BE IT RESOLVED, That the American Bar Association supports the enactment of federal legislation such as S.1575 and H.R.3071 which:

(1) promotes an increased level of voluntary counseling and testing for AIDS;

(2) mandates that identifying information obtained as a result of such counseling or testing may not be disclosed without the consent of the individual except where such information is required to be provided by state or federal law and such law provides for the protection of the confidentiality of the identity of the individual; notwithstanding the foregoing, any contract training of sexual contacts provided by law must be conducted without disclosing information identifying the infected individual; and

(3) prohibits discrimination against an "otherwise qualified individual" as defined by such legislation in employment, housing, public accommodations, or governmental services, solely by reason of the fact that such individual is, or is regarded as being, infected by the HIV virus or having AIDS or an AIDS related condition.
REPORT

I. Background

Acquired Immune Deficiency Syndrome (AIDS) is a blood-borne disease which destroys the body's immune system. Since 1981, when AIDS was identified, more than 45,000 Americans have been diagnosed with the disease and more than half of those individuals have died. Current projections estimate that perhaps 1.5 million Americans have already been exposed to Human Immunodeficiency Virus (HIV), the virus believed to cause AIDS, and that by 1991, up to 270,000 of those people could develop full-blown cases of the disease. There is presently no cure for AIDS, no vaccine to prevent it, and no single test to diagnose it.

Clearly, AIDS presents a monumental health crisis for this country and effective and appropriate means must be found to control its spread and its effects. Unfortunately, the fear and confusion surrounding this devastating medical crisis, compounded by misconceptions about the manner and risk of transmission, have resulted in legislative proposals in almost every state based more on political expediency than medical or public health advice. In addition, significant problems of discrimination have occurred those associated with the disease. People with AIDS are treated as modern-day lepers.

All medical evidence has shown that AIDS can only be transmitted through sexual intercourse, exchange of blood or breast milk. AIDS cannot be transmitted by casual contact (i.e. touching, coughing, sharing utensils) and poses no threat of transmission in any setting unless the nature of that setting presents a risk of blood, sexual, or perinatal transmission from one person to another. Persons who have AIDS or ARC (AIDS Related Complex) are thus fully able to work and mix with other people, except for those periods of time when they have an accompanying opportunistic infection that incapacitates them. Further, individuals who have been exposed to HIV but who have not developed AIDS or ARC are likewise fully able to work. Because all medical evidence supports this very limited and specific mode of transmission of AIDS, all guidelines that have been drafted by federal public health agencies, as well as most state and city regulations, have stated that there is no reason for barring those with AIDS or ARC or those who test positive to HIV from the workplace, schools, housing, or any casual public contact.

Human Rights Commissions, the media, and legal journals have documented the vast extent of egregious discrimination against not just persons who have actually been diagnosed as having AIDS, but also persons who have only tested positive to HIV, persons merely suspected of having or being at risk of having AIDS, and even persons living with or friendly with those who have been diagnosed. Discrimination based on AIDS, perceived AIDS, or fear of AIDS has been documented extensively in employment, housing, public accommodations, provision of services of all kinds including
emergency medical, education, and child custody rights, as well as many other areas; people of all ages, races, sexes, social classes, and sexual orientations have been the subject of such discrimination.\(^3\)

At the May, 1987, Executive Council meeting, the Council overwhelmingly adopted a recommendation which dealt solely with the issue of AIDS-related discrimination and addressed that issue through the interpretation of existing laws which protect the handicapped from discrimination.

II. Voluntary Counseling and Testing As a Means of Control

Because of the very limited and specific mode of transmission of AIDS, its spread is very controllable if people alter their sexual practices and their drug habits. In addition to broad educational efforts as to the nature of AIDS and its transmission, one of the most important means of controlling the spread of the disease is by encouraging individuals, particularly those in high risk groups, to be tested for HIV infection. Testing is important regardless of the result because if individuals find out they have not been infected, they will have a very good reason for adapting their sex practices so that the risk of future infection is nil. On the other hand, if someone finds out that they have been infected, they can alter their sex practices so that there is no risk of them infecting someone else or being infected again.

Testing, however, must be accompanied by counseling for several reasons. First, it is critical to the individual's emotional stability that s/he realize that the available tests only indicate whether an individual has been exposed to HIV and has developed antibodies. It does not indicate that someone has AIDS or will develop AIDS or even that the live virus is still present in the body. Second, it is critical for disease control purposes that the person receive frank information on the type of sex practices to avoid in order to eliminate the risk of AIDS transmission either to or from someone else. This is very important as stated above whether an individual tests positive or negative.

There has been much discussion over the issue of whether mandatory testing should be adopted in any situation. The almost unanimous view of federal and state public health officials is that mandatory testing, except for very limited situations, would be counter-productive, would waste significant amounts of taxpayer dollars, and would raise serious questions of civil rights violations.\(^4\) Education and voluntary testing have been shown to be very effective at significantly lowering the rate of spread.\(^5\) This recommendation takes no position on each specific instance, but in general, opposes mandatory testing.
III. Confidentiality Is A Sine Qua Non For Testing

Virtually all federal and state public health authorities are in agreement that without strict confidentiality provisions, testing will be less successful as a vehicle of control because the individuals will not come forward to be tested. The reasons for this are obvious. Given the fear and confusion that surrounds AIDS and the AIDS-related discrimination that has resulted, very few individuals would want to risk their jobs, their job-related insurance, their housing, and other services for the sake of finding out whether they are HIV sero-positive, since that doesn't tell you very much and there are currently no therapies available for such individuals. Rather, people will wait till they come down with the full-blown disease before being tested, because then they have no choice.

This decrease in the number of persons seeking voluntary testing would seriously undermine efforts to control the spread of the disease. To those who might question whether the curtailment of confidentiality would in fact have such an impact, there is convincing evidence from both the City of Chicago and State of Alabama. In July, 1987, the Illinois state legislature passed legislation which would have diminished confidentiality, discontinued anonymous testing, and mandated contact tracing. Although the governor had not yet acted on the legislation and it would not have come into force until the following January, there was an immediate impact on the number of "no shows" for testing appointments: among high risk groups 36% failed to show up for testing versus the previous rate of 28%; among low risk groups, the rate rose from a previous average of 34%, to 41% as the legislation was being debated, to 49% immediately thereafter. In Alabama, although the "no-show" rate is lower, there was a similar increase while legislation was being debated and after it was passed, with the rate rising from 19% to 26%.

Some people say that testing for AIDS should be treated the same way as for any sexually transmitted disease, such as syphilis and gonorrhea. There are three important reasons, however, why this is not a valid argument. First, the tests available in those cases show the presence of the disease, not just exposure to a virus. Second, both of those diseases are curable through proven treatment. Third, those diseases do not have the social stigma and the resulting potential for major life disruptions, such as loss of job, as does AIDS.

IV. The Impact of Publicly Sanctioned Discrimination on AIDS Education

The existence of publicly sanctioned AIDS-related discrimination has an impact beyond discouraging those at risk from being counseled and tested.

One of the most serious problems facing AIDS education efforts is the fear caused at least in part by misinformation as to the manner and
risk of transmission of AIDS. On the national, state, and local levels, public health officials and others have been conducting education efforts designed to give the general public the correct information on how the disease is spread and how it can be prevented. Everytime, however, a local hospital, school, or other organization discriminates against an individual who is not involved in activities which would expose others to the virus, it sends a conflicting message to the general public that AIDS can be spread by casual contact. Such incidents frustrate education efforts and contribute to the continuing confusion and fear surrounding AIDS.

V. National Regulation Is Necessary For a National Crisis

Traditionally, public health has been considered primarily a local issue. The AIDS epidemic, however, presents us with a disease of such devastating impact and scope that local action alone cannot meet the challenge. Recognizing this, the National Governors Association (NGA) at its conference in July passed a resolution which stated that "AIDS is a national public health problem which knows no geographical boundaries" and that the "federal government, in cooperation with state and local governments, ... must take the lead on a national AIDS education campaign" to prevent the further spread of the disease.

The NGA went on to state that:

"As part of this national education and prevention effort, increased resources must also be devoted to counseling and testing for the HIV antibody. ... Counseling and testing represents a major opportunity to encourage, on a one-to-one basis, the behavior changes required to stop further spread of the HIV virus."

The NGA's resolution also dealt with the issues of confidentiality and discrimination as follows:

"Maintaining the confidentiality of HIV test results is a major concern of the Governors."

"The Governors are also concerned that individuals who test positive for the AIDS virus may face discrimination, despite the fact that all medical evidence to date shows that AIDS cannot be transmitted through casual contact. Clarification or modification in law should be made where necessary to protect HIV positive individuals from inappropriately being denied opportunity in areas such as employment and housing."

Whereas the NGA called for federal action on education and prevention efforts, the NGA merely called on the states to review their existing laws concerning confidentiality and discrimination and make the necessary changes. If a majority of the legislators in each state legislature would pass such laws, national action in the area of confidentiality and discrimination would not be necessary.
Unfortunately, at this point in time, there exists a crazy patchwork of newly passed or proposed legislation in the states dealing with testing and confidentiality, with everything from mandatory testing for broad categories of citizens, quarantine, and no confidentiality at one pole to voluntary testing and strict confidentiality at the other, with most legislation being an often contradictory hodgepodge resulting more from political expediency than from medical and public health service advice. With regard to discrimination, thirty-six states and local governments have either protected individuals against AIDS-related discrimination by including these cases within the coverage of existing law barring discrimination against the handicapped or have indicated in a survey conducted by the National Gay Rights Advocates that they would do so if a proper case were brought.

At the Federal level, there is no existing legislation dealing with the testing and confidentiality issues, although the recommendations of federal public health officials from the Surgeon General to the Centers for Disease Control all favor voluntary testing (except in very limited cases), counseling and confidentiality. With regard to discrimination, the Rehabilitation Act of 1973, 29 U.S.C. §794, protects handicapped individuals from discrimination under any program or activity receiving Federal financial assistance. However, as discussed in detail in the Report of the Recommendation passed by the Executive Council in May, 1987 (see Exhibit 1), the Department of Health and Human Services is not interpreting that legislation to include cases of AIDS-related discrimination despite the recent U. S. Supreme Court action in School Board of Nassau County v Arline, 55 U.S.L.W. 4245 (U.S., March 3, 1987).

Given 1) the fact that many jurisdictions are taking approaches regarding confidentiality and discrimination which are contrary to the advice of public health officials and professionals (as well as the NGA) and 2) the damaging impact of such contrary approaches not just to a program of voluntary counseling and testing but also, as explained above, to the broader national education efforts addressed to the general public, national legislation to deal with the issues of confidentiality and discrimination is necessary as a critical component of the nation's efforts to stem the spread of AIDS.

With this background, legislation has been introduced in the House of Representatives (H.R. 3071) and the Senate (S. 1575) (see Exhibit 2) to provide national guidelines to address this national crisis. Both bills provide grants for the purpose of providing voluntary counseling and testing, mandate confidentiality regarding information obtained through counseling or testing with certain exceptions regardless of whether such counseling or testing has been Federally funded, and prohibit discrimination against an "otherwise qualified individual" in employment, housing, public accommodations, or governmental services, solely by reason of the fact that such individual is, or is perceived as being, infected with the HIV virus or having AIDS or an AIDS related condition. An individual is not considered "otherwise qualified" if 1) there is a bona fide medical
determination that the individual will, under the circumstances involved, expose others to a significant possibility of being infected with HIV, or 2) the individual cannot satisfy bona fide essential criteria for employment, housing, etc. after reasonable accommodation regarding the possibility of infection.

We strongly support such legislation for all the reasons stated above. There is, however, one aspect of the bills as submitted which should be amended. Section 2335 of both bills provides that "a physician or a professional counselor" may disclose identifying information to the individual's spouse or to someone who has been identified as being a sexual partner of the individual if the physician/counselor believes that the disclosure is medically appropriate and that the individual will not inform such spouse or contact.

The section as worded applies to any physician or counselor, including therefore one that works for a public health agency doing the testing and counseling. If left intact, this section would vitiate the entire confidentiality provisions of the Bill since the physician or counselor who dealt with the individual would be allowed to disclose the protected information provided s/he believed that the individual would not notify the other people. Although there is an understandable public health concern argues for contact tracing, in this context it needs to be done by convincing the individuals through counseling to do it themselves or to consent to it being done, or if that is not successful, to inform the at risk individual that s/he has had contact without disclosing any identifying information.

We therefore feel that §2335 should be amended to indicate that the physician or counselor may notify the sexual contact that they have had contact with an individual who has tested sero-positive for HIV, but that the physician or counselor may not disclose any identifying information. In addition, §2331(a) which states the basic confidentiality rule and cites the exceptions and §2336 regarding notification of disclosure should be amended to include disclosure made under §2335.

V. Summary

AIDS presents a national emergency which must be dealt with through national policy. This is not an issue where each state can be left to deal with the issue as best it can, because AIDS is not a local issue. If one state adopts policy which is harmful to efforts to control the disease, then not only that state suffers from the spread of the disease, but invariably, given the mobility of U.S. citizens, we will all suffer.

The public health and medical community are in general agreed that in addition to education, voluntary testing, counseling, and confidentiality are the keys to controlling the spread of the disease by making individuals aware as to whether they have been exposed to HIV and by encouraging them to alter their sexual practices so as to eliminate the risk of either being exposed to or exposing others to HIV.
With regard to AIDS-related discrimination, the United States is in the grip of an increasing fear regarding the risk of contracting AIDS. As the population at risk has grown from homosexuals, IV drug abusers, and those needing blood transfusions to the entire population, more people have become scared. Despite numerous factually correct articles in magazines and newspapers, and statements by public officials such as the Surgeon General, the general public has not accepted the fact that AIDS is only transmitted through sexual intercourse or the exchange of blood. Instead, there is a general misconception that AIDS can be transmitted as easily as any other virus. Because of these misconceptions, discrimination against those with AIDS and those thought to present the risk of transmitting AIDS have reached serious proportions.

Although those state courts and agencies that have considered the matter have concluded that AIDS-related discrimination is covered by laws which protect the handicapped from discrimination, there are no dispositive federal cases and the most recent opinions of the Justice Department and HHS exclude from protection discrimination based on the fear of AIDS contagion. Since most states have not yet had to act on this issue and since the Federal government has not altered its interpretation, it is most reasonable for AIDS-related discrimination to be dealt with as part of a national policy to stem the spread of AIDS. As we have discussed above, AIDS-related discrimination has an impact both on the likelihood of high risk individuals volunteering for testing and counseling as well as the national education effort to provide the public with accurate information on the manner and risk of AIDS transmission.

The AIDS crisis has had to wait far too long for the development of a national policy. One reason, indeed, why the problem has reach its current proportions is that public health policy has floundered at the state level for want of national direction. Legislation such as H.R.3071 and S.1575 will make an important contribution in our efforts to combat AIDS.

February, 1988

Respectfully submitted,

William C. Hubbard
Chairperson, Young Lawyers Division

William L. Robinson
Chairperson, Section of Individual Rights and Responsibilities
FOOTNOTES

1. Medical studies of families in which a member has tested positive to HIV and of hospital personnel caring for AIDS patients show no spread of the virus other than through sexual intercourse, from mother to fetus in utero, or through blood/blood exposure from needle sticks. "Lack of Transmission of [HIV] Infection to Household Contacts of Patients with AIDS or ARC," 314 New England Journal of Medicine 344 (1986); CDC, "Recommendations for Preventing Transmission of Infection with [HIV] During Invasive Procedures" 35 M.M.W.R. 221 (1986); CDC, "Recommendations for Prevention of HIV Transmission in Health Care Settings" 36 M.M.W.R. 38 (1987)

2. See, e.g., CDC, "Recommendations for Preventing Transmission of Infection with [HIV] in the Workplace", 34 M.M.W.R. 681-96 (Nov. 1985); Ordinance #861211-V, City of Austin, Texas (Dec, 1986)


6. Hopkins, Donald R., Deputy Director for the CDC AIDS Project, Speech before the 3rd International Conference on AIDS, June 3, 1987


8. Alabama Department of Public Health, State Epidemiologist
III. Federal Regulation of AIDS As a Handicap

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794, protects handicapped individuals from discrimination under any program or activity receiving Federal financial assistance. The question is, who is "handicapped" under federal law? Congress has defined a "handicapped individual" for the purpose of Section 504 as follows:

"Any person who (i) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment." 29 U.S.C. §706(7)(B)

HHS regulations further define "physical impairment" and "major life activities" respectively as

"any physiological disorder or condition ... affecting one or more of the [major] body systems: neurological...digestive...lymphatic...skin." 45 CFR §84.3j(2)(i)

"functions such as caring for one's self, performing manual tasks, ... and working." 45 CFR §84.3j(2)(ii).

Clearly, the term "handicapped" as used in Section 504 goes far beyond the normal usage, i.e. the deaf, blind, speech-impaired, and paraplegics.

Those federal courts and administrative agencies that have considered the issue have found that AIDS is a handicap within the meaning of Section 504. None of these cases, however, is dispositive of the federal issue.

On June 23, 1986, the Justice Department provided an opinion to the U.S. Department of Health and Human Services (HHS) which stated that while discrimination against someone solely because he has AIDS would violate federal law, that employers and others could discriminate against those with AIDS if they had a fear of contagion, even if that fear is unreasonable and without any medical foundation. HHS then instructed its employees to act in accordance with the Justice Department opinion. There has been no adjudication of this issue (other than Thomas, see footnote #5) since the Justice Department opinion.
IV. The Impact of Arline

On March 3, 1987, the U. S. Supreme Court had before it in School Board of Nassau County v. Arline. 55 U.S.L.W. 4245 (U.S., March 3, 1987), the issue of whether an individual with the contagious disease of tuberculosis and who was fired because of fears of contagion may be a "handicapped individual" within the meaning of the Rehabilitation Act of 1973, Section 504. Petitioners maintained that Arline's record of a handicap was irrelevant in this case since she was fired not because of her diminished physical abilities but because of the threat that her disease posed to the health of others.

The court stated, however, that nothing in the legislative history of Section 504 suggest that Congress intended "to allow an employer to seize upon the distinction between the effects of a disease on others and the effects of a disease on a patient and use that distinction to justify discriminatory treatment." Rather, that history indicates that Congress was very concerned about the substantial limitation on a person's ability to work as a result of the negative reactions of others to the impairment. To find otherwise would be inconsistent with the basic purpose of the law "which is to ensure that handicapped individuals are not denied jobs or other benefits because of the prejudiced attitudes or the ignorance of others .... The Act is carefully structured to replace such reflexive reactions to actual or perceived handicaps with actions based on reasoned and medically sound judgments."

Although the court specifically declined to rule on the question of whether AIDS is a handicap because the matter was not before it, the reasoning behind the decision clearly reverses the position taken by the Justice Department and presents a clear argument that persons with AIDS or ARC are handicapped within the meaning of Section 504. Such individuals have a record of "physical or mental impairments which substantially limits one or more of such person's major life activities" and are often discriminated against because of fear of contagion.

Further, the reasoning of the court presents a clear argument that the definition of "handicapped" under Section 504 also includes those individuals who are discriminated against because someone regards them as presenting a risk of transmitting AIDS in the workplace or elsewhere and therefore cannot safely be employed or come into contact with, even though they have not been diagnosed as having AIDS. As stated above, such discrimination happens frequently to those who test positive to HIV, are thought to be homosexual, or live with someone who has AIDS or who is homosexual.
The court stated that

"by amending the definition of 'handicapped individual' to include not only those who are actually physically impaired, but also those who are regarded as impaired [as defined by the regulations] and who, as a result, are substantially limited in a major life activity, Congress acknowledged that society's accumulated myths and fears about disability and disease are as handicapping as are the physical limitations that flow from actual impairment."\(^9\)

Thus, even if a person does not have AIDS, if that person is discriminated against because someone feels that he may transmit AIDS and thus cannot safely work or otherwise come into contact with others, then that person is "handicapped" within the meaning of Section 504 and qualifies for protection from such discrimination.

The issue of contagion, however, is critical in determining whether a handicapped individual is "otherwise qualified" and thus protected by the law. The impact of contagion must be determined on a case by case basis, as in Arline, through an inquiry that includes:

"findings of facts, based on reasonable medical judgment given the state of medical knowledge, about (a) the nature of the risk (b) the duration of the risk, (c) the severity of the risk, and (d) the probabilities the disease will be transmitted and will cause varying degrees of harm."\(^10\)

Although the etiology of AIDS in and of itself would not support a finding of "not otherwise qualified," persons with AIDS may have opportunistic infections which are sufficiently contagious to meet the legal standards for being found "not otherwise qualified."

In spite of Arline, the Justice Department and HHS have not revised their guidelines separating discrimination based on having AIDS from discrimination based on the fear of transmitting AIDS; nor have they dealt with the issue of discrimination against those who are regarded as having AIDS or presenting a risk of transmitting AIDS.
FOOTNOTES

1. Medical studies of families in which a member has tested positive to HIV and of hospital personnel caring for AIDS patients show no spread of the virus other than through sexual intercourse, from mother to fetus in utero, or through blood/blood exposure from needle sticks. "Lack of Transmission of [HIV] Infection to Household Contacts of Patients with AIDS or ARC," 314 New England Journal of Medicine 344 (1986); CDC, "Recommendations for Preventing Transmission of Infection with [HIV] During Invasive Procedures" 35 M.M.W.R. 221 (1986)

2. See, e.g., CDC, "Recommendations for Preventing Transmission of Infection with [HIV] in the Workplace", 34 M.M.W.R. 681-96 (Nov. 1985); Ordinance #861211-V, City of Austin, Texas (Dec. 1986)


5. See, e.g., Shuttleworth v. Broward County Office of Budget and Management Policy, No. 85-6623 (USDC, SD of Florida, Dec. 11, 1985), {successful challenge by a civil service worker who was terminated because of AIDS); Thomas v. Atascadero Unified School District, No. 86-609AHS (USDC, CD of California, Nov. 17, 1986) (successful challenge by a school child who was prohibited from attending school because of AIDS)

6. Artline, at 4248

7. Id

8. Id, Footnote #7

9. Id

10. Id, at 4249
To amend the Public Health Service Act to establish a grant program to provide for counseling and testing services relating to acquired immune deficiency syndrome and to establish certain prohibitions for the purpose of protecting individuals with acquired immune deficiency syndrome or related conditions.

A BILL

To amend the Public Health Service Act to establish a grant program to provide for counseling and testing services relating to acquired immune deficiency syndrome and to establish certain prohibitions for the purpose of protecting individuals with acquired immune deficiency syndrome or related conditions.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled, 

SECTION 1. SHORT TITLE. 

This Act may be cited as the “AIDS Federal Policy Act of 1987.”

SECTION 2. ESTABLISHMENT OF GRANT PROGRAM FOR COUNSEL-
ING AND TESTING RELATING TO ACQUIRED IMMUNE DEFICIENCY SYNDROME AND ESTAB-
LISHMENT OF CERTAIN PROHIBITIONS FOR PURPOSE OF PROTECTING INDIVIDUALS WITH ACQUIRED IMMUNE DEFICIENCY SYNDROME OR RELATED CONDITIONS. 

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) by redesignating title XXIII as title XXIV;

(2) by redesignating sections 2301 through 2316 as sections 2401 through 2416, respectively; and

(3) by inserting after title XXII the following new title:

“TITLE XXIII—ACQUIRED IMMUNE DEFICIENCY SYNDROME

SEC. 2301. DEFINITION OF ACQUIRED IMMUNE DEFICIENCY SYNDROME. 

For purposes of this title, the term ‘infection with the etiologic agent for acquired immune deficiency syndrome’ in-

1. includes any condition arising from, or associated with, ac-
quired immune deficiency syndrome.

PART A—GRANTS FOR COUNSELING AND TESTING

SEC. 2311. ESTABLISHMENT OF PROGRAM. 

The Secretary, acting through the Director of the Cen-
ters for Disease Control, may make grants for the purposes of—

(1) counseling individuals with respect to acquired immune deficiency syndrome in accordance with section 2317, including counseling relating to measures for the prevention of exposure to, and transmission of, the etiologic agent for acquired immune deficiency syndrome; and

(2) testing individuals in order to determine whether the individuals are infected with such etiologic agent.

SEC. 2312. MINIMUM QUALIFICATIONS OF GRANTEES. 

The Secretary may not make a grant under section 2311 to an applicant unless the applicant—

(1) is a grantee pursuant to section 317(g)(2), section 318(c), section 329, section 330, section 509A, or section 1001;

(2) has under any appropriations Act received funds as an alternate blood testing site; or

(3) is a public general hospital.
"SEC. 2313. PREFERENCES IN MAKING GRANTS.

"The Secretary shall, in making grants under section 2311, give preference to qualified applicants that will provide counseling and testing pursuant to such section in any geographic area in which the incidence of cases of acquired immune deficiency syndrome, as indicated by the number of such cases reported to and confirmed by the Secretary, constitutes a significant percentage of the total population of the geographic area.

"SEC. 2314. REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS.

"(a) In General.—The Secretary may not make a grant under section 2311 to an applicant unless the applicant has submitted to the Secretary an application for such a grant containing agreements in accordance with—

"(1) section 2315, relating to the confidentiality of records;

"(2) section 2316, relating to informed consent;

"(3) section 2317, relating to the provision of counseling services;

"(4) section 2318, relating to the provision of opportunities to receive anonymous counseling and testing;

"(5) section 2319, relating to requiring testing as a condition of receiving other health services;

"(6) section 2320, relating to the use of grant funds to increase the availability of counseling and testing; and

"(7) section 2321, relating to the administration of grants.

"(b) ADDITIONAL REQUIRED INFORMATION.—An application required in subsection (a) shall, with respect to agreements required to be contained in such an application, provide assurances of compliance satisfactory to the Secretary and shall otherwise be in such form, be made in such manner, and contain such information in addition to information required in subsection (a) as the Secretary determines to be necessary to carry out this part.

"SEC. 2315. REQUIREMENT WITH RESPECT TO CONFIDENTIALITY.

"The Secretary may not make a grant under section 2311 to an applicant unless the applicant will, in accordance with applicable law, ensure the confidentiality of information and records with respect to individuals counseled or tested pursuant to such section.

"SEC. 2316. REQUIREMENT WITH RESPECT TO INFORMED CONSENT.

"The Secretary may not make a grant under section 2311 to an applicant unless the applicant agrees that the applicant, in conducting testing pursuant to such section, will
test an individual only after obtaining from the individual a statement, made in writing and signed by the individual, declaring that the individual has undergone counseling described in section 2317 and declaring that the decision of the individual with respect to undergoing such testing is voluntarily made.

"SEC. 2317. REQUIREMENT OF PROVISION OF CERTAIN COUNSELING SERVICES.

(a) COUNSELING BEFORE TESTING.—The Secretary may not make a grant under section 2311 to an applicant unless the applicant agrees that the applicant, before testing any individual pursuant to such section, will provide to the individual appropriate counseling with respect to—

(1) measures for the prevention of exposure to, and transmission of, the etiologic agent for acquired immune deficiency syndrome;

(2) the accuracy and reliability of testing for such etiologic agent;

(3) the significance of the results of such testing, including the potential for developing acquired immune deficiency syndrome;

(4) applicable provisions of law relating to the confidentiality of the fact that the individual is undergoing counseling or testing and the confidentiality of information provided by the individual during the process of such counseling or testing, including information with respect to any disclosures that may be authorized under applicable law and information with respect to the availability of anonymous counseling and testing pursuant to section 2318;

(5) applicable provisions of law relating to the confidentiality of the results of such counseling or testing, including information with respect to any disclosures that may be authorized by law;

(6) applicable provisions of law relating to the reporting to, and use by, State public health authorities of the results of such testing; and

(7) applicable provisions of law relating to discrimination against individuals infected with the etiologic agent for acquired immune deficiency syndrome.

(b) COUNSELING OF INDIVIDUALS WITH NEGATIVE TEST RESULTS.—The Secretary may not make a grant under section 2311 to an applicant unless the applicant agrees that, if the results of testing conducted pursuant to such section indicate that an individual is not infected with the etiologic agent for acquired immune deficiency syndrome, the applicant will review for the individual the information provided under subsection (a) with respect to measures for the prevention of exposure to, and transmission of, such etiologic agent for acquired immune deficiency syndrome;
logic agent and with respect to the accuracy and reliability of
2 testing for such etiologic agent.
3 "(c) Counseling of Individuals with Positive
4 Test Results.—The Secretary may not make a grant
5 under section 2311 to an applicant unless the applicant
6 agrees that, if the results of testing conducted pursuant to
7 such section indicate that the individual is infected with the
8 etiologic agent for acquired immune deficiency syndrome, the
9 applicant will provide to the individual appropriate counsel-
10 ing with respect to—
11 "(1) measures for the prevention of the transmis-
12 sion of the etiologic agent for acquired immune defi-
13 ciency syndrome;
14 "(2) the availability in the geographic area of any
15 appropriate services with respect to health care, in-
16 cluding mental health care and appropriate social and
17 support services;
18 "(3) the benefits of locating and counseling any
19 individual by whom the infected individual may have
20 been exposed to the etiologic agent for acquired
21 immune deficiency syndrome and any individual whom
22 the infected individual may have exposed to such etio-
23 logic agent; and

"(4) the availability, if any, of the services of
2 public health authorities with respect to locating and
3 counseling any individual described in paragraph (c).
4 "(d) Construction of Section.—Agreements en-
5 tered into pursuant to subsections (a) through (c) may not be
6 construed to prohibit any grantee under section 2311 from
7 providing counseling services described in such subsections to
8 an individual who will not undergo testing described in sec-
9 tion 2311(2) as a result of the grantee or the individual deter-
10 mining that such testing of the individual is not appropriate.
11 "SEC. 2311. REQUIREMENT OF PROVISION OF OPPORTUNITIES
12 FOR ANONYMOUS COUNSELING AND TESTING.
13 "The Secretary may not make a grant under section
14 2311 to an applicant unless the applicant agrees that the
15 applicant will, to the extent permitted under applicable State
16 law, offer substantial opportunities for an individual—
17 "(1) to undergo professional counseling and test-
18 ing pursuant to such section without being required to
19 provide any information relating to the identity of the
20 individual; and
21 "(2) to undergo such professional counseling and
22 testing through the use of a pseudonym.
"SEC. 2319. PROHIBITION AGAINST REQUIRING TESTING AS CONDITION OF RECEIVING OTHER HEALTH SERVICES.

"The Secretary may not make a grant under section 2311 to an applicant unless the applicant agrees that, with respect to an individual seeking health services from the applicant, the applicant will not require the individual to undergo testing described in section 2311(2) as a condition of receiving the health services unless such testing is medically necessary in the provision of the health services sought by the individual.

"SEC. 2320. REQUIREMENT OF INCREASED AVAILABILITY OF COUNSELING AND TESTING.

"With respect to any applicant for a grant under section 2311 that, during the majority of the 180-day period preceding the effective date of this title, carried out a program of counseling or testing with respect to acquired immune deficiency syndrome, the Secretary may not make a grant under such section to the applicant unless the applicant agrees that grant funds will be expended only for the purpose of significantly increasing the availability of such counseling and testing provided by the applicant above the level of availability provided during such period.

"SEC. 2321. REQUIREMENTS WITH RESPECT TO ADMINISTRATION OF GRANT.

"The Secretary may not make a grant under section 2311 to an applicant unless the applicant agrees that—

"(1) the applicant will not expend amounts received pursuant to such section for any purpose other than the purposes described in such section;

"(2) if the applicant imposes a charge for providing counseling and testing described in such section, the applicant will provide such counseling and testing without regard to the ability of the individual involved to pay such charge;

"(3) the applicant will establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant; and

"(4) the applicant will not expend more than 10 percent of amounts received under such section for the purpose of administering such amounts.

"SEC. 2322. PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.

"(a) In General.—Upon the request of a grantee under section 2311, the Secretary may, subject to subsection (b), provide supplies, equipment, and services for the purpose of aiding the grantee in providing counseling and testing described in section 2311 and, for such purpose, may dete..."
"(b) LIMITATION.—

"(1) With respect to a request described in subsection (a), the Secretary—

"(A) may not comply with such a request unless the Secretary has not yet disbursed the full amount of the grant to the grantee and the portion not yet disbursed is not less than an amount equal to the fair market value of any supplies, equipment, or services to be provided by the Secretary; and

"(B) shall reduce the amount to be disbursed under section 2311 to the applicant by an amount equal to such fair market value.

"(2) Amounts withheld by the Secretary under paragraph (1)(B) shall be available to the Secretary for the payment of expenses incurred in providing supplies, equipment, or services under subsection (a).

"SEC. 2322. AUTHORIZATIONS OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part $400,000,000 for each of the fiscal years 1988 through 1990.

"PART B—CONFIDENTIALITY WITH RESPECT TO COUNSELING AND TESTING

"SEC. 2331. PROHIBITION AGAINST DISCLOSURE OF CERTAIN INFORMATION OBTAINED FROM PROCESS OF COUNSELING OR TESTING.

"(a) IN GENERAL.—Except as provided in section 2332, 2333, or 2334, a person described in subsection (b) may not disclose identifying information with respect to a protected individual or a contact of such individual.

"(b) PERSONS SUBJECT TO PROHIBITION.—A person referred to in subsection (a) is a person who obtains identifying information with respect to a protected individual or a contact of such individual as a result of—

"(1) direct or indirect involvement in the process of providing to the protected individual professional counseling with respect to acquired immune deficiency syndrome, which professional counseling is provided in relation to testing described in paragraph (2) (including such counseling provided as a result of a referral from a person carrying out such testing) and is provided under conditions in which the protected individual can reasonably expect that information provided by the individual will remain confidential;

"(2) direct or indirect involvement in the process of testing a protected individual for the purpose of de-
terminating whether the individual is infected with the 
etiologic agent for acquired immune deficiency syn-
drome;

"(3) direct or indirect involvement in the process 
of carrying out a purpose for which an authorized dis-
losure is made under section 2332, 2333, or 2334; or

"(4) reading any record containing identifying in-
formation with respect to a protected individual or a
contact of such individual, which record is developed in
the process of such counseling or testing or is de-
veloped in the process of carrying out such a purpose.

"(c) Establishment of Civil Money Penalty.

Civil Causes of Action, and Criminal Penalty for
Violation of Prohibition.—

"(1)(A) Any person who violates the prohibition 
established in subsection (a) shall be liable to the
United States for a civil penalty in an amount not to
exceed $2,000 for each such violation.

"(B) A civil penalty under subparagraph (A) for a
violation of subsection (a) shall be assessed by the Sec-
retary by an order made on the record after opportu-
nity for a hearing in accordance with section 554 of title
5, United States Code. The Secretary shall provide
written notice to the person who is the subject of the
proposed order informing the person of the opportunity
to receive a hearing on the record with respect to the
proposed order. Such person may not receive such a
hearing unless, before the expiration of the 15-day
period beginning on the date such notice is received by
the person, the person makes a request for the hearing.

"(C) The Secretary may compromise, modify, or
remit, with or without conditions, any civil penalty im-
posed pursuant to subparagraph (A).

"(D) If the Secretary issues an order pursuant to
subparagraph (B), the person who is the subject of the
order may not seek judicial review of the order after
the expiration of the 30-day period beginning on the
date the order is issued.

"(E)(i) If a person fails to pay a civil penalty as-
essed pursuant to subparagraph (A), the Secretary
may, subject to clause (ii), commence a civil action in
any court of competent jurisdiction for the purpose of
recovering the amount assessed and an amount repre-
senting interest computed in accordance with prevail-
ing interest rates. In such an action, the decision of the
Secretary to issue the order, and the amount of the
penalty assessed by the Secretary, shall not be subject
to review.
"(iii) The civil action referred to in clause (i) may be commenced only after an order under this paragraph has become final and—

"(I) the person who is the subject of the order fails to seek judicial review of the order within the period described in subparagraph (D); or

"(II) with respect to any judicial review, the reviewing court has entered final judgment against the person.

"(2) The Secretary may commence a civil action in any court of competent jurisdiction for the purpose of obtaining temporary or permanent injunctive relief with respect to preventing a person from making a disclosure of identifying information in violation of subsection (a).

"(3) Any person who knowingly violates the prohibition established in subsection (a) may for each violation be fined in accordance with title 18, or imprisoned for not more than one year, or both.

"(4) A protected individual, or a contact of such individual, who is aggrieved as a result of the disclosure of identifying information in violation of subsection (a) may in a civil action against any person making such a disclosure obtain appropriate relief, including actual and punitive damages and a reasonable attorney's fee and cost. Such damages shall be not less than the liquidated amount of $2,000.

"SEC. 2332. AUTHORIZED DISCLOSURES BY PERSONS INVOLVED IN PROCESS OF COUNSELING OR TESTING.

"(a) Consent to Disclosure.—

"(1) A person described in paragraph (1) or (2) of section 2331(b) may disclose identifying information with respect to a protected individual and a contact of such individual if—

"(A) prior to the disclosure, the protected individual has obtained the legal age of majority under the law of the State in which the individual resides and has, in accordance with paragraph (3), consented to the disclosure; or

"(B) prior to the disclosure, the protected individual is legally incompetent under the law of the State in which the individual resides and the guardian of the individual consents, in accordance with paragraph (3), to the disclosure.

"(2) A consent under paragraph (1) shall be void to the extent that the consent authorizes the recipient of the disclosure to make subsequent disclosures in the discretion of the recipient.
(3) A consent under paragraph (1) shall—

(A) be in writing and be dated;

(B) be signed by the protected individual pursuant to subparagraph (A) of such paragraph or by the guardian of such individual pursuant to subparagraph (B) of such paragraph;

(C) specify the information that is to be disclosed;

(D) specify the person, persons, or class of persons whom the consent authorizes to make the disclosure; and

(E) specify the person, persons, or class of persons to whom the disclosure is to be made.

(b) Disclosure Without Consent With Respect to Counseling and Testing.—A person described in paragraph (1) or (2) of section 2331(b) may disclose identifying information with respect to a protected individual and a contact of such individual if the disclosure is made—

(1) to a health care professional for the purpose of providing to the protected individual counseling or testing described in such paragraphs; or

(2) to the protected individual.

(c) Disclosure Without Consent to State Public Health Officer.—A person described in paragraph (1) or (2) of section 2331(b) may disclose identifying information with respect to a protected individual if the disclosure is made to a health care professional or provider that will provide health care to the protected individual under conditions in which, as determined under guidelines issued by the Secre...
tary, the professional or provider will be occupationally ex-
posed to the etiologic agent for acquired immune deficiency
syndrome.

4 "(f) CERTAIN INTRAORGANIZATION DISCLOSURES

5 WITHOUT CONSENT.—With respect to an organization to

6 which an authorized disclosure is made under any of subsec-
7 tions (a) through (e), a person receiving on behalf of the or-
8 ganization the identifying information involved may disclose
9 within the organization such identifying information with re-
10 spect to the protected individual (and, if authorized under the
11 subsection involved, any contact of such individual) as may
12 be medically necessary with respect to carrying out the pur-
13 pose for which the authorized disclosure is made.

14 "SEC. 2332. AUTHORIZED REDISCLOSURE BY PERSONS RE-
15 CeIVING DISCLOSURES WITH RESPECT TO

16 PROCESSES OF COUNSELING OR TESTING.

17 "(a) Redisclosure of Information Received
18 From Counseling or Testing Facility.—Any person
19 who, under any of subsections (a) through (f) of section 2332,
20 receives an authorized disclosure may disclose the identifying
21 information involved to any other person to whom such an
22 authorized disclosure may be made under any of such
23 subsections.

24 "(b) Redisclosure of Information Received
25 From Recipient of Disclosure From Counseling or

21 Testing Facility.—Any person who, under subsection (a),
22 receives an authorized disclosure may disclose the identifying
23 information involved to any other person to whom such an
24 authorized disclosure may be made under any of subsections
25 (a) through (f) of section 2332.

26 "SEC. 2334. COURT ORDERS WITH RESPECT TO DISCLOSURE

27 OF IDENTIFYING INFORMATION.

28 "(a) In General.—A court of competent jurisdiction
29 may, upon appropriate application to the court by the State
30 public health officer, order any person described in section
31 2331(b) to make a disclosure to the health officer of identify-
32 ing information with respect to a protected individual and a
33 contact of such individual if the court determines that the
disclosure is necessary with respect to preventing a clear and
34 imminent danger of the transmission of the etiologic agent for
35 acquired immune deficiency syndrome.

36 "(b) Opportunity to Participate in Proceed-
37 ings.—Before requiring a disclosure under subsection (a),
38 the court shall provide to the protected individual (and to any
39 contact of such individual with respect to whom identifying
40 information is sought) a reasonable opportunity to participate
41 in the proceedings for determining whether a disclosure will
42 be ordered.

43 "(c) CONFIDENTIALITY OF PROCEEDINGS.—Proceed-
44 ings under subsection (a) shall be conducted in camera. Any
references in court documents to the parties in such proceeding shall be references to pseudonyms for the parties.

Records developed in such proceeding shall be sealed at the close of such proceeding.

"(d) EXTENT OF ORDERED DISCLOSURE.—A court shall, in requiring a disclosure under subsection (a), order such disclosure only to the extent necessary to provide the requested relief and shall prohibit any unnecessary such disclosure.

"SEC. 2335. DISCLOSURES WITHOUT CONSENT WITH RESPECT TO CERTAIN CONTACTS OF PROTECTED INDIVIDUALS.

"A person described in paragraph (1) or (2) of section 2331(b) may disclose identifying information with respect to a protected individual if—

"(1) such person is a physician or a professional counselor;

"(2) the disclosure is made to the spouse of the protected individual or to an individual whom the protected individual has, during the process of professional counseling or testing described in such paragraphs, identified as being a sexual partner of the protected individual; and

"(3) such person reasonably believes that—

"(A) the disclosure is medically appropriate; and

"(B) the protected individual will not inform such spouse or sexual contact with respect to the identifying information involved.

"SEC. 2336. REQUIREMENT OF CERTAIN NOTIFICATIONS WITH RESPECT TO DISCLOSURE OF IDENTIFYING INFORMATION.

"(a) In General.—Except as provided in subsection (b), any person who, under section 2332, 2333, or 2334, discloses any identifying information with respect to a protected individual shall—

"(1) ensure that such disclosure, whether made orally or in writing, is accompanied by a written statement declaring that any subsequent disclosure of the information provided may be prohibited by law; and

"(2) with respect to a living protected individual, notify such individual in writing of the fact of such disclosure.

"(b) EXCEPTIONS.—The requirements established in subsection (a) shall not apply to any authorized disclosure made under section 2332 or 2333 to a person who is part of the same organization as the person who makes the authorized disclosure.
"(B) who has, with respect to undergoing such professional counseling or testing, disclosed his or her identity to a person who provides such professional counseling or testing.

"(4) The term 'records' includes electronic recordings and any other method of storing information.

"(5) The term 'testing for the purpose of determining whether an individual is infected with the etiologic agent for acquired immune deficiency syndrome' includes any diagnosis of such infection made by a health care professional licensed to make such a diagnosis under the law of the State in which the diagnosis is made."]

"PART C—INAPPROPRIATE USE OF CERTAIN INFORMATION RELATING TO ACQUIRED IMMUNE DEFICIENCY SYNDROME"

"SEC. 3311. PROHIBITION AGAINST DISCRIMINATION.

"(a) In General.—

"(1) A person may not discriminate against an otherwise qualified individual in employment, housing, public accommodations, or governmental services, solely by reason of the fact that such individual is, or is regarded as being, infected with the etiologic agent for acquired immune deficiency syndrome.
'(2) A person may not discriminate against an otherwise qualified individual in the provision of benefits under any program or activity that receives or benefits from Federal financial assistance solely by reason of the fact that such individual is, or is regarded as being, infected with the etiologic agent for acquired immune deficiency syndrome.

'(b) CONSTRUCTION.—With respect to an individual who is infected with the etiologic agent for acquired immune deficiency syndrome, the individual may not under subsection (a) be considered to be otherwise qualified if—

'(1) under guidelines issued by the Secretary, a public health officer makes a bona fide medical determination that the individual will, under the circumstances involved, expose other individuals to a significant possibility of being infected with such etiologic agent; or

'(2) with reasonable accommodation to the infection with such etiologic agent, the individual cannot satisfy bona fide essential criteria for—

'(A) employment, housing, public accommodations, or governmental services; or

'(B) the receipt of benefits under any program or activity that receives or benefits from Federal financial assistance.

'SEC. 2312. ESTABLISHMENT OF CIVIL MONEY PENALTY AND CIVIL CAUSES OF ACTION FOR VIOLATION OF PROHIBITION.

'(a) CIVIL MONEY PENALTY.—

'(1) Any person who violates the prohibition established in section 2341 shall be liable to the United States for a civil penalty in an amount not to exceed $2,000 for each such violation.

'(2) A civil penalty under paragraph (1) for a violation of section 2341 shall be assessed by the Secretary by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. The Secretary shall provide written notice to the person who is the subject of the proposed order informing the person of the opportunity to receive such a hearing with respect to the proposed order. Such person may not receive such a hearing unless, before the expiration of the 15-day period beginning on the date such notice is received by the person, the person makes a request for the hearing.

'(3) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty imposed pursuant to paragraph (1).

'(4) If the Secretary issues an order pursuant to paragraph (2), the person who is the subject of the order may not seek judicial review of the order after
the expiration of the 30-day period beginning on the
date the order is issued.

"(5)(A) If a person fails to pay a civil penalty as-
essed pursuant to paragraph (1), the Secretary may,
subject to subparagraph (B), commence a civil action in
any court of competent jurisdiction for the purpose of
recovering the amount assessed and an amount repre-
senting interest computed in accordance with prevail-
ing interest rates. In such an action, the decision of the
Secretary to issue the order, and the amount of the
penalty assessed by the Secretary, shall not be subject
to review.

"(B) The civil action referred to in subparagraph
(A) may be brought only after an order under this sub-
section has become final and—

"(i) the person who is the subject of the
order fails to seek judicial review of the order
within the period described in paragraph (4); or

"(ii) with respect to any judicial review of
the order, the reviewing court enters final judg-
ment against the person.

"(6) INJUNCTIVE RELIEF.—The Secretary may com-

mence a civil action in any court of competent jurisdiction for
the purpose of obtaining temporary or permanent injunctive

relief with respect to preventing a person from being dis-

erminated against in violation of section 2341.

"(c) CIVIL CAUSE OF ACTION FOR DAMAGES.—Any

person who is discriminated against in violation of section
2341 may bring a civil action against any person engaging in
such discrimination obtain appropriate relief, including actual
and punitive damages and a reasonable attorney's fee and
cost. Such damages shall be not less than the liquidated
amount of $2,000.

"SEC. 2343. CONSTRUCTION OF PROHIBITION.

"Section 2341 may not be construed to prohibit any
business organization providing life insurance or health insur-
ance from requiring any applicant for such insurance to un-
dergo testing for the purpose of determining whether the ap-
plicant is infected with the etiologic agent for acquired
immune deficiency syndrome."

SEC. 4. CONFORMING AMENDMENTS.

The Public Health Service Act (42 U.S.C. 201 et seq.)
is amended—

(1) in section 305(b), by striking "2313" each

place it appears and inserting "2413";

(2) in section 4650, by striking "2301" and in-
serting "2401"; and

(3) in section 497, by striking "2301" and insert-
ing "2401".
1. SEC. 1. EFFECTIVE DATE.

2. The amendments made by this Act shall take effect

3. October 1, 1987, or upon the date of the enactment of this

4. Act, whichever occurs later.
GENERAL INFORMATION FORM

To Be Appended to Reports with Recommendations
(Please refer to instructions for completing this form.)

No.________
(Leave Blank)

Submitting Entity: Young Lawyers Division

Submitted By: William C. Hubbard, Chairperson

1. Summary of Recommendation(s).

Supports the enactment of federal legislation such as S.1575 and H.R.3071 which: (1) promotes an increased level of voluntary counseling and testing for AIDS; (2) mandates that identifying information obtained as a result of such counseling or testing may not be disclosed without the consent of the individual except where such information is required to be provided to a public health officer by state or federal law and such law provides for the protection of the individual's confidentiality; and (3) prohibits discrimination against an "otherwise qualified individual" as defined by such legislation in employment, housing, public accommodations, or governmental services, solely by reason of the fact that such individual is, or is regarded as being, infected by the HIV virus or having AIDS or an AIDS related condition.

2. Approval by Submitting Entity.

Passed by the YLD Executive Council on October 22, 1987.
Passed by IR&R Executive Committee on October 27, 1987.

3. Previous submission to the House or relevant Association position.

The Association currently has no policy positions on AIDS-related issues, although the Board of Governors has created an AIDS Coordinating Group to review and recommend policy.

4. Need for Action at This Meeting.

Legislation is currently moving through Congress. Action must be taken at this meeting if the Association is to have any impact in this matter. Beyond that, the AIDS crisis and governmental responses are moving so rapidly that Association action is necessary.
5. **Status of Legislation.** (If applicable.)

H.R. 3071 and S. 1575 are currently under consideration by the cognizant committees of the House and Senate.

6. **Financial Information.** (Estimate of funds required, if any.)

NA

7. **Disclosure of Interest.** (If applicable.)

NA

8. **Referrals.**

This matter was previously referred to all sections as well as the Forum Committee on Health Law and the Special Committee on the Mentally Disabled in conjunction with a blanket authority request. The bills have since stalled in Congress.

The resolution will be resubmitted to all entities represented on the AIDS Coordinating Group.

9. **Contact Person.** (Prior to meeting.)

William C. Hubbard  
P. O. Box 11070  
Columbia, SC 29211  
803/799-2000

10. **Contact Person.** (Who will present the report to the House.)

Alan S. Kopit  
Office of the Secretary  
Department of Defense  
Room 3E 880  
The Pentagon  
Washington, DC 20301-1000  
202/697-8388