AMERICAN BAR ASSOCIATION
CRIMINAL JUSTICE SECTION
REPORT TO THE HOUSE OF DELEGATES

RECOMMENDATION

BE IT RESOLVED, That the American Bar Association urges States, territories, localities, judges, prosecutors, defense attorneys, and correctional officials to take steps to increase literacy among criminal offenders; and

BE IT FURTHER RESOLVED, That the American Bar Association supports a mandate requiring every correctional system to make available to criminal offenders a wide array of adult basic education programs; and

BE IT FURTHER RESOLVED, That the American Bar Association endorses the use of mandatory literacy programs to reduce illiteracy among criminal offenders, provided that the programs meet the following requirements:

1. Inmates are not denied parole or their incarceration otherwise extended because they are illiterate.
2. The programs are of high quality.
3. Special education programs are provided for offenders with developmental or learning disabilities.
4. Offenders who, because of a medical, developmental, or learning disability, cannot meet the literacy-level requirement and cannot reasonably be expected to benefit from participation in a functional literacy program are not required to participate in the program.
5. Appropriate incentives are developed to encourage and reward offenders' participation in the programs.

6. Ensure that there is coordination between literacy programs for offenders in community corrections programs, in prisons, in jails, and on parole.

7. The programs are adequately funded; and

BE IT FURTHER RESOLVED, That the "Model Literacy Act for Adult Offenders," dated July 1991, is offered as a suggested example for jurisdictions considering mandatory literacy programs for adult offenders.
REPORT

As is discussed in the commentary to the appended "Model Literacy Act for Adult Offenders," the problem of illiteracy among criminal offenders is pervasive. In many jurisdictions, the majority of prison inmates, for example, test below the sixth grade level. This illiteracy makes it difficult for offenders to find jobs and to adjust in a world which demands literacy to perform even ordinary tasks such as writing a check and filling out a job application. Thus, if we want to facilitate the adjustment of convicted offenders into society and their abandonment of criminal activity, one of the steps that must be taken is to help them overcome the handicap of illiteracy.

To do this, some of the States and the federal government have adopted mandatory literacy programs under which illiterate prison inmates are required to participate in functional literacy programs for a set period of time. These jurisdictions adopted such programs because they had found that when given the choice, many illiterate inmates refused to go to school. Some refused because they preferred to work for pay in a prison job, while others refused to go to school because they had such bad experiences in school in the past.

The experiences of the jurisdictions that have adopted mandatory literacy programs have shown that they can be successful in attracting inmates to and retaining them in functional literacy programs. For example, the number of inmates who successfully completed literacy programs in the Federal Bureau of Prisons increased by over 400% once these programs became mandatory. However, to achieve their objective of eradicating inmate illiteracy, the mandatory literacy programs must be properly constructed.

The Recommendations accompanying this Report outline the minimum requirements that such programs must meet to be effective and avoid legal challenges. First, they must ensure that an inmate's confinement is not continued or extended because of illiteracy. While an inmate's illiteracy is cause for concern, if the inmate is otherwise ready to be released from prison, his or her illiteracy can be effectively combatted in a community-based program, sparing the inmate from unnecessary restrictions on his liberty and the public from unnecessary incarceration costs.

Second, the mandatory literacy program must be of high quality. It is a waste of time and money to set up programs that are ill conceived and poorly implemented. Not only will the goal of making inmates functionally literate not be achieved, but their disenchantment with the program may further frustrate rehabilitation efforts. Third, special provisions need to be made for offenders with medical, developmental, or learning disabilities that preclude them from reaching the program's literacy level goal and who cannot otherwise reasonably be expected to benefit from participation in the program. Such offenders should be exempted from the program.
On the other hand, if an offender, because of a disability, could not reach the program’s literacy level but could benefit from participation in the program, such participation could be required, but an adjustment would have to be made in the literacy level that the offender is expected to reach.

Fourth, to encourage offenders to achieve the goal of becoming functionally literate, they should be rewarded for their efforts with appropriate incentives. Fifth, there should be coordination between literacy programs throughout the criminal justice system. There is a great deal of movement of offenders through the system. Offenders may be sentenced to jail for a short period of time followed by a period of probation. Or they may be sentenced to probation, but then find themselves in prison when their probation is revoked. Or they may be transferred from one prison to another or be released from prison onto parole. For a literacy program to work, there must be continuity and consistency in the offender’s schooling regardless of the type of supervisions to which the offender is subject at any particular point in time.

Finally, a self-evident point is that if the mandatory literacy programs are to succeed, they must be adequately funded by the legislature. Funds must be appropriated, for example, to attract competent educators to direct and implement these programs, to buy effective literacy teaching tools, such as books and computers, and to implement quality-control measures.

The attached "Model Literacy Act for Adult Offenders" incorporates the minimum requirements delineated above. The Act may therefore provide helpful guidance to jurisdictions that are establishing mandatory literacy programs.

Respectfully submitted,

Andrew L. Sonner, Chairperson
Criminal Justice Section

February 1992
APPENDIX

MODEL LITERACY ACT FOR ADULT OFFENDERS
(July 1991)

I. Introduction

A. Purpose of Act

The purpose of this Act is to establish a mandatory literacy program for criminal offenders so that they achieve functional literacy and become self-supporting and law-abiding citizens.

Commentary: Adult illiteracy has reached crisis proportions in the United States. Any number of studies and legislative initiatives have surfaced in response to the illiteracy which prevents many of our nation's citizens from functioning within or contributing to our increasingly complex society.

Nowhere is this crisis more evident than in those of our population who pass through our criminal justice system. While the average inmate literacy rate varies from state to state, inmate illiteracy is a serious problem in correctional institutions regardless of jurisdiction. The average inmate operates at the 7.2 grade level in Maine and the 8-9th grade level in Nebraska. In Kansas and North Carolina, 60% of the inmates are reported to operate below the 6th grade level.

The persons committed to the custody of our state and federal correctional institutions and, to a lesser degree, those on probation or parole, are within society's custody and control for some period of time, however limited. It is apparent that these persons generally suffer from a lack of functional literacy which can severely handicap their ability to become productive members of our communities. The costs of allowing this situation to remain unaddressed have led many states to consider mandating literacy programs for inmates.

The Prison and Jail Problems Committee of the American Bar Association's Criminal Justice Section has conducted a survey of the states to determine their treatment of mandatory literacy programs. According to this survey, as of January 1, 1991, thirteen states had a mandatory literacy policy -- Arkansas, California, Florida, Hawaii, Illinois, Maryland, Michigan, Montana, New Mexico, North Carolina, Ohio, Texas, and Vermont. At least four other states were in various stages of developing a mandatory literacy policy -- Delaware, Mississippi, South Carolina, and Wisconsin.
The purpose of this Act is to provide a framework for state legislatures considering mandatory literacy programs. Many of the provisions are drawn from mandatory acts already enacted in different states.

It is not expected that states will enact this Model Act verbatim. Within the group of states which have addressed this issue, there is variation in specific provisions related to the required educational level, the period of mandated participation, minimum daily instructional hours, and the choice of oversight agency, for example. What is of paramount importance is that, through mandatory education, the educational program within a jurisdiction's correctional system is assigned a position of priority second to no other program or activity, both for the inmate and for the institution.

It is also important to note that, though mandatory literacy acts require an inmate to attend the literacy program, this requirement is for a limited duration. After the mandatory participation period ends, the inmate is encouraged to remain in the educational program on a voluntary basis. The functionally illiterate inmate probably had previous negative educational experiences. The mandatory period allows the education program an opportunity to prove to the inmate that the inmate can have a positive experience in education. The burden is on the education program to keep the inmate interested in pursuing his or her education after the required period of school attendance has elapsed and on the correctional system to provide meaningful incentives for educational participation.

The states with a mandatory policy report that there is a high retention rate after the mandatory portion of the program is completed. Illinois and Maryland report that 85% of their inmates remain in school.

According to officials with the Federal Bureau of Prisons, when their education program was voluntary, the demands of other prison departments for the inmate labor force prevented higher participation rates. When these programs became mandatory, not only enrollments but also completions reportedly increased by over 400%.

B. Definitions

1. "Functional literacy" means the ability to read, write, and perform other tasks necessary to function independently in society. An individual who possesses a high school diploma or a general education diploma (GED), who attains either after entry into a mandatory literacy program, or who tests at the twelfth-grade academic level on...
the standardized assessment instrument selected by the Correctional Education Council under section II.C.1 of this Act, shall be presumed to be functionally literate.

Commentary: Educators agree that functional literacy means more than an ability to read and write. The definition of functional literacy set forth in the Act includes the other minimum skills needed to function independently, such as the ability to communicate and solve problems. An inmate returning to society that has achieved functional literacy will be better prepared to face the challenges of living outside of the correctional environment and may be less likely to return to that environment in the future.

The high school diploma and GED are readily available instruments to determine literacy, particularly the GED which requires some demonstration of reading ability. Inmates should be tested when they first enter prison to determine their educational level unless they can document that they have received a high school diploma or GED, in which case they can be exempted from the mandatory program. While it is true that some inmates, like other individuals, may still be functionally illiterate despite having received one of these two diplomas, this is a problem that must be addressed by taking steps that are beyond the purview of the criminal justice system to ensure that students who obtain such diplomas are functionally literate.

a. Non-English speaking individuals who function at a twelfth-grade level or above in their native language shall only be required to participate in an English-as-a-Second-Language program. A corrections agency that establishes a mandatory literacy program for criminal offenders shall establish an English-as-a-Second-Language program for non-English speaking individuals.

Commentary: This provision has two primary purposes. First, it specifies that non-English speaking inmates should not be subject to the same mandatory educational requirements as are English-speaking inmates if they function at a sufficient level in their native language. Second, it requires that institutions recognize the problems of non-English speaking inmates by establishing English-as-a-second-language programs.
The inmates exempted from the mandatory literacy program under this provision are functionally literate and may, in fact, function at advanced levels in their native languages. However, they may encounter substantial problems finding jobs and living independently in a country where English is the main language unless they function at some adequate level in English. These inmates therefore need to learn English to facilitate their successful reintegration back into society. It is recognized, however, that the process of setting up testing mechanisms even to make the initial determination of native language functional level can be complex and problematic.

2. An instructional day shall consist of a minimum of [two] hours of instruction.

Commentary: Two hours of instruction is a minimum, which takes into account space limitations and facility resources. For example, the Federal Bureau of Prisons has instructional days which range from two to six hours. This Model Act uses an educational goal which is as high as that required by any jurisdiction. It may prove necessary to provide more than the minimum level of instructional time set out in this Model Act in order to provide a realistic chance of reaching this goal, which is why the delineated figure has been placed in brackets. The experiences of the federal system and the several states incorporating or moving towards a GED equivalency requirement will prove useful to others who adopt this target level.

II. Correctional Education Coordinating Council

A. A Correctional Education Coordinating Council shall be established to oversee the implementation of the provisions of this Act. The Council shall ensure that the functional literacy programs developed by the Department of Corrections, probation departments, or other entities under this Act meet the purposes of the Act.

Commentary: The Correctional Education Coordinating Council (CECC) is created to assume responsibility for the correctional functional literacy program. This should facilitate the implementation process because the CECC will combine the expertise of educators, corrections professionals, and the business/industry community. The Council also will ensure that there is consistency.
cooperation, and coordination between the various agencies that are implementing the provisions of the Act.

The Council has the mandate to develop a consistent program. This consistency will allow the transfer of offenders, for example, from community supervision to prison or from one institution to another with a minimum of disruption in their educational program. In addition, the Correctional Education Coordinating Council, through the Department of Education representative, should be able to ensure that information services are offered to discharged inmates regarding adult education and literacy programs in the inmate's destination community.

B. The Council shall be comprised of the following five individuals who shall be appointed by the governor and confirmed by the legislature no more than 90 days after the effective date of this Act:

1. the director of the Department of Corrections or his or her designee;
2. the director of the Department of Education or his or her designee;
3. a director of a probation department;
4. a full-time educator who teaches in a state prison; and
5. a member of the business/industrial community.

Commentary: As noted in the commentary to the previous section, the approach of this Model Act is to create a coordinating council which combines the expertise of the corrections and education professionals with the input of the business/industrial community. This option contrasts with the approach of placing responsibility for such programs with one agency or another, whether the corrections department or the education department.

C. The Council shall:

1. select a standardized assessment instrument to be used in determining the functional literacy level of the individuals subject to the provisions of this Act;
2. help to coordinate the functional literacy programs developed under this Act to maximize their efficiency and effectiveness;
3. serve as a clearinghouse to disseminate information about functional literacy programs within the state;

4. evaluate the success of agencies subject to the Act in implementing the provisions of this Act and achieving its purposes;

5. monitor the funding of functional literacy programs under this Act to ensure that they are adequately funded to meet the purposes of the Act;

6. submit an annual report to the legislature containing its evaluation, findings, and its recommendations for furthering the purposes of the Act; and

7. hire a staff director to assist the Council.

Commentary: The listed duties of the CECC illustrate its primary purpose as an oversight body to coordinate, monitor, evaluate and report on the mandatory literacy programs created and funded under the Act.

D. The legislature shall appropriate the funds needed for the Council to carry out its functions, including funds to pay for a staff director and necessary staff.

Commentary: Since the Coordinating Council cannot perform its assigned functions under the Act without adequate funding, the Act places upon the legislature the responsibility of ensuring that the Council receives the funds needed to carry out its responsibilities.

III. Functional Literacy Programs within the Department of Corrections

A. Adoption of Regulations

The Department of Corrections shall adopt regulations to implement functional literacy programs in adult correctional institutions and facilities throughout the state. The regulations shall ensure that there is continuity and consistency in functional literacy programs throughout the state and that these programs are of high quality.

Commentary: While there is a Correctional Education Coordinating Council established for oversight and reporting purposes, it remains the responsibility
of the corrections agency within a jurisdiction to establish regulations governing the operation of all functional literacy programs within their institutions. And it is incumbent on this agency to ensure that the programs are of high quality so that the objectives of the Act are met.

B. Application of Regulations

The regulations adopted by the Department of Corrections shall apply to any inmate who:

1. is received by the Department of Corrections after (month/day/year);
   Commentary: This provision merely establishes the effective date of the Act. States also would have the option of requiring inmates already in their systems to participate in the mandatory literacy program.

2. does not attain the minimum twelfth-grade academic level on the standardized assessment instrument selected by the Correctional Education Coordinating Council;
   Commentary: Each state must establish literacy standards which help inmates compete for available jobs and cope with post-release community, family, and related responsibilities. The twelfth-grade level is viewed by most educators and employers as a minimum requirement. Persons functioning below this level often encounter serious difficulty in obtaining employment and in carrying out day-to-day activities and responsibilities.

3. does not have a verified high school diploma or has not passed the GED test; and
   Commentary: Where adequate information is not available, inmates will be responsible for initiating actions to verify their credentials. If an inmate cannot obtain the requisite verification or refuses to take steps to do so, the inmate will be enrolled in the mandatory program. If the inmate has a post-secondary degree, that obviously should be acceptable as verification of a high school diploma or GED.

4. is not exempted based upon a documented determination by the director of the functional literacy program at the institution or facility where the inmate is confined that the inmate could not reasonably be expected to benefit from the program because of a medical, developmental, or learning disability.
Commentary: Those inmates with documented learning disabilities or other significant learning problems may be exempted. In these cases, the director of the functional literacy program at the institution where the inmate is confined will determine when and if an inmate cannot or can no longer benefit from the educational program.

Note that an inmate who suffers from a medical, developmental, or learning disability but who is not exempted under this section is not necessarily required to meet the same program standards as are other inmates. The principle embodied in this section is that inmates suffering from one of the listed disabilities should participate in the mandatory literacy program even though they may not meet the general program standards if there is reason to believe that they "could be expected to benefit" from such participation. Under Section III.C.2. below, it is specified that the regulations adopted by the Department of Corrections provide for a reduced literacy-level requirement for these inmates.

C. Regulation Requirements

The regulations adopted by the Department of Corrections under this Act shall:

1. ensure that certain minimum standards apply to functional literacy programs within institutions and facilities operated by the Department so that there is continuity, consistency, and high quality in each inmate's educational program;

Commentary: Literacy programs should be consistent throughout the correctional system so that the transfer of inmates does not unduly hinder their progress toward the program's goals. The involvement of a Correctional Education Coordinating Council should prove helpful to the development of a system-wide consistency within the curriculum.

The requirement of quality for these programs emphasizes that the Model Act is concerned with the substance rather than the form of a correctional education program. These mandatory programs should not be formalities put into place merely to satisfy a requirement that some such program be established.
In addition, since the mandatory participation period is limited, these programs will have to be of high quality in order to ensure a high retention rate and to thereby avoid devaluing the progress made during the mandatory participation period.

2. provide for the reduction of the literacy-level requirement for inmates who cannot meet the twelfth-grade academic level because of a medical, developmental, or learning disability, but who can reasonably be expected to benefit from participation in the functional literacy program;

Commentary: Inmates with disabilities may still benefit from a literacy program. Inmates whose disabilities are so severe that there is no reasonable expectation of benefit should be exempted from all participation requirements under Section III.B.4 above.

For those not exempted, this section recognizes that the twelfth-grade or GED level requirement may be too stringent. For those disabled inmates required to participate, a literacy-level target should be determined on an individual basis by the director of the functional literacy program. Setting of a realistic goal for such an inmate may also encourage the inmate to remain in the literacy program beyond the mandatory participation period.

3. require that inmates who meet the criteria set forth in subsection B. of this section participate in a functional literacy program for a minimum of [120] instructional days, unless an inmate reaches the twelfth-grade academic level or is released from custody before this [120-day] time period has elapsed;

Commentary: The minimum requirement of 120 days is suggested as the realistic time needed to begin inmates on a program to obtain the twelfth-grade level. The 120-day figure is bracketed to indicate the variation in this requirement among jurisdictions and the fact that there is limited experience with these programs to date. Rather than leave the time requirement unspecified, the period of 120 days has been used because it is believed to represent a reasonable starting point for those jurisdictions considering establishing such programs.
The inmate may test out of the program prior to the completion of the minimum time requirement. On the other hand, if an inmate does not obtain the target twelfth-grade level before release, efforts should be made to encourage and assist the inmate in pursuing his or her education.

4. require counseling of inmates who have not reached the twelfth-grade academic level after the [120-day] time period on the benefits of remaining in the functional literacy program;

Commentary: Not all inmates will reach the twelfth-grade level or attain a GED within the mandatory participation period. It is anticipated that quality programs will encourage inmates to continue their participation beyond the required period. However, support and counseling may also be necessary due to the limited period of mandatory participation and the likelihood that many inmates have strong negative educational experiences to overcome. The literacy coordinator should strongly encourage these inmates to continue in the literacy program.

5. establish a system of incentives to encourage and reward inmates participating in the functional literacy program;

Commentary: While the literacy program established under this Model Act is mandatory, this alone may not be as effective in making participation productive as mandatory participation in conjunction with participation incentives. Incentives should be established to recognize the inmate's satisfactory progress in and completion of a literacy program. These awards should recognize achievement early in the program. Possible types of incentives include daily stipends, time off a sentence, extra institutional privileges, and promotion to a higher-paid or more responsible job.

6. authorize disciplinary actions against inmates subject to this Act who refuse or fail to participate as required in the [120-day] segment of the functional literacy program;

Commentary: While incentives may be helpful as noted in Section III.C.5. above, the requirement that an inmate participate in an education program is no less important (and possibly more so) than a required work assignment. A required assignment to attend an educational program should therefore
not be viewed differently than a required assignment to work. Sanctions should be imposed for a failure or refusal to comply with program participation requirements just as they are for a failure or refusal to work.

In particular, sanctions should include a prohibition on eligibility for pay for work performed within or for the correctional facility or institution by inmates who have refused or failed to participate as required in the functional literacy program.

7. provide for the filing of reports with the paroling authority outlining inmates' efforts and progress in the functional literacy program; and

Commentary: An inmate's incarceration record is a proper subject for consideration by a paroling authority in making a parole decision, and an inmate's participation in a mandatory literacy program is part of that record. It should therefore not be beyond consideration, along with all other factors, by the paroling authority. This section requires the reporting of an inmate's efforts and progress in a functional literacy program to the paroling authority. However, as is pointed out in Section III.D.1, an inmate's actual level of literacy should not be the basis for denial of parole, nor should an inmate be denied parole solely because of his or her refusal to participate in a functional literacy program.

8. ensure that the functional literacy program complies with applicable state and federal laws and regulations.

D. Parole

1. The paroling authority may favorably consider an inmate's efforts and progress in a functional literacy program when making a parole-release decision, but an inmate shall not be denied parole because he or she is illiterate. Nor shall parole be denied solely because of an inmate's refusal to participate in or meet the requirements of a functional literacy program.

Commentary: The rationale behind this Act is to make inmates more prepared to function productively and lawfully in our society. To the extent that inmates cooperate by participating in an educational program, particularly beyond the period for which participation is mandatory, their cooperation can be viewed favorably by parole boards considering their release.
However, as pointed out in the Commentary to Section III.C.7., the parolee should not deny parole solely because of an inmate's refusal to participate in or meet the requirements of a literacy program. This refusal may stem from an aversity to schooling because of negative educational experiences in the past and may not necessarily indicate that the inmate will likewise refuse to abide by the criminal laws upon release. And there is no justification whatsoever for so extending a period of incarceration because of an inmate's illiteracy. If an inmate is otherwise ready to be released from prison, community-based functional literacy programs can effectively fulfill the inmate's needs and, in appropriate cases, released inmates would be encouraged to enroll in one of these programs.

2. The parolee shall create incentives for parolees who are not functionally literate to become functionally literate while on parole. This incentive system may include expanded privileges for parolees who make satisfactory progress in community-based functional literacy programs. No parolee shall be returned to prison because of a failure to participate in a literacy program.

Commentary: Steps should be taken to induce individuals who have not achieved functional literacy while in prison to pursue or continue their education within the community. One way to do this is through an incentive program. Another would be through mandating participation in a functional literacy program. But if an inmate violates this mandate and refuses to participate in a literacy program, this type of violation would not be the sort that would warrant reincarceration.

IV. Functional Literacy Programs for Probationers

A. Condition of Probation

When a person sentenced to probation following a criminal conviction is not functionally literate, the sentencing judge shall consider ordering as a condition of probation that the probationer participate in a functional literacy program.
Commentary: Each illiterate person that has contact with the criminal justice system should be a target for literacy programs. A probationer needs the skills and knowledge to compete for jobs and to read and write just as inmates do upon release.

As in the prison context, the participation requirement for probationers should be limited, taking into account other factors in the probationers' lives such as family commitments and jobs. The purpose of the participation requirement is to expose probationers to a functional literacy program. As with inmates, it is hoped that this "jump start" will generate enough interest, if the program in which the probationer is enrolled is of sufficient quality, that the probationer will choose to continue beyond the period of mandatory participation.

B. Adoption of Regulations

1. Each adult probation department in the state shall adopt regulations to implement functional literacy programs for probationers under this Act. The regulations shall ensure that these programs are of high quality and comply with applicable state and federal laws and regulations.

Commentary: The probation department is required to adopt similar requirements as the Department of Corrections adopted under Section [II.A. above. It should be noted that there is a substantial difference in requiring literacy training in a correctional institution and in a probation setting. It is not likely at this point that a probation department can realistically set up its own functional literacy training facilities throughout a state in order to service the needs of the state's probationers. It is more likely, as is recognized in the following Section, that the courts and probation authority will make use of existing community-based adult education programs.

Thus, it will be more difficult for a probation department to assure consistency and quality of such programs than in the case of programs actually conducted by one agency, such as the Department of Corrections. Nevertheless, the effort must be made since it is only program quality in conjunction with participation incentives which will cause the probationer to continue to participate beyond the mandatory period.
2. An adult probation department may contract with qualified persons or organizations to conduct functional literacy programs for the department, subject to criteria, control, and direction of the department under regulations it has issued. In addition, a department may approve functional literacy programs independently operated by other organizations or agencies for the use of the sentencing judge under this Act.

Commentary: As pointed out above, probation departments will not be able to independently set up a state-wide literacy program. Thus, outside agencies, organizations, and individuals may be called upon to meet the needs of the probation department.

C. Failure to Participate in Functional Literacy Program

1. Each probation department shall establish a system of incentives for probationers who are not functionally literate to become functionally literate while on probation. This incentive system may include expanded privileges for probationers who make satisfactory progress in a functional literacy program.

Commentary: Due to the limitation imposed in the following section upon the sentencing court's imposition of sanctions for violation of a mandatory participation requirement, the availability of incentives to encourage participation is even more important than in a correctional institution setting.

2. If a judge determines that a person required to participate in a functional literacy program as a condition of probation has violated that condition, the judge can sentence the probationer only to a community-based sanction authorized by law.

Commentary: While a requirement to participate in a functional literacy program must be enforceable, it is clear under this Model Act that a probationer should not be subject to incarceration for failure to comply with such a participation requirement. This is especially important in the case of probationers for whom, by definition, incarceration was not judged appropriate initially.
1. Summary of Recommendation(s).

The Recommendation urges that steps be taken to reduce illiteracy among criminal offenders; and it supports implementing mandatory literacy programs for criminal offenders, if the programs meet certain criteria. It offers the Model Literacy Act for Adult Offenders as an example of legislation to implement these programs.

2. Approval by Submitting Entity.

This Report with Recommendations was approved by the Criminal Justice Section Council at its August 10, 1991 meeting.

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

The American Bar Association has a number of policies that support education and literacy for inmates. Among these are a general endorsement of the standards of the National Advisory Commission on Criminal Justice Standards and Goals. (Report No. 124, August 1974). Corrections Standard II.4 provides, "Each institution should have a comprehensive, continuous educational program for inmates." In August 1976, Report No. 121B was approved urging all States to make basic education available to all prisoners needing it. Standard 23-4.3 of the Legal Status of Prisoners Chapter of the ABA Standards for Criminal Justice provides, "Correctional authorities, after consultation with the prisoners and consideration of their records, should determine the types of rehabilitation programs, including self-improvement and educational programs, that will be beneficial to them, and should thereafter seek to provide access to as many such programs as feasible...."
4. **Need for Action at This Meeting.**

Approval of this report at the February 1992 meeting will enable the Association to promote its concepts to the many State legislative bodies convening in the early part of the year. Many State legislatures are only in session for a limited few months. Therefore, the report's early approval is needed so that its principles can be made available to as many legislatures as possible.

5. **Status of Legislation.** (If applicable.)

No congressional legislation is known to be pending at this time.

6. **Cost to the Association.** (Both direct and indirect costs.)

The Recommendation's adoption would not result in direct costs to the Association. The only anticipated costs would be indirect costs that might be attributable to lobbying to have the Recommendation enacted by State legislatures. These indirect costs cannot be estimated, but should be negligible since lobbying efforts would be conducted by existing staff members who already are budgeted to lobby Association policies.

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

There is no conflict of interest that is known to exist.

8. **Referrals.**

Concurrently with the submission of this report to the ABA Policy Administration Office for calendaring on the House of Delegates agenda, it is being circulated to the following:

- **Standing Committees**
  - Legal Aid and Indigent Defendants
- **Special Committees and Commissions**
  - Funding the Justice System
  - Law and Literacy
- **Sections and Divisions**
  - General Practice
  - Government and Public Sector Lawyers Division
  - Individual Rights and Responsibilities
  - Judicial Administration Division
  - Lawyers Conference
  - National Conference of State Trial Judges
Sections and Divisions (con't.)
Law Student Division
Litigation
Urban, State and Local Government Law
Young Lawyers Division

Affiliated Organizations
Hispanic National Bar Association
National Association of Attorneys General
National Association of Criminal Defense Lawyers, Inc.
National Bar Association
National Conference of Commissioners on Uniform State Laws
National District Attorneys Association
National Legal Aid and Defender Association

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