

WASHINGTON LETTER

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MAJOR LEGISLATION OF INTEREST TO LAWYERS †

**110th Congress, First Session
(Jan. 4, 2007 - Dec. 31, 2007)**

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* ABA testified or submitted statement or letter to Congress

◆ ABA legislative priority during the First Session of the 110th Congress, including issues encompassed in broad priorities

† This chart includes legislative issues on which the ABA House of Delegates or Board of Governors has approved association policy, unless otherwise noted.



Subject	Description and Status	ABA Position
<h2>Administrative Law</h2>		
*Administrative Conference of the United States (ACUS)	No fiscal year 2008 funding was provided for ACUS, which has received no funding since it was reauthorized in 2004 for the first time since 1995, when the program was defunded after 25 years of advising the government on administrative procedural reform. H.R. 3564 would extend ACUS through fiscal year 2011, authorizing \$1 million for fiscal year 2008, \$3.3 million for fiscal year 2009, \$3.4 million for fiscal year 2010, and \$3.5 million for fiscal year 2011. The House passed H.R. 3564. There was no action on reauthorization in the Senate.	<i>Supports reauthorization and funding for ACUS.</i>
<h2>Alternative Dispute Resolution</h2>		
Federal Consent Decrees	S. 2289 and H.R. 4041 would permit state and local government officials to reopen and relitigate, for any reason, existing federal consent decrees to which they are a party. S. 2289 was referred to the Senate Judiciary Committee. H.R. 4041 was referred to the House Judiciary Committee.	<i>Opposes.</i>
<h2>Antitrust Law</h2>		
*Leegin Decision/Resale Price Maintenance	A Senate Judiciary subcommittee held a hearing on the impact of the Supreme Court's 7/28/07 decision in <i>Leegin Creative Leather Products Inc. v. PSKS Inc.</i> , 551 U.S. ____ (2007). The 5-4 decision overruled a 98-year-old precedent that vertical agreements between a supplier and its distributors or retailers on the minimum resale prices for the supplier's product are <i>per se</i> violations of Section 1 of the Sherman Act. S. 2261, which was referred to the Senate Judiciary Committee, would restore the precedent. There was no comparable House legislation.	<i>Supports the Leegin decision.</i>



Subject	Description and Status	ABA Position
<h2>Business Law</h2>		
†* Attorney-Client Privilege/Employee Legal Rights – Government Waiver Policies	<p>S. 186 and H.R. 3013 would prohibit any federal official from pressuring companies to waive attorney-client privilege, work product or employee legal protections or to consider any voluntary waiver by companies when assessing whether companies are cooperating during investigations of corporate wrongdoing. The Senate Judiciary Committee and the House Judiciary Committee held hearings on the issue. The House passed H.R. 3013. S. 186 is pending in the Senate Judiciary Committee.</p>	<p><i>Supports S. 186 and H.R. 3013.</i></p>
†*Attorney-Client Privilege – Proposed Federal Rule of Evidence 502	<p>S. 2450 would create Federal Rule of Evidence 502 (Proposed FRE 502: Inadvertent Disclosure of Privileged Information, as proposed by the Judicial Conference of the United States), to set clear guidelines regarding the consequences of inadvertent disclosure of privileged material. Unlike other federal court rules, any proposed rule that modifies an evidentiary privilege must be approved by Congress pursuant to the Rules Enabling Act. S. 2450 was referred to the Senate Judiciary Committee. There was no comparable House legislation.</p>	<p><i>Supports the proposed rule and the legislation.</i></p>
†*Bankruptcy – Attorney Liability	<p>A House Judiciary subcommittee held an oversight hearing on P.L. 109-8, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), which includes debtor attorney liability provisions requiring the attorneys to: certify the accuracy of the debtor’s schedules of assets and liabilities under penalty of harsh court sanctions; certify the ability of the debtor to make future payments under reaffirmation agreements; and identify and advertise themselves as “debt relief agencies” subject to a host of intrusive regulations that interfere with the confidential attorney-client relationship. House and Senate Judiciary subcommittees are drafting technical corrections legislation relating to 2005 act.</p>	<p><i>Opposes the attorney liability provisions in BAPCPA and has developed draft legislation to repeal the provisions.</i></p>
*Bankruptcy – Partnerships	<p>A House Judiciary subcommittee held an oversight hearing on P.L. 109-8, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA). Proposals include legislation to add a partnership bankruptcy structure to the Bankruptcy Code that includes an automatic stay inhibiting post-bankruptcy suits against general partners for partnership liabilities, to remain in effect for 60 days after a bankruptcy filing, and automatic stays of transfers outside the ordinary course of non-bankruptcy property by general partners of the filing partnership.</p>	<p><i>Supports legislation to establish a partnership structure in the Bankruptcy Code.</i></p>



Subject	Description and Status	ABA Position
*Bankruptcy – Real Property Sales	Senate and House Judiciary subcommittees began considering technical corrections legislation for P.L. 109-8, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), including a proposed amendment to alter 11 U.S.C. § 363 (f) of the Bankruptcy Code to clarify that a sale of real property free and clear of an unexpired lease under which the debtor is the lessor can be accomplished only if the non-debtor lessee is granted the same rights afforded to non-debtor lessees when their leases are rejected.	<i>Supports the proposed amendment.</i>
Civil Rights/Constitutional Law		
Civil Rights Tax Relief	S. 1689 and H.R. 1540 would amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims. S. 1689 was referred to the Senate Finance Committee. H.R. 1540 was referred to the House Ways and Means Committee.	<i>Supports.</i>
*Discrimination – Sexual Orientation/ Gender Identity	H.R. 2015 would prohibit workplace discrimination based on actual or perceived sexual orientation and “gender identity” – gender-related identity, appearance, or mannerisms or other gender-related characteristics of an individual, with or without regard to the individual’s designated sex at birth. H.R. 3685, a narrower bill, would protect only against workplace discrimination based on actual or perceived sexual orientation, defining sexual orientation as “homosexuality, heterosexuality or bisexuality,” and would enhance protections for sexual orientation by clarifying the nature of the protected class and the basis of the prohibited actions. The House passed H.R. 3685. There was no comparable Senate legislation.	<i>Supports legislation to prohibit discrimination on the basis of sexual orientation and actual or perceived gender identity or expression in employment, housing and public accommodations.</i>
*Fair Pay Restoration – Ledbetter Decision	S. 1843 and H.R. 2831 would overturn the Supreme Court’s 5/29/07 wage discrimination decision in <i>Ledbetter vs. Goodyear Tire and Rubber Co.</i> , 550 U.S. ____ (2007), by clarifying that the issuance of each paycheck reflecting the alleged pay disparity marks the start of the statutory period during which an employer may be sued for pay discrimination, no matter how long ago the original act of alleged discrimination occurred. The House passed H.R. 2831. S. 1843 was referred to the Senate Health, Education, Labor and Pensions Committee.	<i>Urges Congress to amend federal anti-discrimination employment laws to ensure that in claims involving pay discrimination the statute of limitations runs from each paycheck reflecting the improper disparity.</i>



Subject	Description and Status	ABA Position
Flag Desecration	H.J. Res. 9 proposes an amendment to the U.S. Constitution authorizing Congress and the states to prohibit the physical desecration of the flag of the United States and to set criminal penalties for that act. H.J. Res. 12 proposes an amendment to the U.S. Constitution authorizing Congress to prohibit the physical desecration of the flag of the United States. Both resolutions were referred to the House Judiciary Committee. There was no comparable Senate legislation.	<i>Opposes a constitutional amendment prohibiting flag desecration, or enactment of federal legislation that would criminalize flag desecration.</i>
*Native Hawaiian Self-Determination	S. 310 and H.R. 505 would allow Native Hawaiians to choose a political framework that could be recognized by the federal government and support an indigenous governing entity for Native Hawaiians within the state of Hawaii. The House passed H.R. 505. The Senate Indian Affairs Committee approved S. 310.	<i>Supports.</i>
†Pledge of Allegiance	H.R. 699 would strip jurisdiction from all federal courts to hear constitutional challenges to the interpretation of, or the validity of, the Pledge of Allegiance. H.R. 699 was referred to the House Judiciary Committee. There was no comparable Senate legislation.	<i>Opposes.</i>
*Presidential Signing Statements	The House Judiciary Committee held a hearing on the potential misuse of presidential signing statements and launched a bipartisan investigation of President Bush's signing statements. S. 1747 and H.R. 3045 would prohibit any state or federal court from relying on or deferring to a presidential signing statement as a source of authority when determining the meaning of any act of Congress. S. 1747 was referred to the Senate Judiciary Committee. H.R. 3045 was referred to the House Judiciary Committee	<i>No position on specific pending legislation. Opposes the misuse of presidential statements that claim the authority or state an intention to disregard or decline to enforce all or part of a law the president has signed or to interpret such a law in a manner inconsistent with the clear intent of Congress.</i>
†Racial Profiling	S. 2481 and H.R. 4611 would prohibit law enforcement agents or agencies from engaging in racial profiling enforceable by civil actions for declaratory or injunctive relief. The bills also would condition receipt of federal funds to state and local governments on the adoption of effective policies that prohibit racial profiling; establish grants to support the development of best practices to end racial profiling; and create requirements for data collection. S. 2481 was referred to the Senate Judiciary Committee. H.R. 4611 was referred to the House Judiciary Committee.	<i>Supports requiring collection of data, including the race and ethnicity of each person stopped for traffic violations, to identify the extent of race-based profiling by law enforcement and to help end the practice.</i>



Subject	Description and Status	ABA Position
Religious Liberty/ School Prayer	P.L. 110-161 (H.R. 2764), consolidated fiscal year 2008 appropriations legislation signed by the president on 12/26/07, prevents the Department of Education from using funds appropriated under the act to prevent implementation of programs of voluntary prayer and meditation in the public schools. H.J. Res. 11 and H.J. Res. 13 propose to amend the U.S. Constitution to allow voluntary prayer and meditation in public schools. S.J. Res. 11 and H.J. Res. 41 propose to amend the U.S. Constitution to clarify that the Constitution neither prohibits voluntary prayer nor requires prayer in schools. S.J. Res. 11 was referred to the Senate Judiciary Committee. H.J. Res. 11, H.J. Res. 13 and H.J. Res. 41 were referred to the House Judiciary Committee.	<i>Opposes adoption of a constitutional amendment or federal legislation that would allow for officially sanctioned prayer in public schools.</i>
*Reporters' Shield	S. 1267, S. 2035 and H.R. 2102 would codify a federal shield law for journalists to protect them from federally compelled disclosure of confidential sources of information under specified conditions. The Senate Judiciary Committee approved S. 2035. The House passed H.R. 2102.	<i>Supports a federal shield law that would require any party seeking to subpoena a journalist to disclose his or her source of information to demonstrate that the information sought is essential to a critical issue in the matter, all reasonable alternative sources for acquiring the information have been exhausted, and the need for the information clearly outweighs the public interest in protecting the free flow of information.</i>
Same-Sex Marriage	H.J. Res. 22 and H.J. Res 74 propose to amend the U.S. Constitution to prohibit same-sex marriage. H.R. 107 would define marriage for all legal purposes in the District of Columbia to consist of the union of one man and one woman. H.J. Res. 22 and H.J. Res. 74 were referred to the House Judiciary Committee. H.R. 107 was referred to the House Oversight and Government Reform Committee. There was no comparable Senate legislation.	<i>Opposes any federal enactment that would usurp the traditional authority of a state to determine its own rules governing marriage.</i>



Subject	Description and Status	ABA Position
*Slavery	H.R. 40 would acknowledge the fundamental injustice, cruelty, brutality and inhumanity of slavery in the United States and the 13 American colonies between 1619 and 1865 and establish a commission to examine the institution of slavery and its impact on African-Americans and to make recommendations to Congress on appropriate remedies. H.R. 40 was referred to the House Judiciary Committee, which held a hearing on the issue. There was no comparable Senate legislation.	<i>Supports H.R. 40 in principle.</i>
Courts/Judiciary		
†*Administrative Law Judges (ALJs)	On 1/4/08, the president issued an executive order providing a 2.5 percent pay increase and locality pay adjustments for ALJs for 2008. H.R. 3136 would provide enhanced retirement benefits for ALJs. The bill was referred to the House Oversight and Government Reform Committee. There was no comparable Senate legislation. S. 1919 would grant the International Trade Commission (ITC) authority to appoint hearing officers other than ALJs to preside over intellectual property infringement cases before the ITC. S. 1919 was referred to the Senate Finance Committee. There was no comparable House legislation.	<i>Supports fair and adequate compensation, including enhanced retirement benefits, for ALJs. Supports preservation of the independence of the administrative judiciary and the role of ALJs in presiding over hearings conducted under the Administrative Procedure Act. Has taken no position on S. 1919.</i>
*Cameras in the Courtroom	S. 352 and H.R. 2128 would authorize presiding judges to permit media coverage of federal court proceedings and would grant the Judicial Conference of the United States the authority to promulgate advisory guidelines for such judges determining courtroom recording and broadcasting standards. S. 344 would require televised coverage of the U.S. Supreme Court's open sessions unless a majority of justices object. The Senate Judiciary Committee held a hearing regarding S. 352 and approved S. 344. The House Judiciary Committee approved H.R. 2128.	<i>Supports continuation of the debate on televising federal court proceedings and urges the Judicial Conference of the United States to authorize further experimentation with electronic media coverage.</i>



Subject	Description and Status	ABA Position
†*Court Security	<p>P.L. 110-24 (H.R. 1130), enacted 5/3/07, restored through 2009 the authority for redaction of sensitive information that could compromise the safety of a judge or family member from financial disclosure statements that are available to the public. P.L. 110-177 (H.R. 660), enacted 1/7/08, further extends redaction authority to 2011 and responds to the needs expressed by the federal judiciary for a greater voice in working with the U.S. Marshals Service to determine security needs; creates new criminal penalties for the protections of judges, their families, and others performing official duties; expands resources available to state courts for their security; and provides additional protections for law enforcement officers.</p>	<p><i>Supports permanent redaction authority for the Judicial Conference. Supports enhanced judicial and court security, including provisions requiring greater consultation between the judiciary and the U.S. Marshals Service regarding court security matters.</i></p>
†Court Stripping	<p>H.R. 699 would strip jurisdiction from all federal courts to hear constitutional challenges regarding the Pledge of Allegiance. H.R. 699 was referred to the House Judiciary Committee. H.R. 300 would prohibit federal courts from adjudicating cases relating to religious liberties or privacy, including cases involving sexual practices, sexual orientation or reproduction. H.R. 1094 would remove Supreme Court and district court jurisdiction to review cases relating to protecting the right of human persons between conception and birth or prohibiting, limiting or regulating the performance of abortions or the use of public funds for abortions. H.R. 724 would limit federal court jurisdiction over questions under the Defense of Marriage Act. The bills were referred to the House Judiciary Committee. There were no comparable Senate measures.</p>	<p><i>Opposes legislation that seeks to curtail the jurisdiction of federal courts or the remedies available to federal courts in cases involving constitutional rights.</i></p>
†Foreign Judgments	<p>H. Res. 372 would affirm the sense of the House that judicial determinations regarding the meaning of the Constitution of the United States should not be based on judgments, laws or pronouncements of foreign institutions unless such foreign judgments, laws or pronouncements inform an understanding of the original meaning of the Constitution. H. Res. 372 was referred to the House Judiciary Committee. There was no comparable Senate legislation.</p>	<p><i>Opposes.</i></p>



Subject	Description and Status	ABA Position
†*Inspector General – Judiciary	S. 461 and H.R. 785 would establish a statutory Office of Inspector General for the federal judiciary for the purpose of conducting investigations of matters pertaining to the judicial branch, including possible judicial misconduct. Under both bills, the Inspector General would be appointed by the chief justice only after consultation with congressional leaders and would be required to make prompt reports to Congress on any matter requiring attention. S. 461 would extend the jurisdiction of the inspector general to the activities of justices of the U.S. Supreme Court. S. 461 was referred to the Senate Judiciary Committee. H.R. 785 was referred to the House Judiciary Committee.	<i>Opposes any congressional proposal that would create an Office of Inspector General for the judiciary with broad investigative powers and close ties to Congress.</i>
†*Judicial Compensation	P.L. 110-161 (H.R. 2764), consolidated fiscal year 2008 appropriations legislation signed by the president 12/26/07, waives Section 140 of P.L. 99-92 to authorize a 2.5 percent cost-of-living adjustment (COLA) for federal judges. The judges received no salary increase in 2007 after members of Congress voted to forgo their COLA, a decision that also blocked judges from receiving a pay increase. S. 1638 would provide a 50 percent increase in current federal judicial salaries. H.R. 3753 would provide a 41.3 percent increase in current federal judicial salaries and would repeal Section 140 of P.L. 99-92, which requires explicit congressional approval for any COLA for federal judges. S. 1638 was referred to the Senate Judiciary Committee. A House Judiciary subcommittee held hearings on judicial compensation, and the House Judiciary Committee approved H.R. 3753 as amended.	<i>Supports legislation to increase the compensation of federal judges, to ensure regular COLAs, to provide periodic review of judicial salary levels, and to de-link congressional and judicial pay.</i>
†*Judicial Conduct	The U.S. Judicial Conference’s Committee on Judicial Conduct and Disability issued a set of draft rules for comment on 7/16/07 addressing problems faced by chief circuit judges as they implement the Judicial Conduct and Disability Act of 1980. The proposed rules were based on recommendations made by the Judicial Conduct and Disability Act Study Committee to promote greater uniformity and transparency in the implementation of the act. The Committee on Judicial Conduct and Disability is reviewing the comments and is scheduled to issue another draft to be considered by the Judicial Conference in March 2008. H.R. 2898 would amend Title 28 of the U.S. Code to establish standards for the impeachment of judges and justices of the United States. H.R. 2898 was referred to the House Judiciary Committee. There was no comparable Senate legislation.	<i>Supports efforts to improve implementation of the Judicial Conduct and Disability Act of 1980. Opposes H.R. 2898.</i>



Subject	Description and Status	ABA Position
†*Judicial Selection/ Vacancies	During the first session of the 110 th Congress, the Senate confirmed six appellate court nominees and 34 district court nominees. At the end of the first session, there were 14 appellate court vacancies, 31 district court vacancies, 11 pending nominations for the appellate courts, and 18 pending nominations for the district courts.	<i>Urges the president and the Senate to fill judicial vacancies expeditiously and urges selection and confirmation of individuals of racial and ethnic diversity to all levels of the federal bench.</i>
†Ninth Judicial Circuit Division	S. 525 and H.R. 221 would divide the Ninth Judicial Circuit into two circuits and provide for the appointment of additional federal circuit judges. S. 525 was referred to the Senate Judiciary Committee. H.R. 221 was referred to the House Judiciary Committee.	<i>Opposes restructuring of the Ninth Judicial Circuit.</i>
*Plea Agreements	The U.S. Judicial Conference's Committee on Court Administration and Case Management issued a request for comments in September 2007 on a proposal to restrict public Internet access to plea agreements in criminal cases that may contain information identifying defendants who are cooperating with law enforcement investigations. The request specifically sought comments regarding the privacy and security implications of Internet access to such files and potential policy alternatives.	<i>Generally opposes restrictions on the public's right to access to court proceedings and pleadings and supports procedures that provide the public and parties with access to the records while providing a measure of protection to cooperating defendants consistent with the relevant ABA Criminal Justice Standards.</i>
State Justice Institute (SJI)	P.L. 110-161 (H.R. 2764), consolidated fiscal year 2008 appropriations legislation signed by the president 12/26/07, includes \$3.76 million for the SJI.	<i>Supports continued adequate federal funding for the SJI.</i>



Subject

Description and Status

ABA Position

Criminal Law

***Death Penalty Representation**

The Department of Justice (DOJ) published a proposed rule 6/6/07 to implement Section 507 of the USA PATRIOT Improvement and Reauthorization Act of 2005, which shifts authority from the federal courts to the U.S. attorney general to certify adequacy of state post-conviction defense procedures in death penalty cases. Once granted, the certification would permit states to drastically streamline habeas corpus review.

No position supporting or opposing Section 507, but expressed in comments to DOJ that the proposed rule would allow states to obtain streamlined review without ensuring that capital defendants receive competent counsel or that such counsel is appropriately compensated in post-conviction proceedings.

†*Drug Sentencing Reform

The U.S. Sentencing Commission issued a report in May 2007 proposing an amendment to the federal Sentencing Guidelines regarding federal sentences for crack versus powder cocaine offenses. The amendment, which modified drug quantity thresholds and adjusted crack cocaine offenses downward by two levels, went into effect 11/1/07, and the commission voted 12/11/07 to apply the amendment retroactively effective 3/3/08. The retroactive guideline amendment could reduce the sentences of more than 19,000 offenders, with an average reduction of 27 months. The amendment does not affect federal statutory mandatory minimum sentences for such offenses. In the first year, an estimated 3,084 offenders could be released from prison. S. 1711 and H.R. 4545 would equalize powder and crack sentences by raising the crack quantity thresholds by a factor of 100. The bills also would eliminate the mandatory minimum sentence for simple possession offenses, and would recommend sentence enhancements for offenses that involve dangerous weapons or violence and criminal drug activities. S. 1383, S. 1685, H.R. 79 and H.R. 460 also address the cocaine sentencing disparity. The Senate bills were referred to the Senate Judiciary Committee. The House bills were referred to the House Judiciary Committee. H.R. 460 also was referred to the House Energy and Commerce Committee.

Supports efforts to eliminate the disparity in cocaine sentencing and the retroactive application of the guideline amendment.



Subject	Description and Status	ABA Position
*Gang Violence	S. 456 and H.R. 3547 would increase and enhance law enforcement resources committed to investigating and prosecuting violent gangs, deterring and punishing violent crime, protecting communities from violent criminals, revising and enhancing criminal penalties for violent crimes, and expanding and improving gang prevention programs. H.R. 3846 would provide grants for evidence-based and promising practices related to juvenile delinquency and criminal street gang activity prevention and intervention. The Senate passed S. 456 following an agreement dropping provisions to authorize enhanced penalties for firearms-related offenses. A House Judiciary subcommittee held a hearing on gang crime prevention and innovative solutions at the federal level. H.R. 3547 and H.R. 3846 were referred to the House Judiciary Committee and the House Education and Labor Committee.	<i>Supports efforts to deter gang violence, taking into consideration the psychological, neurological and physical differences between adults and youth.</i>
*Gun Violence – D.C. Gun Laws	In March 2007, a three-judge panel of the U.S. Court of Appeals for the D.C. Circuit, struck down part of the District of Columbia’s ban on handgun and semiautomatic weapons as a violation of the Second Amendment right to bear arms. The city appealed the decision to the Supreme Court, which is expected to hear the case in March 2008. S. 1001 and H.R. 1399 would repeal the D.C. ban as well as a safe-storage law. S. 1001 was referred to the Senate Judiciary Committee. H.R. 1399 was referred to the House Judiciary Committee.	<i>Supports the D.C. ban and opposes legislation to repeal it.</i>
*Gun Violence – Gun Crime Trace Data	S. 88 and H.R. 1895 would improve the tracking of stolen firearms and firearms used in a crime, and would repeal restrictions on disclosure of the content of the Firearms Trace System database. S. 88 was referred to the Senate Judiciary Committee. H.R. 1895 was referred to the House Judiciary Committee.	<i>Supports collection of gun crime trace data and its disclosure and dissemination as public data.</i>
*Gun Violence – Sales at Gun Shows	S. 2237, comprehensive crime control legislation, and H.R. 96 would close a loophole in gun safety laws by requiring instant criminal background checks for all firearm sales at gun shows. S. 2237 was referred to the Senate Judiciary Committee. H.R. 96 was referred to the House Judiciary Committee.	<i>Supports.</i>



Subject	Description and Status	ABA Position
Hate Crimes	S. 1105 and H.R. 1592 would provide federal assistance to states, local jurisdictions and Indian tribes to prosecute hate crimes. The House passed H.R. 1592. S. 1105 was referred to the Senate Judiciary Committee. The Senate-passed version of H.R. 1585, fiscal year 2008 Defense Department authorization legislation, included provisions to expand race-based hate-crime law to include crimes committed against people because of their gender, sexual orientation or disability. Those provisions were not included in the final conference report on H.R. 1585, which was cleared by Congress but pocket-vetoed by the president.	<i>Supports hate crimes legislation.</i>
†* Indigent Defense Funding	P.L. 110-161 (H.R. 2764), consolidated fiscal year 2008 appropriations legislation signed by the president 12/26/07, includes \$835 million for federal defender services, and beginning 1/1/08 the hourly panel attorney compensation rate for non-death penalty cases rose from \$94 to \$100, and the maximum hourly rate for death penalty cases rose from \$166 to \$170.	<i>Supports sufficient funding for appropriate indigent defense services.</i>
†* Juvenile Justice	H.R. 1806 and H.R. 3411 would amend and reauthorize the Juvenile Justice and Delinquency Prevention Act (JJDP), which expired on 9/30/07. Hearings on JJDP were held jointly by a House Judiciary subcommittee and a House Education and Labor subcommittee and by the House Education and Labor Committee and the Senate Judiciary Committee. The Senate Judiciary Committee held hearings on reauthorization of the act, but no legislation was introduced. H.R. 1806 and H.R. 3411 were referred to the House Education and Labor Committee. There was no comparable Senate legislation.	<i>Supports reauthorization of the JJDP.</i>
* Juvenile Sex Offender Registry	The Department of Justice (DOJ) issued proposed interim regulations that would apply the Sex Offender Registration and Notification Act (SORNA) retroactively to juveniles. SORNA, part of the Adam Walsh Child Protection Act of 2006, was enacted to target sexual predators and strengthen the nationwide network of sex offender registration and notification programs.	<i>In comments to DOJ, maintained that the "lifetime registration" requirements of SORNA violate ABA Juvenile Justice Standards and are detrimental to both rehabilitation and crime prevention.</i>
†* Mandatory Minimum Sentencing	A House Judiciary subcommittee held a hearing on issues related to mandatory minimum sentencing.	<i>Opposes mandatory minimum sentences.</i>



Subject	Description and Status	ABA Position
*National Instant Criminal Background Check System (NICS)	P.L. 110-180 (H.R. 2640), signed by the president 1/8/08, improves the NICS by requiring federal agencies to provide relevant records to the attorney general for inclusion in the NICS, and by providing grants to state and Indian tribal governments to establish or upgrade information technologies and improve the automation and transmittal to federal and record repositories of criminal history determinations.	<i>Supports.</i>
*Prison Litigation Reform Act (PLRA)	H.R. 4109 would amend the PLRA to repeal the requirement that prisoners suffer a physical injury in order to recover a civil award; modify current requirements for exhaustion of administrative remedies; allow prisoners who prevail on civil rights claims to be awarded attorneys' fees on the same basis as the general public; and repeal the provisions extending the PLRA to juveniles confined at secured detention and correctional facilities. H.R. 4109 was referred to the House Judiciary Committee, where a subcommittee held a hearing on the bill. There was no comparable Senate legislation.	<i>Supports.</i>
*Prison Phone System Contracting Reform	H.R. 555 would require the Federal Communications Commission to prescribe rules regulating inmate telephone service rates that would assure that there is a reasonable opportunity for prison and jail inmates to maintain telephonic communication with the free community and that telephone services in the correctional setting are offered with an appropriate range of options at the lowest possible rates. H.R. 555 was referred to the House Energy and Commerce Committee. There was no comparable Senate legislation.	<i>Supports.</i>
*Second Chance Act	S. 1060 and H.R. 1593 would help prepare inmates and ex-offenders to successfully return to their communities by providing grants to states and localities so that they can provide coordinated assistance to those being released from prison. The House passed H.R. 1593. The Senate Judiciary Committee approved S. 1060.	<i>Supports prisoner reentry programs, including substance abuse treatment, educational and job training, and mental health counseling and services.</i>



Subject	Description and Status	ABA Position
*Sentencing Guidelines – Sentence Reduction and Incarceration Alternatives	The U.S. Sentencing Commission issued a report in May 2007 proposing an amendment to the federal sentencing guidelines to give sentencing courts guidance on granting release to prisoners for extraordinary and compelling reasons. The amendment became effective 11/1/07. The commission held hearings on a range of issues, including alternatives to incarceration.	<i>Supports amendment providing for sentence reduction.</i>
Student Drug Convictions	H.R. 4137, Higher Education Act reauthorization legislation, would require the secretary of education to analyze data from the Federal Application for Student Aid containing information regarding the number, characteristics and circumstances of students denied federal student aid based on a drug conviction while receiving federal aid. The House Education and Labor Committee approved H.R. 4137. The provision was not included in S. 1642, the Senate HEA legislation approved by the Senate Health, Education, Labor and Pensions Committee.	<i>Believes that prospective students should not be denied access to federal student financial aid because of past drug offense if there is not current evidence of drug abuse and their debt to society has been paid.</i>
*Victims of Crime Act (VOCA)	H.R. 2941 seeks to safeguard the Crime Victims Fund by prohibiting the consideration of any legislation that would authorize the use of amounts in the Crime Victims Fund, including amounts designated to remain in the fund for future fiscal years, for any purpose other than a purpose authorized by the Victims of Crime Act of 1984. H.R. 2941 was referred to the House Judiciary Committee. There was no comparable Senate legislation.	<i>Supports full funding of the Crime Victims Fund.</i>

Elder Law

***Elder Justice Act**

S. 1070 and H.R. 1783 would amend the Social Security Act to establish an elder justice program and would establish offices within the Department of Health and Human Services and the Department of Justice to provide a combined public health and law enforcement approach at the federal level to address elder abuse, neglect and exploitation. S. 1070 was referred to the Senate Finance Committee. H.R. 1783 was referred to the House Ways and Means Committee, the House Judiciary Committee, the House Education and Labor Committee, and the House Energy and Commerce Committee.

Supports comprehensive legislation to improve the response of federal, state and local governments and of the criminal justice systems to address elder abuse, neglect and exploitation.



Subject	Description and Status	ABA Position
<h2>Environmental Law</h2>		
Oceans and Fisheries Reform	<p>H.R. 21, broad ocean governance legislation, would establish a formal national oceans policy; reorganize the National Oceanic and Atmospheric Administration (NOAA) to formally establish it as a part of the U.S. Department of Commerce and define its mission; and establish a National Oceans Advisor, a Committee on Ocean Policy, a Council of Advisors on Oceans Policy, and a coordinated management regime for activities in federal waters. The bill also would designate certain ocean regions for ecosystem-based management, establish a Regional Ocean Partnership for each designated ocean region, and require each partnership to prepare a Regional Ocean Strategic Plan for each ocean region. H.R. 250, a narrower bill, would reorganize NOAA and formally establish it as a part of the Department of Commerce, define the mission of NOAA, restructure the agency, and elevate various senior NOAA officials to high-level positions within the Commerce Department. The measure also would establish a Science Advisory Board within NOAA. A House Natural Resources subcommittee held a hearing on H.R. 21. H.R. 250 was referred to the House Science and Technology Committee and the House Natural Resources Committee. There was no comparable Senate legislation.</p>	<p><i>Urges the federal government to improve federal regulation of the nation's oceans, coastal resources and fisheries and to enhance the U.S. role in international initiatives to protect the world's marine ecosystems and resources.</i></p>
<h2>Families/Children</h2>		
Adoption Promotion	<p>P.L. 110-161 (H.R. 2764), consolidated fiscal year 2008 appropriations legislation signed by the president 12/26/07, includes the following amounts for adoption-related grants: \$2.1 billion for adoption assistance, \$26.3 million for adoption opportunities, \$4.3 million for adoption incentives, and \$12.4 million for adoption awareness. S. 561, H.R. 273 and H.R. 471 would repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act with respect to expansion of the adoption credit and adoption assistance programs. S. 2395 would establish an adoption process improvement pilot program allocating grant funding to decrease the adoptive parent attrition rate and build upon existing practices that have demonstrated effectiveness in improving the adoption process. S. 1462 and H.R. 4091 would provide federal financial assistance and support to promote the adoption of children with special needs. S. 2395 was referred to the Senate Health, Education, Labor and Pensions Committee. S. 561 and S. 1462 were referred to the Senate Finance Committee. H.R. 273, H.R. 471 and H.R. 4091 were referred to the House Ways and Means Committee.</p>	<p><i>Supports efforts to encourage adoption.</i></p>



Subject	Description and Status	ABA Position
Adoption – Indian and Alaskan Native Children	S. 1956 and H.R. 4688 would provide equitable access for foster care and adoption services for Indian children in tribal areas. Tribes would be given the authority to administer foster care programs in a variety of ways through a plan developed in conjunction with the secretary of health and human services or through a cooperative agreement with the state. S. 1956 was referred to the Senate Finance Committee. H.R. 4688 was referred to the House Ways and Means Committee.	<i>Supports.</i>
*Child Abuse Prevention and Treatment Act (CAPTA)	P.L. 110-161 (H.R. 2764), fiscal year 2008 appropriations legislation signed by the president 12/26/07, includes \$26.5 million for basic state grants, \$41.6 million for community-based prevention grants, and \$27.1 million for discretionary activities under CAPTA. A new home visitation initiative will receive \$10 million.	<i>Supports.</i>
*Domestic Violence in the Workplace	S. 1136 and H.R. 2395 would promote the economic security and safety of victims of domestic violence, dating violence, sexual assault, or stalking by requiring employers with 15 or more employees to provide 30 days of job-protected, unpaid leave to employees to address issues relating to domestic violence and by prohibiting discrimination or denial of insurance coverage to victims of domestic violence. A Senate Health, Education, Pensions and Labor subcommittee held a hearing addressing domestic violence in the workplace. H.R. 2395 was referred to the House Education and Labor Committee, the House Ways and Means Committee, and the House Financial Services Committee.	<i>No position on specific pending legislation. Supports congressional efforts to increase awareness about the impact of domestic violence in the workplace and the need for employers to develop policies to assist and protect employees who are victims of such violence.</i>
*Domestic Violence – Legal Services for Victims	P.L. 110-161 (H.R. 2764), consolidated fiscal year 2008 appropriations legislation enacted 12/26/07, includes \$36 million for increased legal access for victims of domestic violence. S. 1515 would permit the attorney general to award grants to the ABA Commission on Domestic Violence to work in collaboration with the ABA Committee on Pro Bono and Public Service and other organizations to create, recruit lawyers for, and provide training, mentoring, and technical assistance for a National Domestic Violence Volunteer Attorney Network. Allocated funding would be used by the ABA to create and maintain a network to field and manage inquiries from volunteer lawyers seeking to represent and assist victims of domestic violence. S. 1515 was referred to the Senate Judiciary Committee. There was no comparable House legislation.	<i>Supports.</i>



Subject	Description and Status	ABA Position
<p>*Foster Care/Promoting Safe and Stable Families (PSSF)</p> <p>*Youth at Risk</p>	<p>P.L. 110-161 (H.R. 2764), consolidated fiscal year 2008 appropriations legislation enacted 12/26/07, includes \$408 million for PSSF and \$4.5 million for CAPTA foster care assistance under Title IV-E of the Social Security Act. H.R. 1104 would ensure that foster children are able to use their Social Security and Supplemental Security Income benefits to address their needs and improve their lives. S. 1512 would amend Title IV-E to expand federal eligibility up to age 21 for children in foster care who have attained age 18. H.R. 1104 was referred to the House Committee on Ways and Means. S. 1512 was referred to the Senate Finance Committee.</p> <p>H.R. 3846, the Youth PROMISE Act, would provide for evidence-based and promising practices related to juvenile delinquency and criminal street gang activity prevention and intervention to help build individual, family, and community strength and resiliency to ensure that youth lead productive, safe, and healthy gang-free and law-abiding lives. H.R. 3409 would create conditions, structures, and support needed to ensure permanency for the nation's unaccompanied youth. H.R. 1806 and H.R. 3411 would amend and reauthorize the Juvenile Justice and Delinquency Prevention Act (JJDP), which expired on 9/30/07. S. 2341 would provide Individual Development Accounts to support foster youths who are transitioning from the foster care system. H.R. 3846 and H.R. 3409 were referred to the House Judiciary Committee. H.R. 1806 and H.R. 3411 were referred to the House Education and Labor Committee. H.R. 3411 also was referred to the House Energy and Commerce Committee. S. 2341 was referred to the Senate Health, Education, Labor, and Pensions Committee.</p>	<p><i>Supports.</i></p> <p><i>Supports a strong federal role in addressing issues regarding youth at risk, including reauthorization of the JJDP and efforts to meet the needs of foster care youth who are aging out of the foster care system.</i></p>
<h2>Health Law</h2>		
<p>Advance Directives</p>	<p>S. 464 would amend Titles XVIII and XIX of the Social Security Act to improve the requirements regarding advance directives in order to ensure compliance with an individual's health care decisions. S. 465 would amend Titles XVIII and XIX of the Social Security Act and Title III of the Public Service Act to improve access to information about an individual's health care options and legal rights for care near the end of life, to promote advance care planning and decision making, and to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care. S. 466 would amend Title XVIII of the Social Security Act to provide for coverage of an end-of-life planning consultation as part of an individual's preventive physical examination under the Medicare program. The bills were referred to the Senate Finance Committee. There was no comparable House legislation.</p>	<p><i>Supports.</i></p>



Subject	Description and Status	ABA Position
*AIDS Funding	P.L. 110-161 (H.R. 2764), consolidated fiscal year 2008 appropriations legislation signed by the president 12/26/07, provides \$5 billion for the President's Emergency Plan for AIDS Relief, \$808.5 million for State AIDS Drug Assistance programs authorized by Section 2616 of the Public Health Service Act, \$121.5 million for international HIV/AIDS prevention programs, \$30 million for grants to states for HIV/AIDS testing under Section 2625 of the Public Service Act, and \$845 million for the U.S. contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria.	<i>Supports funding of HIV/AIDS prevention efforts and the global strategy of the World Health Organization for the worldwide prevention and control of AIDS.</i>
*Biomedical Research/ Stem Cell Research	S. 5 and H.R. 3 would direct the secretary of health and human services to conduct and support research that utilizes human embryonic stem cells under strict scientific and ethical standards. S. 30 would support research using non-embryonic types of human stem cells. The Senate and House passed S. 5, but the bill was vetoed by the president. No override of the veto was attempted by Congress. The Senate also passed S. 30, but the House took no action on the bill.	<i>Supports legislation to permit the continuation of biomedical research involving embryonic stem cells that is undertaken with accepted scientific research safeguards against misuse.</i>
*International Family Planning	The Senate-passed version of H.R. 2764, State-Foreign Operations fiscal year 2008 appropriations legislation, would have repealed the "Mexico City" policy, which bans the receipt of U.S. family planning assistance funds by foreign nongovernmental organizations that use their own funds to provide abortion-related services, including counseling and referrals, or to advocate or conduct public education campaigns relating to abortion. The House-passed version of the bill would have allowed condoms, but not funds, to be provided to the organizations. The ban was retained in the final version of the appropriations legislation, P.L. 110-161 (H.R. 2764), consolidated fiscal year 2008 appropriations legislation signed by the president on 12/26/07.	<i>Supports repeal of the "Mexico City" policy.</i>
*Indian Health Care Improvement	S. 1200 and H.R. 1328 would amend the Indian Health Care Improvement Act to revise and extend the act, including creation of national Bipartisan Commission on Indian Health Care. The Senate Indian Affairs Committee approved S. 1200. The House Natural Resources Committee and a House Energy and Commerce subcommittee approved H.R. 1328.	<i>Supports.</i>



Subject	Description and Status	ABA Position
Mental Health Parity	S. 558 and H.R. 1424 would require a group health plan that provides both medical and surgical benefits and mental health benefits to ensure that the financial requirements and treatment limitations for mental health benefits are no more restrictive than those applied to medical and surgical benefits. The Senate passed S. 558. The House Education and Labor Committee and the House Ways and Means Committee approved H.R. 1424.	<i>Supports.</i>
*Needle-Exchange Programs	P.L. 110-161 (H.R. 2764), consolidated fiscal year 2008 appropriations legislation signed by the president 12/26/07, lifts restrictions that had been in effect since 1989 that prohibited the District of Columbia from spending local funds for needle-exchange programs that seek to combat the spread of HIV infection among drug users and those who are exposed to them.	<i>Supports removing legal barriers to establishment and operation of approved needle-exchange programs that include a component of drug counseling and drug treatment referral.</i>
Pain Relief	H.R. 2994 would provide for the promotion and advancement of scientific understanding of pain management and palliative care and for dissemination of effective protocols and evidence-based practices. H.R. 2994 was referred to the House Energy and Commerce. There was no comparable Senate legislation.	<i>Supports legislation promoting better pain management practices.</i>
Patients' Bill of Rights	H.R. 979 would establish standards for group health plans to protect patients, including requiring plans to conduct utilization review activities, establishing internal and external appeals processes, requiring a grievance system, requiring plans to offer out-of network coverage, prohibiting plans from requiring prior authorization for emergency services, requiring plans to provide continuity of care during transition periods, and requiring prompt payment of claims. The bill does not include provisions in previous proposals that would amend the Employee Retirement Income Security Act (ERISA) to permit patients injured by decisions made by their employer-sponsored health care plans to sue in state court. H.R. 979 was referred to the House Energy and Commerce Committee, the House Education and Labor Committee, and the House Ways and Means Committee. There was no comparable Senate legislation.	<i>Supports.</i>
*U.N. Population Fund (UNFPA)	P.L. 110-161 (H.R. 2764), consolidated fiscal year 2008 appropriations legislation signed by the president 12/26/07, includes \$40 million for the UNFPA and continues current policy prohibiting making funds available for the UNFPA if the president determines that the fund supports or participates in the management of a program of coercive abortion or involuntary sterilization. The law specifically prohibits UNFPA funds from being used in China.	<i>Supports UNFPA funding as critical to fighting the HIV/AIDS crisis.</i>



Subject	Description and Status	ABA Position
<h2>Housing/Homelessness</h2>		
*Homeless Assistance	<p>S. 1518 would reauthorize the McKinney-Vento Homeless Assistance Act through fiscal year 2012 and would amend the act to expand the definition of homelessness to include people who are staying for a short time in the housing of others or a hotel and have moved frequently. H.R. 840 would consolidate programs under Title IV of the act and also redefine “homeless person” to provide a fair and consistent classification applicable to all federal agencies serving the homeless community. H.R. 4880 would add a new title to the McKinney-Vento Act to implement protection and services to homeless children and youth. H.R. 3205 seeks to ensure that homeless children and youth have access to public education. The Senate Banking, Housing and Urban Affairs Committee approved S. 1518. H.R. 3205 and H.R. 4880 were referred to the House Education and Labor Committee and the House Financial Services Committee. H.R. 840 was referred to the House Financial Services Committee.</p>	<p><i>Supports efforts to reduce homelessness, including access to public education for homeless children and youth, and the inclusion in the definition of “homeless persons” individuals who lack a fixed regular and adequate nighttime residence, including those who due to loss of housing, economic hardship, or similar reasons are sharing the housing of others or living in motels, hotels or camping grounds.</i></p>
Housing Choice Voucher Program	<p>P.L. 110-161 (H.R. 2764), consolidated fiscal year 2008 appropriations legislation signed by the president 12/26/07, includes \$14.7 billion for the Housing Choice Voucher Program, which allows very low-income families to choose to lease or purchase safe, decent, and affordable privately owned rental housing. H.R. 1851 would reform the program. The House passed H.R. 1851. There was no comparable Senate legislation.</p>	<p><i>Supports.</i></p>
National Affordable Housing Trust Fund	<p>S. 2513 and H.R. 2895 would establish the National Affordable Housing Trust Fund to provide for the construction, rehabilitation and preservation of decent, safe and affordable housing for low-income families. S. 2513 was referred to the Senate Banking, Housing and Urban Affairs Committee. The House passed H.R. 2895.</p>	<p><i>Supports creation of the fund.</i></p>



Subject	Description and Status	ABA Position
<h2>Immigration Law</h2>		
†*Detention Regulations	A House Homeland Security subcommittee held hearings on issues surrounding the detention of immigrants and detention standards. The ABA and several other organizations urged the Department of Homeland Security to promulgate regulations for the detention standards to help ensure that detained immigrants are treated humanely and have meaningful access to the legal process.	<i>Assisted in the development of detention standards that went into effect in 2001 and supports regulations for the standards to ensure consistent implementation.</i>
†*DREAM Act	S. 2205 and H.R. 1275, the Development, Relief and Education for Alien Minors Act (DREAM Act), would amend immigration laws to authorize the cancellation of removal and adjustment of status for certain immigrant students who are long-term U.S. residents and who entered the United States as children. The Senate fell short of the votes needed to end debate and vote on S. 2205. H.R. 1275 was referred to the House Education and Labor Committee and the House Judiciary Committee.	<i>Supports providing noncitizens who reside in the United States and who demonstrate significant ties to this country with an opportunity to acquire lawful permanent residence.</i>
†*Immigration Overhaul	S. 1348, legislation crafted by a bipartisan group of senators, contained provisions to: increase border security and enforcement; reduce the backlog of family- and employment-based visas; create a temporary worker program; and establish a plan to allow approximately 12 million illegal immigrants who met certain requirements, including returning to their home countries for a specified period of time, to apply for permanent resident status. The Senate fell short of the votes necessary to end debate and vote on S. 1348. A revised bill, S. 1639, was introduced that included a similar path to permanent residency and a mandatory \$4.4 billion for border security. The Senate also failed to garner enough votes to end debate and vote on S. 1639. An attempt to pass parts of the bill separately failed when the Senate fell short of the votes needed to end debate and consider S. 2205, the DREAM Act (see entry above). H.R. 1645, the Security Through Regularized Immigration and Vibrant Economy Act (STRIVE Act), would provide for comprehensive immigration reform. A House Judiciary subcommittee held hearings on H.R. 1645.	<i>Supports comprehensive immigration reform provisions similar to those in H.R. 1645 that include temporary worker programs with a path to permanent residence for undocumented laborers currently in the United States.</i>
†*Unaccompanied Immigrant Children	S. 844 would provide legal representation and guardians <i>ad litem</i> for unaccompanied alien children, direct the Office of Immigration Review to develop model guidelines for legal representation of children, and exempt unaccompanied children from certain removal and asylum provisions. S. 844 was referred to the Senate Judiciary Committee. There was no comparable House legislation.	<i>Supports.</i>



Subject	Description and Status	ABA Position
<h2>Intellectual Property Law</h2>		
Patent and Trademark Office (USPTO) Funding	P.L. 110-161 (H.R. 2764), consolidated fiscal year 2008 appropriations legislation signed by the president 12/26/07, includes \$1.9 billion for the USPTO to be derived from patent user fees. No patent user fees will be diverted to fund other programs.	<i>Opposes diversion of patent user fees to fund other programs.</i>
*First-Inventor-To-File Rule	S. 1146 and H.R. 1908, patent law overhaul legislation, include provisions to institute a “first-inventor-to-file” rule to replace the current “proof-of-invention date” system. The House bill would delay the change until other countries make changes to conform their patent laws to those of the United States in certain regards. The Senate Judiciary Committee approved S. 1146. The House Judiciary Committee passed H.R. 1908.	<i>Supports the proposed “first-inventor-to-file” rule.</i>
<h2>International Law</h2>		
Darfur	P.L. 110-174 (S. 2271), signed by the president 12/31/07, authorizes state and local governments – in response to ongoing genocide in Darfur, Sudan – to divest assets in companies that conduct operations in Sudan and to prohibit U.S. government contracts with such companies. P.L. 110-161 (H.R. 2764), consolidated fiscal year 2008 appropriations legislation signed by the president 12/26/07, includes approximately \$1 billion in aid to Sudan, including \$550 million to support the U.N. peacekeeping mission there and \$209 million for humanitarian aid.	<i>Urges the U.S. government to take all necessary and proper actions to end the ongoing atrocities (including genocide, crimes against humanity, and war crimes) in Darfur.</i>
†International Affairs Budget	P.L. 110-161 (H.R. 2764), consolidated fiscal year 2008 appropriations legislation signed by the president 12/26/07, includes \$1.3 billion for international organizations and \$1.7 billion for international peacekeeping activities.	<i>Supports funding for various international assistance programs.</i>



Subject	Description and Status	ABA Position
International Criminal Court (ICC)	P.L. 110-161 (H.R. 2764), consolidated fiscal year 2008 appropriations legislation signed by the president 12/26/07, includes provisions prohibiting Economic Support Fund assistance to the government of any country that is part of the ICC and has not signed a bilateral immunity agreement with the United States that would protect U.S. military and other personnel from prosecution by the ICC.	<i>Urges that the United States accede to the treaty establishing the ICC.</i>
†* Rule of Law Programs	P.L. 110-161 (H.R. 2764), consolidated fiscal year 2008 appropriations legislation signed by the president 12/26/07, includes \$164 million for the promotion of democracy globally.	<i>Supports.</i>
†* Treaties	The Senate Foreign Relations Committee held hearings on and approved the Law of the Sea Treaty, which provides a legal framework governing the use of the oceans and their resources. H. Res. 101 would express the sense of the House that the Senate should ratify the Convention on the Elimination of All Forms of Discrimination Against Women. H. Res. 101 was referred to the House Foreign Affairs Committee. There was no action on several other treaties, including the Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict, the U.N. Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed To Be Excessively Injurious or To Have Indiscriminate Effects, and the Convention on the Rights of the Child.	<i>Supports.</i>
Legal Education		
†* Council on Legal Education Opportunity (CLEO)	P.L. 110-161 (H.R. 2764), consolidated fiscal year 2008 appropriations legislation signed by the president 12/26/07, includes \$2.9 million for the Thurgood Marshall Legal Educational Opportunity Program, which is administered by CLEO to provide practical and financial assistance to low-income minority or disadvantaged students to help them gain access to law school and complete their legal studies. S. 1642 and H.R. 4137, Higher Education Act reauthorization bills, would reauthorize the program for five years and include language to expand the reach of the program. The Senate passed S. 1642. The House Education and Labor Committee approved H.R. 4137.	<i>Supports reauthorization, expansion and funding for the Thurgood Marshall program.</i>



Subject	Description and Status	ABA Position
*Higher Education Act (HEA) Reauthorization	S. 1642 and H.R. 4137 would reauthorize the HEA for five years. The Senate passed S. 1642. The House Education and Labor Committee approved H.R. 4137. Programs under the act, which expired when the most recent authorization ran out on 9/30/05, are functioning through 3/31/08 on a temporary authorization provided by P.L. 110-109 (H.R. 2258), signed by the president 10/31/07.	<i>Supports programs under the HEA that encourage greater access to higher education, including the Thurgood Marshall Legal Educational Opportunity Program and loan forgiveness and repayment provisions (see related entries).</i>
†*Loan Forgiveness and Repayment Assistance	P.L. 110-84 (H.R. 2669), signed by the president 9/27/07, provides for cancellation of loans under the William Ford Direct Loan Program for borrowers who make 120 monthly payments on those loans while employed in qualifying public service positions. The act also allows those in public interest positions to consolidate other qualifying federal student loans into the direct loan program for the purposes of pursuing loan forgiveness. Under the act, borrowers can further opt for the Ford program's income-contingent repayment option (ICR) and, by July 2009, for a new more generous income-based repayment option that caps a borrower's monthly payments at an affordable percentage of his or her net income. P.L. 110-153 (S. 2371), a Higher Education Act (HEA) technical corrections legislation signed by the president 12/21/07, allows a borrower to wholly exclude a spouse's income when calculating loan repayment terms by filing separate tax returns. HEA reauthorization bills, S. 1642 and H.R. 4137, include direct loan repayment programs for prosecutors and public defenders, as well as legal assistance lawyers. The Senate passed S. 1642. The House Education and Labor Committee approved H.R. 4137.	<i>Supports loan repayment assistance, loan forgiveness and income-sharing programs for law school graduates accepting low-paying, legal, public-interest employment.</i>



Subject	Description and Status	ABA Position
<h2>Legal Research</h2>		
*Law Library of Congress	P.L. 110-161 (H.R. 2764), consolidated fiscal year 2008 appropriations legislation signed by the president 12/26/07, includes \$395.7 million for the Library of Congress, including funds for the Law Library of Congress, which does not receive a separate line-item appropriation. The House Administration Committee held a hearing on Library of Congress management issues, including concerns about the security of the library's inventory, cataloging, and the status of the Law Library.	<i>Supports a separate budget line-item and increased funding for the Law Library of Congress to allow for enhancement of services, including electronic development, reclassification and cataloging.</i>
<h2>Legal Services</h2>		
†*Group Legal Services	S. 1130 and H.R. 1840 would restore, permanently authorize and eliminate the dollar limitation for Section 120 of the Internal Revenue Code of 1986, which before expiring on 6/30/92 allowed employers to offer on a pretax basis group legal services benefits to their employees. S. 1120 was referred to the Senate Finance Committee. H.R. 1840 was referred to the House Ways and Means Committee.	<i>Supports permanent reauthorization for Section 120.</i>
†*Legal Services Corporation (LSC)	P.L. 110-161 (H.R. 2764), consolidated fiscal year 2008 appropriations legislation signed by the president 12/26/07, includes \$350.49 million for the LSC (a \$2 million increase over fiscal year 2007) and continues restrictions prohibiting LSC-funded legal aid programs from representing certain clients or filing certain types of cases.	<i>Supports adequate LSC funding and opposes restrictions that limit the types of legal services available to the poor.</i>
<h2>Military Law</h2>		
*Predatory Lending	The Department of Defense (DoD) issued proposed regulations to implement the Military Lending Act of 2006, which seeks to protect military servicemembers from predatory lending practices.	<i>In comments to DoD on proposed regulations, expressed concerns and recommended further consideration of key terms to ensure that potentially abusive practices are addressed.</i>



Subject	Description and Status	ABA Position
*Veterans Representation	The Department of Veterans Affairs issued proposed regulations to implement the Veterans Benefits, Health Care and Information Technology Act of 2006, which includes provisions lifting a 150-year-old prohibition on veterans being able to hire lawyers to pursue appeals of claims for benefits, proposed certification requirements for lawyer and non-lawyer representatives, and rules of conduct for lawyers appearing before the VA that closely track the language and requirements of the <i>ABA Model Rules of Professional Conduct</i> .	<i>Supports certain of the proposed changes as a positive step in the right direction, but continues to support repeal of the remaining restrictions on lawyer representation so that claimants can have representation at the initial hearing stage.</i>
National Security		
†*Anti-Torture	The Department of Defense (DoD) adopted a new <i>Army Field Manual on Human Intelligence Collector Operations</i> in 2006 that bars torture and requires military interrogations to be conducted in compliance with the Detainee Treatment Act and Common Article 3 of the Geneva Conventions. In July 2007, the president issued an executive order permitting the use of “enhanced interrogation tactics” by civilian agencies such as the CIA. H.R. 4114 would extend to all U.S. personnel the current prohibitions against torture included in the <i>Army Field Manual</i> . The House passed the provisions of H.R. 4114 as part of H.R. 4156, emergency war supplemental appropriations legislation, and the conference report on H.R. 2082, fiscal year 2008 intelligence reauthorization legislation. The Senate fell short of the votes necessary to bring H.R. 4156 to a vote and did not consider the conference report on H.R. 2082.	<i>Condemns any use of torture or other cruel, inhuman or degrading treatment or punishment upon persons within the custody or under the physical control of the U.S. government or its contractors and any enforcement or authorization of such measures by government lawyers, officials and agents.</i>
†*Enemy Combatants/Habeas Corpus	P.L. 109-366, military commissions legislation enacted 10/17/06, prohibits, retroactive to 9/11/01, any court from considering an application for a writ of habeas corpus from any individual detained by the United States who is determined to be an “enemy combatant” or who is awaiting such a determination. S. 185, H.R. 1416 and H.R. 2826 would restore the right of habeas corpus to those detained by the United States. The Senate Judiciary Committee approved S. 185. The language of S. 185 was offered as an amendment to fiscal year 2008 Defense Department authorization legislation, but the Senate fell short of the votes necessary to proceed to a vote on the amendment. H.R. 1416 and H.R. 2826 were referred to the House Judiciary Committee, where a subcommittee held hearings on the issue and approved H.R. 2826. The Supreme Court heard arguments 12/5/07 for <i>Boumediene v. Bush</i> and <i>Al Odah v. United States</i> , which examine the constitutionality of the Military Commissions Act’s habeas-stripping provisions.	<i>Supports legislation to restore the right of habeas corpus to those detained by the United States.</i>



Subject	Description and Status	ABA Position
†* Foreign Intelligence Surveillance Act (FISA)	P.L. 110-55 (S.1927), signed by the president 8/5/07 with a six-month sunset provision, allows the government to immediately begin conducting warrantless surveillance of foreign targets, including those communicating with individuals in the United States. S. 2248 and H.R. 3773 would modernize and streamline FISA and limit the targeting of Americans with warrantless surveillance. The Senate Intelligence Committee approved a version of S. 2248 that would provide retroactive immunity to telecommunications companies that allegedly participated in a secret National Security Agency warrantless surveillance program that bypassed FISA requirements. The Senate Judiciary Committee approved a version of S. 2248 that did not provide retroactive immunity to the companies. The House passed H.R. 3773 without the immunity provisions.	<i>Urges that any future surveillance in the United States by the government for foreign intelligence purposes comply with FISA provisions.</i>
Tax Law		
* Internal Revenue Service (IRS) Funding	P.L. 110-161 (H.R. 2764), consolidated fiscal year 2008 appropriations legislation signed by the president 12/26/07, includes \$10.9 billion for the IRS.	<i>Supports adequate IRS funding for enforcement and compliance functions.</i>
†* Tax Simplification	H.R. 3970 would overhaul the tax system by amending the Internal Revenue Code of 1986 to provide additional tax relief to low- and moderate-income individuals, to repeal the Alternative Minimum Tax (AMT), and to reform the corporate income tax. The House passed H.R. 3996, a narrower version of the legislation that was further narrowed in the Senate prior to Senate passage to include only a one-year patch for the AMT. The House passed a slightly broader bill, H.R. 4351, but the Senate fell short of the votes required to take up the bill. The House then passed the stripped-down H.R. 3996, which became P.L 101-166 after being signed by the president 12/26/07.	<i>Supports simplification of the tax laws, including a permanent fix or repeal of the AMT.</i>



Subject

Description and Status

ABA Position

Tort and Insurance Practice

**†*Alternatives to
Medical Malpractice
Litigation**

S. 1481 and H.R. 2497 would provide demonstration grants to states to develop alternatives to medical malpractice litigation. Unlike similar legislation in the 109th Congress, the legislation does not specifically list health courts, which would remove cases from the court system and force patients to give up their right to a jury trial, as an alternative. S. 1481 was referred to the Senate Health, Education, Labor, and Pensions Committee. H.R. 2497 was referred to the House Energy and Commerce Committee.

Supports the use of voluntary alternative dispute mechanisms that are entered into after a dispute has arisen, but opposes establishment of health courts that take away the right of a trial by jury.

**†*McCarran-Ferguson
Act**

S. 618 and H.R. 1081 would repeal the McCarran-Ferguson Act, which largely exempts the insurance industry from the federal antitrust laws. S. 618 and H.R. 1081 would not preempt or otherwise affect the ability of states to regulate or tax the business of insurance, and the Justice Department and the Federal Trade Commission would issue joint statements of their antitrust policies regarding joint activities relating to the business of insurance. The Senate Judiciary Committee held a hearing on S. 618. H.R. 1081 was referred to the House Energy and Commerce Committee, the House Financial Services Committee, and the House Judiciary Committee.

Supports repeal of the McCarran-Ferguson exemption and replacing it with a series of safe harbors to make clear that certain types of conduct by insurers are pro-competitive and beneficial to the American economy.

**†*Medical Professional
Liability**

S. 243 would preempt substantial portions of the state medical liability laws and, among other things, impose a cap of \$250,000 on pain and suffering awards, limit punitive damages, eliminate joint liability on non-economic damages, and impose a federal statute of limitations. S. 244 would limit liability specifically in the areas of emergency care and obstetrics and gynecological care. The language of S. 244 was offered on the Senate floor as an amendment to H.R. 2419, farm legislation, but the Senate rejected the amendment. S. 243 was referred to the Senate Health, Education, Labor and Pensions Committee. There was no comparable House legislation.

Opposes caps on pain and suffering awards and federal preemption of state medical malpractice law, but supports certain changes at the state level.



Subject	Description and Status	ABA Position
*Medicare Secondary Payer Act	H.R. 2549 would amend Section 1862 of the Social Security Act to provide certainty and efficiency in the Medicare set-aside process for workers' compensation settlements. H.R. 2549 was referred to the House Energy and Commerce and Ways and Means Committees. There was no comparable Senate legislation.	<i>Supports.</i>
*Product and Seller Liability	H.R. 989 would limit a seller's liability for the sale of defective products. The House Small Business Committee held a hearing regarding the impact of such legislation on small businesses. H.R. 989 was referred to the House Judiciary Committee and the House Energy and Commerce Committee. There was no comparable Senate legislation.	<i>Opposes enactment of broad federal product liability legislation and legislation that would limit a seller's liability for sale of defective products.</i>
*Terrorism Risk Insurance Act	P.L. 110-160 (H.R. 2761), signed by the president 12/26/07, extends the Terrorism Risk Insurance Act (TRIA) through fiscal year 2014 to ensure availability of terrorism insurance for U.S. businesses, retaining the current \$100 million trigger level for coverage.	<i>Supports.</i>



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2008 Congressional Schedule 110th Congress - Second Session

Senate		House	
Reconvenes	Jan. 22	Reconvenes	Jan. 15
State of the Union	Jan. 28	State of the Union	Jan. 28
President submits budget	Feb. 4	President submits budget	Feb. 4
Presidents' Day Recess	Feb. 16-24	Presidents' Day Recess	Feb. 19-22
Spring Recess	March 15-30	Spring Recess	March 17-28
Memorial Day Recess	May 24-June 1	Memorial Day Recess	May 27-30
Independence Day Recess	June 28-July 6	Independence Day Recess	June 30-July 4
Summer Recess	Aug. 9-Sept. 7	Summer Recess	Aug. 11-Sept. 5
Target Adjournment	TBA	Target Adjournment	Sept. 26



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