The ABA House of Delegates, meeting Aug. 11 and 12 during the association’s Annual Meeting in Boston, adopted a range of new policy positions, including resolutions supporting greater access to legal services, cybersecurity programs, and steps to establish workplace policies addressing domestic violence.

In addition to adopting numerous legislative resolutions, the delegates approved a package of amendments to the ABA Standards for Approval of Law Schools but postponed action on language that would retain a standard prohibiting law students from being paid for internships that grant academic credit.

During the two-day session, Chief Justice John G. Roberts Jr. kicked off the ABA’s celebration of the 800th anniversary of the 1215 signing of the Magna Carta, which he said helped lead the United States “down the path to constitutional democracy.” Roberts also remarked that this is an “era in which sharp partisan divides within our political branches have shaken public faith in government across the board,” and the judiciary “must look to the bar for broader assistance in maintaining the public confidence in the integrity of our legal system.”

"Lawyers fulfill their professional calling to its fullest extent when they rise above particular partisan debates and participate as problem solvers, whether through the ABA’s committees, through pro bono work, through public service or simply by helping the public understand the nature of the role that courts play in civil life, a role distinct from that of the political branches,” Roberts said.

Other highlights included presentation of the ABA Medal, the association’s highest award, to retired Gen. Earl E. Anderson, an ABA member for 64 years who at age 95 continues to be active in several ABA entities and is a member of the ABA House of Delegates. The medal was awarded during the Opening Assembly, which featured a keynote address by Secretary of Homeland Security Jeh Johnson.

Johnson provided an update his department’s initiatives and said that, absent congressional legislation, the president will be announcing reforms through executive action to address the unprecedented influx of unaccompanied children coming across the southwest border of the United States (see article, page 3).

Another major event was the first public hearing of the new ABA Task Force on the Financing of Legal Education. The task force, appointed in May and chaired by former ABA President Dennis W. Archer, is examining the cost and financing of law school, student loans, and educational debt.
### LEGISLATIVE BOXSCORE

<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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</table>
President weighs executive action for border crisis

_President Obama is weighing steps he may take by executive order following the failure of Congress to give final approval to legislation addressing the unprecedented influx of unaccompanied children entering the United States at the southwest border._

Before Congress left for its August recess, the House passed H.R. 5230, a bill that would provide $694 million in additional funding for federal agencies dealing with the border crisis – a figure much less than the $3.7 billion requested by the president. The bill, passed Aug. 1 by a 223-189 vote, also would amend the 2008 Trafficking Victims Protection Act to make it easier to deport children from Central America.

A second bill passed by the House, H.R. 5272, would, among other things, limit federal agencies from considering or adjudicating new or previously denied applications under the Deferred Action for Childhood Arrivals program. The program, authorized by the president through an executive order in 2012, allows those who came to the United States as children or young adults to stay in the country temporarily if they meet certain criteria.

In the letter, ABA Governmental Affairs Director Thomas M. Susman said the expedited screening and hearing processes in the legislation would place unfair and unrealistic burdens on both the children and the judges.

“Although the bill provides some additional funding for the immigration courts, it is not sufficient to avoid severely increasing the strains on this already overburdened and chronically underresourced adjudication system,” he wrote.

Susman also pointed out that the bill would provide no additional funding for legal representation, explaining that “due to their ages, lack of education, language and cultural barriers, and the complexity of U.S. immigration law, these vulnerable children face insurmountable obstacles to proving their claims for protection before an immigration judge on their own.”

It is the children most likely to be eligible for some relief under the law, such as victims or trafficking or persecution, who may be least able to articulate their experiences under the bill’s proposed procedure, he added. This would create the likelihood, he continued, that the children with a valid claim to asylum or other legal protection “are the ones most likely to be returned to their home countries to face serious harm or even death.”

As the House was considering the legislation in late July, then ABA President James R. Silkenat and President-elect William C. Hubbard, who became president Aug. 12, visited an emergency shelter for unaccompanied children at Lackland Air Force Base and an immigration court in San Antonio, seeing “ABA delegation,” page 9

## LSC marks 40th anniversary

The Legal Services Corporation (LSC), the country’s single largest funder of civil legal aid, marked its 40th anniversary July 25 and is planning a three-day event Sept. 14-15 in Washington, D.C., to commemorate the milestone.

Established in 1974 with ABA support to help meet the legal needs of the nation’s poor, LSC provides grants through a competitive process to 134 independent local legal services organizations. These organizations, with 800 offices nationwide, serve individuals in every congressional district in the United States and its territories.

“The ABA applauds the work done by the LSC,” then ABA President James R. Silkenat said in a statement issued July 25. “LSC grantees assist 2.3 million Americans annually, including veterans, domestic violence victims, those coping with the after-effects of natural disasters, and individuals undergoing foreclosure or other housing issues,” he said.

Silkenat noted that the demand for LSC services is at an all-time high, with 63.5 million Americans, including more than 22 million children, currently eligible for services and 67 million Americans expected to be eligible in 2015. He called on Congress to increase LSC funding so that more Americans may be served. The program’s current appropriation is $365 million.

“The ABA strongly believes that everyone should have access to justice and representation in our legal system. The LSC helps achieve that goal,” Silkenat said.
continued from front page

At the conclusion of the meeting, South Carolina lawyer William C. Hubbard succeeded James R. Silkenat to become ABA president for 2014-15 (see article, page 5), and Paulette Brown, of New Jersey, became president-elect. Others moving into leadership roles included House of Delegates Chair Patricia Lee Refo, treasurer G. Nicholas Casey and secretary Mary T. Torres.

The following is a summary of legislative resolutions approved by the House of Delegates.

**Courts/Judiciary**

**Federal Court of Appeals Jurisdiction.** Urges Congress to amend 28 U.S.C. §44(c) to include the word “territory” to ensure that all states and territories within the jurisdiction of the federal courts of appeal may be represented on the appeals court bench. Also urges the president to nominate judges to federal courts of appeal that are representative of the geographic areas over which they exercise jurisdiction and to nominate a Virgin Islands judge or attorney for a current vacancy on the U.S. Court of Appeals for the Third Circuit and to nominate a Guam or Northern Mariana Islands judge or attorney to the next vacancy on the U.S. Court of Appeals for the Ninth Circuit.

**ABA Standing Committee on the American Judicial System.** Amends §31.7 of the ABA Bylaws to eliminate the Standing Committee on Federal Judicial Improvements and the Standing Committee on Judicial Independence and create one entity, the Standing Committee on the American Judicial System, which includes a Subcommittee on State Courts and a Subcommittee on Federal Courts.

**Right to a Civil Jury Trial.** Opposes the suspension or delay of the fundamental right to a civil jury trial in the face of difficult fiscal circumstances.

**Judicial Recusals.** Urges state and territories to adopt, in order to assure fair and impartial judicial proceedings, clearly articulated, transparent and timely procedures to ensure that judges disqualify or recuse themselves in instances where conflict or bias or other grounds exist to warrant recusal. These procedures should take into account the fact that certain campaign expenditures and contributions, including independent expenditures, made during judicial elections raise concerns about possible effects on judicial impartiality and independence. Further urges the adoption of a mechanism for the timely review of denials to disqualify or recuse that is independent of the subject judge.

**Criminal Justice**

**Wrongful Executions.** Urges each federal, state and territorial jurisdiction where capital punishment is permitted to adopt a statute or rule providing an appropriate judicial procedure whereby successors or a legal entity, on behalf of an executed individual, may bring and litigate a claim that the individual executed was in fact innocent of the capital offense.

**Cybersecurity**

**Cybersecurity Programs.** Encourages private and public sector organizations to develop, implement and maintain an appropriate cybersecurity program that complies with applicable ethical and legal obligations and is tailored to the nature and scope of the organizations and the data and systems to be protected.

**Disability Rights**

**Marrakesh Treaty.** Supports prompt ratification, by the United States and other nations, of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, designed to address “book famine,” which excludes hundreds of millions of visually-impaired and other print-disabled persons from access to more than 95 percent of all published works.

**Domestic Violence**

**Workplace Policies.** Adopts the Model Workplace Policy on Employer Responses to Domestic Violence, Sexual Violence, Dating Violence and Stalking. Encourages all public and private employers – including governments, law schools and the legal profession – to enact formal policies on the workplace responses to domestic violence, dating violence sexual violence and/or stalking which address prevention and remedies, provide assistance to employees who experience violence, and which hold accountable employees who perpetrate violence.

**Forced Marriages.** Condemns forced marriage as a fundamental human rights violation and a form of family violence and of violence

see “Annual Meeting,” page 5
against women. Urges governments to amend existing laws or enact new laws to prevent forced marriages in the United States or involving U.S. citizens or residents and to protect and supports individuals threatened by forced marriage. Urges governments to collaborate with legal, social services and advocacy organizations to develop victim-centered legal remedies and to promote training for judges, prosecutors, law enforcement, child protection authorities, victim-witness advocates and attorneys.

**Elder Law**

**Social Security.** Urges Congress to reallocate payroll tax revenues between the Old Age and Survivors Insurance Trust Fund and the Disability Insurance Trust Fund as needed to prevent depletion of the reserves of either trust fund.

**Election Law**

**Contingency Plans.** Urges state, localities and territories to develop written contingency plans to preserve the election process in the event of an emergency. Urges federal, state and local officials to enact measures to ensure that voters assisting in recovery efforts, including those who travel outside their state or residence to assist in a recovery, are able to vote by absentee ballot or otherwise.

**Accessibility.** Urges governments and the courts to ensure that the electoral process, including voter registration and voting methods, is accessible to persons with disabilities and that polling places are free of physical, technological and administrative barriers. Urges use of all appropriate means to improve enforcement of voting rights for persons with disabilities, supports accessibility training for election personnel and volunteers, and urges enforcement of physical, technological and administrative barriers. Urges use of all appropriate means to improve enforcement of voting rights for persons with disabilities, supports accessibility training for election personnel and volunteers, and urges

ABA president William C. Hubbard to focus on legal services, sentencing reform, domestic violence

New ABA President William C. Hubbard, who began his one-year term Aug. 12 at the ABA Annual Meeting, will focus on improving delivery of services to the poor and middle class, working to reform sentencing laws and ease reentry into the community for ex-prisoners, and supporting efforts to train lawyers to defend victims of domestic violence.

Hubbard also will be presiding over the ABA’s commemoration next year of the 800th anniversary of the signing of Magna Carta, signed in 1215 by King John of England and considered the foundation for the rule of law in the United States. The celebration will include four days of programs in London and the rededication of the ABA’s monument to the document at Runnymede.

Emphasizing the urgency of closing the legal services gap, Hubbard announced the establishment of a 30-member Commission on the Future of Legal Services to develop recommendations for improving access to justice. The commission, which will sponsor a national conference on legal services delivery in the spring, is expected to issue its report by the next Annual Meeting in August 2015.

“We have to embrace innovation to lower costs and provide access so that people do not have to fend for themselves in the pursuit of justice and liberty,” he said.

Hubbard – a partner with the Columbia, South Carolina, office of Nelson Mullins Riley and Scarborough – is a past chair of the ABA House of Delegates, a past president of the American Bar Foundation and the American Bar Endowment, and a past chair of the ABA Young Lawyers Division. He also served on the ABA Board of Governors and the ABA Standing Committee on the Federal Judiciary. He is a member of the council of the American Law Institute and a fellow of the American College of Trial Lawyers.

Hubbard’s practice areas include business litigation related to breach of contract, business torts, breach of fiduciary duty claims, unfair trade practices, energy and utilities disputes, and class actions.

He has been honored several times by his alma mater, the University of South Carolina, where he received both his undergraduate and law degrees. In 2002, Hubbard received the Order of Palmetto, the highest civilian award given by the governor of South Carolina.

See “Annual Meeting,” page 8
Retroactivity okayed for reduced drug sentencing guidelines

In action strongly supported by the ABA, the U.S. Sentencing Commission (USSC) unanimously approved an amendment last month to apply reduced sentencing guidelines retroactively to people who are currently serving time for certain nonviolent drug offenses.

The commission added retroactivity to a sentencing reduction amendment approved last April and sent to Congress as part of the 2014 amendments to the drug sentencing guidelines. The 2014 amendments seek to reduce the disproportionate role that the single factor of drug quantity has played in sentences tied to mandatory minimums for drug offenses. Offenders eligible for a reduction should have their sentences reduced by an average of 25 months, or 18.8 percent. They would still serve 108 months on average. Judges would still determine whether a person qualifies for the retroactive reduction.

Unless Congress disapproves, the 2014 amendments will go into effect Nov. 1, 2014. Under the retroactivity amendment, eligible offenders may ask courts to reduce their sentences beginning Nov. 1, 2014, and those whose requests are granted by the courts can be released beginning Nov. 1, 2015.

Numerous witnesses, including the ABA, testified in support of retroactivity at a June 10 commission hearing.

“It is unfair for thousands of prisoners to continue serving unduly severe sentences that would be nearly 1/5 lower if imposed today,” James E. Felman, the ABA’s liaison to the commission and now co-chair of the Criminal Justice Section, told the commission. He noted in his statement that recidivism rates of those released early under retroactive application of the 2014 drug guidelines amendment are expected to be low based on a USSC study of previous experience with retroactive application of a 2007 crack cocaine amendment. The 2007 amendment reduced by two levels the base offense levels assigned by the Drug Quantity Table for each quantity of crack cocaine.

Save the Date!

ABA Day in Washington
April 14-16, 2015

Join ABA President William C. Hubbard and your fellow ABA, state, local and specialty bar leaders for our annual "lobby day" in Washington, DC.

For more details, go to the ABA Day page on the Governmental Affairs Office website.

Judicial Vacancies/Confirmations—113th Congress* (as of 8/22/14)

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*Includes territorial judgeships
HOME AND COMMUNITY-BASED SERVICES: The ABA applauded Sen. Tom Harkin (D-Iowa) this month for introducing legislation in June to help disabled individuals get the long-term care they need outside of institutions. S. 2515, the Community Integration Act of 2014, would amend the Social Security Act to require state Medicaid plans to offer certain disabled beneficiaries a choice to receive home and community-based services (HCBS) at the same quality level of institutionalized care. In an Aug. 1 letter to Harkin, Governmental Affairs Office Director Thomas M. Susman expressed the ABA’s support for the bill and said that access to HCBS should be “mandatory for those who would otherwise qualify for institutional long-term care.” He highlighted the U.S. Supreme Court’s decision in Olmstead v. L.C., 527 U.S. 581 (1999), which concluded that, under the Americans with Disabilities Act, community-based services should be available when deemed appropriate by health care professionals, when desired by the individual, and when the request can be reasonably accommodated. By increasing the availability of HCBS care, this bill will “reduce unnecessary institutionalization and enable many individuals to live independently and attain full integration into their communities,” Susman wrote. He signaled the ABA’s continued support for such measures into the future. “We will continue the fight to remove the obstacles that currently exist for certain individuals to obtain home and community-based services,” he explained.

INTERNAL REVENUE SERVICE (IRS) FUNDING: Following House passage in July of an appropriations bill that would reduce IRS funding in fiscal year 2015 to its lowest level in 10 years, the ABA reiterated support for ensuring that the IRS receives adequate funding to carry out its mission of taxpayer service and enforcement of federal tax laws. The appropriations bill, H.R 5016, includes $10.95 billion for the IRS – a $340.6 million cut from fiscal year 2014 amount and $1.5 billion below President Obama’s request. In a July 21 letter to the leaders of the House and Senate Appropriations Subcommittees on Financial Services and General Government, then ABA Section of Taxation Chair Michael Hirschfeld noted that the following consequences might occur if the IRS is not adequately funded: a decrease in federal revenue; a lack of necessary IRS personnel; a negative effect on the IRS’s ability to administer the laws Congress enacts; a decrease in the quality of taxpayer service; and elimination of volunteer services programs that aid elderly and low-income taxpayers. Hirschfeld emphasized that last year the IRS was able to answer only 61 percent of the calls it received from taxpayers and faced approximately 690,000 cases of identity theft. In addition, decreased funding already has negatively affected the ability of taxpayers to meet with the Office of Appeals to resolve their cases administratively. In addition, nearly 92,000 volunteers assisted with 3.3 million returns through volunteer programs administered by the IRS that would have to be eliminated if funding were cut. Hirschfeld wrote that the ABA recognizes the intense challenges Congress faces regarding the federal budget, but stressed that the association does not believe that the IRS can appropriately fulfill its obligations without adequate funding. The Senate version of the legislation, which has been approved by an appropriations subcommittee, includes $11.5 billion for the IRS, a 2 percent increase for the agency.

GENDER IDENTITY DISCRIMINATION: When President Obama issued Executive Order 13672 last month to further prohibit discrimination by federal agencies and contractors on the basis of sexual orientation or gender identity, then ABA President James R. Silkenat was quick to commend the action. “The order is a positive step towards full equality under the law in our country and will offer added protection from discrimination to some 14 million federal contract workers,” Silkenat said in his statement, issued July 21, the same day as the order. The new executive order amends two previous executive orders to include gender identity and to further clarify protection against discrimination on the basis of sexual orientation for federal employees and federal contract workers. Silkenat encouraged state and local governments, however, to do more to prevent such discrimination, citing a Human Rights Campaign study that showed that 29 states still allow employers to fire employees on the basis of their sexual orientation. He urged that all state, local and territorial governments pass laws to protect lesbian, gay, bisexual and transgender (LGBT) persons from discrimination in employment. “Whenever any of our basic civil rights are diminished or marginalized on the basis of personal characteristics, all of our basic civil rights are jeopardized,” he concluded. Silkenat also noted the ABA’s “long tradition of actively opposing discrimination.” The association adopted policy in 1989 urging local and federal lawmakers to prohibit discrimination on the basis of sexual orientation, and in 2006 the ABA adopted policy specifically urging the passage of such anti-discrimination legislation related to housing, employment and public accommodations. The most recent policy, adopted this month at the Annual Meeting, recognizes the rights of LGBT individuals as basic human rights and condemns laws, regulations, rules and practices around the world that discriminate against them on the basis of their LGBT status.
election officials to encourage persons with disabilities to serve as election officials and volunteers.

**Immigration**

**Detention Standards.** Adopts amendment to the 2012 ABA Civil Immigration Detention Standards to, among other things, include provisions to limit the use of segregation, particularly solitary confinement, except as a last resort for a limited time period and in compliance with other limitations.

**Individual Rights**

**Crimes Against Humanity.** Urges Congress to enact legislation to prevent and punish crimes against humanity and urges the United States government to take an active role in negotiation and adoption of a new global convention for the prevention and punishment of crimes against humanity.

**LGBT Rights.** Recognizes the rights of individuals who are lesbian, gay, bisexual or transgender (LGBT) as basic human rights and condemns laws, regulations, rules and practices around the world that discriminate against them on the basis of their LGBT status.

**International Law**

**Signature Verification.** Supports modernization and simplification of the requirements, procedures, laws and regulations related to verification of signatures in cross-border contexts in order to increase reciprocal recognition among jurisdictions, taking into account relevant levels of service, new technologies and assorted costs, as well as the need for appropriate privacy, data security and fraud prevention.

**Legal Education**

**Veterans Legal Clinics.** Encourages all law schools to create veterans law clinics to ensure that all veterans who cannot afford legal services can access them.

**Loan Forgiveness.** Opposes proposed changes in current educational debt loan forgiveness programs for public services lawyers and urges Congress and the administration to support and continue public service loan repayment and forgiveness programs. Urges Congress and the administration not to create, in student loan repayment programs, greater burdens for married couples than for similarly situated couples who are cohabitating.

Gathering after “The Adolescent Brain: What Lawyers and Parents Must Know,” a CLE Showcase program sponsored by the ABA Commission on Youth at Risk (CYAR), were (from left): James Dold, Campaign for the Fair Sentencing of Youth; moderator Judge Jay D. Blitzman, first justice—Massachusetts Juvenile Court, Middlesex Division; Xavier Mc-Elrath Bey, Campaign for the Fair Sentencing of Youth; Vanessa Peterson Williams, chair, CYAR; and panelist Dr. David Fassler, clinical professor of psychiatry at the University of Vermont.

Then ABA President James R. Silkenat (left) presented the ABA Medal to retired Gen. Earl E. Anderson.

**Legal Services**

**Pro Bono.** Urges the highest appellate courts in each jurisdiction to adopt a rule permitting and encouraging in–house counsel already authorized to engage in the practice of law, while in the exclusive employment of an organization in a jurisdiction in which they are not licensed, to provide pro bono legal services in that jurisdiction subject to applicable rules, including rules of professional conduct, and other law.

**Unmet Legal Needs.** Urges national, state, local and territorial bar associations; foundation; courts; law schools; legal aid organizations; and law firms to create and advance initiatives that marshal the resources of newly admitted lawyers to meet the unmet legal needs of underserved populations in sustainable ways.
The Conference of Chief Justices (CCJ) adopted a resolution at its annual meeting in July supporting the ABA’s Voluntary Good Practices Guidance for Lawyers to Detect and Combat Money Laundering and Terrorist Financing (Voluntary Guidance), which was developed by the ABA Task Force on Gatekeeper Regulation and the Profession and several other ABA and other legal entities before being approved by the ABA House of Delegates in 2010.

ABA task force Chair Kevin L. Shepherd presented the proposed resolution to the CCJ Professionalism and Competence of the Bar Committee, which brought it to the full CCJ for a vote. In a July 29 letter to CCJ President Michael G. Heavican of the Nebraska Supreme Court, Shepherd underscored the importance the CCJ’s adoption of the resolution will have in “persuading state and local bar associations to post the Guidance on their websites as well as signaling to Congress and the administration that the state judiciary recognizes the vital role that lawyer education will have in preventing a lawyer’s services from being used to facilitate money laundering and terrorist financing.”

The CCJ resolution, which was prepared jointly by the ABA task force and the ABA Governmental Affairs Office, highlighted ABA Formal Opinion 463, an opinion issued in May 2013 by the ABA Standing Committee on Ethics and Professional Responsibility. In its formal opinion, the ABA committee concluded that the Voluntary Guidance is consistent with the ethical principles outlined in the ABA Model Rules of Professional Conduct. The formal opinion also encouraged lawyers to adopt effective client intake and monitoring procedures, such as the risk-based control measures outlined in the Voluntary Guidance, which are designed to minimize the risk that lawyers would unwittingly engage in providing legal services that facilitate money laundering or terrorist financing. The risk-based approach, according to the resolution, is an effective means of assisting lawyers to combat money laundering and terrorist financing while still complying with their existing state court and state bar ethical duties and legal obligations.

The ABA developed the Voluntary Guidance after the intergovernmental body known as the Financial Action Task Force on Money Laundering (FATF) issued comprehensive international anti-money laundering and counter-terrorist financing standards followed by a broad risk-based guidance for the legal profession in 2008. The FATF guidance identified the money laundering and terrorist financing issues specific to the legal profession and outlined the risk factors that lawyers need to consider in developing a risk-based system. Instead of offering detailed directions, however, the FATF guidance urged the legal profession to develop its own effective guidelines.

The ABA and its Task Force on Gatekeeper Regulation and the Profession responded by working with several other specialty bars to craft the voluntary guidance. The resulting Voluntary Guidance enables U.S. lawyers to assess the money laundering and terrorist financing risk posed by each client and allows the lawyers to combat money laundering by taking prudent, appropriate steps based on the individual situation rather than adhering to a burdensome and difficult “one-size-fits-all” approach.

The ABA has been urging all state and local bar presidents to encourage their members to comply with the ABA ethics opinion and the Voluntary Guidance as the most effective means of combating money laundering while avoiding the passage of federal legislation or adoption of rules that would impose unnecessary and burdensome new regulations on lawyers and the legal profession.

ABA delegation visits emergency shelter in Texas

continued from page 3

Texas. The visit by the ABA delegation was organized by the ABA Commission on Immigration, which oversees the South Texas Pro Bono Asylum Representation Project, an program offering pro bono support to the children and teens facing removal.

Following the visit, Silkenat issued a statement calling on the United States to address the situation “without compromising our commitment to protecting the most vulnerable among us, by adhering to the fundamental principles of justice and due process in which this country’s legal system is rooted.”

He reiterated the ABA’s support for providing children with legal representation and for adequate funding for immigration courts, and the association’s opposition to changes to the Trafficking Victims Protection and Reauthorization Act of 2008.
The Convention on the Rights of Persons with Disabilities (CRPD) is ready for a full Senate vote when Congress returns from its August recess.

The Senate Foreign Relations Committee cleared the CRPD for the full Senate July 22 by a 12-6 vote. The committee’s action, according to the ABA, sends “a clear message to the world of U.S. support for the human rights principles of the treaty as well as our role as a world leader for the rights of people with disabilities.”

“As the world’s historic leader in disability policy, the United States has an obligation to share its knowledge and protect the interests of American citizens abroad by joining in the international dialogue on civil rights for individuals with disabilities,” then ABA President James R. Silkenat emphasized in a letter to the committee prior to the vote. During the last Congress, the convention fell just five votes short of the 66 votes required for Senate approval.

Current statistics shows that more than 1 billion people worldwide – approximately 15 percent of the global population – live with some form of disability, and a vast majority of those individuals face discrimination in education, employment, housing, health care and other areas.

The CRPD, which was finalized in 2006 and came into force in 2009, has been ratified by 147 countries and requires state parties to “promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.”

The comprehensive provisions of the convention address numerous issues, including access to facilities, political participation, access to justice, access to education, employment, health care, and the ability to live independently.

Silkenat emphasized in his correspondence that CRPD ratification will not require changes in U.S. domestic law or create opportunities for new lawsuits as opponents have claimed. He explained that the package of reservations, understandings and declarations (RUDs) in the proposed resolution of ratification includes a declaration that the CRPD provisions are “non-self-executing,” meaning that the treaty will not be judicially enforceable and will not create a private right of action in the U.S. courts.

Silkenat also explained that CRPD ratification will not change the definition of “disability” under U.S. law. The treaty allows counties to apply their own definition through domestic law and policy. He also addressed another concern that the CRPD would infringe upon U.S. sovereignty, explaining that the U.N. Committee on the Rights of Persons with Disabilities, established by the treaty to develop non-binding recommendations, has no authority to require or compel action by the United States.