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*Note: The parenthetical notation after some entries represents a new identification system for tracking the adoption of resolutions. The first two numbers indicate the year of adoption, the letter designates Annual or Midyear meeting, and the last set of number is the report # assigned by the House of Delegates.*
ADMINISTRATIVE LAW
(For additional policy positions, see Standards for the Establishment and Operation of Ombuds, August 2001)

ACUS Assistance to Foreign Countries. Support legislation which would authorize ACUS to provide assistance in response to requests relating to the improvements of administrative procedures in foreign countries. 11/91

ACUS Report on the Federal Administrative Judiciary. Urge that no action be taken by the Administrative Conference of the United States on the recommendations made in the draft report on the federal administrative judiciary until the ABA has had an opportunity to present its views, and urge that OPM reopen the register to new applicants for ALJ positions within 30 days. 11/92

Administrative Conference of the U.S. Support retaining the public membership of the ACUS; support the reauthorization of ACUS and funding sufficient to permit ACUS to continue its role as the government's coordinator of administrative procedural reform. 6/79; 2/89; 11/91

Administrative Dispute Resolution Act and Negotiated Rulemaking Act. Urge reauthorization of both on a permanent basis and urge revisions to provisions that inhibit their wider use to resolve environmental matters. 2/95
See also entry under Environment/Natural Resources.

Administrative Law Judges Conference. Urge Congress to establish the Administrative Law Judge Conference of the United States as an independent agency to assume current responsibilities of OPM with respect to testing, selection, and appointment of ALJ. (05A106A) 8/05

Administrative Law Judges: Compensation. Support establishment of a pay schedule for ALJs separate from other career civil servants. 4/84
Urge states and territories to review compensation of ALJs to determine whether their compensation is commensurate with their functions. (98A104) 8/98

Administrative Law Judges: Education. Approve and support education and training of the Administrative Judiciary in accordance with Standards for Education of the Administrative Judiciary. (99A101) 8/99

Administrative Law Judges: Immigration Proceedings. Support legislation that would require administrative law judges for immigration proceedings to be appointed pursuant to the Administrative Procedure Act. 2/83

Administrative Law Judges: Judicial Independence. Urge requirement that all members of the administrative judiciary to adhere to appropriate ethical standards adapted from ABA Model Judicial Code, and by applying due process standards before dismissal or removal of any member. (01A101B) 8/01
Reaffirm support for the judicial independence and authority granted to the Central Panel Administrative Law Judges in the Model Act Creating a State Central Hearing Agency. (11M112) 2/11
See also Judicial Independence entries under Courts.

Administrative Law Judges: Performance Evaluation and Complaints by and Against ALJs. Support legislation to create a system of periodic performance evaluation outside the employing agency on the basis of peer review; urge each agency to develop a system for receiving and evaluating complaints or allegations of misconduct by an ALJ or from an ALJ who alleges unlawful agency infringement of his or her decisional independence. 6/79; 8/94

Administrative Law Judges: Recruitment and Selection. Recommend that OPM or Congress, as necessary, eliminate Veterans' preference in the hiring of ALJs; permit the employing agency to select anyone from the top ten available applicants in register; ensure that the OPM Office of Administrative Law Judge has sufficient stature, leadership and resources. 8/76; 8/94
Urge the OPM as part of its mandate to select the best qualified candidates for federal administrative law judge positions, to consider judicial status in good standing as a satisfactory alternative to any requirement that candidates be active licensed attorneys in good standing. (09M112) 2/09
Administrative Law Judges: Retirement. Encourage Congress to establish a retirement plan for federal administrative law judges that is appropriate to their judicial status and functions and that is separate from retirement plans of other career civil servants. (04M113B) 02/04

Administrative Procedure Act. Support a package of APA amendments relating to appeals boards, uniform rules, subpoena power, compulsory process, sovereign immunity, ex parte communications, simplification of the form of proceeding (Section 703) and right to petition for rule making. 2/70; 2/81; 2/88

Urge agencies to encourage presiding officers to use APA powers to: require written rather than oral proceedings where appropriate; personally examine witnesses; set time limits for a proceeding; make increased use of official notice; and rule on summary judgment motions. 8/78

Urge Congress to consider in legislation that contains provision for administrative hearings whether those hearings should conform to certain provisions in the APA and to amend the APA to create a presumption of conformity with its provisions in absence of statutory language to the contrary. (00M113) 2/00

Urge Congress to amend and modernize the adjudication provisions of the APA and to expand certain fundamental fair hearings provisions of that Act by enacting legislation consistent with the draft bill entitled, “Federal Administrative Adjudication in the 21st Century”, dated February 2005. (05M114) 2/05

Employment Discrimination. Urge adoption of measures to provide that employment discrimination hearings conducted by the EEOC comply with the APA. (11A124) 8/11

Correctional Facilities. Urge Congress to update the rulemaking provisions of the Administrative Procedure Act in nine specific areas. (16M106B) 2/16

See entry under Corrections (14M103B) 2/14

Administrative Subpoenas. Urge Congress to oppose legislation granting the FBI authority to issue administrative subpoenas. 2/91

Attorneys' Fees. Support the principles of the payment of attorneys' fees and costs by the government in administrative proceedings and the judicial review of such proceedings considered to be in the public interest. 2/77; 2/78

Urge Congress to enact legislation which would (1) establish uniform principles for the regulation of attorneys' fees in proceedings before federal administrative agencies; (2) provide for reasonable fees; and, (3) implement these principles through the administrative rule-making process where appropriate. 8/80

Oppose efforts to impose a $2,500 fee limitation in Administrative proceedings. (96M115) 2/96

See also entry under Attorneys/General Practice.

Bumpers Amendment: Judicial Review. Support legislation strengthening judicial review of federal agency action. 8/79

Congressional Veto of Agency Regulations. Oppose legislation providing for congressional review of agency regulations, which would become effective only after the expiration of a set time, unless expressly vetoed by Congress. 2/72; 8/79

Consular Visa Adjudication and Review. See entry under Immigration Law.

Corps of Administrative Law Judges. Support the enactment of legislation to enhance the judicial independence and efficiency of federal administrative law judges through the establishment of a government-wide corps of ALJs. 8/88

Debt Collection. Support legislation authorizing contracts by appropriate federal agencies to retain private counsel to collect debts owed to the U.S. 8/84.

See also entry under Attorneys/General Practice.

Debt Collection within Department of Veterans Affairs. Urge the VA to administer its debt collection and forfeiture provisions so that veterans can hire attorneys without regard to attorney fee limitations in 38 U.S.C. 3404.
Devolution of Benefit Programs to States. Support application of existing ABA policies regarding federal benefit programs to states, territories and localities where primary control and/or funding for such programs is transferred from the federal government to those jurisdictions. (97M110) 2/97

Discipline and Regulation of Lawyers by Agencies. Support legislation to bar federal agencies from prescribing rules of conduct and discipline for attorneys practicing before them except as necessary to maintain order or to conform with action taken by state disciplinary boards. Urge state disciplinary boards to assure effective review of charges of professional misconduct brought by federal agencies. Undertake the development of a model enforcement mechanism for the discipline of lawyers who practice before administrative agencies. 8/82

See also entries under Attorneys.

Displaced Farmers Benefits. Support legislation to establish fair procedures for the treatment of farming operations displaced by federal and federally assisted programs. 8/76

Electronic Information Access Under FOIA. Recommend federal agencies adopt policies to ensure access to information under the Freedom of Information Act (FOIA) not to be diminished by virtue of the fact that information is kept in electronic form. (90M102) 2/90

Equal Employment Opportunity Commission. Urge Congress to amend Title 5 Section 7702 of the US Code which establishes a special panel to adjudicate mixed cases involving the EEOC and the Merit Systems Protection Board so that such decisions may be rendered in a timely fashion. 8/89

Urge Congress to provide EEOC with adequate funding to carry out its congressionally-mandated duties. (98M116A) 2/98

Executive Oversight. Support principles regarding executive oversight of federal Agency rule making, in particular, the implementation of Executive Orders 12291 and 12498. 2/86

Ex Parte Contacts in Administrative Proceedings. Urge members of Congress to comply with requisites of law restricting Ex Parte contacts in particular administrative proceedings and to reduce linkage between campaign contributions and constituent service. 2/96

Federal Acquisition Regulatory Council. Support and encourage actions by FAR Council, through model provisions and other means, to address conflicts of interest issues, with regard to contractor employees including those in contracts posing high risk of misuse of non-public information. (13M110A) 2/13

Foreign Service Grievance Procedure. Support legislation giving all Foreign Service employees the right to a grievance hearing before an independent board. 8/72

Harmonization. Urge President and agencies to take a series of procedural steps that seek to ensure effective public participation in significant agency efforts to harmonize domestic and foreign regulations though international negotiations that may require new regulations or the amendment of existing regulations. (01A107B) 8/01

Urge federal agencies to pursue regulatory cooperation with relevant foreign authorities where appropriate to develop harmonized regulatory standards, information sharing, etc. (12A109B) 8/12

Health Care Financing Administration (HCFA). Urge that HCFA establish more comprehensive rules of its administrative proceedings and publish in the Federal Register all of its interpretive and procedural guidelines used in the performance of its enforcement functions. 2/89

Homeless Person: Definition. See entry under Real Property/Housing Law.

Internet Access Urge Administration to promote best practices for agency web sites by providing oversight and modernizing computer systems. Urge federal agencies to explore means to maximize their site’s usefulness and to encourage public participation in rulemaking on the Internet. (01A107A) 2/01

Urge Congress to enact legislation to
require federal agencies to provide free online access to any portion of a privately drafted standard that has been incorporated by reference into proposed or final regulations. (16A112) 8/16

**Judicial Review of Agency Actions or Orders.** Recommend guidelines for courts to use when deciding whether an agency’s rule or order that is being remanded should be vacated pending the remand. 8/97

**Management of Administrative Agencies.** Urge agencies to reduce delay and improve management by making greater use of informal rulemaking, agency delegation of final authority to presiding officers and staff appeal boards, limits on oral argument, and certain management procedures subject to an outside audit. 8/78

**Medicare.** See also entries under Health/Mental Health.

**Monetary Penalties.** Support the use of administratively imposed civil money penalties by federal agencies against regulated persons and entities as one part of an administrative enforcement program that already includes civil or criminal sanctions: recommend that the opportunity for a formal adjudication pursuant to the APA be available to parties. (04A114) 08/04

**Non-Notarized or Unsworn Declarations.** Support legislation authorizing the optional use of such declarations, under penalty of perjury, for documents which presently require notarization or oath. 8/75

**Occupational Safety and Health Administration Rulemaking Procedures.** Recommend to OSHA that it establish a procedure for systematically setting priorities to promulgate standards regulating health and safety and that OSHA and Congress make extensive procedural changes to assist OSHA in fulfilling its statutory mandate. 8/88

**Ombuds.** Recommend state and local governments consider establishing within their jurisdictions an ombudsman who would be authorized to act as public auditor in the administrative context. 2/69

Urge the Administrative Conference to study the utility of the ombudsman concept within the federal context. 7/71

Support the greater use of Ombuds to receive, review and resolve complaints involving public and private entities; endorse Ombuds Standards dated August 2001. (01A107D) 8/01

Endorse the revised Standards for the Establishment and Operation of Ombuds Offices dated February 2004. (04M115) 02/04

Encourage greater use of ombuds programs that comply with generally recognized standards of practice as an effective means of preventing, managing, and resolving individual and systemic conflicts and disputes. (17A103) 8/17

**Plain Language.** Urge agencies to use plain language in writing regulations to promote understanding of legal obligations. (99A103A) 8/99

**Preemption of State Regulations Affecting Conduct.** Recommend that Congress address foreseeable preemption issues clearly and explicitly when it enacts a statute affecting regulation of an area of conduct. 8/88

See Preemption of State Tort Law entry under Insurance and Tort Law.

**Public Participation in Information Dissemination.** Recommend President and agencies take certain steps to seek more effective public participation in significant agency information dissemination efforts intended to promote public policy goals. (01A107C) 8/01

**Qualified Immunity.** Support the principle that “private” lawyers representing governmental entities are entitled to claim the same qualified immunity provided “government” lawyers from 42 U.S.C. Section 1983 claims when they are acting “under color of state law.” (12M302) 2/12

**Regulation of Collection Agencies.** Oppose legislation providing for federal regulation; urge that such regulation be left to the states. 2/77

**Regulatory Reform.** Support and oppose numerous amendments to the Administrative Procedure Act and other statutes to decrease federal regulation, streamline and simplify regulatory procedures, and to provide for improved coordination among federal agencies.
and increased public and private oversight of regulatory action. 2/78; 8/78; 2/79; 6/79; 8/79; 8/80

**Regulatory Review Procedures for Proposed Rules.** Urge the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget to amend its 1986 regulatory review procedures to limit delays and to explain inconsistencies between agency rules and presidential policies. (90M101C) 2/90

**Retroactive Legislation and Rules.** Retroactive legislation and rules imposing new legal duties and liabilities should be avoided. Federal agencies should act retroactively only when the need clearly outweighs the cost and is otherwise fair. This resolution does not address in any way the Civil Rights statutes, including the Civil Rights Act of 1991. (92M121) 2/92

**Review of Proposed Regulatory Action.** Support issuance of executive order directing federal agencies to prepare a regulatory analysis and inter-agency review of the impact that important proposed regulatory actions would have on the achievement of all relevant statutory goals. 8/79

**Review of Existing Regulations.** Urge that certain principles guide the review of existing regulations by federal administrative agencies including a commitment to periodic review, congressional requirement for review of programs and commensurate funding, etc. (95A103) 8/95

Recommend legislative and non-legislative changes in process for congressional review of agency regulations. (97A107A) 8/97

**Risk Assessment.** Recommend that any formal requirement that agencies of the federal government undertake formal risk assessments in advance of regulatory action concerning health and safety rules should be consistent with nine enumerated principles. (99A103B) 8/99

**Rulemaking Analyses.** Make recommendations for rulemaking analyses by federal agencies, including that copies of any analyses be made available to the public, and that information on how to obtain copies of analyses should be disseminated by the agency. (90A109A) 8/90

**Rulemaking Authority.** Recommend that all federal agencies with rulemaking authority review the causes of delay in rulemaking and to the extent feasible and practicable that they take recommended steps to improve their procedures for considering and adopting rules. (89M126B) 2/89

**Rulemaking Impact Analyses.** Urge the President and Congress to: exercise restraint in the number of rulemaking impact analyses; assess the usefulness of existing and planned analyses; and ensure agencies' adherence to recommendations of the ABA and the Administrative Conference of the U.S. (ACUS) pertaining to such impact analyses requirements. (92M113) 2/92

**Rulemaking Oversight.** Endorse guidelines that specify that presidential review should apply generally to all informal federal rulemaking, including that by independent regulatory agencies, and other issues. (90A302) 8/90

Recommend that any government entity designated by the president to oversee the rulemaking process should: (1) issue a written explanation whenever it returns a rule with a change; (2) reveal any communications with Congress or non-governmental people pertaining to the rule; and (3) regularly publish a list of all proposed or final rules for which review was concluded. (93M106A) 2/93

**Rulemaking and Public Participation.** See Internet Web Sites entry, this section.

**Rulemaking Procedures for Agencies Dealing with Antitrust.** Support in principle that the Department of Justice and the Federal Trade Commission should follow the informal rulemaking procedures prescribed by the Administrative Procedure Act when issuing, amending, or repealing interpretative rules or statements of general policy concerning antitrust law enforcement. 2/88

**Rulemaking Procedures for Non-Legislative Rules.** If an agency proposes to apply a non-legislative rule in a proceeding, the parties must have an opportunity to challenge the rule. If an agency proposes to depart from the policy of a non-legislative rule, and a party reasonably relied upon it, the agency must explain this departure, and the party may
Rulemaking Procedures Governed by 5 U.S.C. § 553. Support legislative reform of federal agency rulemaking procedures governed by Section 553 of Title 5 of the U.S. Code and recommend that such legislative reform be based on the principles enumerated in the Report of the Sections of Administrative Law and Corporation, Banking and Business Law, dated June 9, 1981. (Reactivated at request of Section of Administrative Law 2/14.)

Rulemaking Versus Adjudication. Support an agency's right to announce new policies through an adjudicative proceeding, provided that it not be allowed to treat administrative decisions precisely as if they were rules; when feasible, however, an agency should use rulemaking rather than adjudication for large-scale changes. 2/85

Rules of Evidence. Encourage federal agencies to examine whether rules of evidence patterned after the Federal Rules of Evidence should be used in administrative adjudications. (92M124) 2/92

Social Security Act Amendments of 1986. Support legislation to postpone to January 1986 the effective date of Section 101(c) of the Social Security Act Amendments of 1986. 6/83

Social Security Administration: Administrative Processes. Support efforts to improve the administrative process used by the Social Security Administration in accordance with various principles recommended by the Symposium on Federal Disability Benefit Programs. 8/86

Social Security Administration: Funding. Support a level administrative funding for the SSA that permits it to provide its mandated services in a timely manner, promptly adjudicate applications for disability insurance and supplemental security income benefits, overcome significant disability claims processing times and backlogs, and build the infrastructure necessary to manage the expanding workload challenges presented by serving the aging baby boomers filing disability and retirement claims. (408BOG) 4/08

Social Security Administration: Non-Acquiescence. Urge SSA to observe in all stages of administrative proceedings applicable court of appeals decisions; urge Congress to enact legislation to provide that the SSA cease its policy of non-acquiescence and that such legislation incorporates specified principles. 8/85; 8/89; 2/90

Social Security Administration: Relief for Claimants. Support relief for claimants who did not exhaust remedies or file time petitions because of SSA failure to disclose improper reason for claim denial. 12/85

Social Security Administration: Representative Payees. Urge Congress and the Social Security Administration to act to strengthen protection of beneficiaries of the Old Age, Survivors and Disability Insurance programs and the Supplemental Security Income program who are subject to representation by designated "representative payees." (02M100) 2/02

Social Security Benefits. Oppose legislation cutting social security taxes and returning to the "pay-as-you-go" system. (90M300) 2/90

Social Security Benefits: Earning Sharing. Support efforts to correct inequities in the present distribution of Social Security benefits as they affect two wage earner couples, widows and widowers, divorced persons and single elderly men and women. 2/89

Social Security Benefits: Widows, Divorced Persons and Remarried Spouses. Urge Congress to amend the Social Security Act whereby remarriage at age 55 or older shall not prevent a divorced, surviving spouse, or divorced surviving spouse from collecting benefits based upon former spouses' earnings record. (96M112C) 2/96

Social Security Court. Oppose enactment of legislation to create an Article I Social Security Court. 8/86
Social Security Disability.
   Appeals. Support enumerated reforms in Social Security disability adjudication process to eliminate the backlog threatening the ability of SSA law judges to assure due process. (95A115) 8/95

   Attorney Fees. Support continuation of effective representation and access to justice for Social Security disability claimants; support the current system by which the SSA administers payment of attorney fees in disability insurance cases. Oppose efforts to impose a $2,500 fee limitation in administrative proceedings. (96M115) 2/96

   Urge Congress to repeal the 6.3 percent tax on attorneys’ fees for representation of disability claimants in Title II cases before the SSA. (00M111B) 2/00

   Urge Congress to enact legislation amending Title 28, of the United States Code, to provide for the direct payment of attorney fees and costs to the attorney representing a prevailing party in certain Social Security Disability Insurance and Supplemental Security Income claims. (09M10B) 2/09

   Benefits for Widows and Widowers. Support elimination of the restriction in the Social Security Act that permits widows and widowers to qualify for disability benefits based on their deceased spouses’ earnings only within the first seven years after the spouses’ death. Modify the age range of qualified widows and widowers under this section to age 40-49. (93A102) 8/93

   Insurance Trust Fund. Urge Congress to reallocate payroll tax revenues between the Old-Age and Survivors Insurance Trust Fund and the Disability Insurance Fund as needed to prevent depletion of the reserves in either trust fund. (14A115) 8/14

Social Security Old Age Survivors and Disability. Support continuation of the federal Old Age, Survivors, and Disability Insurance program, commonly known as Social Security, as a national system of social insurance. (05A113A) 8/05

Subpoenas of Administrative Documents by Congress. Believe that disclosure to Congress of confidential communications between agency administrators and their personal staffs risks jeopardizing the quality and independence of administrative decisions, and therefore recommend Congress not subpoena from administrative agencies any documents embodying such communications except on the basis of a demonstrated specific need. 8/88

Sunset Legislation. Support a limited form of sunset legislation, provided several considerations are met, which would require periodic review by Congress of federal regulatory agencies. 2/78

Supplemental Security Income Program. Support in principle the recommendations of the final report of the SSI Modernization Project, to improve access to the SSI program for all eligible persons, to ensure that claims are processed fairly and effectively and to eliminate rules and procedures that are unreasonable, demeaning and harsh. 8/84; 2/94

   Urge Congress to amend SSI to provide two-party checks payable to attorney and client. (00M111A) 2/00

   Urge Congress to enact the SSI Restoration Act of 2013 (H.R. 1601) or similar legislation that strengthens SSI by updating the limits on resources to account for inflation. (13A100B) 8/13

Veterans Claims: Attorney Fees. Support legislation to repeal the statutory provision preventing veterans from paying attorneys to represent them in connection with their claims for federal benefits. 2/05 (05M8A)

   See also Legal Services/Assistance entry under Military Law.

Veterans Claims: Judicial Review. Support legislation to empower the federal courts to review decisions of the VA. 8/75

   Recommend that the U.S. Court of Appeals for Veterans Claims and Congress take a series of procedural steps to seek faster and more efficient resolution of veterans’ disability claims. (03M102) 2/03

Wage-Price Controls. Support principles concerning public notice and participation and administrative due process in any program of voluntary or mandatory federal controls. 2/75

Welfare. See entries under Family Law.
Workers Compensation. See entries under Insurance and Tort Law.

ADMARLTY AND MARITIME LAW


Maritime Law. Support federal legislation to ensure uniformity of maritime laws. 8/76

Navigation Easements. Support legislation to authorize the granting of irrevocable permits for structures within and beyond U.S. harbor lines, with just compensation required for taking or other action by the U.S. 2/68; 2/69

State/Federal Jurisdiction. Oppose the admiralty and maritime provisions of S. 1876 (92nd Congress), a bill to provide for the division of jurisdiction between state and federal courts. 2/72; 8/72

Oppose impairment of the remedy of maritime attachment provided for in the Federal Rules of Civil Procedure. 8/72

ANTI-TERRORISM AND CYBERSECURITY

NOTE: Policies adopted after 9/11 regarding this government anti-terrorism response are listed in this section and a cross-referenced in other sections. Other pre-9/11 policies, listed throughout this compilation may also be relevant e.g. Secret Evidence under Immigration.

Cybersecurity. Urge the Executive and Legislative branches to consider five enumerated guiding principles throughout the decision-making process when making U.S. policy determinations to improve cybersecurity for the U.S. public and private sectors. (1112BOG) 11/2012

Computer Networks of Lawyers. Urge U.S. government to work with other nations and organizations to develop, implement and maintain an appropriate cybersecurity program that complies with applicable ethical and legal obligations. (14A109) 8/14

Urge funding for cybersecurity programs for the courts and training for court personnel to counter threats and protect judicial information systems for cyber intrusions. (15A116) 8/15

Detainee Treatment and Interrogation. Urge Congress to override Executive Order No. 13440 to ensure that the minimum protections required by Common Article 3 of the Geneva Conventions and the Army Field Manual are followed in the treatment and interrogation of detainees. (07A10B) 8/07

See also Torture entry in this section.

Enemy Combatants. Urge that U.S. citizens and residents who are detained within the United States based on their designation as "enemy combatants" be afforded the opportunity for meaningful judicial review of their status, including access to counsel; urge the establishment of clear standards and procedures governing their designation and treatment which have taken into account how that policy may affect the response of other nations to future acts of terrorism. (03M109) 2/03

Urge U.S. Government to ensure that: 1) enemy combatants detained at Guantanamo and charged with violations of criminal law are prosecuted in Article III federal courts, unless the Attorney General certifies that prosecution cannot take place before such courts and can be held in other regularly constituted courts in a manner that comports with due process, the Geneva Conventions and the UCMJ; 2) all others are granted habeas corpus hearings; 3) no individual should be detained as an "enemy combatant" except pursuant to an act of Congress defining this term. (09M10A) 2/09

First Responder. See entry in Disaster Preparedness.

Foreign Intelligence Surveillance Act. Urge Congress to conduct regular and timely oversight of the government's use of the Foreign Intelligence Surveillance Act (FISA) to ensure that FISA investigations comply with
the First, Fourth, and Fifth Amendments to the Constitution; recommend amendments to FISA to clarify that FISA is intended to be used only for bona-fide foreign intelligence-gathering purposes and provide for an annual statistical report regarding the government’s use of its surveillance authority under FISA. (03M118) 2/03

Call upon the United States President to abide by the U.S. Constitutional system of checks and balances; respect the roles of Congress and the judiciary, and opposes any future electronic surveillance that does not comply with FISA. (06M302) 2/06

See also Patriot Act entry, this section.

Foreign Investments in the U.S. See entry under International Law.

Incommunicado Detention by the INS. Oppose incommunicado detention by INS and urges protection of the constitutional and statutory rights of detainees by disclosing the names and locations of detainees, charges against them, and access to them by attorneys and family members, as well as specific due process protections. (02A115B) 8/02

Military Commissions. Urge that military tribunals not be applied to individuals who have access to the U.S. judicial system, be limited in jurisdiction to violations of the law of war, and conform to specific procedures in certain specified civil and military codes. (02M8C) 2/02

Urge Congress and the Executive Branch to ensure that all defendants in any military commission trials have the opportunity to receive assistance of Civil Defense Counsel and endorse enumerated principles for the conduct of military commission trials. (03A301) 8/03

See Enemy Combatants entry, this section.

Money Laundering and Terrorist Financing. Support the enactment of reasonable and balanced initiatives designed to detect and prevent domestic and international money laundering and terrorist financing consistent with enumerated principles regarding the role of lawyers in such efforts. (03M104) 2/03

Support efforts to combat money laundering and terrorist financing, and adopt the Voluntary Good Practice Guidelines for Lawyers to Detect and Combat Money Laundering and Terrorist Financing. (10A110) 8/10

See also Attorney-Client Privilege entry under Attorney/General Practice and Bank Secrecy Act and Regulation of Lawyers Forming Business Entities and Money Laundering Concerns entries under Business Law.

PATRIOT Act. Oppose efforts to repeal the sunset provision of the USA PATRIOT Act of 2001; urge Congress to conduct a review of the implementation of the powers granted to the Executive Branch under the Act before considering any legislation that would further extend such powers; urge the Executive Branch to provide Congress with information necessary for it to fulfill its oversight responsibilities. (03A112B) 8/03

See also Foreign Intelligence Surveillance Act entry, this section.

Periodic Review of the Individuals Detained at Guantanamo Bay. Urge the President and the U.S. Department of Defense to assure that there is an opportunity for public notice and comment with respect to Executive Order No. 13567 on the Periodic Review of Guantanamo Detainees. (11A105E) 8/11

State Secrets Privilege. Urge Congress to enact legislation designed to ensure that whenever possible, federal civil cases are not dismissed based solely on the state secrets privilege. (07A116A) 8/07

Terrorism Insurance. See entry in Disaster Preparedness

Terrorist Activities – Pre-9/11 policy. Support the enactment of domestic laws that address terrorist activities such as violent acts against civilians, detention or highjacking of vehicles and vessels, and theft of nuclear explosive materials. 8/88

Torture. Support federal legislation to establish a federal right of action by both aliens and U.S. citizens against persons who, under color of foreign law, engage in acts of torture or extra-judicial killing as defined by the law of nations. 8/85

Condemn use of torture upon persons within the custody or under the physical control of the U.S. government and any endorsement or authorization of such measures by
government lawyers, officials and agents; urges U.S. to comply fully with Constitution and laws of U.S. and adopted treaties, including Geneva Conventions. (04A10B) 08/04
See also Detainee Treatment and Interrogations entry, this section.

ANTITRUST LAW

Antidumping Act. Oppose legislation which would amend the Antidumping Act of 1916 to create a new civil cause of action for dumping. 8/86

Bipartisan Commission. Recommend establishment of a bipartisan commission on the international application of U.S. antitrust laws. 8/81

Competition Improvement Act. Oppose the introduction into federal regulatory agency proceedings of excessively competitive considerations such as those contained in the proposed Act. 8/76

Consent Judgments. Oppose legislation which would substantially encumber antitrust consent judgment procedures. 4/73

Consolidated Pretrial Proceedings. Oppose legislation such as HR. 8276 (89th Congress) and support legislation such as S. 159 (90th Congress) to provide for consolidated pretrial proceedings of civil actions pending in different districts which involve common questions of fact. 8/66; 2/68

Dual Distribution. Oppose legislation imposing special restrictions on enterprises which engage in "dual distribution" marketing, i.e., act as both supplier and competitor of their customers. 8/66

Evidentiary Effect of Judgments. Oppose legislation extending the evidentiary effect of judgments in government antitrust cases. 8/66

Expediting Act. Support amendment to provide that appeals in suits by the government for equitable relief go to the circuit courts, and to the Supreme Court in exceptional cases. 2/66; 4/73

Foreign Investments in US (Exon-Florio). See entry under International Law.

FTC Injunctions. Approve in principle allowing the FTC to seek temporary court injunctions against deceptive advertisements or practices which fall under Section 5 of the FTC Act. 8/68

FTC International Practice. Recommend that the FTC amend Section 4.1 (a) (1) of its rules to grant the right to appear to lawyers who practice before a foreign competition law tribunal or agency that extends reciprocal rights to U.S. lawyers. 8/90

FTC Reauthorization. Support legislation reauthorizing the Federal Trade Commission for a one- or two-year period, free of any substantive provisions altering the FTC's enforcement mandate. 5/91; 8/91

FTC Rules. Support legislation limiting FTC civil penalty actions to "willful" violations of law; providing for consolidation of FTC consumer redress actions with private class actions; encouraging voluntary settlement procedures; restricting damages and restitution to those in the injured class; limiting the effect of legislative rules; and requiring simultaneous FTC issuance of administrative complaints and temporary injunction motions. 2/72

FTC Termination of Competition Orders. Support adoption by FTC of policies regarding termination of competition orders that presume that policies older than ten years are defunct, and that sunset new orders after a set period of time. 8/90

Gasoline Pricing. Oppose enactment of legislation regulating gasoline pricing and modifying the antitrust laws by creating industry-specific laws applicable to the sale of gasoline. 8/92

Guidelines for International Operations. Urge the Department of Justice to revise guidelines in accordance with specified principles. 8/88

Interlocking Directorates. Support legislation to amend Section 8 of the Clayton Act relating to interlocking directorates to create de minimis exceptions to that Section. 2/86

ANTITRUST LAW
Keogh v. Chicago and Northwestern Railway. Support provisions of S. 443 and HR. 941 repealing the doctrine of Keogh vs. Chicago and Northwestern Railway as applied to railroads. 2/88

Lawyer Referral Services. Support the exclusion of initial consultation fees established by bar-sponsored lawyer referral services from the application of federal and state antitrust laws. 8/85

Limits on Criminal Penalties. Support legislation to increase criminal penalties to $500,000 for certain corporate antitrust violations, but oppose increased penalty limits for individuals. 4/73

McCarran-Ferguson Act. Recommend that the McCarran-Ferguson Act be repealed and replaced with legislation that makes the insurance industry subject to the same general antitrust laws as other businesses. 2/89

Motor Fuel Sales Competition Improvement Act. Oppose S. 1140 or similar legislation which would bar "any large integrated refiner" from operation of motor fuel service stations and would make illegal all exclusive dealing contracts of suppliers and retailers of branded motor fuel. 2/86

Newspapers. Oppose legislation to create an antitrust exemption for joint operating arrangements among newspapers. 5/70

Per Se Standard Under the Retail Competition Enforcement Act. Oppose S. 430, the Retail Competitive Enforcement Act, and HR. 585, or similar legislation that would codify per se treatment for all vertical price fixing agreements. 8/88

Petroleum Marketing Practices Act. Oppose H.R. 2406 or similar legislation to amend the Act to significantly restrict the ability of integrated refiners to operate efficiently in gasoline retail markets by creating a system of regulation to review the price and service terms of contracts between franchisers and franchisees which would limit price and service differences. 2/86

Rulemaking Procedures for Agencies Dealing with Antitrust. See entry under Administrative Law.

Sherman Act. Urge that Fed. R. Civ. P. 12(b) (6) be interpreted to require that a complaint alleging a conspiracy in violation of Section 1 of the Sherman Act must allege facts constituting more than mere parallel conduct and ordinary business behavior. (06A307) 8/06

Oppose interpreting the Sherman Act to apply a rule of per se illegality to agreements between a buyer and seller setting the price at which the buyer may resell goods or services purchased from the seller. (07M101) 2/07

Tax Deductibility of Treble Damages. Oppose legislation making any or all payments made in satisfaction of antitrust treble damages judgments or claims non-deductible for federal income tax purposes. 1/69

Tunney Act. Oppose expanding the Tunney Act to compel judicial review of voluntary dismissals of antitrust proceedings brought by the United States and more extensive judicial and third-party roles in approval of consent judgments subject to the Act. 8/84

Unfair Competition Act of 1967. Support enactment of the Act, with amendments prohibiting misrepresentation or misappropriation in any trade practice or course of conduct in commerce. 2/68

ATTORNEYS/GENERAL PRACTICE

(For additional positions, see also Accreditations Standards for Specialty Certification Programs for Lawyers, Ethical Guidelines for Settlement Negotiations; Model Court Rules on Insurance Disclosure [by attorneys]; Model Rules of Professional Conduct and Guidelines for Attorney Conduct; ABA Model Rules for Lawyer Disciplinary Enforcement and ABA Standards for Imposing Lawyer Sanctions; Model Standards of Conduct for Mediators, 8/2005; Model Rules for Lawyers’ Funds for Client Protection, 8/2006; Civil Trial Practice Standards, 8/2007; Civil Discovery Standards, 8/2004; Standard for Imposing Lawyer Sanctions, 2/2012)

Access to Legal Websites by the Disabled. Urge that websites provided by lawyers and
other individuals or entities associated with the legal profession be created and maintained in an accessible manner which is compatible with reasonable technologies (known as assistive technology) that permit individuals with visual, hearing, manual, and other disabilities to gain meaningful access to these websites. (07A108) 8/07

Administration of Justice. Urge lawyers to actively support enactment of and amendment to federal, state, and local legislation designed to improve the administration of justice and the functioning of the legal system. 8/88


Admission to Bar: Immigration Status. Support principle that bar admission should not be denied based solely on immigration status. (17A180) 8/17

Admission to Bar: Mental Health. Urge bar licensing entities to eliminate questions about mental health and substitute questions that focus on conduct or behavior when determining character fitness for bar admission. (15A102) 8/15

See also Model Rule on Conditional Admission to Practice Law, this section.

Admissions to Bar for Military Spouse. See entry under Military Law.

Ancillary Business Activities. Amend the ABA Model Rules of Professional Conduct to include a Rule 5.7, identifying the circumstances under which lawyers are subject to the Model Rules in their provision of law-related services. 2/94

See also Multidisciplinary Practice entry, this section.

Attorney-Client Privilege. Support principle that the attorney-client privilege should have the same scope and effect for in-house counsel and their clients as for outside counsel and their clients. 8/97

Accountants: Oppose legislation such as S.1737 (105th Congress) that would extend privilege to accountants and others not licensed to practice law. (498BOG) 4/98

Appellate Review: Support the right of participants in federal proceedings to take an immediate appeal from an order that rejects a claim of attorney-client privilege and requires the production of information or materials for which the privilege has been claimed as a collateral final decision under the doctrine set forth in Cohen v. Beneficial Industrial Loan Corp., 337 U.S. 541 (1949). (09M301) 2/09

Audit Process: Support the preservation of the attorney-client privilege and work product doctrine in connection with audits of company financial statements and urge the SEC and other organizations to take appropriate steps to ensure that attorney-client privilege and work product protections are preserved. (06A302A) 8/06

Common-interest Doctrine: Support common-interest doctrine, under which sharing of privileged communications with persons of common interest who have agreed to maintain confidentiality does not waive privilege. Approved as Revised. (17A102C) 8/17.

Email Communication with Inmates: Urge DOJ and BOP to permit attorneys and incarcerated clients to communicate confidentially via email. (16M10A) 2/16

International Competition Inquiries: Urge the Commission of the European Economic Communities to grant the same protection against disclosure of client’s written communications with U.S. Lawyers that are accorded to such communications with lawyers from member states. Urge the commission to study and extend the attorney-client privilege to house counsel. 2/83 (archived 8/98 and reinstated BOG 2/08)

International Money Laundering: Urge the U.S. government to protect and uphold the attorney/client relationship, including in agreements regarding international money laundering. (02M101C) 2/02.

Law Firm Consultations with In-House Counsel: Urge courts and other governmental bodies to support enumerated principles to determine the availability of attorney-client privilege for law firm consultations with in-house counsel. (13A103) 8/13

Lawyer Referral Services (LRS): Urge courts and legislative bodies to adopt rules or enact legislation to establish an evidentiary privilege for LRS and their clients for
confidential communications when a client consults an LRS for the purpose of retaining a lawyer or legal advice. (16A106) 8/16

Privilege Waiver: Support the preservation of the attorney-client privilege and work-product doctrine; believe that waiver should occur only under certain circumstances; and oppose policies and practices of governmental bodies that have the effect of eroding them. 05A111) 8/05

See also Bankruptcy Abuse Prevention and Consumer Protection Act entry under Bankruptcy Law.

Attorney Fees. Support legislation to permit courts and administrative agencies to award attorney's fees to a private party prevailing against government where public benefit results and economic interests are small. 2/77

Oppose legislation which would impose arbitrary and unreasonable limits on hourly fees for private attorneys that may be recovered from federal, state and local governments under fee shifting statutes. 8/82; 8/85

Oppose "loser pays" legislation that would apply to federal court cases brought under diversity jurisdiction. 2/95

See also Equal Access to Justice entry, this section; Attorneys' Fees entry under Administrative Law; Attorney Fees entry under Civil Rights and Constitutional Law; Offer of Judgment and Attorney Fees entry under Insurance.

Attorney Impairment. Support principles to assist state and local bar associations in the development and maintenance of programs to help lawyers and law students impaired by alcoholism and substance abuse. 2/91

Adopt the revised black letter Model Lawyer Assistance Program dated February 2004, to assist state and local bar associations in the development and maintenance of effective programs to identify and help those lawyers, judges and law students impaired by alcoholism, other forms of chemical dependency or mental health problems. (04M114) 02/04

See also Model Rule on Conditional Admission to Practice Law entry, this section.

Bar Association Participation. Urge law firms and companies employing lawyers to encourage their lawyer employees to participate actively in bar association activities and not to penalize lawyer employees for their active participation in bar association activities. (01A110A) 8/01

Urge the state, territorial, and tribal courts or legislative bodies charged with the administration of justice, admission to the bar and regulation of the profession to allow the organized bar to express its views freely and independently to assist them in understanding the implications of their proposed policies and legislative actions on all aspects of the legal system, and to provide specialized advice and opinions on all matters of public policy "germane" to the bar's charter. (12M10A) 2/12


Business Law. See entry under Criminal Law, and Courts/Judges/Procedures.

Campaign Contributions. See entries under Election Law.

Civic Education. See entry under Legal/Public Education.

Civility. See entry in Legal/Public Education.

Community Service. Urge lawyers to provide community service in addition to providing pro bono service in accordance with Model Rules of Professional Conduct Rule 6.1. (06M105) 2/06

See also Pro Bono Service entry under Legal Services.

Compensation for Assigned Counsel. Recommend that all jurisdictions provide by statute or rule of court that attorneys appointed to represent persons who have a constitutional right to counsel receive reasonable compensation and full reimbursement for costs and expenses. 8/88

Continuing Legal Education. See entries under Legal/Public Education.

Courtroom Experience. Urge courts to implement plans to help new lawyers gain meaningful courtroom experience, and urge law firms and clients to take advantage of those plans. (17A116) 8/17.

Debt Collection. Oppose legislation which
would eliminate the attorneys’ exemption from the Fair Debt Collection Practices Act. 11/85
See also entry under Administrative Law.

Disaster Planning. See entries in Disaster Preparedness.

Discipline of Lawyers. Oppose legislation establishing disciplinary rules for the legal profession and maintain that such rules are the responsibility of the judicial branch. 2/72
Support creation of a Center for Professional Discipline. 2/73
Oppose federal legislation establishing rules governing and allowing proceedings in federal courts against lawyers admitted to federal practice, and granting prosecutorial discretion to U.S. Attorneys to initiate such proceedings. 2/76
Support the adoption of the Model Federal Rules of Disciplinary Enforcement by the Judicial Conference of the U.S. and by each federal court. 2/78
Adopt the recommendations contained in the "Report of the Commission on Evaluation of Disciplinary Enforcement" as revised and amended. 2/92
See also entries under Administrative Law and Bankruptcy Law and Model Rules entries, this section.

Disclosure of Cash Receipts. See entry under Tax Law.

Electronic Access to Data. Support actions designed to promote the development of legal standards encouraging the use of information in electronic form. 8/92
Urge the development of a coherent approach to the electronic provision and exchange of public government information, including court documents, which will provide public electronic access to governmental information through the Internet at no cost; and electronic filing and retrieval of documents using an open data interchange standard. (98A100) 8/92
See related policies under Administrative Law, Courts, and Privacy.

Electronic Mail Communication. See entry under Privacy.

Equal Access to Justice. Support amendment to act providing boards of contract appeals with authority to award attorney fees and costs under the Act; and support amendments to clarify and expand coverage of the Act. Oppose proposals to restrict eligibility or to impose arbitrary limits on hourly fees for private attorneys that might be recovered from the federal government; support extension of Act to include Social Security administrative hearings. 8/82; 3/84
See also Attorney Fee Shifting entry, this section.

Equal Access to Justice for State Courts. Urge states to adopt legislation similar to the federal Equal Access to Justice Act to provide litigation expenses, including attorneys’ fees, to parties who have successfully challenged the government in court or in an administrative proceeding. 8/90

Employment of Diverse Attorneys. Urge all providers of legal services to expand opportunities for diverse attorneys; urge clients to help facilitate opportunities for diverse attorneys and to direct a greater percentage of the legal services they purchase to diverse attorneys. (16A113) 8/16
See also Courtroom Experience, this section.

Fee Arbitration. Amends the Model Rules for Fee Arbitration, originally adopted in 1995, in order to increase productivity, efficiency and fairness of fee arbitration programs. (12M105) 2/12

Gramm-Leach-Bliley. Oppose the federal regulation of attorneys by the Federal Trade Commission under the privacy of consumer financial information protection provisions of the Gramm-Leach-Bliley Act, Public Law 106-102. 6/01

Independence of the Profession. See Attorney-Client Privilege and Gramm-Leach-Bliley in this section, Attorney Liability entry under Bankruptcy Law and Pro Bono Representation under Legal Services.

IOLTA. Urge that funds generated by Interest on Lawyers’ Trust Accounts programs not be used by states as a substitute for governmental funding of constitutional or statutory obligations. 2/91

ATTORNEYS/GENERAL PRACTICE
Law Practice Contingency Planning. Urg the promotion of programs to enable lawyers to plan for law practice contingencies by designating in advance another lawyer to assume the practice or to assist in the transfer of client matters in the event that the primary lawyer becomes unable to practice law. (07A105) 8/07

Lawyer Advertising. Endorse the Aspirational Goals for Lawyer Advertising, as amended. 8/88

Lawyer Trust Accounts. Support the enactment of rules by the highest courts in the states that would require the making and retention of records for lawyer trust accounts. 2/93
See also IOLTA entry, this section.

Legal Fees. Support awarding legal assistant/paralegal fees to law firms or attorneys who represent prevailing parties where statutes or current case law allow for the recovery of attorney fees. 8/93

Mandatory Retirement. Recommend that mandatory age-based law firm retirement policies be discontinued. (07A10A) 8/07

Medical-Legal Partnerships. See entry in Health/Mental Health.

Model Rules for Admission by Motion. Amends the ABA Model Rule for Admission by Motion, dated August 2012, to allow lawyers to qualify for admission by motion at an earlier point in their careers than the current Rule allows. (12A105E) 8/12

See also, IOLTA entry, this section.

Model Rules for Lawyer Disciplinary Enforcement:
Rules 4, 11 and 12: Support amendments to rules 4 (Disciplinary Counsel), 11 (General), and 12 (Immuity) of the Model Rules for Lawyer Disciplinary Enforcement to: (1) incorporate language allowing referrals to programs providing alternatives to discipline for minor misconduct; (2) clarify the provision for discipline by consent.

Rules 14, 19 and 25: Support amendments to Rules 14, 19 and 25 to provide for: (1) enforcement of subpoenas from another jurisdiction; (2) immediate interim suspension of a lawyer upon determination of serious crime; and (3) for readmission of lawyer after five years. (99M115A) 2/99

Rule 7: Amends the black letter of Rule 7 (Roster of Lawyers) of the ABA Model Rules for Lawyers Disciplinary Enforcement (MRLDE) to minimize instances of lawyers misappropriation of monies held in trust accounts and hold lawyers accountable when appropriate. (17A110) 8/17.

Model Rules for Registration of In-House Counsel. Amend Model Rule to permit foreign lawyers to serve as in-house counsel in the U.S. (13M107B) 2/13

Model Rules of Professional Conduct: Commission on Ethics 20/20. In August 2012 and February 2013, the ABA adopted 10 resolutions presented by Ethics 20/20 updating the regulation of lawyers to reflect changes in practice of law due to globalization and technology. (12A105A-F) 8/12; (13M107A-D) 2/13

Model Rules of Professional Conduct: Rule 1.10 - Imputation of Conflicts of Interest: General Rule. Amend Rule 1.10 to permit the screening of a lawyer who moves laterally from one private law firm to another, so that conflicts of interest that apply to the moving lawyer under Model Rule 1.9 (“Duties to Former Clients”) are not imputed to all the other lawyers in the new law firm. (09M109) 2/09
Adopt amendments. (09A109) 8/09

Model Rules of Professional Conduct: Rules 1.0, 1.6 and 4.4. Amend Rules and comments to provide guidance regarding confidentiality and lawyers’ use of technology. (12A105A) 8/12

Model Rules of Professional Conduct: Rules 1.1, 5.3 and 5.5. Amend Comments to above Model Rules to provide guidance regarding ethical implications of outsourcing. (12A105C) 8/12

Model Rules of Professional Conduct: Rule
1.13. Amend Rule 1.13 to require the lawyer for an organizational client to report certain violations of law to higher organizational authority in certain circumstances unless reasonably believed not to be necessary for the best interest of the organization. (03A119B) 8/03

Model Rules of Professional Conduct: Rules 1.18 and 7.3. Amend Rule 1.18 and Comment to Rule 7.3 to provide guidance on client development and lawyers’ use of technology. (12A105) 8/12

Model Rules of Professional Conduct: Rules 1.6 and 1.17. Amend Comments to Model Rules to provide guidance on detecting conflicts when lawyers change firms, firms merge or sale of law practice. (12A105F) 8/12

Model Rules of Professional Conduct: Rule 1.6(b). Amend Rule 1.6(b) to permit the lawyer to reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary to prevent death, substantial bodily harm, commission of a crime or fraud or rectify substantial injury to financial interests or property of another. (03A119A) 8/03

Model Rules of Professional Conduct: Rules 3.6 and 3.8. Amend Rules 3.6 and 3.8, Trial Publicity and Prosecutor Responsibilities, by changing safe harbor provisions and adding a prohibition against gratuitous comments by a prosecutor which have a substantial likelihood of increasing public opprobrium toward the accused. 8/94

Amend Rule 3.8 by adding a new paragraph intended to limit the issuance of lawyer subpoenas in grand jury or similar proceedings to those situations where there is a genuine need to intrude into the client-lawyer relationship. Amend Rule 3.8 by deleting subparagraph (f)(2) and making conforming changes. 2/90; 8/95

Amend Rule 3.8 to identify prosecutors’ obligations when they know of new evidence establishing a reasonable likelihood that a convicted defendant did not commit the offense on which he was convicted. (08M105B) 2/08

Model Rules of Professional Conduct: Rule 4.2 - Contacts by Department of Justice Lawyers. Declare that Department of Justice lawyers may not be given blanket exemption from requirements of Rule 4.2 of the ABA Model Rules of Professional Responsibility as adopted in individual jurisdictions; oppose any attempt by the Department of Justice unilaterally to exempt its lawyers from the professional conduct rules that apply to all lawyers under applicable rules of the jurisdiction in which they practice. 2/90

Amend model rule by changing the term “party” to person and amend the comment to reflect case law and make clear that a lawyer may not evade the rule by avoiding actual knowledge. 8/95

Model Rules of Professional Conduct: Rule 5.5 – Unauthorized and Multijurisdictional Practice of Law.

Amend Rule 5.5 to authorize foreign lawyers to serve as in-house counsel. (13M107A) 2/13

Model Rules of Professional Conduct: Rule 5.5

Amend Rule 5.5 and ABA Model Rule for Regulation of In-House Counsel to specify that courts of highest appellate jurisdiction may allow foreign in-house lawyers, who do not qualify as a foreign lawyer, to practice as in-house counsel in the U.S. (16M103) 2/16

See Legal Services entry under Disaster Preparedness.

Model Rules of Professional Conduct: Rule 7.6 – Political Contributions. Adopt new Rule 7.6 to prohibit a lawyer or law firm from accepting a governmental legal engagement or appointment by a judge if the lawyer or firm makes or solicits political contributions for such a purpose. (00M110) 2/00

Model Rules of Professional Conduct: Rule 8.4 - Lawyer Bias. Amend comment to Rule 8.4 to clarify that biased or prejudiced conduct by a lawyer while representing a client may prejudice the administration of justice and thereby violate Rule 8.4. (98A116) 8/98

Amend Rule 8.4 and Comment to add a black letter anti-discrimination and anti-harassment provision. (16A109) 8/16

Model Rules of Professional Conduct: Rule 8.5 – Choice of Law. Amend commentary to Model Rule 8.5 to authorize lawyers and clients to specify a jurisdiction is within scope
of Rule.

**Multijurisdictional Practice.** Support amendment to existing rules and adoption of new rules governing multijurisdictional practice that balance the interests of a state in protecting its residents with the interest of clients in today's global economy in ability to employ or retain counsel of choice efficiently and economically. 8/02

See Legal Services Following a Disaster entry under Disaster Preparedness.

**Model Rules on Conditional Admission to Practice Law.** Support Model Rule providing conditional admission to applicants who demonstrated recent rehabilitation from chemical dependency or successful treatment of mental or other illnesses that would otherwise render applicant unfit to practice law. (08M112B) 2/08

**Model Rules on Practice Pending Admission.** Amends the ABA Model Rule on Practice Pending Admission to enable a lawyer to practice in a new jurisdiction while the lawyer actively pursues admission through one of the procedures that the jurisdiction authorizes. (12A105D) 8/12

**Model Rules on Pro Hac Vice Admission.** Amend the ABA Model Rule on Pro Hac Vice Admission and Appendix A to provide judges with guidance regarding authority of foreign lawyers to appear pro hac vice. (13M107C) 2/13

**Multidisciplinary Practice.** Resolves to make no changes to Model Rules of Professional Conduct regarding Multidisciplinary Practice until and unless additional study demonstrates such changes. Will not sacrifice lawyer independence and profession's tradition of loyalty to clients. (99A10B) 8/99

Urge each jurisdiction to retain and enforce laws that generally bar the practice of law by entities other than lawyers and law firms, and to not revise laws barring the sharing of legal fees with non-lawyers or restricting non-lawyers and non-legal entities from ownership or control of practicing entities. Urge jurisdictions to reaffirm their commitments to vigorous enforcement of laws governing attorneys in order to protect the public and to preserve the core values of the legal profession because they are essential to the proper functioning of the legal system. Provide for a review of the Model Rules of Professional Conduct to assure consistency with these principles. (00M10F) 2/00

See also Ancillary Business Activities entry, this section.

**Multijurisdictional Practice.** Support amendment to existing rules and adoption of new rules governing multijurisdictional practice that balance the interests of a state in protecting its residents with the interest of clients in today's global economy in ability to employ or retain counsel of choice efficiently and economically. 8/02

See Legal Services Following a Disaster entry under Disaster Preparedness.

**Practice of Law: Definition.** Urge every state and territory to adopt a definition of the practice of law that includes the basic premise that the practice of law is the application of legal principles and judgment to the circumstances or objectives of another person or entity; urge every state and territory to determine who may engage in the practice of law and under what circumstances. (03A100) 8/03

Urge jurisdictions that regulate the practice of law to continue to define the practice of law by case law decisions of its highest court or by court rule. (03A10B) 8/03

**Private Clubs.** Adopt a statement of policy on the use of private business clubs by lawyers. 8/88

**Professionalism.** Approve a "Lawyers' Pledge of Professionalism." 8/88

**Public Service Credit for Attorney Poll Workers.** Urge law firms and other legal employers to allow time spent by lawyers as official poll workers (not poll watchers) to qualify as community service or voluntary public service hours and for nonlawyer staff to be allowed paid leave to serve as official poll workers. (08A119B) 8/08

**Qualified Immunity.** Support the principle that "private" lawyers representing governmental entities are entitled to claim the same qualified immunity proved "government" lawyers from 42 U.S.C. Section 1983 claims when they are acting "under color of state law." (12M302) 2/12

See also

**Red Flags Rule.** Urge the Federal Trade
Commission and Congress to clarify that the Commission’s "Red Flags" Rule imposing requirements on creditors relating to identity theft is not applicable to lawyers while they are providing legal services to clients. (609BOG) 6/09

**Regulation of Lawyers.** See Discipline and Regulation of Lawyers by Agencies entry under Administrative Law. See Gramm-Leach-Bliley and Red Flags Rules entries, this section; See Bankruptcy Abuse and Prevention and Consumer Protection Act under Bankruptcy Law and see Financial Institution and Markets under Business Law.

**Regulation of Non-traditional Legal Service Providers.** Adopt ABA Model Regulatory Objectives for the Provision of Legal Services to provide guidance to state, territorial and tribal courts when assessing regulatory framework and other regulations for non-traditional legal service providers. (16M105) 2/16

**Release of Net Worth Information.** Oppose the automatic release of net worth information in conjunction with fee award applications under the Equal Access to Justice Act; support certain procedural protections which provide those who have filed such information the opportunity to keep it confidential. 2/83

**Sale of a Law Practice.** Amend Model Rules of Professional Conduct relating to the sale or purchase of a law practice and make necessary adjustments to Model Rules 5.4, 5.6 and 7.2. 2/90

**Solicitation in Bhopal and Model Rule 7.3.** Disapprove American lawyers who seek personal benefit from tragedy in Bhopal, India, by engaging in solicitation practices contrary to Rule 7.3 of the ABA Model Rules of Professional Conduct. 8/85

**State/Local Bar Association Issues.** Support state and local bar association development of resolutions for presentation to the House of Delegates and establish a committee to coordinate presentation of such. 2/90

**Statement of Core Principles of the Legal Profession.** See Rule of Law entry under International Law.

**Tax on Legal Services.** See entry under Tax

**Unmet Legal Needs.** See entry under Legal Services.

**Women in the Legal Profession.** Recognize that persistence of both overt and subtle barriers denies women the opportunity to achieve full integration and equal participation in the work, responsibilities, and rewards of the legal profession. 8/88

Support effort to eradicate bias and discrimination based on race and gender that prevent multicultural women from gaining full participation in legal profession. 2/95

See also Bias entries under Courts section.

**BANKRUPTCY LAW**

**Administrative Duties.** Recommend reorganization of the bankruptcy system to free judicial officers from administrative duties. 5/73

**Appeals, Notice of.** Support the retention of the 10-day time limit for filing a notice of appeal from a judgment, order or decree in a bankruptcy case and opposes any proposed amendments to Rule 8002 of the Federal Rules of Bankruptcy Procedure to lengthen the time for filing a notice of appeal. (08M10C) 2/08

**Attorney Liability.** Oppose the enhanced attorney liability provisions in S. 420/ H.R. 333, bankruptcy reform legislation of the 107th Congress. (01A10C) 8/01

**Bankruptcy Abuse Prevention and Consumer Protection Act.** Oppose the provisions in the Bankruptcy Abuse Prevention and Consumer Protection Act, P.L.109-8, that impose restrictions upon the bankruptcy-
related legal advice lawyers can provide and require such lawyers to identify themselves as “debt relief agencies,” as well as other similar federal legislative proposals, on the grounds that such provisions violate core First Amendment principles, undermine the confidential attorney-client relationship, and interfere and conflict with traditional state judicial regulation of the legal profession. (09A10B) 8/09

**Bankruptcy and Asset Forfeiture Proceedings.** Urge executive, judicial and legislative bodies to engage in actions designed to reduce expense and litigation and to foster coordination in cases where parallel actions or proceedings arise under both bankruptcy or insolvency law and asset forfeiture or analogous regulatory enforcement law. (14M102A) 2/14

**Bankruptcy Appellate Panels.** Support federal legislation urging each circuit to create Bankruptcy Appellate Panels (BAPs) and the requirement of consent by the parties as a precondition to a BAP’s jurisdiction over the case. 2/92

**Bankruptcy Appellate System.** Urge a thorough evaluation of the bankruptcy appellate system to develop long-term solutions to ensure prompt, inexpensive resolution of bankruptcy cases and faster coherent development of bankruptcy precedents. 8/95

**Bankruptcy Code.** Oppose amendment of the Bankruptcy Code by a legislative process that avoids fair opportunity for open hearings; oppose retroactive amendment of the Bankruptcy Code; and oppose new types of claims entitled to priority under the Bankruptcy Code. 8/91

**Bankruptcy Court Judges.** See entries under Courts/Judges/Procedures.

**Debtor’s Counsel.** Support amendment of the Bankruptcy Code to allow debtor’s traditional counsel to continue to serve debtor after commencement of bankruptcy proceedings by eliminating "disinterested person" proviso. 8/91

**Discipline of Lawyers by Bankruptcy Courts.** Support the Proposed Attorney Discipline Amendments to the Federal Rules of Bankruptcy Procedure that would clarify the authority of bankruptcy courts to discipline attorneys and require district or bankruptcy courts to enforce local disciplinary rules which comply with the ABA Model Federal Rules of Disciplinary Enforcement and the ABA Standards for Imposing Lawyer Sanctions. (06A117) 8/06

**Depository Institutions Netting Rules.** Support federal legislation that binds all parties in the case of an insolvency to netting contracts between depository institutions and netting rules of payments clearing organizations. 2/90

**Electronic Filing.** Support legislation to revise 31 U.S.C. Section 3713 to bring the priority of Federal claims in non-bankruptcy administrations for the benefit of creditors and, in cases of insolvent decedents' estates, generally into conformity with the federal priorities under the Bankruptcy Code. 2/86

See entries under Courts and Federal Priority in Insolvency.

**Filing Fees.** Support legislation permitting waiver of filing fees for persons financially unable to pay for involuntary bankruptcy proceedings. 8/66

**Judicial vs. Administrative Proceedings.** Recommend that bankruptcy be retained in the federal judicial system rather than creating an administrative agency to administer the bankruptcy laws. 5/73

**Partnerships.** Support proposed amendments to the Bankruptcy Code, dated 7/31/96, and urge their adoption by the National Bankruptcy Review Commission and by Congress as the basis for administration and resolution of partnership cases under the Bankruptcy Code. 8/96

**Railroad Reorganization.** Recommend a package of amendments to the Bankruptcy Act to provide a means for more expeditious reorganization of railroads. 2/72

**Reappointment of Bankruptcy Judges.** Support amendments to the Bankruptcy Amendments and Federal Judgeship Act of 1984 to authorize the U.S. Court of Appeals to consider reappointment of incumbent bankruptcy judges under streamlined procedures which would include the evaluation of incumbent judges on the basis of their
performance in office without mandatory solicitation of additional applicants for the vacancy. 8/96

Sale of Real Property Involving Debtor-Lessor. Urge amendment to the Bankruptcy Code to clarify that a sale of leased real property when 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. (07A102A) 8/07

Wage Earner Plans. Recommend detailed revisions of the Bankruptcy Act to make wage earner plans more acceptable to debtors, available to a greater number of debtors, and more easily administered. 7/71

BUSINESS LAW
(For additional policy positions, see Code of Ethics for Arbitrators in Commercial Disputes – 2004 Revision.)

Arbitration of International Business Transactions. See Arbitration entry under International Law.

Audit Process. See Attorney-Client Privilege entry under Attorneys/General Practice.

Banking Reform Act of 1971. Oppose provisions of the Act prohibiting a trustee, director, officer, or employee of a commercial bank, S&L association or mutual savings bank from providing legal services to a customer in connection with a transaction with the institution. 4/71

Bank Secrecy Act. Urge adoption of prosecution policies that encourage compliance with the Bank Secrecy Act and Money Laundering Control Act by establishing guidelines governing prosecution of financial institutions, and that encourage financial institutions to adopt comprehensive Bank Secrecy Act compliance programs and anti-money laundering programs. (90A101A) 8/90

See also Money Laundering and Terrorist Financing entries under Anti-Terrorism.

Civil RICO. Support amendment of the Racketeer Influenced and Corrupt Organization provisions of the Organized Crime Control Act to require prior conviction of racketeering activity or a violation of Section 1960 of the Act as a prerequisite to the filing of a private civil RICO action. Urge Congress to limit the availability in civil cases of the Act by changing its definition of "a pattern of racketeering activity," providing penalties for bringing frivolous suits and making applicable Rule 65 of the Federal Rules of Civil Procedure. Support other limiting amendments affecting treble damages, investment-use injury and conspiracy. 8/86; 4/88; 8/93

Cooperation of Organizations in Government Investigations. Oppose policies and practices of prosecutorial and civil enforcement agencies that have the effect of eroding constitutional and other legal rights of employees, officers, directors or agents by requiring or encouraging prosecutors and other law enforcement officials take into consideration specified factors in determining cooperation of an organization under investigation. (06A302B) 8/06

See also Attorney-Client Privilege under Attorneys/General Practice.

Corporate Citizenship. See Rule of Law entry under International Law.

Corporate Responsibility. Endorse specified corporate governance policies and practices involving structural and procedural reforms designed to enhance the independence and resources of outside directors of public corporations, and ability of involved lawyers to exercise independent professional judgment and thereby promote corporate responsibility. (03A119C) 8/03

See also SEC Funding entry, this section.

Code of Ethics. Adopt Code of Ethics for Arbitrators in Commercial Disputes. (04M107) 02/04

Corporate Citizenship. See Rule of Law entry under International Law.

Corporation Control. Oppose legislation directed at problems associated with tender offers for corporate control where such legislation interferes with state or court-evolved solutions; oppose changes in application of the business judgment rule. 2/85

Diversity on Corporate Boards. See entry
Do Not E-Mail. Support federal legislation and regulations that would prohibit the sending of false, misleading, predatory, or abusive commercial e-mail messages, but oppose measures such as Section 106 (a) of S. 877, the “CAN-SPAM Act of 2003”; oppose legislation, regulations, or other measures prohibiting or regulating commercial or non-commercial e-mail messages if they could interfere with the ability of associations and other tax-exempt nonprofit organizations to communicate with their members and the public. (1103BOG) 11/03

Do Not Fax. Oppose FCC rules and regulations implementing the Telephone Consumer Protection Act of 1991 that would eliminate the “established business relationship” exception to the general rule prohibiting the sending of unsolicited facsimile advertisements and urge the FCC to restore the exception; urge the FCC to issue a clarification that unsolicited facsimile advertisements sent by tax-exempt nonprofit organizations in pursuit of their authorized nonprofit purposes are not prohibited. (803BOG) 8/03

Federal Securities Code. Support the Code in the form proposed by the American Law Institute and recommend its enactment by Congress. 2/79

Financial Institutions and Markets.
Market Regulation. Endorse the principle that in lieu of governmental intervention, reliance be placed upon the competitive market as regulator supported by antitrust laws; support several enumerated analytical principles to avoid unnecessary regulation. 2/79

Regulation of Financial Institutions. Support federal legislation, regulations and other governmental measures designed to improve the regulation of financial institutions and markets in the United States, consistent with eight enumerated principles, including that regulation and supervision of financial intermediaries, products, and services should be integrated and comprehensive to the extent appropriate to protect investors and consumers of financial products and to ensure the strength and integrity of the financial system. (09A301) 8/09

Regulation of Lawyers. Oppose provision in the proposed Consumer Financial Protection Agency Act (111th Congress) or other legislation to establish regulatory jurisdiction of any federal financial regulatory agency, which seek to regulate lawyers engaged in the practice of law, except to the extent that lawyers are currently subject to regulation by a federal agency under existing law. (BOG1009) 10/09

Secured Lending. Support development and harmonization of international trade and commerce and the establishment of predictable systems of secured lending through the adoption of secured transactions reform in developing countries. (11A301) 8/11

Exon-Florio. See entry Foreign Investments in US under International Law.

Human Trafficking Business Standards. Adopt the black letter of the ABA Model Business and Supplier Policies on Labor Trafficking and Child Labor and urge businesses to adopt their own policies consistent with ABA model standards. (14M102B) 2/14

Investment Advisors Act. Urge legislation to preserve the 1940 Investment Advisors Act exemption for lawyers and to require registration with the SEC only if the attorney engages in specified high risk activity. 2/91

Urge any state or territorial regulation of investment advisors and financial planners to allow a lawyers’ exemption consistent with this federal Act. 8/94

Loan Foreclosure Consumer Protections. Urge governments, courts, and bar associations to strengthen consumer protections regarding deceptive or fraudulent loan foreclosure rescue practices. (15M111C) 2/15

Line of Business Reports. Support legislation to protect the confidentiality of these reports submitted by individual companies to the FTC. 6/74

Urge the FTC to modify the report program to improve the usefulness of the data obtained. 8/74

Pension Plan Benefits. Support efforts to amend the Internal Revenue Service Code to
provide that mandatory minimum distributions from qualified pension plans need not be taken until after actual retirement in all cases. 2/97

Privilege Waiver. See Attorney-Client Privilege under Attorneys/General Practice.

Regulation of Lawyers Forming Business Entities and Money Laundering Concerns. Urge Congress to refrain from enacting legislation to regulate lawyers in formation of business entities; Urge that regulation of those forming business entities remain within the state jurisdiction; Urge matters relating to due diligence and beneficial ownership business not conflict with ethical requirements imposed by states and be risk-based. (08A300) 8/08

Pro Bono Representation. See entry under Legal Services.

Representation of Regulated Clients. Support federal legislation to amend the Federal Deposit Insurance Act to (1) prevent federal banking agencies from using their cease-and-desist enforcement powers to secure asset preservation orders without having prior recourse to court; (2) to clarify that they are not authorized to use their power to issue cease-and-desist orders as a means of securing money damages relief ordinarily only available through litigation; and (3) to urge federal banking agencies to adopt fair notice and comment procedures when formulating new policies regarding professional liability of lawyers. Oppose certain federal banking agencies' interpretations of the Model Rules of Professional Conduct. 8/93

Sarbanes-Oxley. See Corporate Responsibility entry, this section.

Simplification of Securities Sales Procedures. Urge the SEC to promptly consider the proposals in the Wheat Report, and support congressional funding for implementation of these proposals. 8/69

SEC Funding. Urge the Administration and Congress to increase financial support for the U.S. Securities and Exchange Commission so that it is funded at adequate levels to enable it to protect investors and ensure market integrity; urge a FY 03 authorization and appropriation of at least $776 million. (03M301) 2/03

Securities Exchange Act (SEA). Urge Congress to amend clause (A) of Subsection (2) of Section13(p) of the SEA to state “the person is a registrant that files reports with the Commission under Sections 13(a) (15 U.S.C. 78m (a)) OR 15 (d) (15 U.S.C. 78 o(d)) of the SEA. (11M117) 2/11

SEC Standards of Conduct. Urge Securities and Exchange Commission to refrain from adopting proposed standards of conduct constituting unethical practice by lawyers before the commission. 11/81. See also Discipline of Lawyers under Attorney/General Practice and Administrative Law.

Sentencing Guidelines for Organizations. See entry under Criminal Law.

Thompson Memorandum. See Cooperation of Organizations in Government Investigations entry, this section.

CIVIL RIGHTS AND CONSTITUTIONAL LAW

Abortion Financing for Indigent Women. Support legislation on the federal and state level to finance abortion services for indigent women. 8/78 See also entry under Reproductive Choice, this section.

Access to Campus Placement Facilities. Oppose any efforts by government to withhold funds from or penalize educational institutions for denying access to campus placement facilities to government employers who contravene university policies by discriminating on the basis of sexual orientation. 2/92


Affirmative Action. Endorse legal remedies and voluntary actions that take into account as a factor race, national origin or gender to eliminate or prevent discrimination. 8/95 See also entry under Legal/Public Education and Discriminations in the Courts.
Anti-Drug Abuse Act. Recommend that Congress reconsider Section 6486 of the Anti-Drug Abuse Amendments Act of 1988 for inconsistencies and ambiguities in regard to the availability of formal administrative hearings, standards of proof, right to counsel and if Congress wishes to retain civil penalties for personal use and possession of controlled substances, that provisions of Section 6486 be revised. 2/90

Attorney Fees Award Act. Support position that 42 USC 1988 authorizes the award of reasonable attorney fees to civil rights plaintiffs who recover nominal damages. 4/92

Bias in the Child Welfare. See Bias in the Child Welfare System entry under Family Law.

Bias within the Legal Profession. See entry under Attorneys/General Practice.

Bias within the Judicial System. See entry under Courts/Judges/Procedures

Bicentennial. Urge the organized bar to join with educational, media, governmental, business, and community groups in conducting educational programs commemorating the bicentennial of the Bill of Rights. 2/91

Citizenship of Children. Oppose amending the U.S. Constitution to alter the granting of U.S. citizenship under the Fourteenth Amendment to persons born in the U.S., based on the citizenship or immigration status of one or both parents at the time of the person’s birth. (11A303) 8/11

Civil Rights Laws Restoration. Support amending Title VII of the Civil Rights Act of 1964 and 42 USC 1981 to restore them to their status before the 1989 Supreme Court decisions; support amending Title VII to grant all protected classes the same rights to recover discrimination damages from an employer that are enjoyed by victims of discrimination under 42 USC 1981. 2/90

Coerced Contraception or Sterilization. Oppose coerced use of Norplant or other birth control in the context of either criminal sentencing or the receipt of public assistance. 8/93

Courts Martial Convictions: Supreme Court Review. See entry under Military Law.

Desecration of the U.S. Flag. Oppose the adoption of an amendment to the Constitution concerning the desecration of the American flag; oppose enactment of federal legislation to criminalize flag desecration as a political protest. 8/89

Digital Divide. Urge government and bar associations to take necessary steps to bridge the “digital divide.” Urge Congress and Administration to establish and support technology-based access to justice in under-served communities. (01A105A) 8/01

Discrimination Based on Age. See Age Limits for Chief Judges and Standards for State Judicial Retirement under Courts/Judges/Procedures and Mandatory Retirement under Attorney/General Practice.

Discrimination Based on Disabilities. Support in principle federal legislation to prohibit discrimination on the basis of disabilities, and to ensure equal opportunities in employment, public accommodations and services, telecommunications and activities of state and local governments. 8/76; 8/89

Discrimination Based on Employment. Lilly Ledbetter. Urge Congress to amend the Civil Rights Act of 1964 and federal age or disability employment discrimination laws to ensure that in claims involving discrimination in pay, the statute of limitation runs from each paycheck reflecting an employee complainants by excluding from gross income amounts received on account of claims based on certain unlawful discrimination, retaliation and employment claims and to allow income averaging for salary awards resulting from such claims. (03M115) 2/03

See Child Custody entry under Family Law.

Discrimination Based on Recovery Act. Urge Congress to enact the Civil Rights Tax Relief Act or similar legislation to provide relief to civil rights and
improper disparity. (07A302) 8/07

Paycheck Fairness. See Discrimination Based on Sex entry, this section.

**Discrimination Based on HIV Status.** See HIV/AIDS under Health/Mental Health.

**Discrimination Based on Homeless Status.** Support legislation to prohibit discrimination based on transient or homeless status, provide emergency relief to families and individuals without permanent shelter, increase supply of low-cost housing and adopt programs to help the homeless become productive citizens. 8/86

**Discrimination Based on Marital Status.** Support legislation to prohibit discrimination in employment or housing on the basis of marital status. 2/74

**Discrimination Based on Sex.**

- Education and Title IX: Support vigorous implementation and enforcement of Title IX of the Education Amendments Act of 1972, to promote equal educational opportunities without regard to sex. 8/75
  - Reaffirm 1975 policy urging the vigorous and effective enforcement of Title IX to clarify that retaliation constitutes a form of discrimination prohibited by Title IX for which a private right of action exists. (04A301) 04/08
  - See also **Federal Financial Assistance to Institutions that Discriminate** entry, this section and **Sexual Assault on Campuses** entry, this section.

- Pregnancy and Employment: Support federal and state legislation assuring that prohibitions against sex discrimination in employment will also prohibit discrimination because of pregnancy. 2/78
  - See also **Family and Medical Leave Entry** under **Family Law**.

- Public Accommodations: Urge amendment of Title II of the 1964 Civil Rights Act to prohibit sex discrimination in public accommodations, provided, however, that such amendment does not require access by both sexes to the same facilities where legitimate privacy concerns are involved. 8/80

- Wages: Urge Congress to enact legislation to strengthen the Equal Pay Act to prohibit gender-based wage discrimination. (10M107) 2/10

**Discrimination Based on Sexual Orientation/Identity.** Support enactment of federal and state legislation to prohibit discrimination based on "sexual orientation" in employment, housing and public accommodations. 2/89

- Urge the federal, state, local and territorial governments to enact legislation prohibiting discrimination on the basis of actual or perceived gender identity or expression in employment, housing and public accommodations. (06A122B) 8/06

- **LGBT Rights.** Recognize the rights of LGBT individuals as basic human rights; condemn laws, regulations, rules and practices that discriminate against individuals on the basis of LGBT status. (14A114B) 8/14
  - Recognize that LGBTQ individuals have the right to be free from attempts to change their sexual orientation and gender identity and urge governments to enact laws to prohibit professionals from using conversion therapy on minors. (15A112) 8/15
  - See **Access to Campus Placement Facilities** entry, this section, **Child Custody, Foster Care, Gay Marriage, and Visitation and Sexual Orientation of Parent**, and **Domestic Violence** entries under **Family Law, Same Sex Partners** entry under **Immigration Law**.

**Discrimination Based on Substance Abuse.** See **Substance Abuse** entry under **Health/Mental Health**.

**Discrimination Based on Pay.** See **Discrimination Based on Sex: Wages** entry, this section.

**Discrimination in Correctional Facilities.** See **Discrimination in Employment** entry under **Corrections**.

**Discrimination in the Courts.** See **Model Rule of Professional Conduct: Rule 8.4 – Lawyer Bias** entry under **Attorney/General Practice** and **Bias within the Judicial System and Judicial Education Programs** entries under **Courts/Judges/Procedure**.

**Discrimination in Housing.** Support legislation to prohibit discrimination on the basis of sex in the sale or rental of housing or in granting mortgage credit. 8/74

- Support legislation to prohibit
discrimination on basis of race, color, creed, sex or national origin in the sale or rental of housing; supports legislation to strengthen the enforcement mechanisms of fair housing legislation and extend protection to the handicapped and families with children. 2/80; 8/87

Support legislation that prohibits discrimination in housing against victims of domestic violence; urge adoption and enforcement of regulations to combat such discrimination. (03M106B) 2/03

Urge governments to enact legislation prohibiting discrimination in housing on the basis of lawful source of income. (17A119A) 8/17

Diversity on Corporate Boards. Urge public companies to diversify their boards and to include board composition in public disclosure materials. (16M116) 2/16

English Only. Support the principle that federal, state, territorial, and local governments permit the use of languages in addition to English to improve communication, understanding, and provide access to the justice system. 8/97

See Language Interpreters entry under Courts/Judges/Procedure.

Equal Rights Amendment. Support ratification of the proposed 27th Amendment to the Constitution. 2/72; 8/74

Reaffirm support for ratification of the ERA and call upon bar associations to pursue ratification. (16M10B) 2/16

Expert Fees. Support legislation amending the Civil Rights Attorney's Fees Awards Act of 1976 and other federal fee-shifting statutes to permit the award to a prevailing party of reasonable expert fees for testimonial and non-testimonial services. 8/91

Family Planning Clinics. See Gag Rule entry, this section.

Federal Financial Assistance to Institutions that Discriminate. Oppose the provision of federal financial assistance for institutions which discriminate in any of their operations on the basis of sex, race, color, national origin, age or disability, support legislation which restores the principle of requiring non-discrimination throughout an institution receiving federal financial assistance. 2/86

Federal Shield Law. See Reporters' Privilege entry, this section.

Fetal Tissue Research. See entry in Health/Mental Health.

Free Flow of Foreign Information. Recommend that there be no prohibition on the import into the United States of ideas and information if the circulation of such is protected by the First Amendment to the Constitution. 2/85

Free Speech and Government Funding. Oppose the use of government funding programs to discourage speech activities by government grantees, based on government disapproval of the content of the speech. 2/93

Foreign Intelligence Surveillance Act. See entry under Anti-Terrorism.

Gag Rule. Support legislation which ensures the right of patients of federally funded family planning clinics to receive full counseling and referrals on all medical options relating to pregnancy and the right of health care professionals to advise their patients in accordance with their best medical judgment. 8/91

Gag Rule – International. Oppose Administration’s policy prohibiting providing USAID funds to international family planning organizations that use non-U.S. government funds to provide abortion or abortion-related services. (01A118) 8/01

Gay Marriage. See entry under Family Law.

Health Information Access and Confidentiality. See entries under Health/Mental Health.

Human Immunodeficiency Virus (HIV). See HIV/AIDS under Health/Mental Health.

Human Right to Adequate Housing. See Affordable Housing under Real Property/Housing Law.

Human Right to Adequate Food and Nutrition. Urge governments to promote the
human right to adequate food and nutrition; urge the United States government to make it a domestic policy objective. (14M107) 2/14

**Human Right to Freedom from Sexual Violence.** See *Domestic Violence* entry under *Family Law.*

**Indian Treaty Obligations.** Urge federal government to follow policy of strict adherence to Indian treaty obligations except in extreme circumstances of national security or emergency. 2/80

**Indian Water Rights.** Endorses the use of negotiation and settlement processes to resolve Indian reserved water rights claims, and urge Congress and the Administration to support the settlement process through adequate funding and other measures. (02A110) 8/02

**Indian Health.** See *Indian Health Services* entry under *Health/Mental Health.*

**Individuals with Disabilities Education Act.** Support legislation, such as the Individuals with Disabilities Education Act, that guarantees children with mental and physical disabilities a free, appropriate education in the least restrictive environment; oppose efforts to limit, weaken, or circumvent such legislation; support inclusion of mediation provision and award of attorney’s fees in such legislation. 2/96

**Violence Against Women.** See entry under *Criminal Law/Procedure.*

**Japanese American Detentions.** Urge appropriate legislative recognition to those denied equal justice under law during WW II detention of Japanese Americans. 8/84

**Native American Religious Lands.** Support amending the American Indian Religious Freedom Act to require historical religious sites to be managed to minimize impacts which would impair Native Americans’ exercise of their religion, absent substantial federal interest; where there is such an interest, the least intrusive means of satisfying it should be required. 2/90

**Native Hawaiian Governing Entity.** Urge Congress to pass legislation to establish a process to provide federal recognition and restore self-determination to Native Hawaiian. (06M108B) 2/06

**National Endowment for the Arts.** See entry under *Federal Government/Congress.*

**PATRIOT Act.** See entry under *Anti-Terrorism.*

**Private Clubs.** See entry under *Attorneys/General Practice.*

**Presidential Signing Statements.** See entry under *Federal Government/Congress.*

**Racial and Ethnic-Based Profiling.** Support legislation requiring systematic collection and annual reporting of certain data to DOJ, including race and ethnicity, but not the identity of each person stopped. Further supports legislation requiring DOJ and state attorneys general to study such data to determine extent of problem and, if found, to identify methods for ending all such practices. (99A10A) 8/99

Oppose the text of the “Racial Privacy Initiative” or any similar measure that would prohibit public entities from collecting or sorting data on the basis of race or ethnicity; urge bar associations to oppose such measures and to engage in educational programs to inform the public of the reasons to collect and maintain ethnic and racial data. (03A10C) 8/03

Urge governments to enact effective legislation, policies, and procedures to ban racial or ethnic profiling by law enforcement agencies and police officers engaging in domestic law enforcement. (08A104C) 8/08

Amend the 2008 policy to include religious profiling and characteristics indicative of religious affiliation. (12A116) 8/12

**Record Lyrics.** Oppose state and federal legislation regulating the content of record lyrics. Support the adoption of a voluntary advisory logo to assist record buyers in identifying material containing explicit lyrics. 8/91

**Religious Freedom.** Encourage efforts to increase public understanding of the Establishment Clause and the Free Exercise Clause of the U. S. Constitution as they apply in the public elementary and secondary schools. Supports legislation, policies, and
practices requiring that public elementary and secondary school officials in all public school-related activities: (a) avoid religious indoctrination; (b) avoid endorsement of a particular religion or religious doctrine; and (c) adopt measures that afford a reasonable accommodation of religious practice and belief. (08M106) 2/08

Religious Liberty Restoration. Support legislation to require that governmental bodies justify intrusions on religious practice by demonstrating that the intrusion is narrowly tailored to further a compelling interest and is the least restrictive means available. 2/91

Reporters' Privilege. Urge the Congress to enact a federal shield law that protects journalists from compulsory disclosure of sources except in certain situations. (05A104B) 8/05

Reproductive Choice. Support state and federal legislation which protects the right of a woman to choose to terminate a pregnancy (i) before fetal viability, or (ii) thereafter, if necessary to protect the life or health of the woman. Oppose state or federal legislation which restricts this right. 8/92

Rights of Congressional Witnesses. See Witnesses in Congressional Hearing entry under Federal Government/Congress.

Rights of Institutionalized. Support legislation to permit U.S. Attorney General to bring suit on behalf of persons confined in prisons, mental hospitals and other state institutions. 8/76

Service Animals for Disabled. Urge legislative bodies and governmental agencies to enact laws and implement policies to ensure that persons with disabilities utilizing service animals are provided access to services, programs and activities of public entities and public accommodations pursuant to the regulations implementing the Americans with Disabilities Act. (12M303) 2/12

SLAPP Lawsuits. See entry under Courts.

Slavery Reparations. Urge Congress to create and appropriate funds for a Commission to study and make findings relating to the present day social, political and economic consequences of both slavery and the denial thereafter of equal justice under law for persons of African descent living in the United States; authorize the Commission to propose public policies or governmental actions, if any, that may be appropriate to address such consequences. (06M108A) 2/06

School Prayer. Oppose adoption of a constitutional amendment or federal legislation that would allow for officially sanctioned prayer in public schools; also oppose any action to remove prayer cases from federal court jurisdiction. 2/95

Sexual Harassment. Urge members of the legal profession to provide leadership and education in eradicating sexual harassment. Requires the ABA to ensure that all efforts are made to prevent sexual harassment from occurring in the course of conducting association business. 2/92

Student Journalists and Regulation of Speech. Urge all legislative bodies to enact statutes and school districts to adopt policies that rigorously protect the ability of student journalists at the secondary and postsecondary levels to make the independent editorial judgements necessary to meaningfully cover issues of social and political importance without fear of retaliation or reprisal. (17A119B) 8/17.

Title IX: Equal Opportunities in Athletics. See Discrimination Based on Sex and Federal Financial Assistance Institutions that Discriminate entries, this section.

Travel Restrictions. Oppose legislation restricting travel by U.S. citizens to foreign countries and imposing sanctions not currently permitted. 2/74

Wards Cove Exemption. Supports enactment of legislation to repeal the Wards Cove exemption (Section 402(b)) of the Civil Rights Act of 1991. 2/93

Welfare Family Cap. See entry under Family Law.

Whistleblower Protection. Support federal legislation to strengthen private sector whistleblower protection and to provide uniform protection for employees who make good faith
disclosures about certain unsafe or unlawful actions. 2/90
See Whistleblower entry under Federal Government/Congress.

Women in the Legal Profession. See entry under Attorneys/General Practice.

Violence Against Women. See entry under Criminal Law/Procedure.

CORRECTIONS
(For additional policy, see “Blueprint for Cost-effective Pretrial Detention, Sentencing and Corrections Systems.”; See also ABA Criminal Justice Standards on the Treatment of Prisoners, 2/10)

Access to Courts by Prisoner. See entry under Criminal Law/Procedures.

Accountability. Urge governments to develop comprehensive plans to ensure that there is greater accountability to the public in the operation of correctional and detention facilities, and adopts the “Key Requirements for the Effective Monitoring of Correctional and Detention Facilities”, dated August 2008. (08A104B) 8/08

APA Rulemaking Procedures. Urge state governments to apply the Administrative Procedure Act’s notice-and-comment rule-making provisions to regulations governing correctional facilities and officers. (14M103B) 2/14

Certification of Correctional Facilities. Adopt the Key Requirements for the Certification of Correctional Accrediting Entities, dated August 2011, and urges governments to require accreditation by one or more federally-certified accrediting entities. (11A105B) 8/11

Commission. Urge establishment of national commission to consider federal policies affecting correctional facilities. (99A113C) 8/99

Compassionate Release and Alternative Sentencing. Recommend that each jurisdiction review its procedures relating to medical release of terminally ill inmates and provide for expedited handling of requisitions for medical release. 2/96
Support model legislation on compassionate release and alternative sentencing for non-violent offenders with HIV, AIDS, or other late-stage terminal illness in order to promote the adoption of a regularized process to provide clarity and uniformity in the application of this policy. 8/96

Corrections Management. Urge the adoption of procedures by the federal government, states and territories to ensure that legislatures consider the impact of proposed legislation, resolutions or executive orders on correctional management. 8/96

Criminal Justice System Study. See entry under Criminal Law/Procedure.

Elderly. Urge federal, state and territorial correctional systems to review sentencing, release and other correctional policies and practices regarding the growing population of elderly prisoners. (00M102B) 2/00

Employment of Prisoners. Urge the federal government, States and territories to expand voluntary and productive work opportunities for the incarcerated. 8/75

Ex-Offender Employment. Support elimination of laws putting limitations on employment or occupational licensing of ex-offenders. 8/75

Kennedy Commission. See entry under Criminal Law/Procedure.

Literacy in Correctional Facilities. Support legislation to create an office or center of correctional education within the U.S. Dept. of Education, legislation to provide funding for vocational education within correctional institutions, and legislative initiatives that recognize, address, and attempt to correct illiteracy within correctional institutions. 2/90
See also Pell Grants for Prisoners entry, this section.

Monitored Home Confinement. Approve the “Principles for the Use of Electronically Monitored Home Confinement as a Criminal Sanction.” 8/88

National Institute of Corrections. Support increased NIC funding. 2/83
Parents in Detention Facilities. Support the preservation and promotion of healthy relationships between children and their parents in custody. 8/96

Pell Grants for Prisoners. Urge Congress to restore Pell Grant eligibility to prisoners who qualify under existing need-based criteria to facilitate re-entry and reduce recidivism. (15A108B) 8/15

   See also Literacy in Correctional Facilities entry, this section.

Prison Counsel. Urge that counsel be made available at prisons to determine whether prisoners’ cases raise federal constitutional issues and, if so, to prepare habeas corpus petitions. 8/82

Prison Industry. Support several guidelines for the development of meaningful prison industry programs. 2/83

Prison/Jail Overcrowding Impact Statement. Recommend state and local governments adopt procedures ensuring that a prison and jail impact statement be considered before the passing of laws which could lead to an increase in the number of persons incarcerated; recommend that legislation not be enacted that will increase the number of persons incarcerated unless necessary resources are available or other counterbalancing accommodations are made. 2/83; 2/90

Prisoner Reentry. Urge states, territories, and the federal government to ensure that prisoners are effectively supervised in safe and secure environments and to implement policies and programs to prepare and assist prisoners for release back into the community. (04A121D) 08/04.

   See also Kennedy Commission entry under Criminal Law.

Privatization of Correctional Facilities. Urge extreme caution for jurisdictions considering authorizing private corporations or other private entities to operate prisons or jails. Urge recognition that incarceration is a core function of government; that delegation of such a responsibility involves complex legal issues; and that public interest suggests accountability, cost-effectiveness, proper care, and minimum standards. 2/86; 2/90

Probation, Parole and Supervised Release Violations. Urge the government to develop and implement sanctions for violators of probation, parole and other forms of supervised release in lieu of jail time, for persons whose original conduct was a non-violent felony or misdemeanor and whose violation is not considered criminal conduct. 2/97

   See also Effective Criminal Sanctions Commission: Graduated Sanctions for Parole Violations entry under Criminal Law.

Sentencing Victims of Domestic Violence. See entry Sentencing Reduction under Criminal Law.

Solitary Confinement of Youth. Urge legislative bodies and governmental agencies to enact laws and adopt policies prohibiting the use of solitary confinement of youth under the age of 18 for more than 4 hours. (17A112E) 8/17.

Telephonic Communications. Encourage federal, state, territorial and local governments to provide prison and jail inmates with reasonable opportunities to maintain telephonic communication with the free community. (05A115B) 8/05

Women in Prison: Needs Assessment. Urge development and implementation of gender responsive needs assessments for women prisoners: utilize information to link them with needed services and avoid over classification of women as security risks. (11A105C) 8/11

Wrongful Imprisonment. Urge jurisdictions to enact statutes to adequately compensate individuals who have been convicted and incarcerated for crimes they did not commit, identifying factors that should be considered in drafting such statutes. (05M108A) 2/05

COURTS/JUDGES/PROCEDURE

(For additional policy positions, see the ABA Standards Relating to Trial Courts; Standards Relating to Court Delay Reduction; Standards Relating to Court Organization, including “Court Use of Electronic Filing Processes”; ABA Principles for Juries and Jury Trial, February 2005 and amended 2013; Standards
for Judicial Compensation; ABA Model Rules for Judicial Discipline Enforcement; Civil Trial Practice Standards dated August 2007; Civil Discovery Standards; Standards on State Judicial Selection Standards for State Judicial Retirement; Model Time Standards for State Courts 2/12.)

**Age Limits for Chief Judges.** Support legislation providing that chief judges of the circuit and district courts cease to serve as such at age 66. 2/66

**Alternative Dispute Resolution.** Support the continued use of and experimentation with alternative dispute resolution techniques, both before and after suit is filed as necessary and welcome components of the justice system. 8/89

Support legislation and programs that authorize any court to utilize systems of ADR, such as early neutral evaluation, mediation, settlement conferences and voluntary but not mandatory arbitration. 2/97

See also entry under Administrative Law and Arbitration-Mandatory entry, this section.

**Arbitration-Mandatory.** Oppose enactment by Congress of any legislation authorizing the installation of any mandatory arbitration program in the U.S. District Courts where involuntary participation is made a condition precedent to the right of civil case litigants to a trial. 8/94

Support enactment of legislation which would provide for appeals from interlocutory orders of a trial court which refuses a stay of litigation pending arbitration, denies an application to compel arbitration, or grants, continues or modifies an injunction against an arbitration. 2/86

**Orders Interfering with Arbitration.** Support enactment of legislation which would provide for appeals from interlocutory orders of a trial court which refuses a stay of litigation pending arbitration, denies an application to compel arbitration, or grants, continues or modifies an injunction against an arbitration. 2/86

**Bankruptcy Judges.** Urge enactment of legislation to continue bankruptcy judges as Article I adjuncts of the district courts, vesting in federal district courts jurisdiction for all cases arising under bankruptcy laws, authorizing the bankruptcy courts to exercise district court jurisdiction but allowing district courts to recall cases in which the parties have not consented to bankruptcy court jurisdiction and authorizing district courts to refer any recalled case to a bankruptcy judge as a special master or magistrate. 12/77; 2/78; 8/78; 9/82

Support authority of bankruptcy judges, with consent of parties, to hear, determine and enter final orders and judgments in “core proceedings” that may not otherwise be heard and determined by a non-Article III tribunal absent the parties consent for the courts. (13M109) 2/13

**Bankruptcy Judges.** Urge Congress to authorize the appointment of additional bankruptcy judges sufficient to meet the demands within each district. In the event that Title 28 is not amended before the temporary bankruptcy judgeships expire, consider a one-year extension of seven judgeships. (17M/101) 2/17

**Bias in the Judicial System.** Support the enactment of authoritative measures requiring studies of the existence, if any, of bias in the federal judicial system, including bias based on race, gender, age, sexual orientation, and disability. 8/91

See related entries under Civil Rights and Constitutional Law and Criminal Law.

**Bias in the Legal System.**

**Sexual Orientation.** Urge state, territorial and local bar associations to study bias in their community against gays and lesbians within the legal profession and the justice system and to make appropriate recommendations to eliminate such bias. 8/96

See related entries under Civil Rights and Constitutional Law and Criminal Law.

**Budget Submission.** Urge Congress to authorize the federal judiciary to submit its annual budget request, including its court facility construction request, directly to Congress. (99A110B) 8/99

**Cameras in the Courtroom.** Urge U.S. Judicial Conference to authorize further experimental with cameras in federal civil proceedings. 2/95

Urge U.S. Supreme Court to record and make available video recordings of its oral arguments. (16M110) 2/16

**Case Dispositions.** Urge federal and state courts of appeals to provide, at a minimum, reasoned explanations in case dispositions. (00M8B) 2/00

**Certification of State Law Questions.** Urge states to adopt a procedure whereby the
highest state court may answer a question of state law certified from an Article III federal court in certain circumstances. 2/83

**Circuit Restructuring.** Oppose mandatory restructuring of the Ninth Circuit into adjudicative divisions. (99A110A) 8/99

Oppose several recommendations of the Commission on Structural Alternatives for the Federal Courts, including mandatory restructuring of the Ninth Circuit, district court appellate panels, and use of two-judge panels. (99A110A) 8/99

Reaffirm opposition to restructuring the Ninth Circuit and support ongoing efforts by the Ninth Circuit and other federal courts to utilize technological and procedural innovations to handle caseloads efficiently while maintaining coherent, consistent law. (17A104) 8/17

**Civil and Criminal Forfeiture.** See entry under Criminal Law/Procedure.

**Civil/Criminal Justice Reform.** Support immediate establishment of a task force to identify and create solutions to the problems facing the criminal and civil justice system. 2/90

Support legislation that is consistent with Congressional intent that the district courts develop plans for cost and delay reduction, which reflect guidelines and principles of Title I of the May 17, 1990 draft of S. 2648 but which are not mandatory in nature. 8/90

See also *Office for Improvement in Administration of Justice* entry, this section.

**Call to Action.** Urge all state courts to develop and implement a civil justice improvement plan to improve the delivery of civil justice guided by the Recommendations of Call to Action: Achieving Civil Justice for All, as endorsed by the Conference of Chief Justices in 2016. (17M/102) 2/17

**Civil Protection Orders for Sexual Assault Victims.** Urge governments to enact civil protection order statutes that extend protection to victims of sexual assault, rape, and stalking without the requirement of a relationship between the parties. (15M109A) 2/15

**Civil Tax Cases.** See entry under Tax Law.

**Claims Court.** Support legislation such as S. 1704 (90th Congress) authorizing the U.S. Court of Claims to issue orders and grant relief to implement its judgments for compensation. 8/68

Support legislation to (1) provide U.S. Claims Court judges with compensation benefits, disability protection, and retirement provisions sufficient to attract and retain well-qualified judges; (2) govern judicial terms of appointment; (3) grant the Court express powers to enforce its own rules, orders and processes and; (4) permit the use of retired judges for temporary service. 2/85

**Class Actions.**

See entry under Legal Services. (16A104) 8/16

**Commission on the 21st Century Judiciary.**

Adopt Principles and Conclusions of the Commission on the 21st Century Judiciary and urge bar associations to promote their implementation. (03A103) 8/03

**Consent Decrees.** Support the use of federal consent decrees as an important tool for resolving litigation and oppose legislation that limits the efficacy of consent decrees when state, local or territorial governments are parties thereto, such as those proposed in S. 489 and H.R. 1229. (06M109) 2/06

**Consolidation of Pretrial Proceedings.**

Oppose legislation providing for the temporary transfer to a single district, for coordinated or consolidated pretrial proceedings, of civil actions pending in different districts which involve common questions of fact. 8/66

**Courthouse Access for the Disabled.** Urge federal, state, territorial and municipal courts to make courthouses and court proceedings accessible to individuals with disabilities, including lawyers, court employees, witnesses and observers. (02M112) 2/02

**Courthouse Construction Funding.** Urge Administration to support FY1999 funding. If necessary, urge appropriate Congressional Committees to act on own initiative. (98A126) 8/98

Urge Administration and Congress to support FY2000 funding, and urge Administration to transmit future courthouse construction requests without modification. (499BOG) 4/99
Courthouse Waiting Rooms for Children. Encourage federal and state legislatures and the federal and state court systems to support and assist with the establishment of children’s waiting rooms in all federal and state courthouses. 8/96

Court Costs and Delay. Encourage all courts, court supervisory bodies, and state and local bar associations to take an active role in reducing delay and excessive costs in litigation. 8/81

See also Civil Justice Reform entry, this section.

Court of Appeals for the Federal Circuit. Recommend that the nomination and appointment process for the selection of judges for the U.S. Court of Appeals for the Federal Circuit reflect consideration of the Court’s exclusive appellate jurisdiction over all patent cases. 8/87

Support the creation of a national commission to consider and recommend to the President candidates for nomination to the Court of Appeals for the Federal Circuit. 2/91

Urge Congress to expand the jurisdiction of the United States Court of Appeals for the Federal Circuit to include review of all purely legal issues decided by the United States Court of Appeals for Veteran Claims, formerly the Court of Veterans Appeals. (00A116B) 8/00

Courts Martial Convictions. See entry under Military Law.

Court-Stripping. Oppose legislative curtailment of jurisdiction of Supreme Court and the inferior federal courts for the purpose of effecting changes in constitutional law. 8/81

This policy extends to legislation, which seeks to curtail remedies available to federal courts in cases involving constitutional rights. 4/82

Criticism of Judges. Urge all bar associations to adopt programs enabling timely and effective responses to misleading criticism of judges and suggest Model Program Outline for State and Local Bars. 2/98

Cybersecurity. See entry under Antiterrorism and Cybersecurity.

Disclosure of Protected Material. Urge amendments to federal and state rules to establish consistent rules to resolve issues involving claims of inadvertent disclosure of materials protected by the attorney-client privilege or work product doctrine. (06A120D) 8/06

Discovery

Rules FRCP 26(A). Urge Congress to defer amendment to specific parts of Rules 26, 30, 31, 33 and 37 of the Federal Rules of Civil Procedure until after Dec. 31,2/95

6/93

See Class Actions entry, this section.

Discovery: Expert Witnesses. Urge amendments of federal and state rules to protect from discovery of draft expert reports; counsel should enter voluntarily stipulation until such rules are adopted. (06A120A) 8/06

Civil Litigation. Urge U.S. courts to consider and respect data protection and privacy laws of foreign sovereigns & interests of persons subject to or benefitting from them with regard to data sought in civil litigation discovery. (12M103) 2/12

Discrimination and Diversity in the Courts. Encourage judicial leaders and court systems to adopt non-discrimination policies including merit-based personnel systems, equal employment opportunity and affirmative action plans; call upon legislative and executive branch officials and their advisory groups to incorporate affirmative action values in making judicial recommendations and appointments. 2/90

Urge greater diversity among judicial personnel. (16A103) 8/16

See also Bias and Diversity entries, this section, Affirmative Action entry under Civil Rights and Constitutional Law and Employment of Women entry under Criminal Law/Procedure.

District of Columbia Courts. Support and oppose various legislative proposals for D.C. court reorganization. 5/70; 9/73

Diversity on the Bench. Urge the elimination of any barriers to the selection of women and minorities as judges. 8/86

Urge the President of the United States to appoint minority lawyers of racial and ethnic diversity to all levels of the federal judiciary. 2/95
Support the selection as federal judges of men and women of diverse backgrounds and experiences. (08A118) 8/08

Urge the President, Senate, and lower federal courts to recognize the importance of racial, ethnic, disability, sexual orientation, gender identity and gender diversity in the selection process for lower court judges, including bankruptcy and magistrate judges, and to employ strategies, including the use of merit selection panels, to increase the pool of qualified diverse applicants, nominees and appointees; urge increased diversity among judicial branch employees. (16A102) 8/16

See also Discrimination entry, this section

Diversity Jurisdiction. Oppose legislation that would either abolish diversity jurisdiction in the federal courts or curtail it by precluding a resident plaintiff from invoking federal jurisdiction. 6/78

Reaffirm 1978 position and oppose efforts to raise the amount-in-controversy bar for diversity cases by: (1) increasing the minimum amount; (2) indexing it for inflation; and (3) excluding "non-economic" and other damages from the amount-in-controversy calculation. 6/96

Urge Congress to amend 28 U.S.C. §1332 to provide that unincorporated associations shall, for diversity jurisdiction purposes, be deemed a citizen of its state of organization and the state where the entity maintains its principal place of business. (15A103B) 8/15

Elder Abuse and Court-Focused Initiative. See related entries under Elder Law section.

Electronic Access/ Electronic Case File System Urge Federal, state, territorial and local courts to provide computer on-line access to court and docket information at no direct cost to the user. 8/95

Recommend the U.S. Bankruptcy Courts in each federal district permit attorneys who have received electronic case filing (ECF) training to file documents electronically in any district. (06M301) 2/06

Support efforts by the A.O. to enhance the functionality of the Federal Judiciary’s Electronic Case File system. (11M10A) 2/11

See related entries under Attorneys.

Expert Fees. See entry under Civil Rights and Constitutional Law.

Federal Courts Improvement Act: Specialized Courts and Interlocutory Appeals. Support in part and oppose in part certain provisions of the omnibus court reform legislation; e.g., oppose creation of Federal Circuit Court of Appeals, U.S. Claims Court, and U.S. Court of Tax Appeals. support in principle the deleted provisions of the Federal Courts Improvement Act of 1979, permitting a circuit court of appeals to entertain an appeal from an interlocutory order in a civil action under certain circumstances. 8/79

Federal Judgeships. Support legislation creating additional district and appeals court judgeships. 8/67; 2/74; 8/75; 8/76; 8/78

Support enactment of comprehensive legislation to authorize needed permanent and temporary judgeships, with particular focus on the federal districts with identified judicial emergencies so that affected courts may adjudicate all cases in a fair, just and timely manner. (13A115) 8/13

Federal Judgeships for Border Courts. Support authorization of additional judgeships for the five district courts situated along the U.S./Mexico border. (01A119) 8/01

Representation of Territories. Urge Congress to amend 28 U.S.C. § 44(c) to include the word “territory” ensuring that all territories, within the jurisdiction of the federal courts of appeal, will be represented on the appeals court bench. (14A10A) 8/14

Federal Judicial Center. Support creation of a Federal Judicial Center with non-judicial representation on the center's board. 8/67

Foreign Intelligence Surveillance Act. See entry under Anti-Terrorism.

Foreign Law Citation. Oppose federal or state laws that impose blanket prohibitions on consideration or use of foreign or international law or impose blanket prohibitions on consideration or use of the entire body or doctrine of a particular religion. (11A113A) 8/11

Funding. Justice system. Urge state and local bar associations to work together in a coordinated effort to ensure adequate and balanced funding for the justice system. 8/91

COURTS/JUDGES/PROCEDURE
Urge bar associations to document and publicize the impact of funding cutbacks to their justice systems in their jurisdictions. Urge governments to recognize their constitutional duty to provide adequate funding and to develop strategies to provide stable and predictable levels of funding. (11A302) 8/11

Federal Courts. Urge Congress and the Administration to fund the Federal judiciary at levels sufficient to enable the courts to fulfill their Constitutional and statutory duties and to provide FY 2005 appropriations sufficient to maintain FY 2004 level of services to avoid further cutbacks. (04A10A) 08/04

Urge federal elected officials, as they consider deficit reduction for FY 2013 and beyond, to assure access to justice through adequate funding for courts and LSC. (13M10A) 2/13

Federal and State Courts. Urge legislative bodies and governmental agencies to adopt laws and policies that ensure full and adequate court funding. (13A10C) 8/13

State Courts. Urge states and territories to support quality and accessible justice by adopting judicial branch budget procedures that will ensure adequate, stable, long-term funding of their courts under all economic conditions; and adopts the black letter recommendations of the ABA Commission on State Court Funding, dated August 2004. (04A107) 08/04

Adopt the Principles for Judicial Administration, dated August 2013, as appropriate guidance for those states desiring to establish principles for judicial administration in their efforts to restructure court services and secure adequate court funding. (13A10C) 8/13

See entry under Tribal Law, this section.

Homeless Court Programs. See entry under Criminal Law/Procedure.

Immigration Courts. See entry under Immigration Law.

Immigration Judiciary. Support the creation of an Article I court, with trial and appellate divisions, to adjudicate Immigration cases. (10M114F) 2/10

Inspector General for the Judicial Branch. Oppose legislation such as H.R. 5219 and S. 2678 (109th Congress) that would establish a statutory Office of Inspector General for the Judicial Branch for the purpose of conducting investigations of matters pertaining to the Judicial Branch. (06A308) 8/06


Judicial Compensation: Federal. Urge legislation regarding how the Commission on Executive, Legislative and Judicial Salaries' recommendations on the quadrennial pay increases for federal officials are incorporated in the federal budget in order to replace the process which formerly relied on the legislative veto. 12/84

Support increases from current level and continuing more frequent future increases to keep pace with cost of living in order to retain qualified federal judges; oppose legislation such as the proposed Federal Judicial Salary Control Act, S.1847 (97th Congress), which would subject the federal judiciary to the annual authorization process of Congress. Urge Congress to authorize significant increases for Bankruptcy Judges and U.S. Magistrates. Urge Congress to implement increased salaries recommended by both President Reagan and Bush. 8/76; 12/76; 4/82; 8/87; 2/89

Urge Congress to de-link Congressional pay from judicial pay and make judicial salaries subject to the same automatic COLA granted career federal employees. 2/98

Urge Congress to take immediate action to enact a substantial pay increase for the federal judiciary. (07M10D) 2/07

Support the recommendations contained in the 2003 Report of the National Commission on the Public Service urging Congress to enact an immediate and significant increase in federal judicial salaries and break the statutory link between Congressional and judicial salaries. (03M303) 2/03

Urge Congress to amend the current method by which judicial cost-of-living adjustments (COLAs) are calculated and conferred by tying them to COLAS received by federal employees under the General Schedule; urge Congress to consider taking similar action with regard to its own COLAs; and reaffirm support for repeal Section 140 of the P.L. 97-92. (10M300) 2/10
Judicial Compensation: Federal and State. Urge that the salary levels of federal and state judges be reviewed on a regular periodic basis and adjusted to ensure that judicial salaries are not diminished by increases in cost of living. 8/80; 2/94

Judicial Compensation: State. Recommend substantially equal salaries for highest state court judges and federal circuit judges, and for state trial judges and federal district judges. 8/81

Pay Commissions. Reaffirm support for adequate levels of compensation, encourage bar associations to take leadership role, support use of pay commissions with specified characteristics. (03A105A) 8/03

Judicial Discipline and Removal. Urge House of Representatives to consider impeaching any federal judge who is convicted of a felony and has exhausted his appeals. 8/86

Support in principle the Judicial Discipline and Impeachment Reform Act of 1989, providing for a National Commission on Judicial Impeachment. 2/90

Related policies not summarized here: 8/73; 8/75; 8/88; 2/90.

Reaffirm support for the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980; oppose adding statutory removal from office as a method of discipline under the Act. 2/93

Support efforts within ABA and be bar associations to increase understanding of Act, and supports certain enumerated amendments to Act. 2/94

See also Judicial Independence entry, this section.

Judicial Disqualification and Recusal. Urge states to establish clearly articulated procedures for judicial disqualification determinations and prompt review of denials of request to disqualify a judge. (11A107) 8/11

Urge states and territories to adopt clear procedures for judges to disqualify or recuse themselves and to create mechanisms for the review of denials to disqualify or recuse. (14A105C) 8/14

Judicial Education Programs. Urge federal and state judicial education programs for judges include a course examining how racial and sexual bias affect judicial decision-making. 8/86

Support educational programs for judges about the civil, criminal, psychological, evidentiary and procedural issues relating to domestic violence; further, recommend that such educational training programs be mandatory for judges handling cases in certain specified issue areas. 2/96

Urge associations and the highest court of each state to establish, educational programs to assist individuals interested in becoming judges make a more informed decision regarding whether to pursue a judicial career. (09M113) 2/09

Encourage education and training for judges in the United States and abroad with regards to financial market products and practices that is accurate, timely, balanced, and reliable. (10A107B) 8/10

Urge National Commission on Forensic Science to develop a model curriculum in the law and forensic science and train judges in the curriculum. (15A115) 8/15

Implicit Bias. Urge all courts to develop plans of action to make de-biasing training an important part of both initial judicial training and continuing judicial education. (17A121) 8/17.

See entry under Administrative Law.

Judicial Elections. See entry under Election Law.

Judicial Impact Statements. Support legislation by states and the U.S. Congress mandating for each bill or resolution that affects the operations of the courts. 8/91

See Justice System Impact Statements under Federal Government/Congress.

Judicial Independence. Oppose recent congressional initiatives that infringe upon the separation of powers between Congress and the courts, and have the potential to inhibit the independence of the judiciary. 2/96

Board expresses concern over recent political attacks on independence of judiciary and calls upon lawyers to speak out for independence. 4/96

Reaffirm support for lifetime appointment of federal judges during good behavior as provided in Article III; oppose proposals, either by statute or constitutional amendment to limit the lifetime tenure or independence of Article III judges. 5/97

Recommend that public officials refrain
from threatening to initiate impeachment proceedings because of disagreement with isolated decisions of a federal judge. 2/98

Affirms that a fair, impartial, and independent judiciary is fundamental to a free society and calls on elected officials and others to support and defend our judiciary; will accelerate efforts to provide public education and assistance in responding to unjustified criticisms regarding the justice system. (05A10A) 8/05

Support efforts to defend against attacks on the judiciary and oppose any measure that interferes with or impedes the ability of courts to apply independently the law and the Constitution fairly and impartially. (07M10B) 2/07

Adopt the Principles on Judicial Independence and Fair and Impartial Courts, dated August 2007. (07A110D) 8/07

Support the following international standards on judicial independence: The United Nations Basic Principles on the Independence of the Judiciary; The International Bar Association Minimum Standards for Judicial Independence; and The Bangalore Principles of Judicial Conduct, and urges the United States government to support these standards. (07A110E) 8/07

See also Criticism of Judges and Term Limits of State Judges, this section and Judicial Elections under Election Law.

Judicial Leave Policy. Urge states to adopt standards for judicial leave and evaluate policies in accordance with the "Recommended Criteria for Evaluating Judicial Leave Policies."

Judicial Participation in Law-Related Education. See entry under Legal/Public Education.


See related entry under Ad. Law.

Judicial Planning Agency. Support creation of such an agency to provide planning capability and recommend appropriate changes in the federal judicial system. 12/77

Judicial Sabbaticals. Endorse the concept of judicial sabbaticals and urge the states to adopt legislation to allow a program providing

sabbaticals. 8/88

Judicial Selection.

Merit Selection: Support establishment of procedures to encourage the appointment of federal judges strictly on the basis of merit and without regard to extraneous political considerations. 8/77

Urge all presidential candidates to disavow any platform plank inconsistent with concept of merit selection. 8/80

Urge state, territorial and local bar associations in jurisdictions where judges are elected to work for the adoption of merit selection and retention, and to consider means of improving the judicial elective process. 8/94

Nominating Commissions: Urge creation of bipartisan advisory nominating commissions to evaluate qualifications of candidates to District Court and Court of Appeals judgeships. (08A118) 8/08

Pre-nomination Consultation: Urge Pre-nomination consultations between the President and the home Senators prior to submission of nominations. (08A118) 8/08

See also Minority Appointments to the Federal Judiciary, this section and Judicial Elections: Public Financing under Election Law.

Judicial Space and Facilities. Support legislation permitting the transfer of such space to state and municipal judicial use. 8/75

Judicial Vacancies. Urge the President of the U.S. and Congress to expedite appointments to vacancies in the judicial system, with a special emphasis on the District Court of the Virgin Islands where there is currently no sitting judge. 2/90

Urge President and Senate to appoint and vote on nominees to fill current vacancies on the federal bench expeditiously. 2/98

Urge prompt nomination of federal judges by the President and prompt consideration of those nominations by the Senate. (08A10A) 8/02

Jury Service. Support an amendment to the Social Security Act to allow the use of social security numbers for the preparation of jury lists. 2/91

Support legislation to provide for the random selection of jurors and to prohibit
discrimination in juror selection on account of race, color, religion, sex, national origin or economic status, in federal or state courts. 8/67

Urge ABA to study and evaluate the issues and factors that contribute to low participation in jury service and to develop methods to help increase citizen participation. (01M8B) 2/01

Amends the ABA Principles for Juries and Jury Trials to add gender identity and gender expression to the factors that may not limit eligibility for jury service and to make it the court’s responsibility to educate jurors on how implicit bias may impact the decision making process. (16A/116) 8/16

Jury Size. Support legislation to restore size of a federal civil jury to 12 persons and to enable 10 of the 12 jurors to render a verdict in a civil trial. 2/90

See Jury Standards under Criminal Law.

Jury Trial. Oppose the suspension or delay of an individual’s right to a civil jury trial in the face of difficult fiscal circumstances. (14A105A) 8/14

See related entry under Criminal Law.

Justice Commissions. Support the establishment of access to justice commissions or comparable bodies in all states and territories. (13A10D) 8/13

Justice System Impact Statements. Support the use of Justice System Impact Statements at the federal, state, territorial, and local levels to examine the full economic and workload effect of proposed action or policy on all elements of the civil and criminal justice systems. 8/92

Language Access. Recommends that all courts be provided with language interpreters, including sign language, who are qualified through mandatory certification program. 8/97

Urge sufficient funding for qualified live in-person language interpreters for all courts and administrative agencies. (02M110) 2/02

See English Only under Civil Rights

Adopt the ABA Standards for Language Access in the Courts to provide guidance to courts in designing, implementing and enforcing a comprehensive system of language access services; urge legislative and executive branches to provide adequate funding to courts and other adjudicatory tribunals to fully implement language access services. (12M113) 2/12

Law Clerks in Circuit Courts. Support legislation increasing to two the number of law clerks available to each circuit court judge. 8/67

Lawsuit Abuse Reduction Act. Support the judicial rulemaking process under the Rules Enabling Act, setting forth principles of federalism and the current version of Rule 11 of the Federal Rules of Civil Procedure and opposes legislative changes to Rule 11, including changes proposed in the “Lawsuit Abuse Reduction Act” (H.R. 4571). (05M109C) 2/05

Lawsuit Data Collection. See entry under Insurance and Torts Law.

Law Students in the Courtroom. See entry under Legal/Public Education.

Limits on Oral Argument. Oppose rules of certain federal circuit courts which drastically curtail or eliminate oral arguments. 8/74

Line-Item Veto. Urge Congress to enact legislation to exclude from the Presidential line-item veto authority budgetary items involving the federal judiciary's appropriations. 2/98

Litigation Filed Both in Federal and State Courts. Support the establishment of methods of cooperation between federal (including bankruptcy), state and territorial courts for the conduct of litigation filed in these courts (or in multiple state and territorial courts) arising out of common facts and support the exploration of methods of consolidation of such litigation within the context of constitutional limitations. 2/92

Long Range Plan for the Federal Courts. Support efforts by the Judicial Conference to plan for the future of the courts and adopt specific policies in response to Plan’s recommendations. 8/95

Magistrates. Support legislation to abolish the office of United States Commissioner and create in its place the office of United States Magistrate and Deputy United States Magistrate. 8/66

Supports the consent jurisdiction of US
magistrate judges as being consistent with and not violative of Article III of the U.S. Constitution. (12M10B) 2/12

See Peremptory Challenges entry, this section.

Megatrials. Urge the Judicial Conference to encourage the United States District Courts to fashion remedies in appropriate individual cases or encourage adoption of local rules in selected Districts to address the issue of long trials involving numerous defendants. 8/91

Merit Selection and Political Contributions. See Judicial Elections: Public Financing under Election Law.


Amend the Application Section of the 2007 ABA Model Code of Judicial Conduct. (10A113) 8/10

Ninth Circuit Restructuring. See Circuit Restructuring entry, this section.

Office for Improvements in the Administration of Justice. Supports the reestablishment of the Office for Improvements in the Administration of Justice in the U.S. Department of Justice. 2/92

Peremptory Challenges. Urge enactment of legislation permitting the peremptory challenge of a federal district judge, magistrate or bankruptcy judge in civil cases. 2/80

See entry, Criminal Law/Procedure.

Problem-Solving Courts. Support the continued development of specialized problem-solving courts, such as drug courts, domestic violence courts, etc. (01A117) 8/01

Punitive Damages. Urge amendment of FRCP and all state rules of civil procedure regarding pleading and discovery of the financial worth of the party against whom punitive damages may be claimed. 8/87

Removal Jurisdiction. Support legislation providing that a federal court to which an action is removed from a state court will not be barred from hearing and determining a claim because the state court lacked jurisdiction over it. 2/86

Rent Relief for the Judiciary. Support legislation to provide relief from excessive rents charged to the Judiciary by the General Services Administration. (06A115) 8/06

Residence for Chief Justice. Support legislation to establish a permanent residence for the Chief Justice. 10/71

Repeal of 28 U.S.C. § 1500. Urge Congress to repeal and replace 28 U.S.C. § 1500 in accordance with the recommendation of the Administrative Conference of the United States to eliminate unnecessary procedural obstacles to the fair and efficient review of claims against the United States in the U.S. Court of Federal Claims. (13M300) 2/13

Regulation of Non-traditional Legal Service Providers, Judicial Review of: See entry (16M105) under Attorneys/General Practice.

Revenue Generation Appointment Criteria. Urge that appointing authorities for judges do not use as criteria for appointment or reappointment revenue generation or conviction rate goals. 2/95

Rules Enabling Act. Support the Rules Enabling Act process which vests rulemaking authority in the Judicial Conference of the United States and provides a period for Congressional review and amendment. Oppose those portions of H.R.10, the Common Sense Legal Reforms Act, (104th Congress) that would circumvent the Rules Enabling Act process. 2/82;

See also Class Actions, Lawsuit Abuse Reduction Act and Sunshine in Litigation Act, this section.

Rulemaking: Membership of Rules Committees. Support federal legislation requiring that practicing lawyers comprise at least 50 percent of each Judicial Conference committee that recommends rules to be prescribed under 28 U.S.C. Section 2072. 8/94
Rules of Practice: Availability. Urge that all local rules adopted by federal district courts are made available in electronic and written format at a single national location. (00M107) 2/00

Rules of Practice: Civil Procedures. See Discovery: Expert Witnesses entry, this section.

Rules of Practice: Uniformity. Urge universal implementation of uniform numbering system, and urge courts to adopt practices that minimize departures from the Federal Rules. (00M107) 2/00


Security of Courthouses and Judges. Urge enumerated actions to improve federal judicial court security. (05A106C) 8/05

Senior Judges. Agree that a policy that a senior federal judge perform 25 percent of the workload of an active judge is not unreasonable, but oppose legislation such as H.R. 1930 on the basis that Congress mandating work criteria for federal judges is unwise, counterproductive and contrary to the spirit of judicial independence and separation of powers. 8/89 (Adopted by new Board, not by H/D)

SLAPP Lawsuits. Urge federal and state legislatures to enact legislation to protect individuals and organizations to choose to speak on matters of public concern form meritless litigation designed to suppress such speech, commonly known as SLAPPS – Strategic Lawsuits Against Public Participation. (12A115) 8/12

State Court Assessment Project. Urge state and territorial judiciaries, in cooperation with state, local, and specialty bar associations, to undertake assessments of their judicial systems, using the State Court Assessment Project developed by the ABA Standing Committee on Judicial Independence. (08A10D) 8/08

State Court Security Protocols. See related entry Security of Courthouses and Judges, this section. (14M106) 2/14

State Court Time Standards. Adopt the Model Time Standards for State Courts, dated August 2011, and urges state judicial systems to implement them. (11A123) 8/11

State Justice Institute. Urge continued federal funding for the State Justice Institute at a level adequate to support its programs. (02M301) 2/02

State Secrets. See entry in Anti-Terrorism.

Stipulations for Settlements of Cases Involving Pro Se Litigation. Urge adoption of rules, best practices, etc., for judges in reviewing stipulations for the settlement of cases involving pre se litigants. (08A10A) 8/08

Sunshine in Litigation Act of 2007. Oppose the Sunshine in Litigation Act of 2007 (S 2449) or other legislation that would impose similar requirements or burdens on federal courts for entering or modifying protective orders beyond those in FRCP 26(c) and reaffirm support for Rules Enabling Act. (09M10C) 2/09

See also Rules Enabling Act entry, this section.

Tax Court. See entry under Tax Law.

Tax Intercept of Overdue State Court Debt. Urge Congress to amend the federal tax code to allow state courts to use the federal Tax Offset Program to recover overdue state court debts through interception of federal tax refunds due to debtors. (11M10B) 2/11

Term Limits for State Judges. Oppose efforts to restrict the independence of state judiciaries through measures requiring an automatic limit on the number of terms a person may serve in a judicial position. Support consideration of the qualifications of the person to serve in that position. 8/96

Three-Judge District Courts. Oppose legislation that requires three-judge district court to hear applications for interlocutory or permanent injunctions when constitutionality of
state- passed referendum is at issue and opposes direct appeal to Supreme Court. 8/95

**Tribal Law Courts.** Adopt and urge implementation of the recommendations contained in the Indian Law and Order Commission’s November 2013 report entitled *A Roadmap for Making Native America Safer* except for the circuit court provision of amendment 1.2. Urge Congress to establish means of creating consistent case law dealing with civil rights and federal law interpretation in Indian Country. (15M111A) 2/15

**Funding.** Urge Congress to support quality and accessible justice by ensuring adequate, stable, long-term funding for tribal justice systems. (08A117A) 8/08

**Violence Against Women.** Urge Congress to strengthen tribal jurisdiction to address crimes of gender-based violence on tribal lands in general, and specifically in the reauthorization of the Violence Against Women Act. (12A301) 8/12

See also additional entries under Criminal Law/Procedure and Family Law.

**Unpublished Opinions.** Oppose prohibitions against citing or relying on unpublished opinions by federal appellate courts and urge such courts to make their unpublished decisions widely available and to permit citation to relevant unpublished opinions. (01A115) 8/01

**Veterans Claims.** See entry under Administrative Law.

**Veterans Treatment Courts.** Support the development of comprehensive, systemic approaches to address the special needs of veterans within civil and criminal courts through programs that connect veterans to appropriate housing, treatment and services. Urge state, local, and territorial courts to facilitate development of Veterans Treatment Courts focused on treatment-oriented proceedings. (10M105A) 2/10

See also Substance Abuse entry under Health/Mental Health.

**Virgin Islands.** Urge Congress to establish the District Court of the Virgin Islands as a district court under Article III of the Constitution. (99M107) 2/99

**Voir Dire.** Support voir dire amendments to Federal Rules of Civil Procedure and Federal Rules of Criminal Procedure to permit counsel and the court to conduct an oral examination of prospective jurors. 2/75; 8/76; 2/81

**Witness Fees.** Support legislation to allow a prevailing party in a case covered by a Federal fee-shifting statute to recover the costs of reasonable expert witness fees. 8/9

**CRIMINAL LAW/PROCEDURE**
(For additional policy positions, see the ABA Criminal Justice Standards, adopted and amended on multiple occasions, including Standards on the Treatment of Prisoners, 2/10; Standards on Law Enforcement Access to Third Party Records, 2/12; Standards on Fair Trial and Public Discourse, 8/13; Standards for Criminal Justice: Prosecution Function and Defense Function 2/15; 8/17 Standards for Criminal Justice Monitors (15A108A) 8/15; Criminal Justice Standards on Mental Health (16A107) 8/16 and Standards Relating to Dual Jurisdiction Youth (17A112A) 8/17.

See also ABA Guidelines on Contribution Fees for Costs of Counsel in Criminal Cases, 8/04; and ABA Guidelines and on Speedy Trial and Timely Resolution of Criminal Cases, 8/04; and the Model Act Governing the Confidentiality and Expungement of Juvenile Delinquency Records (15A103A) 8/15.

**Access to Courts by Prisoner.** Urge jurisdictions to afford prisoners meaningful access to the courts and ensure that they are subject to procedures applicable to the general public when bringing lawsuits and urges Congress to repeal or amend specified provisions of the Prison Litigation Reform Act (PLRA). (07M102B) 2/07

**Adult Community Corrections Act.** Urge each state and territory to enact an Adult Community Corrections Act; support 1991 Model Act. 2/92

**Acquittals.** See Federal Rules of Criminal Procedure entry, this section.

**AIDS and the Criminal Justice System.** See HIV/AIDS and the Criminal Justice System entry, this section.

**Anti-Terrorism.** See entries under
Anti-Terrorism for all policies that affect criminal prosecution of detainees suspected of terrorist activities.

**Asset Forfeiture.** Urge the Department of Justice and other prosecutorial agencies to promulgate internal guidelines to govern the use of criminal and civil forfeiture. 2/91

Urge that federal asset forfeiture laws be amended to comply with the Statement of Principles on the revision of the Federal Asset Forfeiture Laws, dated November 11, 1995. 2/96

**Pretrial Hearing.** Urge federal, state, local and territorial courts to provide a pretrial adversarial hearing where a criminal defendant can challenge the evidentiary support, and underlying probable cause for a restraining order that freezes assets needed to retain counsel of their choice. (513BOG) 5/13

**Attorneys as Witnesses before a Grand Jury.** Oppose prosecuting attorneys issuing subpoenas to attorneys to appear before grand juries for the purpose of compelling the attorney to provide information concerning a person whom the attorney represents unless prior judicial approval has been obtained. 2/86

**Attorney-Client Contact as Evidence of Guilt.** Support principle that act of contacting or retaining an attorney should not be admissible as evidence of consciousness of guilt. 2/94

**Attorney-Client Privilege.** See International Money Laundering, and Email Communication entries under **Attorneys/General Practice.**

**Bail Reform.** Support amendments to the Bail Reform Act of 1966, including authorization for government and defendant appeals of pretrial release orders, limitations on pre-trial release and bail pending appeal and increased penalties for offenses committed during pretrial release. 2/72

See also Chapters 20 and 21 of the ABA Standards of Pretrial Release.

Recommend that all jurisdictions ensure that defendants are represented by counsel at bail hearing and that adequate resources are provided to ensure such representation for indigent defendants. (98A112D) 8/98

**Personal Recognizance.** Urge governments to adopt policies that: 1) favor release on personal recognizance bonds or unsecured bonds; 2) require courts to determine that only financial conditions will assure appearance; and 3) that prohibit pretrial detentions based solely on an inability to pay.

See related entries under **Youth Offenders**, this section.

**Ballistic and Fingerprint Identification System.** Urge Congress to enact legislation and authorization of funds for nationwide interoperability of the Automated Fingerprint Identification System; urge adoption of methods for improving the effectiveness of the National Integrated Ballistic Information Network through operational and technological improvements. (10A100H) 8/10

**Bias in the Criminal Justice System: Racial and Ethnic.** Urge bar associations, judges, prosecutors, defenders and police to address disparate treatment of racial and ethnic minority youth in the justice system and assure fair and equal treatment by adhering to specified principles. (03A101B) 8/03

Urge states, territories, and the federal government to strive to eliminate actual and perceived racial and ethnic bias in the criminal justice system and recommend the establishment of Criminal Justice Racial Task Forces to reduce or eliminate racial disparities at each stage of the criminal justice process. (04A121B) 08/04.

See also **Kennedy Commission** entry, this section.

**Biological Evidence (Including DNA Evidence).** Urge jurisdictions to adhere to certain principles concerning biological evidence collected in conjunction with the investigation of a criminal case, including the principle that appropriate scientific and privacy standards should be developed to guide the preservation of biological evidence. (00M115) 2/00

**Hair Analysis.** Urge the DoJ to continue its accuracy and quality assurance efforts in the area of microscopic hair analysis and urge prosecutors to conduct a timely review of all cases in which possible errors occurred. (M17/112A) 2/17

See **Standards of DNA Evidence** entry, this section.

See **Hair Analysis**, this section.
**Capital Punishment.** Urge the Supreme Court to adopt a rule providing for appointment of counsel to pursue post-conviction remedies in death penalty cases, and recommend that the Criminal Justice Act be amended to provide for adequate compensation to counsel in such cases. 2/79
Oppose in principle capital punishment for any offense committed while under the age of eighteen. 8/83
Recommend that two attorneys be appointed to represent defendants in death penalty cases, one of whom has substantial trial experience. 2/85
Oppose discrimination in capital sentencing on the basis of the race of either the victim or the defendant. 8/88
Opposes the death penalty for any mentally retarded person. 2/89
Support the adoption of the "Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases." 2/89
Support legislative measures to prevent or minimize disproportionate effects of federal death penalty legislation on Native Americans subject to federal jurisdiction. 8/91
Support the adoption of the "Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases," dated February 2003. (03M107) 2/03
Without taking a position supporting or opposing the death penalty, urges each jurisdiction that imposes capital punishment to implement specific policies and procedures as it relates to mental illness. (06A122A) 8/06
Urge courts in capital cases to adopt jury instructions that are understandable to jurors untrained in law. (12M101G) 2/12
Urge Congress to amend 28 U.S.C. § 2254(d) to require a federal district court to review de novo, based on the record made in the federal court, claims of ineffective assistance of counsel by petitioners under sentence of death. (12A107D) 8/12

**Execution Protocols.** Urge jurisdictions that impose capital punishment to promulgate execution protocols in a transparent manner, require public comment and disclosure to the public of all relevant information regarding execution procedures. (15M108B) 2/15

**Hair Analysis.** Urge the DoJ to continue its accuracy and quality assurance efforts in the area of microscopic hair analysis and urge prosecutors to a timely review of all cases in which possible errors occurred. (M17/112A) 2/17

**Moratorium.** Recommend that each jurisdiction imposing capital punishment not carry out the death penalty until it implements policies and procedures that are consistent with ABA policies intended to (1) ensure the fair and impartial administration of the death penalty, and (2) minimize the risk that innocent persons may be executed. 2/97

**Unanimous Juries.** Urge governments that impose capital punishment and the military to require that before a sentence of death is imposed juries unanimously recommend capital punishment and unanimously agree on any fact or aggravating factor that is a prerequisite. (15M108A) 2/15
See also Wrongful Execution entry, this section.

**Child Sexual Abuse.**
Urge governments to review child sexual abuse criminal statutes of limitations to determine whether extending the statute of limitations is warranted (12A107A) 8/12

**Sexual Assault Laws.** Urge legislative bodies to review their laws on luring, enticing, or intimidating minors for sexual acts to ensure that such laws explicitly address internet and other electronic means of communication. (M17/300) 2/17

**Child Victims and Childhood Violence.** See entry under **Family Law.**

**Child Witnesses in Abuse Cases.** Approve "Guidelines for the Fair Treatment of Child Witnesses in Cases Where Child Abuse is Alleged." 8/85

**Codification of Federal Criminal Laws.** Support codification in conformity with five declared principles and favor numerous specific amendments and deletions. 2/73; 8/73; 8/75

**Collateral Consequences for Non-U.S. Citizen.** See entry under **Immigration Law.**

**Collateral Sanctions.** See Youth Offenders: this section.

**Commission on Gambling.** Recommend immediate establishment of a Commission on the Review of the National Policy Toward Gambling. 7/71
Communication between Parents their Children. Urge federal, state, territorial, and local governments to facilitate contact and communication between parents in correctional custody and their children in the community; urge child welfare agencies facilitate communication with correctional facilities to enable them to track the incarceration status of parents of children in foster care. (10M102E) 2/10

Comprehensive Crime Control Act. Disapprove of using the forfeiture and subpoena provisions of the "Comprehensive Crime Control Act of 1984" against attorneys unless there are reasonable grounds to believe the attorney has engaged in criminal activity or accepted a fee to protect such activity. 8/85

Concealed Weapon. Support discretion of enforcement authorities to determine whether a permit or license to engage in "concealed carry" should be issued in jurisdictions that allow the carrying of concealed weapons, and opposes laws that limit such discretion. (11A115) 8/11

Contacts by Department of Justice Attorneys with Unrepresented Persons. See Model Rule 4.2 entry under Attorneys/General Practice.

Congressional Contacts with Federal Prosecutorial Agencies. Urge congressional committees to adhere to certain principles when seeking information from federal prosecutorial agencies. Generally, such principles should recognize the legitimate oversight role of congressional bodies, the obligation of federal prosecutorial agencies to respond to congressional inquiries, and the need to prevent improper interference with the investigation or prosecution of individual cases. 8/96

Convictions. Support legislation governing certificates setting aside convictions and permitting the record of conviction to be used and disseminated for certain purposes. 8/73

Wrongful Convictions. Urge prosecutor’s offices to adopt and implement internal conviction-integrity policies for situations when an office supports a defendant’s motion to vacate a conviction based on doubts about the lawfulness of the defendant’s conviction. (M17/112B) 2/17

Cooperation of Organizations in Government Investigations. See entry under Business Law.

Crack-Cocaine Sentencing. See Sentencing Guidelines for Drugs entry, this section.

Crime Labs. Urge federal state and local governments to reduce risk of convicting the innocent by accrediting crime labs and medical examiner offices, standardizing and publicizing lab procedures, appointing defense experts for indigent defendants, providing affordable attorney training in forensic science and providing such programs with adequate funding. (04A111B) 08/04

Urge the federal government to provide funding and resources sufficient to facilitate the examination of existing standards, accreditation and certification for government and private laboratories, examiners/analysts in government and private laboratories, and identified forensic science service providers who offer examination conclusions and/or interpretations of forensic laboratory results. (10A100E) 8/10

Urge governments to adopt pretrial discovery procedures to require laboratories producing reports for use in criminal trials to submit comprehensive laboratory and forensic science reports that include identification of procedures, results and other specified information.

See also Forensic Science entry, this section.

Crime Victims Compensation. Support legislation to compensate victims of federal crimes and authorize payment to states to carry out the program. 8/67-R-5/74

Approve the "Guidelines Governing Restitution to Victims of Criminal Conduct" dated April 1988. 8/88

See also Victim and Witness Procedures entry, this section.

Criminal Defense Lawyers. Urge defender organizations and criminal defense lawyers to address clients’ interrelated criminal, civil and non-legal problems through specified means.

Urge funding for these purposes. (12A107C) 8/12

Criminal Defense Services Contracts. Urge jurisdictions which utilize governmental contracts for criminal defense services to
choose them in accordance with Chapter 5 of the second edition, ABA Standards for Criminal Justice and Guidelines. 2/85; 8/85

Criminal Justice Act. Urge Congress to increase, or to provide a mechanism for administratively increasing, the per hour and maximum total amount of compensation authorized under the Act so that attorneys receive reasonable compensation in accordance with prevailing standards. 2/82
   Urge Congress to fully fund the Criminal Justice Act, including sufficient monies to permit the United States Judicial Conference to implement a $113 panel attorney hourly rate for private attorneys representing indigent defendants. 4/01

Criminal Justice Financial Assistance. Support legislation to provide federal financial assistance to states and localities to help their crime-fighting efforts. 2/79

Criminal Justice Information. Support legislation to restrict unauthorized and harmful dissemination of criminal justice data identifiable to a person. 8/75

Criminal Justice System Study. Support enactment of legislation to provide for a national study of the state of criminal justice in the United States, with consideration given to all the serious criminal justice issues facing federal, state, local and territorial jurisdictions. (09A111B) 8/09

Custodial Interrogations – Videotaping. Urge law enforcement agencies to videotape or record all custodial interrogations of crime suspects; urge legislatures and/or courts to enact laws or rules of procedure requiring videotaping of custodial interrogations of crime suspects, to provide necessary funding, and to provide appropriate remedies for non-compliance. (04M8A) 02/04
   Approval of the Uniform Electronic Recordation of Custodial Interrogations Act. (11M109C) 2/11

Decriminalization of Consensual Sexual Conduct. Urge non-federal legislatures to review, repeal or amend all statutes criminalizing private, non-commercial, consensual sexual conduct between persons with the legal capacity to consent or denigrating persons who engage in constitutionally protected sexual conduct. (16M102) 2/16

Department of Justice Prosecutors and Model Rules. See Model Rule 4.2 entry under Attorneys/ General Practice.

Detainee Treatment and Interrogation. See entry in Anti-Terrorism.

District of Columbia Criminal Justice Act Funds. Support full funding for the D.C. Criminal Justice program. 9/73

Disclosure Obligations. Urge federal, state, local and territorial courts to adopt a procedure to require that a criminal court, prior to a trial involving felony or serious misdemeanor charges, to conduct a conference with the parties with regard to their respective disclosure obligations under applicable discovery rules, statutes, ethical standards, etc. and to offer assistance in resolving disputes over disclosure obligations. (10M102D) 2/10
   Urges federal, state, tribal and local courts to adopt and procedure whereby a criminal trial court shall disseminate a written checklist delineating the general disclosure obligations under Brady v. Maryland. (11M104A) 2/11
   Urges adoption of disclosure rules requiring the prosecution to timely disclose to the defense before the commencement of trial all information known to the prosecution that tends to negate the guilt of the accused, mitigate the offense charges, or impeach the prosecution's witnesses or evidence, except when relieved of this responsibility by protective order. (11A105D) 8/11

Division of Government Crimes. Support statutory establishment of such a division in the Department of Justice. 2/76

Drug Abuse: Inhalants. Urge state and local bars to join the ABA in developing state and local initiatives aimed at preventing inhalants abuse. 8/95

Drug Courts and Pretrial Drug Testing. Adopt the black letter of Standard 2.77, Procedures in Drug Treatment Courts as an amendment to the Standards Relating to Trial Courts. (01A101A) 8/01
Effective Assistance of Counsel. See Indigent Defense Services, this section.

Effective Criminal Sanctions Commission: Community Supervision Programs. Recommend the development of community supervision programs that allow all but the most serious offenders avoid incarceration and a conviction record and to support individuals seeking to develop deferred adjudication/deferred sentencing/diversion options that avoid a permanent conviction record (07M103A) 2/07

Urge jurisdictions to assist defenders in advising their clients of collateral consequences of conviction. (07M103E) 2/07

Support professional organizations developing programs to train all criminal justice professionals in promoting the sound exercise of their discretion. (07M103F) 2/07

Urge jurisdictions to develop and implement meaningful graduated sanctions for violations of probation or parole. (07M103B) 2/07

See also Kennedy Commission and Youth Offenders entries, this section.

Employment of Women. Urge strengthened recruitment and training programs to assure increased employment of women throughout the criminal justice system. 8/76

See also Discrimination in Employment entry under Corrections.

Enemy Combatants. See entry under Anti-Terrorism.

Evidence Collection and Investigator Conduct. Urge federal, state, local, and territorial governments to establish written policies governing collection and prosecution of evidence; establish training programs for investigative personnel and develop procedures for reporting misconduct; and provide adequate funding for all of above. (04A111E) 08/04.

Exclusionary Rule. Support retention in its current form of the exclusionary rule and oppose legislation which would restrict the application of the rule. 2/73

See also Miranda Rules entry, this section.

Expert Testimony. See Forensic Science entry, this section.

Expungement of Records. Urge governments to enact laws allowing individuals to petition to expunge all criminal justice records pertaining to charges or arrests that did not result in a conviction. (17A112F) 8/17

Urge governments to enact laws allowing for the expungement of convictions or other statutory or ordinance violations where a court enters a finding of guilt for actions performed in public spaces associated with homelessness. (17A112G) 8/17

Extradition. Support the Uniform Extradition and Rendition Act promulgated in 1980 by the NCCUSL. 2/81

Eyewitness Identification. Adopt the ABA Statement of Best Practices for Promoting the Accuracy of Eyewitness Identification Procedures, August 2004; recommend that police and prosecutors develop guidelines for improving the accuracy of lineups and photo spreads; authorize courts to allow expert testimony re: eyewitness accuracy and provide special jury instructions. (04A111C) 08/04.

Urge federal, state, local, and territorial trial judges provide a cross-racial identification jury instruction in certain cases to guard against the enhanced risk of eyewitness misidentification. Urge jurisdictions to develop procedures, including procedures for the procuring and use of expert witnesses and the developing of model instructions, which address the increased risk of cross-racial misidentification in appropriate cases. (08A104D) 8/08

Fair Treatment of Crime Witnesses/Victims. Adopted a set of 13 Guidelines for Fair Treatment of Crime Victims and Witnesses in the Criminal Justice System. 8/83

Federalization of State Crimes. Opposes legislation which would give federal prosecutors concurrent jurisdiction with state prosecutors in crimes where a gun transported in interstate commerce was used in the commission of a homicide or other violent or drug trafficking crime. 9/91

Oppose trend toward greater federalization of state crime, and urge Congress to consider enumerated principles, derived from the 1998 Report of the Task
Force on Federalization of Criminal Law, before creating new federal crimes. (99A113A) 8/99


**Federal Rules of Evidence.** Urges the Federal Rules of Evidence 404(b) and similar state rules which govern the purposes for which evidence of crimes may be admitted be amended to provide that in criminal cases admissibility of extrinsic acts offered as evidence be decided by the court. 2/89

**Federal Witness Immunity Act.** Urge amendment of the Act to permit the court to compel a defense witness to testify over a claim of privilege against self-incrimination. 8/67; 8/80

**Fingerprint Identification.** See *Ballistic and Fingerprint Identification System* entry, this section.

**Forensic Science.** Urge federal, state, local and territorial government to provide sufficient funding and resources to facilitate basic and applied scientific research to improve and/or further develop forensic science disciplines. (10A100D) 8/10

Urge the federal government to provide the funds, resources and other support necessary to effectively integrate the forensic science community into the nation’s system of homeland security. (10A100F) 8/10

**Expert Testimony:** Urge judges and lawyers to consider a number of factors in determining the manner in which expert forensic science testimony should be presented to a jury and how to instruct the jury in its evaluation of expert scientific testimony in criminal and delinquency proceedings. (12M101C) 2/12

**Voir Dire:** Urge judges and lawyers to consider potential jurors’ understanding of general scientific principles, scientific principles relevant to forensic science, and preconceptions or bias with respect to forensic scientific principles in formulating jury *voir dire* questions. (12M101D) 2/12

See also *Crime Labs* entry, this section.

**Gatekeeper Regulations and the Profession.** See *Money Laundering and Terrorist Financing* entries under Anti-Terrorism.

**Gay Panic Defense.** Urge enactment of legislation to curtail the “gay panic” and “trans panic” defenses, including requiring courts to instruct juries that neither non-violent sexual advance nor the discovery of person’s gender/sexual identity constitute legally adequate provocation to mitigate severity of non-capital crime. (13A113A) 8/13

**Government Appeal of Sentences.** Oppose in principle government appeal of sentences on grounds that they are too lenient; oppose inclusion of such a provision in legislation to recodify the Federal Criminal Code. 2/80

**Grand Jury Act.** Approve Model Grand Jury Reform Act of 1982. 2/82

**Grand Jury Reform.** Oppose constitutional amendment which would eliminate the requirement of an indictment in criminal cases. 8/75

Support legislation implementing several improvements in grand jury proceedings, concerning the right to counsel secrecy and limiting the use of hearsay, Fifth Amendment issues, pretrial discovery, etc. 8/74; 8/77; 8/80; 2/81; 2/84; 9/87

Urge the Judicial Conference of the United States to amend the Model Grand Jury Charge as suggested which clarifies that the Grand Jury should be instructed to vote separately on each defendant. (13M104J) 2/13

**Gun Control.** Support several measures to effectuate strong federal gun control including: limiting sale or possession of “Saturday Night Specials,” imposing a waiting period for purchase of firearms, severe penalties for use of a firearm in a crime, making licensing of dealers discretionary, periodic review of the eligibility of handgun owners, and other measures prohibiting purchase etc. of “assault weapons,” by private citizens and urge limiting their availability to military and law enforcement organizations. 8/66; 2/73; 8/75; 2/83; 2/89; 9/93; 2/94

Support several measures to effectuate strong federal gun control including: requiring a license for purchase or transfer of handguns; requiring newly manufactured handguns to be equipped with safety features in order to reduce accidental injuries;
increasing federal tax on handguns; requiring federally licensed firearms dealers to report gun thefts and cooperating with criminal investigations; comply with local and state laws; limiting gun sales to premises; and support public education on Second Amendment and public health efforts to reduce gun violence. 8/94

Support measures to effectuate strong federal gun control including: limiting sale or possession of “Saturday Night Specials,” imposing a waiting period for purchase of firearms, severe penalties for use of a firearm in a crime, making licensing of dealers discretionary, periodic review of the eligibility of handgun owners, and other measures prohibiting purchase etc. of “assault weapons,” by private citizens and urge limiting their availability to military and law enforcement organizations. 8/66; 2/73; 8/75; 2/83; 2/89; 8/93; 2/94

Reaffirm ABA policies on gun control dating from 1965-1993; urge legislative bodies to pursue solutions to the problem of gun violence consistent with ABA policy. (94M8D) 2/94

Support laws that would restrict the sale, distribution, transfer and possession of .50 caliber sniper weapons except to the United States military, the National Guard and law enforcement agencies. (05A10C) 8/05

Background Check. Urge applicable governmental entities to take all appropriate measures to ensure that the National Criminal Instant Background Check System (NICS) is as complete and accurate as possible; urge the U.S. Department of Justice to immediately rescind its memorandum advising federal agencies that they need not report to the FBI. (11A10A) 8/11

Gun Violence Restraining Orders. Urge governments to enact statutes, rules, or regulations authorizing courts to issue gun violence restraining orders, including ex parte orders. (17A118B) 8/17

Health Care Providers. Oppose limitations on the rights of physicians and other health care providers to ask their patients whether they possess guns and to counsel them about the dangers. (12A111) 8/12

Legal Immunity. Oppose federal, state or territorial legislation to create special legal immunity for firearms industry from civil tort liability. (01A10B) 8/01

Rights of Property Owners. Support the right of private employers and property owners to exclude from the workplace and other private property persons in possession of firearms and oppose to override that right. (07M107) 2/07

Rights of Victims. Urge amendment of the Gun Control Act of 1968 to provide a private cause of action, with concurrent state and federal jurisdiction, for those persons sustaining injury or damage as a result of violation of the Act; urge adoption and extension of state laws to provide civil claims for relief for those persons sustaining injury or damage as a result of the violation of state or municipal firearms laws. 2/96

Violence at Schools. Support comprehensive approach to address gun violence at schools by children that includes preventative peer-mediatiion, firearms education, increased enforcement of laws to prevent unauthorized access to firearms by minors, and enactment of additional firearms laws. (98A10E) 8/98

Microstamping. Urge federal, state, and territorial governments to enact laws requiring newly-manufactured semi-automatic pistols be fitted with microstamping technology to ensure that fired cartridges carry serial number of pistol. (10A115) 8/10

See also Zero Tolerance entry under this section.

Habeas Corpus. Support full utilization of the provisions pertaining to representation in federal habeas corpus death penalty proceedings contained in the Criminal Justice Act Revision of 1986 and the Criminal Justice Act Guidelines as amended in 1987 while urging each federal district and circuit court to adopt and each federal circuit judicial council to approve a plan for representation congruous with ABA recommendations. 2/88

Urge measures to be taken in the litigation of death penalty cases, including: providing for competent and adequately compensated counsel at all stages of the proceedings to enhance the efficiency and fairness of state and federal review of state death penalty decisions, a one year statute of limitations for filing all post-conviction applications in capital cases, consolidation of petitioners’ claims, restrictions on filing of successive petitions, and set asides on procedural barriers. 8/82; 2/90

See Habeas Corpus and Military Capital Prisoners entries under Military Law.

Hate Crimes. Urge vigorous efforts by federal,
state and local officials to prosecute perpetrators of violent crimes including those motivated by bias or prejudice. 8/87

Encourage educational initiatives to address hate crimes and intolerant acts by youth and anti-bias education. (02A104B) 8/02

**HIV/AIDS and the Criminal Justice System.** Recommends procedures and policies for dealing with issues raised by the HIV epidemic for use by attorneys, the courts and correctional facilities which emphasize non-discriminatory treatment of individuals with HIV. 2/89

See also **HIV/AIDS** entry under **Health/Mental Health.**

**Homeless Court Programs.** Support the development of a comprehensive, systemic approach to addressing the needs of homeless misdemeanant defendants; urge bar associations to facilitate court adoption of Homeless Court Programs as treatment-oriented diversionary proceedings that result in the dismissal of misdemeanor offense upon completion of shelter/service agency activities (03M116). 2/03

Adopt principles for Homeless Court Programs and approve criteria for individual participation recognizing that administration of the programs will differ depending on the jurisdiction. (06A108A) 8/06

**Homelessness and Criminal Penalties.** See entry under **Housing Discrimination.**

**Human Trafficking.** Support legislation to provide funding to strengthen protection and assistance for victims of trafficking within the United States or abroad and bolster prevention efforts; encourage bar associations to raise awareness; and urge lawyers to provide pro bono legal services to victims of trafficking. (07A110C) 8/07

Urge legislatures to treat minors engaged in trafficking as victims rather than criminals and assure that they receive needed services. (11A103A) 8/11

Urge governments to enact laws regarding treatment of human trafficking victims by criminal justice system; urge bars to develop education programs on the subject. (13M104F) 2/13

Urge legislators to enact legislation allowing human trafficking victims charged with prostitution related crimes or other non-violent crimes that are a direct result of their being trafficked to assert an affirmative defense of being a human trafficking victim. (13M104G) 2/13

Urge legislators to enact and enforce laws and policies that permit victims of human trafficking to vacate their criminal convictions for crimes related to prostitution; encourage legal assistance providers to develop pro bono programs to assist victims of human trafficking to vacate convictions for offenses that are a direct result of their trafficking victimization. (13M104H) 2/13

Urge bar associations to develop and implement training programs for judges, prosecutors, defense counsel, law enforcement officers and other investigators that will enable them to identify victims of human trafficking and offer services and benefits. (13M104I) 2/13

See also entry under **Reform of Immigration System in Immigration Law.**

See also entry under **Haiti in International Law.**

See also entry under **Human Trafficking Business Standards in Business Law.** (14M102B) 2/14

**Illiteracy Among Criminal Offenders.** Urges states, territories, localities, judges, prosecutors, defense attorneys and correctional officials to take steps to increase literacy among criminal offenders; support mandatory literacy programs for offenders if the programs meet certain criteria; and recommends use of 1991 Model Act. 2/92

**Immigration Status.** See entry under **Immigration Law.**

**Independent Counsel.** Support retaining essence of the Special Prosecutor provisions of the Ethics in Government Act of 1978 to accomplish specified goals. 2/76; 8/82

Urge adoption of certain amendments to Independent Counsel provisions of Act. 8/93

Oppose reauthorization of the Independent Counsel provisions of the Ethics in Government Act; however, if Congress does reauthorize, it should adhere to several specified safeguards. (99M116A) 2/99

**Identity Theft.** See entry under **Legal**
Services.

**Indigent Defense Services.** Urge adequate federal and state funding for indigent criminal defense services in state and local courts. 5/73

Support legislation to provide funding for indigent defense programs and services. 2/91

Urge jurisdictions to adopt standards, using widely available models, and suggest that funding for such services be awarded contingent upon compliance with such standards. (98A115) 8/98

Adopt or reaffirm “The Ten Principles of a Public Defense Delivery System,” dated 2/02 and urge each jurisdiction to use them for assessment purposes. (02M107) 2/02

Urge that steps be taken to fulfill the constitutional guarantee of effective assistance of counsel under the Sixth Amendment. (05A107) 8/05


See **Capital Punishment** entry, this section and **Compensation for Counsel** under Attorneys/General Practice section.

Urge Congress to establish and fund an independent Center for Indigent Defense Services. (13M104A) 2/13

Urge state, territorial and tribal governments to enact legislation to prohibit the retaliatory discharge of a Chief Public Defender because of his or her good faith effort to control acceptance of more clients that the office can represent in a competent and diligent manner. (13M104C) 2/13

Urge Congress to enact legislation to: 1) enable DOJ to pursue civil actions to obtain equitable relief for systemic violations of the 6th Amendment right to effective assistance of counsel; and 2) recognize right of private litigants to obtain equitable relief for systemic violations. (17A106) 8/17

**Insanity Defense.** Support a defense of non-responsibility for crime focusing solely on whether a defendant, as a result of mental disease or defect, was unable to appreciate the wrongfulness of his or her conduct at the time of the offense charged; support allocating the burden of proof in insanity cases according to the insanity test employed; and oppose the enactment of guilty but mentally ill statutes. 2/83

**International Criminal Court.** See entries under **International Law.**

**Institute on Juvenile Justice.** Support legislation establishing an Institute for Continuing Studies of Juvenile Justice. 2/72

**Judicial Conference of the U.S. Criminal Justice Act Committee.** Recommend expansion of this committee. 8/80

**Judgment of Acquittal.** Opposes any amendment to the Federal Rules of Criminal Procedure that would eliminate the authority of federal district judges to enter final judgments of acquittal during trial and that would require the accused to waive his or her Fifth Amendment Double Jeopardy rights as a condition of seeking a judgment of acquittal during trial. (07M301) 2/07

**Jury Trial.** In criminal cases, urge (1) the right to jury trial whenever a prison term may result; (2) a jury of 12 if the prison term may exceed six months; and (3) unanimous jury verdicts. 2/76

**Juvenile Court Services.** Urge the Office of Juvenile Justice and Delinquency Prevention of DOJ to support implementation of adequate defense and prosecution services in juvenile courts, and that assessment and support of these services receive priority attention. 8/84

See **Mental or Emotional Illness** entry, this section.

**Juvenile Justice Reauthorization.** Support reauthorization of the Juvenile Justice and Delinquency Prevention Act but urge Congress to conduct comprehensive public hearings to determine its effectiveness and to examine its future goals. 2/92; 8/95

Urge full implementation of 2002 and 2003 amendments to the JJDPA and CAPTA to: 1) make youths’ child welfare records known to the juvenile court for effective treatment planning; 2) provide effective treatment and service continuity when youth transition between child welfare and juvenile justice systems; 3) assure that when youth are placed in settings funded through Title IV-E of the Social Security Act they receive full protections afforded under that law; and 4) collect state data on all youth transferred from one system to another. (08M300) 2/08
Kennedy Commission: Sentencing/Corrections Reform. Urge states, territories and the federal government to implore the fairness, wisdom and efficacy of criminal punishment in the U.S. by implementing sentencing and corrections reforms based on enumerable principles including:

- Repeal mandatory minimum sentences.
- Study and fund treatment alternatives to incarceration for offenders who may not benefit from treatment for substance abuse and mental illness.
- Develop and implement policies and procedures to combat racial and ethnic profiling.
- Establish criminal justice racial and ethnic task force to study and make recommendations concerning racial and ethnic disparity in the various stages of the criminal justice process.
- Implement prison policies and procedures that assist prisoners in preparing to reenter society by providing appropriate treatment, training, and mental health counseling and services.
- Establish standards and procedures for reduction for sentencing and clemency requests by prisoners.
- Identify and removing unnecessary legal barriers that prevent released inmates from successfully reentering society.
- Establish broad community partnerships to promote successfully reentry into the community and that measure their performance by the overall success of reentry; and establish reentry clinics in law schools in which students assist released prisoners regain legal rights or remove collateral disabilities. (04A121A-D) 8/04

Law Enforcement Activities by White House Personnel. Support legislation to prohibit such activities and to make them punishable by a prison term. 2/76

Law Enforcement Assistance Administration. Support amendment of LEAA to provide adequate augmenting funds to state court systems, and to encourage long-range plans for improvement of state courts. 2/75; 2/76

Law Enforcement Award. Support legislation to establish the President's Award for Distinguished Law Enforcement Service. 2/72

Logging of Contacts with Department of Justice. Support legislation requiring Justice Department personnel to record all outside contacts. 2/76

Mandatory Minimum Sentences. Oppose legislatively or administratively imposed mandatory minimum sentences not subject to probation or parole, including sentences for drug offenders. 2/74

- See also Kennedy Commission: Sentencing Reform entry, this section.
- Oppose the mandatory minimum sentences in any criminal cases, and urge Congress and legislatures to repeal—and not enact new—mandatory minimum sentences. (17A10B) 8/17

Miranda Rules. Urge federal, state, territorial and local legislative bodies and governmental agencies to support the development of simplified Miranda warning language for use with juvenile arrestees. (10M102B) 2/10

- Urge law enforcement authorities to provide a culturally and substantively accurate translation of the Miranda warning in Spanish. (16A110) 8/16
- Urge law enforcement authorities to develop and use translations of Miranda warnings in as many languages and dialects as necessary to accurately and fully inform individuals of their Miranda rights. (17M112C) 2/17

Mediation. Urge all levels of governments to use of mediation to resolve criminal matters, specifically at a time prior to actual case filing; urge expanded use of mediation of early resolution courts pre-filing diversion and other methods to assist with plea negotiations and case resolution; urge adherence to mediation protocols that protect the rights and needs of those involved; support continuing research regarding mediation. (09M101B) 2/09

Mental or Emotional Illness in Adults and Youth. See entry under Health/Mental Health.

Mens Rea. Urge governments to prescribe mens rea elements for all crimes other than strict liability and to re-examine strict liability offenses to determine whether the absence of a mens rea element results in imposition of unwarranted punishment on defendants who

CRIMINAL LAW(PROCEDURE)
lacked any culpable state of mind in performing acts that were not malum in se. (13A113D) 8/13


Miranda Rules. Supports principle that person subject to custodial interrogation by law enforcement authorities should be fully advised of “Miranda rights”. (99A113D) 8/99

See also Exclusionary Rule, this section.

Misdemeanors. Urge local, state, territorial and federal governments to review the misdemeanor provisions of their criminal laws, and, where appropriate, to allow the imposition of civil fines or nonmonetary civil remedies instead of criminal penalties. (10M102C) 2/10.

See also Effective Criminal Sanction entries, this section.

Model Rules of Professional Conduct: Rule 4.2 -- Contacts by Department of Justice Lawyers. See entry under Attorneys/General Practice.

Money Laundering and Terrorist Financing. See entry under Anti-Terrorism.

Obscenity. Support legislation to prohibit the use of interstate facilities, including the mails, for transportation of salacious advertising. 2/72

Organized Crime. Support legislation creating machinery corresponding to the antitrust laws for the prosecution of organized crime. 8/86

Support specific organized crime legislation subject to certain amendments. 7/70

Parallel and Concurrent Proceedings. Support amendment of the FRCP to address problems that may arise as a result of parallel and concurrent civil and criminal proceedings. 2/93

Parental Rights. Urge governmental entities to clarify that incarceration alone should not be grounds for judicial termination of parental rights (10M102E) 2/10

Partisan Political Interests of Government Lawyers. See entry under Federal Government/Congress.

Peremptory Challenge of Judges. Support adoption of provisions for the peremptory transfer of a criminal case to a judge other than the one to whom the case was assigned. 8/79

See also Preemptory Challenges under Courts/Judges/Procedure.

Peremptory Challenges. Support amendments to Rule 24 (b) of the Federal Rules of Criminal Procedure to provide for an equal number of peremptory challenges to the prosecution and defense in criminal trials where there is one defendant and to set time limits for such challenges. 2/86

Plea Sentence Agreements and Waiver of Ineffective Assistance Claims. Oppose plea or sentencing agreements that waive a criminal defendant’s post-conviction claims addressing ineffective assistance of counsel, prosecutorial misconduct or destruction of evidence unless based upon past instances of such conduct that are specifically identified in the plea or sentencing agreement or transcript of the proceedings. (13A113E) 8/13

Presentence Investigations. Urge amendment Rule 32 of the Federal Rules of Criminal Procedure to improve the exchange of information between probation officers and parties in connection with presentence investigations. (08A104A) 8/08

Presidential Pardons. Recommend that, except in extraordinary circumstances, no individual should be pardoned until appropriate judicial processes have been followed. 9/74

Private Investigator Licenses. Urge legislatures and regulatory bodies to refrain from requiring private investigator licenses for persons engaged in computer or digital forensic work, and support the development of certification and competency requirements for such forensic activities. (08A301) 8/08

Probation Officers. Oppose legislation providing for the transfer of probation officers from the district courts to the Department of Justice. 8/66

Offender Funded Probation System. Urge legislatures to abolish “offender funded” systems of probation supervised by private, for profit companies. (16A/111B) 8/16
Prosecutorial Misconduct. Urge trial and appellate courts, in criminal cases, when reviewing the conduct of prosecutors to differentiate between "error" and "prosecutorial misconduct." (10A100B) 8/10

Prosecutors: Best Practices. Urge federal local state governments to adopt principals concerning prosecutors addressing adequate funding, workload standards; duty to inform prosecutors of exculpatory evidence; procedures for evaluating reliability of eyewitness identifications, confessions etc., and preservation of material evidence. (04A111F) 8/04

See also Eyewitness Identification and Cross-Racial Eyewitness Identification entries, this section; See also Kennedy Commission entries, this section

Prosecutors: Expansion of Traditional Role. Urge prosecutors to further protect the public through the use of a broad spectrum of strategies to assist victims and witness, prevent crime, use science and technology better. Urge increased funding for prosecutors to achieve these objectives (12A107B) 8/12

Prosecutors: Funding. Urge the federal government to restore, maintain and increase funding to organizations that provide training to state and local prosecutors to better promote justice. (13M104D) 2/13

Public Housing Laws. Urge federal government to encourage public housing authorities, and owners of federally subsidized rental housing to evaluate their rules regarding admission, termination, and additions to household to ensure that they do not unduly deny housing to persons with criminal records. (12M101E) 2/12

See also Public Housing in Real Property/Housing...

Racial and Ethnic-Based Profiling. See Kennedy commission Entries, this section, and entries under Civil Rights.

Racial Justice in CapitalSentencing. See Capital Punishment entry, this section.

Racketeer-Influenced and Corrupt Organizations Act (RICO). Support several amendments to RICO statute including the replacement of the term "racketeering activity" with the phrase "criminal activity" and the requirement that separate criminal acts be related by common scheme or plan. 8/82

See also Civil Rico entry under Business Law.

Rape. Urge the FBI to implement expeditiously the expanded definition of rape in the Uniform Crime Reporting Summary Reporting Program. (12M114) 2/12

Rape Law. Support redefinition of rape in terms of "persons" instead of "women," amendment of rules of evidence to protect the victim's privacy, establishment of treatment and study centers to aid victims and offenders, and other reform measures. 2/75

Urge governments to enact legislation and appropriate funds to eliminate the substantial backlog of rape kits collected from crime scenes and convicted offenders (11A109) 8/11

Reimbursement of Costs. Support reimbursement of costs, but not attorneys' fees, for non-convicted criminal defendants. 8/76

Removal. Support amendments to FRCP Rule 40.1 limiting the timing and number of petitions for removal of a criminal petitions from state court to a U.S. district court. 2/77

Rights of Accused to Test Evidence. Urge federal, state, local and territorial governments and courts to provide resources to assure that an accused is able to obtain the testing or re-testing of evidence, when feasible, by qualified experts and is provided expert testimonial or other assistance when necessary to assure a fair trial or sentencing proceeding. (10A100I) 8/10

See also Biological Evidence entry, this section and ABA Standards for Criminal Justice, DNA Evidence.

School-to-Prison Pipeline. See Education entry under Family Law. (16A115) 8/16

Sentencing Alternatives. See entry under Immigration Law.

Sentencing Commission. Support
sentencing reform including creation of commission to set guidelines. 8/68

Recommend that the U.S. Sentencing Commission adopt and publish internal rules of practice and procedure including those used by other agencies to invite public participation, etc. 8/95

Urge the President and Congress to expeditiously nominate and confirm persons to fill existing vacancies. (98A10A) 8/98

Urges the U.S. Sentencing Commission to assess current federal policy regarding sentencing for high-loss economic crimes and ensure guidelines are proportional to offense severity. (11M104C) 2/11

**Sentencing Guidelines after Booker.** In light of the Supreme Court’s decision in United States v. Booker, 2005 WL 50108 (January 12, 2005), the ABA urge Congress to assure that federal sentencing practices are congruent with the goals of the Sentencing Reform Act. (05M301) 2/05

**Sentencing Guidelines Study.** Support the recommendation of the Federal Courts Study Committee for an immediate and independent study of the effectiveness of the Federal Sentencing Guidelines. 2/92

**Sentencing Guidelines for Child Pornography.** Urge the Sentencing Commission to conduct a comprehensive assessment of the guidelines for child pornography offenses to ensure that they are proportional to offense severity, and individual culpability and circumstances. (11A105A) 8/11

**Sentencing Guidelines for Drugs.** Support Sentencing Commission proposals transmitted 5/1/95 to eliminate current differences in sentences for crack versus cocaine, and to assign greater weight with drug offense sentencing to factors such as weapons and violence. 8/95

**Sentencing Guidelines for Organizations.** Urge the United States Congress to direct the U.S. Sentencing Commission to make changes to the proposed amendments to the Sentencing Guidelines for Organizations to: (1) state that waiver of attorney-client privilege and work product doctrine is not a factor in sentencing reduction determinations based on cooperation with government; and (2) increase flexibility in determining effectiveness of compliance programs. (04A303) 08/04.

**Sentencing Reduction.** Urge the development and implementation of mechanisms for the reduction or modification of prison sentences based on extraordinary and compelling circumstances not foreseen at the time of sentencing; urge measures to ensure that physically and mentally challenged prisoners have access to assistance when seeking sentence reductions or appealing adverse decisions. (03M103B) 2/03

Urge states, territories, and the federal government to establish: standards and procedures by which prisoners may request a reduction of sentence or grant executive clemency and Urge the government to establish, accessible process by which offenders who have served their sentences may request pardon, restoration of legal rights and privileges, including voting rights, and relief from other collateral disabilities and urge lawyers to provide legal assistance. (04A121C) 08/04.

Recommend that victims of domestic be included in the group of individuals targeted by programs that encourage and train lawyers to assist persons in applying for pardon, restoration of legal rights and privileges, relief from other collateral sanctions, and reduction of sentence. (07M102A) 2/07

See also Kennedy Commission and Youth Offenders entries, this section.

**Sexual Assault/Violence on Campus.** See entry under Legal/Public Education.

**Sex Trafficking.** See Human Trafficking, this section.

**Solitary Confinement** see entry under Corrections.

**Stand Your Ground Laws.** Urge governments to repeal or refrain from enacting Stand Your Ground Laws. If states elect not to repeal, urge modification of existing laws by eliminating civil immunity provisions and prohibiting use of defense when force is used against law enforcement. (15M112) 2/15

**Statutory Forfeiture Provisions.** Disapprove the use of statutory forfeiture provisions in pretrial and other orders to prevent a defendant in a criminal case from paying
counsel of choice in absence of reasonable grounds to believe there has been fraud. 8/86

Subpoena of Attorneys. Urge that state and federal authorities implement provisions so that a prosecutor shall not subpoena an attorney to provide evidence about a current or former client unless prior judicial approval is obtained through an adversarial proceeding. 2/88

Supreme Court Jurisdiction. Oppose any legislation limiting criminal law jurisdiction of the Supreme Court. 5/68-R-5/75

Survivor of Police Officers. Support legislation to provide benefits to survivors of police officers killed in the line of duty. 2/72


Torture. See entries under Anti-Terrorism.

Unanimous Verdicts. Oppose less-than-unanimous verdicts in federal criminal cases. 8/74

See also Capital Punishment entry, this section (15M108A)

Uniform Pretrial Detention Act. Approve the Uniform Pretrial Detention Act promulgated in 1989 by the National Conference of Commissioners on Uniform State Laws as an appropriate act for states desiring to adopt the substantive law suggested therein. 2/90

U.S. Attorneys. See entry under Federal Government/Congress.

Victim and Witness Intimidation. Urge governments to hold accountable those who unlawfully intimidate or tamper with victims and examine and revisit practices, procedures, and training to assure that victims and witnesses are not intimidated or tampered with. (15M107B) 2/15


Victim Compensation for Unmarried Surviving Partners. Urge federal, state and local governments to ensure that a terrorism or other crime victim's unmarried surviving partner can qualify for governmental victim compensation and assistance funds available to eligible spouses regardless of intestate succession laws. (02A117A) 8/02

Victims of Crime Act. See entry under Military Law.

Victims’ Rights. Support protection for victims’ rights and the adoption of further measures to protect those rights. Urge legislatures considering measures to recognize victims’ rights to do so consistent with the enumerated principles. 8/97

Voir Dire. See entry under Forensic Science.

Veterans Treatment Courts. See entry under Courts.

Violence Against Women Act.

Within the US. Support federal, state, and local efforts by public and private entities to implement the “full faith and credit” mandate of the Violence Against Women Act of 1994 (VAWA), which directs states to enforce civil and criminal protection orders issued by federal, states and tribal courts as if the order had been issued by the enforcing court. 8/96

International. Urge governments to adopt legislation and appropriate funding to strengthen protection and assistance for victims of gender-based violence within the United States and aboard; Urge Congress to enact and fund the International Violence Against Women Act of 2007 or similar legislation. (08A109) 8/08

Urge Congress to reauthorize and fully fund the Violence Against Women Act or similar legislation that promotes access to justice and safety for victims of domestic violence, dating violence, sexual assault, and stalking within the United States. (10M115) 2/10

Urge Congress to strengthen tribal jurisdiction to address crimes of gender-based violence on tribal lands in general, and specifically in the reauthorization of the Violence Against Women Act. (12A301) 8/12
Youth Offenders.

Appellate Representation in Juvenile Cases. Urge governments to ensure that juveniles are provided effective appellate representation and have access to appeals consistent with state statutes and constitutional provisions. (14M103A) 2/14

Collateral Sanctions. Urge federal, state, territorial and local governments to increase the opportunities of youth in the juvenile or criminal justice systems and to prevent the continuing discrimination against those who have been involved with these systems in the past by limiting the collateral consequences of juvenile arrests, adjudications, and convictions. (10M102A) 2/10

Co-Occurring Mental Health and Substance Abuse Disorders. Urge increased study of and program funding for youth within juvenile justice system who have substance abuse and mental health disorders; urge review of privacy laws regarding youth to facilitate better treatment. (13A113B) 8/13

Education. See entry under Family Law.

Juvenile Delinquency. Support federal assistance to courts, correctional systems and research efforts to prevent, treat and control juvenile delinquency. 8/67

Juvenile Detention Facilities. Support a set of guiding principles from "Youth in the Criminal Justice System," the 2001 Report of the Taskforce on Youth in the Criminal System of the Criminal Justice Section concerning youthful offenders, including recognizing the developmental differences between youths and adults; oppose the growing trend towards charging juveniles as adults. (02M101D) 2/02

Pretrial Detention. Urge use of electronic monitoring and home detention for juvenile offenders whose risk of flight or further offending does not require pre-trial detention. (11M104D) 2/11

Pretrial Release. Urge governmental entities to prohibit bail/bond in juvenile justice system; utilize objective criteria that do not have discriminatory impact to determine pretrial release; and impose least restrictive condition of release. (17A112D) 8/17

Restraints on Juveniles in Court. Urge governments to adopt a presumption against the use of restraints on juveniles in court and to permit a court to allow such use only after providing the juvenile with an opportunity to be heard. (15M107A) 2/15

Sentencing. Urge governments to authorize and implement sentencing laws and rules of procedure that recognizes mitigating considerations in the sentencing and parole determinations for youthful offenders, i.e., those under 18 at the time of their offense who are subject to adult penalties upon conviction. (08M105C) 2/08

Sentencing: Life without Parole. Urge governments to adopt sentencing laws and procedures for youth who are subject to adult penalties that eliminate the sentence of life without the possibility of parole prospectively and retroactively and provide meaningful opportunities for release based on maturity and rehabilitation. (15M107C) 2/15

Sex Offenders. Urge Congress and state legislatures to reexamine and revise laws, policies and practices that require youth to register as sex offenders or be subject to community notification provisions otherwise imposed upon adult sex offenders, based upon juvenile court adjudication. (09M101A) 2/09

Solitary Confinement. See entry under Corrections.

Youth Courts. Support and assist in the formation and expansion of diversionary programs known as Youth Courts. 8/95

Urge governments to create and provide support for Youth or Teen Courts that will divert youth from the formal consequences of juvenile justice sanctions. (11M107B) 2/11

Youth Violence Prevention. Encourage federal, state and local governments to adopt legislation promoting school violence prevention legislation for children, parents, teachers and school administrators; encourage lawyers to support and participate in this education. (04M109) 02/04

See also Youth at Risk entries under Family Law.

Wrongful Convictions. Urge federal, state, local and territorial governments to reduce the risk of wrongful convictions while increasing the likelihood of convicting the guilty by ensuring that no prosecution should occur based solely upon uncorroborated jailhouse informant testimony. (05M108B) 2/05

Urge federal, state, local and territorial governments to reduce the risk of wrongful conviction by establishing standards of practice for defense counsel in serious non-capital criminal cases. (05M108C) 2/05
Wrongful Executions. Urge jurisdictions where capital punishment is permitted to adopt a procedure whereby successors or a legal entity may bring and litigate a claim on behalf of the individual executed that they were innocent of the capital offence. (14A110A) 8/14

Wrongful Imprisonment. See entry under Corrections.

Zero Tolerance. Oppose school “zero tolerance” policies that have discriminatory effect or automatically mandate expulsion or court intervention and support strong policies against gun possession. (01M103B) 2/01

CUSTOMS AND INTERNATIONAL TRADE

Access to Confidential Information. Support amendment of the ITC's General Procedures for the Conduct of Investigations and of the Trade Agreement Act of 1979 to ensure that corporate counsel have the same right of access to confidential information under protective orders as do retained counsel. 8/82

Convention on the Use of Electronic Communications in International Contracts. See entry under International Law.

Customs Court Structure. Recommend provision for trials and decisions by a single judge in all but exceptional cases. 8/69

Electronic Commerce. Urge cooperation among private sectors, governments and international organizations of all nations to establish a legal framework within which global electronic commerce can flourish in an environment that provides appropriate protection to all interested parties, while eliminating unnecessary legal functional barriers to electronic commerce. Develop self-regulating practices by the private sector that will protect the rights of individuals and promote the public welfare. 8/97

Enforcement of Open Trade Agreements. Urge Congress to provide adequate resources to implement trade laws. Enforce international open market trade agreements. Advance a rule-based world trading system. (99M100) 2/99

Exhaustion of Administrative Process. Recommend consolidated administrative procedures for resolution of objections to customs decisions, all such decisions being made within a reasonable period of time, and judicial review permissible only following notice of a final decision by customs officers. 8/69

Fast Track Negotiating Authority. Supports renewal of fast track negotiating authority, which enables the President to negotiate trade agreements, not subject to amendment by Congress during the approval process. 2/97

GATT: Uruguay Round. Support the conclusion, without undue delay, of the Uruguay Round of multilateral trade negotiations, and the creation of a multilateral trade organization to help implement the substantive rules from the Uruguay Round. 8/93

Urge U.S. approval and implementation of the agreements resulting from the Uruguay Round of Multilateral Trade negotiations and endorse the Uruguay Round of Understanding on Rules and Procedures Governing the Settlement of Disputes and the Agreement Establishing the World Trade Organization. 2/94

GATT: DOHA Round Re: Legal Services. Support the efforts of the U.S. Trade Representative to encourage the development of transparency disciplines on domestic regulation in response to Article VI (4) of the GATS requiring the development of “any necessary disciplines” to be applicable to service providers and support the U.S. Trade Representative’s participation in the development of additional disciplines on domestic regulation. (06A105) 8/06

International Trade Disputes. Urge the U.S. Government to seek, during current multilateral trade negotiations in Geneva, reform of the procedures for resolving disputes between nations, incorporating specified principles. 2/74; 2/78

Sunshine

NAFTA. Support efforts to establish through NAFTA rules, procedures and institutions for the conduct of trade and other economic relations among the participating countries

CUSTOMS AND INTERNATIONAL TRADE
which are designed to provide transparency, predictability, fairness and due process. 2/93

Urge three signatory governments to work together to implement the competition and antitrust aspects of NAFTA with emphasis on certain enumerated issues. 8/94

National Security Protection. Favor continued U.S. cooperation with like-minded nations to control foreign trade and investment detrimental to shared national security and foreign policy objectives; oppose extraterritorial features in U.S. trade control measures that do not conform to accepted norms. (98A300) 8/98

Public Participation in Trade Talks. Support improved domestic procedures to ensure an adequate opportunity for all interested parties to be heard in trade negotiating practice and related actions. 2/74

U.S. Exports. U.S. government should continue to seek to eliminate private restraints that exclude U.S. exports from access to foreign markets through application of Antitrust law; where inappropriate the U.S. should address market access barriers by other means. 2/95

World Trade Organization Dispute Settlement Understanding. Urge U.S. to support policies and procedures to enable any country involved in a dispute to employ private counsel for all phases of proceeding. 2/98

DISASTER PREPAREDNESS

Disaster Preparedness Principles. Adopt 12 principles to govern the planning, preparation and training for responses to a major disaster to ensure that the legal system maintains fidelity to the rule of law. (07A113) 8/07

Disaster Resilience. Urge governments to adopt standards, guidance, best practices, programs, and regulatory systems that make communities more resilient to loss and damage from foreseeable hazards while recognizing property rights, protection of environment, etc. (17M108) 2/17

Duty of Care Owed to Victims. Oppose federal, laws that would alter the duty of care owed by relief organizations and health care practitioners to victims of a disaster and support educational programs on subject. (11A125) 8/11

Election Procedures During Catastrophe. See entry under Election Law.

Emergency Care System. Support the study of regionalization of the nation’s Emergency Care System and Emergency Departments and the enactment of legislation and promulgation of rules, specifically as it relates to disaster preparedness, as an effective and efficient means of improving patient safety, health care quality, cost reduction, coordination of care, and increased accountability of the system. (07A120B) 8/07

First Responder. Support increased federal funding to jurisdictions to enable “first responders” to prevent terrorist attacks and increase their readiness to respond to any attacks that occur. 8/03

Hazard Mitigations. Endorses the Recommendations for an Effective National Mitigation Effort, a white paper on national mitigation prepared by the Association of the Directors of Emergency Management for the U.S. (11M114) 2/11

Hurricane Katrina and Rita. Urge the federal, state, local and territorial governments to take enumerated steps to respond to the disaster resulting from hurricanes. (06M305) 2/06

Independent Commission. Urge Congress to create an independent, bipartisan commission to investigate and recommend these appropriate measures required to rebuild the infrastructure of the Gulf Coast damaged by Hurricane Katrina and Rita, and to provide reasonable hurricane and flooding protection for people living in those areas, and to recommend appropriate measures designed to prevent or mitigate problems in responding to natural disasters in the future. (07A116B) 8/07

Insurance Coverage. Catastrophe Linked Securities. Urge governments to encourage capital markets to finance catastrophic risks by undertaking a study through the U.S. Treasury Department and urge enactment of legislation to encourage the issuance of catastrophe linked securities.
Liquidity Needs after Natural Catastrophes. Urge the federal government to address the liquidity needs of individuals and businesses in aftermath of future natural catastrophes through various methods. For catastrophic natural disasters that are certified by the Treasury Secretary as posing a grave financial risk to state insurance guaranty funds, urge Congress to give the Treasury Department the authority to lend to those state insurance guaranty funds to assure prompt payment of claims to avoid guaranty fund insolvency. Urge the federal government to provide incentives to encourage catastrophe risk-taking by private insurers. (09M107D) 2/09

Mitigation of Losses from Future Catastrophes. Urge state, territorial and local governments to use specific tools to mitigate losses from future mega-catastrophes to ensure the ongoing availability and affordability of insurance for natural disasters; urge federal government to do same through new federal standards for damage-resistant building codes and land use policies. (09M107 E and F) 2/09

National Flood Insurance and Financial Infrastructure. Urge Congress to strengthen the financial infrastructure and develop programs that increase availability of affordable insurance in areas highly-exposed to catastrophes, and to enact multiple changes to the National Flood Insurance Program to put it on a sound actuarial basis. (09M107B) 2/09

Property Damages Claims of Small Business and Individuals. Recommend state and territorial governments adopt standards for handling residential and small business insurance claims for property damages resulting from hurricanes or storms. (09M107G) 2/09

Storm Insurance. Urge governments to enact legislation to eliminate restrictions on the private insurance and reinsurance markets from making available broadened insurance protection for property damage arising from storms, including damage from wind, wind-driven rain and flood caused by storm surge. (09M107A) 2/09

Insurance - Terrorism. Urge Congress and the Administration to protect property owners, consumers and U.S. economy by partnering with the insurance industry to promote the availability of terrorism risk insurance through legislation that continues support for market mechanisms with federal government insurance backstop protection. (07M110) 2/07

Law Firm Preparedness. Urge lawyers to regularly assess their practice environment to address disaster risks that may compromise their ability to protect their clients’ interests and property; urge bar associations to create committees on emergency management planning and response. (11A116) 8/11

Legal Services. Adopt the Model Court Rule on Provision of Legal Services Following Determination of Major Disaster and amend comment to Rule 5.5 of the Model Rules of Professional Conduct regarding multijurisdictional practice following a disaster. (07M104) 2/07

Urge governments to address the unmet legal needs of low-income residents of communities affected by major disasters by, e.g., providing additional emergency funding for not-for-profit legal services providers, bar associations, and pro bono programs. (09A102B) 8/09

Model Act Governing Standards for the Care and Disposition of Disaster Animals. Adopt the Model Act Governing Standards for the Care and Disposition of Disaster Animals, dated February 2010 and recommends its adoption by state and territorial legislative bodies. (10M103A) 2/10

Public Health Threats. Urge lawyers to work with authorities to improve the legal preparedness of their communities to address threats, such as bioterrorism or infectious disease outbreaks while insuring the public health measures respect civil and constitutional rights. (04A102) 08/04

Vulnerable Populations. Urge authorities to identify and address the special needs of vulnerable populations when planning for and responding to disasters. (15M110) 2/15

DISPUTE RESOLUTION

Please refer to specific subject area for policies on dispute resolution, including arbitration.

ELDER LAW

Arbitration Agreements. Oppose the
use of mandatory, binding, pre-dispute arbitration agreements between a long-term care facility and a resident or person acting on behalf of such resident; oppose legislation and regulations that would authorize or enforce such agreements; and support legislation and regulations that would accomplish these objectives through methods other than amendment to Chapter 1 of the Federal Arbitration Act. (09M111B) 2/09

Assisted Living. Support development of uniform and comprehensive standards, regulation and oversight of “assisted living” facilities; oppose agencies granting “deemed status” to such programs; support initiatives to increase their availability and affordability to persons with low- and moderate income. (01A102) 8/01

Board and Care Facilities. See entry under Health/Mental Health.

Civil Rights Laws Restoration. See entry under Civil Rights and Constitutional Law.

Comprehensive Health Care Coverage. See Universal Access to Healthcare entry under Health/Mental Health.

Correctional Facility Policies for Elderly See entries under Corrections.

Court-Related Needs of the Elderly. Support efforts to make the state judicial systems more responsive to the needs of the elderly and persons with disabilities and urge the implementation of the Recommendations of the National Conference on the Court-Related Needs of the Elderly. 8/91

Elder Abuse and Protection of Rights Support efforts to improve the response of state courts to elder abuse through the adoption of guidelines by the Association regarding the handling of elder abuse cases by state courts. 8/96

   Urge implementation by federal, state, territorial and local governments of the recommendations from the National Policy Summit on Elder Abuse from December 2001. (02A108A) 8/02

   Urge governments to vigorously prosecute cases of elder abuse by creating special elder abuse units within the prosecutor’s office or by designating a specially trained prosecutor to handle elder abuse cases and by ensuring that the victim assistance/services programs provide specialized victim services to the elder population. (08M105A) 2/08

   Urge State Dept. and U.N. to support international efforts to strengthen efforts to protect the rights of the elderly, including possible adoption of an international convention. (11A106C) 8/11

   Urge courts and community organizations to collaborate to establish court-focused elder abuse initiatives that serve victims or potential victims of elder abuse through either a court or a court-based program or a program conducted in partnership with a court. (12A106C) 8/12

Grandparent Visitation. See entry under Family Law.

Guardianship. Urge the implementation of recommendations of the National Guardianship Symposium which aim to safeguard the rights and maximize the autonomy of adult disabled wards and proposed wards while providing for their needs. 2/89

   Urge that state and local governments to implement principles derived from the Wingspan Conference of 2001, including supporting effective monitoring, reporting and accountability for all guardianships. (02A108B) 8/02

   Encourage the federal government to provide funding and support for training, research, regarding adult guardianship. (09M111A) 2/09

   Adopt the Third National Guardianship Summit Standards and Recommendations, dated August 2012, and urges courts and policy-making bodies to implement them. (12A106B) 8/12

   Urge courts with jurisdiction over adult guardianship and governmental agencies that administer representative payment programs for benefits to collaborate with respect to information sharing, training and education to protect vulnerable individuals with fiduciaries who make financial decision on their behalf. (13A100A) 8/13

   Urge amendment of guardianship statutes to require that supported decision-making be identified and fully considered as a less restrictive alternative before guardianship is imposed and as a means of terminating guardianship. (17A113) 8/17

ELDER LAW
Home Equity Conversions. See entry under Real Property/Housing Law.

Living Wills. See Durable Powers of Attorney and Health Care Intervention Decisions entries under Health/Mental Health.

Long-Term Health Care, Medicare and Nursing Homes. See entries under Health/Mental Health.

Older Americans Act of 1965. Urge reauthorization of Older Americans Act with priority on the delivery of legal services to the needy elderly. 4/81

   Urge Congress and the Administration to reauthorize and implement the Older Americans Act of 1965, as amended ("the Act"), giving increased priority to the delivery of legal services and elder justice (10A106B) 8/10

Patient-Self Determination Act. See entry under Health/Mental Health.


Social Security Disability Benefits for Widows and Widowers. See entry under Administrative Law.

Social Security Court. See entry under Administrative Law.

Social Security Fund: Removal from the Budget. Support removal from the Federal Budget because it misrepresents the federal deficit. 8/90

Special Committee on Aging. Support retention and/or establishment of the United States Senate and House of Representatives Special Committees on Aging as permanent committees. 8/93

Social Security Income Program. See entry under Administrative Law.

Voting by Individuals with Disabilities. See entry under Election Law.

ELECTION LAW

(For additional policy positions, see the Election Administration Guidelines and Commentary, dated August 2008, amended August 2009)

Ballot Counting. Urge state and territorial election administrators and officials to ensure that clear standards for determining the validity of a ballot when a hand vote is required are in place as soon as practicable; urge use of "voter intent" standard to determine outcome of a ballot. (16A103) 8/16

Campaign Contributions by Legal Permanent Residents. Oppose any diminution of the existing rights of legal permanent residents to make campaign contributions and expenditures to same extent as U.S. citizens. (99M118) 2/99

Campaign Contributions by Lawyers. Condemn the conduct of lawyers making political campaign contributions to, and soliciting political campaign contributions from, public officials in return for being considered eligible by public agencies to perform professional services, including municipal finance engagements. Condemn the conduct of public officials who only consider lawyers who make or solicit political campaign contributions for public officials as eligible to perform professional services; and urge the enactment and enforcement of laws, rules and regulations that will discourage the conduct condemned in these resolutions. 8/97

   Urge that certain specified actions be taken to address conduct by lawyers making or soliciting campaign contributions to public officials for the purpose of being considered or retained for government legal engagements. (98A301A) 8/98

   To preserve public confidence in independent judiciaries, urge states and territories to take appropriate steps, consistent with McConnell v. FEC, to require the timely public disclosure of expenditures and the source and amount of all contributions exceeding a specified amount, for election communications regarding judicial elections. (04M8C) 2/04
Campaign Contributions by Lawyers to Judicial Elections. Amend ABA Model Code of Judicial Conduct to add sections to Canon 3 and Canon 5 regarding campaign contributions by lawyers and subsequent judicial appointment, judicial disqualification, and campaign contribution limits. (99A123) 8/99

Affirm commitment to merit selection of judges established by constitutional provisions, judicial nominating commissions, and amendment to Code of Judicial Conduct to address lawyers’ campaign contributions. (99A123) 8/99

Campaign Finance. Support legislation for federal campaign financing which includes principles concerning contribution and expenditure limits and disclosure and standards for partial public financing for presidential and congressional candidates. 8/75

Support enactment of state legislation concerning campaign financing which requires full disclosure, contribution limitations, and enforcement of state campaign finance laws by independent state agencies. 8/92

Support enumerated principles of campaign finance reform legislation that balances the need for government regulation against First Amendment protections of political speech which address contribution limits, soft money, issue advocacy, and cost of federal election campaigns. (98A115) 8/98

Support Federal and State campaign finance reform legislation to ensure full disclosure of funds raised and spent, to promote full participation of all Americans in the electoral process, to limit hard money contributions and to improve enforcement of these and related provisions. (00A10A) 8/00

Support efforts to increase disclosure of political and campaign spending and urge Congress to require organizations not already required to do so to disclose the source of funds used for electioneering communications and independent expenditures and the amounts spent for such communications and expenditures in public disclosure reports filed with the Federal Election Commission. (13M110B) 2/13

Civic Education: Voting. See entry under Family Law.

College Student Voting. Support (1) the principle that durational residence requirements may not discriminate against students, and (2) voter registration drives and reforms to fulfill the 26th Amendment. 8/72

Election Administration Guidelines. Adopt the Election Administration Guidelines and Commentary, dated 8/05, and recommends that all election officials ensure the integrity of the election process through the adoption of these Guidelines. (05A102) 8/05

See also Presidential Elections and Ballot Counting entries, this section.

Election Delays. Urge states, localities and territories to analyze their election systems and enact legislation or administrative rules to address the causes and potential remedies for election delays. (13A110) 8/13

See also Polling Delays entry, this section.

Election Procedures During Catastrophe or Emergency. Urge Congress, the states, and territories to enact special election procedures, that address filling vacancies in the United States House of Representatives in the event of a catastrophe; urge Congress to consider whether additional measures are needed. (04A118) 08/04.

Urge the development of written contingency plans that include specified features to preserve the election process in the event of an emergency. (14A113A) 8/14

Federal Election Commission. Urge various enumerated structural and administrative changes to the Federal Election Commission as a necessary part of any new legislation officing the regulation of federal campaign finance. 2/95

Help America Vote Act. Urge federal government to enforce deadlines for creating statewide databases imposed by the Act. (13A110) 8/13

Individuals with Disabilities.

Accessibility. Urge governments and the courts to ensure that the entire voting process is accessible to persons with disabilities. (14A113B) 8/14

Voting. Urge federal, state, local and territorial governments to improve the administration of elections to facilitate voting by all individuals with disabilities, including people
with cognitive impairments that increase in frequency with age. (07A121) 8/07

Judicial Elections: Public Financing. Urge public financing for campaigns of judges in those jurisdictions that continue to select judges in contested elections. (02M103) 2/02

Encourages state, local and territorial bar associations in states with judicial elections to establish judicial campaign conduct committees to promote honesty and integrity in judicial campaigns. (02A113) 8/02

See also Campaign Contributions by Lawyers in Judicial Elections entry, this section.

Poll Observers. Support direct observation of elections by observers from the Organization for Security and Cooperation in Europe and other international organizations and encourage governmental bodies to adopt rules permitting observers. (15A114) 8/15

Polling Delays. Urge adoption and implementation of policies designed to achieve a thirty-minute maximum wait time at the polls. (15A104) 8/15

Polling Locations. Urges Congress to authorize the Department of Defense to permit buildings located on military installations and reserve component facilities to be used as polling places in elections for public office, if suitable non-Department of Defense facilities do not exist. (01A112B) 8/01

Political Party Conventions. Oppose state or federal regulation of delegate selection procedures to national party conventions and recommend several changes in these procedures. 2/82

Presidential Elections. Support review of and development of solutions for the problems in the voting systems experienced in the 2000 Presidential Election. (01M104) 2/01

Urge state and local election authorities to give the highest priority to ensuring the fairness and reliability of the procedures prescribed for voting, and for the tabulation of votes in the 2004 Presidential election. (04A106) 08/04.

Redistricting. Support fair redistricting of congressional legislative and local government districts with full citizen participation. 2/91

Urge each state and territory to assign the redistricting process for congressional and legislative districts to an independent commission, leaving to each state the precise manner of configuring such commission and the criteria to be applied. (08M102A) 2/08

“Soft Money” Contributions. Oppose the solicitation and use in presidential and congressional election campaigns of “soft money” contributions and support efforts in Congress and before the Federal Election Commission to prohibit such contributions. (98A10D) 8/98

Twenty-Fifth Amendment. Support joint congressional hearings with respect to 25th Amendment procedures for filling vacancy in the Office of Vice President. 8/74

Use of the Internet in Campaigns. Urge application of election laws to encourage political activity through the Internet while upholding First Amendment rights, limiting unfairness, corruption or undue influence and increasing citizen participation in the political process in all segments of society. (00M107) 2/00

Voter Participation. Urge the President to appoint a commission to study the decline in voter participation; support the enactment of legislation that encourages voter participation, including fair congressional redistricting, and; urge the state and local bars to aid the ABA in improving voter participation. Urge all lawyers to register and vote. 8/74; 2/79; 8/89

Voter Registration. Oppose legislation to repeal National Voter Registration Act and support efforts to increase registration and voting, and to prevent voter registration fraud. (99A104) 8/99

Support actions by state and federal governments to modernize and improve voter registration practices and urge and independent assessment of state-wide voter registration databases for security reliability, accuracy, usability and accountability, etc. (10A114) 8/10

Supports efforts to improve voter registration practices by ensuring accuracy of voter registration rolls, streamlining procedures for changing rolls, and encouraging states to
develop the technology and resources to implement improve. (11A121) 8/11

Motor Voter. Support efforts to increase voter registration through state and local agencies that have direct contact with the public such as licensing agencies. (90A300) 8/90


Urge extension of Sections 5 (pre-clearance), 203 (minority language assistance) and 6-9 (federal observers) of VRA, as amended through 1992 for 29 years; urge additional amendments. (06BOG) 5/06

Urge Congress to act expeditiously to preserve and protect voting rights by legislating a coverage formula setting forth the criteria by which jurisdictions shall or shall not be subject to Section 5 preclearance, and/or by enacting other remedial amendments to the Voting Right Act of 1965, in response to Shelby County v. Holder. (13A10E) 8/13

Voting Rights for District of Columbia and American Territories. Support amendment of the U.S. Constitution to provide for participation of citizens in American territories to vote in national elections. 8/92

Support principle that District of Columbia citizens should not be denied fundamental right to vote for voting members of Congress. (99A115) 8/99

See also Voting Rights in Congress for D.C. and American Territories, under Federal Government/ Congress

Voting Rights for the Homeless. Support efforts to insure the participation of homeless persons in the electoral process. Recommend and support legislation to assure that no prerequisites to voting be applied to deny the right to vote to any individual that resides at a non-traditional abode. 8/93

ENERGY/PUBLIC UTILITIES

Access Charges. Oppose imposition of access charges on enhanced service providers for use of telephone exchanges. 2/89

Deepwater Ports. Support legislation establishing reasonable and predictable licensing procedures for construction of deepwater ports for use by large crude oil tankers. 8/74


Nuclear Explosions. Support procedures for public participation in the determination of policies and actions to safeguard the public from effects of peaceful nuclear explosions under the "Ploughshare Program." 7/71

Oil and Gas Conservation. Support extension of the Interstate Compact to Conserve Oil and Gas through 1971 and urge state and federal action to implement this extension. 8/66; 8/69

ENVIRONMENT/NATURAL RESOURCES

Administrative Dispute Resolution Act and Negotiated Rulemaking Act to Resolve Environmental Matters. Urge their greater use to resolve environmental matters. 2/95

CERCLA. Support federal legislation clarifying liability exemptions for fiduciaries under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA). 2/90

Urge Congress and the EPA to clarify the "security interest" exemption. 2/91

Recommend specific amendments to the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA" or "Superfund") which would affect the allocation of responsibility and the cleanup procedures. 2/94

Support legislation providing immunity from federal liability under CERCLA when a property affected by contamination is being managed pursuant to a state "brownfield" program that meets certain standards. (99A121) 8/99

See also Contractor Indemnification for Hazardous Waste under Public Contract Law.

Citizen Suits. Support a series of guidelines giving private citizens and organizations standing to sue for equitable relief to enforce environmental quality standards. 8/72
Clean Air Act. Urge amendment of the Act to exempt new facilities or pollution control equipment from more stringent standards. 8/74

Climate Change. Urge the U.S. to take a leadership role in addressing the issue of climate change through legal, policy, financial, and educational mechanisms. Urge Congress to enact legislation to cap and reduce U.S. greenhouse gas emissions, utilize market mechanisms designed to minimize compliance costs, increase fuel economy and energy efficiency standards, and promote greater use of renewable energy. (08M109) 2/08

Urge the U.S. to ensure the full participation of federally-recognized Indian tribes in policy discussions on climate change. (11A112) 8/11

Department of Energy and Natural Resources. Support creation of a federal Department of Energy and Natural Resources. 8/73

Ecosystems: Preservation. Urge that governments, when considering legislation, regulations and policies, preserve and enhance the benefits that people derive from ecosystems, with due regard for economic, human and social impacts; and urges the U.S. to negotiate treaties or other agreements with the Canada and Mexico to address cross-border ecosystem services issues in a coordinated manner. (08M101) 2/08

Environmental Justice. Support actions by all levels of government and the private sector that implement environmental laws and policies that prevent a disproportionate share of environmental harm from falling on minorities and/or low-income individuals or communities. 8/93

Environmental Management Systems. Recommend that incentives be created to encourage entities subject to environmental regulation to implement voluntary environmental management systems and recognize their importance in enhancing compliance. (01A108) 8/01

Environmental Protection Agency. Urge Congress and the Administration to enact legislation elevating the U.S. Environmental Protection Agency to Cabinet-level status. 8/03

Global Environment. Urge the adoption and implementation of basic principles for the protection of the global environment. 8/91

Rule of Law. See entry in International Law.

Marine Resources. Domestically. Urge Congress and the President to take specific legislative, regulatory and other actions necessary to prevent overexploitation and improve the nation’s management and regulation of its marine resources. (05A101B) 8/05

International. Urge Congress and the President 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. (05A101C) 8/05

Mineral Policy. Urge formulation of a comprehensive national policy on utilization of American mineral resources. 8/73

Ocean Policy. Encourage Congress and the President to promote federal regulation of our country’s marine resources and enact legislation. (05A100A) 8/05

See Marine Resources entries, this section and related entries under International Law.

Oil Pollution Treaties. Support U.S. ratification of the Convention on Civil Liability for Oil Pollution Damage, and of the international Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage. 8/72


Public Land Policies. Support a series of principles in this area, including continued federal ownership of public lands in all but exceptional cases, coordination of responsibility and comprehensive planning in cooperation with state and local governments, permission of the maximum number of compatible uses of public lands, security of investment for users of public land, and adequate environmental protection and administrative procedures. 7/71
Public Participation in Environmental Matters. Support establishment of administrative procedures to allow public participation at the earliest possible stages of administrative decision-making. 8/72

Urge that public participation provisions of all levels of environmental law and international environmental agreements recognize the principle that public should be involved to assure that enforcement of environmental laws are fair, efficient and credible. 2/95

Scientific Knowledge. All appropriate scientific knowledge should be considered when regulating environmental matters, during litigation and ADR and in international matters. The Executive Branch and Congress should develop measures to provide for assessment, expansion and dissemination of scientific environmental information. 8/95

Sustainable Development. Reaffirm commitment to sustainable development and adopts the internationally accepted concept of sustainable development; encourage governments, businesses and other entities to promote and implement incentives to support sustainable development; urge the U.S. government to meet the targets and timetables contained within the Plan of Implementation adopted at the 2002 World Summit on Sustainable Development; urges ABA to enter into appropriate partnerships to foster sustainable development. (03A108) 8/03

Reaffirm the ABA’s 1991 and 2003 commitments to sustainable development and defines sustainable development as the promotion of an economically, socially and environmentally sustainable future for our planet. (13A105) 8/13

Superfund. See CERCLA entry, this section.

Toxic Substances Control Act. Urge enumerated reforms to the Act. (11M118) 2/11

Water Pollution. Support a set of principles, including use of an effluent water pollution control standard, use of criminal penalties and civil remedies and emphasis on the role of the states in enforcement. 2/72

Water Quality Studies. Urge that congressionally mandated studies to achieve water quality use a systematic interdisciplinary approach including the fields of law, economics, ecology, sociology, regional planning, engineering and architecture. 8/72

Water Resource Development. Support legislation to preserve the historic role of the states in water resource development. 2/72

FAMILY LAW

(For additional policy positions, see the ABA Model Standards of Practice for Family and Divorce Mediation and Juvenile Justice Standard; Standards of Practice for Prosecuting a Child in Abuse and Neglect Cases; Standards of Practice for Lawyers Representing Children in Custody Cases; Standards of Practice for Lawyers Representing Child Welfare Agencies; and Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases, August 2006; Standards of Practice for Lawyers Representing Victims of Domestic Violence, Sexual Assault and Stalking in Civil Protection Order Cases, August 2007; and Model Act Governing Assisted Reproductive Technology, dated February 2008; and Model Act Governing the Representation of Children in Abuse, Neglect, and Dependency Proceedings, dated August 2011 101A; Model Workplace Policy on Employer Responses to Domestic Violence, Sexual Violence, Dating Violence and Stalking, dated August 2014 (14A112A); and the Model Act Governing the Confidentiality and Expungement of Juvenile Delinquency Records (15A103A) 8/15.)

Adoption. Urge Congress to enact legislation providing incentives to encourage individuals to adopt juveniles. 2/93

Support enactment of legislation and public policy providing that adoption shall not be denied on basis of sexual orientation if it is in the best interest of the child. (99M109B) 2/99

Support state laws and decisions that permit the establishment of legal parent-child relationships through joint adoptions and second-parent adoptions by unmarried persons who are functioning as a child’s parents when such adoptions are in the best interests of the child. (03A112A) 8/03

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Support international adoption as an integral part of a comprehensive child welfare strategy to address the worldwide problem of children without permanent homes and supports policies that make the process of international adoption more timely, less costly and less burdensome, while ensuring that international adoption practices are ethical and legal.

See also Foster Care entry, this section.

Adult Guardianship. See entry in Elder Law.

Alcohol/Drug Abuse and Children's Welfare. Urge judges, when appropriate in making custody and visitation decisions, to require parental evaluation by alcohol drug treatment professionals; and urge amendment and use of child abuse and neglect laws enabling courts to deal with abuse or neglect incidents in which alcohol and drug abuse are factors. 7/85

Bias in the Child Welfare System. Urge the federal government to change laws to require states to track, report, analyze, and take and report on corrective action steps made in response to data and information gathered on disproportionate racial and ethnic minority family representation and outcomes in the child welfare system. (08A107) 8/08

Bullying. Urge governmental officials to remediate the dangers of bullying, including cyberbullying and youth-to-youth sexual and physical assault, by defining these acts and developing education programs for parents and teachers; discourage inappropriate use of justice system for acts of bullying; work with ISP providers to prohibit cyberbullying; and cooperate with FBI data collection related to hate crimes. (11M107A) 2/11

Child Abuse and Neglect Laws. Urge governments to review their child abuse and neglect laws including their mandatory reporting requirements, sanctions for failure to report, penalties, and civil immunity for participation in child protective actions. (13A113C) 8/13

Child Abuse Prevention and Treatment Act. Support increased effort to identify, prevent and treat child abuse and neglect and urge Congress to support extension of the Act. 8/80

Reaffirm support for increased efforts to prevent, identify and treat child abuse and neglect through the Act. 2/97

See also Kinship Care Placement entry, this section.

See Juvenile Justice Reauthorization entry under Criminal Law/Procedure.

Child Care Resources. Support wider availability of child care resources for American families through enactment of legislation, tax incentives, and increased legal assistance from individual attorneys and bar groups. 8/83

Child Custody Involving Servicemember-Parents. See Child Custody entry under Military Law.

Child Custody: Visitation and Disability of Parent. Urge governments to enact legislation and implement policy providing that custody, visitation, and access shall not be denied or restricted, nor shall a child be removed or parental rights be terminated, based on a parent’s disability, absent a showing that the disability is causally related to a harm or an imminent risk of harm to the child. (17M114) 2/17

Child Custody, Visitation and Sexual Orientation of Parent. Support legislation and implementation of public policy providing that child custody and visitation shall not be denied or restricted based on sexual orientation. 8/95

Child Custody Registry. Urge Congress to enact legislation establishing a natural computerized child registry. 8/95


Child Support Enforcement. Supports efforts to ensure adequate and fair child support awards and to improve the enforcement of child support orders, and recommends the development of effective and efficient procedures for enforcement of child and spousal support orders, the formulation of child support guidelines, and improvement of child support enforcement services available from public child support enforcement agencies.
Endorses the eleven recommendations of the U.S. Commission on Interstate Child Support including, but not limited to, ensuring uniform laws and procedures in interstate cases, requiring new employees to report child support obligations and payment through withholding, requiring employers to honor income withholding orders/notifications, and establishing a national network for the exchange of locate information. 2/93

Child Support Enforcement Funding. Urge Congress to maintain funding system for enforcement of family support obligations under Title IV-D of Social Security Act. 4/76

Child Support Proceedings. Support regulations which narrowly define “good cause” for refusal to cooperate with state family support enforcement proceedings, which permit state agencies to enforce support duties and determine paternity without such cooperation, and which appropriately allocate costs between Title IV-D and IV-A agencies. 2/77

Child Victims and Childhood Violence. Encourage courts to ensure the availability of counseling, treatment, advocacy and other assistance to victims of child abuse and domestic violence through various means, including the imposition of fines, restitution, and court orders. 8/96

Urge federal, state, tribal, local and territorial governments to ensure that child victims of criminal conduct have prompt access to legal advice and counsel and to specialized services and protections such as those provided by child advocacy centers approved and accredited by the National Children's Alliance. (09M101D) 2/09

Urge implementation of the 56 recommendations in the December 2012 report of the U.S. Attorney General’s National Task Force on Children’s Exposure to Violence, entitled Defending Childhood, to improve court and justice system practices to better help children who have been exposed violence. (13A111B) 8/13

Urge the implementation of recommendations in November 2014 report from the U.S. Attorney General’s Advisory Committee on American Indian/Alaska Native Children Exposed to Violence, titled Ending Violence So Children Can Thrive. (15A1113) 8/15.

See also Foster Care entry, this section and Child Sexual Abuse entry under Criminal Law.

Citizenship of Children. Urge the Department of State to interpret the Immigration and Nationality Act to recognize those children born to intended parents, even if those legally recognized parents do not have genetic or gestational relationship to the child, so long as at least one of the intended parents is a U.S. citizen who is legally recognized as the child’s parent by the country of birth or the intended parent’s state of domicile and the relevant resident or physical presence requirements are met. (17M113) 2/17

Corporal Punishment of Children. Oppose use of corporal punishment in institutions where children are cared for or educated. 8/85

Court-Appointed Special Advocates for Children. Support utilizing lay volunteers, court appointed special advocates, and attorney representation in dependency proceedings for abused and neglected children. 8/89

Courthouse Waiting Rooms for Children. See entry under Courts/Judges/Procedure.

Court Jurisdiction. Oppose removal of family law matters from the jurisdiction of the courts. 2/66

Discovery of Mental Health Records. Oppose legislation that would restrict discovery of mental health professionals’ records, including raw test data and notes of interviews, relating to evaluations in family law cases. 8/93

District Courts and Child Custody. Urge Congress to confirm that federal District Courts have the power to resolve the issue of conflicting state claims concerning jurisdiction over child custody disputes based on the Federal Parental Kidnapping Prevention Act and Title III of the Constitution. 8/88

Domestic Violence. Support federal, state and local efforts to combat family violence, and recommend the adoption of several proposals to make the criminal justice system more responsive to the problem including the establishment of shelters and counseling programs, procedures to encourage the filing
of criminal charges and prosecution where appropriate, standards for determination of sentencing and parole, arrest for violation of protection restraining orders and victim compensation. 8/78

Urge wide support for efforts to pass legislation and secure funding for development of multidisciplinary community-based programs to respond to current epidemic of domestic violence; such programs should contain certain enumerated elements. 8/95

Condemn acts by lawyers and judges in the course of their professional duties which would either constitute domestic violence or approval of the use of domestic violence, stalking, or sexual assault under the laws of their jurisdiction. 8/96

Urge all levels of government and private entities to make the establishment of programs addressing domestic violence a priority with victim safety a primary concern; urge that such programs be developed publicly with input from all entities and agencies having experience in handling such issues and that they conform to enumerated standards. 2/97

Encourage governments, courts and attorneys to consider and to provide for the safety of domestic violence victims and their children during court ordered visitation and visitation exchanges. (00M109A) 2/00

Recommend that court-mandated mediation include an opt-out provision in any action in which one party has perpetrated domestic violence upon the other party. (00M109B) 2/00

Urge the extension of the remedies, protections and services within domestic violence statutes to adolescents. Urge support of related educational programs and services for adolescents. (00M111) 2/00

Urge governments to reduce domestic violence by enforcing orders and urge appropriate remedies for failure to enforce the terms of civil and criminal protection orders. (05A114) 8/05

Urge federal, state, territorial, local and tribal governments to enact or amend domestic violence civil protection order statutes that provide protection to victims who are in a romantic or intimate relationship with the perpetrator of domestic violence or have been in a romantic or intimate relationship with the perpetrator, but do not necessarily have a child with, live with, or are married to the perpetrator of the violence. (06A110) 8/06

Urge governments to enact civil protection order statutes regarding domestic, intimate partner, sexual, dating, and stalking violence that extend to LGBT individuals. (15A109B) 8/15

Recognize freedom from domestic, dating and sexual violence and stalking as a human right. (15A109C) 8/15

See also Child Abuse and Domestic Violence Victims entry, this section, Civil Protection Orders under Courts/Judges/Procedure, Housing Protections for Victims of Violence (15M109B) under Real Property/Housing Law, Problem Solving Courts under Court/Judges/Procedure, Violence Against Women Act under Criminal Law/Procedure.

Drug Abuse, Alcohol & Youth. Adopted 20 policies regarding the prevention, education and treatment of youth alcohol and drug abuse problems, e.g. increasing criminal penalties for the sale of alcohol and other drugs to minors; revoking or suspending the drivers’ license of any youth convicted of DWI; establishing civil liability of persons who negligently sell or serve alcohol to a youth who, as a result thereof, becomes intoxicated and injures himself or others; increasing federal and state excise tax rates on alcohol and allocating a significant portion thereof for prevention, treatment and research in the area. 8/85

Education. Encourage the federal government, states and school districts to pass laws and implement policies that will secure the right of every child to a high-quality education and encourage attorneys and bar associations to help secure that right through improvements in state and federal law, representation of students, parents and organizations and community legal education. (09A118A) 8/09

Urge federal and state legislatures to pass laws and enforce policies that will help advance the right to remain in school, promote a safe and supportive school environment for all children and enable them to complete school. (09A118B) 8/09

Urge the enactment and implementation of statutes and policies that support the right of youth who have left school to return to school to complete their education in high-quality, age appropriate programs.
Urge legislative bodies and governmental entities to take action to disrupt the school-to-prison pipeline for students of color, students with disabilities, LGBTQ students, homeless students, and other marginalized groups whose high exposure to systemic inequities in education and disciplinary systems results in disproportionately higher drop-out rates and interactions with the criminal justice system. (16A/115) 8/16

Access to Adequate Public Education. Urge all governments to implement laws, policies, and other effective measures to provide every child with equal access to elementary and secondary public schools funded at levels adequate to ensure a high-quality education. (17A117A) 8/17

Civic Education: Voting. Urge all governments to develop and implement age-appropriate curricula designed to instill in all students a sense of the personal responsibility to cast informed votes and to teach them how to educate themselves regarding candidates and issues in elections. (17A117B) 8/17

Educational Blueprints. Endorse the Blueprint for Change: Education Success for Children in Foster Care (2007) and the Blueprint for Change: Educational Success for Youth in the Juvenile Justice System (2016), which provide a framework to improve educational access, stability, and success for court-involved youth. (17A117) 8/17

See Individuals with Disabilities Act entry under Civil Rights/Constitutional Law.

Educational Stability for Homeless and Foster Children. Support policies to assure uninterrupted educational access, special education and related services, and stability for homeless children and youth who are homeless or in public agency custody. (07A107) 8/07

Elder Abuse. See entry under Elder Law.

Family and Medical Leave. Support federal and state legislation establishing minimum requirements for reasonable, unpaid, job-protected leave for employees with medical or health concerns (including pregnancy) and family leave to provide care for seriously ill family members. 8/87; 2/88

Family Day. Urge the President to proclaim a national annual holiday observance, "Family Day USA." 8/70

Forced Marriages. Condemn forced marriages and urge governments to enact laws to prevent forced marriages in the United States or involving U.S. citizens or residents, to protect victims of forced marriages, and to collaborate with organizations to create victim-centered legal remedies for victims. (14A112B) 8/14

Foster Care. Support amendments in the federal Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) that would strengthen the role of the legal system in planning for children in foster care. 8/88

Support legislation to guarantee children safe foster care free from abuse, violence and sexual assault, and hold state and local officials liable for injuries caused under circumstances evidencing gross negligence or reckless disregard. 8/90

Reaffirm support for Adoption Assistance and Child Welfare Act and for legal system reform that will provide safe and permanent homes for kids; support enactment of legislation to address barriers to permanency. 2/97

Urge amendment of Title IV of SSA to provide direct access for foster care and adoption services for Indian children under tribal court jurisdiction. (01A105C) 8/01

Urge enactment of laws to provide youths transitioning from foster care into emancipation full access, up to age 21, to independent and transitional services; urge ABA to work to ensure youth transitioning out of foster care access to counsel. (02A106) 8/02

Oppose legislation and policies that prohibit, limit, or restrict placement into foster care of any child on the basis of sexual orientation of the proposed foster parent when such foster care placement is otherwise appropriate under the applicable law of the state, territory, or tribe. (06M102) 2/06

Encourage bar associations, judges and attorneys to lead efforts to create comprehensive services for youth who “age out” of foster care and other former foster youth until at least age 21, and urges amendment of applicable law, and court and child welfare practices. (07A104A) 8/07

FAMILY LAW
Support promotion of the permanent placement of lesbian, gay, bisexual, transgender and questioning youth in the foster care system in appropriate homes and protect the youth from discrimination and violence. (07A104B) 8/07

McKinney-Vento Homeless Assistance Act. Urge Congress to amend the McKinney-Vento Homeless Assistance Act to clarify that the Act applies to all children and youth in foster care and to significantly increase funding to support the support the academic achievement and success of all McKinney-Vento eligible students. (07A107) 8/07

Urge enactment of child welfare finance laws and/or development of policies to end the current fiscal incentives to place children in foster care. (10M110) 2/10

Urge governments and child welfare agencies, dependency courts, and judges to extend foster care and adoption assistance until the age of 21 and extend court jurisdiction for young adults who elect to remain in welfare agency care until the age of 21; and ensure that young adults are involved in all phases of their cases and their court proceedings. (10A109B) 8/10

Urge support for the enrollment in and successful completion of postsecondary education by youth in foster care. (12A112A) 8/12

Runaway and Homeless Youth Act. Urge Congress to increase funding for programs under the Runaway and Homeless Youth Act to more effectively intervene and end homelessness for youths, ages 12 through 24. (10M105B) 2/10

Transition from Foster Care to Homelessness. Urge governments to enact legislation and policies that prohibit youth from transitioning from foster care to a status of homelessness. (14M109A) 2/14

See also Youth at Risk and Educational Stability entries, this section; See Homelessness Prevention for Foster Youth entry under Real Property/Housing Law.

Gay Marriage. Oppose any federal enactment that would restrict the ability of a state to (a) prescribe the qualifications for civil marriage between two persons within its jurisdictions and (b) determine when effect should be given to a civil marriage validly contracted between two persons under the laws of another jurisdiction. (04M103D) 2/04

Urge Congress to repeal 1 U.S.C. § 7, which denies federal marital benefits and protections to lawfully married same-sex spouses. (09A112) 8/09

Urge state, territorial, and tribal governments to eliminate all of their legal barriers to civil marriage between two persons of the same sex who are otherwise eligible to marry. (10A111) 8/10

Grandparent Visitation. Encourage the further development of state law regarding grandparent visitation rights. 2/89

Guardians Ad Litem. Urges states and territories to meet the full intent of the Federal Child Abuse Prevention and Treatment Act regarding the appointment of guardians ad litem in cases of neglect, abuse, custody and visitation, and urges states, territories and local bars and law schools to assist in setting standards for appointment and providing training for guardians ad litem. 2/92

Health Care Intervention Decisions. See entry under Health/Mental Health.

Homeless Youth Prevention. See Homelessness Prevention for Foster Youth entry under Real Property/Housing Law.

Human Trafficking. See entries under Criminal Law/Procedure.

Indian Child Welfare. Encourage governments to provide training and resources to implement and enforce compliance with the Indian Child Welfare Act. (13A111A) 8/13

Insurance and Domestic Violence. See Domestic Violence under Insurance and Tort Law.

International Surrogacy Arrangements. See entry under International Law (116M112B) 2/16

Interstate Placement of Children. Encourage states and territories to work cooperatively to make determinations about interstate placements of children in a timely manner; urge federal and state governments to improve laws and procedures regarding interstate placement. (03A118) 8/03

Jurisdictional Immunity. Express concern over invocation of immunity to insulate
employees of international organizations from family financial obligations and support prompt enforcement of orders of courts in such matters. (99A118) 8/99

Juvenile Delinquency. See entry under Corrections.

Legal Services for Indigent Parents. See entries under Legal Services.

Parental Rights. See entries under Criminal Law/Procedure and Immigration.

Psychotropic Drugs for Children In Custody. Urge child welfare and juvenile justice agencies to develop best practices and policies to facilitate appropriate use of psychotropic medications needed by children in their custody; urge Congress to develop oversight protocols; urge Congress to enact legislation requiring government entities to report data on the use of psychotropic medication by children in the foster care and juvenile justice systems. (16M111) 2/16


Spousal Interest in Deferred Compensation. Support legislation making all deferred compensation from employment subject to state property laws. See also Military Retired Pay. 2/82; 8/82

Survivor Benefits. Recommend that the Internal Revenue Service publish standard model spouse consent forms for qualified retirement plans under ERISA advising the spouse of the effects of signing a spousal consent form waiving a survivor benefit. 2/96

Violence Against Women Act. See entry under Criminal Law/Procedure.

Welfare Due Process. Urge enactment of legislation to require due process protections, particularly notice and opportunity to be heard, before financial sanctions are imposed on welfare families for noncompliance. (01A105B) 8/01

Welfare Family Cap. Oppose legislation or regulation that denies an increase in public benefits for which individual is entitled upon the birth of an additional child while on welfare. 8/95

Welfare Funding. Urge adequate funding of welfare programs; oppose cuts in funding unless justified by careful study and analysis with regard for their long and short-term impact on individuals and budgets, and oppose linking public assistance to requirements which infringe on the right to privacy and other individual freedoms. 8/92

Youth at Risk. Urge all levels of government to coordinate and enhance services for at-risk youth and their caretakers. (06A10A) 8/06

Urge enactment of legislation that requires the licensing, regulating and monitoring of privately operated residential treatment facilities offering treatment to at-risk children and youth for emotional, behavioral, educational, substance abuse and social issues and problems. (07M114) 2/07

Support legislation to require the evidence-based pre-court diversion and early intervention services for youth who are alleged to commit status offenses, such as truancy or running away; supports the use of in-home or community-based services as an alternative to secure detention. (07A104C) 8/07

Urge governments to revise laws for “dual jurisdiction” youth (abused and neglected youth with juvenile “dependency” cases who are charged with acts of delinquency) to permit the use of diversion and crisis services for low levels of foster youth misbehavior while continuing to provide foster care services and support for the youth and to eliminate statutory restrictions inhibiting dual jurisdiction. (08M300) 2/08

Exposure to Violence. Urge the development and adoption of trauma-informed, evidence-based approaches and practices on behalf of justice system-involved children and youth who have been exposed to violence. (14M109B) 2/14

Educational Blueprints. See entry under Education in same section.

See also Youth Offenders entries under Legal Services and Criminal Law/Procedure.

FEDERAL GOVERNMENT/CONGRESS

Asset Forfeiture. See entries under Criminal Law.
Attorney General. Support legislation prohibiting appointment as Attorney General or Deputy Attorney General of a person who played a leading partisan role in the presidential election, and urge that nomination and confirmation for these two posts be treated as seriously as that of Supreme Court nominations. 2/76

Budget. Support removal of Social Security Fund from federal budget because it misrepresents the federal defeats. 8/90

Campus Violence. Support creation of a Presidential Commission on Campus Violence with power of subpoena. 5/70

Census of 1990. Encourage the U.S. Bureau of Census to conduct a complete count of all persons residing in the U.S. regardless of citizenship or immigration status and call upon bar members to promote full participation. 8/89

Congressional Contacts with Federal Prosecutorial Agencies or Administrative Agencies. See Ex Parte Contacts in Administrative Proceedings under Administrative Law and Congressional Contacts with Federal Prosecutorial Agencies under Criminal Law/Procedures.

Discrimination Based on Age. See entry under Civil Rights and Constitutional Law.

Department of Justice. Support implementation of increased oversight of department programs through review of programs by the Judiciary Committees and through use of the appropriations process. Support the issuing of regulations requiring department personnel to log outside contacts, including White House pressure for department action. 2/76

Department of Justice Lawyers. Urge the United States Department of Justice to continue in its commitment to investigate allegations of professional misconduct on the part of the Department’s lawyers and to release as much information regarding completed investigations as possible, consistent with privacy interests and law enforcement confidentiality concerns. (10A100A) 8/10

See also Partisan Political Interests and U.S. Attorneys entries, this section.

Department of Transportation. Support codification of laws affecting the Department of Transportation. 8/67

Disaster Preparedness Principles. See entry under Disaster Preparedness.

Election Procedures During Catastrophe. See entry under Election Law.

Electronic Information Access Under FOIA. See entry under Administrative Law.

Ethics in Government Service. Support development of comprehensive guidelines outlining conduct for government officials in their dealings with private parties and endorse integrated approach found in the 1993 Report of Committee on Government Standards; Support Independent Counsel provisions. 8/93

Executive Privilege. Urge Congress and the President to adopt certain outlined procedures to facilitate the resolution of disputes between them over executive privilege. 8/87

FBI Director. Support enactment of legislation providing for a definite term of office of the Director of the FBI. 2/76

FBI Jurisdiction. Support legislation carefully defining the responsibilities and jurisdiction of the FBI, with adequate oversight by Congress and by the Attorney General. 2/76

Federal Distributive Funding. Urge enactment of legislation authorizing an annual appropriation of federal distributive funding (formerly called general revenue sharing) to states and territories in 2011, and thereafter, in order to ensure continuity of funding of essential government programs. (09A105) 8/09

Federal Highway Safety Programs. Support adequate funding for this program. 8/69

Federal Security Clearances. Support the establishment of standards and procedures for the granting, denial, or revocation of security clearances for all applicants or employees of the federal government or its contractors. 8/89

Freedom of Information Act. Support amendments to FOIA which would (1) balance more carefully interests of private and public parties; (2) provide increased protection for financial, commercial and business information; (3) define the term "agency record"; (4) strengthen or create exemptions pertaining to national security and intelligence, law enforcement rules and manuals, and security criminal investigations; and (5) address several other matters. 8/74; 2/82; 2/83; 8/83; 2/84

Urge the Department of Health and Human Services to comply with the mandate of the Freedom of Information Act in releasing information with regard to Medicare and Medicaid decisions. 2/89

Urge the Attorney General of the United States to issue a memorandum to Freedom of Information Act (FOIA) officials at federal agencies clarifying that the designation of agency records as "sensitive but unclassified" cannot be a basis for withholding agency documents from release. (06M112) 2/06

See Electronic Information Access Under FOIA entry, under Administrative Law.

Government Lawyer Participation in Bar Associations. Oppose proposed limitations and restrictions upon participation in professional associations of employees of the Executive Branch. 8/91

Supports the principle that it is in the interests of the government that its lawyers participate in professional development activities sponsored by bar associations and encourages the removal of impediments to government lawyer participation in organized bar activities. Adopts recommendations contained in the report "Advancing the Participation of Government Lawyers in the ABA." 5/97

Urge governmental entities to recognize the value of having their lawyers participate in bar-sponsored activities and to facilitate participation in bar associations. (98A102) 8/98

Urge government entities to permit government lawyers to serve in leadership capacities within professional associations and societies; and encourage adoption of standards authorizing such lawyers to use reasonably facilities and official time for participation in such activities. (99A112) 8/99

Independent Counsel. See entry under

Criminal Law/Procedure.

Inspector General. Support statute to perpetuate an Office of Professional Responsibility, or Inspector General, in the Department of Justice. 2/76

Interstate Commerce Commission. Support consolidation and reenactment of laws affecting the ICC. 8/67

Law Revision Counsel. Support legislation to establish an Office of Law Revision Counsel to develop and keep current an official and positive codification of U.S. laws. 8/74

Legal Advice to the President. Urge that advice on personal or partisan matters be provided by sources outside the Justice Department. 2/76

Library of Congress: Law Library. Urge additional funding for the library's program for collection and interpretation of all foreign laws and for its program for collection and indexing of all publications of all countries. 2/70

Support continuation of the Law Library as a separate department of the Library of Congress and encourage Congress to establish a National Law Library which would include the present law library to serve Congress and the legal profession. 2/79; 2/81; 11/91; 2/92

Support efforts by the Library and Law Library to create programs that develop and maintain the Law Library's services and operations, and utilize the best technologies to make the Law Library's collection accessible. (11M110) 2/11

Lobbying Disclosure Act. Urge amendment of Act to exclude contacts with executive branch officials except where such contacts relate to grants or awards involving federal funds; support further study of issue. 2/93

Urge Congress to amend the Lobbying Disclosure Act of 1995 to extend the registration and reporting obligations with respect to lobbying coalition membership and grassroots lobbying. (06A119) 8/06

Urge Congress to update and strengthen the Lobbying Disclosure Act by requiring fuller reporting of lobbying activities, forbidding certain conflicts of interest, and
providing for more enforcement. (11A104B) 8/11

See also **Lobbying Expense Deduction** under **Tax Law**.

**National Endowment for the Arts.** Support a five-year reauthorization of the NEA with no restrictions on the content, subject matter, message or idea of what the endowment may fund. 8/90

**National Institute of Justice.** Support creation of an independent federal agency to conduct research and fund pilot projects aimed at improving the justice system. 8/74-R-8/79

**Office of Federal Procurement Policy.** Support creation of such an office within the Executive Branch or, alternatively, as an independent regulatory agency. 11/73

**Ombudsmen.** Recommend that the federal government experiment with the establishment of ombudsmen in specified agencies for limited areas and for limited phases of federal activity. 2/69; 7/71

**Partisan Political Interests of Prosecutors and other Government Lawyers.** Urge the President and the Attorney General to assure that lawyers in the Department of Justice do not make decisions concerning investigations or proceedings based upon partisan political interests and do not perceive that they will be rewarded for, or punished for not, making a decision based upon partisan political interests. Urge the leaders of state, local and territorial legal offices to assure that lawyers in their offices do not make decisions concerning investigations or proceedings based upon partisan political interests and do not perceive that they will be rewarded for, or punished for not, making a decision based upon partisan political interests. (10M102G) 2/10

**Political Advocacy by Exempt Organizations.** Oppose enactment of legislation which would (1) obligate exempt organizations to obtain prior approval of their members before engaging in "political activities"; (2) broadly define "political activities"; and (3) require additional record-keeping activities (498BOG). 4/98

**Postal Services for the Homeless.** Urges Congress, the U.S. Postal Service, etc. to ensure the prompt delivery of and adequate customer access to the U.S. mail for people experiencing homelessness. (05A112) 8/05

**Presidential Signing Statements.** Oppose, as contrary to the rule of law and our constitutional system of separation of powers, a President's issuance of signing statements to claim the authority or state the intention to disregard or decline to enforce all or part of a law he has signed, or to interpret such a law in a manner inconsistent with the clear intent of Congress. (06A304) 8/06

**Public Advocacy by Federal Grantees.** Support existing prohibitions on the use of federal grant funds for lobbying activities and oppose legislation, such as HR 2127 and HR 2020, 104th Congress which compromises the principle of access to the legislative process by limiting the amount of public policy advocacy in which organizations receiving federal grants can engage, using private funds; urge Congress to examine carefully any proposed legislation in this area for its chilling effect on constitutional rights of citizens to petition their government, etc. 10/95

**Qualified Immunity.** See entry under Attorneys/General Practice.

**Self-Regulation of Congressional Ethics.** Urge each House of Congress, in the performance of its self-disciplinary functions, to structure the enforcement process fairly, and to protect the rights of respondents. 2/96

**Subpoenas of Administrative Documents by Congress.** See **Administrative Subpoenas** under **Administrative Law**.

**Sunshine Act.** Support legislation opening meetings of federal agencies and congressional committees to the public, within a proposed set of limitations. 8/75

Recommend specific guidelines to interpret the term, "meetings" under the Act. 2/87

**U.S. Attorneys.** Support (1) creation of nonpartisan advisory committees in each judicial district to review the qualifications of possible nominees for U.S. Attorney and (2) retention of the Senate confirmation process. 2/76

Support in principle that the
appointment, retention and replacement of U.S. Attorneys, and their exercise of professional judgment, should be insulated from improper political considerations. (07A10C) 8/07

See Partisan Political Interests of Government Lawyers entry, this section.

U.S. Code Revision and Codification. Support effort to move forward in revision of U.S. Code and reenactment of titles into positive law. 2/66

Voting Rights For D.C and American Territory Representatives. Support the prompt enactment of legislation to grant equal voting rights in Congress for the District of Columbia. (09M10D) 2/09

Urge the House of Representatives to restore the right of elected representatives of D.C., American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico and the United States Virgin Islands to vote on legislation proposed by the House in Committee of the Whole. (11A10C) 2/11

Witnesses at Congressional Hearings. Support congressional rules providing that no witness shall be compelled to give testimony in any hearing for public broadcast. 8/74

Witnesses in Congressional Investigations. Approve guidelines regarding the rights of witnesses in congressional investigations. 8/88

HEALTH/MENTAL HEALTH

Access to Health Information. Oppose governmental restriction on patients’ access to medical information necessary for informed healthcare decision–making and information with respect to access to appropriate medical care whether or not their provider offers it. (05M104) 2/05

See also Confidentiality of Health Information, this section.

Access to Legal Websites by the Disabled. See entry under Attorneys/General Practice.

Alternative Dispute Resolution. Support certain principles and recommendations contained in “Health Care Due Process Protocol: A Due Process Protocol for Mediation and Arbitration of Health Care Disputes” (8/27/98) and support enactment of legislation establishing ADR procedures as one remedy for resolving disputes between patients and health care plans. (99M114) 2/99

Encourage informed and voluntary use of ADR in health care disputes except in cases of medical malpractice disputes involving private managed health care organizations or residents in dispute with long-term care facilities. (16M100) 2/16

See also entries under Elder Law, Insurance and Tort Law, and Medical Malpractice.

Advanced Illness. Support legislation and regulation that contains specified provisions to promote access to comprehensive long term supportive services and care for persons with advanced illness. (15M100) 2/15

AIDS. See HIV/AIDS entry, this section.

Asbestos. See Asbestos-Related Disease Claims under Insurance and Tort Law.

Assisted Pregnancy. Hormonally-Assisted Pregnancy. Oppose state or territorial legislation that would restrict hormonally-assisted pregnancy in post-menopausal women. 8/95

Adopt the ABA Model Act Governing Assisted Reproductive Technology Agencies, which provides model licensing legislation governing Assisted Reproductive Technology Agencies. (16M112A) 2/16

Board and Care Facilities. Support enactment of state legislation requiring licensure and regulation of Board and care facilities for adults who need personal assistance, lodging and meals and federal oversight to assure compliance. 8/89

Children and Pregnant Women. Support legislation to ensure comprehensive health care for children and pre-natal care for pregnant women. 8/97

Clinical Trials. Urge Congress to enact legislation and direct the appropriate federal departments to issue regulations that establish uniform requirements for guidance on addressing conflicts of interest in all human
Cloning of Humans. Support national and international laws and public policy that oppose or prohibit reproductive cloning; if reproductive cloning is attempted, support national laws and policies to establish that a live-born human clone is legally a separate and distinct person from its progenitor and that a human clone is a human being and has legal parents. (04A109) 08/04.

Confidentiality of Health Information. Support legislation to protect confidentiality of personal health information in either paper or electronic form by ensuring that individuals have access to their own records, that disclosures of such records generally are subject to the individual's consent, that law enforcement agencies have access to information only in accordance with Fourth Amendment principles, and that strong law enforcement penalties are in place to address violations of the law. 2/96

Death Definition. Join with the AMA and the NCCUSL in creating a uniform public policy position on this legal/medical issue. 2/75; 2/81

Disclosure of Financial Incentives. Urge Congress to enact legislation to require employer-sponsored health plans to disclose to their enrollees any financial incentive programs they provide to contracted physicians and to provide information on these incentive programs in written form to each enrollee. (01A103) 8/01

Durable Powers of Attorney. Encourage the use and recognition of durable powers of attorney for delegating health care decision-making authority in the event of decisional incapacity of the principal. 8/89

Emergency Care System. Support the study of regionalization of the nation's Emergency Care System and Emergency Departments and the enactment of legislation and promulgation of rules, specifically as it relates to disaster preparedness, as an effective and efficient means of improving patient safety, health care quality, cost reduction, coordination of care, and increased accountability of the system. (07A120B) 8/07

Expedited Partner Therapy. Urge states, territories and tribes to support the removal of legal barriers to the appropriate use by health care providers of Expedited Partner Therapy. (08A116A) 8/08

ERISA and Private Right to Sue. See entry under Insurance and Tort Law.

Fetal Alcohol Spectrum Disorders. Urge enhanced awareness of Fetal Alcohol Spectrum Disorders in children and adults and its impact on individuals in the child welfare, juvenile justice and adult criminal justice systems. (12A112B) 8/12

Fetal Tissue Research. Support federal legislation that would: permit carefully regulated, federally funded fetal tissue transplantation research; establish specific restrictions and safeguards for such research to insulate it from the abortion decision; ensure comparable standards for private sector research; and establish the conditions under which research proposals are to be approved. 2/92

See also Stem Cell entry, this section.

Genetic Testing. Urge governments to assure that predictive and diagnostic medical genetic testing provided on-line, via the telephone, or by any other direct-to-consumer means comply with specified principles to protect the consumer. (11A114) 8/11

HIV/AIDS. Support enactment of federal legislation, such as S. 1575 and H.R. 3071 (100th Congress), that promotes increased voluntary counseling and testing as well as confidentiality and prohibits discrimination on the basis of infection with the AIDS virus. 2/88

Support the global strategy of the WHO for the worldwide prevention and control of AIDS. 8/89

Urge governments and private entities to adopt policies concerning the Human Immunodeficiency Virus that are consistent with 60 enumerated principles, all of which promote non-discrimination and confidentiality (except in certain public health situations). 8/89; 2/90

Support the removal of legal barriers to
the establishment and operation of approved needle exchange programs that include a component of drug counseling and drug treatment referrals. 8/97

Urge the federal government to implement HIV/AIDS-related initiatives that address the HIV/AIDS problem in a manner consistent with international human rights law and science-based prevention, care, support, and treatment objectives; urge the endorsement of the United Nations Declaration of Commitment on HIV/AIDS, dated June 2001. (04M103B) 2/04

Blood Donations. Urge FDA to update its current policy requiring deferment of blood donations from men who have sex with men to a deferral policy based on an assessment of the risk posed by an individual; urge FDA to develop and implement validated tools for assessing individual risk to ensure safety of the blood supply. (17M112D) 2/17

See also Long-Term Care Planning for Individuals with Fatal Diseases entry, this section, Compassionate Release and Alternative Sentencing and HIV/AIDS and the Criminal Justice System entries under Criminal Law and HIV Status of Sellers as Non-Material Fact entry under Real Property Housing.

Health Care Intervention Decisions. Support the principle that competent persons generally have the right to consent to or refuse health care interventions, even if the result is a shorter life span; support the principle that an appropriate surrogate may exercise this right for incompetent individuals, but with no position on how these surrogates are to be chosen or on the standards governing their actions. 2/90

Health Courts. See entry under Medical Malpractice.

Home Health Care for the Elderly and Disabled. Support state and federal legislation and regulation to improve quality of home health care and home help care for elderly and disabled in accordance with specified principles. 8/87

Hunger. Urge increased efforts to eliminate hunger and malnutrition. 8/70

Indian Health Service. Support reauthorization of the Indian Health Care Improvements Act; urge Congress and the Executive Branch to address the various areas where their health is deficient; support the administration of their health care services on reservations, by Indian tribes and tribal organizations, and rural areas. (04M103C) 2/04

Long-Term Care Planning for Individuals with Fatal Diseases. Urge creation of legal mechanisms with consumer safeguards to allow people with HIV, AIDS and other fatal illnesses to better plan for long term care for themselves and families, including standby guardianships, advance medical directives and vertical settlement. 8/95

Long-Term Health Care. Support adoption of federal, state and territorial legislation, regulation and other initiatives which encourage the appropriate use of private insurance, employment-related benefits and other mechanisms addressing long-term care needs, including possible tax law changes, consumer protection, and the initiation of public and private options for home and community-based long-term care consistent with principles of equitable access, autonomy, fairness, quality and responsible financing. 2/89; 2/92

Urge development of innovative long-term care programs such as the "Compact for Long-term Care" to provide financing that is separate and in addition to Medicaid. (08M10A) 2/08

Urge Congress and administrative bodies to continue efforts to expand availability of home and community-based services as a viable long-term care option. (11A106A) 8/11

Managed Health Care Complaints. Support right of consumers to a fair and efficient process for resolving disputes which includes certain elements recommended by the Consumer Bill of Rights (98A103). 8/98

Marijuana. Support federal legislation to remove prohibitions against the treatment of patients with marijuana under the supervision of a physician with controls adequate to prevent improper use. 2/84

Medical Release of Terminally Ill Inmates. See Compassionate Release and Alternative Sentencing entry under Corrections.
Medicaid. Approve expansion of the Medicaid program to cover all pregnant women and children with family incomes less than 200 percent of the federal poverty level. 2/90

Support legislation to require HHS to issue advisory opinions interpreting the Act, to establish a federal advisory committee to review it, and to add the names of lawyers who request it to its distribution list for information regarding the Act. 8/90

Support repeal of Medicaid estate and recovery mandate under the Omnibus Budget Reconciliation Act of 1993; in the absence of repeal, urge enumerated amendments to act. 2/95

Opposes any structural or financial changes in the Medicaid program and the need for innovation in shaping more effective health care system that would weaken the current entitlement nature of the program or shared legal obligation that the federal, state and territorial governments have to provide a comprehensive set of benefits to all individuals who meet eligibility criteria and supports Medicaid restructuring that adheres to enumerated principles. (05A113B) 8/05

Medical-Legal Partnerships. Encourage lawyers, law firms, legal services agencies, law schools and bar associations to develop medical-legal partnerships with hospitals, community-based health care providers, and social service organizations to help identify and resolve diverse legal issues that affect patients’ health and well-being. (07A12A) 8/07

Medicare Coverage for Precision Medicine. Urge broadening of the scope of Medicare coverage to allow coverage for interventions that could mitigate medical issues that are genetically indicated but not yet expressed. (17M116) 2/17

Medicare Procedures. Support efforts to improve the administration and judicial process utilized by the Department of Health and Human Services in accordance with principles recommended by the Symposium on Medicare Procedures. 8/88

Support specific current practices and specified reforms in the Medicare claims adjudication process to assure that Medicare beneficiaries are entitled to due process throughout all levels of the claims and appeals process. (03A107) 8/03

Recommend that the federal government amends the Medicare Secondary Payer Act to return an appropriate level of certainty, predictability and efficiency to the Medicare set-aside in Workers’ Compensation systems. (05M109B) 2/05

Medicare Reporting: Safe Harbor Provision. Urge Congress to amend the Medicare, Medicaid and SCHIP Extension Act of 2007 to create a safe harbor provision protecting responsible reporting entities from civil penalties when they rely on an appropriate process to obtain reportable information or rely on claimants’ verified representations regarding claimants’ entitlement to or receipt of Medicare benefits. (10A101) 8/10

Medicare Reimbursement. Support legislation providing that claims for Medicare reimbursement of medical expenses be heard before an administrative law judge subject to agency and judicial review. 8/73

Urge Congress to hold public hearings addressing the need for legislation to ensure efficient administrative and judicial review of Medicare reimbursement controversies. 8/80

Support the enactment of legislation which extends and expands the availability of Medicare reimbursement for hospice care services. 2/86

Urge Congress and HHS to pass legislation and regulations to develop and implement a more timely and efficient process to determine amounts owed to Medicare by a beneficiary when a conditional Medicare payment has been made, including appeal process; support legislation similar to the SMART Act from the 112th Congress. (13M100) 2/13

Advanced Practice Provider Billing. Urge Congress to enact legislation and the Center for Medicare and Medicaid Services to implement regulations and guidance permitting the locum tenens services delivered by advanced practice providers to be billed in a manner commensurate with those provided by physicians. (16M300) 2/16

Medicare Coverage for Outpatient Care. Urge Congress to enact legislation that deems an individual receiving outpatient observation care services in a hospital to be treated as an inpatient with respect to satisfying the stay requirement for Medicare coverage of a post-
hospitalization stay in a nursing facility. (14M110) 2/14

Mental Health and Substance Abuse Treatment. Support the rights of all Americans, particularly our nation’s veterans, to access adequate mental health and substance use disorder treatment services and coverage, and urge States, in implementing the Patient Protection and Affordable Care Act, to provide for mental health and substance use disorder coverage. (13A101) 8/13

Mental or Emotional Illness in Adults and Youth. Urge Congress to enact legislation to address the complex problem presented by the large number of adults with mental illness and juveniles with mental or emotional illness or disorders who come into contact with the criminal and juvenile justice systems; urge increased funding for public mental health services and development of policies and programs to provide better public health services. (04M116) 02/04

See also Youth-at-Risk entry under Family Law.

Mentally Disabled. Support swift and effective implementation by federal and state governments of laws and regulations codifying rights of mentally disabled persons. 8/77

Oppose capital punishment for mentally disabled. 2/89

Mentally Disabled Advocacy Programs. See entry under Legal Services.

Near Misses. See Reporting of Hospital Events entry, this section.

Nursing Homes. Urge the retention of effective enforcement mechanisms to ensure adequate quality of care in nursing homes participating in Medicare and Medicaid. 2/83

Organ Donation. Approve the Uniform Anatomical Gift Act promulgated by the National Conference of Commissioners on Uniform State Laws in 2006. (07M105A) 2/07

Pain and Symptom Management. Urge federal, state and territorial action to assure quality pain and symptom management by health professionals by removing legal barriers to quality pain and symptom management and to fully support the rights of individuals suffering from pain to make informed and effective decisions in their treatment. (00M102) 2/00

Patient Care and Safety. Support the development of evidence-based, clinical or medical practice standards regarding patient care and safety. (11M113) 2/11

Patient-Self Determination Act. Urge Congress to amend the Patient-Self Determination Act provisions of the Medicare and Medicaid law regarding advance care planning to meet specific requirements; urge Congress and HHS to require opportunities to discuss options.

Physicians Inquires about Gun Ownership. See Gun Control entry under Criminal Law.

Physicians Orders for Life-Sustaining Treatment. Urge establishment and support of decision-making protocols to ensure that the wishes of those who have advanced chronic progressive illnesses are appropriately translated into visible and portable medical orders such as “Physicians Orders for Life-Sustaining Treatment” that address higher probability medical contingencies. (08A103) 8/08

President’s Commission on Mental Health. Commend the report of the Commission as a valuable study and endorse the report’s 10 recommendations for protection of the human and legal rights of the mentally disabled. 8/78

Qualified Medicare Beneficiary Program. Support efforts to increase public awareness of and accessibility to the Qualified Medicare Beneficiary program; support efforts to enroll eligible parties into the program. 2/93

Stem Cell. Oppose Governmental prohibitions on scientific research conducted in accordance with accepted safeguards for therapeutic purposes, including cell nuclear transfer research not intended for human cloning. (02A117B) 8/02

See also Fetal Tissue Research entry, this section.

Substance Abuse. Urge federal, state, local, and territorial governments to eliminate policies
that sanction discrimination against people seeking treatment or recovery from alcohol or other drugs by implementing specific recommendations regarding public benefits included in “Ending Discrimination Against People with Alcohol and Drug Problems,” dated 2003. (04A112) 08/04.

Urge repeal of laws and 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. (05A105) 8/05

Urge all federal, state, territorial and local legislative bodies and governmental agencies to adopt laws and policies that require health and disability insurers who provide coverage for the treatment of both abuse and dependence on drugs and alcohol to do so in a manner that is based on the most current scientific protocols and standards of care. (06A109) 8/06

Affirm that dependence on alcohol or other drugs is a disease and supports the principle that insurance coverage for the treatment of alcohol and drug disorders should be at parity with that for other diseases. (07A105) 8/07

See also Lawyers Assistance Program and Model Rule on Conditional Admission to Practice Law entries under Attorneys/General Practice.

See also Mental Health and Substance Abuse Treatment. (13A101) 8/13

Teledicine Licensure. Urge states and territories to provide for mutual teledicine licensure recognition.

Universal Access to Healthcare. Reaffirm support for legislation to provide for every American access to quality health care, regardless of income, including universal coverage through a common mechanism, a single payor system, appropriate containment of costs and administrative burdens on employers, assurance of quality and appropriate care, and freedom of choice, procedural due process, and administrative simplicity for consumers. 2/90, 2/94

Support federal legislation that would ensure every American access to quality health care regardless of the person's income, and without regard to the payor system, eliminating the specific payor system characteristics embodied in the recommendations adopted by the House of Delegates in 1990 and 1994. (09A10A) 8/09

Women's Health Research. Support federal legislation that would: include women and minorities, where appropriate, in all clinical trials by the NIH; appropriate funds for the study of women's illnesses; permanently authorize an Office of Research on Women's Health at NIH; and create contraceptive and fertility research centers. 2/92

Urge jurisdictions to increase to adequate levels funding for basic research on breast cancer and other women's health conditions; resolves to partner with the public health community and bar associations to improve access to legal services for breast cancer patients. (00M112) 2/00

World Health Organization. See entry under International Law.

Youth Offenders. See entries under Criminal Law.

IMMIGRATION LAW

(For additional policy see ABA Civil Immigration Detention Standards, adopted 2012 and amended 8/14)

Access to Counsel. Oppose involuntary transfers of detained immigrants and asylum seekers to remote facilities if such transfer would impede an existing attorney-client relationship or if appropriate counsel is not available near the site. (01M106B) 2/01

Support measures to improve access to counsel for individuals in immigration removal proceedings. (11A118) 8/11

See also Right to Counsel entry, this section.

Adjustment of Status. Support legislation expanding the statutory opportunity for aliens from the western hemisphere to acquire permanent resident status. 8/76

Administrative Appeal. Oppose legislation that would not provide for appeal to an independent body for all persons subject to administrative orders of exclusion or deportation or to denial of asylum claims. 2/83

Administrative Review of Immigration Appeals. Urge elimination of the present bifurcated administrative review of immigration appeals so that the power of ultimate decision would be vested solely in the Board of Immigration Appeals. 2/68

Aliens Convicted of Criminal Offenses. Support legislation making relief from deportation upon grant of a pardon or judicial recommendation against deportation available for any criminal conviction, and removing the time limit for such judicial recommendations. 8/75

Amnesty for Illegal Aliens. Support legislation recognizing that unlawful aliens now in the United States should be dealt with realistically and humanely, and that those who are otherwise law-abiding should be accorded a legal status. 2/83

Asylum Process. Support administrative improvements to asylum process and to the exercise of the right to counsel consistent with Section 292 of the Immigration Act; support legislation for temporary U.S. protection for persons who may not qualify for asylum but who would be endangered if forced to leave. 2/90

Support the repeal of annual numerical caps that result in undue delays in the granting of lawful permanent residence to those individuals who have already been granted asylum status in the United States. (05M112) 2/05

Bar Admission and Immigration Status. See entry, Attorney, General Practice.

Board of Immigration Appeals. Support improving the efficiency, transparency and fairness of administrative review by the Board of Immigration Appeals (“BIA” or “Board”) through increasing the resources available to the Board, including additional staff attorneys and additional Board members. (10M114C) 2/10

Children. Urge non-discrimination against any child based on citizenship or status; oppose efforts to restrict or deny equal access to public education, foster care or social service; urge respect for Constitutional rights to due process and civil liberty for all persons in the United States. 2/95

Urge the Department of Homeland Security to revise its policies to provide detained parents, guardians caregivers with 1) access to attorneys to help them understand legal issues; 2) referral to attorney who represent their interests in state custody and other proceedings involving their children; and 3) opportunity to participate in such proceedings. (11A103C) 8/11

Urge laws and policies that assure children know location of detained or removed parent and that do not automatically prevent family reunification based on detention or removal. (11A103B) 8/11

Appointment of Counsel. Support government appointed counsel for unaccompanied children in immigration proceedings and meaningful opportunity to consult with counsel; urge jurisdictions to consider implementing specialized calendars. (15M113) 2/15

Citizenship of Children. See entry in Civil Rights section and Family Law.

Support legislation permitting petitioners to take oath of allegiance not later than 30 days preceding a general election. 8/66

Civil Penalties. Oppose legislation authorizing enforcement of civil penalties without opportunity for adjudicatory hearings before administrative law judges. 2/83

Collateral Consequences. Urge funding for state and federal public defender offices and or other criminal defense legal aid programs specifically for the provision of advice concerning immigration consequences in criminal cases for indigent non-U.S. citizen defendants. (10A100C) 8/10

Urge courts to ensure that defense counsel investigates and informs juvenile defendants of their immigration status and penalties and that a juvenile’s plea to any offense is knowingly, voluntarily and intelligently made, specifically considering their
immigration consequences based on entry of a plea. (13M104E) 2/13

Consular Visa Adjudication and Review. Urge amendment of federal statutes and regulations to establish increased due process in consular visa adjudications; urge a study to be made on the feasibility of granting administrative review for permanent immigrants whose visas are denied abroad by consular officers. 2/90

Courthouses: Sensitive Locations. Urge Congress to revise and codify DHS guidelines to include courthouses as “sensitive locations” for immigration enforcement actions; urge ICE to similarly revise its guidelines. (17A10C) 8/17

Criminal Convictions. Support preservation of the categorical approach used to determine the immigration consequences of past criminal convictions, under which the adjudicator relies on the criminal statute and the record of conviction rather than conducting a new factual inquiry into the basis for the conviction; urge U.S. immigration authorities to use such an approach. (09A113) 8/09.

Criminalization of Civil Violations. Oppose criminalization of civil violations of immigration law. (04M105) 2/04

Deportation and Exclusion Proceedings. Support applicability of Administrative Procedure Act to such proceedings. 2/58-R-5/75

  Urge the expansion of the use of the pardon power to provide relief to non-citizens otherwise subject to removal on grounds related to conviction; urge Congress to restore authority to the courts and administrative agencies to allow case-by-case relief. (06M300) 2/06

  Support application of the Immigration and Nationality Act to allow persons outside the U.S. to pursue motion to reopen or motions to reconsider removal proceedings on the same basis that apply to persons who file such petitions within the U.S. (11A104A) 8/11

  See also Reform of Immigration System, this section.

Detention in Removal Proceedings. Oppose the detention of non-citizens in immigration removal proceedings except in extraordinary circumstances, which would include a determination, following a hearing and subject to judicial review, that a person presents a threat to national security or public safety, or presents a substantial flight risk. (06M107E) 2/06

  See also Reform of Legal Immigration entry, this section.

Detention Standards. Support the issuance of federal regulations that codify the Department of Homeland Security Immigration and Customs Enforcement (ICE) National Detention Standards as in effect in October 2007. (08M111B) 2/08

  Adopt ABA Civil Immigration Standards to specify that segregation for immigration detention should be used only as a last resort and in compliance with other limitations. (14A111) 8/14

Discretion to Waive Deportation/Exclusion. Urge legislation giving the Attorney General discretion to waive any ground for deportation or exclusion of several classes of aliens. 8/75

Due Process. Support legislation and regulations ensuring adequate due process safeguards. 10/55-R-5/73

  Urge an administrative agency structure that will provide all non-citizens with due process of law in the processing of their immigration applications and petitions, and in the conduct of their hearings or appeals, by all officials with responsibility for implementing U.S. immigration laws. (06M107C) 2/06

  See also Reform of Legal Immigration entry, this section.

Employer Sanctions. Oppose legislation imposing civil and criminal sanctions on employers who knowingly hire unlawful aliens. 2/83

Exclusion of Refugees Based on National Origin or Religion.

  Refugee Eligibility. Urge Congress to mandate timely individualized assessments of eligibility of refugees and that neither origin or religion bar otherwise eligible individuals. (17M10B) 2/17

  E.O. 13769. Urge President to withdraw E.O. and comply with court orders while in effect; urge that all future E.O.s adhere to enumerated principles including not using religion or nationality as basis for barring entry to U.S. (17M10C) 2/17

IMMIGRATION LAW
Farm Workers. Support efforts to improve working conditions, enhanced enforcement of laws regulating rights of farm workers, according legal resident status to noncitizen farm workers. Oppose expansion of existing H-2A nonimmigrant visa category. (99A106) 8/99

Fees. Support fee levels for immigration and naturalization benefits that would not result in the denial of benefits to those who are unable to pay; support clearly defined fee waiver policy and procedures to ensure that waivers are available; oppose the imposition of fees for applications for humanitarian forms of immigration relief. (08M111A) 2/08

Foreign Nationals Intending to Form Businesses. Urge Congress to implement immigration classification whereby foreign nationals intending to form businesses have mechanism to enable them to able to obtain permanent resident status to build such businesses. (10A300) 8/10

Foreign National Investors. Support federal legislation to re-establish a legal basis upon which foreign nationals who invest substantial amounts can obtain resident status for the purpose of managing and supervising such investment. 8/87

Gender-Based Persecution. Urge that gender-based persecution be recognized as a ground for asylum under the Immigration and Nationality Act and support legislative or administrative action to ensure it. (01M110) 2/01

Haitian Family Reunification. Urge the Department of Homeland Security to create a Haitian Family Reunification Parole Program and immediately begin paroling into the United States already-approved Haitian beneficiaries of family-based visa petitions. (12A113) 8/12

Immigration Courts. Support measures to improve immigration courts and create a more professional, independent and accountable immigration judiciary by increasing the number of immigration judges and by changing immigration court procedures to ensure fair and efficient proceedings. (10M114B) 2/10

Immigration Judges. Support neutrality and independence of immigration judges and of any federal agency that employs them. (06M107C) 2/06

Immigration Nationality Act of 1952. Urge that the Immigration and Nationality Act of 1952 be amended to incorporate a 10-year statute of limitations for revocation or cancellation of citizenship certificates. 2/68
Support amending the Immigration and Nationality Act of 1952, as previously amended, in order to further reform the basis upon which foreign nationals may seek lawful permanent resident status in the U.S. 2/89
Urge amendment of the Immigration and Nationality Act to: 1) to create a non-immigrant visa category for household caregivers, 2) control employment of alien caregivers and 3) establish reasonable time limitations on the process for qualifying eligible alien applicants for permanent residence in the United States. 8/93

Immigration Removal Adjudication System. Urge the Department of Homeland Security to implement the policies and procedures to improve the efficiency and effectiveness of within the immigration removal adjudication system. (10M114A) 2/10

Incommunicado Detention by the INS. See entry under Anti-Terrorism.

Increased Appropriations for Enforcement. Support provision by Congress of sufficient resources to federal agencies charged with administering immigration, refugee and fair labor standards laws. 2/83

INS Backlogs. Support a series of proposals to reduce excessive delays in INS processing of applications. 8/76

Judicial Review. Oppose legislation to limit availability and scope of judicial review of administrative decisions regarding reopening and reconsideration of exclusion or deportation proceedings or asylum determinations or constitutional and statutory writs of habeas corpus. Oppose legislation to limit to less than 60 days the time within which petitions for review must be filed. 2/83
Support legislation creating jurisdiction for the judicial review of all final orders. 8/74
Support restoration of federal judicial
review of immigration decisions; urge enactment of legislation to: 1) restore U.S. Court of Appeals authority to review discretionary decisions by the Attorney General under the abuse of discretion standard in effect prior to 1996; 2) permit the courts of appeals to remand cases to the Board of Immigration Appeals for further fact finding; and 3) amend current 30-day deadline to file a petition for review with a court of appeals to 60 days. (10M114D) 2/10

**Labor Certification Appeals.** Support legislation to permit decisions of the Secretary of Labor concerning the granting of labor certificates to be appealed to courts. 2/83

**Labor Certification Program.** Support a package of legislative and administrative proposals to improve the administration of this program by the Department of Labor. 8/76

**Legal Assistance.** Support legislation and/or administrative standards to ensure due process and access to appropriate legal assistance for persons arrested or detained in connection with immigration enforcement actions provide emergency assistance to children of such persons. Encourage bar associations to raise awareness of the rights available to individuals taken into custody during workplace immigration enforcement actions. (09M101C) 2/09 See also Right to Counsel entry, this section.

**Legal Permanent Residence.** Support legislation to provide to non-citizens who both reside in and can demonstrate significant ties to the U.S. with an opportunity for they and their immediate family members to acquire legal permanent residence. (02A115A) 8/02

**Naturalization.** Affirm the importance of the naturalization process; support the current naturalization eligibility requirements; oppose proposals to increase requirements or disqualify individuals on the basis on conduct that was not a disqualification at the time it was engaged in; recommend improvements in the naturalization process. 8/97

**Non-Immigrant Visas for Intra-Company Transferees.** Urge various amendments of the federal regulation relating to the nonimmigrant (temporary) visa category for Intra-company transferees. 8/88

**Numerical Limitations on Immigration.** Oppose any numerical limitation which would reduce visa numbers from the non-family related preference categories by the number of visas issued to immediate relatives of U.S. citizens. 2/89

**Personal Responsibility and Work Opportunity Act.** See Restoration of Funding State and Federal Services entry, this section.

**Preparer Certification.** Urge legislation to require a preparer of immigration and naturalization forms to sign and certify the accuracy of information on those forms, with penalties for violation of these requirements. 8/88

**Presidential Powers in Immigration Emergencies.** Recommend that legislation giving the President broad powers in immigration emergencies preserves the right of judicial review and protects the right to travel. 8/83

**Reform of Immigration System.** Urge that (1) existing laws and procedures for admission of aliens be reformed to assure increased economic and cultural benefits to the U.S. from such admission; and (2) aliens be permitted to change their status to that of a permanent resident even if they have not maintained continuous legal status since entering the United States. 2/83

Urge Congress to extend the application period for legalization under the Immigration Reform and Control Act of 1986 beyond the existing expiration date of May 4, 1988. 2/88

Support a regulated, orderly and safe immigration system and comprehensive reform that promotes national security, addresses the undocumented population, need for immigrant labor, value of family reunification, and the need for an effective enforcement strategy; and support lawful permanent residence and citizenship for undocumented persons who entered the United States as minors and have significant ties to the United States. (06M107B) 2/06

Support identified reforms to create a transparent, user-friendly, accessible, fair and efficient system for administering immigration
laws that has sufficient resources to carry out its functions in a timely manner. (06M107D) 2/06

Support the establishment of laws, policies, and practices that ensure optimum access to legal protections for refugees, asylum seekers, torture victims, and others deserving of humanitarian refuge. (06M107F) 2/06

Support avenues for lawful immigration status, employment authorization, and public benefits for victims and derivative family members, of human trafficking and other crimes described in 101(a) (15) (U)(iii) of the Immigration and Nationality Act and supports the use of Legal Services Corporation funding to provide services to such victims. (06M107G) 2/06

Retroactivity of Immigration Laws. Oppose retroactivity provisions that impose burdens or reduce penalties. (06M107C) 2/06

Right to Counsel. Oppose legislation that would limit the rights of persons subject to exclusion, deportation, or asylum proceedings to retain counsel. 2/83

Support the due process right to counsel for all persons in removal proceedings and the availability of legal representation to all non-citizens in immigration-related matters. (06M107A) 2/06

Appointed Counsel. Support the appointment of counsel at federal government expense of all indigent persons in removal proceedings before the Executive Office for Immigration Review (in Immigration Courts and before the Board of Immigration Appeals), and to advise them of their right to appeal to the federal Circuit Court of Appeals. (17A115) 8/17

See also Access to Counsel and Reform of Immigration System entries, this section.

Same Sex Partners. Support the enactment of legislation and the implementation of public policy to enable a United States citizen or lawful permanent resident who shares a mutual, interdependent, committed relationship with a non-citizen of the same sex to sponsor that person for permanent residence in the United States. (09M108) 2/09

Secret Evidence. Oppose the use of “secret evidence” in immigration hearings except in extraordinary circumstances. (01M106C) 2/01

Sentencing Alternatives. Support policies and practices that protect against the effective exclusion of immigrants from therapeutic courts and problem solving sentencing alternatives; support policies and practices that preclude triggering immigration consequences for noncitizen defendants who plead guilty in therapeutic courts as a condition of receiving alternative-to-incarceration treatment unless and until the court accepting the plea imposes final sentence as a result of the defendant’s noncompliance. (12M101F) 2/12

State and Local Police Power. Recommend that (1) state and local police not exercise powers of an immigration officer or enforce federal immigration laws except in cases involving alien smuggling; (2) local police inform the INS when they suspect an arrested person is an illegal alien; and (3) local police not interrogate detained persons regarding suspected immigration law violations. 8/83

Urge the Federal government to retain exclusive jurisdiction over civil immigration matters; oppose delegation of legal authority to state, territorial and local police to enforce federal civil immigration laws. (04M105) 2/04

Summary Exclusion. Oppose summary exclusion legislation that (I) denies hearings before immigration judges when entry applicants may not appear to examining officers to have required entry documentation and (2) limits hearings for asylum applicants to issues initially raised in asylum applications. 2/83

Temporary Workers. Support legislation which will preserve rights of aggrieved persons to pursue administrative, equitable, or legal remedies where employers of non-immigrant temporary aliens fail to comply with employment terms. 2/83

Unaccompanied Minors. Support the appointment of counsel for unaccompanied children in the immigration process, establishment of an office in the Department of Justice for such cases and use of culturally sensitive family-like housing for immigrant children in custody. 01M106A) 2/01

Urge enactment of laws to protect unaccompanied and undocumented immigrant children and U.S. citizen children of undocumented parents upon their
apprehension by immigration authorities; provide screening to determine if they are eligible for immigration relief; and grant U.S. citizen children of undocumented parents full access to vital government records. (11A103D) 8/11

**Visa Issuance.** Calls upon Congress and Government agencies to establish more effective visa issuance policies that protect the security of the U.S. while allowing entry to those with legitimate scientific or scholarly proposes. (05M110) 2/05

**INTERNATIONAL LAW**

**Access to Foreign Markets by U.S. Attorneys.** Support the proposals by the U.S. Trade Representative regarding access to foreign markets for U.S. lawyers consistent with the ABA “Model Rules for the Licensing of Legal Consultants.” (02M113E) 2/02

**American Convention on Human Rights.** Support accession of the United States to the Convention and for the enforcement of the judgments of the Inter-American Court of Human Rights. 8/79

**Apartheid.** Oppose South African policy of apartheid and its various manifestations and urge U.S. government and other supporting nations to oppose apartheid policies. 2/85

**Arbitration.** Support efforts to develop a set of international rules to supplement the Arbitration Rules of the UN Economic Commission for Europe, to be compatible with U.S. standards of arbitration due process. 2/74

Support the use of commercial arbitration to resolve disputes involving international business transactions; oppose legislation or regulations that would invalidate pre-dispute agreements or alter the allocation of authority between the court and the arbitrators to determine the jurisdiction of the arbitral tribunal in international commercial disputes. (09A114) 8/09

**Arctic and Antarctic Region.** (1) Reject application of the "sector principle" in the Arctic region as inconsistent with the general provisions of international law which are applicable and; (2) Endorse U.S. efforts regarding the management of living and mineral resources of Antarctica. 8/80

**Arms Trading Guidelines.** Support proposal to ban weapons of mass destruction in the Middle East and to regulate sales of conventional weapons in the region and urge U.S. government to engage in efforts, inside and outside of the United Nations, to establish and enforce limitations on the sale or transfer of conventional arms. 8/92

See also **Conventional Arms Reduction in Europe entry,** this section.

**Arms Trade Treaty.** Urge the United States to ratify and implement the 203 Arms Trade Treaty. (17M104) 2/17

**Atrocities.** Urge Congress and State Department to assure continued existence of an office within the Department to pursue accountability for mass atrocities. (17A10D) 8/17

Urge governments and relevant organizations to implement the recommendations set forth in the May 2016 policy brief, *Allies Against Atrocities: The Imperative for Transatlantic Cooperation to Prevent and Stop Mass Killings.* (17M115) 2/17

See also **Genocide entry,** this section.

**Bosnia-Herzegovina.** Urge the U.S. government and the UN Security Council to investigate, prosecute and punish, if necessary, persons who have committed war crimes against humanity, in Bosnia-Herzegovina and offer ABA assistance in identifying attorneys willing to participate in this process. Support establishment of an International Tribunal to prosecute persons responsible for breaches of international humanitarian law and urge that efforts be made to assure due process and procedural safeguards. 11/92; 8/93

**Canada-U.S. Protocol.** Adopted Protocol on Court-to-Court Communications in Canada-U.S. Cross-Border Class Actions and Notice Protocol: Coordinating Notice(s) to the Class(es) in Multijurisdictional Class Proceedings, dated August 2011. (11A101C) 8/11

**Cartels.** Urge nations to adopt strong, clear laws against cartels, including elimination exceptions from the anti-cartel principle. 8/91
"Case Act" Amendments. Support legislation redefining situation in which unilateral presidential commitment of funds or troops overseas must be submitted for congressional scrutiny. 2/76

Chemical Warfare. Urge that steps be taken to secure respect for the present international law norms prohibiting use in war of chemical, biological and toxin weapons and the 1972 Treaty provisions prohibiting development, stockpiling, retention or transfer of biological and toxin weapons. 8/85

Child Labor. Urge the U.S. to work with the United Nations and the International Labor Organization to promote the abolition of the economic exploitation of persons under eighteen years of age by adopting and enforcing laws regulating the employment of children. 8/96

Code of Ethics for Arbitrators in Commercial Disputes. Support amending the Code of Ethics for Arbitrators in Commercial Disputes to provide that party-appointed arbitrators in international situations, unless otherwise agreed, be neutral to the extent practicable under the circumstances. 2/90

Conflict Between Nations. Urge governments of the Americas to use appropriate mechanisms to assure peaceful settlement of conflicts and to guarantee an independent judiciary in each country. 8/86

Convention Against Corruption. Support prompt ratification of the United Nations Convention Against Corruption subject to minimal reservations, understandings and declarations; supports the development mechanisms to monitor its implementation and enforcement. (05A110) 8/05

Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. Urge the U.S. to promptly sign and ratify this convention. 2/86

Convention on the Abolition of Forced Labor. Recommend that the U.S. take no action with regard to this convention. 8/67

Convention on the Assignment of Receivables. Recommend the signing and ratification of the UN Convention on the Assignment of Receivables in International Trade. (02M113C) 2/02

Convention on Civil Aspects of International Child Abduction. Urge approval and ratification of the Convention as proposed by The Hague Conference on Private International Law. 2/81

Encourage the establishment of a network of U.S. federal and state judges to facilitate education and communication on the application of the 1980 Hague Convention on the Civil Aspects of International Child Abduction. (13A107B) 8/13


Convention Establishing the Multilateral Investment Guarantee Agency. Support ratification and implementation of this convention. 2/86

Convention on the Elimination of All Forms of Racial Discrimination. Support U.S. ratification of this treaty subject to certain understandings and reservations. 8/78

Convention on the Elimination of Discrimination Against Women. Urge ratification of the Convention, subject to: (1) a reservation to preserve federal-state divisions of authority; and (2) a declaration that the Convention's substantive provisions are not self-executing. 8/84

Support in principle the development of an optional protocol to the Women's Convention providing for an individual right of petition as called for in the Platform for Action adopted at the Fourth World Conference on Women. 2/96

Convention on Independent Guarantees and Stand-By Letters of Credit. Recommend ratification by the United States. (98A128) 8/98

Convention on International Bills of Exchange and International Promissory Notes. Recommend that the U.S. sign and
ratify this Convention. 2/90

**Convention on International Factoring.** Recommend that the U.S. sign and ratify the International Institute for the Unification of Private Law (UNIDROIT) Convention on International Factoring. 2/90

**Convention on International Financial Leasing.** Recommend that the U.S. sign and ratify the International Institute for the Unification of Private Law (UNIDROIT) Convention on International Financial Leasing. 2/90

**Convention on International Interests in Mobile Equipment.** Urge ratification of the Convention on International Interests in Mobile Equipment and the related Protocol on Matters Specific to Aircraft Equipment adopted November 2001 in Cape Town, South Africa. (02A300) 8/02

**Convention on the Law Applicable to Trusts.** Recommend that Convention be signed and ratified by the United States. 8/86

**Convention on Law of the Sea.** Support: (1) deep seabed mining as a freedom of the high seas; (2) important navigation provisions that reflect international custom; (3) bilateral and multilateral efforts to encourage deep seabed mining, etc. Urge that the Convention's substantive provisions not related to deep seabed mining are binding on all states, and support U.S. acceptance of the Convention's dispute resolution regime for these provisions. 8/73; 2/80; 8/83


**Convention on the Political Rights of Women.** Oppose U.S. accession to this convention. 8/67

**Convention on the Prohibition of the Development, Production, Stockpiling and of Chemical Weapons and Their Destruction.** Urge U.S. to give its advice and consent to ratification. 8/94

**Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons.** Urges the United States to sign and ratify the amended Article 1 and Protocol III, Protocol IV, and Protocol V of the United Nations 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, which ban the use of incendiary weapons and blinding laser weapons, as well as set standards on marking, clearance, removal, and destruction of unexploded or abandoned mortar shells, grenades, artillery rounds, and bombs. (07A300) 8/07


**Convention on Recovery Abroad of Maintenance.** Support U.S. accession to the Convention. 8/80


Urge the U.S. to ratify the Optional Protocol to the UN Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts. (00A106A) 8/00

Urge the U.S. to ratify the Optional Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. (00A106A) 8/00

**Convention on the Rights of Persons with Disabilities.** Urge the United States to ratify and implement the United Nations Convention on the Rights of Persons with Disabilities. (10M108B) 2/10

**Convention on Safety of U.N. and Associated Personnel.** Support ratification by the United States of the Convention on the Safety of the United Nations and Associated Personnel, and recommend the United States and other parties interpret and apply the Convention under specific enumerated statements of understanding. 2/96
Convention on the Taking of Evidence Abroad in Civil and Commercial Matters. Support U.S. ratification of this convention. 8/69

Convention on the Use of Electronic Communications in International Contracts. Urge the U.S. Government to become a signatory to the Convention on the Use of Electronic Communications in International Contracts. (06A303) 8/06

Urge the United States Senate to ratify the United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea, also known as “the Rotterdam Rules.” (10M101) 2/10

Urge ratification of the United Nations Convention on the Use of Electronic Communications in International Contracts. (08A100) 8/08

Conventional Arms Reduction in Europe. Urge agreement between the NATO and Warsaw Pact countries to reduce levels of conventional arms in Europe; support the Conventional Forces in Europe (CFE) negotiations to reduce current NATO and Warsaw Pact forces levels to parity. 2/90

See also Arms Trading Guidelines entry, this section.

Corrupt Practices. Urge U.S. to support efforts or take steps to adopt and implement effective legal measures and mechanisms to deter corrupt practices in the conduct of international business. 2/95

Crimes Aboard Aircraft. Support strong U.S. and international measures to reduce the frequency of, and to punish, such crimes. 2/63

Crimes Against Humanity. Urge Congress to enact legislation to prevent and punish crimes against humanity; urge adoption of a new global convention for the prevention and punishment of crimes against humanity. (14A300) 8/14

Criminal Law Convention on Corruption. Support the US ratification of the Council of Europe’s Criminal Law Convention on Corruption with provisos. (01M105A) 2/01

Cultural Development Banks. Urge U.S. government to support the establishment of a human rights department within each multilateral development bank of which it is a member other than the International Monetary Fund. 8/89

Darfur. Calls upon the United States government to take all necessary and proper actions within its power to end the ongoing atrocities including genocide, crimes against humanity and war crimes in Darfur, Sudan, provide humanitarian assistance and refer situation to ICC. (05M106) 2/05

Declaration on International Investment and Multinational Enterprises. Support this Declaration as a constructive statement on the responsibilities of government and multinational enterprises with respect to foreign investment. 2/77

Detainee Treatment and Interrogation. See entry under Anti-Terrorism.

Disabilities. Urge the United States to ratify and implement the United Nations Convention on the Rights of Persons with Disabilities. (10M108B) 2/10

Disarmament and Non-Proliferation of Nuclear Weapons. Support congressional approval of Interim Agreement on Certain Measures with respect to the Limitation of Strategic Offensive Arms of 1972 and the associated Protocol,” and urge prompt agreement on further measures providing for general and complete disarmament and non-proliferation. 8/72-R-5/79

Drug Trafficking. Support lawyers, judges and public officials in Colombia who are fighting drug trafficking and urge Congress and the President of the U.S. to provide appropriate assistance. 2/90

Elderly Protection. See entry, Elder Law

Environment. See Global Environment entry under Environment/Natural Resources.

Executive Agreements. Oppose legislation providing for a congressional veto of executive agreements in international affairs. 2/76

Export Administration Act. Urge that export controls be administered according to
generally recognized principles of international law and that the Export Administration Act be amended to ensure extra territorial enforcement is consistent with this approach. 8/83


**Expropriation Provisions.** Urge U.S. courts to give effect to any U.S. bilateral treaty which provides for just and equitable compensation for expropriation of property. 2/83

**Extradition of Individuals from Foreign Territories.** Recommend that federal and state authorities dealing with the renditions of individuals from foreign territories by extradition or otherwise fully respect international law. 2/93

**Extraterritorial Application of U.S. Laws.** Recommend the implementation of a U.S. government policy requiring, among other things, notification of the State Department before federal departments or agencies are allowed to take enforcement actions directed beyond the territory of the U.S.; recommend establishment of a national bipartisan commission to study the international aspects of the antitrust laws. 8/81

**Extraterritorial Procedures for Administrative Agencies.** Recommend amendment of the Federal Judicial Code (28 U.S.C. Sections 1697 and 1785) to authorize district court orders for service of process and taking of depositions in a foreign country in connection with proceedings before federal administrative tribunals. 7/71

**Federal Rules of Civil Procedure on Judicial Documents.** Urge approval by the Supreme Court and the United States for changes in Rules 4, 28 and 44 of the Federal Rules of Civil Procedure, to comply with The Hague Conventions on Service Abroad of Judicial and Extra-judicial Documents, the Taking of Evidence Abroad and the Abolishing of the Requirement of Legalization for Foreign Public Documents in Civil or Commercial Matters. 8/83

**Food and Agricultural Organization of the United Nations.** Urge U.S. government to continue to support FAO, including its activities to restructure itself, set international standards and to provide technical assistance. 8/95

**Foreign Agents Registration Act.** Support, in principle, the continuation of the existing exclusion of lawyers from requirements of the Foreign Agents Registration Act of 1938; specifically, oppose adoption of Section (c) of S. 176 or its equivalent. 6/90

**Foreign Arbitral Awards.** Urge ratification by all countries of the U.N. Convention on the Recognition and Enforcement of Foreign Arbitral Awards. 2/74

**Foreign Assistance Program.** Support fundamental reform of the U.S. foreign assistance program which has among its central components foreign assistance to promote democratization, human rights, rule of law, establishment of the legal infrastructure necessary for economic development that is environmentally sound 2/94

**Foreign Investments in US (Exon-Florio).** Urge that any government actions addressing the federal review of foreign investments in the U.S. protect legitimate national security concerns (07M109) 2/07

**Foreign Secondary Economic Boycotts.** Support efforts by the U.S., on the basis of uniform national policy, to end boycotts imposed by foreign countries which impact on U.S. citizens. 8/78

**Foreign Sovereign Immunities Act.** Support the Act. 8/76

Urge amendments to Act to clarify applicability of the Act to specific entities. (02A119) 8/02

**Fourth World Conference on Women: Gender Equality.** Commend the United Nations and member states for the Declaration and Platform for Action adopted at the Fourth World Conference on Women; support the Platform’s focus on the role of law and legal literacy in promoting the human rights and equality of women; support integration of a gender perspective into legal technical assistance programs, including the ABA’s own Goal VIII activities; urge the implementation of the Platform for Action by the year 2000. 2/96

**Free Exchange of Information.** Support
amendments to U.S. Law regarding free exchange of information across American borders so that invited alien speakers will not be denied visas solely on the basis of past or current political beliefs or associations or because of anticipated consequences of the intended exchange of information; in addition, rights of Americans to gather information abroad should not be restricted because of past or current political beliefs or associations. 2/86

Free Flow of Foreign Information. See entry under Civil Rights and Constitutional Law.

Free Speech and Press. Support free speech and press in international forums. Oppose international measures to license journalists and restrict/censor news sources. Support training in professional journalism and upgrading of communications networks. 2/82

Gas Warfare. Support implementation, through multilateral agreements, of the Geneva Protocol of 1925 banning gas and bacteriological warfare. 8/76

Genocide. Endorse paragraphs 138 and 139 of the World Summit Outcome Document of the 60th session of the UN General Assembly (September 2005) concerning the Responsibility to Protect doctrine; endorse the recommendations set forth in the report, Preventing Genocide: A Blueprint for U.S. Policymakers (December 2008). (09A110) 8/09

Urge all countries not to apply statutes of limitation with respect to genocide, crimes against humanity and serious war crimes. (13A107A) 8/13 See Atrocities (17M115) 2/17.

Genocide Convention. Support ratification of the Convention by the Senate subject to three understanding and one declaration. 2/76

Germ Warfare. Support implementation, through multilateral agreements, of the Geneva Convention on Biological Weapons of 1972 which bans manufacture and stockpiling of bacteriological weapons. 8/76

Government Publications. Recommend that the U.S. Government take all steps necessary to bring up to date the publication of U.S. Treaties, and Digest of U.S. Practice in International Law. 2/89

Guatemala. Urge the prompt reestablishment and maintenance of constitutional order and rule of law in Guatemala. 8/93

Hague Conference on Private International Law. Encourage the United States' Initiative that The Hague Conference on Private International Law explore the feasibility of formulating a multilateral convention on the international recognition and enforcement of judgments. 2/93

Hague Convention on Choice of Court Agreements. Urge the United States government to promptly sign, ratify and implement The Hague Convention on Choice of Court Agreements. (06A123A) 8/06

Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. Urge the Senate to give its advice and consent to the ratification of the 2007 Hague Convention and urge Congress to enact the necessary implementing legislation. (08A106) 8/08


Hague Private International Law Convention. Urge support of convention, the purpose of which is to protect adults who, due to impairment, etc., cannot protect their interests in cross-national situations. (00M106) 2/00

Haiti. Urge the federal government to further its efforts with regard to displaced women and children in Haiti and to fund programs that combat sexual exploitation and trafficking of
Haitian Women. (10A302) 8/10

**Harmonization of Regulatory Standards.** See entry under Administrative Law.

**Helsinki Accords.** Support implementation of the provisions of the Helsinki Accords, especially those concerning human rights and humanitarian cooperation; support private Helsinki monitor in various countries; encourage continuation of the implementation review process and the work of the U.S. Commission on Security and Cooperation in Europe. 8/77; 2/78

**Honduran Human Rights.** Call upon the U.S. government to urge the government of Honduras to comply fully and immediately with the August 1990 judgments of the Inter-American Court of Human Rights in the Velasquez and Godinez Cruz cases. 8/92

**Hong Kong Bill of Rights.** Support the adoption of a Bill of Rights for Hong Kong. 2/91

**Human Rights.** Support U.S. promotion, through the United Nations, of human rights for all people in all countries. 8/67

   Urge U.S. Government to take certain steps to advance the promotion and observance of international human rights with emphasis on strengthening the post of the Commissioner for Human Rights. 8/94

   See also United Nations entry, this section.

**Human Rights in Iran.** Urge the new leadership of Iran to protect basic human rights and urge the U.S. to convey that message to the Iranian government. 8/89

**Human Trafficking.** See entries under Criminal Law/Procedure.

**Implementation Procedures for Existing Treaties.** Urge enactment of legislation to provide expedited procedures for implementing commitments in existing treaties when the President reports that binding measures are required to avoid imminent risk or breach by the U.S. For future treaties, self-executing provisions should be identified and treaties with non-self-executing provisions normally should not be brought into force until implementing legislation is enacted. (10M108C) 2/10

**Income Tax Treaty Between U.S. and Canada.** Recommend adoption and Senate ratification of a protocol to the Canada-US Income Tax Treaty which would avoid double taxation on estate taxes. 8/90

**Inter-American Convention Against Corruption.** Support the prompt ratification and implementation of the Inter-American Convention Against Corruption. 8/97

**Inter-American Convention on International Commercial Arbitration.** Support ratification by the U.S., provided conflict is avoided with the Convention on Enforcement of Foreign Arbitral Awards and appropriate safeguards are provided for future amendments in the IACAC Arbitration Rules. 2/78

   Affirm that the U.S. common law doctrine of *forum non conveniens* is not an appropriate basis for refusing to confirm or enforce arbitral awards that are subject to the provisions of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards or the Inter-American Convention on International Commercial Arbitration. (13A107C) 8/13

**Inter-American Convention on Taking of Evidence Abroad.** Recommend U.S. signature on and ratification of the Inter-American Convention on Taking of Evidence Abroad and the Additional Protocol, with certain reservations and declarations. 2/90

**International Atomic Energy Agency.** Urge U.S. Government to continue its support for the Agency and to take several enumerated steps, including those to enhance the safeguards system relating to assurances of compliance under the Non-Proliferation Treaty; urge review of safety standards for nuclear facilities; and consider alternatives to Agency. 8/95

**International Commercial Arbitration.** Favor recognition of freedom of parties to international commercial arbitration proceedings to use lawyers who need not be admitted to practice law in the jurisdiction where the proceeding takes place. 8/89

   International Covenant on Economic, Social and Cultural Rights. Support ratification
International Court of Justice Advisory Opinions. Urge U.S. approval of expansion of advisory opinion jurisdiction to include questions of international law referred by national courts. 2/82

International Court of Justice: Connally Reservation. Support Senate repeal of Connally Reservation in order to remove from sole U.S. determination the question of whether an international legal action subjects the U.S. to the jurisdiction of the Court. 5/73

International Court of Justice: Jurisdiction. Urge approval of expansion of adversary opinion Jurisdiction. 8/82

International Covenant on Civil and Political Rights. Support ratification of the Covenant subject to several understandings, declarations and reservations recommended to the Senate by the Departments of State and Justice. 2/79; 8/79

International Criminal Court. Urge the U.S. government to work toward finding solutions to the issues identified in the reports of the "Task Force on an International Criminal Court" with a view toward the establishment of an international criminal court, considering certain principles of jurisdiction and rights of an accused person. 2/78; 2/91; 8/92

International Extradition Practices. Support legislation to modernize U.S. international extradition practices which would (1) preserve the jurisdiction of the federal courts to make the initial determination whether extradition is barred by the political offense exception; (2) assure that the exception not apply to acts of terrorist violence and serious breaches of international norms applicable in armed conflict, and (3) preclude bail in certain circumstances. 8/83

International Legal Exchange Program. Pledge to continue to cooperate, through this program, with the U.S. government, the UN, and foreign governments and bar associations. 8/78

International Monetary Fund and World Bank Group. Urge U.S. government to strongly support these institutions by providing assistance in the ongoing scrutiny of their operation. 8/95

the International Sale of Goods, subject to one reservation. 8/81

**International Terrorism.** Support U.S. action to encourage ratification of relevant conventions by maximum number of countries, to stimulate implementation of these conventions, and to continue development of new initiatives. Approve concept of convention to address terrorism in the Americas in a comprehensive manner. 2/73; 2/81; 2/82

Support the call of the Bush Administration to bring to justice perpetrators of acts of terrorism. (02M104) 2/02

**Internet Governance Forum of the U.N.** Urge Executive Branch officials to support renewal of mandate of the Internet Governance forum of the United Nations. (09A106) 8/09

**Judicial Independence.** Support the following international standards on judicial independence: The United Nations Basic Principles on the Independence of the Judiciary; The International Bar Association Minimum Standards for Judicial Independence; and The Bangalore Principles of Judicial Conduct, and urges the United States government to support these standards. (07A110E) 8/07

Adopt the Principles on Judicial Independence and Fair and Impartial Courts, dated August 2007. (07A110D) 8/07

**Law of the Sea** See entry under Convention, this section.

**Lead Paint.** Urge national governments to adopt laws to phase out the manufacture, import, and sale of lead paint, no later than 2020. (17A109B) 8/17

**Letters Rogatory Convention.** Support U.S. ratification of the Inter-American Convention on Letters Rogatory and the Additional Protocol to the Convention subject to two reservations. 8/81

**Marrakesh Treaty.** Support the ratification of the Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired or otherwise print-disabled. (14A100) 8/14

**Marine Resources.** See entry under Environment/Natural Resources.

**Migration and the Flow of Workers.** Support multinational cooperation and consultation in the formulation of national laws and policies relating to migration and urge the United States government to enter into regional and international discussions and agreements governing the flow of workers. (06A123B) 8/06

**Montreal Protocol on Ozone Layer.** Support United States ratification of a protocol for protection of the ozone layer and express approval of the efforts of many governments to address this environmental concern. 2/88

**Moon Treaty.** Support U.S. ratification of the "Agreement Governing the Activities of States on the Moon and Other Celestial Bodies," subject to several qualifications. 2/82

**Multilateral Accord on Investment.** Urge the federal government to negotiate a multilateral accord on investment designed to liberalize current barriers to foreign direct investment, offer protection to investors from actions such as expropriation without prompt and adequate compensation, and establish effective means for resolving investment disputes. 8/96

**Non-Proliferation of Nuclear Weapons Treaty.** Urge U.S. Government to take all possible steps to obtain extension of NPT treaty: work to satisfy NPT obligation to pursue negotiations in good faith on effective measures relating to cessation of nuclear arms race and nuclear disarmament by taking certain enumerated actions. 2/85; 8/94

**Nuclear Test Ban Treaties.** Urge the Senate to give its advice and consent to the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty if effective verification measures can be achieved. 8/87

Support Comprehensive Nuclear Test Ban Treaty. (10A107A) 8/10

**Organization of American States (OAS).** Urge the U.S. government to meet its financial obligations to the OAS and to expand the OAS budget for human rights work. 8/89

**Overseas Private Investment Corporation.** Support adoption of legislation to continue OPIC, to provide that OPIC continue to act as a primary insurer of political risks, to increase

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participation by private insurers in writing such insurance, and as amendments of the Foreign Assistance Act. 2/77

Pakistan. Express support for and solidarity with the Pakistani bar and bench. Call upon the President of Pakistan to restore Pakistan’s constitution as it existed before the November 3, 2007, emergency decree; reinstate Pakistan’s Supreme Court justices and high court judges who were removed from office and refused to take oaths of loyalty to the executive branch; and release all judges, lawyers and other people who were wrongly arrested during the state of emergency. (08M10D) 2/08

Peace in Central America. Support the efforts that governments in Central America have undertaken under the Arias Plan to establish a firm and lasting peace in Central America and welcome the commitment of the United States government to facilitate the process of regional dialogue. 8/88

Peaceful Settlement of International Disputes. Approve the concept of the Draft General Treaty on the Peaceful Settlement of International Disputes and support further study leading to the ultimate consideration of such a treaty. 8/84; 2/85

    Urge the U.S. government to begin negotiations with other governments to implement the principles contained in the Draft General Treaty on the Peaceful Settlement of International Disputes to accept arbitration in resolving international disputes. 2/90

Persian Gulf War. Oppose the unprovoked invasion and annexation of Kuwait and condemn Iraq for failing to comply with all Security Council Resolutions. 2/91

    See also Iraqi War Crimes entry, this section.

Promotion of Democracy. Direct the President of the ABA to identify countries which are creating democracies and changing their judicial systems and to offer the assistance of attorneys from the U.S. 2/90

Protection of Foreign Investments. Urge the U.S. to insist on application of certain rules of international law respecting foreign private investment. Urge establishment of an international tribunal with compulsory jurisdiction to decide private investment disputes between a foreign private investor and the host state. 8/73

Refugees’ Health Concerns. Urge the United Nations to provide adequate international protection for refugee health needs and to review the adequacy of current international agreements to address the health and related humanitarian needs of refugees. 8/91

Regulatory Information Exchange. Urge the highest courts of states and lawyer regulatory authorities to coordinate with their foreign counterparts and enter into voluntary arrangements to facilitate the exchange of relevant information, and adopt Guidelines for an International Regulatory Information Exchange, dated August 2013. (13A104) 8/13

Rhodesia. Support legislation to prohibit imports to the U.S. from Rhodesia. 8/72

Right to Food. Urge the U.S. government to make the right to food a principal objective of U.S. foreign policy. 8/86

Rotterdam Convention on the International Trade in Chemicals. Urge prompt ratification and implementation of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade. (02M113A) 2/02

The Rotterdam Rules. The Rotterdam Rules. Urge the United States Senate to ratify the United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea, also known as “the Rotterdam Rules.” (10M101) 2/10

    See Convention on the Use of Electronic Communications in International Contracts entry, this section; See Maritime Law entry under Admiralty and Maritime Law; and Electronic Commerce entry under Customs and International Trade

Rule of Law. Support independence of lawyers, judges and legal processes in foreign countries through ABA communications to U.S. Secretary of State. Includes support for rule of law in Central and Eastern Europe. 2/75; 8/80; 8/86

    Reaffirm support for the Rule of Law.

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and its recognition of the need for an independent judiciary and for the independence of lawyers. Affirm support for human rights advocates striving to uphold human rights and the rule of law. 8/97

Adopt the Statement of Core Principles of the Legal Profession and urge bar associations around the world to advance the Rule of Law. (06M111) 2/06

Corporate Citizenship. Encourage promotion of corporate citizenship, global pro bono services, and promotion of the rule of law. (07A1010B) 8/07

Global Environment. Urge integration of Rule of Law initiatives with global environmental issues. (07A110A) 8/07

Trade in Goods and Services. Support the contribution that the negotiated liberalization of international trade in goods and services, through government-to-government trade agreements, makes to the spread of the Rule of Law. (08A108B) 8/08

See also Judicial Independence and Promotion of Democracy entries, this section.

Russian Democratization. Urge Yeltsin and other leaders to establish a democratic republic by holding free and democratic elections and to adopt a democratic constitution; and offer ABA technical assistance, upon request, to accomplish these goals. 11/93

Securities. See Hague Conventions entry, this section.

Settlement of Legal Disputes Between the U.S. and Canada. Urge U.S. consideration of two draft treaties on trans-frontier pollution and third-party settlement of disputes contained in a report of the American and Canadian Bar Associations’ joint Working Group on the Settlement of International Disputes. 8/79

Sexual and Gender-Based Violence. Urge international development and implementation of methodologies to: 1) measure and track the prevalence of sexual and gender-based violence; and 2) create publicly accessible national databases on assistance to victims of sexual violence to improve donor coordination and transparency. (17M105) 2/17

Sexual Violence as Weapon of War. Urge the U.N., U.S. and all nations to adopt measures imposing state responsibility for state sponsored sexual violence as a weapon of war, create a system of reparations to victims. 10/10

Signature Verification in Cross-border Context. Support modernization and simplification of the requirements, procedures, laws and regulations related to verification of signatures in cross-border contexts. (14A114A) 8/14

Slavery Convention. Support U.S. ratification of the Supplementary Slavery Convention. 8/67

START II Treaty. Urge ratification of START II Treaty between the U.S. and the Russian Federation, which eliminates land-based ballistic missiles with multiple warheads, and reduces the overall number of long-range nuclear weapons. 8/93

Stockholm Convention on Persistent Organic Pollutants. Urge prompt ratification and implementation of the Stockholm Convention on Persistent Organic Pollutants. (02M113B) 2/02

Supplemental Extradition Treaty with the United Kingdom. Support ratification of this treaty. 2/86

Surrogacy Arrangements. Support specific negotiations regarding international surrogacy arrangements in a possible Hague Convention on private international law concerning children. (16M112B) 2/16

Swiss-U.S. Treaty on Mutual Assistance in Criminal Matters. Support U.S. ratification of this treaty. 2/75

Treaties Concerning the Reciprocal Encouragement and Protection of Investments. Favor ratification by U.S. of the Treaties between the U.S. and various other countries concerning the Reciprocal Encouragement and Protection of Investments. 8/86

Treaty of Tlatelolco. Recommend that the United States Government promote the participation of Argentina, Brazil, Chile, and Cuba in the Treaty of Tlatelolco, establishing a Nuclear Weapons Free Zone in Latin America.
Turkey’s Response to Attempted Coup. Call upon the Turkish Government to: 1) meet its obligations under human rights laws and not impose measures during its declared state of emergency that derogate from those obligations unless absolutely required; 2) release individuals detained without cause; 3) provide a fair hearing before an impartial tribunal before suspending or dismissing any lawyer or judge, in accordance with international standards of judicial independence; and 4) fully inform international authorities of its actions. (16A/10B) 8/16

United Nations. Support and favor strengthening of the UN. 8/61; 8/72
Urge the U.S. to enhance its relationship with the United Nations, to honor its payment obligations to the same and to expedite consideration of international agreements already supported by the ABA. (00M10H) 2/00


U.N. Charter of Economic Rights and Duties of States. Urge U.S. support of the Charter only with provisions ensuring compliance with international law. 8/74

U.N. Debt Repayment. Strongly urge the U.S. government to pay immediately and in full its debt to the U.N. for its regular and peacekeeping expenses. 2/88; 8/92

U.N. Democracy Caucus. Support creation of a U.N. Democracy Caucus to work toward strengthening democracy, human rights and the rule of law throughout the U.N. system. (04M106) 2/04


U.N. Member States. Oppose any limitation on participation in General Assembly and all other U.N. activities by member states. 8/75

U.N. Peacekeeping Forces. Recommend U.S. support creation by U.N., in addition to trained peacekeeping forces, of trained standby military forces for peacemaking and peace enforcement. 8/94

U.N. Representation. Support adoption of the principle by the U.N. General Assembly that all nations with a population over 200 million have an automatic equal representation with various regional blocs in all the organs and specialized agencies of the U.N. 2/84

Universal Declaration of Human Rights. Urge the U.S. and other countries to renew their commitment to the principles of the Universal Declaration of Human Rights. (1008BOG) 10/08

Unsworn Declarations. Urge the adoption by states and territories of a uniform law that would permit unsworn declarations under penalty of perjury to be executed by persons located outside the United States in lieu of affidavits, verifications, or other sworn documents, as current law. (06M110) 2/06

U.S. Treaty Obligations. Oppose legislation which implicitly requires the U.S. to denounce certain treaty obligations. 2/73

Vienna Convention on Consular Relations. Urge that the fundamental protections of Article 36 of the Vienna Convention on Consular Relations are extended fully to foreign nationals within the US borders and to US nationals in foreign countries. Urge U.S. to advance implantation of the Vienna Convention. (10M104) 2/10

Vienna Convention on the Law of Treaties. Support U.S. ratification of this convention without reservations. 7/71

Urge U.S. law enforcement authorities to comply with the Vienna Convention by advising foreign nationals of Right to Consular Assistance. (98A125) 8/98

World Bank. Oppose unilateral legislative restrictions on contributions to the World Bank and other international development banks which are inconsistent with their charters. 8/79

Urge Congress to fund U.S. participation in capital increases and replenishments for the World Bank, the Inter-American Development Bank, the African Development Bank, and the European Bank for Reconstruction and Development. (11A113B) 8/11

World Health Organization. Urge the U.S. government to continue to support the WHO and urge support by U.S. government for increased WHO standard setting. 8/95

Zionism. Oppose and deplore U.N. resolution branding Zionism as racist. 8/76

LABOR LAW

Children of Deployed Forces. See entry under Military Law.

Discrimination in Employment. See entry under Civil Rights and Constitutional Law.


LEGAL/PUBLIC EDUCATION

(For additional positions, see also Standards for Approval of Law Schools and Interpretation of Standards, 8/13; amendments dated August 2016 and February 2017; to ABA Standards and Rules of Procedures for Approval of Law Schools (16A100)8/16; and Pro Bono Disclosure Requirements for Law School Recruiters, August 2006.)

Affirmative Action. In light of the Bakke decision, reaffirm commitment to affirmative action programs for admission to law schools and for legal employment opportunities. 8/78

See also related entry under Civil Rights and Constitutional Law.

Bar Membership Obligations for Active Military Personnel. See entry under Military Law.

Civic Education. Encourage every lawyer to consider it part of his/her professional responsibility to further the public’s understanding of the rule of law and our justice system. (00M108) 2/00

Urge the legal profession to seek public support of public to ensure that civics education is included in the core K-12 curriculum and reflected in all educational decisions affecting the operation of schools. (04A122) 08/04.

Encourage all lawyers and judges to actively engage in civic education in their communities and schools and to work to increase Americans’ understanding of the role of separation; of powers and urge policymakers at all levels of government to ensure that all students experience high quality civic learning. (06A102) 8/06

Urge amendment of the No Child Left Behind Act if reauthorized, or the adoption of other legislation, to ensure that all students experience high quality civic learning. (07A114) 8/07

Urge establishment of a Coordinating Office of Civic Education in the U.S. Department of Education and urge that the National Assessment of Educational Progress for civics and U.S. history be conducted every
four years. (09A122) 8/09

Encourage all lawyers to consider it part of their fundamental responsibility to ensure that all students experience high quality civic learning, including the study of law, government, and history. (10A110) 8/10

Urge governments to require civic education for elementary, middle, and secondary students in public schools and provide grant funding for programs to meet this requirement. (11M300) 2/11

Urge bar associations to advocate for mandatory civic education in elementary, middle, and secondary public schools. (11A300) 8/11

Voting. See entry under Family Law.

Civility. Affirm civility as a foundation for democracy and the rule of law and urge lawyers, ABA and other bar associations to take meaningful steps to enhance the constructive role of lawyers in promoting more civil and deliberative public discourse. (11A108) 8/11

Clinical Legal Education. Support continued authorization of and appropriations for Title XI program assistance for clinical legal education. 8/67-R-2/72, R-5/79.

Reaffirm support for ethical independence of law school clinical programs consistent with the ABA Model Rules; oppose attempts to interfere with clinical programs and courses. (11M100A) 2/11

See Veterans Legal Clinics entry under Military Law.

Continuing Legal Education (CLE).

Require lawyers to complete programs related to the promotion of racial and ethnic diversity in the profession, the promotion of full and equal participation in the profession of women and persons with disabilities, and the elimination of all forms of bias in the profession. (04M110) 2/04

Diversity and Inclusion. Urge all courts, bar associations and other licensing and regulatory authorities that have MCLE requirements to include a separate requirement with regard to programs on diversity and inclusion in the profession. (16M107) 2/16

Adopts the Model Rule for Minimum Continuing Legal Education (MCLE) and Comments dated February 2017, to replace the 1988 version. (17M106) 2/17

Council on Legal Education Opportunity (CLEO). Support continued authorization of an appropriation for this program to enable disadvantaged students to attend law school. 10/67; 2/72

Debt Counseling Education. Encourage law schools to offer comprehensive debt counselling and debt management education to all admitted and enrolled law students and bar associations to offer similar education to young and newly admitted lawyers. (15M106) 2/15

Discrimination Protection.

Bar Examination and Minorities. Urge collaboration among educational institutions and bar examiners to ensure that bar exams do not result in disparate impact of passage rates on minorities and to develop and support programs to increase minority application to law school. (06A113) 8/06

LSAT. Urge administrators of LSAT to provide appropriate accommodations for test takers with disabilities. (12M111) 2/12.

See also Affirmative Action entry in this section and related entries under Attorneys, Federal Courts and Civil Rights.

Judicial Participation in Law-Related Education. Urge judges, courts and judicial organizations to increase their involvement in law-related public education, and further, that judges be allotted reasonable time away from the bench to participate, consistent with the performance of their primary responsibilities. 8/92

Urge judges, court personnel and judicial organizations to incorporate as an integral function of their position, furtherance of the public’s understanding of and confidence in the American system of justice. (03A104) 8/03


Law Students in the Courtroom. Support provisions permitting students in their final year at an approved law school to appear in court, under supervision, on behalf of indigent persons or the prosecution, in both criminal and civil cases. 8/67
Legal Education and Professional Development. Urge bar associations and the judiciary to join law schools to establish programs to inform students of the breadth of legal careers and to build the educational continuum envisioned by "Legal Education and Professional Development Educational Continuum," the Report of the Task Force on Law Schools and the Profession: Narrowing the Gap. Further, adopt certain recommendations of the Task Force regarding skills and value instruction. 2/94

Public Education on Justice System. Appoint a Special Commission which shall report to the House of Delegates not later than at the 1989 Annual Meeting its recommendations for a national public education program on the justice system and the role of lawyers in society. 8/88
See also Civic Education entry, this section.

Sexual Assault/Violence on Campus. Urge colleges and universities to adopt policies to deal with allegations of sexual assault and violence, to maintain privacy of those involved, and to reject mandated reporting, etc. (15A109A) 8/15
Student Journalists and Regulation of Speech. See entry under Civil Rights.

Student Loans. Oppose any budgetary change that would exclude law students from eligibility to borrow under the Guaranteed Student Law Program and support only those revisions in the program that take effect in an orderly fashion and continue to assure law student access to a sufficient pool of credit. 3/82; 4/83
Recommend an increase in the amount a graduate or professional student may borrow under the Stafford loan program to 30,000 with periodic adjustments for inflation and rising education costs. (02M300A) 2/02
Urge Congress to expand that funding for the John R. Justice Prosecutors and Defenders Incentive Act of 2008 and to lift the proposed expiration. (10M102J) 2/10
Urge Congress, the Executive Branch and/or Commercial Lenders to implement programs to assist law students and recent law school graduates experiencing financial hardship due to deferred or lack of employment (and consequently lack of income) during a period of economic crisis. (10M301) 2/10
Urge Congress to amend the Higher Education Opportunity Act of 2008 to include all judge advocates as an enumerated public service position eligible for Perkins loans forgiveness, to delete the language “during a war or other military operation or national emergency” regarding Military Deferment. Further urge the Department of the Treasury and the Internal Revenue Service to issue published guidance pursuant to the CCRAA Public Service Loan Forgiveness Program. (10M113) 2/10
Oppose proposed changes to limit forgiveness of student loans for public service lawyers; urge Congress to support current public service student loan repayment and forgiveness programs. (14A107) 8/14
Urge all participants in the student loan business to develop and publish easily understood versions of the terms of various loan and repayment programs, and urge Council of Section of Legal Education and Admissions to the Bar to mandate counseling. (15A110) 8/15
Urge Congress to enact legislation to repeal the restrictions on federal student aid eligibility contained in the Higher Education Act, 20 U.S.C. § 1091 (r), with regard to certain drug convictions. (17M100) 2/17
See also entry under Tax Law.

Thurgood Marshall Legal Educational Opportunity Program. Support congressional funding at a level sufficient to carry out objectives. (BOG499) 4/99

Legal Services
(For additional positions, see also "Model Supreme Court Rules Governing Lawyer Referral Services", "Model Lawyer Referral Act", "Standards for the Operation of a
Telephone Hotline Providing Legal Advice and Information,” dated August 2001, Standards for Programs Providing Civil Pro Bono Legal Services to Persons of Limited Means, August 2013, Standards for the Provision of Civil Legal Aid, August 2006 and Principles of a State System for the Delivery of Civil Legal Aid, August 2006.)

Audits by Funding Sources. Urge that audits of legal aid programs by funding sources be reasonable, limited to the materials properly within the scope of the review and limited by attorney-client privilege or other ethical provisions; further urge that clients not be required to waive confidentiality as a condition of representation. (01M8A) 2/01

Center for Defense Services. Support the establishment of an independent, federally funded Center for Defense Services for the purpose of strengthening state and local indigent criminal defense programs. 8/73; 2/79; 2/83; related resolution 8/81

Class Action Residual Funds. Urge jurisdictions to adopt court rules or legislation authorizing the award of class action residual funds to non-profit organizations that improve access to civil justice for persons living in poverty. (16A104) 8/16

Disaster Victims. Adopt 12 principles to govern response, including Principle 11: To the extent feasible, attorneys should provide emergency free legal services to those affected by a major disaster to address their unmet basic legal needs and should provide ongoing pro bono services to those who are not able to obtain or pay for services on a fee basis. (07A113) 8/07

Urge enactment of legislation to assist individuals who have excessive levels of student loan debt but are not covered by the provisions of the enacted 2010 student loan overhaul. (11A111A) 8/11

See also Legal Services entry under Disaster Preparedness.

Disclosure of Client Information. Oppose HEW regulations requiring attorneys to disclose identity of low-income clients and basis of eligibility for government-funded legal services. 4/76

Experimental Programs. Urge federal funding for experimentation with Medicare and staffed attorney office approaches to legal services for the poor. 5/74

Fee Splitting with Lawyer Referral Service. Urge amendment of Bankruptcy Code to allow an attorney to remit a percentage of a fee awarded or received under the Code to a bona fide public service Lawyer referral program. 2/97

Group Legal Service Plans. Support the reinstatement of the tax-preferred status of Section 120 group legal services benefits as an effective way to provide access to the justice system for lower and middle-income workers. 2/83

Identity Theft. Urge bar associations, in cooperation with local entities, to establish programs to assist or provide legal representation for victims of identity theft who need assistance in recovery from the crime. (08M102B) 2/08

Indigent Defense Services. See entry under Criminal Law/Procedure.

Indigent Defense Services for Non-U.S. Citizen. See Indigent Defense Services entry under Immigration Law.

IRS Audit of Federal Legal Services Programs. Oppose disclosure of client names as part of this audit procedure. 4/76

Legal Assistance in Connection with Immigration Enforcement Actions. See Legal Assistance entry under Immigration.

Legal Assistance for the Institutionalized. Urge the Legal Services Corporation to provide assistance to the institutionalized equal to that provided to other eligible clients. 8/75

Legal Assistance for Members of the Military. See Legal Services entry under Military Law.

Legal Assistance for Veterans. See entries under Military Law.

Legal Assistance for Victims of Human Trafficking. See Human Trafficking entry under Criminal Law/Procedure and Reform of Immigration System under Immigration Law.
Legal Forms. Urge courts and other entities that make forms for legal services available online to include clear and conspicuous information on how to access a lawyer or a lawyer referral service for assistance with legal matters. (16A/114) 8/16

Legal Services Corporation Act. Support reauthorization and strengthening of LSC charter; support full and zealous representation by legal services attorneys and oppose national restrictions on the use of local program funds; support adequate funding; support local program control of delivery systems. 5/74; 8/74; 2/77; 4/81; 2/89; 8/90

Urge Congress to eliminate restrictions that prohibit recipients of Legal Services Corporation funds from providing legal assistance to prisoners on family law issues. (10M102F) 2/10

Funding. Oppose proposals to cut funding for LSC for the FY 2011 and urge increased funding to meet the needs of low income Americans. (11M10E) 2/11

Legal Services Funding. Oppose attempts to reduce federal, state and local funding for legal service providers and urge bar associations and lawyers to exert leadership in preserving current funding and developing creative initiatives for new funding mechanisms and sources. 8/95

Urge federal elected officials, as they consider deficit reduction for FY 2013 and beyond, to assure access to justice through adequate funding for courts and LSC. (13M10A) 2/13

Legal Services for Breast Cancer Patients. See Women’s Health Research Funding entry under Health/Mental Health.

Limited Scope of Representation. Encourages use of limited scope representation, or unbundling of legal services as a method of increasing access to legal services. (13M108) 2/13

Low Income Taxpayer Clinics. See entry under Tax Law.

Mentally Disabled Advocacy Programs. Urge the establishment of advocacy programs for the representation of the mentally disabled and call on the Legal Services Corporation to increase its activities in this area. 8/78

Military Legal Services/Assistance. See entry under Military Law.

Monitoring and Evaluation. Recommend appropriate application of ABA “Standards for the Monitoring and Evaluation of Providers of Legal Services of the Poor,” dated 1991. 2/91

National Service by Law Students. Support the enactment of and funding for national service legislation which provides educational benefits for law students and law graduates in return for community service in our nation's systems of justice. 8/93

Older Americans Act OF 1965. See entry under Elder Law.

Political Pressures. Urge action to ensure that legal services lawyers remain independent from political pressures in representing clients, including those cases which might involve action against government agencies. 2/73

Prepaid Legal Service. See entry under Tax Law.

Private Lawyer Involvement. Urge amendment of the Legal Services Corporation Act to mandate the opportunity for substantial involvement of private lawyers in providing legal services to the poor. Urge state and local bar associations to cooperate with LSC grantees to reach local decisions on delivery of legal services to the indigent by the private bar. 2/84

Pro Bono Representation. Recognize and the professional obligation of all attorneys, law firms, corporate employers, and law schools to devote time and support to pro bono and other public service activities. 8/88

Urge ABA and other bar associations to make the expansion of pro bono legal services a critical priority, and to develop innovative strategies to promote such services. 8/95

Urge legislation to ensure that government-employed attorneys not be prohibited or discouraged from representing pro-bono clients so long as there is no conflict of interest and representation is consistent with the rules of professional responsibility. 8/84

Urge bars and licensing entities to
establish guidelines to allow pro bono legal services by qualified inactive lawyers. (06A118) 8/06

Urge collaboration of courts and bar associations to encourage pro bono representation of indigent parties in civil matters. (06A121C) 8/06

Reaffirm the importance of pro bono provision of legal services to those in need including disfavored individuals and groups; and condemn any governmental attack on the independence of the profession that encourages clients to exert improper influence over their lawyers’ choice of other clients, or to penalize lawyers for representing unpopular or controversial clients. (07M10C) 2/07

Urge corporate counsel to facilitate pro bono legal services by outside counsel to persons in need of assistance with consumer credit, home mortgage, bankruptcy, etc. by causing the corporation to waive positional conflicts of interest, as appropriate. (09A102A) 8/09

Urge appellate courts in each jurisdiction to adopt a rule permitting in-house counsel to provide pro bono legal services while in employment in a jurisdiction in which they are not licensed. (14A106B) 8/14

Protection and Advocacy System. Urge Congress to reauthorize and fund the Protection and Advocacy System which provides legal services for persons with disabilities; oppose legislation that includes more restrictive requirements for class actions on behalf of persons with disabilities that exceeds what is required under the Federal Rules of Civil Procedure. (10A106A) 2/10

Rights to Counsel in Civil Legal Proceeding. Adopt the black letter law and commentary of the ABA Model Access Act for jurisdictions to establish a civil rights to counsel consistent with August 2006, dated August 2010. (10A104) 8/10

Adopt the black letter and commentary ABA Basic Principles of a Right to Counsel in Civil Legal Proceedings, dated August 2010. (10A105) 8/10

Right to Counsel for Low-Income Persons. Urge jurisdictions to provide legal counsel as a matter of right at public expense to low income persons in those categories of adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health or child custody. (06A112A) 8/06

Tax on Legal Services. See entry under Tax Law.

Unmet Legal Needs. Urge bar associations, courts and other legal communities to marshal the resources of newly admitted lawyers to meet the unmet legal needs of underserved population in sustainable ways. (14A108) 8/14

Youth Offenders. Urge state, local, territorial, and tribal governments to provide legal counsel to children and/or youth at all stages of juvenile status offense proceedings, as a matter of right and at public expense. (10A109A) 8/10

See also Youth at Risk entry under Family Law and Youth Offenders entry under Criminal Law/Procedure.

MEDICAL MALPRACTICE

Apology by Medical Providers. Support enactment of legislation that provides that policies regarding the pain, suffering or death by a medical provider as the result of unanticipated outcomes of medical care shall be inadmissible an admission of liability or admission against interest. (07M112) 2/07

Arbitration. Endorse use of arbitration to resolve medical malpractice disputes with agreement to arbitrate entered into only after a dispute has arisen. 8/77

Alternative Dispute Resolution. See entry under Health/Mental Health.

Health Courts. Reaffirm opposition to legislation that places a dollar limit on recoverable damages that operate to deny full compensation to a plaintiff in a medical malpractice action and oppose the creation of healthcare tribunals that would deny patients injured by medical negligence the right to request a trial by jury or the right to receive full compensation for their injuries. (06M103) 2/06

Medical Professional Liability. Support several principles relative to the statute of limitations applicable to such claims; oppose
any monetary ceiling on awards. 2/78

Adopt principles pertaining to medical professional liability that include regulation of medical professional liability, frivolous suits, strengthening of medical licensing an disciplinary boards, punitive damages, notice of intent to sue, malicious prosecution actions, qualification of experts, collateral source rule, contingent fees, structure settlements, and cost and causes of claims. 2/86

See also Health Courts entry, this section.

Medical Offer and Recovery Act. Oppose H.R. 3084 (99th Congress) or similar legislation which would provide for an alternative liability system for medical malpractice under federally funded health care programs if states fail to provide for comparable alternative liability systems. 2/86

Military Medical Malpractice. See entry under Military Law.

Reporting of Hospital Events. Urge federal, state and territorial legislative bodies to adopt legislation establishing pilot programs that enable and encourage medical personnel to report hospital events, which, if repeated, could threaten patient safety. (08A115) 8/08

Tort Law and Procedure. Support tort law improvements respecting medical malpractice concerning access to medical records, panels of experts, advance payments, ad damnum clauses, exchange of experts’ reports, itemized verdicts, and prejudgment interest. 8/77

MILITARY LAW

Attorney Malpractice. Support enactment of legislation comparable to Federal Tort Claims Act to provide for an exclusive remedy for individuals asserting claims for malpractice by Armed Forces legal personnel. 2/78

Bar Admission for Military Spouse. Urge state and territorial bar admission authorities to adopt rules, regulations and procedures that accommodate the unique needs of military spouse attorneys, who move frequently in support of the nation’s defense. (12M108) 2/12

Bar Membership Obligations. Urge all bar associations and other appropriate regulatory bodies to adopt a policy that provides for the waiver or suspension of association dues, CLE requirements and other membership obligations for members who are serving in the U.S. Armed Forces and are performing services in a Combat Zone as designated by an Executive Order of the President of the United States. (07A115) 8/07

Capital Punishment. See entry under Criminal Law/Procedure. (15M108A)

Child Custody. Oppose the enactment legislation that would create a federal-question jurisdiction in child custody cases or coopt authority of state courts involving servicemember-parents. Support state legislation to prohibit denial of child custody to a servicemember absence due to deployment. (09M106) 2/09

Children of Deployed Forces. Urge legislation allowing designated caregivers of children of deployed military members to use their accrued employment leave for the direct care of such children and families; and, urge that all public school residency requirements permit such children to attend their local public schools tuition-free while living with non-parents during periods of parental deployment. (07M108B) 2/07

Compensation for Lawyers in Uniform. Support legislation providing adequate pay to retain experienced lawyers in the military. 8/75

Commend and encourage use of administrative authority by the armed services to implement continuation pay for judge advocates in order to encourage recruitment and retention. (00M104) 2/00

Courts-Martial Procedures. Support a series of amendments to courts-martial procedures, to allow an accused to request that members of his court-martial include at least 1/3 enlisted men, and to amend rules regarding videotaped depositions, appeal rights, sentencing. 7/85

Support changes to Rules for Courts-Martial 1112, 1201(b) and 1203, to provide convicted service members the opportunity to review and submit matters during military and administrative law review. 2/93

Recommend that a defendant in a capital case tried by court-martial be given the
right to trial before a court-martial panel of 12 members. (01A10A) 8/01.

Courts Martial Convictions: Supreme Court Review. Urge Congress to amend 28 U.S.C. §1259 (3) and (4) to permit discretionary review by the Supreme Court of decisions rendered by the United States Court of Appeals for the Armed Forces that deny petitions for review of courts-martial convictions or deny extraordinary relief. (06A116) 8/06

Defense Counsel. Support amendment of the UCMJ to avoid duplication of military defense counsel in trials by court-martial and to provide uniform standards for determining the reasonable availability of requested military defense counsel. 8/78

Feres Doctrine. Support legislation to partially overturn the Feres Doctrine and allow members of the armed services to sue the U.S. for damages for noncombat-related injuries caused by negligent medical or dental treatment. 8/87

Urge Congress to examine the “incident to service” exception to the Federal Tort Claim Act (FTCA) created by the Feres Doctrine and to amend FTCA to provide that the exception limiting access for conduct that occurs in combatant activities applies “during the armed conflict” rather than “during time of war.” (08A10B) 8/08

Judge Advocate Career Program. Support the career program for judge advocates serving on extended duty as set forth in standards. 8/78

Judicial Functions. Support amendments to the Uniform Code of Military Justice to clarify that military judges may perform certain trial functions even if membership of the court-martial is reduced below quorum and to grant each party an additional peremptory challenge. 8/86

Judicial Review for Military Administrative Actions. Urge establishment of a centralized system of judicial review for military administrative discharges of other administrative actions affecting the rights of service members. 2/93

Urge that the “Military Personnel Review Act of 1997” not be enacted until Congress holds hearings and conducts a thorough review of the entire system for correction of military records. 8/97

Oppose restrictions or modifications in the jurisdiction of federal courts that may limit the judicial remedies available to persons involved in cases before military selection boards. (00M10C) 2/00

Legal Services/Assistance. Support legislation creating a statutory, instead of the current voluntary, authorization for legal assistance. 8/70; 8/72; related resolutions 2/71; 2/73; 7/77

Support provision of such assistance prior to actual mobilization. 2/77

Support legislation to provide basic legal services for lower grade active duty military personnel and their dependents. 8/90

Support suspension of implementation of 3/3/92 Department of Defense (DOD) memorandum regarding reallocation of responsibility for delivery of legal services within the military departments of DOD until careful public study of the legality and desirability of such realignment has been made. 8/92

Support amendment to Title 10 U.S.C. §1588 expressly to allow Secretaries of the Army Navy and Air Force and Secretary of Transportation (for the Coast Guard) to accept voluntary legal services. (01A109) 8/01

Recommend that states and territories adopt the “Model Expanded Legal Assistance Program Rule for Military Personnel” in order to provide low-income military service members and their dependents free civil legal assistance and in-court representation by military attorneys. (03M111) 2/03

Reaffirm support for amending 10 U.S.C. §1044 to make mandatory the provision of civil legal assistance to all low-income active-duty service members and their dependents (07M108A) 2/07

Urge Congress to enact legislation, like the Veterans Advocacy Act of 2007, which promotes the provision of legal services to veterans and members of the Armed Forces to assist them in obtaining the full range of health care, benefits and services to which they are lawfully entitled. (08M108) 2/08

Veterans Legal Clinics. Encourage law schools to create veterans law clinics to ensure that veterans who cannot afford legal services can access them. (14A104A) 8/14

Urge lawmakers at all levels to work with the legal profession to collaborate in the identification and removal of legal barriers to
veterans’ access to assistance, particularly from the Department of Veterans Affairs, in securing services to which they are due. (17M118) 2/17

**Life Insurance.** Urge Defense and Transportation Depts. with regard to Coast Guard personnel, to publish directives requiring service members to designate beneficiaries "by name" rather than "by law." 8/93

**Medical Directives.** Support federal legislation to provide that advance medical directives for Armed Services members and spouses be given full legal effect notwithstanding state and territorial law. 8/94

**Mental Health and Substance Abuse Treatment.** See entry under Health/Mental Health.

**Military Medical Malpractice.** Encourage military services to make specially trained judge advocates available as medico-legal consultants, claims officers and litigation specialists on medical malpractice matters. 8/86

**Military Correctional System.** Recommend that the military continue to operate a system of corrections for military prisons and opposes any transfer of management or operations of the military correctional system to the Federal Bureau of Prisons. (90A102) 8/90

**Military Commissions.** See entry under Anti-Terrorism.


**Polling Places on Military Installations.** See Polling Places entry under Election Law.

**Pro Bono Representation.** See entry under Legal Services.

**Professional Liability Protection.** Urge secretary of Defense to provide lawyers recalled to active duty the same professional liability protection currently provided to health care professionals under the Soldiers’ and Sailors' Civil Relief Act. 8/95

**Records Correction.** Oppose administrative requirements which interfere with an applicant's right to file an application directly with the boards for correction of military records. 8/83

  Recommend review and improvement of the processes by which military records are corrected, discharged status petitions are considered, and the character of one's discharge is reviewed. (17A120) 8/17

**Reserve Judge Advocate Program.** Endorse a program which includes: an adequate number of Reserve Judge Advocates to meet the military's legal needs; recognition of their professional status; utilization of their civilian skills; and sufficient military training. 8/79

**Reserve or Guard Attorneys.** Urge that attorneys who are also in the Reserve or Guard are not prejudiced by reason of their military affiliation and receive the assistance of the legal community when ordered to extended duty. 8/79

**Servicemembers Civil Relief Act.** Urge Congress to amend the Servicemembers Civil Relief Act to clarify that a private right of action exists and to provide that a prevailing plaintiff in such an action may recover reasonable attorney's fees. (09M114) 2/09

**Sexual Harassment in the Military.** Recommend that Article 93, Uniform Code of Military Justice be amended to establish expressly as a criminal offense triable by court-martial sexual harassment of a military subordinate by a superior in a duty setting. Recommend that Article 93 be amended to be gender-neutral. 8/93

**Soldiers' and Sailors' Civil Relief Act.** Urge amendment of the "Soldiers' and Sailors' Civil Relief Act" to restore, clarify and modernize the protection originally afforded by the act, which have been degraded by inflation and by questionable interpretation. 2/91; 2/93

**Spousal Rights to Military Retired Pay.** Support legislation recognizing spousal
interests in military pensions and retainer pay.
8/82

Standards for Patient Care and Safety. See entry under Health/Mental Health.

Survivor Benefits Trust for Disabled. Urge Congress to enact legislation to permit the payment of military Survivor Benefit Plan benefits to special needs trust for the benefit of a disabled beneficiary. (11M105) 2/11

U.S. Court of Military Appeals. Support creation of a study group to address the issue of changing the status of the U.S. Court of Military Appeals to an Article III Court. 8/87

Uniform Code of Military Justice. Support several amendments to code such as increasing the number of peremptory challenges in a general court-martial from one to two, prescribing rules for rehearing and delegations of authority, etc. 8/85; 8/89

Uniformed Services Employment and Reemployment Rights Act. Urge Congress to amend the act to require employees to provide certain reasonable accommodations for returning veterans with combat injuries that may not manifest themselves until after a return to work. (11A120) 8/11

Vendors on Military Installations. Support the establishment of published standards and procedures to govern military commanders in barring vendors and other individuals from military installations in the U.S. 8/92

Veteran's Claims. See entry under Administrative Law.

Veterans Treatment Courts. See Veterans Treatment Courts entry under Courts/Judges/Procedure.

Victims of Crime Act. Support legislation to amend the Victims Act of 1984 to include all victims of crimes committed under the Uniform Code of Military Justice regardless of geographic location and to provide compensation for victims who are either non-working spouses or children. 2/93

PATENT, TRADEMARK AND COPYRIGHT LAW

Attorney Fees. Oppose intellectual property laws and interpretations that impose the payment of government attorney fees on a party challenging a decision of the PTO unless explicitly provided for; support clarification that the term "expenses" in 15 U.S.C. § 1071(b)(3) does not include government attorney fees. (16M108A) 2/16

Biological Patents. Favor in principle the patentability of plants, seeds and essential biological processes for the production of plants and seeds. (601BOG) 6/01

Claims Terms. Urge courts to apply certain enumerated principles in interpreting claim terms in patents. (04A302). 08/04.

Commissioner and Deputy Commissioner of Patents and Trademarks. Favor in principle that the Commissioner or Deputy Commissioner of Patents and Trademarks be a lawyer and advocate with experience in patent and trademark law, be knowledgeable and well qualified in domestic and international laws concerning these matters, and have management skills sufficient to oversee the operations of the Office. (98A106) 8/98

Computer-Implemented Inventions. Support interpretation and application of patent law in such a manner that subject matter that is potentially eligible for patent protection includes novel and non-obvious computer implemented inventions that have a beneficial result or other practical application. (01A116B) 8/01

Court of Appeals for the Federal Circuit. See entry under Courts/Judges/Procedures.

Definiteness Requirement for Patent. Support the continued application by courts of the legal principles in 35 U.S. §112 to determine if an issued patent claim meets the definiteness requirement. (11A117) 8/11

Design Protection. Reaffirm support of legislation providing for the protection of ornamental designs of useful articles, and legislation that would provide a limited term of copyright-like protection for registered designs
that are original and distinctive. 2/87

**Digital Electronic Environment.** Favor applying the principles of copyright and neighboring rights protection to the digital electronic environment. Supports ratification by the United States of the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. 2/87

**DNA.** See Patent-Eligible Subject Matter.

**Equivalence.** Give consideration to any relevant factors supported by the evidence, including but not limited to certain specified factors, and the range of equivalents that may be determined to be an infringement be discretionary when determining infringement under the doctrine of equivalents. 2/94

Oppose the concept that an amendment to a patent claim shall necessarily operate as a bar to all equivalents with respect to the amended language, and oppose an absolute bar to the application of the doctrine of equivalents with respect to unclaimed subject matter that is disclosed in the specification of a patent. (01M301) 2/01

**Fair Use Doctrine.** Support the Adoption of the nominative fair use doctrine as an affirmative defense to claims of trademark infringement and unfair competition. (17M111) 2/17

**First Sale Doctrine.** Urge courts to interpret the statutory first sale doctrine in Section 109(a) of the U.S. Copyright Act and the copyright owner's importation right in Section 602(a) to exclude application of the first sale doctrine to the importation of goods embodying a copyrighted work that were not manufactured in the United States. (10M109) 2/10

**Inventions that Combine or Modify Pervious Inventions.** Support the retention of tests to determine when a claimed invention that combines or modifies previous inventions is obvious and not eligible for a patent. (06A306) 8/06

**Judicial Review of Patent Decisions of USPTO.** Support the right of a patent applicant who has brought a civil action in a U.S. district court pursuant to 35 U.S.C. §145 to introduce new evidence, including evidence that could have been presented to the U.S. Patent and Trademark Office for a de novo finding of fact.

**Licensee Patent Suits.** Support Rule, reaffirmed in *Medimmune, Inc. v. Genetech*, Inc requiring that a patent license commit a material breach of the license agreement as a condition of bringing an action against patent. (506BOG) 5/06

**Owner/Inventor Filing.** Favor permitting the owner of an invention, even if not its inventor, to file a patent application covering that invention, provided the application names the inventor(s). 2/67.

**Patent Claim Cancellation.** Support the authority of the U.S. Patent and Trademark Office to cancel a patent claim in an administrative proceeding to review the patentability of issued claims, and support the authority of a court to dismiss a suit based on such a claim, notwithstanding an earlier conflicting non-final court judgment relating to the claim, unless it would reopen or set aside a final court judgment. (13A300B) 8/13

**Patent and Trademark Office.** Support establishment of U.S. Patent and Trademark Office as a separate and independent agency. 2/80

**PTO Revenues.** Favor in principle that Congress provide that all revenue generated by fees paid by patent and trademark applicants and owners to the United States Patent and Trademark Office remain with the USPTO without limitation, and specifically, oppose the withholding or diversion of any such revenue to fund any unrelated programs. (00A301) 8/00

Oppose any restriction or limitation on the use of funds appropriated by Congress that would impose subject matter limitations on patents that the Patent and Trademark Office may issue, in addition to the statutory limitations on the scope of patentable subject matter set forth in 35 U.S.C. § 101. (04A104) 08/04.

**Patent Damages Period.** Support interpretation and application of statutory six-year patent damages period as limiting availability of the laches defense as a bar to legal damages for patent infringement, but not...
limiting availability of defense where equitable relief is sought. (16M108B) 2/16

**Patent-Eligible Subject Matter.** Support continued adherence to the principle that laws of nature, natural phenomena, and abstract ideas are not patentable, even if they are new and non-obvious; support application of the common-law tradition of incremental development of jurisprudential doctrine in determining patent eligibility. Oppose Bilski ruling by Court of Appeals for the Federal Circuit that a process is patent-eligible if explicitly tied to a particular machine or apparatus, or if it transforms a particular article into a different state or thing. (09A303) 8/09

Patent - Eligible Subject Matter. Support and oppose specific concepts relating to patent eligibility for isolated DNA compounds. (11M111) 2/11

Support the principle that laws of nature, physical phenomena, and abstract ideas are not eligible for patenting under 35 U.S.C. §101, even if they had been previously unknown or unrecognized. (11A304B) 8/11

Support the principle that laws of nature, physical phenomena, and abstract ideas are not eligible for patenting as a process under 35 U.S.C. §101, even if they had been previously unknown or unrecognized; eligibility for patenting under 35 U.S.C. § 101 is separate from the requirements, criteria or analysis for determining patentability addressed by § 102-3, 112. (13M101A) 2/13

**Patent Infringement.** Favor amendment of Section 337(a) of the Tariff Act of 1930 to eliminate the requirement for injury to or tendency to injure a United States patent, copyright, registered trademark or mask work right when an imported article was made, produced or mined by a process covered by valid and enforceable United States patent. 8/88

Advice of Counsel Defense. Recommend that a party's assertion of the advice-of-counsel defense to a charge of willful patent infringement does not waive the attorney-client privilege with respect to communications with that party's trial counsel so long as such trial counsel is not the same counsel who provided the opinion upon which the accused infringer relies. (07M302) 2/07

Inferences. Oppose blanket rule under which the failure of a defendant, in an action for patent infringement, to introduce an opinion of counsel at trial, permits certain specified inferences. (01A116D) 8/01

**Multiple Step Process.** Support the clarification of the standards for finding direct infringement under 35 U.S.C. § 271 (a) for a patent directed to a multiple step process where separate entities collectively, but no individually, perform the required steps of the patented process; support the requirement that indirect infringement, through active inducement of infringement under 35 U.S.C. § 271 (b) or contributory infringement under 35 U.S.C. § 271 (c), requires predicate of direct infringement. (13M101B) 2/13

Preponderance of the Evidence. Support established precedent that patent infringement must be proven by a preponderance of the evidence, and the fact that a product or process accused of infringing a patent-in-suit is itself separately patented does not alter the burden of proof, or create a presumption of non-infringement. (12M110) 2/12

Venue. Support the interpretation that venue in patent infringement actions is the sole province of the special patent venue statute, 28 U.S.C. §1400(b), which limits venue for a corporate defendant to where it resides (incorporated) or where it has committed acts of infringement and has an established place of business. (16A/108C) 8/16

Patent Titles -- Government. Oppose regulations or legislation which automatically vests in government title to inventions resulting from federally financed research and development contracts. 8/77

**Permanent Injunction from Future Infringement.** Support granting permanent injunctions enjoining a patent infringer from future infringement of a patent that has been adjudicated to be valid, enforceable and infringed, in accordance with t equity. (06M303) 2/06

Proof of Willingness under Lanham Act. Support interpretation of § 35 A that proof of willingness is not required for a plaintiff to recover a defendant's profits in trademark infringement, unfair competition, or cyber-piracy cases. (17A114A) 8/17

Post-Issuance Challenges to Patents. Support clarification of the patent laws that in a post-issuance proceeding in which a previously
issued patent is challenged by a third party, the petitioner has burden of proving unpatentability by a preponderance of evidence on the challenged claim and also on proposed amendments by the patent owner, provided owner has initial burden of production. (17A114C) 8/17


State Exemption from Liability. Oppose state exemption from liability for damages and/or equitable relief in private actions under United States patent, trademark and copyright laws. 2/88

Trademark Dilution Act. Support interpretation and amendment of the federal trademark law (Lanham Act) to ensure that questions of trademark dilution under the Act are uniformly resolved under the standard involving likelihood of dilution, rather than actual dilution. (602BOG) 6/02

Trademark Validity. Support interpretations of the Federal Lanham Act recognizing that the ineligibility of an otherwise valid mark for registration with the USPTO does not disqualify that mark for protection under other laws or restrict owner’s right to use the mark in commerce. Support interpretation that recognizes that owners of marks registered on Principal Register enjoy procedural and substantive advantages in litigation. (16A1/08B) 8/16


Unenforceability of a Patent Based Upon Inequitable Conduct during USPTO Proceedings. Oppose the elimination of the defense of unenforceability of a patent based upon inequitable conduct arising from USTPO proceedings. (09A107A) 8/09

Oppose any judicially-administered defense of such unenforceability should be predicated on principles of common law fraud, and require proof by clear and convincing evidence of knowing misrepresentations or omissions. (09A107B) 8/09

In determining unenforceability, courts should not find information to be material if it would not have been material under statutory and regulatory standards applicable during the prosecution of the application(s) for the patent or its reexamination. (09A107C) 8/09

Defense of unenforceability can be established only by proof by clear and convincing evidence of a specific intent to deceive the PTO by knowingly and willfully misrepresenting or omitting a material fact or material information to the PTO and that such intent cannot be established by only the materiality of the fact or information that was misrepresented or not provide. (09A107D) 8/09

Work of Foreign Origin. Support the principle under the Copyright Clause of the U.S. Constitution that Congress has the power to implement U.S. obligations under copyright treaties by restoring copyrights in certain works of foreign origin that have gone into the public domain. (10A301) 8/10

PRIVACY

Do Not E-Mail. See entry under Business Law.

Do Not Fax. See entry under Business Law.

Electronic Commerce. See entry under Customs and International Trade.

Electronic Communication Act. Urge Congress to amend in specific ways the Electronic Communications Act to reflect the technological and societal changes which have occurred since the original passage of the statute. (13A114) 8/13

Electronic Communication Privacy. Support amendment of the federal wiretap law to protect the transmission of all forms of information, including voice, data and video; support statutory control of government access to messages stored by electronic mail systems and remote data processing services. 8/86

Electronic Mail Communication. Urge courts to accord lawyer-client electronic mail communication same expectation of privacy and confidentiality as those accorded traditional means of communication. (98A119A) 8/98

Gramm-Leach-Bliley. See entry under
Attorneys/General Practice.

Individual Access to One's Own Records. Urge federal agency guidelines providing that, when a person seeks access to individually identifiable records concerning himself, he will receive all records available under both the Privacy Act and the Freedom of Information Act. 2/84

Privacy Act. Support amendment of the Privacy Act of 1974 and other statutes to enhance privacy and guarantee fair information practices by government agencies including more specific notice to citizens about government use of information, stronger due process protection to assure the accurate collection of information and limits on the use of income tax, census and other information. 8/86

Privacy Act Criminal Justice Records. Support legislation to facilitate and regulate the exchange of criminal justice information in a manner to protect against unauthorized use and to ensure privacy. 8/72; 8/75

Privacy of Biological Evidence. See Biological Evidence entry under Criminal Law.

Privacy of Medical Records. See Confidentiality of Health Information entry under Health/Mental Health.

Privacy of Personal Records. Support various principles to protect the privacy of personal records that are kept by the government or by organizations. 8/79

Wireless Telephone Communication. Urge courts to adopt principles that wireless telephone communication should be accorded same expectation of privacy as ordinary telephone calls, and that use of such phones by lawyers does not alter lawyer-client communication privilege. (99A117) 8/98

PUBLIC CONTRACT LAW
(See also the Model Procurement Code of July 2000 (00M110))

Buy-National Laws. Support United States participation in negotiations to establish international norms by government procurement practices to eliminate discriminatory effects of buy-national legislation. 2/78

Contract Disputes Act. Support comprehensive and uniform statutory approach to resolution of federal contract disputes through enactment of the Act. 8/76

Contractor Indemnification for Hazardous Waste. Support legislation providing indemnification and insurance for control or clean-up of hazardous waste. 4/85

See also CERCLA entries under Environment/Natural Resources.

Cost-Plus-Fixed-Fee Research and Development Subcontracts. Supports Model Terms and Conditions, May 1986, for such subcontracts. 8/86

Court Jurisdiction. Support legislation empowering the Court of Claims and the district courts to grant equitable relief and remedies in federal contract matters. 8/76

Debarment and Suspension. Support enactment of legislation incorporating 36 principles of a proposed Debarment and Suspension Reform Act. 2/82

Oppose the enactment of legislation that would mandate suspension of a single entity from bidding on or receiving federal contracts and grants without regard to the existing regulatory framework which provides for agency discretion in suspension determinations. (11M116) 2/11

Fixed-Price Supply Contracts. Approve Model Terms/Conditions and for Fixed-Price Supply Contracts awarded by the federal government. 8/86

Government Contractor Indemnification. Support federal legislation allocating product liability risks between the federal government and its contractors and providing, in certain instances, indemnity against those risks. 2/83

Labor Standards in Government Contracts. Oppose several provisions in proposed regulations under the Davis-Bacon Act, the Service Contract Act, the Contract Work Hours and Safety Standards Act, and Executive Order 11246, relating to water rates, contract awards and other matters. 8/80
Public Acquisitions. Urge that any public acquisitions adhere to 10 enumerated principles of competition in obtaining supplies, services and construction to protect the public interest in the integrity of the Public Acquisition Process. (98A111) 8/98

Public Procurement Controversies. Supports legislation and regulation to implement six enumerated principles for resolving controversies in public procurement. (99M113) 2/99

Renegotiation Act. Urge Congress not to renew the Act nor to provide any new, similar authority for renegotiation during peacetime. 8/78; related resolutions 12/75; 5/77

Risk Allocation. Support legislation and regulations to implement principle that in drafting public procurement contracts, parties should clearly identify risks of performance and allocate them in a commercially reasonable manner. (99A120) 8/99

Service Contract Act. Support and oppose several amendments to the Act relating to wage rate determinations made by the Secretary of Labor and other matters. 8/78; 8/80

Vinson-Trammell Act. Support elimination of profit limitation provisions of Vinson-Trammell Act and oppose adoption of any similar authority for profit limitation during peacetime. 2/80

PROPERTY/HOUSING LAW

Affordable Housing. Urge Congress and the President to support the establishment of a federal affordable housing trust fund. (05M111) 2/05

Human Right to Adequate Housing. Urge governments to promote the human right to adequate housing for all through increased funding, development and implementation of affordable housing strategies and to prevent infringement of that right. (13A117) 8/13

Low-Income Housing Voucher Program. Oppose legislation to repeal the federal Section 8 low-income housing voucher program or other proposals that would eliminate the present funding structure based on actual costs for the number of vouchers used and replace it with a state-administered block grant system. (03A121) 8/03


Condemnation Costs. Support legislation to provide reimbursement of reasonable costs and attorneys' fees to property owners in condemnation actions (1) upon abandonment of such actions or, (2) if just compensation exceeds the maximum amount offered by the U.S. before trial. 8/67

Community Reinvestment Programs. Urge governments to support implementation of housing and community economic development initiatives in accordance with these principles in order to revitalize low and moderate-income communities. Urge pro bono services by legal community. (99A105) 8/99

Discrimination. See entries under Civil Rights and Constitutional Law.

HIV Status of Seller as Non-Material Fact. Support state legislation providing that HIV status or diagnosis of owner with any other disease not capable of transmission through occupancy of improvements located on such property is not a material fact requiring disclosure in real estate transactions. 8/92

See also HIV/AIDS under Health/Mental Health.

Housing Protections for Victims of Violence. Support the expansion of housing protections for victims of domestic and sexual violence. (15M109B) 2/15

Homeless Person - Definition. Urge all federal agencies to include within the definition of “homeless person” 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. (06A108B) 8/06
Homelessness and Criminal Penalties. Oppose laws that punish persons experiencing homelessness for carrying out otherwise non-criminal life-sustaining practices or acts in public spaces. (07M106) 2/07
See Homeless Court Program entry under Criminal Law/Procedures.

Homelessness Prevention. Support the adoption of measures to address homelessness by eliminating illegal residential segregation, increasing the availability of affordable transitional and permanent housing and improving the accessibility of such housing to vital service. 8/95

Home Equity Conversions. Recognize value of loans to older homeowners, need for consumer education and safeguards, and support the development of local, state and federal policies to ensure that loan proceeds from home equity conversion mechanisms are disregarded in determining the eligibility of elders for public assistance programs. 8/89

Interstate Compact Agencies. Urge Congress, states, and territories to prescribe the administrative procedures to be employed by congressionally approved interstate compact agencies and to provide for judicial review of such actions. (08A111B) 8/08

Land Use Planning. Urge State and local legislative bodies to adopt the Model Statue on Local Land Use Planning Procedures, dated August 2008. (08A111A) 8/08

Mediation. Support efforts to promote the use of mediation to assist in resolving disputes that could lead to foreclosure of mortgages on residential real property and to promote access to pro bono or low-cost counsel or other advocates for parties who would otherwise be unrepresented in the mediation process. (09A300). 8/09

Mitigation of Losses from Future Catastrophes. See Insurance Coverage: Mitigation of Losses from Future Catastrophes entry under Disaster Preparedness.

Mortgage Negotiation. Oppose regulations which would preclude lawyers from representing more than one party with the consent of the parties. 12/71

Planned Communities. Support the Uniform Planned Community Act promulgated in 1980 by the NCCSL. 2/81

Predatory Lending. Urges Congress to enact legislation to define and curb abusive, deceptive or fraudulent lending practices; urge bar associations to educate consumers about the issue. (02A109) 8/02

Postal Service for Homeless. See entry under Federal Government/Congress.

Public Housing. See Public Housing Law entry under Criminal Law and Discrimination in Housing in Civil Rights and Constitutional law section.


Sale of Real Property Involving Debtor-Lessor. See entry in Bankruptcy Law.

Site Specific Zoning. Recommend that in site specific zoning cases, administrative and judicial processes established by law should be followed and legislatures should not authorize initiative or referendum in such cases. 2/92

TAX LAW
(For additional policy positions, see “Summaries of Legislative and Administrative Recommendations,” Section of Taxation and Model State Administrative Tax Tribunal Act, August 2006, and Model Transactional Tax Overpayment Act (11M101) 2/11.)

Alternative Minimum Tax. Urge Congress to reduce the federal tax burdens and compliance costs attributable to the Alternative Minimum Tax (AMT) on individuals. (04A120) 08/04.

Appropriations for U S. Tax Court. Support adequate funding for the United States Tax Court to enable it to fully execute its judicial functions in a timely and effective manner; support FY 82 appropriation of U.S. Tax Court. 4/82

Capital Gains Exemption for Foreign
Investors. Oppose tax on capital gains derived by foreign investors on sales or exchanges of stock of U.S. corporations (other than U.S. real property holding corporations). 2/92

Civil Tax Cases. Oppose granting exclusive jurisdiction over the trial or appeal of civil tax cases to any specialized court. 2/90

Support amendments to Section 7430 of the 1986 Internal Revenue Code which authorizes awards of costs in certain civil tax controversies, such as elimination of $110.00 an hour cap on attorneys' hour rates. 8/97

Support repeal of Sections 705(b) and 708(b)(1)(B) of 1986 Internal Revenue Code. 8/97

Disclosure of Cash Receipts. Express deep concern over the effect upon the attorney-client privilege and confidentiality of Section 60501 of the IRC, which requires disclosure of certain cash receipts in excess of $10,000. 2/85

Earned Income Tax Credit. Support legislative and administrative actions to preserve and enhance the effectiveness of the earned income tax credit (EITC) or any alternative program meeting its purposes, and to facilitate EITC simplification and use by intended beneficiaries while discouraging improper EITC claims. 2/96

Educational Loan Repayment. Urge amendment of 1986 IRC to allow educational loan repayment program to be part of a qualified benefit assistance program sponsored by employers for employees. (99A118) 8/99

401(k) Pension Plans. Support legislation which makes employees of tax-exempt organizations, including bar associations, eligible for 401(k) pension plans. 8/92

See related entry under Business Law.

Funding for the IRS. Recommend that the Internal Revenue Service be provided with adequate funding and personnel to assure quality performance by the IRS of each of the functions comprising its mission without undue intrusiveness 2/86

IRS Jurisdiction. Support legislation to restrict IRS activities by prohibiting intelligence gathering or investigations based on political or ideological considerations unrelated to administering laws.

Income from Not-For-Profit Lawyer Referral Services. Support in principle exclusion from federal taxation of otherwise qualified for 26 U.S.C. Sec. (c) (6) [Sec.501 (c) (6) Sec. 501(c) of IRS Code] tax exemption derived by bar-sponsored lawyer referral services organized on a non-profit basis. 6/83

Income Tax Equality Between Single & Married Persons. Support legislation creating greater equity in treatment. 2/74

Income Tax Treaty Between Canada and U.S. See entry under International Law.

Itemized Deductions. Repeal sections of IRC to eliminate phase-outs of itemized deductions and personal and dependency exemption. (99M104A) 2/99

Legal Expenses. Support in principle legislation which would provide a federal income tax deduction for legal service expenses. 8/82

Lobbying Expense Deduction. Urge Congress to oppose enactment of HR 2264, section 14222, or any other legislation that would disallow deductions for lobbying expenses in the computation of federal income tax. 6/93

Low Income Taxpayer Clinics. Recommend that Congress adequately fund the Low-Income Taxpayer Clinic grants program on a continuing basis. (02A102) 8/02

Marital Residences. Recommend that Section 1034 of the Internal Revenue Code of 1986 be amended to allow a divorced or separated taxpayer to rollover the gain from the sale of a marital residence for a period of time following separation from the residence. 2/93

Married Taxpayer Liability. Urge repeal of Section 6013(d) and urge amendment of 66 of the IRC of 1986 to eliminate joint and several liability of taxpayers who file joint returns for tax income attributable to their spouses. 2/95

Model Transactional Tax Overpayment Act. (11M101) 2/11
Payments Made to Attorneys. See entry under Attorneys/General Practice.

Penalty for Submission of False or Fraudulent Return. Amend 1986 IRC to clarify that there is no statute of limitations for assessment of penalty under section 67021 and that the standard of proof necessary to support the assessment of the penalty is "clear and convincing evidence." 8/94

Pension Plans Benefits. See entry under Business Law.

Pooled Income Funds. Urge amendment to IRC to permit more prudent investment of pooled income funds; i.e., funds from a trust maintained by a charitable organization to which many donors make gifts and retain income interests with remainder going to charity. (01A106) 2/01

Potential Current Beneficiary. Amend IRC of 1986 by qualifying definition of "potential current beneficiary" in Section 1361 (e)(2). (04M100) 2/04

Prepaid Legal Services. Support enactment of legislation providing tax exclusion from income of premiums paid to and benefits received from employer-funded prepaid legal services plans. 8/74

Public Comment Before Amendment. Recommend that tax legislation be enacted only after careful consideration of its economic, social and tax policy implications and after ample time for public comment. 2/94

Refund of Estate Taxes. Support amendment of the Internal Revenue Code of 1986 to permit and estate that has elected to pay estate taxes in installments to institute a suit for refund before full payment of those taxes. 8/92

Retroactive Tax Legislation. Urge Congress to minimize the undesirable retroactive effects of tax legislation by following certain guidelines. 2/92

Simplification of Tax Law. Urge Congress to simplify the federal tax laws so that such laws can be: (1) easily understood and complied with by taxpayers; (2) fairly and consistently administered and enforced by the Treasury Department; and (3) provide for more comprehensive and stable bases, with such lower rates as would be permitted by expanded bases. 4/76

State and Local Tax Procedures. Recommend that states and municipalities adopt standard tax procedures that have: identical statutes of limitations and interest rates for deficiencies and refunds, no automatic imposition of penalties, no payment of disputed taxes before a hearing, no seizures before final adjudication, 90 days between deficiency notice and appeal, no state fees for audit expenses, and due process, eliminating repetitive retitigation. 8/90

Student Loans. Support amendment of Internal Revenue Code section 163 (ha) to allow a full deduction for interest paid on student loans obtained for post-secondary education. 8/92

Urge Congress to include student loan repayment program as part of cafeteria benefit plan under Section 125 of IRC of 1986. (99A118) 8/99

See also entries under Legal/Public Education.

Substantial Appreciation Requirement. Recommend that Section 751(b) of the IRC be amended by removing the substantial appreciation requirement in order to harmonize the tax treatment of transactions under Sections 751(a) and 751(b). (03M108) 2/03

Tax Amendments to Appropriations Bills. Urge Congress to amend its rules to limit amendments to appropriations bills that would restrain the use of appropriated funds to implement or enforce certain substantive provisions of the IRC. 8/82

Tax Court. Oppose proposals to grant to a specialized court exclusive jurisdiction over the trial or appeal of civil tax cases. 2/90

Tax Intercept of Overdue State Court Debt. See entry in Courts.

Tax on Legal Services. Oppose state or federal legislation authorizing government agencies to levy a sales or use tax on professional services rendered by attorneys. 8/87

TAX LAW
Uniform State Tax of Federal S Corporation. Recommend state legislatures amend their income tax statutes to provide a uniform system for the taxation of federal S corporations and their shareholders; approve the Model S Corporation Income Tax Act as appropriate act for adoption by the states. 2/90

Venue. Support amendment to the Judicial Code to allow nonresidents of the United States to bring tax refund suits to the District Courts. 2/81

White House Access. Support enactment of statutory restrictions on the release by the IRS of personal tax information to the White House. 2/76

TORT AND INSURANCE LAW
(For additional positions, see ABA Model Court Rule on Insurance Disclosure, August 2004.)

Alcohol and Disease Related Claims. See Substance Abuse entry under Health/Mental Health.

Animals. Dangerous Wild Animals. Support comprehensive laws that prohibit, unless otherwise exempted, the possession, sale, breeding, import, or transfer of dangerous wild animals in order to protect public safety and ensure the welfare of such animals. (15M105) 2/15

Dog Profiling. Urge legislative bodies and governmental agencies to adopt comprehensive breed-neutral dangerous dog laws based on behavior and to repeal any breed-discriminatory or breed-specific provisions. (12A100) 8/12

Humane Treatment. Urges federal, state, tribal, territorial and local legislative bodies and governmental agencies to enact laws to ensure that humane treatment and disposition of seized animals. (11M108B) 2/11 00) 8/12

Trap and Neuter. Urges legislative bodies and governmental agencies to interpret existing laws and policies, and to adopt laws and policies that allow the implementation and administration of trap-neuter-vaccinate-return programs for community cats within their jurisdiction so as to promote their effective, efficient, and humane management. (17A102B) 8/17

See also Model Act on Disposition of Disaster Animals (10M103A) under Disaster Preparedness and Service Animals under Civil Rights and Constitutional Law.

Asbestos-Related Disease Claims. Support enactment of federal legislation that would allow those alleging non-malignant asbestos-related disease claims to file a cause of action if they meet specific medical criteria and toll all applicable statutes of limitations until such time as the specific medical criteria; oppose limitations on the filing of claims for asbestos-related malignancies. (03M302) 2/03

Urge the federal government study the impact has had in the causation of asbestos-related injuries and to identify its the appropriate role in solving the present asbestos litigation crisis without altering the responsibility of others. (05M109A) 2/05

Recommend that states and territories establish by statute or regulation, mass screening standards asbestos-related conditions. (05M300B) 2/05

Recommend that states and territories adopt the Model Statue of Limitations for Asbestos dated February 2005, governing the accrual of action for injury, illness or wrongful death based upon exposure to asbestos. (05M300C) 2/05

Recommend that courts without any existing Case Management Order governing asbestos litigation, or with an existing Case Management Order that has proven unworkable, utilize the Model Asbestos Pretrial Case Management Order, dated 8/05. (05A103) 8/05

Without taking position on establishing an exclusive administrative process for asbestos-related injuries, recommend that any legislation establishing an administrative process in lieu of state, territorial or federal tort-based asbestos-related claims should insure access by claimants to adequate representation in the claims process. (06M106A) 2/06

Recommend that any legislation establishing an exclusive administrative process for asbestos-related injuries should insure that awards to claimants not be depleted by subrogation from any private or governmental entity; (1) apply existing laws concerning taxation of awards to claimants; and (2) not unduly foreclose independent claims existing under laws relating to safety or other obligations of employers. (06M106B) 2/06

TORT AND INSURANCE LAW
Recommend that any legislation establishing an exclusive administrative process should contain specific provisions to insure adequate upfront financing and disclosure of certain information concerning contributors. (06M106C) 2/06

Recommend that any legislation establishing an exclusive administrative process should contain specific contingent provisions to respond to any potential occurrence of a shortfall of funds. (06M106D) 2/06

Automobile Insurance. Oppose federal statute establishing federal standards for no-fault insurance programs, and support improved state reparations laws. 8/72-R-5/79

Support determining at state and territorial level all tort insurance matters, including auto choice legislation such as the "Auto Choice Reform Act of 1997"; oppose enumerated principles contained in legislation. (98A124) 8/98

Black Lung Compensation. Oppose in principle revisions recommended by the U.S. Department of Labor pertaining to the federal black lung compensation program which are contrary to the requirements of the Federal Administrative Procedure Act or the Black Lung Benefit Act. 8/97

Catastrophes and Insurance Coverage. See Insurance Coverage entries under Disaster Preparedness.

Domestic Violence. Urge enactment of legislation to provide that no person or entity be denied insurance benefits solely on basis of the applicant's status as a victim of domestic violence. 2/95

ERISA and Private Right to Sue. Support federal legislation to amend federal ERISA to allow causes of action to be brought in state courts against employer-sponsored health care plans. (99M106A) 2/99

Gun Industry Tort Immunity. See Gun Control Immunity under Criminal Law/Procedure.

Hurricanes Katrina and Rita. See related entries under Disaster Preparedness.

Health Courts. See entry under Medical Malpractice.

Insolvent Insurance Companies. Urge states to improve the procedures used for dealing with insolvent insurance companies and to improve the current state insurance insolvency system by enacting legislation and/or adopting regulations to improve the selection and oversight of insurance receivers and enhance the ability of receivers to bring estates to a more efficient and expeditious closure. (03M105) 2/03

Insurance Information Office. Support enactment of federal legislation to establish a non-regulatory insurance information office within the Treasury Department that would be authorized, among other things, to advise the Secretary of the Treasury and other federal officials on major domestic and international insurance policy issues; carry out the federal government's responsibilities under the Terrorism Risk Insurance Act; coordinate efforts on international insurance matters, international importance. (09A303) 8/09

Lawsuit Abuse Reduction Act. See entry under Courts/Judges/Procedure.

Lawsuit Data Collection. Urge federal and state governments to provide sufficient funding for uniform lawsuit data collection and recommend that the National Center for State Courts continues and expands its Civil Justice Survey. (04A103A) 08/04.

Legal Service Malpractice Protection for the Coast Guard. Support legislation to extend the same legal service malpractice protection to the Coast Guard as is presently afforded to the Department of Defense. 8/87

Limitations on Compensation. See Health Courts under Medical Malpractice.

Long-Term Health Care. See entry under Health/Mental Health.

McCarran-Ferguson Act. Recommend that the McCarran-Ferguson Act be repealed and replaced with legislation that makes the insurance industry subject to the same general antitrust laws as other businesses. 2/89
Medical Malpractice Tort Reform. See entries under Medical Malpractice.

Medical Payments. Oppose the adoption of legislation by Congress that merges medical payment components of workers compensation and medical payment components of automobile insurance with health insurance, commonly referred to as Universal 24-Hour Health Coverage. (10M103B) 2/10

Medicare. See entries under Health/Mental Health.

Medical Payments. Oppose the adoption of legislation by Congress that merges medical payment components of workers compensation and medical payment components of automobile insurance with health insurance, commonly referred to as Universal 24-Hour Health Coverage. (10M103B) 2/10

Notification to Claimant by Insurer. Support legislation which would require insurance carriers to notify the claimant when sending payment of a settlement or judgment to a third party representative. 8/91

Offer of Judgments and Attorney Fees. Support the inclusion of safeguards which protect a litigant from being deprived of access to the judicial system based on his or her economic status in any proposed Rule of Procedure, or federal or state legislation, which includes the concept of fee-shifting based on rejection of settlement offers or demands. Without endorsing its enactment, urge that any proposal which includes the concept of fee-shifting based on rejection of settlement offers or demands should consider as a minimum, the “Offer of Judgment Procedure”, dated February 1996. 2/96

Preemption of State Tort Law. Urge Congress to address foreseeable preemption issues when it enacts a statute that has the potential to displace, supplement or otherwise affect state tort law. Further support the principles and requirements of Executive Order 13132 on federal agency actions that might preempt stat tort law and urge the President to improve agency compliance with the Executive order 13132. (10A117) 8/10


Product Liability. Oppose enactment of broad federal legislation codify the tort laws of the 50 states as they relate to product liability, but support federal legislation to address the issues of liability and damages in certain occupational disease claims and to allocate product liability risks between the federal government and its contractors. Oppose federal legislation abolishing strict seller liability. 2/81; 2/83; 2/95

Radiation Injuries. Support proposition that all workmen's compensation acts should provide full coverage for medical expenses resulting from radiation injuries. Support certain standards for filing claims for such injuries. 2/68; 8/69

Substance Abuse. See entry under Health/Mental Health.

Terrorism Insurance. See entries under Disaster Preparedness.

Tort Liability System. Adopt recommendations of the McKay Commission to improve the Tort Liability System concerning (a) establishment of a commission to improve the liability insurance system; (b) awarding of pain and suffering damages; (c) awarding of punitive damages; (d) modification of the doctrine of joint and several liability, (e) arrangements for attorneys’ fees; (f) secrecy and coercive agreements; (g) streamlining the litigation process; (h) injury prevention/reduction; and (i) establishment of a commission on mass torts. 2/87

Universal 24-Hour Health Coverage. See Medical Payments entry, this section.

Workers Compensation Adjudications. Recommend that the decisions of adjudicators on formal workers’ compensation hearings, state findings, conclusions and the basis for all material issues of fact, law or discretion presented on the record, including the adjudicator’s reasons for accepting expert testimony. Recommend that state administrative and judicial appellate reviewers of findings of fact made in formal workers’
compensation proceedings examine the record under a minimum standard of “Substantial Evidence upon the whole Record.” 2/93; 2/94

**Workers’ Compensation.** Oppose legislation mandating minimum federal standards for state plans of workers’ compensation; urge that workers’ compensation systems remain the responsibility of states and oppose federal legislation infringing upon the states’ systems. 2/74; 2/80

Urge states to set up non-profit charitable organizations to establish college funds for claimants’ children. 8/94

**Y2K Legislation.** Urge Y2K legislation to be amended to exclude certain provisions and include pre-litigation notice and encouragement of ADR. (BOG699) 6/99

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**Note:**

NCCUSL UNIFORM LAWS ARE NOT ON THIS LIST

Please refer to ABA Policies and Procedures Handbook for a complete listing of Uniform Acts promulgated by the National Conference of Commissioners on Uniform State Laws (NCCUSL) and approved by the House of Delegates.

They are not included in this list because their substance is not adopted as ABA Policy.