

**DAILY JOURNAL**  
**AMERICAN BAR ASSOCIATION**  
**HOUSE OF DELEGATES**  
**2003 MIDYEAR MEETING**  
**FEBRUARY 10-11, 2003**  
**SEATTLE, WASHINGTON**

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
100A	STANDING COMMITTEE ON LEGAL ASSISTANTS	Grants approval, reapproval and the extension of approval to several legal assistant education programs.	Approved
100B	STANDING COMMITTEE ON LEGAL ASSISTANTS	Adopts amendments to the ABA Guidelines for the Approval of Legal Assistant Education Programs, dated February 2003, which reflect changes in terminology, correction of grammatical errors and reorganization of some sections for clarity and to avoid instances of duplication.	Approved
101	STANDING COMMITTEE ON TECHNOLOGY AND INFORMATION SYSTEMS SECTION OF LITIGATION	Urges jurisdictions to participate in the creation of an American universal system of citation for case reports, statutes, administrative documents and other resources upon which the legal profession relies.	Approved as Revised and Amended*

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\* See attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
102	SECTION OF ADMINISTRATIVE LAW AND REGULATORY PRACTICE SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES NATIONAL CONFERENCE OF ADMINISTRATIVE LAW JUDGES	Recommends that the U.S. Court of Appeals for Veterans Claims and Congress take a series of procedural steps to seek faster and more efficient resolution of veterans' disability claims.	Approved as Revised*
103A	CRIMINAL JUSTICE SECTION SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES	Adopts the black letter <i>ABA Criminal Justice Standards on Collateral Sanctions and Disqualification of Convicted Persons</i> , dated February 2003, as an addition to the Third Edition of the <i>Criminal Justice Standards</i> , which address issues related to legal disabilities that flow from a criminal conviction over and above the sentence imposed by the court.	Withdrawn
103B	CRIMINAL JUSTICE SECTION	Urges federal, state, territorial and local governments to evaluate their existing laws, practices and procedures and to develop criteria relating to the consideration of prisoner requests for reduction or modification of sentence based on extraordinary and compelling circumstances arising after sentencing, to ensure their timely and effective operation.	Approved

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\* See attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
104	TASK FORCE OF GATEKEEPER REGULATION AND THE PROFESSION SECTION OF REAL PROPERTY, PROBATE AND TRUST LAW CRIMINAL JUSTICE SECTION SECTION OF LITIGATION SECTION OF INTERNATIONAL LAW AND PRACTICE SECTION OF BUSINESS LAW SECTION OF TAXATION TORT TRIAL AND INSURANCE PRACTICE SECTION GENERAL PRACTICE, SOLO AND SMALL FIRM SECTION SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES SENIOR LAWYERS DIVISION	Supports and urges reasonable and balanced initiatives designed to detect and prevent domestic and international money laundering and terrorist financing.	Approved
105	TORT TRIAL AND INSURANCE PRACTICE SECTION	Urges states to improve procedures for dealing with insolvent insurance companies and to improve the operation of the current state receivership system by enacting legislation and/or adopting regulations.	Approved as Revised*
106A	COMMISSION ON DOMESTIC VIOLENCE TORT TRIAL AND INSURANCE PRACTICE SECTION	Recommends that law schools, through their deans, professors, clinicians, curriculum directors and students, incorporate education about domestic violence within their substantive, clinical, and specialty law curricula and law school activities.	Withdrawn

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\* See attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
106B	COMMISSION ON DOMESTIC VIOLENCE YOUNG LAWYERS DIVISION SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS SECTION OF REAL PROPERTY, PROBATE AND TRUST LAW	Supports federal, state, local and territorial legislation that prohibits discrimination in housing against victims of domestic violence and urges all relevant federal, state, local and territorial administrative agencies to adopt and vigorously enforce regulations to combat such discrimination.	Approved
107	STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS SPECIAL COMMITTEE ON DEATH PENALTY REPRESENTATION CRIMINAL JUSTICE SECTION SECTION OF LITIGATION SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES SENIOR LAWYERS DIVISION ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK	Adopts revisions to the black letter <i>ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases</i> , dated February 2003 and recommends adoption of the Guidelines by death penalty jurisdictions.	Approved
108	SECTION OF TAXATION	Recommends that Section 751(b) of the Internal Revenue Code of 1986 be amended by removing the substantial appreciation requirement in order to conform the tax treatment of transactions under Sections 751(a) and 751(b).	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
109	TASK FORCE ON TREATMENT OF ENEMY COMBATANTS CRIMINAL JUSTICE SECTION SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES SENIOR LAWYERS DIVISION SECTION OF LITIGATION GENERAL PRACTICE, SOLO AND SMALL FIRM SECTION SECTION OF ADMINISTRATIVE LAW AND REGULATORY PRACTICE	Urges that U.S. citizens and residents who are detained within the United States based on their designation as “enemy combatants” be afforded the opportunity for meaningful judicial review of their status, that they not be denied access to counsel in connection with the opportunity for such review and urges Congress to establish clear standards and procedures governing their designation and treatment.	Approved as Revised* (368;76)
110	STANDING COMMITTEE ON THE DELIVERY OF LEGAL SERVICES SECTION OF LAW PRACTICE MANAGEMENT SECTION OF BUSINESS LAW THE CONSORTIUM ON LEGAL SERVICES AND THE PUBLIC	Adopts <i>Best Practice Guidelines for Legal Information Web Site Providers</i> , dated February 2003, to provide direction to those who provide legal information through the Internet.	Approved as Revised*

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\* See attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
111	STANDING COMMITTEE ON LEGAL ASSISTANCE FOR MILITARY PERSONNEL STANDING COMMITTEE ON ARMED FORCES LAW STANDING COMMITTEE ON THE DELIVERY OF LEGAL SERVICES SECTION OF FAMILY LAW GENERAL PRACTICE, SOLO AND SMALL FIRM SECTION GOVERNMENT & PUBLIC SECTOR LAWYERS DIVISION JUDGE ADVOCATES ASSOCIATION THE CONSORTIUM ON LEGAL SERVICES AND THE PUBLIC NATIONAL CONFERENCE OF ADMINISTRATIVE LAW JUDGES	Adopts the black letter "Model Expanded Legal Assistance Program Rule for Military Personnel", dated February 2003 and urges states and territories to adopt the model rule in order to provide low- income military service members and their dependents free civil legal assistance and in- court representation by military attorneys.	Approved
112	SENIOR LAWYERS DIVISION JUDICIAL DIVISION CRIMINAL JUSTICE SECTION SECTION OF FAMILY LAW TORT TRIAL AND INSURANCE PRACTICE SECTION GENERAL PRACTICE, SOLO AND SMALL FIRM SECTION SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES NATIONAL CONFERENCE OF ADMINISTRATIVE LAW JUDGES	Supports the United States Constitution as the supreme law of the land and reaffirms its commitment to the doctrine of "judicial review" as a fundamental principle for a nation governed by the rule of law.	Approved

<b><u>RPT NO.</u></b>	<b><u>PROPOSED BY</u></b>	<b><u>SHORT TITLE</u></b>	<b><u>ACTION TAKEN</u></b>
113A	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS SECTION OF FAMILY LAW	Approves the Uniform Parentage Act promulgated by the National Conference of Commissioners on Uniform State Laws in 2000 and amended in 2002 as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein.	Approved
113B	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Nonjudicial Foreclosure Act promulgated by the National Conference of Commissioners on Uniform State Laws in 2002 as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein.	Approved
113C	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS CRIMINAL JUSTICE SECTION SECTION OF FAMILY LAW	Approves the Uniform Child Witness Testimony by Alternative Methods Act promulgated by the National Conference of Commissioners on Uniform State Laws in 2002 as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein.	Approved
113D	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the 2002 Amendments to Articles 3 and 4 of the Uniform Commercial Code promulgated by the American Law Institute and the National Conference of Commissioners on Uniform State Laws as appropriate Amendments for those States desiring to adopt the specific substantive law suggested therein.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
113E	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS SECTION OF FAMILY LAW TORT TRIAL AND INSURANCE PRACTICE SECTION	Approves the Uniform Interstate Enforcement of Domestic-Violence Protection Orders Act promulgated by the National Conference of Commissioners on Uniform State Laws in 2000 and amended in 2002 as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein.	Approved
113F	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Securities Act promulgated by the National Conference of Commissioners on Uniform State Laws in 2002 as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein.	Approved
113G	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Computer Information Transactions Act (2002) promulgated by the National Conference of Commissioners on Uniform State Laws as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein.	Withdrawn
113H	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Apportionment of Tort Responsibility Act promulgated by the National Conference of Commissioners on Uniform State Laws in 2002 as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein.	Withdrawn



<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
114	STANDING COMMITTEE ON SPECIALIZATION	Grants reaccreditation to several specialty certification programs for lawyers in accordance with the Standards for such programs adopted in February 1993.	Approved
115	SECTION OF LABOR AND EMPLOYMENT LAW SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES SECTION OF LITIGATION SECTION OF DISPUTE RESOLUTION GENERAL PRACTICE, SOLO AND SMALL FIRM PRACTICE SECTION SECTION OF BUSINESS LAW OHIO STATE BAR ASSOCIATION MASSACHUSETTS BAR ASSOCIATION ILLINOIS STATE BAR ASSOCIATION TORT TRIAL AND INSURANCE PRACTICE SECTION COMMISSION ON RACIAL AND ETHNIC DIVERSITY IN THE PROFESSION SENIOR LAWYERS DIVISION ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK VIRGIN ISLANDS BAR ASSOCIATION SECTION OF STATE AND LOCAL GOVERNMENT LAW	Recommends that Congress enact the Civil Rights Tax Relief Act (H.R. 840 and S. 917) or similar legislation that would provide relief to civil rights and employee complainants to exclude from gross income amounts received on account of claims based on certain unlawful discrimination, retaliation and employment claims.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
116	<p>COMMISSION ON HOMELESSNESS AND POVERTY</p> <p>STEERING COMMITTEE ON UNMET LEGAL NEEDS OF CHILDREN</p> <p>COMMISSION ON MENTAL AND PHYSICAL DISABILITY LAW</p> <p>STANDING COMMITTEE ON LEGAL AID &amp; INDIGENT DEFENDANTS</p> <p>STANDING COMMITTEE ON LEGAL ASSISTANCE FOR MILITARY PERSONNEL</p> <p>SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES</p> <p>YOUNG LAWYERS DIVISION</p>	<p>Recommends standards to assist jurisdictions in developing a homeless court program to address the legal problems of the homeless participants as well as linking them with appropriate services and treatment programs.</p>	<p>Approved as Revised*</p>
117	<p>SECTION OF INTELLECTUAL PROPERTY LAW</p>	<p>Supports the enactment of federal legislation to protect an individual's right of publicity to the extent the individual's identity is used for a commercial purpose in "commerce", as defined in Section 45 of the Lanham Act, 15 U.S.C §1127.</p>	<p>Withdrawn</p>
118	<p>SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES</p> <p>SECTION OF LITIGATION</p> <p>YOUNG LAWYERS DIVISION</p> <p>SECTION OF ADMINISTRATIVE LAW AND REGULATORY PRACTICE</p> <p>SECTION OF INTERNATIONAL LAW AND PRACTICE</p> <p>SECTION OF SCIENCE AND TECHNOLOGY LAW</p>	<p>Urges Congress to conduct regular and timely oversight of the government's use of the Foreign Intelligence Surveillance Act ("FISA") to ensure that FISA investigations do not violate the First, Fourth and Fifth Amendments to the Constitution.</p>	<p>Approved as Revised*</p>

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\* See attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
177B	BOARD OF GOVERNORS	Recommends an increase in ABA membership dues of approximately 15%.	Approved
300A	SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR	Concurs with the action of the Council of the Section of Legal Education and Admissions to the Bar in adopting the additions and revisions to the Standards, Interpretations and Rules of Procedure for Approval of Law Schools, dated February 2003.	Approved
300B	SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR	Concurs with the action of the Council of the Section of Legal Education and Admissions to the Bar to grant full approval to the University of Nevada-Las Vegas, William S. Boyd School of Law.	Approved
301	SECTION OF BUSINESS LAW	Urges the Administration and Congress to increase federal support for the U.S. Securities and Exchange Commission.	Approved
302	COMMISSION ON ASBESTOS LITIGATION NATIONAL BAR ASSOCIATION SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES	Supports enactment of federal legislation that would: 1) allow those alleging non-malignant asbestos-related disease claims to file a cause of action in state or federal courts only if they meet the medical criteria in the ABA Standard for Non-Malignant Asbestos-Related Disease Claims dated February 2003 or an appropriate similar medical standard; and 2) toll all applicable statutes of limitations until such time as the medical criteria in such standard are met.	Approved as Revised and Amended*

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\* See attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
303	STANDING COMMITTEE ON FEDERAL JUDICIAL IMPROVEMENTS CHICAGO BAR ASSOCIATION JUDICIAL DIVISION GENERAL PRACTICE, SOLO AND SMALL FIRM SECTION ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK FEDERAL CIRCUIT BAR ASSOCIATION STANDING COMMITTEE ON JUDICIAL INDEPENDENCE SECTION OF LITIGATION SENIOR LAWYERS DIVISION	Supports the recommendations contained in the 2003 Report of the National Commission on the Public Service urging Congress to enact an immediate and significant increase in federal judicial salaries and break the statutory link between Congressional and judicial salaries.	Approved
304	TASK FORCE ON CLASS ACTION LEGISLATION SECTION OF LITIGATION SECTION OF ANTITRUST LAW TORT TRIAL AND INSURANCE PRACTICE SECTION SECTION OF LABOR AND EMPLOYMENT LAW	Believes that some concerns over class action practice be addressed with federal legislation providing for expanded federal court jurisdiction and recommends that any expansion should preserve a balance between legitimate state-court interests and federal-court jurisdictional benefits.	Approved

## ATTACHMENT

**(NOTE: Deletions are struck through; Additions are underlined)**

### **Report 101**

**The recommendation was revised and amended as follows:**

RESOLVED, That the American Bar Association will facilitate discussion with organizations currently developing legal citation formats ~~to create~~ toward development of a universal American citation standard that reflects both existing ABA recommended citation formats and other formats proposed and adopted in U.S. jurisdictions;

FURTHER RESOLVED, That the American Bar Association urges cooperation among Federal ~~and~~ state and territorial entities, law schools, research and writing organizations, and technology standards groups and others, to create a uniform citation standard that reflects the wide range of experience and research, as evidenced by the Association's own citation resolution, and that can be implemented in legislatures, agencies, and courts.

FURTHER RESOLVED, That the American Bar Association urges all American jurisdictions to participate in the creation of an American universal system of citation for case reports, statutes, administrative documents, and other resources upon which the legal profession relies.

### **Report 102**

**The recommendation was revised as follows:**

RESOLVED, That the American Bar Association urges the U.S. Court of Appeals for Veterans Claims ("CAVC") to:

- a. determine and decide all questions of law presented to it after appropriate briefing rather than declining to hear legal claims not expressly argued before the Board of Veterans' Appeals ("BVA"); and
- b. exercise its statutory authority to expedite Department of Veterans Affairs ("VA") decisions in appropriate cases when it remands a case for further administrative proceedings by VA.

FURTHER RESOLVED, That the American Bar Association supports federal legislation to:

- a. require the CAVC to resolve all dispositive allegations of error presented and briefed by an appellant that are capable of resolution without regard to either issue preclusion or exhaustion.
- b. authorize the CAVC to certify class actions and authorize the United States Court of Appeals for the Federal Circuit to transfer a case to the CAVC in which class relief is warranted; and
- c. require the Secretary of Veterans Affairs to ~~select~~ appoint members of the BVA through procedures ~~modeled on those used for the selection of Administrative Law Judges and Board of Contract Appeals Administrative Judges.~~ that ensure merit selection and decisional independence.

## **Report 105**

### **The recommendation was revised as follows:**

RESOLVED, That the American Bar Association recommends that states (including the District of Columbia, Puerto Rico and U.S. territories) improve procedures for dealing with insolvent insurance companies and improve the operation of the current state receivership system by enacting legislation and/or adopting regulations:

1. To improve the selection and oversight of insurance receivers by:
  - a. ~~Privatizing the selection, oversight and compensation process for receivers by allowing the appointment of qualified individuals through a competitive bidding process~~ Transferring certain receivership functions to qualified individuals or entities in the private sector to achieve efficiencies in the administration of estates of insolvent insurers;
  - b. Transferring the role of the insurance commissioner in appointing and overseeing the special deputy receiver, once a final order of liquidation has been issued, to a three-person panel, consisting of representatives of the state insurance commissioner, the guaranty funds and the receivership court, and such panel would select and oversee the receiver, subject to the jurisdiction of the receivership court;
  - c. ~~Using~~ Encouraging the use of special masters to assist receivership courts in administering the estates of insolvent insurers;

- d. Experimenting with the appointment of private institutional receivers;
  - e. Granting a statutory right of standing and intervention in receivership proceedings to the state guaranty funds ~~to maximize the marshaled assets of receivership estates, to assist in oversight of estates, and to bring estates to closure expeditiously ;~~ and
  - f. Permitting ~~states to experiment with~~ voluntary restructurings similar to "schemes of arrangement" (an agreement, in the United Kingdom, approved by the High Court entered into by and between an insolvent insurer and its creditors on the handling of the insurer's liabilities) ~~in the United Kingdom.~~
2. To enhance the ability of receivers to bring estates to more efficient and expeditious closure by providing a menu of options to be used in connection with long-term obligations including, for example, cutoff dates, runoff provisions, liquidating trusts, and a reliable method for estimating outstanding claims.

## **Report 109**

### **The recommendation was revised as follows:**

RESOLVED, That the American Bar Association urges that U.S. citizens and ~~other persons lawfully present in the United States~~ residents who are detained within the United States based on their designation as "enemy combatants" be afforded the opportunity for meaningful judicial review of their status; under a standard according such deference to the designation as the reviewing court determines to be appropriate to accommodate the needs of the detainees and the requirements of national security; and

FURTHER RESOLVED, That the American Bar Association urges that U.S. citizens and ~~other persons lawfully present in the United States~~ residents who are detained within the United States based on their designation as "enemy combatants" not be denied access to counsel in connection with the opportunity for such review; subject to appropriate conditions as may be set by the court to accommodate the needs of the detainees and the requirements of national security; and

FURTHER RESOLVED, That the American Bar Association urges Congress, in coordination with the Executive Branch, to establish clear standards and procedures governing the designation and treatment of U.S. citizens ~~and other persons lawfully present in the United States~~ residents, or others who are detained within the United States as "enemy combatants;" and

FURTHER RESOLVED, That the American Bar Association urges that, in setting and executing national policy regarding detention of ~~U.S. citizens and other persons lawfully present in the United States who are detained within the United States based on their designation as~~ “enemy combatants,” Congress and the Executive Branch should consider how the policy adopted by the United States may affect the response of other nations to future acts of terrorism.

## **Report 110**

### **The recommendation was revised as follows:**

RESOLVED, That the American Bar Association adopts *Best Practice Guidelines for Legal Information Web Site Providers*, dated February 2003.

#### **Best Practice Guidelines for Legal Information Web Site Providers**

An increasing number of sites on the web provide legal information. Government departments, non-profit community organizations, private companies, educational institutions, individuals, and law firms publish sites. Users of these sites have varying levels of knowledge of the law and the Internet. Therefore, it is essential that legal web sites providers give users sufficient information to make assessments about the accuracy and the quality of the legal information that is published.

The goal of these guidelines is to promote the development of quality legal web sites and to provide guidance to legal web site developers. The purpose of the guidelines is to establish “best practices” for both lawyers and other web site providers who offer legal information, documents and other services to the public, but the guidelines do not address the additional requirements that would be applicable to individual lawyers and law firm sites that provide legal advice. Individual lawyers and law firms should also consider whether the rules of professional responsibility apply to any aspect of their operation of a legal information website. When providers adopt and follow the guidelines, users will be less likely to be misled.

However, it is important to understand that compliance with these guidelines does not constitute approval or certification by the American Bar Association of the content and operation of the web site and no one is authorized to represent that it does. Instead, the guidelines encourage publishers of legal web sites to provide information about the legal content of their sites that assists a user in making a judgment on the quality of the legal information that appears on the site.

1. *Contact Information* - A web site providing legal services information should provide full and accurate information on the identity and contact details of the provider of the site. The person(s) or organization(s) responsible for the information on a site is (are) clearly indicated on all pages of the site. Providers should include full contact details, including name, mailing address, telephone, and/or e-mail address. A government agency or court with limited resources to reply may choose to omit a telephone contact or e-mail address, but as a minimum should list a mailing address.



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4. *Limits of Legal Information* – When a site provides only legal information, the provider should give users conspicuous notice that legal information does not constitute legal advice.

*Comment:*

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Some web sites advertise that the user can ~~chat~~ contact with a lawyer through the site without making it clear to the user that the lawyer is providing general legal information only and not specific legal advice. Lay persons are often unaware that only a lawyer who is a member of a state bar can provide legal advice and the lawyer is only qualified to provide specific legal advice about the law in the state in which he or she is admitted to practice. Therefore, users may believe that an exchange ~~“chat”~~ with a lawyer is the equivalent of receiving specific legal advice when it is not.

## **Report 116**

### **The recommendation was revised as follows:**

RESOLVED, That the American Bar Association supports the development of a comprehensive, systemic approach to addressing the needs of homeless misdemeanant defendants through multidisciplinary strategies that include coordination among the criminal justice, health, social service and education systems, and the community.

FURTHER RESOLVED, That the American Bar Association urges state, local and territorial courts to adopt Homeless Court Programs as treatment-oriented diversionary proceedings that may result in the dismissal of misdemeanor offenses upon completion of shelter/service agency activities, as a means to foster the movement of people experiencing homelessness from the streets through a shelter program to self-sufficiency.

FURTHER RESOLVED, That the American Bar Association urges state, local and territorial bar associations to facilitate the development of Homeless Court Programs.

## **Report 118**

### **The recommendation was revised as follows:**

RESOLVED, That the American Bar Association urges the Congress to conduct regular and timely oversight, including public hearings (except when Congress determines that the requirements of national security make open proceedings inappropriate), ~~where appropriate~~, to ensure that government investigations undertaken pursuant to the Foreign Intelligence Surveillance Act, 50 U.S.C. 1801 et seq. ("FISA" or "the Act") ~~comply with~~ do not violate the First, Fourth, and Fifth Amendments to the Constitution and adhere to the Act's

purposes of accommodating and advancing both the government's interest in pursuing legitimate intelligence activity and the individual's interest in being free from improper government intrusion.

FURTHER RESOLVED, That the American Bar Association urges the Congress to consider amendments to the Act to:

(1) Clarify that the procedures adopted by the Attorney General to protect United States persons, as required by the Act, should ensure that FISA is used only when the government has a for-bona-fide significant (i.e., not insubstantial), foreign intelligence-gathering purpose purposes, as contemplated by the Act, and not to circumvent the Fourth Amendment; ~~requirements applicable to domestic law enforcement investigations; and~~

(2) Make available to the public an annual statistical report on FISA investigations, comparable to the reports prepared ~~for~~ by the Administrative Office of the United States Courts, pursuant to 18 U.S.C. sec. 2519, regarding the use of Federal wiretap authority.

## **Report 302**

### **The recommendation was revised and amended as follows:**

~~RESOLVED, That the American Bar Association adopts the "ABA Standard For Non-Malignant Asbestos-Related Disease Claims" dated February 2003 and that the standards are to be continuously update in accordance with medical advances and scientific research.~~

FURTHER RESOLVED, That the American Bar Association supports enactment of federal legislation ~~consistent with the ABA Standard~~ that would: 1) allow those alleging non-malignant asbestos-related disease claims to file a cause of action in state or federal court only if they meet the medical criteria in the "ABA Standard For Non-Malignant Asbestos-Related Disease Claims" dated February 2003 (which the House will be requested to update periodically in accordance with medical advances and scientific research) or an appropriate similar medical standard ABA Standard; and 2) toll all applicable statutes of limitations until such time as the medical criteria in ~~the ABA Standard~~ such standard are met.

FURTHER RESOLVED, That the American Bar Association ~~recommendation does not in any way address issues associated with claims~~ does not support limitations on the filing of claims for asbestos-related malignancies.

FURTHER RESOLVED, ~~This recommendation is not intended to preempt~~ That the American Bar Association does not support the preemption of legal definitions for claiming or impairment as they may be found in regulations relating to the Longshore and Harbor Workers' Compensation Act (LHWCA), 33 U.S.C. §§901-950, Federal Employees' Compensation Act (FECA), 5 U.S.C. §§8101 et. seq., Energy Employees Occupational Illness Compensation Program Act, 42 U.S.C. §§7384-7385, Occupational Safety and Health Administration (OSHA), the Americans with Disabilities Act, the federal Rehabilitation Act,

their state, territorial and local counterparts, Workers Compensation statutes in the 50 states ~~and~~ the District of Columbia; the Commonwealth of Puerto Rico and the insular territories and their regulations, and federal ~~and~~ state and territorial laws regulating employee benefit plans and employer health care coverage plans.