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ABA president urges prompt action on bill

Senate Judiciary Committee approves bill to reauthorize juvenile justice act

Displaying bipartisan concern for the urgent need to address juvenile justice issues, the Senate Judiciary Committee approved an ABA-supported bill by voice vote July 23 that would reauthorize and strengthen the Juvenile Justice and Delinquency Prevention Act (JJDPA) for the first time in more than a decade.

In approving S. 1169, the committee accepted a substitute amendment crafted by bill sponsor and committee chairman Charles E. Grassley (R-Iowa) and cosponsor Sen. Sheldon Whitehouse (D-R.I.).

ABA President William C. Hubbard expressed the association’s support for the legislation in a July 20 letter to the committee.

“Since the last JJDPA reauthorization was approved in 2002, there have been many developments in the field of juvenile justice that significantly impact the field,” Hubbard said, adding that S. 1169 “recognizes and addresses many of these developments in several key ways.” He said the ABA is specifically pleased with provisions that would:

• strengthen the Deinstitutionalization of Status Offenders (DSO) core requirement by calling on states to phase out use of the Valid Court Order Exception that currently causes youth to be jailed or securely confined for “status” offenses, which would not be crimes if committed by adults;

• extend the adult Jail Removal and Sight and Sound Separation core requirement to apply to all juveniles held pretrial, whether they are to be charged in juvenile or adult court;

• give states and localities clear direction to plan and implement data-driven approaches to ensure fairness and reduce racial and ethnic disparities, to set measurable objectives for reduction of disparities in the system, and to publicly report such efforts;

• encourage investment in community-based alternatives to detention; encourage family engagement in design and delivery of treatment and services; improve screening, diversion, assessment, and treatment for mental health and substance abuse needs; allow for easier transfer of education credits for youth involved in the system; and call for a focus on the particular needs of girls either in the system or at risk of entering the justice system;

• promote fairness by supporting state efforts to expand youth access to counsel and encouraging programs that inform youth of opportunities to seal or expunge juvenile records once they have gotten their lives back on track;

• encourage transparency, timeliness, public notice, and communication on the part of the Office of Juvenile Justice and Delinquency Prevention; and

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### LEGISLATIVE BOXSCORE

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<tr>
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<tr>
<td><strong>Federal Courts.</strong> P.L. 113-235 (H.R. 83), fiscal year 2015 consolidated and further continuing appropriations legislation, included $6.7 billion for the federal judiciary. The president’s fiscal year 2016 budget request includes $6.96 billion for the federal judiciary.</td>
<td>Appropriations subcommittee held a hearing on judicial funding on 3/25/15. Appropriations Committee approved $6.9 billion for the federal judiciary on 6/17/15.</td>
<td>Appropriations subcommittee held a hearing on judicial funding on 3/24/15. Appropriations Committee approved $6.9 billion for the federal judiciary on 6/23/15.</td>
<td></td>
<td>President signed P.L. 113-235 (H.R. 83) on 12/16/14. Supports adequate judicial resources and opposes efforts to infringe on separation of powers or undermine the judiciary.</td>
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<td><strong>Legal Services Corporation (LSC).</strong> P.L. 113-235 (H.R. 83), fiscal year 2015 consolidated and further continuing appropriations legislation, included $375 million for LSC. The president’s fiscal year 2016 budget request includes $452 million for the program.</td>
<td>Appropriations Committee approved $300 million for LSC on 5/20/15.</td>
<td>Appropriations subcommittee held a hearing on 3/27/15. Appropriations Committee approved $385 million for LSC on 6/11/15.</td>
<td></td>
<td>President signed P.L. 113-235 (H.R. 83) on 12/16/14. Supports an independent, well-funded LSC.</td>
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Comprehensive crime bill draws from task force testimony

A bipartisan comprehensive criminal justice bill introduced last month in the House incorporates recommendations made during hearings before the Over-Criminalization Task Force of the House Judiciary Committee, which examined the entire federal criminal justice system during the last Congress.

“We cannot allow our criminal justice system to remain on its current trajectory,” said Rep. F. James Sensenbrenner (R-Wis.), who chaired the task force with bill co-sponsor Rep. Robert C. “Bobby” Scott (D-Va.).

Sensenbrenner pointed out that the states have been outperforming Congress on criminal justice reform for years, and introduction of H.R. 2944, the Safe, Accountable, Fair and Effective (SAFE) Justice Act, is “a major step forward in implementing effective, meaningful reform on the federal level that will enact fairness in sentencing, reduce the taxpayer burden, and ensure the increased safety and prosperity of communities across the country.”

Scott, who served as the task force’s ranking member, agreed, noting that the legislation “utilizes an evidence-based approach to reduce over-criminalization and over-incarceration and reinvest the savings into community-based prevention and early intervention programs to improve public safety.”

In the past 10 years, imprisonment in the states has dropped by four percent while the federal prison population has risen by 15 percent. The bill includes a wide array of provisions to improve federal sentencing, the corrections system and the federal supervision system. Provisions include focusing mandatory minimum sentences on leaders and supervisors of drug trafficking organizations and providing judges with more discretion in sentencing lower-level offenders, creating release valves for lower risk geriatric and terminally ill offenders, encouraging greater use of probation and problem-solving courts for appropriate offenders, and expanding recidivism prevention programs. The bill also calls for greater attention to the fiscal impact of future sentencing and corrections proposals and increased funding for community-based policing and public safety initiatives.

The ABA has been in the forefront of efforts to evaluate and improve federal criminal laws for many years, and William N. Shepherd, 2012-1013 chair of the ABA Criminal Justice Section, and Matthias H. Heck Jr., who succeeded Shepherd as section chair, were among those testifying before the Over-Criminalization Task Force.

The association, which opposes mandatory minimums, is urging that strong sentencing reform be part of any criminal justice reform legislation. In addition, the ABA is part of a working group of lawyers and advocates who formed Clemency Project 2014 at the request of former President Barack Obama and former Attorney General Eric Holder.

The president granted clemency to 46 non-violent drug offenders who would already have served their time and returned to society if they had been convicted under current law, and he became the first sitting president to visit a federal correctional facility when he toured the El Reno prison in Oklahoma on July 16.

On Capitol Hill, Speaker of the House John A. Boehner (R-Ohio) said during a July 16 press briefing that he would like to see the SAFE Justice Act brought to the House floor.

H.R. 2944 has been referred to the House Judiciary Committee. In the Senate, key members of the Senate Judiciary Committee continue negotiations to develop their own comprehensive criminal justice package that they hope will garner bipartisan support.

President Obama focused attention on criminal justice reform this month when, during a July 14 speech to the NAACP, he called for action on bipartisan legislation to address a criminal justice system that he said “remains particularly skewed by race and by wealth, a source of inequity that has ripple effects on families and on communities and ultimately on our nation....”

ABA offers expertise on critical justice issues

In a July 15 letter to U.S. Attorney General Loretta E. Lynch, ABA President William C. Hubbard offered the experience and expertise of the association’s membership as the Department of Justice confronts the critical issues facing the nation’s justice system.

Hubbard congratulated Lynch on becoming the 83rd attorney general of the United States and said he looked forward to her appearance at the ABA’s Annual Meeting’s Opening Assembly on Aug. 1 in Chicago.

He wrote that the ABA, which has a long and respected history of working with the Department of Justice, shares the goals identified by Lynch during her confirmation hearing: ensuring the safety of all citizens, protecting the most vulnerable individuals from crime and abuse, and strengthening the vital relationship between law enforcement officers and the communities they serve. In the letter, the ABA president described the association’s work in several areas, including criminal justice reform, access to justice, the federal judiciary, and immigration.
ABA sponsors first Women’s Day on the Hill

More than 40 women gathered in Washington, D.C., June 23-24 for the first ABA Women’s Day on the Hill, an opportunity to visit members of Congress to call attention to wage discrimination based on sex and to urge enactment of the Paycheck Fairness Act.

The Paycheck Fairness Act, introduced as H.R. 1619 and S. 862, would update and strengthen the Equal Pay Act of 1963 by making common-sense changes so that the nation can continue to make progress in eradicating gender-based wage discrimination and advancing the longstanding stated goal of equal pay for equal work.

The lobbying event, coordinated by the Governmental Affairs Office and supported by the ABA Commission on Women and the ABA Task Force on Gender Equity, featured a breakfast briefing, 67 visits with congressional members, and a panel discussion on how women lawyers can bring about change.

Those participating in Women’s Day on the Hill included: (front row from left) ABA President-elect Paulette Brown, Cybil Roehrenbeck, Theresa Forbes, Courtney Weiner, Estelle Rogers, Sheila Slocum Hollis, ABA Past President Laurel Bellows, Teresa Rea and Lisa Horowitz; (back row from left) Sidney Welch, Jean Marie Westlake, Karen Roby, Sharon Stern Gerstman, Laura Possessky, ABA Governmental Affairs Director Thomas M. Susman, Lisa Savitt, ABA Commission on Women Chair Michele Coleman Mayes, Aquanetta Betts, Bobbi Liebenberg, ABA President William C. Hubbard, Claire Gurtekunst, Maureen Mulligan, L. Leona Frank, Gina Simms, Mary Reding and Laverne Largie.

Panelists share a light moment during “Women Lawyers Leading Change,” a panel discussion focusing on how women attorneys bring about systemic change. Those participating were (from left): India Pinkney, general counsel, National Endowment for the Arts; Michele Coleman Mayes, vice president, general counsel and secretary, New York Public Library; Stasia Kelly, co-managing partner (Americas), DLA Piper; ABA President-elect Paulette Brown; and Sheila Slocum Hollis, chair, DC Office, Duane Morris LLP.
ABA president applauds Supreme Court same-sex marriage ruling

ABA President William C. Hubbard applauded the Supreme Court’s 5-4 decision June 26 that the Fourteenth Amendment requires a state to license a marriage between two people of the same sex and to recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed in another state.

“The court’s decision means that now children of same-sex couples will have the security that legal marriage provides,” Hubbard said in a statement issued the same day as the decision. “Recognizing the dignity and equality of same-sex couples is consistent with the fundamental principles that undergird the rule of law: fairness, equality and liberty.”

The case came to the Supreme Court from the Sixth Circuit, which had consolidated cases from Michigan, Kentucky, Ohio and Tennessee as Obergefell, et al. v. Hodges, Director, Ohio Department of Health, et al., 576 U.S. ___ (2015). The petitioners, 14 same-sex couples and two men whose same-sex partners were deceased, claimed that their states had violated the Fourteenth Amendment by denying them the right to marry or by not fully recognizing marriages that were lawfully performed in another state. While four district courts had ruled in favor of the petitioners, the Sixth Circuit reversed those decisions and upheld the state bans.

Writing for the majority, Justice Anthony Kennedy explained that the court has long held that the right to marry is a fundamental liberty protected by the 14th Amendment’s Due Process Clause. He stated that four principles and traditions demonstrate why the reasons marriage is fundamental under the Constitution apply with equal force to same-sex couples: the right to personal choice regarding marriage is inherent in the concept of personal autonomy; the right to marry supports two-person unions unlike any other in its importance to the committed individuals; the right to marry safeguards children and families and draws meaning from related rights of childrearing, procreation and education; and marriage is the keystone of the nation’s social order.

He also emphasized that the right of same sex couples to marry is derived from the Fourteenth Amendment’s guarantee of equal protection and that there was no need to wait for further legislation, litigation and debate on the issue.

“While the Constitution contemplates that democracy is the appropriate process for change, individuals who are harmed need not await legislation before asserting fundamental rights,” he said.

Kennedy was joined in the majority by Justices Ruth Bader Ginsburg, Stephen Breyer, Sonia Sotomayor and Elena Kagan. Those dissenting from the opinion were Chief Justice John Roberts Jr. and Justices Antonin Scalia, Clarence Thomas and Samuel Alito Jr.

In an amicus brief filed in support of the petitioners, the ABA argued that laws “that deny same-sex couples the ability to enjoy the rights, benefits, protections and obligations of marriage violate the ‘equal protection of the laws’ guaranteed by the Fourteenth Amendment.

The brief cited numerous policies adopted by the ABA since 1973 that have advocated for the elimination of discrimination based on sexual orientation, including discrimination in family law matters. In 2010, the ABA adopted a policy urging states, territories and tribal governments to eliminate legal barriers to civil marriage between two persons of the same sex who are otherwise eligible to marry. The amicus brief also addressed some of the daily harms experienced by same-sex couples and highlighted the legal difficulty, and sometimes impossibility, of working around those harms.

Juvenile justice

continued from front page

• increase accountability to ensure effective use of resources, to provide greater oversight of grant programs, and to ensure state compliance with federal standards;

The substitute amendment also includes provisions supported by the ABA to place greater priority in federal funding for programs that are scientifically proven to work with at-risk juveniles and to encourage states to phase out the use of unreasonable restraints of juveniles in detention, including the shackling of pregnant girls.

In related action in the House, Rep. Robert C. “Bobby” Scott (D-Va.), ranking member of the House Education and the Workforce Committee, and four cosponsors introduced JJDPA reauthorization legislation last month. Scott emphasized that his bill, H.R. 2728, the Youth Justice Act of 2015, “builds on the strong framework of our colleagues in the Senate and takes suggestions from the nation’s leading juvenile justice advocates on how to make the system even safer and more responsive to our youth.”
Senator approves Older Americans Act reauthorization bill

As the Older Americans Act of 1965 (OAA) marked its 50\textsuperscript{th} anniversary, the Senate unanimously passed ABA-supported legislation July 17 to reauthorize the act and strengthen its provisions. The bipartisan bill, S. 192, would continue and enhance OAA efforts in the following areas:

- nutrition programs, including Meals on Wheels;
- home and community-based services, including preventive health services and transportation assistance;
- information, referral counseling and respite care for family caregivers;
- elder abuse prevention and detection; and
- part-time community service employment and training.

“The legislation reflects more than three years of bipartisan work reflected in a balanced, pragmatic approach to helping older Americans live longer with independence and dignity in their homes and communities,” the ABA said in a statement issued following the Senate’s action. The bill was sponsored by Sens. Lamar Alexander (R-Tenn.), Richard Burr (R-N.C.); Patty Murray (D-Wash.), and Bernie Sanders (I-Vt.).

The ABA, which has been a strong advocate for the nation’s seniors for the past 30 years, said in letter earlier this year to the Senate Health, Education Labor and Pensions Committee that OAA reauthorization is an important opportunity to “reaffirm and refine our country’s commitment to a safe, secure and dignified life for all older Americans.” The association urges the House to pass reauthorization legislation quickly.

No OAA reauthorization legislation has been introduced in the House this Congress. S. 192 has been referred to the House Education and the Workforce Committee for consideration.

### Judicial Vacancies/Confirmations—114th Congress* (as of 7/27/15)

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<th>Court</th>
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<tr>
<td>US Courts of Appeals (179 judgeships)</td>
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<td>US District Courts (678 judgeships)</td>
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<tr>
<td>Court of International Trade (9 judgeships)</td>
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<tr>
<td><strong>Totals</strong></td>
<td><strong>63</strong></td>
<td><strong>19</strong></td>
<td><strong>5</strong></td>
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*Includes territorial judgeships
CLASS ACTIONS: The ABA expressed opposition last month to H.R. 1927, a bill approved June 24 by the House Judiciary Committee that would make changes to class action litigation procedures. In a June 23 letter to committee Chairman Bob Goodlatte (R-Va.), a sponsor of the bill, ABA Governmental Affairs Director Thomas M. Susman said that H.R. 1927 “would unnecessarily circumvent the Rules Enabling Act, make it more difficult for large numbers of injured parties to efficiently seek redress in court, and would place added burdens on an already overloaded court system.” Susman wrote that the legislation would limit the ability of victims to seek redress for harm caused to them, as it would make the regulations more stringent governing certification as a class by mandating that plaintiffs show that they suffered the same type and extent of injury as the named class representative. “Class actions have been an efficient means of resolving disputes. Making it harder to utilize class actions will add to the burden of our court system by forcing aggrieved parties to file suit in smaller groups, or individually,” he said. Susman urged the committee, instead of passing legislation, to allow the Judicial Conference and the Supreme Court, which is poised to rule on cases where there are questions surrounding class action certification, to reshape these procedural and evidentiary rules. He also said that plaintiffs already must meet current rigorous thresholds under screening practices that are in place, as illustrated by a 2008 Federal Judicial Center study that found that in diversity actions filed as class actions, a mere 25 percent resulted in class action certification motions, nine percent settled, and none went to trial. “The ABA has long recognized that we must continue to improve our judicial system,” Susman said, but he urged Congress to allow the current processes for examining and reshaping procedural and evidentiary rules to work as Congress intended. No further action is scheduled on the legislation.

MAINE DOMESTIC VIOLENCE: A new law will go into effect in Maine this October that provides critical protection for victims of domestic violence, sexual assault and stalking. The legislation was enacted on June 30 after the Maine House and Senate unanimously overrode a veto of the bill by Gov. Paul LePage. The bill was one of numerous bills that the governor vetoed during a standoff with the legislature over state budget issues; the other vetoes also were overridden. The new law’s provisions include prompt access to the criminal and civil justice system by victims and prohibit landlords from evicting tenants because of instances of domestic violence, sexual assault or stalking. The law also imposes liability on perpetrators for certain damages. In a statement submitted in May for a hearing held by the Maine Legislature’s Joint Standing Committee on the Judiciary, ABA President William C. Hubbard expressed the ABA’s support for expanding housing protections for victims of domestic and sexual abuse and stalking. “Without access to viable long-term housing, survivors must choose between homelessness and returning to violent and abusive situations,” Hubbard said.

SENTENCING: The ABA urged the U.S. Sentencing Commission to add an additional item to its list of proposed priorities for the amendment cycle ending May 1, 2016, in comments sent to commission Chair Patti B. Saris on July 22. ABA Governmental Affairs Director Thomas M. Susman suggested that the commission expand the commentary in Guideline Section 1B1.13 regarding the reasons that may be deemed “extraordinary and compelling” to justify a motion for reduction in a term of imprisonment by the director of the Bureau of Prisons. Susman attached ABA testimony delivered to the commission in 2007 by Stephen A. Saltzburg that reaffirmed the ABA’s position on the commission’s obligation to give policy guidance to courts considering sentence reduction motions. “Although several years have now passed since our last submission on this issue, the growth of the federal prison population and particularly the advancing age of that population make our proposal more salient than ever,” Susman wrote. He also noted the focus in the Justice Department’s ongoing clemency initiative to address the unfair results from severe sentences for individuals where the sentencing under current laws and polices would be significantly different. He offered the association’s assistance in working with the commission on this “important legal mechanism that could be of great significance in helping reduce our nation’s unnecessary reliance on incarceration of the aged, infirm, and nonviolent offender.” Other areas tentatively proposed by the commission as priorities include: mandatory minimums; overall structure of the guidelines; statutory and guideline definitions relating to the nature of a defendant’s prior convictions; child pornography offenses; recidivism, probation and supervised release; and resolution of circuit conflicts.
ABA president urges new review of torture allegations

ABA President William C. Hubbard urged the Obama administration last month to undertake a new, comprehensive review of allegations that the United States engaged in illegal and inhumane interrogations following the terrorist attacks of September 2001 and to clarify its interpretation of the extraterritorial application of the U.N. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

“The ABA remains concerned that the United States has not fulfilled its obligation to ensure full accountability for those alleged to be responsible for conducting and authorizing illegal and inhumane interrogations,” Hubbard wrote June 23 to U.S. Attorney General Loretta E. Lynch.

Hubbard acknowledged that the Justice Department took an important step in 2009 when it included a preliminary investigation of allegations of Central Intelligence Agency (CIA) mistreatment of detainees at overseas locations as part of an ongoing special criminal investigation of the CIA. The conclusions of the 2009 special investigation and the subsequent decision not to pursue any prosecutions because there was insufficient admissible evidence to secure a conviction have been called into question by extensive documentation collected on the CIA’s interrogation program by the Senate Select Committee on Intelligence. The ABA also is concerned, he said, by questions raised by the U.S. Committee Against Torture about whether a complete and impartial investigation has been conducted.

In light of these developments, Hubbard urged the administration to conduct a new review and accounting of all available evidence and, if warranted, to initiate “appropriate proceedings against any persons who …committed, assisted, authorized, condoned, had command responsibility for, or otherwise participated in such violations.”

In his letter, Hubbard also said the ABA urges the administration to clarify that the Convention Against Torture applies where the United States exercises de jure or de facto control. During November 2014 hearings before the U.N. Committee Against Torture, administration officials stated that the Convention Against Torture applies to conduct outside the United States under certain circumstances.

He also expressed ABA support for an amendment attached by the Senate to H.R. 1735, the National Defense Authorization Act of 2016, legislation that is currently in conference. The amendment would require all U.S. government interrogations that occur outside a law enforcement context to abide by the Army Field Manual on Interrogations, which prohibits enhanced interrogation practices. Enactment of the amendment, according to Hubbard, would be a “vital and important step in clarifying U.S. policy and restoring our nation’s reputation as a leader in promoting human rights and the international rule of law.”

Voting rights legislation introduced

A group of Senate and House Democrats introduced bills June 24 in response to recent state and local laws that they maintain suppress the voting rights of minorities, the elderly and youth.

The laws were passed after the Supreme Court’s 2013 decision in Shelby County v. Holder, 570 U.S. ___ (2013), which struck down the formula in Section 4 of the Voting Rights Act of 1965 that defined jurisdictions with a history of restricting voting rights. Those jurisdictions – all or part of 16 states – were required under Section 5 of the act to submit any proposed changes in their voting procedures for preclearance by the Department of Justice or a three-judge panel of the U.S. District Court for the District of Columbia.

S. 1659 and H.R. 2867, the Voting Rights Advancement Act, would institute a new nationwide coverage formula that provides that a state or political subdivision would be subject to preclearance under Section 5 based on a finding of repeated voting rights violations in the preceding 25 years. A state or political subdivision would continue to be covered for 10 years unless a declaratory judgment is obtained under new “bail-out” provisions.

Voting changes that would be subject to preclearance include changes in the following areas: methods of election, multilanguage voting materials, jurisdiction boundaries; documentation or qualifications required to vote, and reductions or relocations of voting locations.

A new section of the act also provides that voters must be made aware of late-breaking voting changes in federal elections, polling resources for federal elections and demographic and electoral data for voting districts for federal, state and local elections.

See “Voting Rights,” page 9
The House Judiciary Committee approved legislation July 8 that would apply much needed reforms to 28 U.S.C. § 1500 to enable companies, property owners, Indian tribes and other parties with meritorious claims against the federal government to obtain complete relief in the U.S. courts.

H.R. 2329, which is based on a recommendation from the Administrative Conference of the United States and supported by the ABA, would eliminate procedural roadblocks created by the U.S. Supreme Court decision in United States v. Tohono O’odham Nation, 131 S. Ct. 1723 (2011).

Under well-established federal law, most contract and other monetary claims against the federal government must be filed in the U.S. Court of Federal Claims (CFC) while most other legal claims, including tort claims and requests for equitable relief, must be brought in the U.S. district court. The CFC had long interpreted Section 1500, a Civil War-era statute, as permitting separate suits involving the same basic claim and facts to proceed in the CFC and the district court if the suits are seeking different remedies. The Supreme Court rejected CFC’s interpretation and held that the CFC has no jurisdiction over a claim if another suit based on the same operative facts is pending in any other court, regardless of the relief sought in each case.

As a result of the Tohono decision, many parties will be forced to elect which of their valid claims to pursue and may be foreclosed from prosecuting their remaining claims at a later date if the statute of limitations has run on those claims.

H.R. 2329, as well as the Senate companion bill, S. 1353, would replace the archaic language of Section 1500 and replace it with new, much clearer language allowing claimants to simultaneously pursue their different claims in the CFC and the district court with a presumptive stay of the latter-filed action.

In a July 2 letter to the House Judiciary Committee, ABA Governmental Affairs Director Thomas M. Susman said the Section 1500 legislation would “advance the interests of justice and the efficient administration of the federal courts” by allowing all parties to seek both monetary and equitable relief in the appropriate federal courts without fear that their valid claims will be dismissed for non-merit based procedural reasons.

He also pointed out that the current version of the legislation includes several technical refinements suggested by the Justice Department during consideration of similar legislation during the 113th Congress.

Voting rights bill legislation

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Sen. Patrick J. Leahy (D-Vt.), ranking member of the Senate Judiciary Committee and a sponsor of the Senate bill, said the legislation is “a bill for the next generation, and helps protect the legacy of the previous generation who fought so hard five decades ago for these voting rights protections.”

The ABA adopted policy in 2013 urging Congress to enact legislation to address the “severe blow” the Supreme Court decision in Shelby had on voting rights. The association emphasized in an amicus brief to the court for that case that although litigation may be brought against jurisdictions under Section 2 of the Voting Rights Act, such litigation after a voting change is already in place is extremely complex and costly.