PROPOSAL: Amends § 6.4(a) of the ABA Constitution to allow individuals who meet a state’s definition of young lawyer to serve as a young lawyer member of the House of Delegates for that state.

Amends § 6.4(a) of the ABA Constitution to read as follows:

§6.4 State Bar and Local Bar Association Delegates. (a) A state bar association is entitled to at least one delegate in the House of Delegates, except that if there is more than one state bar association in a state the House shall determine which associations may select delegates. A state bar association in a state that has more than 4,000 lawyers is entitled to an additional delegate for each additional 2,500 lawyers above 4,000 until it is entitled to four delegates. A state bar association in a state that has more than 14,000 lawyers and not more than 20,000 lawyers is entitled to five delegates. If it has more than 20,000 lawyers, it is entitled to six delegates. If the bar associations of a state are entitled to four or more delegates, at least one delegate representing the state bar or a local bar association in that state must have been admitted to practice in his or her first bar within the past five years, or must be less than 36 years old at the beginning of the term, or meet the state’s definition of a young lawyer. Each state delegation, or meet the state’s definition of a young lawyer, as well as the United States Virgin Islands, that did not have an additional young lawyer delegate prior to the 2015 Annual Meeting shall be entitled to one additional delegate, chosen by either the state bar association or one of the qualifying local bar associations referred to in Articles 6.4(b) and 6.9 below, provided that such delegate was admitted to his or her first bar within the past five years or is less than 36 years old or meets the state’s definition of a young lawyer at the beginning of his or her term. It is the responsibility of the state bar association to ensure that this requirement is satisfied. However, a state bar association is entitled to at least as many delegates as it was entitled to certify at the 1990 annual meeting.

(Legislative Draft – Additions underlined; deletions struck through)

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These amendments reconcile the eligibility requirements for young lawyer members of the House of Delegates representing state bar associations with the more-inclusive definition of “young lawyer” employed by 23 state bar associations. The term “young lawyer” is not defined in the ABA Constitution, but is defined in the Bylaws of the ABA Young Lawyers Division as “a lawyer who has been admitted to practice in his or her first bar within the past five years, or is less than thirty-six years old.” These age and practice limitations have been incorporated into the language of § 6.4(a) of the ABA Constitution. However, the positions created by § 6.4(a) are not intended to represent the ABA Young Lawyers Division, but young lawyers generally throughout the country.

When the ABA YLD first enacted the less than thirty-six years old age requirement in 1934, the average age of law school graduation was in the early 20s. However, in the ensuing 65 years, the average age of law school graduation has risen to the mid-to-late 20s. As a result, 23 state bar associations, other sections of the ABA, as well as numerous national, local, and international bar associations, have enacted expanded definitions of young lawyer that allow for greater age and years of practice limitations. Recognizing that state bar associations and other entities have enacted different definitions of “young lawyer,” the ABA Young Lawyers Division has amended its Bylaws to provide that individuals may continue to participate in Division governance if they are members in good standing of their state or local young lawyer affiliate, even if they are not members of the ABA YLD.

1 AM. BAR ASS’N YOUNG LAWYERS DIV. BYLAWS § 2.1.
2 The ABA Young Lawyers Division is directly given representation in the House of Delegates and the Nominating Committee through § 6.2(5) and § 6.7. These provisions do not directly include specific age or practice limitations, but include them indirectly by requiring that the individuals be members of the ABA Young Lawyers Division.
3 The state bar associations with a definition of “young lawyer” that exceeds the definition of “young lawyer” found in the ABA YLD Bylaws include Arizona, Colorado, Connecticut, Delaware, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Mississippi, Montana, New Jersey, New York, Oklahoma, Oregon, Pennsylvania, the U.S. Virgin Islands, Vermont, and West Virginia.
4 ABA sections with a definition of “young lawyer” that exceeds those in the ABA YLD Bylaws include the ABA Business Law Section and the ABA Real Property, Trust, and Estates Section.
5 The number of local, national, and international bar associations that define “young lawyer” more inclusively is too voluminous to list, but includes the National Bar Association, the National Asian Pacific American Bar Association, the Canadian Bar Association, the American Association for Justice, the Defense Research Institute, the American Intellectual Property Law Association, the Chicago Bar Association, the Columbus Bar Association, and the New York City Bar Association.
6 AM. BAR ASS’N YOUNG LAWYERS DIV. BYLAWS § 4.2(a).
These amendments, if adopted, will allow states that have enacted more-inclusive definitions of "young lawyer" to allow individuals who meet that state’s expanded definition to serve as that state’s young lawyer member of the House of Delegates, or to serve as a young lawyer member-at-large to the Board of Governors. Although it does not appear that any state has a less-inclusive definition of "young lawyer" than that found in the ABA YLD Bylaws, the ABA YLD definition of "young lawyer" will remain in § 6.4(a) so as to provide a floor for eligibility. These changes will respect the decisions of our states and territories to define young lawyer differently from the ABA, and allow all young lawyers to fill positions designated for young lawyers generally.

Respectfully submitted,

Anthony M. Ciolli