ABA President Laurel G. Bellows urged the Senate Judiciary Committee last month to take prompt action to prevent gun violence by strengthening the nation’s gun laws through taking “reasonable, common-sense steps” that do not violate the constitutional right to bear arms or impinge on gun owner traditions and ordinary uses of firearms.

“We recognize, however, that there is no simple solution to gun violence,” Bellows said in a statement submitted for the record of a Jan. 30 hearing on the issues. “We know that steps are needed to address school violence, mental health services, and juvenile crime prevention in addition to gun safety and greater enforcement of firearm violations.”

Bellows expressed strong support for the major recommendations issued Jan. 16 by President Obama in the wake of the school shooting in Newtown, Connecticut. The president’s recommendations emerged from the findings of a gun policy task force headed by Vice President Joe Biden.

She outlined the following crucial steps supported by the ABA.

**Strengthen background check requirements and the National Instant Background Check System (NICS).** Federal law has limited gun sales through licensed firearms dealers to legally qualified purchasers since 1968 and began requiring in 1993 a background check of federal and state records through the NICS prior to completion of a firearm sale. An estimated 25 percent to 40 percent of all gun sales in the United States continue to be exempt from this requirement, however, because unlicensed sellers are permitted by law to sell firearms with no background check.

**Strengthen law and enforcement to prevent gun trafficking.** The ABA supports legislation, S. 54 and H.R. 452, to address “straw purchases” of firearms that occur when a person who is not legally qualified to acquire a firearm or may wish to do so anonymously has someone else purchase the firearm on his or her behalf. Such straw purchases are regularly used by criminals, criminal gangs and persons disqualified by age, and they account for nearly a third of all firearms involved in federal trafficking investigations.

**Limit availability of assault weapons and high-capacity clips to the U.S. military, the National Guard and law enforcement.** The ABA urges swift action on legislation, introduced as S. 150 and H.R. 437, to limit the future sale and transfer of assault weapons and ammunition devices that hold more than 10 bullets. The legislation would not render currently owned assault weapons illegal but would require more careful regulation for transfer and sale by bringing those weapons and large-capacity ammunition devices under the registra-
<table>
<thead>
<tr>
<th>ABA LEGISLATIVE PRIORITY</th>
<th>HOUSE</th>
<th>SENATE</th>
<th>FINAL</th>
<th>ABA POSITION</th>
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<tr>
<td><strong>Gun Violence.</strong> S. 150 and H.R. 437 would limit the future sale and transfer of assault weapons and ammunition devices that hold more than 10 bullets. S. 54 and H.R. 452 seek to combat the practice of straw purchasing and illegal trafficking in firearms.</td>
<td>H.R. 437 was referred to the Judiciary Committee on 1/29/13; H.R. 452, on 2/4/13.</td>
<td>S. 150 was referred to the Judiciary Committee on 1/30/13; S. 54, on 1/22/13. Judiciary Committee held a hearing on 1/30/13, and a Judiciary subc. hearing is scheduled for 2/12/13.</td>
<td>Supports steps to prevent gun violence by strengthening the nation’s gun laws. See front page.</td>
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<td><strong>Immigration.</strong> A bipartisan group of senators and the president each unveiled principles in February for overhauling the nation’s immigration system.</td>
<td>Judiciary subc. held a hearing on 2/5/13.</td>
<td>Judiciary Committee hearing scheduled for 2/13/13.</td>
<td>Supports comprehensive immigration reform that promotes legal immigration based on family reunification and employment skills and a path to legal status for much of the undocumented population currently residing in the United States. See page 3.</td>
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<td><strong>Legal Services Corporation.</strong> P.L. 112-175 (H.J. Res. 117), a fiscal year 2013 continuing resolution funding the government through 3/27/13, includes $350 million for the LSC. P.L. 113-2 (H.R. 152), Hurricane Sandy disaster relief legislation, includes $1 million for the LSC to provide legal assistance to low-income individuals affected by the storm.</td>
<td>House passed H.R. 152 on 1/15/13.</td>
<td>Senate passed H.R. 152 on 1/28/13.</td>
<td>Supports an independent, well-funded LSC. See page 7.</td>
<td></td>
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<tr>
<td><strong>Violence Against Women Act.</strong> S. 47 and H.R. 11 would consolidate and reauthorize VAWA programs and include new provisions to strengthen tribal criminal jurisdiction and ensure that victims cannot be denied services based on gender identity or sexual orientation.</td>
<td>H.R. 11 was referred to the Judiciary Committee on 1/29/13.</td>
<td>Senate began floor consideration of S. 47 on 2/7/13.</td>
<td>Supports VAWA reauthorization. See page 4.</td>
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Bipartisan group of senators, Obama unveil plans to overhaul nation’s immigration system

A bipartisan group of eight senators unveiled a framework for overhauling the nation’s immigration system last month, expressing hope that legislation could be passed by the Senate this summer.

The day after the senators released their “statement of principles,” President Obama outlined his own immigration proposals during a speech in Las Vegas, Nevada, and urged Congress to act on legislation to create a fair and effective immigration system and deal with the 11 million individuals who are in the country illegally. He applauded the bipartisan principles announced in the Senate, saying they “are very much in line with the principles I’ve proposed and campaigned on for the last few years.”

During a Jan. 28 news conference, Sen. Charles E. Schumer (D-N.Y.) said the bipartisan effort is “a major breakthrough,” and Sen. John McCain (R-Ariz.) called the introduction of the principles “the first step in what will be a very difficult, but achievable, reform to our immigration system.” Schumer and McCain were joined by Sens. Richard J. Durbin (D-Ill.), Robert Menendez (D-N.J.), Michael F. Bennet (D-Colo.), Lindsey O. Graham (R-S.C.), Marco Rubio (R-Fla.) and Jeff Flake (R-Ariz.).

According to the senators, the bipartisan framework, the first serious attempt for major immigration reform since 2007, commits “the resources needed to secure the border, modernize and streamline our current legal immigration system, while creating a tough but fair legalization program for individuals who are currently here.”

The framework consists of the following four basic legislative pillars:

* create a tough but fair path to citizenship for unauthorized immigrants currently living in the United States that is contingent upon securing borders and tracking whether legal immigrants have left the county when required;
* reform the legal immigration system to better recognize the importance of characteristics that will help build the American economy and strengthen American families;
* create an effective employment verification system that will prevent identity theft and end the hiring of future unauthorized workers; and
* establish an improved process for admitting future workers to serve the nation’s workforce needs, while simultaneously protecting all workers.

Requirements for the path to citizenship under the senators’ proposal include a background check and payment of fines and back taxes before probationary status may be earned to allow undocumented immigrants to live and work in the
ABA president expresses support for VAWA extension

ABA President Laurel Bellows expressed strong support this month for reauthorization of the Violence Against Women Act (VAWA), an effort she said will “renew proven and effective programs that support victims of domestic, sexual, stalking and dating violence and their families.”

VAWA, first enacted in 1994, expired in 2011, and a push to reauthorize the act during the 112th Congress failed after the Senate and House passed different versions of reauthorization legislation.

Quick passage was expected in the Senate, which began consideration Feb. 7 of S. 47, sponsored this year by Senate Judiciary Committee Chairman Patrick J. Leahy (D-Vt.) and Michael D. Crapo (R-Idaho). Similar legislation, H.R. 11, was introduced in the House by Reps. Gwen Moore (D-Wis.) and John Conyers (D-Mich.).

The legislation, in addition to consolidating and reauthorizing programs, includes provisions for the first time to ensure that victims seeking assistance could not be denied services based on gender identity or sexual orientation, as well as race, color, religion, national origin or disability.

Both bills also include provisions to strengthen tribal criminal jurisdiction over individuals who assault Native American spouses and dating partners in Indian country. Also part of the bills are provisions to reduce the backlog of untested rape kits to provide for additional audits and reporting and increase the capacity of state and local law enforcement to perform DNA analysis.

Leahy noted in his remarks on the Senate floor that S. 47 does not include provisions from last Congress to increase the number of U Visas available for undocumented victims who assist law enforcement. The House objected to the provisions last year because of revenue issues, and Leahy indicated that U Visas would be addressed in the context of comprehensive immigration reform.

In Jan. 30 letters to the Senate and House sponsors and a Feb. 6 letter to all senators, Bellows pointed out the ABA’s longstanding support for efforts to address domestic, sexual and stalking violence and that the legal profession fulfills an important role in addressing these crimes. The ABA Commission on Domestic & Sexual Violence, she said, has increased access to justice for victims by mobilizing the legal profession.

She urged senators to vote against any amendments that would weaken the legislation.

In separate correspondence, ABA Governmental Affairs Director Thomas M. Susman urged them to keep the bill free of mandatory sentencing provisions.

“As much as we support effective penalties to punish and deter the domestic violence, sexual assault and stalking offenses in S. 47, we do not believe that including mandatory minimum sentencing provisions is necessary, appropriate or cost-effective,” Susman wrote. “In fact, these provisions could be counterproductive in combatting violence,” he said, explaining that the threat of a lengthy, mandatory prison sentence for an intimate partner abuser could deter a victim from reporting a crime.

He concluded that “more mandatory minimum sentences would only increase the burdens on and high costs of our already overcrowded federal prison system.”

Immigration principles unveiled

continued from page 3

United States. Strengthening of border enforcement would be required before those on probationary status could receive green cards.

Separate processes would be established for agricultural workers and those who came to the United States as children.

Although the senators and the president agree on many aspects of reform, the president’s proposed path to citizenship is not tied to enhanced border security. He also supports provisions ensuring that all families, including those with same-sex spouses, receive equal treatment under the law.

President Obama urged prompt action in his speech.

“We can’t allow immigration reform to get bogged down in an endless debate,” he said, cautioning that “if Congress is unable to move forward in a timely fashion, I will send up a bill based on my proposal and insist that they vote on it right away.”

Senate Judiciary Committee hearings on immigration reform are scheduled to begin Feb. 13, the day after the president’s State of the Union Message. The House Judiciary Committee held a hearing Feb. 5 on immigration issues.

The ABA supports comprehensive immigration reform that promotes legal immigration based on family reunification and employment skills and that provides for new legal channels for future workers, a path to legal status for much of the undocumented population currently residing in the United States, and enhanced border security.
## House Judiciary Committee

### Republicans (23)

Robert W. Goodlatte, Va. - Chairman  
Jim Sensenbrenner, Wis.  
Howard Coble, N.C.  
Lamar Smith, Texas  
Steve Chabot, Ohio  
Spencer Bachus, Ala.  
Darrell Issa, Calif.  
J. Randy Forbes, Va.  
Steve King, Iowa  
Trent Franks, Ariz.  
Louie Gohmert, Texas  
Jim Jordan, Ohio  
Ted Poe, Texas  
Jason Chaffetz, Utah  
Tom Marino, Pa.  
Trey Gowdy, S.C.  
Mark Amodei, Nev.  
Raúl R. Labrador, Idaho  
Blake Farenthold, Texas  
George Holding, N.C.  
Doug Collins, Ga.  
Ron DeSantis, Fla.  
Keith Rothfus, Pa.

### Democrats (17)

John Conyers Jr., Mich. - Ranking Member  
Jerrold Nadler, N.Y.  
Robert C. Scott, Va.  
Melvin Watt, N.C.  
Zoe Lofgren, Calif.  
Sheila Jackson Lee, Texas  
Steve Cohen, Tenn.  
Hank Johnson, Ga.  
Pedro R. Pierluisi, P.R.  
Judy Chu, Calif.  
Ted Deutch, Fla.  
Luis V. Gutierrez, Ill.  
Karen Bass, Calif.  
Cedric L. Richmond, La.  
Suzan DelBene, Wash.  
Joe Garcia, Fla.  
Hakeem Jeffries, N.Y.

## Senate Judiciary Committee

### Democrats (10)

Patrick J. Leahy, Vt. - Chairman  
Dianne Feinstein, Calif.  
Charles E. Schumer, N.Y.  
Richard J. Durbin, Ill.  
Sheldon Whitehouse, R.I.  
Amy Klobuchar, Minn.  
Al Franken, Minn.  
Chris Coons, Del.  
Richard Blumenthal, Conn.  
Mazie K. Hirono, Hawaii

### Republicans (8)

Charles E. Grassley, Iowa - Ranking Member  
Orrin G. Hatch, Utah  
Jeff Sessions, Ala.  
Lindsey Graham, S.C.  
John Cornyn, Texas  
Mike Lee, Utah  
Ted Cruz, Texas  
Jeff Flake, Ariz.
Chief justice focuses on court resources

Chief Justice John G. Roberts Jr., issuing his 2012 Year-End Report on the Federal Judiciary, highlighted the judiciary’s strategy for achieving cost savings in the face of the government’s budget deficit, but he encouraged the president and Congress to be especially attentive to the needs of the judicial branch and provide the resources necessary for its operations.

Roberts said that the judicial branch consumes a miniscule portion of the federal budget. The judiciary—including the Supreme Court, other federal courts, the Administrative Office of the U.S. Courts, and the Federal Judicial Center—received a total fiscal year 2012 appropriation of $6.97 billion, which is two-tenths of 1 percent of the total U.S. budget of $3.7 trillion.

Since 2004, when the Judicial Conference endorsed a cost-containment strategy, Roberts said the judiciary has focused on three principal targets for realizing savings: rent, personnel expenses, and information technology. The most significant cost-containment success has been in controlling rent costs, he said, and the courts are continuing to look for ways to achieve greater savings in personnel costs. He noted significant savings through consolidation of information technology.

“The judiciary has been doing its part to carefully manage its tiny portion of the federal budget,” Roberts said. He explained, however that because the judiciary has already pursued cost-containment so aggressively, it will become increasingly difficult to economize further without reducing the quality of judicial services.

He said that virtually all of the judiciary’s core functions are constitutionally and statutorily required, and unlike executive branch agencies, the courts do not have discretionary programs they can eliminate or projects they can postpone.

“A significant and prolonged shortfall in judicial funding would inevitably result in the delay or denial of justice for the people the courts serve,” Roberts cautioned.

Vital resource needs for the judiciary include appointment of an adequate number of judges to keep current on pending cases; twenty-seven of the existing judicial vacancies at the close of 2012 were judicial emergencies. He urged nomination and confirmation of highly qualified candidate to fill those vacancies.

Turning to the court workload in 2012, Roberts noted the following:

- filings in regional courts of appeals grew 4 percent to 57,501;
- the number of persons under post-conviction supervision rose 2 percent to 132,340;
- total case filings in the district courts declined 5 percent to 372,563;
- cases opened in the pretrial services system fell four percent to 109,242; and
- filings in bankruptcy courts dropped 14 percent to 1,261,140.

The total number of cases filed in the Supreme Court decreased 1.8 percent, from 7,857 in the 2010 term to 7,713 in the 2011 term. During the 2011 term, 79 cases were argued and 73 cases were disposed of in 64 signed opinions.

Judicial Vacancies/Confirmations — 113th Congress* (as of 2/7/13)

<table>
<thead>
<tr>
<th>Court</th>
<th>Vacancies</th>
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<tr>
<td>US Supreme Court</td>
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<td>0</td>
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<tr>
<td>(9 judgeships)</td>
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<tr>
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<tr>
<td>(179 judgeships)</td>
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<td>US District Courts</td>
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<tr>
<td>(678 judgeships)</td>
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<tr>
<td>Trade (9 judgeships)</td>
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</tr>
<tr>
<td>Totals</td>
<td>89</td>
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*Includes territorial judgeships
DISASTER RELIEF/LEGAL SERVICES: Hurricane Sandy disaster relief legislation signed Jan. 29 by President Obama includes $1 million for the Legal Services Corporation (LSC) to provide legal assistance to low-income individuals affected by the storm, which hit the East Coast in late October. The funds provided to the LSC by P.L. 113-2 (H.R. 152) will be used for mobile resources, technology and disaster coordinators to provide storm-related services to LSC’s client population in the areas significantly damaged by the storm. “Legal issues caused by natural disasters often disproportionately affect low-income families, seniors, veterans and others who are least able to deal with them,” LSC President James J. Sandman explained following the signing of the bill. During debate on H.R. 152, the House defeated, by a 202-217 vote, an amendment proposed by Rep. Jeff Duncan (R-S.C.) to remove the LSC funding from the bill. Supporters of the additional LSC funding argued that legal aid offices in Sandy-affected areas are experiencing a huge increase in requests for civil legal assistance that is directly related to the storm and its aftermath. Rep. Nita Lowey (D-N.Y.), pointed out that legal aid programs in New York and New Jersey set up recovery hotlines, staffed FEMA disaster recovery centers, and provided legal counseling through clinics. Local legal services program also helped families obtain emergency food stamps, disaster-related unemployment insurance benefits, and Federal Emergency Management Agency benefits to pay rent and other expenses, she said.

ELECTRONIC HEALTH RECORDS: The ABA recently commended the Health Information Technology Policy Committee for including elements that have the potential of supporting advance care planning efforts in two recent draft recommendations for meaningful use of electronic health records (EHR). The association also suggested in comments submitted to the committee Jan. 11, however, that another recommendation regarding advance directives be replaced with more robust and relevant criteria. The draft recommendations relate to Stage 3 (improved outcomes), the third stage of development of standards and certification criteria for electronic health records to the purposes of Medicare and Medicaid EHR incentive programs. The Department of Health and Human Services has already announced final rules for Stage 1 (data capture and sharing) and Stage 2 (advance clinical processes). In the comments, ABA Governmental Affairs Director Thomas M. Susman expressed ABA support for SGRP 204B, which would add a new menu item for including patient-generated health information, such as advance directives, in the record, and SGRP 304, which seeks to ensure that, in the future, care plan information is communicated in transition across care settings. Susman wrote that SGRP 112, however, would require the recording of whether a patient 65 or older has an advance directive but does not call for inclusion of the actual content of the advance directive. According to Susman, the proposal would provide “little in the way of useful data and may even do harm in light of research that shows that a significant proportion of providers make erroneous assumptions about the wishes of patients when told of the existence of a directive without details of its contents.” The ABA, he said, recommends several steps to improve SGRP 112, including requiring that documentation in the record include a copy of the patient’s advance directive or advance care planning notes, or a copy of a Physician Orders for Life Sustaining Treatment (POLST) form. He also noted the ABA’s longstanding history of policy supporting the use and recognition of advance care planning tools. In addition, the ABA supports strengthening federal law to give patients an opportunity to discuss advance care planning with health care providers after admission and as part of annual Medicare wellness exams.
Gun violence is at forefront of congressional agenda

continued from front page

tion requirements for fully automatic firearms under the National Firearms Act.

Although some maintain that the Second Amendment should apply to prevent any regulation of assault weapons and high-capacity clips, Bellows said the ABA believes that there are limits to Second Amendment rights, which must be balanced against other rights in serving the common welfare, including protecting the safety of children and all citizens from especially dangerous weapons.

Strengthen and fully implement the NICS. Only a portion of state mental health records are provided and integrated in the NICS system, and a recent Government Accountability Office report found that 17 states have fewer than 10 percent of their mental health records available. In addition, state records for felony convictions and domestic violence also are incomplete. Federal grant support is needed to improve the automation and transmittal of records to federal and state record repositories, Bellows said, and the ABA supports a memorandum issued by the president to require federal agencies to fully cooperate and share relevant records with the background check system.

Strengthen regulation of gun sales and transfers. The ABA recommends a number of amendments to federal law, including prohibiting sales, transfers and possession of firearms by persons convicted of violent misdemeanors, including those convicted of domestic violence and child abuse offenses. Other suggested amendments would prohibit interstate sales by unlicensed persons of ammunition or firearm components; and require dealers, manufacturers, transporters and importers of firearms and ammunition to provide adequate and secure storage facilities to reduce theft and require reporting of all gun thefts.

During the Jan. 30 hearing, former Rep. Gabrielle Giffords (D-Ariz.), a victim of a shooting two years ago, urged the committee in a brief statement to take action immediately.

Giffords’ husband, Mark Kelly, elaborated by emphasizing the importance of strengthening the background check system and removing limits on the Centers for Disease Control and Prevention and other public health organizations on collecting data and conducting scientific research on gun violence.

Wayne LaPierre, executive vice president of the National Rifle Association, testified that background checks will never be universal because “criminals will never submit to them.” He suggested armed security in schools and enforcement of the thousands of gun laws currently on the books.

Dallas hosts 2013 Midyear Meeting

The ABA House of Delegates, meeting Feb. 11 during the association’s Midyear Meeting in Dallas, is expected to consider policy recommendations ranging from human trafficking to changes to the ABA Model Rules of Professional Conduct.

Also on the delegates’ agenda are proposals relating to representation of juveniles, establishment of an independent Center for Indigent Defense Services, mandatory reporting of child abuse and neglect, and disclosure of political and campaign spending. Other highlights of the Midyear Meeting, which runs Feb. 6-11, include programs on various aspects of human trafficking, cybersecurity, and the unauthorized practice of law.

The monthly Washington Letter reports news of national public interest to the legal profession, including congressional, executive branch and ABA activities concerning the association’s legislative priorities. The newsletter is published by the Governmental Affairs Office as a service to ABA members and national, state and local bar associations. Full text is available on the Internet at http://www.americanbar.org/advocacy/governmental_legislative_work/publications.html. © 2013 American Bar Association. All rights reserved. Please address correspondence to:


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