other parts of the Supply Chain with a material risk of Labor Trafficking and Child Labor to identify the extent to which it should:
   1. Monitor its Suppliers’ implementation of this Policy;
   2. Perform Due Diligence on Suppliers; and
   3. Adopt a Verification program to ensure its own implementation of this Policy with appropriate executive oversight based on its governance structure.
   4. The Supplier will cooperate fully in providing reasonable access to the Business and Qualified Independent Third-Party Monitors engaged in Due Diligence or Monitoring activities. The scope of Due Diligence, Monitoring, and the decision to use either specially trained Employees or Qualified Independent Third-Party Monitors, may appropriately vary depending on the Risk Assessment conducted in a given case.

Principle 3—The Supplier should: (i) Train Relevant Employees, (ii) Engage in Continuous Improvement, and (iii) Maintain Effective Communications Mechanisms with its Suppliers.

Commentary and Guidance on Principle 3:

A. The remaining Commentary and Guidance on this Principle are provisions that the Supplier may want to adopt depending on the results of the Risk Assessment.

B. The Supplier should train relevant employees, engage in continuous improvement, and maintain effective communication mechanisms.
C. The Supplier should communicate the Policy to key Stakeholders, including:
   1. Employees, including managers, supervisors, and other staff with Supply Chain oversight;
   2. Suppliers or agents, if applicable; and
   3. Labor brokers, recruiters, and employment agencies, if used by the Supplier.
D. The Supplier should also publish this Policy or otherwise make it available to the public such as by posting this Policy on the Supplier’s website so that it is available to relevant Stakeholders.
E. The Supplier should implement a system that allows Employees, and Employee representatives where applicable, to raise issues regarding Labor Trafficking or Child Labor with the Business anonymously, without fear of reprisal, and in accordance with applicable privacy laws. In addition to establishing this system, the Business should publicize the availability of the system, such as by posting it on its website and requiring its prominent display at the workplace so that it is readily available to Business and Supplier Employees at all levels.

**Principle 4 — The Supplier will Devise a Remediation Policy and Plan that Addresses Remediation for Labor Trafficking or Child Labor in its Operations.**

**Commentary and Guidance on Principle 4:**

A. The Supplier should consult with relevant Stakeholders to devise a Remediation policy and plan that addresses:
   1. Remediation for individual victims where the Supplier itself directly caused the Labor Trafficking or Child Labor; and
   2. Remediation of broader patterns of non-conformance with this Policy caused by deficiencies in the Supplier’s systems or processes.
   3. The Remediation policy and plan may appropriately vary depending on the Risk Assessment conducted in a given case.
B. The Remediation policy and plan of the Supplier should take into consideration all findings reported through Monitoring, Due Diligence, and Verification efforts or other sources.
C. Remediation for harm to individual victims should include protocols for appropriate immediate action to eliminate the Labor Trafficking and Child Labor and resources for reasonable and appropriate victim services designed to offset the harm experienced.
   1. The business enterprise immediately responsible for the Labor Trafficking or Child Labor should remediate any harm to the individual victims.
   2. To the extent that the responsible business enterprise is unwilling or unable to provide such Remediation, then the Supplier may choose to do so itself in coordination with a number of others including:
      a. the Supplier and other business enterprises in the Supply Chain;
      b. other Businesses that utilize the responsible business enterprise; and
      c. local government, NGOs and other Stakeholders.
   3. If the Supplier chooses to provide all or part of the victim Remediation, then it may be able to rely on the indemnification recommended in Principle 1 for reimbursement.
PART V. MODEL GLOSSARY

“Business” - [name of Business or Supplier adopting these Policies]. The term “business enterprises” refers to businesses generically.

“Child Labor” - Work performed by a person who is under the minimum legal working age to be employed as determined by (i) a Business’s or Supplier’s policy, (ii) the law of the jurisdiction in which the work will be performed, or (iii) the International Labor Organization Minimum Age Convention No. 138 - whichever indicates the higher minimum age requirement.

“Due Diligence” - The ongoing process of investigating the facilities, policies, and labor practices of potential and contracted Suppliers to help confirm that no Supplier engaging in Labor Trafficking or Child Labor enters the Business’s Supply Chain.

“Labor Trafficking” - The act of recruiting, harboring, transporting, providing, or obtaining a person for involuntary labor or services by means of force or physical threats, fraud or deception, or other forms of coercion. Labor trafficking shall also include:

- “Trafficking-Related Activities” – All activities that directly support or promote Labor Trafficking or Child Labor, including but not limited to: (i) using misleading or fraudulent recruitment practices during the recruitment of employees, such as failing to disclose basic information or making material misrepresentations regarding the key terms and conditions of employment, including wages and fringe benefits, the location of work, living conditions and housing (if employer-provided or employer-arranged), any significant costs to be charged to the employee, and, if applicable, the hazardous nature of the work; (ii) charging employees recruitment fees; and (iii) destroying, concealing, confiscating, or otherwise denying access by an employee to the employee's identity documents, such as passports or drivers' licenses.

“Monitoring” - The process of investigating and evaluating the implementation of these Policies by the Supplier(s) of the Business or Supplier through announced and unannounced visits conducted on randomly selected Suppliers and carried out by (i) specially trained Employees of the Business or Supplier or (ii) Qualified Independent Third-Party Monitors.

“Operations” – Activities involved in the day-to-day functions of the business conducted for the purpose of generating profits, including, but not limited to, its employment-related and Supply Chain practices.

“Qualified Independent Third-Party Monitors” – An organization with no affiliation with the Business Supplier or their Employees, that has a demonstrated expertise in conducting qualitative and quantitative reviews of potential Labor Trafficking and Child Labor within the Operations of Business or Supplier.

“Remediation” - Activities, systems policies or procedures that the Business or Supplier
establishes to address and remedy confirmed instances of Labor Trafficking or Child Labor in its operations.

“Remedies” - Financial or nonfinancial compensation awarded to victims of Labor Trafficking or Child Labor.

“Risk Assessment” - An ongoing analysis conducted by a Business to ascertain whether or not in a given circumstance there is a significant risk of Labor Trafficking or Child Labor by considering such factors as the type and location of the business being conducted, the history of Labor Trafficking and Child Labor in the industry or sector, the Operating context, the particular products or services involved, and other relevant factors.

“Stakeholder” - Any individual or entity having an interest in the Business developing and maintaining a Supply Chain free of Labor Trafficking or Child Labor including but not limited to Employees, labor service intermediaries, non-governmental organizations and governments.

“Supplier” - Organizations and individuals in the Business’s Supply Chain who contracts directly with the Business or a Supplier.

“Supply Chain” - Any organizations or individuals involved in providing services to the Business or producing, processing, or distributing the Business’s products from the product’s point of origin to the Business or point of sale, as applicable.

“Verification” - Process by which the Business or Supplier evaluates itself or is evaluated by a Qualified Independent Third-Party to determine its degree of success in implementing and enforcing this Policy. This includes an evaluation of (1) data gathered through Monitoring activities to ensure results are reliable, objective and obtained via a credible process; and (2) whether any Remediation has been implemented, and if so, if such Remediation is objective and effective. The scope of Verification may appropriately vary depending on the Risk Assessment conducted in a given case.
PART VI. ENDNOTES


2 Id.


4 Id.

5 Id.


8 See for example Section 1502 of the Dodd Frank Act relating to conflict minerals; the 2008 amendments to the Trafficking Victims Protection Act relating to Fraud in Foreign Labor Contracting and Benefiting Financially from Peonage, Slavery, and Trafficking in Persons; the California Transparency in Supply Chains Act—SB 657; and President Obama’s Executive Order 13627 and the National Defense Authorization Act for Fiscal Year 2013.

9 Commentary to Paragraph II (a) 11, UN Guiding Principles on Business and Human Rights.

10 A framework for the training and continuous improvement activities referred to in this Model Principle 3 will be found in the Database of Resources to be provided. For now, please refer to the Department of Labor’s ILAB Toolkit at http://www.dol.gov/ilab/child-forced-labor/step4/index.htm.

11 Id.

12 The definition of “Business” is intended to include: United States businesses, formed under the laws of the United States, doing business domestically and abroad, as well as foreign businesses, formed under the laws of countries other than the United States doing business in the United States, without distinction between size, industry and/or regulated or non-regulated status. The definition of “Business” for purposes of these Policies means any sole proprietorship, partnership, corporation, limited liability company, limited partnership, limited liability limited partnership and other forms of business organizations as may be defined under the laws of any country and includes all affiliates, subsidiaries, divisions, other business units of a Business; provided, however, that a subsidiary may adopt the Policies even if its parent has not done so.

13 Child Labor is subject to numerous definitions. Child Labor definitions vary both in terms of the applicable ages and the work permitted to be performed by children. Notwithstanding these varied definitions, the International Labor Organization (ILO) provides helpful guidance. The ILO notes that “[o]ne of the most effective methods of
ensuring that children do not start working too young is to set the age at which children can legally be employed or otherwise work.” ILO Minimum Age Convention 138, which separately has been endorsed by the ABA, generally sets 15 as the youngest age that children can work. However, the possible exceptions in Articles 6 and 7, as well as variations for qualifying developing countries (as defined by the ILO), could allow 12 to 14 year-olds to work. For hazardous work, 18 is the youngest acceptable age, although 16 and 17 year-olds can work “under strict conditions.” Many Business policies referring to Child Labor incorporate the ILO definitions and indicate age limitations varying from 14 to 16 years of age, subject to local child labor law, which in some cases could permit a child younger than 14 to work. Therefore the Model Policies definition adopts, as a minimum legal working age, the age permitted by ILO Minimum Age Convention 138 under the particular circumstances the However child employment, which under the ILO Minimum Age convention may be permissible, becomes Labor Trafficking when the employer maintains control over the child through the use of force, fraud, and/or coercion and this control results in the child’s belief that he or she has no other choice but to continue to work for this employer. It does not matter whether the child is over the minimum of age or not. If the child believes that he or she has no other option, i.e., cannot attend school, through the use of force, fraud and/or coercion then the actions of the employer rise to the level of Labor Trafficking, irrespective of ILO Minimum Age Convention 138.

Labor Trafficking has no single definition. Those entities that have sought to address it – including governments, international organizations, and members of civil society – have defined Labor Trafficking differently, reflecting the variety of activities that may constitute such conduct. Nevertheless, these definition share common elements that may prove helpful in guiding a Business or Supplier in its efforts to address Labor Trafficking in its operations. The Database of Resources will contain the U.S. and international legal definitions of labor trafficking, as well as domestic and international definitions of related concepts, such as human trafficking, trafficking in persons and forced labor. Like labor trafficking, all of these terms are defined differently by various entities but also have many common elements. Forms of Labor Trafficking can include forced labor in underground markets and sweatshops, as well as in legitimate businesses, including those in the manufacturing, travel, entertainment, hospitality, agricultural, service, and extractive industries. Movement of persons is not required for Labor Trafficking to exist; i.e., Labor Trafficking can occur without the victim leaving his or her hometown. People may be considered victims of Labor Trafficking regardless of whether they were born into a state of servitude, were transported to the exploitative situation, previously consented to work for a the individual controlling them, or participated in a crime as a direct result of being trafficked, including the use of illegal substances. These facts become irrelevant once a person is compelled to work by force, fraud, or coercion, which can occur at any point within the employment cycle.

Trafficking Related Activities, refer to those actions, usually employed by labor brokers, to facilitate Labor Trafficking and Child Labor. These Model Policies use the definition contained in Executive Order 13627 issued by President Obama on September 25, 2012.
EXECUTIVE SUMMARY

1. **Summary of the Resolution**

   The *ABA Model Business and Supplier Policies on Labor Trafficking and Child Labor* include eight black letter Principles, with an “Introduction,” a “Model Glossary,” “Commentary and Guidance” in connection with each of the Principles, and endnotes. The Policies are intended to assist businesses in identifying and addressing issues of labor trafficking and child labor in their operations.

   The four black letter Principles contained in the *Model Business Policy* portion of the Policies are: (1) the business will prohibit labor trafficking and child labor in its operations; (2) the business will conduct a risk assessment of the risk of labor trafficking and child labor and continually monitor implementation of this Policy; (3) the business should: (i) train relevant employees, (ii) engage in continuous improvement, and (iii) maintain effective communications mechanisms with its suppliers, and; (4) the business will devise a remediation policy and plan that addresses remediation for labor trafficking or child labor in its operations.

   The four black letter Principles contained in the *Model Supplier Policy* portion of the Policies are: (1) the supplier will prohibit labor trafficking and child labor in its operations; (2) the supplier will conduct a risk assessment of the risk of labor trafficking and child labor and continually monitor implementation of this Policy; (3) the supplier should: (i) train relevant employees, (ii) engage in continuous improvement, and (iii) maintain effective communications mechanisms with its suppliers; and (4) the supplier will devise a remediation policy and plan that addresses remediation for labor trafficking or child labor in its operations.

   The first Resolved clause in the proposed Resolution reflects the American Bar Association’s adoption, as a matter of ABA policy, of the “black letter *ABA Model Business and Supplier Policies on Labor Trafficking and Child Labor*, dated February 2014,” which consists of only the Principles and applicable portions of the Model Glossary that define terms used in the Principles. The second Resolved clause in the proposed Resolution urges businesses to adopt and implement their own business and supplier policies on labor trafficking and child labor that are consistent with the black letter Policies to assist them in identifying and addressing issues of labor trafficking and child labor in their operations.

2. **Summary of the Issue that the Resolution addresses**

   There currently are no standard business conduct codes that have been widely adopted by businesses formed under the laws of the United States for combating human labor trafficking, child labor, and trafficking-related activities. At the same time, businesses are expected to operate in an environment of increased societal knowledge and concern regarding human labor trafficking and child labor. And an increasing number of international, federal, and state laws are affecting businesses in addressing those concerns.
3. Please Explain How the Proposed Policy Position Will Address the Issue

The ABA Model Business and Supplier Policies are designed to assist businesses that do not currently have codes of conduct in place, as well as those businesses that have adopted codes but wish to modify them to reflect best evolving practices, in order to promote public trust and confidence in the businesses’ attention to corporate social responsibility.

4. Summary of Minority Views

We are not aware of any minority views (or of any opposition) on the part of any ABA entities or Affiliated Organizations.
RESOLVED, That the American Bar Association urges federal, state, local, tribal and territorial governments to ensure that juveniles are provided effective appellate representation and have access to appeals consistent with state statutes and/or state constitutional provisions by:

1. Providing training for judges and attorneys in juvenile court to recognize that in the representation of the juvenile, the control and direction of the case is the same as in the representation of a criminal defendant;
2. Providing adequate resources so that juveniles, including those qualifying for public defender services, have access to effective appellate representation;
3. Providing timely appellate review, expedited when necessary, within the timeframe that the juvenile is completing the court-ordered disposition, particularly in cases where youth are confined; and
4. Collecting data on the rate of juvenile delinquency appeals to identify institutional barriers to appellate representation and possible internal geographical disparities in state juvenile appellate practice.
1. **Summary of the Resolution**

This resolution will develop policies to ensure that juveniles are provided adequate and effective appellate representation and have appropriate access to appeals consistent with state statutes and/or state constitutional provisions.

2. **Summary of the Issue that the Resolution Addresses**

Despite its importance, appeals are rare in juvenile delinquency cases. As a result there is a lack of guidance for courts and practitioners about the contours of the law as applied to juveniles. Additionally, the rights of children suffer as a result.

3. **Please Explain How the Proposed Policy Position will address the issue**

This resolution will urge providing training for judges and attorneys in juvenile court to recognize that in the representation of the juvenile, the control and direction of the case is the same as in the representation of a criminal defendant. It will further urge providing adequate resources to defense counsel so that juveniles have access to effective representation by an attorney on appeal, including the appointment of appellate counsel for juveniles qualifying for public defender services. It will further urge providing timely appellate review, expedited when necessary, so that review can be completed, whenever practicable, within the timeframe that the juvenile is completing the court-ordered disposition, particularly in cases where youth are confined. Finally the resolution will urge collecting data on the rate of juvenile delinquency appeals to allow for identification of institutional barriers toward appellate representation and possible internal geographical disparities in state juvenile appellate practice.

4. **Summary of Minority Views**

None are known.
RESOLVED, That the American Bar Association urges state governments to apply generally
applicable administrative procedures acts’ notice-and-comment rule-making provisions to
regulations governing correctional facilities and officers.
EXECUTIVE SUMMARY

1. Summary of the Resolution

This Resolution urges state governments to apply a generally applicable administrative procedure act's notice-and-comment rule-making provisions to regulations governing correctional facilities and officers, with any exceptions grounded in genuine safety or similar concerns. This measure will increase government transparency and accountability and provide an important mechanism for input on issues that can affect community safety, public health, and local economies.

2. Summary of the Issue that the Resolution Addresses

The absence of opportunity for public input and oversight in so many U.S. jurisdictions is troubling. In a nation with more than two million incarcerated people, corrections regulations affect the lives not only of incarcerated people, but also of families and communities.

3. Please Explain How the Proposed Policy Position will address the issue

This measure will increase government transparency and accountability and provide an important mechanism for input on issues that can affect community safety, public health, and local economies.

4. Summary of Minority Views

None are known.
RESOLVED, That the American Bar Association reaccredit for an additional five-year term the following designated specialty certification programs for lawyers:

Criminal Trial Advocacy program of the National Board of Trial Advocacy, a division of the National Board of Legal Specialty Certification;

Family Law Trial Advocacy program of the National Board of Trial Advocacy, a division of the National Board of Legal Specialty Certification; and

FURTHER RESOLVED, That the American Bar Association extend the period of accreditation of the Child Welfare Law program of the National Association of Counsel for Children until the adjournment of the next meeting of the American Bar Association’s House of Delegates in August, 2014.
EXECUTIVE SUMMARY

1. Summary of the Resolution

The recommendation requests that the American Bar Association grant reaccreditation to the Criminal Trial Advocacy and Family Law Trial Advocacy programs of the National Board of Trial Advocacy, a division of the National Board of Legal Specialty Certification; and that the American Bar Association extend the period of accreditation of the Child Welfare Law program of the National Association of Counsel for Children until the 2014 Annual Meeting in August, 2014.

2. Summary of the Issue that the Resolution Addresses

To respond to a need to regulate certifying organizations, the House of Delegates adopted standards for accreditation of specialty certification programs for lawyers, and delegated to the Standing Committee the task of evaluating organizations that apply to the ABA for accreditation and reaccreditation. This Resolution acquits the Standing Committee’s obligation to periodically review programs that the House of Delegates has accredited and recommend their further reaccreditation or revocation of accreditation.

3. Please Explain How the Proposed Policy Position will address the issue

The recommendation addresses the issue by implementing previous House resolutions calling on the ABA to evaluate specialty certification organizations that apply for accreditation and reaccreditation.

4. Summary of Minority Views

The Standing Committee on Specialization approved the proposed recommendation unanimously. No opposition has been identified.
RESOLUTION

1 RESOLVED, That the American Bar Association supports modernization and
2 simplification of the requirements and procedures related to verification of signatures in
3 cross-border contexts by amending uniform and model laws to take
4 advantage of cloud-based and other technological progress and by increasing reciprocal
5 recognition among jurisdictions.
EXECUTIVE SUMMARY

1. Summary of the Resolution
The Resolution calls for the American Bar Association to support modernization and simplification of the requirements and procedures related to verification of signatures in cross-border contexts, for example, by modifying uniform and model laws to take advantage of cloud-based and other technological progress and by increasing reciprocal recognition among jurisdictions.

2. Summary of the Issue that the Resolution Addresses
The existing requirements and procedures are based on treaties concluded in 1961 and 1963, as well as statutory frameworks, that do not take fully into account modern developments in best practices, particularly the use of electronic communications. For practical reasons associated with timelines for implementation and the priorities of state actors, treaty revision is unlikely to be the preferred path forward. Yet, the regulation of signature verification and notarial practice touches on territorial sovereignty, and reciprocal recognition of modernized and simplified procedures will be a key element of successful and appropriate reform. A key aspect of this resolution is to assure cross-border recognition, while avoiding placing those involved in the verification process in jeopardy of infringing foreign territorial sovereignty.

3. Please Explain How the Proposed Policy Position will address the issue
The proposed policy reflects the American Bar Association’s support for simplification and modernization of the procedures related to verification of signatures in cross-border contexts. With the passage of the policy, the ABA can engage with relevant stakeholders to address the areas in which technology has outmoded existing signature verification practices. The report accompanying the resolution provides several possible solutions that ABA members and leaders can explore with stakeholders in the United States and elsewhere based upon the House of Delegates’ support of the need to modernize the process in line with 21st century business practices.

For example, within the United States, in order to achieve modernization and simplification of the procedures for cost-effective and timely verification and authentication of signatures, further revision of the Revised Uniform Law on Notarial Acts of the Uniform Law Commission, which is promulgated for consideration by state legislatures, appears desirable. In such further revision, the existing requirement of personal appearance of the individual whose signature is to be notarized would be relaxed, that is, personal appearance via electronic means would become permissible, provided that certain conditions, including reliability of the electronic means to be used in conjunction with accomplishment of the notarial act and reciprocity in the recognition of the permissibility of use of such electronic means between the jurisdictions where the notarial officer and the individual applying the notarization are respectively present.

4. Summary of Minority Views
No minority views were recorded during the final discussion of the Recommendation and Report.
RESOLVED, That the American Bar Association urges all state, local, and territorial legislative bodies and governmental agencies to adopt laws and policies providing for the development and funding of adequate judicial system security protocols to promote access to the fair and impartial administration of justice and to prevent acts of violence related to the justice system.

FURTHER RESOLVED, That the American Bar Association urges state, local, and territorial courts to engage in comprehensive reviews of each court’s respective judicial system security needs, to create and regularly review judicial system security protocols that fulfill those needs, and to seek the funding necessary to implement those protocols.

FURTHER RESOLVED, That the American Bar Association encourages the development of resources to educate those who participate in the justice system how to identify potential security threats related to the administration of justice, and how to be effective first responders in the event of an incident of violence.
EXECUTIVE SUMMARY

1. Summary of the Resolution

This Resolution encourages state, local, and territorial governments to adequately fund judicial system security protocols. It also urges courts to create and review judicial system security protocols so that they may effectively communicate their needs to policymakers and appropriators. Finally, the Resolution encourages the further development of resources to educate participants in the justice system to identify potential security threats and to be effective first responders during and after an incident of violence.

2. Summary of the Issue that the Resolution Addresses

Violence in or near court buildings is a grave concern to the profession because it threatens the efficient administration of justice and negatively affects the public perception of the justice system. There have been at least 406 court targeted acts of violence since 2005, including shootings, arson attacks, knifings, assaults, murder-for-hire, bomb plots, and other acts of violence. Even one incident is intolerable because these acts of violence are abominable assaults upon the independence of judiciaries and the rule of law.

3. Please Explain How the Proposed Policy Position will address the issue

Judicial system security is vital to the rule of law. The challenges of operating courts that are transparent and open to the public and that are also safe for all parties involved are ever changing and require unremitting effort. In order to respond to these challenges, it is important for courts to engage in comprehensive reviews of their security needs, create and regularly review judicial system security protocols that fulfill those needs, and strategically seek funding to implement those protocols. It is also essential that legislative bodies and governmental agencies provide adequate funding for the development and implementation of appropriate judicial system security protocols. By encouraging the development and funding of appropriate judicial system security protocols and the education of those who participate in the judicial system regarding how to respond to security threats, this Resolution sets forth a multifaceted approach, which will enhance court security and promote fair and impartial courts. The Report also provides courts and state and local bar association with references to valuable resources that can assist them as they seek to implement the Resolution and improve judicial system security.

4. Summary of Minority Views

None known.
RESOLVED, That the American Bar Association urges governments to promote the human right
to adequate food and nutrition for all through increased funding, development and
implementation of strategies to prevent infringement of that right.

FURTHER RESOLVED, That the American Bar Association urges the United States
government to make the realization of a human right to adequate food a principal objective of
U.S. domestic policy.
EXECUTIVE SUMMARY

1. Summary of the Resolution

This resolution calls upon local, state, tribal, territorial and federal government to promote the human right to adequate food and nutrition for all through policies to increase funding, and development and implementation of strategies to prevent infringement of that right. The resolution also urges the United States government to make the realization of a human right to adequate food a principal objective of U.S. domestic and foreign policy.

In August 1986, the ABA House of Delegates approved a resolution recognizing a fundamental right to food (focusing on U.S. foreign policy). This resolution reaffirmed prior action by the ABA House of Delegates in 1980 whereby the ABA declared that “the existence of hunger and malnutrition is avoidable in light of the economic and physical resources of the United States, and the continued existence of hunger and malnutrition is therefore inexcusable, humanly unconscionable, economically and socially shortsighted and unwise.” Adoption of this policy would build on the ABA’s 33 year history of advocacy in the human rights arena.

2. Summary of the Issue that the Resolution Addresses

Despite the nation’s commitment to human rights ideals, its practices have often fallen short. Food insecurity in the United States remains at record levels for the 5th year in a row, with 17.6 million households having difficulty feeding their families, and 7 million of these families suffering from "very low food security" that forced them to go hungry in 2012. A shocking 14.5 percent of all U.S. households—amounting to 49 million people—suffered food insecurity in 2012, with poor households, households with children headed by single women or single men, and African American and Hispanic households hardest hit. These findings, based on survey data from the Census Bureau, come as members of Congress are pushing for a $40 billion slash to the federal Supplemental Nutrition Assistance Program (SNAP), the largest program in the domestic hunger safety net.

3. Please Explain How the Proposed Policy Position will address the issue

This resolution calls on the U.S. government at all levels to more fully implement the right to adequate food and nutrition as a legal commitment. Asserting food security as a human right will create a common goal and a clear framework to: a. Help government agencies set priorities to implement the right to adequate food and nutrition;
b. Provide support for advocacy groups;
c. Create pressure to end policies which fail to guarantee human rights; and
d. Allow us to focus on how to solve the problem rather than worrying about whether the U.S. government has a duty to solve the problem.

4. **Summary of Minority Views**

None to date.
RESOLUTION

RESOLVED, That the American Bar Association opposes the provisions of the proposed "Innovation Act" of the 113th Congress (H.R. 3309) or other similar legislation that would circumvent the judicial rulemaking process set forth in the Federal Rules Enabling Act (28 U.S.C. §§ 2071-2077).

FURTHER RESOLVED, That the American Bar Association supports the development of rules of judicial procedure and case management by the Judicial Conference of the United States and by local rules of United States district courts to address identified abusive litigation practices, including abusive practices by litigants relating to pleading, joinder of parties, discovery, disclosure of interests, and stays of action in civil actions arising under patent laws of the United States.

FURTHER RESOLVED, That the American Bar Association (1) supports the disclosure of timely and relevant real party-in-interest information to a court and any parties where a patent is asserted in civil litigation during the pendency of such litigation; (2) opposes the enactment of legislation that would require mandatory disclosure of any entity having a financial interest in a patent and any entity with a right to sublicense a patent; and (3) opposes the enactment of legislation that would require mandatory on-going submission of real party-in-interest information to the USPTO by all patent applicants and owners when the patent is not subject to civil litigation.

FURTHER RESOLVED, That the American Bar Association (1) opposes the enactment of legislation requiring mandatory staying of an action against a customer of a product or process for infringement of a patent involving that product or process in circumstances in which the customer and the manufacturer of the product or process are each subject to an action involving the same patent and the same product or process; and (2) supports staying an action against a customer who is a retailer reselling a product or process provided by another when the customer has not materially altered or incorporated the product or process received from the covered manufacturer into another product or process.
EXECUTIVE SUMMARY

1. Summary of the Resolution

The Resolution reaffirms Association support for adherence to the judicial rulemaking process called for in the Rules Enabling Act, and expresses opposition to several provisions in proposed legislation under consideration in Congress that would circumvent that process by direct enactment of rules or by mandating specific rule changes to be made by the Judicial Conference.

2. Summary of the Issue that the Resolution Addresses

Proposed legislation currently under consideration in Congress calls for circumvention of the established rulemaking process in several instances by direct congressional enactment of rules or by legislatively mandating specific rule changes to be made by the Judicial Conference.

3. Please Explain How the Proposed Policy Position will Address the Issue

The policy expresses ABA opposition to circumvention of the established rulemaking process as called for in proposed legislation that is designed to address concerns regarding abusive litigation practices by certain plaintiffs in patent infringement actions. The policy supports addressing these concerns by the development of rules of judicial procedure and case management under the processes established by the Rules Enabling Act, and identifies specific litigation practices identified with patent litigation that should be addressed.

4. Summary of Minority Views

None known at this time.
RESOLVED, That the American Bar Association opposes a mandatory award of attorney fees to
the prevailing party in a civil action arising under the patent laws of the United States.

FURTHER RESOLVED, That the American Bar Association supports the authority of a district
court to award attorney fees to the prevailing party where the district court finds that a non-
prevailing party: (i) engaged in material inappropriate conduct in litigating or in securing the
patent; (ii) asserted a position in litigation on the merits that was objectively baseless; or, (iii)
brought, prosecuted, or defended a litigation in subjective bad faith; provided, however, that the
district court retains discretion not to render such an award upon a finding that special
circumstances would make such award unjust.
EXECUTIVE SUMMARY

1. **Summary of the Resolution**

   The Resolution opposes a mandatory award of attorney fees to the prevailing party in patent cases, and supports expanding the discretionary authority of federal district courts to award attorney fees to the prevailing party in patent cases.

2. **Summary of the Issue that the Resolution Addresses**

   Proposed legislation currently under consideration in Congress calls for a mandatory award of attorney fees to the prevailing party in a patent case. The U.S. Supreme Court has granted certiorari in a case that addresses the discretionary authority of district courts to award attorney fees to the prevailing party in patent cases under a statute that authorizes such an award “in exceptional cases.”

3. **Please Explain How the Proposed Policy Position will Address the Issue**

   The Resolution opposes the provisions of H.R. 3309, 113th Congress that call for a mandatory award of attorney fees to the prevailing party in patent cases. It supports the discretionary authority of federal district courts to award attorney fees to the prevailing party in a patent case in circumstances that are less restrictive than those currently required by judicial precedent.

4. **Summary of Minority Views**

   None known at this time.
RESOLVED, That the American Bar Association supports the enactment of provisions of H.R. 3309, the Innovation Act (113th Congress) that strike language in the America Invents Act that extends the estoppel effect of post grant review proceedings to any ground that the petitioner “reasonably could have raised,” thereby limiting the estoppel effect to grounds actually raised.

FURTHER RESOLVED, That the American Bar Association opposes changing the claim construction standard for Post Grant Review and Inter Partes Review proceedings in the U.S. Patent and Trademark Office, as authorized in chapters 31 and 32 of title 35, United States Code, from a broadest reasonable interpretation standard to the standard that would be applied in a civil action.

FURTHER RESOLVED, That the American Bar Association opposes expansion of the program for administrative review of covered business method patents established by section 18 of the America Invents Act by repealing the provision that would terminate the program after eight years or by expanding the subject matter that is eligible for review.

FURTHER RESOLVED, That the American Bar Association supports amendment of Section 1520(a) of title 11, United States Code, to provide for the protection of IP licenses during bankruptcy and to prevent a bankruptcy trustee from rejecting as executory contracts licenses of patents and other intellectual property of the debtor.
EXECUTIVE SUMMARY

1. Summary of the Resolution

The Resolution expresses ABA policy in support of an amendment to patent law to reduce the estoppel effect of an adverse ruling to a challenge to a patent in a Patent Office administrative proceeding; support for amending bankruptcy law to provide protection for licenses to intellectual property; opposition to changing the standard for construing claims in two Patent Office administrative proceedings; and opposition to expanding the subject matter eligible for review and the term of a temporary program for administrative challenges to certain “business method” patents.

2. Summary of the Issue that the Resolution Addresses

H.R. 3309, 113th Congress, a bill designed primarily to address issues raised by abusive litigation practices in patent suits, includes proposed changes to patent law regarding issues unrelated to the principle issues addressed in the bill. This Resolution is directed to four of those issues, which are identified in paragraph 1, above. The principle issues addressed in H.R. 3309 are the subject of two other proposed resolutions for the consideration of the House of Delegates at 2014 Midyear Meeting.

3. Please Explain How the Proposed Policy Position will Address the Issue

The policies proposed in the Resolution would express the Association’s recommendations on four separate patent law amendments in bills pending in Congress. Those amendments are identified in paragraph 1. The policy would support the enactment of two of those amendments, and oppose enactment of the other two.

4. Summary of Minority Views

None known at this time.
RESOLVED, That the American Bar Association urges federal, state, local, territorial, and tribal
governments to enact and implement legislation and policies which prohibit youth from
transitioning from foster care to a status of homelessness, or where a former foster youth will
lack a permanent connection to a supportive adult.

FURTHER RESOLVED, That to promote these objectives, legislation and policies should
provide for:
(a) Eliminating the case goals or outcomes of “Another Planned Permanent Living
   Arrangement” (APPLA) or “Emancipation”; and
(b) Adding in their place a goal and outcome of “Safe and Secure Housing/Permanent
   Significant Adult Connections”.

FURTHER RESOLVED, That, to improve transition outcomes for older youth in foster care,
governments and courts implement the following specific reforms:
(a) Providing support for housing assistance to young adults who turned 18 while in foster
care and have aged out of care thereafter;
(b) Requiring dependency cases not be dismissed without a court hearing and finding that the
   youth has:
   1) Housing, including the option of placement with a family;
   2) A permanent adult connection to at least one supportive adult;
   3) Where such youth has a disability, a successful transition to adult systems that provide
      health care and other supports for adults with disabilities; and
(c) Making efforts to reduce use of congregate residential care settings as a long-term
   placement, while recognizing that youth with severe and chronic disabling conditions
   may require long-term residential treatment where other permanency options are not in
   their best interests.

FURTHER RESOLVED, That the American Bar Association urges the legal profession and the
judiciary to improve and enhance support for foster youth transitioning to adult independence,
providing education, materials, and other resources on permanent adult connections for former
foster children and on safe and secure housing opportunities for youth exiting foster care.
EXECUTIVE SUMMARY

1. Summary of the Resolution

The use of APPLA as a permanency goal should be abandoned altogether. In order to achieve greater permanency for foster youth and avoid youth homelessness among this highly vulnerable population, laws, policies, and child welfare practices should focus on providing youth with age-appropriate housing options and helping youth develop and maintain permanent connections with adults who can offer them support and guidance as they transition into adulthood.

2. Summary of the Issue that the Resolution Addresses

The federal intent to limit the use of APPLA is often not reflected in state child welfare practices. APPLA is commonly used for older youth because finding permanent families for them can be more challenging than for younger children. However, the plans for youth with an APPLA goal is too often simply to keep them in the care of the state or county until they are old enough to leave it. Unfortunately, the nature of the child welfare system too often denies these youth the opportunity to develop significant and permanent connections with responsible adults who can provide support on an ongoing basis after the youth leaves the foster care system.

3. Please Explain How the Proposed Policy Position will address the issue

By encouraging a shift in the approach of judges, lawyers and youth advocates to “Safe and Secure Housing/Permanent Significant Adult Connections,” financial incentives to states to improve older foster youth outcomes, increasing accountability to ensure foster care and dependency cases are not closed without certainty a youth has housing, and providing new support for housing assistance to young adults who have turned 18 while in foster care and have aged out of care thereafter.

4. Summary of Minority Views

N/A
RESOLUTION

RESOLVED, That the American Bar Association urges lawyers, law schools, and bar associations to adopt trauma-informed, evidence-based approaches and practices on behalf of justice system-involved children and youth who have been exposed to violence, including victims of child abuse and neglect or other crimes and those subject to delinquency or status offense proceedings, by:

(a) recognizing the impact that current or prior exposure to violence and trauma has on physical, emotional, psychological, and behavioral development and well-being;

(b) responding to child traumatic stress through legal representation that reflects awareness of trauma’s adverse impacts on children and youth who have contact with the legal system; and

(c) acting in collaboration with other professionals involved with the child or youth to facilitate and support recovery and resiliency of the child and family.

FURTHER RESOLVED, That the American Bar Association urges federal, state, local, tribal and territorial bar associations, working with judges, lawyers, and other professionals with subject matter expertise in trauma-informed systems of care, to develop and implement training programs for judges, child welfare attorneys, prosecutors, and defense counsel that will enable them to integrate trauma knowledge into daily legal practice and integrate and sustain trauma awareness, knowledge, and skills in practice and policies.

FURTHER RESOLVED, That the American Bar Association encourages court systems, lawyers, law schools, and bar associations to promote awareness of secondary trauma among legal professionals working with traumatized children and youth and to develop positive strategies for addressing secondary trauma among those involved with children and youth in the justice system.
EXECUTIVE SUMMARY

1. Summary of the Resolution

It is critical for the legal system and legal representation to reflect an understanding of the impact of trauma on the well-being of children and young people. Judges and lawyers should be provided with training and linked to service providers whose practices are trauma-informed.

2. Summary of the Issue that the Resolution Addresses

Children and youth in the United States suffer from the effects of trauma at significantly higher rates than have previously been recognized. One out of every four children in the United States has experienced a traumatic event by age four and many children experience multiple traumas by age nine. The National Survey of Children’s Exposure to Violence, conducted in 2008, focused on the entire spectrum of children’s exposure to violence, crime, and abuse. The survey found that 49% of surveyed children had been exposed to two or more types of violence in the previous year. The survey also found that 39% of surveyed children had been the victims of violence more than once in the previous year and that 11% had been the victims of five or more different types of violence.

Children and youth in the child welfare and juvenile justice systems experience trauma and its consequences at disproportionately higher rates than their non-system-involved peers. A national study in 2010 found that almost 12% of alleged child abuse and neglect victims had increased symptoms of post-traumatic stress disorder (“PTSD”). A 2006 study found that children and youth who have experienced maltreatment suffer from PTSD at a higher rate than war veterans. Additionally, 80% of youth who age out of the child welfare system have received a psychiatric diagnosis.

3. Please Explain How the Proposed Policy Position will address the issue

By creating a foundation for acknowledgement that experiencing trauma can result in negative effects, often manifested as behavioral problems, that may persist long after the initial traumatic incident; encouraging a trauma-informed approach that helps children and youth overcome their problems by addressing the underlying effects of trauma that inform their behaviors and worldviews; using evidence-based practices to anticipate the effects of trauma on children and youth and to implement treatment methods designed to mitigate those effects; recognizing the value of cross-systems collaboration to identify and resolve the problems associated with trauma; and by creating a framework for a community of support in the legal and judicial workplace to address secondary trauma.

4. Summary of Minority Views

N/A
RESOLVED, That the American Bar Association urges Congress to enact the *Improving Access to Medicare Coverage Act of 2013*, (HR 1179) (S 569), or similar legislation that deems an individual receiving outpatient observation care services in a hospital to be an inpatient with respect to satisfying the three-day inpatient hospital stay requirement for Medicare coverage of a post-hospitalization stay in a skilled nursing facility.
EXECUTIVE SUMMARY

1. Summary of the Resolution

This resolution calls for support of the Improving Access to Medicare Coverage Act of 2013 – (HR 1179) (S 569), or similar legislation. This legislation would amend the Medicare Act’s definition of “post-hospital extended care services” to clarify that time spent in the hospital in “observation status” counts toward the three–day prior hospital stay prerequisite for Medicare Skilled Nursing Facility coverage. This will help thousands of older and disabled people who spend days in the hospital, but who are not categorized by the hospital as inpatients for at least three days of their stay, and who therefore don’t meet the three-day prior hospital care prerequisite.

2. Summary of the Issue the Resolution Addresses

Coverage under Medicare of Skilled Nursing Services after a hospitalization requires that the hospitalization lasted a minimum of three days. Currently, when a patient in the hospital is deemed on “observation status” rather than in “in-patient status,” the time is not counted towards the three days, even though from the patient’s perspective, the patient is in a hospital bed and receiving the same services as an in-patient. Because of various incentives and penalties faced by hospitals for incorrectly classifying a patient or for readmissions within 30 days, the use of the observation status has soared. The financial consequences to patients can be devastating and unexpected.

3. Please Explain How the Proposed Policy Position will address the issue

The legislation supported by this resolution remedies a key component of this problem by counting observation status days as in-patient days for the purposes of meeting the three-day prerequisite for Medicare coverage of Skilled Nursing Services after discharge from a hospital. This will help thousands of older and disabled people who spend days in the hospital, but who are not categorized by the hospital as in-patient, and who therefore don’t meet the three-day prior hospital care prerequisite.

4. Summary of Minority Views

None to date.
RESOLVED, That, except as provided below, dues for individual lawyer members of the Association shall be in accordance with the following schedule, effective for dues commencing with FY2015:

$ 0 if admitted to the bar less than one year
$140 if admitted to the bar one year but less than two years
$155 if admitted to the bar two years but less than three years
$165 if admitted to the bar three years but less than four years
$175 if admitted to the bar four years but less than five years
$200 if admitted to the bar five years but less than six years
$240 if admitted to the bar six years but less than seven years
$280 if admitted to the bar seven years but less than eight years
$315 if admitted to the bar eight years but less than nine years
$340 if admitted to the bar nine years but less than ten years
$449 if admitted to the bar ten years or more;

FURTHER RESOLVED, That the following dues schedule shall apply to individual lawyers employed by any federal, state, local, territorial or tribal government, lawyers employed by nonprofit legal services programs, judges and solo practitioners, effective for dues commencing with FY2015:

$ 0 if admitted to the bar less than one year
$115 if admitted to the bar one year but less than four years
$140 if admitted to the bar four years but less than six years
$165 if admitted to the bar six years but less than ten years
$255 if admitted to the bar ten years or more;

FURTHER RESOLVED, That dues for Associates of the Association shall be in accordance with the following schedule, effective for dues commencing with FY2015:

<table>
<thead>
<tr>
<th>Class</th>
<th>Dues</th>
</tr>
</thead>
<tbody>
<tr>
<td>International and General Associate</td>
<td>$175</td>
</tr>
<tr>
<td>Student Associate</td>
<td>$ 25</td>
</tr>
</tbody>
</table>
FURTHER RESOLVED, That dues for individual members of the Association who are entitled to discounted fees under the so-called 75/25 discount and the financial hardship discount shall be in accordance with the following schedule, effective for dues commencing with FY2015:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>75/25 Discount</td>
<td>$224.50</td>
</tr>
<tr>
<td>Financial Hardship</td>
<td>$ 50.00</td>
</tr>
</tbody>
</table>

FURTHER RESOLVED, That, for each of FY2016, FY2017, and FY2018, the dues levels of each of the categories set forth above in this Resolution shall be increased by an amount equal to the Cost of Living Increase, subject to such reduction or elimination of any such amount as the Board of Governors may determine annually. The Cost of Living Increase for a dues category shall mean the product, subject to rounding up to the nearest dollar, of (a) the December to December increase in the cost of living as reported in the *All Items Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average, 1982-84 = 100* of the Bureau of Labor Statistics for the December preceding the year of the dues increase times (b) the dues level for that dues category for the preceding fiscal year preceding the year of the dues increase.
EXECUTIVE SUMMARY

1. Summary of the Resolution

The resolution provides for (a) an approximately 13% dues increase across, with some exceptions, existing individual lawyer dues categories for FY2015 and (b) an annual cost-of-living-adjustment (“COLA”) increase in dues rates limited by the federal Consumer Price Index for FY2016, FY2017, and FY2018, which the Board of Governors would be authorized by the House of Delegates to annually lower or eliminate altogether.

2. Summary of the Issue that the Resolution Addresses

The resolution would increase Association revenues and provide one element of needed stability and sustainability of the Association’s General Operations finances.

3. Please Explain How the Proposed Policy Position will address the issue

The resolution provides for a rate increase for most members of the Association.

4. Summary of Minority Views

The Board is aware of concerns expressed about the effect of a dues increase on membership, but is not aware of any formal expression of minority views by any Association group.
RESOLVED, That the Association policies dated through 1990 as set forth in Attachment 1 to Report 400 dated February 2014, are archived and no longer considered to be current policy of the American Bar Association and shall not be expressed as such.

FURTHER RESOLVED, That policies which have been archived may be reactivated at the request of the original sponsoring entities. If the original sponsoring entities no longer exist, requests may be brought to the Secretary to be placed on a reactivation list for action by the House of Delegates. Such reactivated policies shall be considered current policy for the Association and shall be expressed as such.

FURTHER RESOLVED, That the Board of Governors may act to reactivate policies when the House of Delegates is not in session.
4. Patent Titles
   August 1965, Intellectual Property Law

8. Attorney Fees
   February 1967, Intellectual Property Law

9. Federal Judicial Center
   February 1967, Judicial Division

16. Occupational Radiation Information
    August 1969, Labor and Employment Law

19. State of the Judiciary Address
    May 1970, Judicial Division

23. Judicial Administrative Appointments
    July 1971, Judicial Division

31. Magistrates Salaries
    May 1972, Judicial Division

36. Safety of Judges
    October 1972, Judicial Division

69. Legal Assistance for Military Personnel and Dependents
    July 1977, Standing Committee on Armed Forces Law

74. Mandatory Licensing
    August 1977, Intellectual Property Law Section

108. Supreme Court Mandatory Jurisdiction
     February 1979, Standing Committee on Federal Judicial Improvements

123. Patent and Trademark Office
     February 1980, Section of Intellectual Property Law

136. Additional Judges for D.C. Circuits
     August 1980, Judicial Division

137. Court Costs and Delays
     August 1980, Judicial Division
229. Legal Aid
February 1984, Standing Committee on Legal Aid and Indigent Defendants

259. Fair Debt Collection Practices Act
November 1985, Solo Small Firm and General Practice Division

260. Social Security Claims
December 1985, Commission on Law and Aging

262. Clayton Act
February 1986, Section of Antitrust Law

263. Federal Trade Commission Rules
February 1986, Section of Antitrust Law

299. Patent and Trademark Office
February 1987, Section of Intellectual Property Law

309. National Vaccine Injury Compensation Program
August 1987, Standing Committee on Federal Judicial improvements

324. Know-How Licensing
February 1988, Section of Antitrust Law

330. Process Patents
February 1988, Section of Intellectual Property Law

335. Social Security laws
February 1988, Senior lawyers Division

346. Antitrust Guidelines
August 1988, Section of Antitrust Law

355. Federal Transfer Tax System
August 1988, Section of Real Property, Trust and Estate Law

403. Unemployment Compensation
August 1989, Section of Labor and Employment law

427. Intellectual Property Rights Protection
February 1990, Section of Intellectual Property Law

428. Intellectual Property Rights
February 1990, Section of Intellectual Property Law
433. Drug Recognition Program  
February 1990, Judicial Division

434. Crowded Jails  
February 1990, Judicial Division

448. Realignment of the Ninth Circuit Court of Appeals  
February 1990, Appellate Judges Conference
Resolved, That the American Bar Association approves the following principles as the basis for the revision of the United States Copyright Act Title 17, U.S.C.:

(1) A single federal system of copyright;
(2) A basic term consisting of the life of the author plus 50 years after his death, with an extension of subsisting copyrights, and for works made for hire, the term should be 75 years from publication;

(3) The modification of the existing statutory license for the making and distribution of phonorecords of musical works to provide greater advantages to the copyright proprietor and provide a broader recovery against infringers;

(4) A form of reversion after 35 years, but permitting the continued use of derivative works made during the 35-year period;
(5) Protection of sound recordings against unauthorized duplication;
(6) Recognition of the doctrine of fair use;
(7) Elimination of the jukebox exemption;
(8) A relaxation of formalities as to notice consistent with reasonable notice and equitable treatment in the case of failure to comply;

(9) Recognition of divisible interests in copyright and of separate ownership thereof;
(10) Provision for judicial review of a determination by the Copyright Office;
(11) Protection of foreign works, both published and unpublished, only on the basis of treaty or proclamation.

Further Resolved, That the American Bar Association opposes the following:
(1) United States Government ownership of copyright;
(2) Limitation of copyright by way of a manufacturing clause; and

(3) Recognition of a certificate of registration as constituting prima facie evidence of the validity of the copyright.

Further Resolved, That the Chairman of the Section of Patent, Trademark and Copyright Law, or his designee, be authorized to appear before appropriate committees of the Congress to implement this policy.
8. Attorney Fees  
February 1967, Intellectual Property Law  

Section of Patent, Trademark, and Copyright Law (Midyear Meeting 1967) Report# 83.2  

BE IT RESOLVED, That the American Bar Association favors in principle, amendment of the Lanham Act to afford authority for an award of reasonable attorneys' fees in appropriate cases.  

BE IT FURTHER RESOLVED, That the Section of Patent, Trademark and Copyright Law is authorized to communicate this action to members and committees of Congress and to others concerned with enactment of legislation to which the subject matter of this resolution is directed.  

9. Federal Judicial Center  
February 1967, Judicial Division  

Section of Judicial Administration (Midyear Meeting 1967) Report# 65  

RESOLVED, That the American Bar Association approves in principle the recommendation of the President of the United States in his message of 02/06/67, that there be created a Federal Judicial Center within the Administrative Office of the United States Courts to stimulate, coordinate and conduct research and tests in all aspects of federal judicial administration; to stimulate, develop and conduct programs of continuing legal education and training for judges and other personnel in the judicial branch of the Government; and to provide staff, research and planning assistance to the Judicial Conference of the United States and its committees; and RESOLVED FURTHER, That the American Bar Association approves the enactment of appropriate legislation to create and implement the aforementioned Judicial Center.  

16. Occupational Radiation Information  
August 1969, Labor and Employment Law  

Special Committee on Atomic Energy Law (Annual Meeting 1969) Report# 101.3  

RESOLVED, That the American Bar Association favors in principle the efforts of the Atomic Energy Commission in urging states to require employers to keep records as to employees' exposure to radiation and to provide for a central repository of occupational radiation exposure information.
19. **State of the Judiciary Address**  
May 1970, Judicial Division

**Recommendation to Congress that the Chief Justice be asked to make an annual State of the Judiciary message**

May, 1970; Proceedings, p.38-39  
RECOMMENDATION BY: President Bernard G. Segal

The President reminded the Board that the Chief Justice of the United States was planning, for the first time, to deliver a "State of the Judiciary" message. The Association's Annual Meeting would be his forum.

**UPON MOTION DULY MADE AND SECONDED:**

The Board adopted the following resolutions:

WHEREAS, There is increasing public concern about the needs of the federal judiciary and the capacity of the courts to meet the unprecedented demands upon them, including the rapidly growing volume of criminal and civil litigation; and

WHEREAS, In an era of serious challenges to the institution of law it is of utmost importance that the American people and their representatives in Congress gain a fuller understanding of the functioning of our courts in terms of their ability to meet their obligations to protect the basic rights of individuals and of society as a whole; and

WHEREAS, Concurrent resolutions have been introduced in both Houses of the Congress requesting that the Chief Justice of the United States be invited to appear each year before a joint session of the Senate and the House to report officially to the Congress and the nation on the operation of the judicial system as one of the three coordinate branches of the government; and

WHEREAS, The Chief Justice has demonstrated his recognition of the value of opening new channels of communication concerning the court system by accepting the invitation of the American Bar Association to deliver a State of the Judiciary message to the American people at the Annual Meeting of the Association in August of this year in St. Louis; and

WHEREAS, This Association believes that an official yearly report in person before a joint session of Congress by the Chief Judicial Officer in the nation should bring into sharp focus the present and long range needs of the courts; provide for all Americans a better insight into the place in our society of our judicial system; better acquaint the Congress with the special problems and needs of the courts and serve to inspire public confidence that the administration of justice is receiving the continuing attention and scrutiny that it merits and requests.

NOW, THEREFORE, BE IT RESOLVED, That the American Bar Association urges that the judiciary committees of the Senate and House of Representatives give prompt and favorable consideration of these resolutions and that they be adopted by the Congress so that the annual report by the Chief Justice shall become an established event on the calendar of the Congress each year.

RESOLVED FURTHER, That the ABA support enactment by the Congress of resolutions such as Senate concurrent resolution 57 and House concurrent resolution 574 to provide for an annual report on the judiciary by the Chief Justice of the United States before a joint session of the Congress.

BE IT FINALLY RESOLVED, That the President of the ABA be authorized to present the views of the Association to the Congress or to the appropriate committees thereof.
23. Judicial Administrative Appointments
   July 1971, Judicial Division

H.R.8699 and H.R.7377
July, 1971; Proceedings, p.16-18

UPON MOTION DULY MADE AND SECONDED:

The Board adopted the following resolutions favoring legislation such H.R.8699 and H.R.7377 (92nd Congress).

   WHEREAS, The Judicial Conference of the United States recommends the creation of the office of Administrative Assistant to the Chief Justice to help alleviate the increased administrative burdens imposed on the head of the judicial branch; and

   WHEREAS, Legislation to implement this recommendations is pending in the 92nd Congress;

   NOW, THEREFORE, BE IT RESOLVED, That the American Bar Association supports enactment of Legislation such as H.R.8699 (92nd Congress) to provide for an Administrative Assistant to the Chief Justice; and

   BE IT FURTHER RESOLVED, That the President of the American Bar Association, or his designee, is authorized to present the views of the Association to appropriate committees of the Congress.

   WHEREAS, In the selection of persons for the position of Administrative Assistant to the Chief Justice, Director of the Administrative Office of the United States Courts, and Director of the Federal Judicial Center it is desirable to have sufficient flexibility to include active judges among those being considered; and

   WHEREAS, The Judicial Conference of the United States recommends that a judge should be permitted to serve in any of the three offices without loss of status or seniority in his own court;

   NOW, THEREFORE, BE IT RESOLVED, That the American Bar Association supports legislation such as H.R.7377 (92nd Congress) which would permit any retired justice and any judge of the United States in active or retired status to be appointed to the Office of Administrative Assistant to the Chief Justice, Director of the Administrative Office of the United States Courts, or Director of the Federal Judicial Center without loss of status or seniority in his own court and further would permit the vacancy created by his appointment to one of the three posts to be filled in the manner in which temporary judgeships are now established; and

   BE IT FURTHER RESOLVED, That the President of the American Bar Association, or his designee, is authorized to present the views of the Association to appropriate committees of the Congress.
31. **Magistrates Salaries**  
May 1972, Judicial Division

**Salaries of U.S. Magistrates**

May, 1972; Proceedings, p.24; BOG Agenda Exhibit V-7

The Special Committee on Coordination of Judicial Improvements recommended Board approval of a resolution which would tie the ceiling on salaries to be paid to magistrates directly to the established ceiling for referees in bankruptcy. Proposed legislation, recommended by the Judicial Conference of the United States, is designed to remedy a congressional oversight, first, by tying the ceiling of magistrates to the salary of a referee in bankruptcy and, second, by providing a mechanism for necessary salary increases to be approved by the Judicial Conference. The bill does not in itself increase magistrates' salaries. Any increase would be dependent on subsequent action by the Judicial Conference and would be subject to the appropriation process of Congress.

When the 90th Congress first established the magistrate program it was intended that the salary of a magistrate would be equivalent to that of a bankruptcy referee. Subsequent to the passage of the Federal Magistrates Act, but prior to the actual appointments of U.S. magistrates, salaries of referees in bankruptcy were brought under the coverage of the Commission on Executive, Legislative, and Judicial Salaries. Because magistrates were not yet in office at the time the Commission was established, magistrates' salaries were not covered and the congressionally intended parity was lost.

**UPON MOTION DULY MADE, SECONDED, AND CARRIED:** The following resolution was adopted:

RESOLVED, That the American Bar Association supports in principle H.R.7375 (92nd Congress) and similar legislation to provide that the ceiling of salaries of United States magistrates be the same as provided for referees in bankruptcy.
36. Safety of Judges
   October 1972, Judicial Division

   Personal Attacks upon Judges
   October, 1972; Proceedings, p.26-27 BOG Exhibit V.3
   RECOMMENDATION BY: Past President William T. Gossett; State Bar of Michigan

   UPON MOTION DULY MADE, SECONDED, AND CARRIED: The following resolution was adopted:

       WHEREAS, The American Bar Association has had called to its attention the resolution of
       the Board of Commissioners of the State Bar of Michigan, unanimously adopted September 21, 1972; and

       WHEREAS, The Association recognizes that it, too, has a duty to defend all judges
       throughout our nation, whether on the State or Federal bench, against personal abuse and
       invective which may arise for their having done no more and no less than the duty imposed by
       their oaths; and

       WHEREAS, The Association recognizes that men may honestly and properly differ as to
       the findings and remedies in a particular case without, however, engaging in vicious and
       scurrilous personal attacks against a judge rendering a decision with which large segments of
       our society may disagree;

       NOW, THEREFORE BE IT RESOLVED, That the Association deplores and condemns in
       principle any personal attacks, such as those reportedly being made in various sections of our
       country, against judges who have performed their duty as they saw it.
UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board adopted the following resolutions presented by the Committees on Lawyers in the Armed Forces, Government and Public Sector Division, Legal Assistance for Military Personnel and Military Law:

RESOLVED, That the American Bar Association:

1. Supports the need for the availability of legal services to individual members of the Armed Forces Reserve and Reserve Units during each year in preparation for mobilization, and supplementation of legal services provided by the Active Armed Forces to its members and units, those services being rendered by lawyers in legal positions in the Reserve Forces;

2. Opposes in principle legislation (such as H.R.7933, the 1978 Defense Appropriation Bill) which would remove from a paid drill status members of the Military Reserve serving in legal capacities, whether as individuals or as members of a legal unit.

BE IT RESOLVED, That the American Bar Association opposes in principle the adoption of agency regulations of the enactment of legislation which would require access to, or mandatory licensing of, a contractor's background patents as a prerequisite to approval of a government research and development contract.

BE IT RESOLVED, That the American Bar Association approves and supports the adoption by the Congress of legislation to abolish obligatory Supreme Court review by appeal, as distinguished from discretionary review by certiorari, of all matters now reviewable by appeal, except for appeals from determinations by three-judge courts.
400

123. Patent and Trademark Office
February 1980, Section of Intellectual Property Law

Section of Patent, Trademark, and Copyright Law (Midyear Meeting 1980) Report #128

BE IT RESOLVED, That the American Bar Association favors the enactment of the identical bills S.1679 and H.R.5075 (96th Congress) or similar legislation; and

BE IT FURTHER RESOLVED, That such legislation should provide re-examination by the U.S. Patent and Trademark Office of any U.S. Patent at any time during its term on the basis of patents and printed publications which had not been previously considered by the U.S. Patent and Trademark Office when requested by any person. The procedure for such re-examination shall provide that the patentee has the opportunity to amend to limit the scope of any claim of the patent in order to distinguish from patents and printed publications considered during re-examination or to cancel any claim from the patent and also provide the opportunity ex parte to rebut any determination of unpatentability. Such procedure shall also provide that (1) any party other than the patentee who has initiated a re-examination proceeding shall have an opportunity to submit a single written response to statements filed by the patentee and (2) if the patent subject to re-examination is or becomes involved in litigation, the court before which the litigation is pending is given discretion as to whether such litigation shall be stayed to permit re-examination of the patent by the U.S. Patent and Trademark Office.

136. Additional Judges for D.C. Circuits
August 1980, Judicial Division

Standing Committee on Judicial Selection, Tenure and Compensation (Annual Meeting 1980) Report# 121A

RESOLVED, That the American Bar Association supports the request of the Judicial Conference for an additional judge for the U.S. Court of Appeals for the District of Columbia Circuit and urges Congress to enact appropriate legislation to provide such additional judge.

137. Court Costs and Delays
August 1980, Judicial Division


BE IT RESOLVED, That the House of Delegates of the American Bar Association recommend that costs associated with advanced judicial and legal education programs of the American Bar Association continue to be monitored for a period of years, so that trends in costs and in revenues may be identified.
RESOLVED, That the American Bar Association urges state and local bar associations to cooperate with state and local Legal Services Corporation grantees and other agencies providing civil legal services to indigent persons to the end that those services may also be provided by members of the bar generally in such ways and to such degree as may be agreed upon by those agencies and the organized bar in the areas served by them.

Resolved Further, That the Legal Services Corporation is urged to consult with the American Bar Association and state and local bar associations in developing and implementing plans and procedures for involving private attorneys in providing and supporting civil legal services for indigent persons.

Resolved Finally, That a locally developed plan for the inclusion of the private bar in the rendition of or support for legal services to indigent persons agreed to by a state or local Legal Services Corporation grantee or other agency providing legal services to indigent persons in the area to be served and by a bar association or associations representing a majority of lawyers in such area should be considered as prima facie complying with all requirements for the substantial involvement of private lawyers in providing legal services to the poor.
259. Fair Debt Collection Practices Act
November 1985, Solo Small Firm and General Practice Division

Section of General Practice and Young Lawyers Division Proposal on Fair Debt Collection Practices Act

November 8, 1985; Board of Governors Minutes, pp.05-06; Agenda Exhibit 2.8
RECOMMENDATION BY: Section of General Practice and Young Lawyers Division

The Section of General Practice and the Young Lawyers Division recommended that Association oppose proposed legislation which would eliminate the attorney's exemption from the Fair Debt Collection Practices Act. Association policy was requested because applicable legislation appeared to be moving swiftly through the Congress with 126 cosponsors on the House bill. Last year, the Senate passed an elimination of the attorney's exemption within an omnibus banking bill. The FTC has proposed amendatory language to curtail the exemption rather than eliminate it, proposing that the exemption not apply to "anyone who owns, operates or is employed by a law firm whose principal business is the collection of debts."

UPON MOTION DULY MADE, SECONDED AND CARRIED:
The Board adopted the following resolution:

BE IT RESOLVED, That the American Bar Association opposes legislation such as S.971 and H.R.237 which would eliminate the attorney's exemption from the Fair Debt Collection Practices Act.

260. Social Security Claims
December 1985, Commission Law and Aging

12/85 Executive Committee Exhibit 1

UPON MOTION DULY MADE, SECONDED AND CARRIED,

The Executive Committee adopted the following policy: BE IT RESOLVED, That the ABA supports the position that, in the administration of the Social Security Act, a class of persons who have submitted claims as required under the statute should be permitted to obtain relief, even for those of its members who had not exhausted their administrative remedies or filed timely petitions for judicial review, when such action would have seemed futile because the Social Security Administration had failed to disclose on the record or to the public the actual, improper reasons for the denial of their claims.

The Executive Committee authorized the Commission on Legal Problems of the Elderly and the Commission on the Mentally Disabled to file a brief on behalf of the Association as amicus curiae in the Supreme Court of the United States in Heckler v. City of New York, subject to the approval of the final brief by the Special Committee on Amicus Curiae Briefs.
262. Clayton Act
February 1986, Section of Antitrust Law

Section of Antitrust Law (Midyear Meeting 1986) Report# 306

BE IT RESOLVED, by the American Bar Association that the Congress be urged to amend Section 8 of the Clayton Act relating to interlocking directorates to add provisions which would:

(1) Create a de minimis exception where either of the corporations involved has capital, surplus and undivided profits of $10 million or less; or (2) Create a de minimis exception where sales of the product or service with regard to which corporations are in competition are $25 million per annum or less for either corporation; or the aggregate sales of the product or service with regard to which the corporations are in competition constitute 10 percent or less of the sales of the product or service and competing products and services by all sellers; and (3) Provide that the dollar amounts of sales contained in Section 8 be indexed to the Consumer Price Index.

263. Federal Trade Commission Rules
February 1986, Section of Antitrust Law

Section of Antitrust Law (Midyear Meeting 1986) Report# 307

BE IT RESOLVED, by the American Bar Association that the Federal Trade Commission be urged to amend its rules concerning the treatment of confidential information, 16 C.F.R. Sections 4.10 through 4.12, to provide for the uniform and adequate treatment of all such information by:

(1) Providing for all confidential information custodial protections similar to those provided for information obtained pursuant to compulsory process in a law enforcement investigation; (2) Deleting provisions that allow disclosure to state law enforcement agencies of confidential information other than that obtained pursuant to compulsory process in a law enforcement investigation; (3) Providing submitters with advance notice -- at least 10 days in advance whenever possible -- of a proposed release to Congress or to federal or state enforcement agencies; (4) Requiring that confidential information obtained by federal and state law enforcement agencies be used by the agencies only in such manner and subject to the same conditions as apply to the Commission; and (5) Providing for the return to a submitter of all copies of confidential material at the time the originals are returned to the submitter or destroyed.
400

299. Patent and Trademark Office
February 1987, Section of Intellectual Property Law

Section of Patent, Trademark and Copyright Law (Midyear Meeting 1987) Report# 107C

BE IT RESOLVED, That the American Bar Association favors in principle the continued administration of all trademark matters within the United States Patent and Trademark Office by an Assistant Commissioner for Trademarks.

309. National Vaccine Injury Compensation Program
August 1987, Standing Committee on Federal Judicial improvements

Standing Committee on Federal Judicial Improvements (Annual Meeting 1987) Report #125

BE IT RESOLVED, That the American Bar Association urges the Congress to repeal those provisions of the National Vaccine Injury Compensation Program of 1986 (P.L.99-660) that involve the federal courts in rendering advisory opinions and performing inappropriate administrative functions, before funding the program.

324. Know-How Licensing
February 1988, Section of Antitrust Law

Section of Antitrust Law (Midyear Meeting 1988) Report# 301

BE IT RESOLVED, that the American Bar Association recommend to the Commission of the European Communities that it modify its draft regulation on the application of Article 85(3) of the Rome treaty to certain categories of know-how licensing agreements so as (1) to expand the scope of know-how license agreements covered by such regulation, (2) to extend the periods permitted by such regulation for restrictions in, and payments under, know-how license agreements, (3) to adopt approaches to such agreements similar to those adopted by U.S. courts, and (4) to make other minor changes of a technical or clarifying nature.
330. Process Patents
February 1988, Section of Intellectual Property Law

Section of Patent, Trademark and Copyright Law (Midyear Meeting 1988) Report# 117A

RESOLVED, That the American Bar Association favors in principle that the use or sale in the United States of a product produced by a process patented under the United States Patent Laws is an infringement of the process patent; and specifically approves Section_102 of Title I of S.1200, Section_3302 of Title XXXIII of S.1420, Section_2 of H.R. 1931 and Section_1403 of Title XIV of H.R.3, 100th Congress, first session, providing that the last sentence in paragraph (g) of Section_271 of Title_35 is either eliminated or clarified to assure that products made by the patented process are not excluded from infringement unless the product is materially changed or it becomes a minor or nonessential component of another product prior to importation into or sale or use of such product in the United States.

RESOLVED, That the American Bar Association favors in principle legislation which provides remedies against infringement by parties who use or sell within, or import into, the United States a product produced by a process patented in the United States, after receiving notice of infringement, but opposes such legislation if it limits the availability of remedies by: (1) requiring a written notice of infringement to include more information than that which is needed under existing law to notify parties of other types of patent infringement; (2) prescribing standards of "good faith" and "reasonable business practices" for determining the availability of injunctions and damages which differ from standards used in actions for patent infringement under existing law; (3) exempting products which the infringer has made commitment to purchase before notice of infringement; or (4) establishing a procedure to allow parties to request disclosure of patents "which could be asserted to be infringed"; and, specifically, the Section opposes limitations on remedies in S.1200, S.1420, H.R.3, and H.R. 1931, 100th Congress, first session.

335. Social Security laws
February 1988, Senior lawyers Division

Senior Lawyer Division (Midyear Meeting 1988) Report# 114

RESOLVED, That the American Bar Association support efforts to correct inequities, if any, in the Social Security law that impact upon Social Security recipients born between the years 1917 - 1921.
BE IT RESOLVED, That the ABA recognizes that in issuing Antitrust Guidelines for International Operations, the U.S. Department of Justice is performing a significant public service by setting forth its analysis of a wide variety of transnational transactions; and

BE IT FURTHER RESOLVED, That the ABA urges the Department of Justice to revise the draft Guidelines to make clear in such Guidelines where the Department's enforcement position departs from established law or lacks substantial legal support, specifying the variance in each case; and

BE IT FURTHER RESOLVED, That the ABA urges that in considering finalization of its draft Guidelines, the Department of Justice should take into account the following suggestions:

(i) Discussion of several topics not covered in the draft should be added, including the application of the U.S. antitrust laws to export arrangements; the relationship between antitrust laws and the legal regimes governing international transport; the act of state doctrine; and the Department's use of Civil Investigative Demands on foreign parties;

(ii) The Guidelines should acknowledge the role of the courts in dealing with jurisdictional issues and defenses, in both government and private antitrust litigation, relating to foreign affairs. These issues include the foreign sovereign compulsion defense, petitioning foreign governments, the act of state doctrine, and the application of Parker v. Brown to foreign state action;

(iii) Revival of the Bernstein exception to the act of state doctrine should not be endorsed;

(iv) The section on foreign sovereign compulsion should take account of the substantial authorities indicating that (a) it is the fact of compulsion not its form, that should be the focus of the analysis; (b) inquiry into the validity of the foreign state's activity may be limited by the act of state doctrine; (c) the defense rests on fundamental fairness principles, and pragmatic judgments about the preservation of foreign commerce, as well as comity;

(v) The Guidelines should address the authorities supporting the proposition that a doctrine analogous to the Parker v. Brown state action doctrine applies to foreign government - regulated conduct;

(vi) Consistent with former Department of Justice practice, the Guidelines should support application of the Noerr-Pennington doctrine to petitioning of foreign governments;

(vii) Merger analysis in the Guidelines should be consistent with the Department's existing Merger Guidelines or, where at variance, the difference and the Department's new policy should be clearly articulated;

(viii) The relationship between the trade and antitrust laws should be more fully explored.
BE IT RESOLVED, That the American Bar Association urges Congress to recognize the necessity for stability in the federal transfer tax system and recommends to Congress in order to establish and maintain stability that:

1) Any proposed change in the federal transfer tax system be required to carry a heavy burden of persuasion both that the inequity or inefficiency of the current law is so great that further changes with their resultant disruptive effect are justified and that such changes will be a material improvement over the current law.

2) If any changes are to be made in the federal transfer tax system, they should be made through an orderly legislative process with participation of tax practitioners, including:
   a) Hearings with adequate notice and an opportunity for tax practitioners to participate in the formulation of the new laws.
   b) Bills circulated and reviewed fully before passage by the House.
   c) Bills circulated and reviewed fully before passage by the Senate.

3) If any changes are to be made in the federal transfer tax system, they should be prospective only with a reasonable lead time (at least one year) for instruments to be amended to reflect such changes, and

4) Constant small changes should be avoided and no new provision should be enacted that is not both understandable by tax practitioners and administrable by the Internal Revenue Service.
BE IT RESOLVED, That the American Bar Association recommends to the Secretary of Labor of the United States that a pilot or experimental project be established for the purpose of determining whether improved access to justice can be established in the unemployment compensation system in the United States. Such a pilot or experimental project should include the following terms:

1. The Secretary of Labor should establish in a number of states an office of ombudsman/advisor to provide counseling and assistance to claimants and employers involved in unemployment insurance claims and the appeal process who are unable to afford or obtain an attorney, legal aid or legal services representation, or other adequate representation;

2. The Secretary of Labor should make available to such states involved in this project administrative funding for this purpose;

3. The Secretary of Labor should select the states to be involved, based upon urban and rural balance, and in each state select certain communities to be targeted for the project;

4. Notice of the existence of services to be provided by said ombudsman/advisor offices should be given to the communities involved;

5. Said pilot project should last for a specified number of years, as determined by the Secretary of Labor. At the conclusion of said project, the Secretary of Labor should make a report concerning the results, benefits, and cost of the project to the United States Congress;

6. Said ombudsman/advisor office should not represent claimants or employers but will only assist and counsel such claimants or employers that require assistance and counseling in the preparation of claims and defenses against claims for unemployment benefits and assist, counsel and prepare the parties in question for participation in the claims and appeals process, as well as any court proceedings involved therein.
RESOLVED, that the American Bar Association supports efforts to provide strong intellectual property rights protection in the United States and to strengthen intellectual property rights protection in the countries with which the United States trades.

BE IT FURTHER RESOLVED, that, in the absence of adequate and effective protection of intellectual property rights under the G.A.T.T., the American Bar Association supports effective measures in United States law, of a type currently provided Section 337 of the Tariff Act of 1930 (as amended) (19 U.S.C. Section 1337) to permit expeditious enforcement of intellectual property rights at the border.

BE IT FURTHER RESOLVED, that the American Bar Association supports conclusion in the Uruguay Round multilateral trade negotiations of an agreement on intellectual property rights providing for:
   (a) adequate standards for the protection of intellectual property;
   (b) effective measures to enforce such standards both internally and at the border; and
   (c) an effective multilateral dispute settlement mechanism for resolving disputes between contracting parties over such standards and enforcement measures.

BE IT RESOLVED, That the American Bar Association favors in principle legislation such as H.R. 469, 101st Cong., 1st Sess. (1989) (Fish) and S. 270, 101st Cong., 1st Sess. (1989) (Leahy) which provides that intellectual property rights shall not be presumed to define a market or to establish market power in actions under the antitrust laws;

RESOLVED, That the Association recommends such legislation cover specifically the licensing of or refusal to license such rights.

BE IT RESOLVED, That the American Bar Association endorses and supports the Drug Recognition Program initiated by the National Highway Safety Administration and the Bureau of Justice Assistance, provided that it is applied in a manner fully respecting the subject's constitutional rights; and

BE IT FURTHER RESOLVED, That the American Bar Association encourages adoption and use of the Drug Recognition Program by the states and other jurisdictions.
434. Crowded Jails
February 1990, Judicial Division

Judicial Administration Division (Midyear Meeting 1990) Report# 100B

BE IT RESOLVED, That the American Bar Association urges state and local bar leaders to take a leadership role in establishing coordinating councils composed of key figures in the criminal justice system who have the authority to ameliorate the problems of crowded jails and the related issue of court delay.

448. Realignment of the Ninth Circuit Court of Appeals
February 1990, Appellate Judges Conference

Judicial Administration Division Appellate Judges Conference (Midyear Meeting 1990) Report# 123

BE IT RESOLVED, That the American Bar Association hereby rescinds the resolution adopted in October, 1973 which supported realignment of the United States Circuit Court of Appeals for the Ninth Circuit.
EXECUTIVE SUMMARY

1. **Summary of the resolution**
   This resolution archives Association Policies dated through 1990. A policy that is archived is not rescinded. It is retained for historical purposes, but cannot be expressed as a current position of the ABA.

2. **Summary of the issue which the resolution addresses**
   The archiving project, mandated by the House of Delegates in 1996, will improve the usefulness of the catalogued Association positions on issues of public policy. Many of the Association’s positions were adopted decades ago and are no longer relevant or effective.

3. **An explanation of how the proposed policy will address the issue**
   The archiving project will allow the Association to pursue primary objectives by focusing on current matters. It will prevent an outdated ABA policy from being cited in an attempt to refute Association witnesses testifying on more recent policy positions.

4. **A summary of any minority views or opposition which have been identified**
   None at this time