RESOLVED, That the American Bar Association Urges the federal government to recognize that service by persons who otherwise meet the standards for accession or retention, as applicable, in the United States Armed Forces should not be restricted, and transgender persons should not be discriminated against, based solely on gender identity. 2018 AM 118

RESOLVED, That the American Bar Association supports an interpretation of Section 1557 of the Affordable Care Act, 42 U.S.C. § 18116(a), that its prohibition on sex discrimination by covered health programs or activities includes, but is not limited to, discrimination on the bases of sexual orientation, gender identity, sex stereotyping, pregnancy, and pregnancy related medical conditions (including false pregnancy, termination of pregnancy, child birth, and recovery therefrom).

FURTHER RESOLVED, That the American Bar Association urges the Attorney General of the United States and the Secretary of Education to reinstate the guidance letters concerning interpretation of Title IX that were rescinded on February 22, 2017; and

FURTHER RESOLVED, That the American Bar Association urges the Attorney General of the United States to withdraw the interpretation proposed by the U.S. Department of Justice in October 2017 that Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e-16(a), does not protect transgender citizens against discrimination. 2018 AM 104C

RESOLVED, That the American Bar Association supports an interpretation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(a), that its prohibition on sex discrimination in employment by covered employers includes discrimination on the bases of sexual orientation and gender identity; and

FURTHER RESOLVED, That the American Bar Association urges the Attorney General of the United States to withdraw the interpretation proposed by the U.S. Department of Justice in October 2017 that Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e16(a), does not protect transgender citizens against workplace discrimination. 2018 MY 116A

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1This document is intended as a summary of ABA policy as adopted by the House of Delegates, the policy-making body of the ABA. Please see the actual text of each resolution by searching the Policy Document Library: https://www.americanbar.org/groups/leadership/house_of_delegates/policy-document-library/. The citation format refers to the year of adoption (2013), the meeting (AM = Annual Meeting, MY = Midyear Meeting), and resolution number (104G).
RESOLVED, that the American Bar Association urges federal, state, local, territorial and tribal courts to extend Batson, consistent with recent Supreme Court precedent, to hold that discrimination against jurors solely on the basis of sexual orientation or gender identity/expression through the use of peremptory challenges is unconstitutional because it (a) violates the constitutional guarantee of equal protection and (b) causes significant harm to our court system by undermining public confidence. 2018 MY 108D

RESOLVED, That the American Bar Association urges the Food and Drug Administration (“FDA”) to update its current policy requiring deferment of blood donations from men who have sex with men for one year after the donor’s most recent sexual encounter with a man to a deferral policy based on an assessment of the risk posed by an individual based on potential recent exposures rather than on the individual’s sexual orientation;

FURTHER RESOLVED, That the American Bar Association urges the FDA to develop and implement validated tools for assessing individual risk, which will ensure the safety of the blood supply in light of the most up-to-date testing technology that can reliably indicate the presence of HIV and other blood-borne pathogens within a short period of time after an individual has been exposed, in order to ensure legally sound and medically safe blood donation policies that do not result in disparate treatment of men who have sex with men. 2017 MY 112D

RESOLVED, That the American Bar Association amends Principles 2(B) and 6 of the ABA Principles for Juries and Jury Trials as follows:

2(B) Eligibility for jury service should not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, marital status, sexual orientation, gender identity, gender expression or any other factor that discriminates against a cognizable group in the jurisdiction other than those set forth in A. above.

6(C) The court should:

1. Instruct the jury on implicit bias and how such bias may impact the decision making process without the juror being aware of it; and

2. Encourage the jurors to resist making decisions based on personal likes or dislikes or gut feelings that may be based on attitudes toward race, national origin, gender, age, religious belief, income, occupation, disability, marital status, sexual orientation, gender identity, or gender expression. 2016 AM 116
RESOLVED, That the American Bar Association urges all federal, state, territorial and local legislative bodies and governmental agencies to:

(a) adopt policies, legislation and initiatives designed to eliminate the school to prison pipeline whereby students of color, students with disabilities, LGBTQ (lesbian, gay, bisexual, transgender, questioning, or queer) students, homeless students, and other marginalized youth constituencies are disproportionately impacted by systemic inequities in education and over-discipline resulting in disparate school drop-out or “push-out” rates and juvenile justice system or prison interactions, i.e., school to prison;

(b) adopt laws and policies supporting legal representation for students at point of exclusion from school, including suspension and expulsion;

(c) support ongoing implicit bias training for teachers, administrators, school resource officers, police, juvenile judges, prosecutors, and lawyers and others involved with students;

(d) require data reporting relating to school discipline, including distinctions between educator discipline and law enforcement discipline to the Office of Civil Rights;

(e) support legislation that eliminates the use of suspensions, expulsions, and referrals to law enforcement for lower-level offenses; and

FURTHER RESOLVED, That the American Bar Association urges state and local prosecutors’ offices, and national and state prosecutors associations to develop screening and charging policies and statements of best practices for school referred cases to juvenile courts. 2016 AM 115

RESOLVED, That the American Bar Association urges all providers of legal services, including law firms and corporations, to expand and create opportunities at all levels of responsibility for diverse attorneys; and

FURTHER RESOLVED, That the American Bar Association urges clients to assist in the facilitation of opportunities for diverse attorneys, and to direct a greater percentage of the legal services they purchase, both currently and in the future, to diverse attorneys; and

FURTHER RESOLVED, That for purposes of this resolution, “diverse attorneys” means attorneys who are included within the ambit of Goal III of the American Bar Association. 2016 AM 113
RESOLVED, That the American Bar Association amends Rule 8.4 and Comment of the ABA Model Rules of Professional Conduct as follows:

Rule 8.4: Misconduct

It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) commit a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects;

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice;

(e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law;

(f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law; or

(g) engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status in conduct related to the practice of law. This paragraph does not limit the ability of a lawyer to accept, decline, or withdraw from a representation in accordance with Rule 1.16. This paragraph does not preclude legitimate advice or advocacy consistent with these rules. 2016 AM 109

RESOLVED, That the American Bar Association urges the President of the United States and United States Senators to emphasize the importance of racial, ethnic, disability, sexual orientation, gender identity and gender diversity in the selection process for United States Circuit Judges and United States District Judges and to employ strategies to expand the diversity of the pool of qualified applicants, nominees and appointees to the U.S. District Court and U.S. Circuit Court of Appeals, including without limitation, the use of diverse merit selection panels.

FURTHER RESOLVED, That the American Bar Association urges the United States Circuit Courts of Appeals and the Circuit Judicial Councils to emphasize the importance of racial, ethnic, disability, sexual orientation, gender identity and gender diversity in the selection process for United States Bankruptcy Judges and to employ strategies to
expand the diversity of the pool of qualified applicants, nominees and appointees to the Bankruptcy Court, including without limitation, the use of diverse merit selection panels.

FURTHER RESOLVED, That the American Bar Association urges the United States District Courts to emphasize the importance of racial, ethnic, disability, sexual orientation, gender identity and gender diversity in the selection process for United States Magistrate Judges and to employ strategies to expand the diversity of the pool of qualified applicants, nominees and appointees to United States Magistrate Judge positions, including without limitation, the use of diverse merit selection panels.

FURTHER RESOLVED, That the American Bar Association urges the Judicial Conference of the United States, federal courts, defender organizations, and the court support agencies to recognize the importance of racial, ethnic, disability, sexual orientation, gender identity and gender diversity in the hiring process and to expand the diversity of the pool of qualified employees in the Judicial Branch of the United States.

FURTHER RESOLVED, That the American Bar Association urges its members to facilitate the selection of judges reflecting racial, ethnic, disability, sexual orientation, gender identity and gender diversity by identifying, encouraging, assisting, and mentoring qualified diverse candidates to seek selection as judges. 2016 AM 102

RESOLVED, That the American Bar Association urges public companies in the United States to diversify their boards to more closely reflect the diversity of society and the workforce in the United States.

FURTHER RESOLVED, That the American Bar Association urges public companies in the United States to adopt plans, policies and practices to diversify their boards and to include board composition in public disclosure materials.

FURTHER RESOLVED, That the American Bar Association urges governments, investors and other market players to call on public companies in the United States to voluntarily adopt plans, policies and practices for achieving diverse boards and to publicly disclose such plans, policies and practices.2016 MY 116

RESOLVED, That the American Bar Association urges state, territorial, local, and tribal legislatures to review all statutes criminalizing consensual noncommercial sexual conduct, in private and between persons who have the legal capacity to consent, and, to repeal or amend such statutes to criminalize only sexual acts that are nonconsensual, commercial, public, or that involve individuals who lack the legal capacity to consent.

FURTHER RESOLVED, That the American Bar Association urges state, territorial, local, and tribal legislatures to repeal or amend any statutes, regulations, or policies that
denigrate persons who engage in constitutionally protected sexual conduct. 2016 MY 102

RESOLVED, That the American Bar Association “[u]rges governments to enact civil protection order statutes regarding domestic, intimate partner, sexual, dating, and stalking violence that extend protection to lesbian, gay, bisexual, and transgender individuals.” 2015 AM 109B

RESOLVED, That the American Bar Association “[r]ecognizes freedom from domestic, dating and sexual violence and stalking and all other forms of gender-based violence as a fundamental human right and urges governments to recognize, enact and adopt resolutions affirming the right of all women, men and children to live free from domestic, dating and sexual violence and stalking.” 2015 AM 109C

RESOLVED, That the American Bar Association “[r]ecognizes that lesbian, gay, bisexual, transgender, and queer (LGBTQ) people have the right to be free from attempts to change their sexual orientation and gender identity and urges governments to enact laws that prohibit state-licensed professionals from using conversion therapy on minors.” 2015 AM 112

RESOLVED, That the American Bar Association urges all federal, state, local, and territorial legislative bodies and governmental agencies to:

(a) refrain from enacting Stand Your Ground Laws that eliminate the duty to retreat before using force in self-defense in public spaces, or repeal such existing Stand Your Ground Laws;

(b) eliminate Stand Your Ground Law civil immunity provisions that prevent victims and/or innocent bystanders and their families from seeking compensation and other civil remedies for injuries sustained;

(c) eliminate the Stand Your Ground defense in circumstances where deadly force is used against a law enforcement officer; and

(d) develop strategies for implementing safeguards to prevent racially disparate impact and inconsistent outcomes in the application of Stand Your Ground Laws;

(e) modify existing or proposed Stand Your Ground laws to ensure that the laws do not protect the use of deadly force against a person who is in retreat; and

(f) modify existing or proposed Stand Your Ground laws to ensure that the laws do not protect a person who is the initial aggressor in an encounter.
FURTHER RESOLVED, that the American Bar Association urges that jury instructions be drafted in plain language to enhance clarity and the jurors’ understanding of the applicable Stand Your Ground Laws and their limitations;

FURTHER RESOLVED, that the American Bar Association urges law enforcement agencies to:

(a) develop training materials for officers on best practices for investigating Stand Your Ground cases; and

(b) create or participate in a national database to track Stand Your Ground cases from the investigative stage through prosecution and final disposition;

FURTHER RESOLVED, That the American Bar Association:

(a) implement a national educational campaign to provide accurate information about Stand Your Ground Laws to the general public; and

(b) investigate the impact that gun laws have in Stand Your Ground states. 2015 MY

RESOLVED, That the American Bar Association “[a]dopts amendments to the 2012 ABA Civil Immigration Detention Standards, to encourage Congress and the Department of Homeland Security and Immigration and Customs Enforcement to use segregation for immigration detention only as a last resort for a limited time period and in compliance with other limitations.” 2014 AM 111

RESOLVED, That the American Bar Association “[r]ecognizes that lesbian, gay, bisexual and transgender (LGBT) people have a human right to be free from discrimination, threats and violence based on their LGBT status and condemns all laws, regulations and rules or practices that discriminate on the basis that an individual is a LGBT person.” 2014 AM 114B

RESOLVED, That the American Bar Association “[u]rges federal, tribal, state, local and territorial governments to take legislative action to curtail the availability and effectiveness of the “gay panic” and “trans panic” defenses, which seek to partially or completely excuse crimes such as murder and assault on the grounds that the victim’s sexual orientation or gender identity is to blame for the defendant’s violent reaction.” 2013 AM 113A
RESOLVED, That the American Bar Association “[u]rges federal, tribal, state, local and territorial governments to enact laws and regulations and to develop policies that assure that once an individual has been identified as an adult or minor victim of human trafficking, that individual should not be subjected to arrest, prosecution or punishment for crimes related to their prostitution or other non-violent crimes that are a direct result of their status as an adult or minor victim of human trafficking.” 2013 MY 104F

RESOLVED, That the American Bar Association “[u]rges local, state, territorial, tribal and federal governments to enact legislation allowing adult or minor human trafficking victims charged with prostitution related offenses or other non-violent offenses that are a direct result of their being trafficked to assert an affirmative defense of being a human trafficking victim.” 2013 MY 104G

RESOLVED, That the American Bar Association “[u]rges federal, tribal, state, local and territorial governments to aid victims of human trafficking by enacting and enforcing laws and policies that permit adult or minor victims of human trafficking to seek to vacate their criminal convictions for offenses related to their prostitution or other non-violent offenses that are a direct result of their trafficking victimization.” 2013 MY 104H

RESOLVED, That the American Bar Association “[u]rges the Federal Bureau of Investigation to implement expeditiously the expanded definition of rape in the Uniform Crime Reporting Summary Reporting Program to include, regardless of gender, or presence of force, all forms of non-consensual penetration of a vagina or anus and all forms of non-consensual penetration by a sexual organ of any orifice.” 2012 MY 114

RESOLVED, That the American Bar Association “[u]rges state, tribal and territorial legislatures to enact laws that effectively aid minors who are victims of human trafficking.” 2011 AM 103A

RESOLVED, That the American Bar Association “[u]rges federal, state, territorial, local, and tribal governments to enact legislation and support appropriate funding to protect sexual crime victims’ rights by eliminating the substantial backlog of rape kits collected from crime scenes and convicted offenders through rape kit testing performed in accredited laboratories by qualified personnel and following standardized procedures.” 2011 AM 109
RESOLVED, That the American Bar Association “[u]rges federal, state, tribal, territorial and local officials to prevent and remediate the existence and dangers of bullying, including cyberbullying and youth-to-youth sexual and physical harassment, by defining these acts and developing education programs to assist teachers, parents and children in identifying victims and enhancing appropriate interventions.”  2011 MY 107A

RESOLVED, That the American Bar Association “[u]rges state, territorial and tribal governments to eliminate all of their legal barriers to civil marriage between two persons of the same sex who are otherwise eligible to marry.”  2010 AM 111.

RESOLVED, That the American Bar Association “urges Congress to repeal 1 U.S.C. § 7, which denies federal marital benefits and protections to lawfully married same-sex spouses.”  2009 AM 112

RESOLVED, That the American Bar Association “supports the enactment of legislation and the implementation of public policy to enable a United States citizen or lawful permanent resident who: (1) shares a committed, intimate relationship with another adult individual of the same-sex; (2) is not married to or in any other legally-recognized partnership with anyone other than that individual; and (3) is unable to enter into a marriage with that other individual that is cognizable under the Immigration and Nationality Act, to sponsor that individual for permanent residence in the United States.”  2009 MY 108

RESOLVED, That the American Bar Association urges federal, state, territorial, tribal, and local legislatures, government agencies, and courts to adopt and implement laws, regulations, policies, and court rules that promote the safety, well-being, and permanent placement of lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth who are homeless or involved with the foster care system.  2007 AM 104B

RESOLVED, That the American Bar Association amend the Association’s Goal IX to state: To promote full and equal participation in the legal profession by minorities, women, persons with disabilities, and persons of differing sexual orientations and gender identities.  2007 MY 115

RESOLVED, That the American Bar Association urges federal, state, local, and territorial governments to enact legislation prohibiting discrimination on the basis of actual or perceived gender identity or expression, in employment, housing and public accommodations.  2006 AM 122B
RESOLVED, That the American Bar Association opposes legislation and policies that prohibit, limit, or restrict placement into foster care of any child on the basis of sexual orientation of the proposed foster parent when such foster care placement is otherwise appropriate under the applicable law of the state, territory, or tribe. 2006 MY 102

RESOLVED, That the American Bar Association adopts the ABA Principles Relating to Juries and Jury Trials dated February 2005, and that the Criminal Justice Section, the Judicial Division, and the Section of Litigation review and revise, as appropriate, their respective Standards so as to eliminate any inconsistencies with the Principles dated February 2005 [which states that “[e]ligibility for jury service should not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, sexual orientation, or any other factor that discriminates against a cognizable group in the jurisdiction ….”]. 2005 MY 113

RESOLVED, That to preserve the authority of the states and territories to regulate marriage under our federal system, the American Bar Association opposes any federal enactment that would restrict the ability of a state to: (a) prescribe the qualifications for civil marriage between two persons within its jurisdiction; and (b) determine when effect should be given to a civil marriage validly contracted between two persons under the laws of another jurisdiction. 2004 MY 103D

RESOLVED, That the American Bar Association supports state and territorial laws and court decisions that permit the establishment of legal parent-child relationships through joint adoptions and second-parent adoptions by unmarried persons who are functioning as a child’s parents when such adoptions are in the best interests of the child. 2003 AM 112

RESOLVED, That the American Bar Association urges federal, state, territorial, and local governments to enact legislation, promulgate regulations, or take other necessary action to ensure that an unmarried surviving partner who shares a mutual, interdependent, committed relationship with a victim of terrorism or other crime can qualify for crime victim compensation and assistance funds provided by that government to eligible spouses. 2002 AM 117A

RESOLVED, That the American Bar Association [a]mends §6.4(e) of the ABA Constitution to expand the range of prohibited discrimination by state and local bar associations as it relates to representation in the House of Delegates [to include creed, color, national origin, ethnicity, age, persons with disabilities and/or sexual orientation]. 2002 AM 11-2
RESOLVED, That the American Bar Association supports the enactment of laws and implementation of public policy that provide that sexual orientation shall not be a bar to adoption when the adoption is determined to be in the best interest of the child. 1999 MY 109B

RESOLVED, That the American Bar Association urges Congress to provide sufficient additional funding to enable the Equal Employment Opportunity Commission to carry out its congressionally-mandated duties to investigate, conciliate and, where appropriate, take legal action to enforce non-discrimination in an effective, fair and efficient manner. 1998 MY 116A

RESOLVED, That the American Bar Association supports federal, state and territorial legislation that protects the confidentiality of personally identifiable health information in either paper or electronic form. 1996 MY 106

RESOLVED, That the American Bar Association urges state, territorial and local bar associations to study bias in their community against gays and lesbians within the legal profession and the justice system and make appropriate recommendations to eliminate such bias. 1996 AM 10A

RESOLVED, That the American Bar Association supports the enactment of legislation and the implementation of public policy providing that child custody and visitation shall not be denied or restricted on the basis of sexual orientation. 1995 AM 123

RESOLVED, That the American Bar Association condemns the manifestation by lawyers in the course of their professional activities, by words or conduct, of bias or prejudice against clients, opposing parties and their counsel, other litigants, witnesses, judges and court personnel, jurors and others, based upon race, sex, religion, national origin, disability, age, sexual orientation or socio-economic status, unless such words or conduct are otherwise permissible as legitimate advocacy on behalf of a client or a cause. 1995 AM 116C

RESOLVED, That the American Bar Association opposes any efforts by government to withhold funds from, or otherwise penalize, educational institutions for denying access to campus placement facilities to government employers who contravene university policies by discriminating on the basis of sexual orientation. 1992 MY 115
RESOLVED, That the American Bar Association support five year reauthorization of the National Endowment for the Arts with no restrictions on the content, the subject matter, message or idea of what the Endowment may fund. 1990 AM 10H

RESOLVED, That the American Bar Association strongly urges that state and local bars and ABA Sections represented in the House of Delegates take affirmative steps to appoint delegates who represent geographic, ethnic, minority, gender, and sexual orientation diversity, and delegates with disabilities. 1990 AM 10G

RESOLVED, That the American Bar Association urges the Federal government, the states and local governments to enact legislation, subject to such exceptions as maybe appropriate, prohibiting discrimination on the basis of sexual orientation in employment, housing and public accommodations. 1989 MY 8

RESOLVED, That the American Bar Association condemns crimes of violence, including those based on bias or prejudice of race, religion, sexual orientation or minority status, and urges government officials to focus public attention on this growing national problem. 1987 AM _____

RESOLVED, That the American Bar Association opposes the provision of federal financial assistance for institutions that discriminate in any of their operations on the basis of sex, race, color, national origin, age, or disability. 1986 MY _____

RESOLVED, That the American Bar Association endorses amendments to Title II of the Civil Rights Act of 1984 to include private clubs that receive a substantial portion of their income from business sources in the definition of public accommodations. 1983 AM _____

RESOLVED, That the American Bar Association supports, in principle, legislation that prohibits discrimination in the sale and rental of housing on the basis of race, color, creed, sex or national origin. 1980 MY _____

RESOLVED, That the American Bar Association supports legislation that prohibits discrimination on the basis of sex or marital status in the extension of credit. 1974 MY _____
RESOLVED, That the American Bar Association calls for a repeal of all laws that classify as criminal conduct any form of noncommercial sexual conduct between consenting adults in private. 1973 AM _____