

WASHINGTON LETTER*ONLINE*

A LEGISLATIVE ANALYSIS SERVICE OF THE GOVERNMENTAL AFFAIRS OFFICE

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The 2005 ABA Annual Meeting, held in Chicago Aug. 4-9, featured more than 1,650 programs and was highlighted by speakers, panels and adoption of new policies by the ABA House of Delegates.

During the meeting, attendees marked the 40th anniversary of the Voting Rights Act, and keynote speakers at various events included: U.S. Attorney General Alberto Gonzales; Justice John Paul Stevens; Judge Robert L. Gregory of the U.S. Court of Appeals for the Fourth Circuit; and Col. Will A. Gunn, acting chief defense counsel in the Department of Defense Office of Military Commissions. Marking the first panel discussion to be featured during a House of Delegates meeting, a distinguished panel consisting of Justice Stephen G. Breyer, Sen. Lindsey Graham (R-S.C.) and former U.S. Solicitor General Theodore Olson addressed the topic: "Is the Independence of the Judiciary at Risk?"

In his address to the House of Delegates, Gonzales thanked the ABA "on behalf of the president" for the work of the ABA Standing Committee on Federal Judiciary and the association's contributions to a well-qualified judiciary. He also expressed the Bush administration's support for reauthorization of the Voting Rights Act; restoration of a mandatory sentencing guidelines system; and reauthorization of key provisions of the 2001 USA Patriot Act, which was enacted following the 9/11 terrorist attacks.

During the panel discussion on judicial independence, Justice Breyer pointed out that there is "natural tension" between the branches of government and that court decisions create strong feelings throughout the country. He maintained that the greater concern for the judiciary is a lack of support for the institution in the areas of budget, facilities and pay. Graham indicated that he supports delinking judicial pay from congressional pay to provide compensation to attract the "best and brightest" to the federal bench.

During his keynote address at the Thurgood Marshall Award dinner, Justice Stevens voiced concerns about the death penalty, calling the system "deeply flawed" and noting that DNA evidence has shown that a substantial number of death sentences were administered erroneously.

On Aug. 9, Boston lawyer Michael S. Greco assumed the presidency of the association for a one-year term (see article, page 4), and Karen J. Mathis, of Denver, became president-elect.

Another highlight was the awarding of the ABA Medal, the association's highest award, to Judge George N. Leighton, a retired federal trial court judge in Chicago whose ongoing career protecting human rights has spanned more than 60 years.

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LEGISLATIVE BOXSCORE

ABA LEGISLATIVE PRIORITY	HOUSE	SENATE	FINAL	ABA POSITION
<p>Independence of the Bar. A district court issued a ruling 4/30/04 that the Federal Trade Commission (FTC) went beyond its statutory authority by including lawyers under Title V privacy provisions of the Gramm-Leach-Bliley Act of 1999 (GLBA). The FTC appealed the decision, and the ABA filed a response to the appeal on 1/19/05.</p>				<p>Opposes any federal laws or regulations that would preempt or interfere with state rules protecting the confidential attorney-client relationship, including the Federal Trade Commission rules applying the privacy protection provisions of Title V of the GLBA.</p>
<p>Federal Tort Laws. S. 5 and H.R. 516 would expand jurisdiction of federal courts over certain class action cases. S. 354, H.R. 5 and H.R. 534 would cap pain and suffering and punitive damage awards in medical liability cases. S. 397 and H.R. 800 would protect gun manufacturers, sellers and traders from almost all ordinary civil liability.</p>	<p>H.R. 516 and H.R. 534 were referred to the Judiciary Committee on 2/3/05. House passed S. 5 on 2/17/05. Judiciary Committee approved H.R. 800 on 5/25/05. House passed H.R. 5 on 7/28/05.</p>	<p>Judiciary Committee approved S. 5 on 2/3/05. Senate passed S. 5 on 2/10/05. S. 354 was referred to the Judiciary Committee on 2/10/05.</p>	<p>President signed P.L. 109-2 (S. 5) on 2/18/05.</p>	<p>Supports amending ERISA to allow causes of action to be brought in state and territorial courts against employer-sponsored health plans under state and territorial laws; legislation establishing the use of ADR procedures for resolving disputes between patients and group health plans; federal legislation addressing asbestos litigation issues and class actions. Opposes creating a special tort standard for the gun industry.</p>
<p>Immigration. S. 119 and H.R. 1172 would ensure that unaccompanied alien children have counsel to represent them in immigration proceedings. S. 1033, S. 1438, and H.R. 2330 seek better enforcement of border security and would reform the nation's immigration system.</p>	<p>H.R. 1172 was referred to the Judiciary Committee on 3/8/05. H.R. 2330 was referred to the Judiciary Committee on 5/12/05.</p>	<p>Judiciary Committee approved S. 119 on 4/14/05. S. 1033 and S. 1438 were referred to the Judiciary Committee on 5/12/05 and 7/20/05, respectively.</p>		<p>Supports the appointment of counsel at government expense to assist unaccompanied children in immigration proceedings. Supports the humane treatment and legalization of unlawful aliens living in the United States. See page 7.</p>
<p>Judicial Independence. P.L. 108-447 (H.R. 4818), omnibus fiscal year 2005 appropriations legislation, waived Section 140 of P.L. 97-92 to allow federal judges to receive a 2.5 percent cost-of-living adjustment (COLA).</p>			<p>The president signed P.L. 108-447 (H.R. 4818) on 12/8/04.</p>	<p>Opposes initiatives that infringe upon the separation of powers between Congress and the courts. Supports increased judicial pay. Opposes enactment of any legislation to change constitutional law by limiting federal court jurisdiction in specific areas.</p>
<p>Legal Services Corporation. H.R. 2862, fiscal year 2006 appropriations legislation as passed by the House, includes \$330.8 million for the LSC. The Senate Appropriations Committee version includes \$324.8 million.</p>	<p>House passed H.R. 2862 on 6/16/05.</p>	<p>Appropriations Committee approved H.R. 2862 on 6/23/05.</p>		<p>Supports an independent, well-funded LSC.</p>

Bush nominates Roberts to be chief justice

Confirmation hearings to begin Sept. 12

President Bush announced Sept. 5 that he is nominating John G. Roberts Jr. to succeed Chief Justice William H. Rehnquist, who died Sept. 3 of thyroid cancer.

Confirmation hearings for Roberts, who was nominated in July to succeed Justice Sandra Day O'Connor on the court, had been scheduled to start Sept. 6. The Senate Judiciary Committee instead will begin hearings Sept. 12 on Roberts' nomination to become chief justice. A committee vote is expected Sept. 20 to allow the Senate enough time to consider the nomination before the Supreme Court's next term starts Oct. 3.

The president said he would submit a new nominee for O'Connor's seat in a timely manner.

The ABA Standing Committee on Federal Judiciary, which evaluates the professional qualifications of nominees to the federal bench, announced Aug. 17 that the panel had found Roberts "well qualified" by a unanimous vote to serve as an associate justice. The ABA committee is now extending its evaluation to determine if the nominee has the requisite additional administrative and management skills that the chief justice must possess.

The "well qualified" rating for Roberts means that the 15-member ABA committee found him to be at the top of the legal profession, to have outstanding legal ability and exceptional breadth of experience, and to meet the highest standards of integrity, professional competence and judicial temperament.

In August, after the ABA committee's rating of Judge Roberts for associate justice was issued, Sen. Patrick J. Leahy (D-Vt.), the ranking Democrat on the Senate Judiciary Committee, thanked the ABA committee for its work but said it was regrettable that the ABA panel

was not able to take the time to review documents that had recently been provided to the Senate or work papers that were being sought from Roberts' years in the solicitor general's office.

In response to Leahy's remarks, ABA President Michael S. Greco, who is also a former chair of the ABA committee, told Leahy that in the weeks leading up to confirmation hearings and at the conclusion of the hearings, the ABA committee's longstanding practice is to review and carefully consider any newly disclosed information that might affect its evaluation. He emphasized that the ABA committee provides a "non-partisan, non-

ideological comprehensive peer review of a nominee's professional qualifications, and it does so by using long-established standards that focus on three criteria only – the nominee's integrity, professional competence and judicial temperament."

During the confirmation hearings, ABA committee Chair Stephen L. Tober will present the committee's report on the nomination. He will be accompanied by Immediate Past Chair Thomas Z. Hayward Jr. and Pamela Bresnahan, who was D.C. Circuit representative and investigator during the evaluation of Roberts to be associate justice. ■

ABA president praises Rehnquist's leadership, intelligence and integrity

Chief Justice William H. Rehnquist, who served on the Supreme Court for 33 years, including



Chief Justice William H. Rehnquist

19 as chief justice, died Sept. 3 at the age of 80 following a year-long battle with thyroid cancer.

"The American Bar Association is saddened by the death of Chief Justice William Rehnquist, whose leadership, intelligence and integrity

shaped the Supreme Court of the United States for more than three decades. His passionate defense of an independent judiciary, which he appropriately called the "crown jewel" of our system of government, and his strong advocacy for adequate resources to support the vital role of the judiciary in our republic, reflect the noblest principles that guide our nation," ABA President Michael S. Greco said.

Rehnquist, a native of Wisconsin, graduated at the top of his class at Stanford University Law School and was the chief adviser to Attorney General John Mitchell under President Nixon. Nixon appointed Rehnquist as an associate justice in 1972, and he was elevated to chief justice in 1986 by President Reagan. During his years on the court, Rehnquist presided over a wide range of cases, including the impeachment trial of President Clinton and *Bush v. Gore*, a decision that decided the 2000 presidential election in favor of George W. Bush. ■

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The House of Delegates focused much of its time on proposed changes in the association's struc-

ture from the Governance Commission, which spent two years developing its recommendations. Although many of the proposals were defeated, the delegates approved a

measure to require sections and divisions to be represented by at least two delegates on the House of Delegates – a step that will add three new members. Also approved was a non-voting Law Student Division seat on the Board of Governors.

Other action by the delegates included approval of the following recommendations.

Attorneys

Attorney-Client Privilege.

Strongly supports the preservation of the attorney-client privilege and work-product doctrine; opposes policies, practices and procedures of governmental bodies that have the effect of eroding the attorney-client privilege and work-product doctrine; and opposes the routine practice by government officials of seeking to obtain a waiver of the attorney-client privilege or work-product doctrine through the granting or denial of any benefit or advantage. *Task Force on Attorney-Client Privilege; Section of Criminal Justice; Tort Trial and Insurance Practice Section; Antitrust Law Section; Section of Litigation; Section of Business Law; Section of Administrative Law and Regulatory Practice; Section of Environment, Energy and Resources; Section of State and Local Government Law; Government and Public Sector Lawyers Division; Senior Lawyers Division; Section of International Law.*

Children/Families

Foster Care. Urges Congress, the states and territories to enact and/or adopt policies consistent with the recommendations of the national bipartisan Pew Commission on Children in Foster Care for improving the outcomes for abused and neglected children under dependency court jurisdiction. *Los Angeles County Bar Association; see "Annual Meeting," page 5*

Greco becomes ABA president

Boston lawyer Michael S. Greco, who assumed the ABA presidency last month at the association's Annual Meeting in Chicago, announced that enhancing civic education, with a particular emphasis on the independence of the judiciary, will be a major initiative of his one-year term in office.

"Citizens who do not understand or value their rights are easy prey to those who would abuse or steal those rights," Greco said in remarks to the ABA House of Delegates, explaining that "regrettably, too many of our citizens now lack such basic understanding."

Greco announced that he has appointed the ABA Commission on Civic Education and the Separation of Powers. Justice Sandra Day O'Connor and former U.S. Sen. Bill Bradley (D-N.J.) are honorary co-chairs of the commission, and Cleveland lawyer Robert H. Rawson Jr. is the working chair.

Also established by Greco is the ABA Task Force on Access to Civil Justice, which will consider the idea of a defined right to counsel in certain serious civil cases. That group is headed by Howard H. Dana Jr., an associate justice of the Supreme Judicial Court of Maine and a former member of the Legal Services Corporation Board of Directors.

A third group appointed by Greco is the ABA Commission on the Renaissance of Idealism in the Legal Profession, which will work toward reinvigorating the profession's "proud tradition of public service." Justice Ruth Bader Ginsburg and Theodore C. Sorensen, who served as special counsel to President John F. Kennedy, are honorary co-chairs, and Mark Agrast, of Washington, D.C., is the working chair of the commission.

Greco, who has more than 30 years of litigation experience, is a partner in the Boston office of Kirkpatrick & Lockhart Nicholson Graham LLP. An active member of the ABA for many years, he has served in the House of Delegates since 1985 and has chaired numerous entities, including the Standing Committee on Federal Judiciary and the Section of Individual Rights and Responsibilities. He also served on the Task Force on Terrorism and the Law, the Standing Committee on Law and National Security, and the ABA Commission on Women in the Profession.

As president of the Massachusetts Bar Association, Greco joined with the governor to appoint a blue-ribbon Commission on Unmet Legal Needs of Children. He also chaired the first-in-the-nation Massachusetts Legal Needs for the Poor Assessment and Plan for Action and co-founded the Bar Leaders for Preservation of Legal Services for the Poor, a national grassroots organization that helped preserve the LSC in the 1980s.

Greco, who was born in Italy and came to the United States as an immigrant when he was nine years old, earned his J.D. from Boston College Law School in 1972.



Michael S. Greco

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Section of Individual Rights and Responsibilities; Tort Trial and Insurance Practice Section; Family Law Section; Young Lawyers Division.

Constitutional Law

Reporters' Shield. Urges Congress to enact a federal shield law for journalists to protect the public's need for information and to promote the fair administration of justice incorporated by specific principles. *Section of Litigation; Association of the Bar of the City of New York; Forum on Communications Law; Bar Association of San Francisco; Tort Trial and Insurance Practice Section; Criminal Justice Section; Young Lawyers Division.*

Courts/Judiciary

Judicial Independence. Affirms the belief that a fair, impartial and independent judiciary is fundamental to a free society and calls on all Americans, including elected officials, to support and defend the judiciary and its role in maintaining the fundamental liberties under the U.S. Constitution. *State Bar of Texas with 49 cosponsors, including numerous state bars and ABA entities.*

Administrative Law Judges. Encourages Congress to establish the ALJ Conference of the United States as an independent agency to assume the responsibility of the U.S. Office of Personnel Management with respect to ALJs, including their testing, selection and appointment. *Judicial Division; National Conference of the Administrative Law Judiciary; Government and Public Sector Lawyers Division; Health Law Section; Tort Trial and Insurance Practice Section; Senior Lawyers Division; Section of State and Local Government Law; Section of Labor and Employ-*

ment Law; Section of Public Contract Law; Section of Individual Rights and Responsibilities; Section of Administrative Law and Regulatory Practice; Criminal Justice Section.

Court Standards. Adopts the black letter of Sections 1.60-1.64 Relating to Court System Automation to amend the Standards Relating to Court Organization and replace current Sections 1.60-1.64; and adopts the black letter of Section 2.80 Relating to Trial Court Responsibilities for Court Automation to amend the Standards Relating to Trial Courts to replace current Sections 2.80-2.83. *Judicial Division; Section of Science and Technology Law; Tort Trial and Insurance Practice Section; National Conference of the Administrative Law Judiciary.*

Judicial Security. Urges Congress, the Department of Justice's (DOJ) Judicial Security Review Group and the DOJ Office of Inspector General to determine whether the Marshals Service has corrected significant vulnerabilities to critical elements of its judicial security program that were identified by the IG in its March 2004 report entitled "Review of the United States Marshals Service Judicial Security Process," and recommends various actions to maximize judicial and court security. *Justice Center Coordinating Council; Judicial Division; Standing*

Committee on Federal Judicial Improvements; Standing Committee on Judicial Independence; Section of State and Local Government Law; Section of Labor and Employment Law; Atlanta Bar Association; Chicago Bar Association; Illinois State Bar Association; Family Law Section; Tort Trial and Insurance Practice Section; Senior Lawyers Division; Section of Administrative Law and Regulatory Practice; Section of Individual Rights and Responsibilities; National Conference of the Administrative Law Judiciary; Section of Science and Technology Law; Young Lawyers Division.

Criminal Justice

Convictions. Urges federal, state and territorial governments to identify and attempt to eliminate the causes of erroneous convictions, and urges state, territorial and local bar associations to assist in this effort. *Criminal Justice Section; Young Lawyers Division.*



A review of the Supreme Court's decisions of the 2004-2005 term, moderated by Miami lawyer John M. Barkett (left), featured Yale law professor Drew S. Days III, DePaul law professor Susan Bandes, and Pepperdine University Law School Dean Kenneth W. Starr.

Communication. Encourages federal, state, territorial and local governments to afford prison and jail inmates every reasonable opportunity to maintain telephonic

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communication with the free community and to offer telephone services in the correctional setting with an appropriate range of options at the lowest possible rates. *Criminal Justice Section.*

Dispute Resolution

Standards. Adopts the Model Standards of Conduct for Mediators, dated August 2005. *Section of Litigation; Section of Dispute Resolution; Tort Trial and Insurance Practice Section; Administrative Law and Regulatory Practice Section; Criminal Justice Section; Section of State and Local Government Law; Young Lawyers Division; Section of Public Utility, Communications and Transportation Law.*

Elder Law

Social Security. Supports continuation of the Social Security program as a national system of social insurance that guarantees income to protect older people, widows and widowers, people with disabilities, and children from falling into poverty due to loss of income from retirement or disability, or due to the retirement, disability or death of a primary breadwinner. *Commission on Law and Aging; Commission on Domestic Violence; Standing Committee on Legal Aid and Indigent Defendants.*

Medicaid. Opposes any structural or financial changes in the Medicaid Program that would weaken

the current entitlement nature of the program or the shared legal obligation that the federal, state and territorial governments to provide comprehensive benefits, but supports Medicaid restructuring that adheres to several enumerated principles. *Commission on Law and Aging; Commission on Domestic Violence; Standing Committee on Legal Aid and Indigent Defendants; Section of Individual Rights and Responsibilities; Tort Trial and Insurance Practice Section; Health Law Section; Young Lawyers Division.*

Election Law

Election Administration. Adopts "Election Administration Guidelines and Commentary," dated August 2005. *Standing Committee on Election Law; Government and Public Sector Lawyers Division; Section of Administrative Law and Regulatory Practice.*

Voting Rights. Supports the reauthorization of the Voting Rights Act of 1965, as amended through 1992. *Section of Individual Rights and Responsibilities; Standing Committee on Election Law; Section of Administrative Law and Regulatory Practice.*

Environmental Law

Oceans Policy. Urges the U.S. government to improve the system of federal regulation of U.S. ocean and coastal resources by enacting legislation to coordinate proper implementation of the nation's ocean pol-

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Judicial Vacancies/Confirmations -- 109th Congress (as of 9/7/05)

<u>Court</u>	<u>Current Vacancies</u>	<u>Pending Nominations</u>	<u>Confirmations</u>
US Supreme Court (9 judgeships)	1	1	0
US Courts of Appeals (179 judgeships)	12	6	6
US District Courts (678 judgeships)	35	9	4
Court of International Trade (9 judgeships)	1	0	0
Totals	49	16	10

Washington News Briefs

IMMIGRATION REFORM: The Senate Judiciary Committee opened hearings July 26 on comprehensive immigration reform, focusing on several proposals, including S. 1033, a bipartisan bill sponsored by Sens. Edward M. Kennedy (D-Mass.) and John McCain (R-Ariz.), and S. 1438, sponsored by Sens. John Cornyn (R-Texas) and Jon Kyl (R-Ariz.). While both bills seek better enforcement of border security and reform of the immigration system, they take different approaches. Kennedy, testifying at the hearing, said the goals of S. 1033 “are clear – to bring immigrants out of the shadows and shut down the black markets and restore the rule of law at our borders, in our workplaces and in our communities.” Kennedy and McCain’s bill, also introduced in the House as H.R. 2330 by Rep. Jim Kolbe (R-Ariz.), would establish a Border Security Advisory Committee and encourage the development of multilateral partnerships to establish a North American security perimeter and improve border security of Mexico’s southern border. The proposal also would create a new temporary visa to allow foreign workers to enter the country and fill available jobs that require few or no skills. The visa would be valid for three years and could be renewed one time for a total of six years. At the end of the visa period, the worker would be required to return to his or her country or meet certain requirements for permanent status. The legislation also would promote family unity by providing additional visas to the family preference categories and lift the current per-country limit on green cards slightly to clear up backlogs. S. 1438 also would establish a new visa category to allow aliens to enter the United States to work temporarily but would require those already residing illegally in the United States to leave the country before applying to participate in the program. In addition, the proposal would not allow visa holders to adjust to permanent status while residing in the United States. The ABA believes that any new temporary worker program should provide a realistic opportunity to obtain permanent status and that individuals should be able to adjust to permanent residence in the United States without having to travel abroad for processing.

JUDICIAL INDEPENDENCE: The ABA expressed “profound disappointment” last month to House Judiciary Committee Chairman F. James Sensenbrenner Jr. (R-Wis.) over a letter Sensenbrenner sent assailing the decision of a three-judge panel of the Court of Appeals of the Seventh Circuit. The three-judge panel, in a decision in *United States v. Lisset Rivera*, affirmed the 97-month sentence of a convicted drug dealer. Sensen-

brenner was outraged that the appellate court refused to increase the sentence, which was imposed by a district court judge instead of a 120-month mandatory minimum sentence, even though the court said it had no power to do so. Sensenbrenner asserted that it was essential for Congress to intervene when judicial actions were “contrary to the law.” “To demand that an appellate court reconsider its decision or to assert that Congress has the right to intervene in pending decisions if a court demonstrates disdain for the separation of powers and is symptomatic of a lack of respect and restraint toward the federal judiciary,” then ABA President Robert J. Grey Jr. wrote in an Aug. 1 letter to Sensenbrenner. Grey urged Sensenbrenner to actively work with the judiciary to build better avenues of communication so that issues or problems can be addressed and resolved in a manner that “strengthens good government and promotes public trust.”

SHIELD LAWS: The Senate and House are considering legislation to protect journalists from revealing their sources in most situations, and the ABA adopted a new policy at last month’s Annual Meeting supporting such a shield law. Bipartisan bills have been introduced by Sens. Richard Lugar (R-Ind.) and Christopher Dodd (D-Conn.) in the Senate (S. 1419) and Reps. Mike Pence (R-Ind.) and Rick Boucher (D-Va.) in the House (H.R. 3323). During a July 20 Senate Judiciary Committee hearing, Lugar and Pence testified on the importance of the free flow of information to a democracy. Lugar said, “A cornerstone of our society is the open market of information which can be shared through ever-expanding mediums. The media serves as a conduit of information between our governments and communities across the country.” According to both Lugar and Pence, the legislation would set national standards that must be met before a federal entity may issue a subpoena to a member of the news media in any federal criminal or civil case. The legislation addresses both the revealing of confidential sources and other information and includes an exception for cases affecting national security. The District of Columbia and every state except Wyoming have, either through legislation or the judiciary, created a privilege for reporters not to reveal their confidential sources. The ABA maintains, however, that a federal shield law is necessary to protect journalists in federal cases. The association believes that journalists provide information of significance to the public and that stymieing this free flow of information will not allow for an informed democracy.

ABA supports reversal of privilege waiver

The ABA formally urged the U.S. Sentencing Commission last month to reconsider, as part of the 2005-2006 amendment cycle, recent changes to the federal Sentencing Guidelines that weaken the attorney-client privilege.

The previous amendments, which took effect Nov. 1, affect "organizations," a broad term encompassing corporations, partnerships, unions, non-profit organizations, governments and other entities. The organizational guidelines, which provide the standards by which the criminal penalties for corporate wrongdoing are measured, are designed to create incentives for good corporate behavior while increasing penalties for corporations that lack mechanisms for discouraging and detecting employee wrongdoing.

In an Aug. 15 letter to the commission, ABA Governmental Affairs Director Robert D. Evans said the ABA's greatest concern is a change made to the Commentary to Section 8C2.5 that authorizes and encourages the government to require entities to waive their attorney-client and work-product protections in order to show "thorough" cooperation with the government and thereby qualify for a reduction in the culpability score — and a more lenient sentence — under the Sentencing Guidelines.

Evans pointed out that since the adoption of the privilege waiver amendment, the ABA, working a large and diverse group of business and legal organizations, has determined that the new amendment, though perhaps well-intentioned, will have a number of profoundly negative consequences on both the business and legal communities. In particular, Evans explained, the amendment seriously weakens the attorney-client privilege between companies and their lawyers, resulting in great harm both to companies and the investing public. In addi-

tion, he emphasized that while the waiver amendment was intended to aid government prosecution of corporate criminals, its actual effect is to make detection of corporate misconduct more difficult by undermining companies' internal compliance programs and procedures.

In March, an informal coalition of nine prominent business, legal, and public policy organizations expressed similar concerns to the Sentencing Commission's attention by submitting a joint letter urging it to reverse or modify the privilege waiver amendment. The coalition, which has since grown to 13 member organizations, filed additional comments with the commission on Aug. 15. According to Evans, the broad political diversity of the

group — with members ranging from the U.S. Chamber of Commerce to the American Civil Liberties Union — shows how widespread the concerns have become. In addition, a group of nine former Justice Department officials, including three former attorneys general, filed comments Aug. 15 in which they concluded that the new privilege waiver amendment is "seriously flawed."

In related action, the ABA House of Delegates last month adopted a resolution supporting the attorney-client privilege and work-product doctrine and opposing the routine practice by government officials of seeking the waiver of these protections through the granting or denial of any benefit or advantage. ■

ABA offers hurricane assistance

<http://www.abanet.org/katrina>

In the aftermath of Hurricane Katrina, the ABA is organizing pro bono legal assistance to victims and has established a website providing information for those seeking assistance and for lawyers interested in volunteering and making donations.

The effort, spearheaded by the Young Lawyers Division and ABA sections, includes toll-free hotlines established with the Federal Emergency Management Agency in Alabama, Louisiana and Mississippi and a complete listing of state and local bar associations offering assistance.

ABA President Michael S. Greco also immediately appointed a Task Force on Hurricane Katrina, chaired by former ABA President N. Lee Cooper, to coordinate the ABA effort.

In addition, the ABA urged Congress Sept. 2 to enact emergency legislation to allow federal district courts that cannot resume operations because of the devastation caused by Hurricane Katrina to temporarily relocate to other districts. In a letter to House and Senate leaders, ABA Governmental Affairs Director Robert D. Evans said that judicial business has come to a complete halt in these areas because district courts are prohibited from temporarily operating outside of the geographical areas in which they are authorized to sit.

"The implications for the judicial system are both immediate and long-term," Evans explained, adding that "any delays in handling the heavy criminal dockets in these areas will further delay the hearing of civil cases, including those that arise as a result of the hurricane."

The House acted quickly Sept. 7 to pass H.R. 3650, introduced by House Judiciary Committee Chairman F. James Sensenbrenner Jr. (R-Wis.) to allow courts to conduct business during emergency situations. The Senate cleared the bill for the president the next day.

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icy. *Standing Committee on Environmental Law; Section of Environment, Energy and Resources; Section of Science and Technology Law; Section of Business Law; Section of Administrative Law and Regulatory Practice; Young Lawyers Division.*

Marine Resources. Urges Congress and the president to take specific legislative, regulatory and other actions necessary to improve the nation's domestic management and regulation of its marine resources for the benefit of present and future generations. *Standing Committee on Environmental Law; Section of Environment, Energy and Resources; Section of Business Law; Section of Science and Technology Law; Young Lawyers Division.*

International Initiatives. Urges the U.S. government to promote effective international efforts to protect the world's marine ecosystems and ensure the ecologically sustainable use and development of the world's marine resources. *Standing Committee on Environmental Law; Section of Environment, Energy and Resources; Section of Business Law; Section of International Law; Section of Science and Technology Law; Young Lawyers Division.*

Gun Violence

Sniper Weapons. Supports federal, state and territorial laws that would restrict the sale, distribution, transfer and possession of .50 caliber sniper weapons except to the U.S. military and the National Guard and law enforcement agencies. *Bar Association of San Francisco; Special Committee on Gun Violence; Section of Individual Rights and Responsibilities; Los Angeles County Bar Association; Criminal Justice Section.*

Homelessness

Mail Delivery. Urges Congress, the U.S. Postal Service and other appropriate federal entities to ensure the prompt delivery of and adequate customer access to the U.S. mail for people experiencing homelessness. *Commission on Homelessness and Poverty; Commission on*

Mental and Physical Disability Law; Standing Committee on Legal Aid and Indigent Defendants; Section of Individual Rights and Responsibilities; Government and Public Sector Lawyers Division; Standing Committee on Substance Abuse; Young Lawyers Division.

International Law

Corruption. Supports prompt ratification by the United States, and by other members of the United Nations, of the U.N. Convention Against Corruption, subject to minimal reservations, understandings and declarations. *Section of International Law.*

Legal Services

Right to Counsel. Urges that steps be taken to fulfill the constitutional guarantee of effective assistance of counsel under the Sixth Amendment as prescribed in decisions of the U.S. Supreme Court. *Standing Committee on Legal Aid and Indigent Defendants; Criminal Justice Section; National Legal Aid and Defender Association; Section of Litigation; Young Lawyers Division.*

Substance Abuse

Insurance. Urges all state, territorial and local legislative bodies and governmental officials to repeal laws and discontinue practices that permit insurers to deny coverage for alcohol or drug-related injuries or losses covered by accident and sickness insurance policies that provide hospital, medical and surgical expense coverage. *Standing Committee on Substance Abuse; Commission on Homelessness and Poverty; Commission on Mental and Physical Disability Law; Commission on Lawyer Assistance Programs; Section of Individual Rights and Responsibilities; Young Lawyers Division.*

Tort Law

Asbestos. Recommends that federal, state and territorial courts without any existing Case Management Order governing asbestos litigation, or with an existing Case Management Order that has proven unworkable, utilize the Model Case Management Order, with referenced exhibits, dated August 2005. *Tort Trial and Insurance Practice Section.* ■

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