
AMERICAN BAR ASSOCIATION

LEGISLATIVE ISSUES

CURRENT THROUGH NOVEMBER 2005

****INDICATES CRITICAL LEGISLATIVE PRIORITY ISSUES FOR
ONE YEAR BEGINNING FEBRUARY 2005**

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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 its adoption at the Annual or Midyear Meeting, and the last set of numbers is the report number designated for that resolution as it appeared in the published document titled Reports with Recommendations to the House of Delegates for the appropriate ABA meeting.

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

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: Judicial Independence. Urge enactment or adoption of measures to protect independent, impartial decision-making in the administrative adjudication process by requiring 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

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

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 definition of "rule," 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; 8/70; 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

Support an amendment to the APA to provide a category of modified procedures in cases now heard on the record for the purpose of determining whether a formal trial-type hearing is necessary. 2/79

Urge Congress to consider in legislation that contains provision for administrative hearings whether those hearings should conform to certain provisions in the Administrative Procedure Act 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 Administrative Procedure Act 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

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

Alternative Dispute Resolution. Support the increased use of alternative means of dispute resolution by federal administrative agencies. 8/88

See also related entry above and under **Courts/Judges/Procedure.**

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 \$2,500.00 fee limitation in Administrative proceedings. 2/96

See also entry under **Attorneys/General Practice.**

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

Competitive Considerations. Support increasing the role of competitive consideration in federal regulatory agency proceedings. 8/76

Congressional Ex Parte Contacts with Administrative Agencies. 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

Congressional Subpoena. See entry under **Congress.**

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. 8/89

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. 2/97

Discipline of Lawyers. 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/General Practice**.

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. 2/90.

See also entry under **Attorneys/General Practice** and **Federal Government**.

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. 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 Communications in Rulemaking Proceedings. Support legislation prohibiting such communications between private parties and government personnel. 2/59; 8/70

See also entries under **Congress**.

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

Freedom of Information. 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

Freedom of Information Act and HHS. 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

Governmental Intervention in the Economy. 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

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 through international negotiations that may require new regulations or the amendment of existing regulations. (01A107B) 8/01

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

Internet Web Sites. 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

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 Procedures, Reimbursements. See entry 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

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

Preemption of State Regulations. Recommend that Congress address foreseeable preemption

issues clearly and explicitly when it enacts a statute affecting regulation of an area of conduct. 8/88

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

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. 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. 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. 8/95

Recommend legislative and non-legislative changes in process for congressional review of agency regulations. 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. 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. 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. 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. 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. 2/93

Rulemaking and Public Participation. See *Internet Web Site* 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 request relief. 8/93

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. 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

Support improvements in the fairness, timeliness and efficiency of initial decision-making in Social Security disability claims. 8/91

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: 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. 8/90

Social Security Benefits - Earning Sharing. Supports 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: Inequitable Impact. Support efforts to correct any inequities, if any, in the Social Security law that impact upon Social Security recipients born between the years 1917-1921. 2/88

Social Security Benefits for Widows, Divorced Persons and Remarried Spouses. Urge amendments to SSA to allow working widows to receive delayed retirement credits and their widow benefits and to eliminate the restriction to require a divorced person over 62 to wait two (2) years after divorce to receive benefits if former spouse is still working. 8/95

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 his or her former spouses earnings record. 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. 8/95

Social Security Disability 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. 8/93

Social Security Disability Claimants. Access to Justice and 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. 2/96

Social Security Disability Representation by Attorneys. 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

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

State Administrative Procedures. Urge every state that does not have such a law to adopt an administrative procedure act implementing due process principles. 8/77

Subpoenas 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

Supplemental Social 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

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

Unemployment Compensation System. Recommend that a pilot program be established to determine whether improved access to justice can be established in the unemployment compensation system in the United States. 8/89

Veterans Claims: Attorney Fees

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

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 entry under **Family Law.**

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

See related entry under **Family Law.**

Workers Compensation. See entries under **Insurance and Tort Law.**

ADMIRALTY AND MARITIME LAW

****Convention on Law of the Sea.** Recommend that the United States become a party to the 1982 Convention and to the Agreement Relating to Implementation of Part XI of the Convention, dated July 29, 1994. (94M302) 8/94

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

ANTITRUST LAW

Airline Mergers. Support legislation which would transfer antitrust enforcement of airline mergers from the Department of Transportation to the Department of Justice. 8/87

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

Clayton Act. Support legislation which would repeal Section 10 of the Clayton Act. Support legislation to amend the Act with respect to mergers or acquisitions. Support objective of closing the loophole in the premerger notification reporting requirements of Title II of the Act but oppose the methods used to do this in H. R. 586/S. 452 (100th Congress). 2/86; 8/86; 8/87

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

Confidential Information. Urge the FTC to amend its rules concerning the treatment of confidential information to provide for the uniform and adequate treatment of all such information. 2/86

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

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

Franchising Termination Practices Reform Act. Oppose Act or similar enactment of overly restrictive and rigid rules for dealings between franchisors and franchisees and for termination and nonrenewal of franchise agreements. 8/68; 2/78

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

Industrial Reorganization Act. Oppose the Act or principles contained in similar legislation which would declare monopoly power per se unlawful and reorganize at least seven concentrated industries. 2/74

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

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

Malt Beverage Territorial Agreements. Oppose legislation which would provide special treatment under the antitrust laws for exclusive territorial agreements in the beer distribution industry. 4/85

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

Retail Competition Enforcement Act. Oppose Act or similar legislation that would make evidence of a customer's termination by a manufacturer in response to a competing customer's price complaint sufficient to raise an inference of a vertical price fixing conspiracy. 8/87

Robinson-Patman Act. Support addition of same competitive injury test to Sections 2(d) and (e) as contained in Section 2(a) of Act. Support repeal of Sections 2(c) and (e), and oppose legislation to make Section 3 enforceable under the antitrust laws by government or private treble damage

suits; urge Congress to hold hearings on the Supreme Court decision, *California v. ARC American Corp.*, involving price fixing and the "passing on" defense. 10/69; 2/87; 8/90

Rulemaking Procedures Dealing with Antitrust Laws. See entry under **Administrative Law.**

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 *Ethical Guidelines for Settlement Negotiations; Model Court Rules on Insurance Disclosure* [by attorneys]; *Model Rules of Professional Conduct* and *Guidelines for Attorney Conduct, Model Standards of Conduct for Mediators, August 2005.*)

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/Discipline in Federal Courts. Urge promulgation by the Judicial Conference of a uniform system for admission of attorneys to federal courts and agencies. Support in part and oppose in part a series of proposals regarding admission standards, performance review, student practice and related matters. 2/72; 4/79

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

**** 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. See also *Money Laundering* under **Criminal Law**.

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 *Sentencing Guidelines for Organizations* under **Criminal Law**.

Attorneys' Fee Shifting. Support removal of all arbitrary or unreasonable statutory or administratively imposed limits on the award or payment of attorneys' fees. Recommend series of factors to be considered by agencies in awarding attorneys' fees. 2/76

Support legislation to permit courts and administrative agencies to award attorneys 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 **Offer of Judgment** entry under **Insurance and Tort Law** and other entries under **Family Law, Administrative Law** and **Civil Rights and Constitutional Law**.

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

Bias Against Gays in the Legal Profession. 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

Campaign Contributions. See related entries under **Election Law**.

Compensation for Assigned Counsel. Urge action by Circuit Judicial Councils to provide compensation for assigned counsel in criminal cases comparable to that paid for private counsel for similar services. 2/71

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

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**.

Disciplinary Enforcement. Adopt the recommendations contained in the "Report of the Commission on Evaluation of Disciplinary Enforcement" as revised and amended. 2/92

See also **Model Rules** entry, this section, and related entry under **Administrative Law**.

Disciplinary Enforcement: Federal Jurisdiction. 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

Disclosure of Cash Receipts. See entry under **Tax Law.**

Electronic Data. Support actions by federal and state governments, international organizations, and private entities designed to promote the development of legal standards encouraging the use of information in electronic form, which recognizes that information in electronic form, where appropriate, may satisfy legal requirements to the same extent as conventional forms. 8/92

See also entries under **Administrative Law** and **Courts/Judges/Procedure.**

Electronic Data Exchange. 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) 8/98

See related entries under **Courts/Judges/Procedure.**

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*, 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

****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

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

Law Book Publishing Practices. Support and encourage compliance with FTC guidelines to protect lawyers and law libraries against unfair and deceptive publishing practices. 5/73; 2/76

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

Lawyers' Pledge. Approve a "Lawyers' Pledge of Professionalism." 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 **IOLTA** entry.

Legal Assistant 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

Model Rules for Lawyer Disciplinary Enforcement: Rules 4, 11 and 12. Support amendments to rules 4 (Disciplinary Counsel), 11 (General), and 12 (Immunity) 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. 8/96

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

****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: Rule 1.14. Amend comment to Rule 1.14 to identify that it is permissible, under certain circumstances, for a lawyer to take emergency action on behalf of the person with the disability who is unable to establish a true lawyer/client relationship. 2/97

****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

****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 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

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 Practice*, this section.

Payments Made to Attorneys. Urge Congress to repeal Section 1021 of the Budget Reconciliation Act of 1997, which requires gross income tax 1099 reporting of all payments made to attorneys by a trade or business regardless of whether attorney is the exclusive payee. 2/98

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

Professional Discipline. 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

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

See also entries under **Administrative Law.**

Public 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.

See related entries under Legal/Public Education (00M108) 2/00

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

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

Unauthorized Practice. Urge each jurisdiction to establish and implement effective procedures for the discovery and investigation of violations of its

laws prohibiting the unauthorized practice of law and to pursue active enforcement of these laws. (00M8A) 2/00

See also *Multidisciplinary Practice* entry, this section.

Women in the Legal Profession and Bias.

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 entries under **Civil Rights and Constitutional Law.**

BANKRUPTCY LAW

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

****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 Appellate Panels. Supports 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. Urge 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

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

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

Federal Priority in Insolvency. 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

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

Fraudulent Conveyances. See entry under **Real Property/Housing Law.**

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

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.)

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 and standards 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

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

****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.

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

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

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

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

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**.

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

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* entry.

Securities Litigation. Supports some adjustments in existing procedure in securities class actions such as requiring full disclosure of settlement terms; settlements, promoting finality in encouraging voluntary, non-binding ADR procedures and prohibiting certain Bonus Payments to plaintiffs; and prohibiting certain referral fees. Oppose the elimination of the concept of having to prove recklessness will prevail action under 10b-5; oppose fee shifting with obligation of counsel to fulfill his (her) judiciary duty as oppose having a shareholders with small holdings from access to courthouse. 2/95

Sentencing Guidelines for Organizations. See entry under **Criminal Law**.

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 *Reproductive Choice* entry.

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

Acquired Immune Deficiency Syndrome (AIDS) Legislation. See entries under **Health/Mental Health**.

Affirmative Action. See *Legal Remedies* entry, this section.

AIDS and HIV. See entries under **Health/Mental Health**.

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 Legal Profession. See entries under **Attorneys/General Practice** and **Courts/Judges/Procedure**.

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

Cell Nuclear Transfer Research. See entry in **Health/Mental Health**.

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
See *Wards Cove* entry.

****Civil Rights Tax Relief Act.** Urge Congress to enact the Civil Rights Tax Relief Act or similar legislation to provide relief to civil rights and 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

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

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 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 HIV Status. See entries 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.

Creditors: Support legislation to prohibit credit practices which discriminate on the basis of sex or marital status. 2/74

Housing: Support legislation prohibiting such discrimination in the sale or rental of housing or in the provision of related services. 8/74

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* 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 entry under **Real Property/Housing 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

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

See *Access to Campus Placement* entry this section and *Child Custody* entry under **Family Law.**

Discrimination Based on 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.

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

Discrimination in the Courts. See entries under **Courts/Judges/Procedure** and **Criminal Law/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

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 *Spanish in Courts* entry under **Courts/Judges/Procedure.**

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

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**, below.

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

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.** 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

See *Patriot Act*, this section and other entries under **Criminal Law** and **Immigration Law.**

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.**

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 entry under **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 attorneys fees in such legislation. 2/96

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

****Legal Remedies to Eliminate Discrimination.** 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 related entry under **Legal Education.**

National Constitutional Convention. Support legislation to provide recommended procedures and controls for a national constitutional convention. 8/73

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

National Endowment for the Arts. See entry, **Federal Government.**

****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*, this section and entries under **Criminal Law.** and **Immigration Law.**

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

Race-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

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 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 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

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 discriminate on the basis of sex or marital status. 2/74

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

Title IX -- Equal Opportunities in Athletics. See *Discrimination Based on Sex* and *Federal Financial Assistance* entries, this section.

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

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

****Violence against Women Act.** 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

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 and Family Caps. 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 related entry under **Federal Government**.

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

CORRECTIONS

(For additional policy see also "Blueprint for Cost-effective Pretrial Detention, Sentencing and Corrections Systems.")

Certificates Setting Aside Convictions. Support legislation governing such certificates and permitting the record of conviction to be used and disseminated for certain purposes. 8/73

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

Discrimination in Employment. Support special recruiting and training of women and minorities, and elimination of employment discrimination in correctional systems. 8/76

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. (02M101B) 2/02

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

Jail Overcrowding/ Court Delay Councils. Urge state and local bar leaders to initiate the establishment of coordinating councils whose members have authority to alleviate overcrowded jails and related court delay issues. 2/90

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

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

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

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

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

Wrongful Imprisonment. Urges 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", Standards Relating to Juror Use, Standards Relating to Trial Management, Standards for Judicial Compensation, ABA Model Rules for Judicial Discipline Enforcement, Civil Trial Practice Standards, Civil Discovery Standards, Standards on State Judicial Selection, Standards for State Judicial Retirement and ABA Principles Relating to Juries and Jury Trial, February 2005.)

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 *Arbitration*, this section, and related entries in **Administrative Law**.

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

See also *Orders Interfering with Arbitration* entry.

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 **Attorneys/General Practice** 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

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. Rescind the October 1973 resolution which supported realignment of the U.S. Circuit Court of Appeals for the Ninth Circuit. 2/90

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

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

Civil Justice Reform. 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

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.** Support Rule 23 of the Federal Rules of Civil Procedure in its present form. 8/74
Support, with some exceptions, proposed revisions to FRCP 23 regarding class action practice. 2/97

Acknowledge that concerns over class action practice could be addressed with federal legislation providing for expanded federal court jurisdiction for which Congress has provided adequate additional resources; oppose class action legislation that conflicts with proposed amendment to Rule 23, because of existing support for Rules Enab. Act. (03M304) 2/03

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

Computer Access to Court Dockets. 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

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.

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. (00M116B) 2/00

****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

Criminal/Civil Justice System Task Force.

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

****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

Discovery Rules FRCP 26(A):

Urge Congress to reject amendments to Rule 26(a) of the Federal Rules of Civil Procedure requiring mandatory disclosure of discovery materials without specific written requests. Urge Congress to defer other

parts of Rule 26, and Rules 30, 31, 33 and 37 until after Dec. 31, 1995. 6/93; 8/93

See **Class Actions**, this section.

Discrimination 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

See *Minority Appointments* entry, this section and related entry in **Criminal Law/Procedure**.

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

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

Electronic Data Exchange. See *Universal Citation System*, this section, and related entry under **Attorneys/General Practice**.

Expert Fees. See entry under **Civil Rights**.

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; 8/80

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

Federal Judicial Center. Support creation of a Federal Judicial Center with non-judicial representation on the center's board. 2/67; 8/67

****Foreign Intelligence Surveillance Act.** See entry under **Civil rights and Constitutional Law**

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

**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

**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. (04A107) 08/04.

John Marshall Commemorative Coin. Support passage of legislation to mint the John Marshall commemorative coin. (1103BOG) 11/03

Judicial Administration Appointments. Support legislation to permit a retired justice or an active or retired federal judge to be appointed as Administrative Assistant to the Chief Justice, Director of the Administrative Office or Director of the Federal Judicial Center without loss of status or seniority. 7/71

****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

**** 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

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

Judicial Compensation -- State. Recommend substantially equal salaries for (1) justices of the highest state courts as for federal circuit judges and for (2) state trial judges as for federal district judges. 8/81

Reaffirm support for adequate levels of compensation for state judges and encourage bar associations to take leadership role in promoting adequate compensation for state judges. (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 bar associations to increase understanding of Act, and

supports certain enumerated amendments to Act. 2/94

See related entry under **Judicial Independence.**

Judicial Elections. See entry under **Election Law.**

Judicial Education. 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

See also entry under **Administrative Law.**

Judicial Impact Statements. Support legislation by each state legislature and the United States Congress mandating the preparation of judicial impact statements to be attached to each bill or resolution that affects the operations of State or Federal courts. 8/91

See also *Justice System Impact Statements* under **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

See also *Criticism* and *Term Limits*, this section and *Judicial Elections* under **Election Law**.

Judicial Leave Policy. Urge each state to adopt standards for judicial leave, and urge evaluation of policies in accordance with the "Recommended Criteria for Evaluating Judicial Leave Policies." 2/89

Judicial Participation in Civic Education. See entry under **Legal/Public Education**.

Judicial Performance Evaluations. Adopt the black letter *Guidelines for the Evaluation of Judicial Performance* dated February 2005, which replace the 1985 Guidelines. (05M103) 2/05

See related entry under **Administrative 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 Retirement. Support enactment of federal legislation similar to H.R.1314, which exempts state judicial retirement plans from the nondiscrimination sections of certain sections of the Internal Revenue Code. 2/96

See also entry under **Military Law**.

Judicial Sabbaticals. Endorse the concept of judicial sabbaticals and urge the states to adopt legislation to allow a program providing sabbaticals. 8/88

Judicial Space and Facilities. Support in principle legislation which provides the federal judiciary with control over its space and facilities. 8/92

****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

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

Jury Selection. 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

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 related entry under **Criminal Law**.

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 Interpreters. 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 *Spanish in the Courtroom* entry, below.

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

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

Law Students in the Courtroom. See entry under **Legal 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

Magistrates' Salaries. Support legislation making the ceiling for salaries of U.S. magistrates equal to that for bankruptcy referees. 5/72

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 related entries under **Election Law**.

Merit Selection of Federal and State Judges. 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

See also *Judicial Elections* this section.

****Military Tribunals: Post 9/11.** See entries under **Military Law**.

Minority Appointments to the Federal Judiciary. Urge the President to consider, in the

appointment process, the fact that there are extraordinarily few women federal judges. 8/75

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

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

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

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 also entry under **Criminal Law/Procedure**.

Probation Officers. Oppose legislation providing for the transfer of probation officers from the district courts to the Department of Justice. 8/66

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

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

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; 2/95

See *Class Actions* entry, this section, and *Lawsuit Abuse Reduction Act* under **Insurance and Tort Law**.

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

Safety of Judges. Deplore in principle personal attacks against judges because of the performance of these duties. 10/72

Science and Technology in Judicial Decision Making. Support in principle recommendations of the March 1993 Carnegie Commission report entitled "Science and Technology in Judicial Decision Making." 2/94

Security. Urge enumerated actions to improve judicial courts security. (05A106C) 8/05

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

State of the Judiciary Address. Support legislation mandating an annual report by the Chief Justice to Congress on the state of the judiciary. 5/70

Supreme Court Mandatory Jurisdiction. Support legislation to abolish all cases of obligatory Supreme Court review by appeal except for appeals from determinations by three-judge courts. 2/79

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

Tax Court. See entry under **Tax Law**.

****Term Limits.** 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. Support repeal of 28 U.S.C. Sections 2281, 2282, and 2325, which provide for three-judge district courts with direct appeal to the Supreme Court under certain circumstances. 2/73

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

Uniform Rules of Evidence. See entry under **Criminal Law/Procedure**.

Universal Citation System. Recommend that courts adopt a universal citation system that is equally effective for printed and electronically published decisions. Such a system should require each issuing court to assign a sequential number to each decision made publicly available, and to assign sequential internal paragraph numbers within each decision. 8/96

Recommend the development and implementation of a universal American citation standard that reflects ABA recommendations and other formats for case reports, statutes, administrative documents and other legal documents through cooperative efforts among federal and state entities. (03M101) 2/03

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.**

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. 8/90

CRIMINAL LAW/PROCEDURE

(For additional policy positions, see the *ABA Criminal Justice Standards, Electronic Surveillance Standards, Juvenile Justice Standards, and Criminal Justice Mental Health Standards; ABA Guidelines on Contribution Fees for Costs of Counsel in Criminal Cases*, August 2004, and *Speedy Trial and Timely Resolution of Criminal Cases*, dated August 2004, [supplants the *Second Edition, Criminal Justice Standards on Speedy Trial.*])

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

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 **Health/Mental Health** for other entries regarding AIDS.

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

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: International Money Laundering. See entry 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 on 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

Biological 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

See related entries, 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

Capital Punishment: 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

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

Commission on Gambling. Recommend immediate establishment of a Commission on the Review of the National Policy Toward Gambling. 7/71

Community Service Programs. Urge state, local and territorial bar associations to establish policies in support of community service programs that focus on a person's self-worth, revitalization of urban areas by fostering civic pride and volunteerism, and prevention of family and community erosion caused by drug abuse and related crime and violence. 8/93

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

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

See related entry under **Administrative Law**.

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.

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 below.

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 creation of defender organizations in each federal district or contiguous districts requiring at least 200 appointments of

counsel annually, with salaries, facilities, and equipment equal to those provided U.S. Attorneys. 2/71

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 Criminal Justice Act so that attorneys under Act receive \$75.00 per hour and annual COLAs; urge Judicial Conference to make every effort to obtain such funding. (98A11E) 8/98

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

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

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

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 Crisis. Urge state and local bar associations to establish special committees to inform the bar on all aspects of the drug crisis. 8/91

See also entry under **Family Law.**

Drug Courts and Pretrial Drug Testing. Urge courts to adopt treatment-oriented diversionary drug court programs as one component of a comprehensive approach to addressing the needs of defendants with drug and alcohol abuse problems; urge the adoption of voluntary pretrial drug testing programs that would be integrated into a framework for conditional release and that would prohibit the results of pretrial drug testing from being admitted to prove guilt on the underlying charge. 2/94

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

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

See related entry under **Corrections.**

****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

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*, this section.

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.

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

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

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 Criminal Procedure and Evidence. Support numerous amendments to the rules. 8/73; 8/86; 2/92.

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

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; 8/87

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; 8/93; 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

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organizations. 8/66; 2/73; 8/75; 2/83; 2/89; 8/93; 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

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

Gun Control: Protection of Children. Support legislation to reduce the danger of death and injury to children from firearms by providing educational programs on firearm safety, requiring warnings on "BB" guns and air rifles, and establishing criminal penalties for adults' failure to properly safeguard firearms and ammunition they own. 8/91; 2/94

Gun Control: 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

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

See also *Zero Tolerance* under **Criminal Law/Procedure.**

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 related entry 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

Homeless Court Programs. Support the development of a comprehensive, systemic approach to addressing the needs of homeless misdemeanor 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

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

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

****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 for indigent defense systems, 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.

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

Inspector General. Support statute to perpetuate an Office of Professional Responsibility, or Inspector General, in the Department of Justice. 2/76

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

Immunity for Draft Evaders. Support legislation providing persons who unlawfully avoided military service with an opportunity to earn immunity from prosecution and punishment. 8/74

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

Jury Standards. 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

Kennedy Commission: Sentencing/

Corrections Reform. Urge states, territories and the federal government to improve 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

See related entries, this section.

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

See also *Sentencing Reform* entry.

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

****Military Tribunals: Post 9/11.** See entry under **Courts/Judges/Procedure.**

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.

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

****Money Laundering.** Support enactment of federal legislation to assist federal law enforcement agencies in combating money

laundering; oppose certain specified provisions in pending money laundering legislation in the 99th Congress. 2/86

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

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

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 entry 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

Presidential Pardons. Recommend that, except in extraordinary circumstances, no individual should be pardoned until appropriate judicial processes have been followed. 9/74

Prisoner Impact Statements. See entry under **Corrections.**

See also related *Justice Impact Statements* entry under **Congress.**

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

Race-Based Profiling. See entry under **Civil Rights and Constitutional Law.**

Racial Justice in Capital Sentencing. See *Capital Punishment* entry.

Racial and Ethnic Bias in the Criminal Justice System. 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

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 entry under **Corporation, Banking and Business Law.**

Rape Law Revision. 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

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

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

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 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.

See also *Kennedy Commission* entry.

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

Task Force on Crime. Support "Statement of Proposal" portions of Task Force on Crime Report on gun control, delays in the appellate process, resources for criminal justice system, corrections, juvenile justice, and the role of the legal profession. 2/83

****Terrorism.** 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

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

See *Patriot Act, Military Tribunals, Money Laundering, FISA* and other related entries, this section, **Civil and Constitutional Law and Immigration.**

****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

Unanimous Verdicts. Oppose less-than-unanimous verdicts in federal criminal cases. 8/74

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

****Violence Against Women Act.** See entry under **Civil and Constitutional Rights.**

Violent Crime Control and Law Enforcement Act. Urge the immediate funding and reauthorization of Title XLI (Family Unity Demonstration Project) of the Act. (00M102A) 2/00

Victim Compensation Boards. Recommend that state or territorial compensation boards that pay victims for harm inflicted by a defendant are beneficiaries of any order of restitution. 2/98

Victim and Witness Procedures. Adopt "Guidelines for Fair Treatment of Crime Victims and Witnesses in the Criminal Justice System." 8/83

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

Urge Congress to protect the rights of victims in the federal system by statutory enactment. 2/98

Videotaping of Custodial Interrogations. 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

Voir Dire. See entry under **Court/Judges/ Procedure.**

Wrongful Convictions. Urges 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

Urges 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 Imprisonment. See entry under **Corrections.**

Youth Courts. Support and assist in the formation and expansion of diversionary programs known as Youth Courts. 8/95

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

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

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 and Procedures Governing the Settlement of Disputes and the Agreement Establishing the World Trade Organization. 2/94

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

International Trade Commission Meetings. Urge International Trade Commission to expeditiously determine the extent to which the Government in the Sunshine Act permits ITC members to meet in a non-public manner prior to making determinations in matters assigned to the Commission under the Tariff Act of 1930, as amended; if necessary, support initiatives to clarify this issue by administrative, judicial or legislative means. 2/93

NAFTA. Support efforts to establish through NAFTA rules, procedures and institutions for the conduct of trade and other economic relations among the participating countries 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

ELDER LAW

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

Adult Guardianship. Urges 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

Benefit Programs for Elderly. See entry under **Administrative Law.**

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 entry under **Health/Mental Health.**

Correctional Facility Policies. See entry 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. 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

Grandparent Visitation. See entry under **Family Law.**

Guardianship/Conservatorship. 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

Support continuing improvement of the guardianship and conservatorship laws and procedures within the several states. 8/91

Home Equity Conversions and Public Assistance. See entry under **Real Property/Housing Law.**

Home Health Care. See *Quality Assurance for Home Health Care* entry under **Health/Mental Health.**

Living Wills. See *Durable Powers of Attorney* and *Health Care Intervention Decisions* entries under **Health/Mental Health.**

Long-term Health Care Needs. See entry under **Insurance Law.**

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

Nursing Homes. See entry under **Health/Mental Health.**

Older Americans Act. See entry under **Legal Services.**

Social Security Administration. See entries under **Administrative Law.**

Social Security Benefits. See entries under **Family Law** and **Administrative Law.**

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

See related entry under **Tax Law.**

Social Security Tax Rates. See entry under **Tax Law.**

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

Supplemental Security Income Reform. See entry under **Administrative Law.**

ELECTION LAW

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 for, 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 state 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 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. (00M10A) 2/00

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

District of Columbia Voting Rights. Support principle that District of Columbia citizens should not be denied fundamental right to vote for voting members of Congress. (99A115) 8/99

Election Administration Guidelines. Adopt Model Statutory Language and Provisional Balloting and Commentary, dated August 2003 to help states comply with the Help America Vote Act of 2002. (03A115) 8/03

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*, this section

Election Procedures during Catastrophe. Urge Congress, the states, and territories to enact special election procedures, including specified elements, for 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.

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

Judicial Elections. Urge public financing, with caveats, 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* .this section.

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

“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

State Campaign Financing. 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

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

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

Voter Participation, 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

Voting Rights Act. Supports the reauthorization of the Voting Rights Act of 1965 as amended through 1992. (05A108) 8/05

Voting Rights for 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

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

Federal Power Commission. Oppose replacement of the five-member Federal Power Commission by a Federal Power Agency headed by a single administrator. 7/71

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. Urge their permanent reauthorization and revision to permit greater use to resolve environmental matters; urge that the Negotiated Rulemaking Act be used for

making policy decisions under environmental statutes. 2/95

****CERCLA.** Support federal legislation clarifying liability exemptions for fiduciaries, such as H.R. 2085, (101st Congress, 1st Session) 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 related entry 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

Department of Energy and Natural Resources. Support creation of a federal Department of Energy and Natural Resources. 8/73

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

Marine Resources:

Domestic. 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. Urges 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 improve federal regulation of our country's marine resources and enact legislation. (05A100A) 8/05

See a related entries in this section.

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

Private U.S. Investment in Foreign Minerals. Support U.S. governmental action to protect mineral deposits owned by U.S. concerns from expropriation by foreign governments. 8/73

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 Administrative Decisions. Support establishment of

administrative procedures by environmental agencies to allow public participation at the earliest possible stages of administrative decision-making. 8/72

Public Participation in Environmental Agreements. Urge that public participation provisions of all levels of environmental law and international environmental agreements recognize the principle that public should be involved and environmental decision-making 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. Reaffirms 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

****Superfund.** See *CERCLA* entry.

Voter Registration Act. 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

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*; and *Standards of Practice for Lawyers Representing Child Welfare Agencies*.)

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

See also *Foster Care* entry..

Adult Guardianship. See entry in **Elder Law**.

Alcohol/Drug Abuse and Children's Welfare. When appropriate in making custody and visitation decisions, urge judges 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

Child Abuse and Domestic Violence Victims. 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

See also **Foster Care** in this section.

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* entry.

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, 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 Snatching/International. Urge approval and ratification of the Convention on Civil Aspects of International Child Abduction as proposed by the Hague Conference on Private International Law. 2/81

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. 2/87

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/notices, 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

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

See related entries under **Insurance and Tort Law, Courts/Judges/Procedure and Civil Rights and Constitutional Law.**

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

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

Expenditures on Children. Urge enactment of legislation to require the U.S. Department of Agriculture to study and prepare an annual report on "Expenditures on Children in Dual Household Families." (00M105) 2/00

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

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

Urge enactment and adoption of policies consistent with the recommendations of the national bipartisan Pew Commission on Children in Foster Care for improving the outcomes for abused and neglected children under dependency court jurisdiction. (05A10B) 8/05

See *Educational Stability*, this section.

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

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 for Minors. See entry under **Insurance and Tort Law**.

Health Care Intervention Decisions. See entry under **Health/Mental Health**.

Insurance and Domestic Violence. See entry under **Insurance and Tort Law**.

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**.

Kinship Care Placement. Encourage states and territories to establish guidelines to follow in kinship care placement of abused, neglected and/or abandoned kids. (99M112B) 2/99

Population Growth. Support creation of a federal Commission on Population Growth and the American Future. 2/70

Protection Orders and Violence Against Women Act. 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

Social Security, Disability Benefits and Retirement Benefits for Widows, Widowers and Divorcees. See entries under **Administrative Law**.

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

Unified Family Courts. Reaffirm commitment to unified children and family courts as set forth in Standard 1.1 of the 1980 "Standards Relating to Court Organization and Administration," and endorse certain clarifications and additions. 8/94

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

Youth Violence Protection. See entry, **Criminal Law**.

FEDERAL GOVERNMENT/CONGRESS

Age Discrimination. See entry under **Civil Rights and Constitutional 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 deficits. 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 Prosecutors or Administrative Agencies.

See related entries under **Administrative Law** and **Criminal 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 Transportation. Support codification of laws affecting the Department of Transportation. 8/67

Drug Recognition Program. Support the Drug Recognition Program begun by the National Highway Safety Administration and the Bureau of Justice Assistance; encourage adoption of program by other jurisdictions, provided that its implementation respects constitutional rights. 2/90

See also entry under **Criminal Law/Procedures**.

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. 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

Federal Employment. See *Mixed Case Appeals* under **Administrative Law**.

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

Federal Trade Commission. See entries under **Antitrust Law**.

Financial Disclosure by Federal Officials. Support in principle legislation requiring reasonable financial reporting by federal officials and employees in positions of trust and responsibility, based on seven listed principles. 10/76; 2/77

Government Lawyer Participation in 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.**

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. 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

Lobbying Disclosure Act of 1992. 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

See also *Public Participation* entry and related entry 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

National Law Library. 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

Office of Federal Procurement Policy. Support creation of such an office within the Executive Branch or, alternatively, as an independent regulatory agency. 11/73

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

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

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

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

Rights of Congressional Witnesses. See entry under **Civil Rights and Constitutional Law**.

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 entry 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

****Terrorism/Torture**

See various entries under **Civil Rights and Constitutional Law, Criminal Justice, Immigration Law and Military Law**.

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

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

Whistleblowers. Support amendment of Civil Service Reform Act with respect to strengthening protection for federal civil servant "whistleblowers." 8/87

See related entry under **Civil Right**.

Witnesses. Support congressional rules providing that no witness shall be compelled to give testimony in any hearing for public broadcast. 8/74

Witnesses at Congressional Hearings. 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.

ADR and Health Care Due Process Protocol. 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

See also **ERISA** entry under **Insurance and Tort Law**.

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 federal, state and local 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

See related entries under **Criminal Law** and **Real Property Housing**.

Asbestos. See related entries under **Insurance and Tort Law**.

Assisted Suicide. Any consideration of physician-assisted suicide should be left to be resolved by state legislatures and territories and their electorates; if a territory adopts legislation permitting physician-assisted suicide, it should establish close monitoring of the impact of such practices. 8/97

See also *Pain and Symptom Management*

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

Cell Nuclear Transfer Research. 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.

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.

Comprehensive Health Care Coverage. 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

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

Support legislation that acknowledges right to privacy of health care information and protects the confidentiality of personal health information from any source. (99M109A) 2/99

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

Drug Policies. See entries under **Criminal Law/Procedure** and **Family Law**.

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

****ERISA and Private Right to Sue.** See entry under **Insurance and Tort Law**.

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 *Cell Nuclear Transfer Research* this section.

Hormonally-Assisted Pregnancy. Oppose state or territorial legislation that would restrict hormonally-assisted pregnancy in post-menopausal women. 8/95

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 Care Reform. Reaffirm support for legislation to provide every American with access to quality health care regardless of income. Such legislation should include certain enumerated characteristics, including: 1) universal coverage through a common public or public/private mechanism through which all contribute; 2) procedural due process; and 3) mechanisms for expenditure control, etc. 2/90; 2/94

Support legislation to ensure comprehensive health care for children and pre-natal care for pregnant women. 8/97

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 Health Care Needs. See entry under **Insurance and Tort Law.**

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

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 entry under **Criminal Law/Procedure.**

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

Support the repeal of Section 217 of the Health Insurance Portability and Accountability Act of 1996 which criminalizes certain asset transfers made for the purpose of qualifying for Medicaid benefits. 2/97

Urge repeal of amended Section 217 (amended by Section 4734 of the Balanced Budget Act of 1997) which makes it a crime to counsel or assist an individual for a fee to make certain transfers for medicaid eligibility. 2/98

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

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 amend the Medicare Secondary Payer Act (42 U.S.C. § 1395y(b), *et seq.*) to return an

appropriate level of certainty, predictability and efficiency to the Medicare set aside process that disrupted settlements in Workers' Compensation systems. (05M109B) 2/05

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

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. 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

See related entry under **Criminal Justice**.

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. Support efforts to educate the public, the legal community and clients about the need for organ and tissue donation, and urge coordination with the medical community; urge wider enactment of 1987 version of the Uniform Anatomical Gift Act and recommend revisions regarding authority under durable power of attorney to make donation. 2/92

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

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

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

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

Quality Assurance for Home Health Care and the Elderly. 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

Substance Abuse Discrimination. See entry under **Civil Rights**.

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 related **AIDS** entry and entry under **International Law**.

IMMIGRATION LAW

****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

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 Law Judges. Support legislation that would require administrative law judges for immigration proceedings to be appointed pursuant to the Administrative Procedure Act. 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

Board of Immigration Appeals in Department of Justice. Support legislation creating statutory basis for the Board. 2/58

Children's Rights. 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

Citizenship Oath. 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

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

Criminalization of Civil Violations. Oppose criminalization of civil violations of immigration law. (04M105) 2/04

****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

****Deportation and Exclusion Proceedings.** Support applicability of Administrative Procedure Act to such proceedings. 2/58-R-5/75

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

****Employer Sanctions.** Oppose legislation imposing civil and criminal sanctions on employers who knowingly hire unlawful aliens. 2/83

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

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

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 Immigrations 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 Procedures Due Process.** Support legislation and regulations ensuring adequate due process safeguards. 10/55-R-5/73

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 Availability.** 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

Judicial Review of Final Orders of Exclusion. Support legislation creating jurisdiction for the judicial review of all final orders. 8/74

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 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

Personal Responsibility and Work Opportunity Act. See *Restoration of Funding* entry.

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 Legal Immigration. 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

****Restoration of Federal and State Funded Services.** Urge Congress and the President to restore to legal immigrants, refugees and others residing in the U.S. with permission of the INS, the same rights to SSI, food stamps, etc., which were available prior to enactment of the Personal Responsibility and Work Opportunity Act of 1996. Oppose actions that restrict such benefits. 8/97

****Right to Counsel.** Oppose legislation that would limit the rights of persons subject to exclusion, deportation, or asylum proceedings to retain counsel. 2/83

****Secret Evidence.** Oppose the use of "secret evidence" in immigration hearings except in extraordinary circumstances. (01M106C) 2/01

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 (1) 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

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 purposes. (05M110) 2/05

INSURANCE AND TORT LAW

(For additional positions, see *ABA Model Court Rule on Insurance Disclosure*, August 2004.)

Alcohol and Disease Related Claims. 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

****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

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

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. (99M115A) 2/99

****Gun Industry Tort Immunity.** See entry under **Criminal Law.**

Health Care Reform. See entry under **Health Law.**

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

****Lawsuit Abuse Reduction Act.** Support the judicial rulemaking process set forth in 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

See also *Rules Enabling Act* 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

Long-Term Health Care Needs. Support adoption of federal, state and territorial legislation, regulations 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

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.**

National Vaccine Injury Compensation. Urge repeal of provisions of the Act that involve the federal courts in rendering advisory opinions and performing inappropriate administrative functions, before funding the program. 8/87

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 Judgements 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 Judgement Procedure", dated February 1996. 2/96

Price-Anderson Act. Support amendment of the Price-Anderson Act provisions of the Atomic Energy Act to extend and improve procedures for liability and indemnification for nuclear incidents. 2/87

****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

****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

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

See also **Radiation** entry above.

Y2K Legislation. Urge Y2K legislation to be amended to exclude certain provisions and include pre-litigation notice and encouragement of ADR. (BOG699) 6/99

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 judgements 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 Rules. 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

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** entry.

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

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

Chilean Human Rights. Deplore the interference by the Chilean government with the independence of its judges and lawyers; call upon Chile to honor U.S. extradition requests over the assassinations of Letelier and Moffitt; urge Chile to restore basic human rights; and ask U.S. to send lawyers and judges to Chile to start a dialogue with their counterparts. 8/87

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

Community Supervision of Offenders. Support proposal that United Nations develop and promulgate standard minimum rules for supervision of offenders in the Community as a guide for nations desirous of expanding such programs. 8/75

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 Establishing the Multilateral Investment Guarantee Agency. Support ratification and implementation of this convention. 2/86

Convention for the Protection of Cultural Property. Recommend US ratification of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict. (01M105B) 2/01

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 Combating Bribery. Support ratification and implementation of Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. (98A302) 8/98

Convention on Corruption. Support the US ratification of the Council of Europe's Criminal Law Convention on Corruption with provisos. (01M105A) 2/01

****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.** See entry under **Admiralty and Maritime Law.**

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 Recovery Abroad of Maintenance. Support U.S. accession to the Convention. 8/80

****Convention on the Rights of the Child.** Support the ratification of the provision in the United Nations Convention on the Rights of the Child. Suggest ratification be accompanied by 8 enumerated Reservations, Declarations and Understandings in an effort to promote U.S. ratification of Convention. 2/91; 2/94

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. (00M106A) 2/00

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. (00M106B) 2/00

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

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* entry.

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

Cultural Development Banks. Urges 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

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

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

Export-Import Bank Act Of 1945. Support extension of the charter of the Export-Import Bank of the United States through Sept. 30, 1988. 4/83

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 Amendments.

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 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 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 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 Conventions. Urge U.S. ratification of the Hague Convention on Protection of Children and Cooperation with Respect to Inter-country Adoption. 2/75; 2/94

Urge the Senate to give its advise and consent to the ratification of the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect to the Protection of Children, and the Congress to enact legislation to implement this convention. 8/97

Support ratification and implementation of the Hague Convention on the Law Applicable to Securities Held with an Intermediary by the U.S. and other countries. (03A111) 8/03

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

Harmonization. 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 entry under *United Nations*, 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

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, (1958) and appropriate safeguards are provided with respect to future amendments in the IACAC Arbitration Rules. 2/78

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 of the Covenant subject to several understandings, declarations and one reservation recommended to

the Senate by the Departments of State and Justice. 2/79; 8/79

International 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

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

Urge US to present a declaration recognizing as compulsory the jurisdiction of the ICJ. 8/84

Urge U.S. to negotiate treaties accepting the jurisdiction of the International Court of Justice or submit disputes to Special Chamber of ICJ. 8/89

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

****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

Urge U.S. Government to take an active role in establishing an international criminal court based on enumerated principles for consensual and mandatory jurisdiction. 8/94

Support establishment of international criminal court by multi-lateral treaty and recommended continued active role for U.S. Government in negotiations involving diplomatic conference in June 1998. 2/98

Recommend that the US accede to the Rome Statute of the International Criminal Court. (01M103C) 2/01

Supports legislation to require the President to report when a US national has committed an act within the jurisdiction of the International Criminal Court, to seek to retain US jurisdiction and to report on subsequent actions by the International Criminal Court. (01M105C) 2/01

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 Labor Organization. Urge U.S. to continue to be an active supportive member of the ILO and commend the U.S. for creating the President's Committee on the ILO and other groups. 2/72; 8/95

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

Support a re-examination of the IMF's role vis-a-vis international capital movements and private international capital markets; support the IMF and the World Bank Group giving increased attention to the development of legal systems in member countries. 2/96

International Sale of Goods Contracts Convention. Support U.S. signature and ratification of the Convention on Contracts for 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

Iraqi War Crimes. Support efforts to strengthen the rule of law in international affairs by an appropriate investigation and, if found warranted, the apprehension, prosecution, and punishment of individuals for war crimes associated with Iraqi aggression against other States. 8/91

See also *Persian Gulf War* entry.

Law of the Sea Convention. 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

Related policy not summarized here: 8/68.

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

Madrid Agreement for the International Registration of Trademarks. Urge U.S. adherence to the Protocol to the Madrid Agreement and necessary amendment to Lanham Act to conform to Protocol. (01A116C) 8/01

Marine Resources.

See entry under **Environment/Natural Resources.**

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

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

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 participation by private insurers in writing such insurance, and as amendments of the Foreign Assistance Act. 2/77

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.

****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 from Cuba and Haiti. Urge U.S. government to protect rights of Cuban and Haitian refugees detained in camps under U.S. control, including due process, humanitarian living conditions and access to independent legal counsel. 2/95

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

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

****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 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

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

Slavery Convention. Support U.S. ratification of the Supplementary Slavery Convention. 8/67

START II Treaty. Urge ratification of the 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

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. 2/85

UNESCO Reforms. Support efforts of the United States and other nations to rehabilitate and improve the United Nations' Educational, Scientific and Cultural Organization (UNESCO). Support the U.S. return to UNESCO as soon as possible. 2/86; 2/89; 8/95

****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

Support fundamental reform of the United Nations human rights process and establishment of a Human Rights Council to replace the Human Rights Commission. (05BOG); 6/05

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. Environmental Fund. Support legislation authorizing a multi-year pledge of U.S. funds to the U.N. Environmental Fund. 8/73

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 which could be called to action by the Security Council. 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 Criminal Jurisdiction. Recognize the principle of universal criminal jurisdiction as an important tool in worldwide efforts to strengthen the rule of law; enunciate policies that should govern its exercise. (04M103A) 2/04

U.S. Treaty Obligations. Oppose legislation which implicitly requires the U.S. to denounce certain treaty obligations. 2/73

USTR Disqualification for Future Employment. Oppose ethics-in-government rules that single out foreign policy or trade functions for special restrictive treatment; support repeal of 1995 amendments to 18 U.S.C. Section 207 and 19 U.S.C. Section 2171(b). U.S. laws should not disqualify any senior executive or judicial appointee based on prior representation of particular types of clients. 2/97

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

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

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

Zionism. Oppose and deplore U.N. resolution branding Zionism as racist. 8/76

LABOR LAW

Equal Employment Opportunity Commission. See entry under **Civil Rights and Constitutional Law**.

Family and Medical Leave. See entry under **Family Law**.

Inequitable Impact of Social Security Law. See entry under **Family Law**.

Mediation for Employment Disputes. Support the Due Process Protocol of Mediation and Arbitration of Statutory Disputes arising out of the Employment Relationship Protocol dated May 9, 1995. 2/97

Occupational Radiation Information. Support in principle states requiring employers to keep records of employees' exposure to radiation and providing for a central repository of occupational radiation exposure information. 8/69

LEGAL/PUBLIC EDUCATION

****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 related entry under **Civil Rights and Constitutional Law**.

Civic Education in Public Schools. 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.

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.

Council on Legal Education Opportunity (CLEO). Support continued authorization of an appropriations for this program to enable disadvantaged students to attend law school. 10/67; 2/72

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

Model Rule for Minimum Continuing Legal Education. Adopt the Model Rule for Minimum Continuing Legal Education draft dated April 23, 1988. 8/88

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

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 related entry under **Attorneys/General Practice**.

Student Loans. Oppose any budgetary change that would exclude law students from eligibility to borrow under the Guaranteed Student Loan 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

**Urges the federal government to make improvements in the income-contingent repayment option of the William D. Ford Federal Direct Loan Program and to make changes in the formula by which the income of married borrowers is determined. (02M300B) 2/02

See also entry under **Tax Law**.

****Student Loans: Loan Forgiveness and Repayment.** Encourage law schools, state and local bar associations and federal and state lawmakers to establish Loan Assistance Repayment, Loan Forgiveness and Income-Sharing Programs for law school graduates accepting low-paying, legal, public interest employment. 8/88

Reaffirm and expand support. (03A113) 8/03

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" and "Standards for the operation of a telephone Hotline Providing Legal Advice and Information," dated August 2001.)

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

Disclosure of Client Information. Oppose HEW regulations requiring lawyers 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 judicare 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

Indigent Defense. See entry under **Criminal Law/Procedure**.

IRS Audit of Federal Legal Services Programs. Oppose disclosure of client names as part of this audit procedure. 4/76

****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. 5/73; 5/74; 8/74; 2/77; 4/81; 2/89; 8/90

****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

Legal Services for Breast Cancer Patients. See *Women's Health Research Fund* under **Health/Mental Health**.

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 entries under **Military Law**.

Low Income Taxpayer Clinics. See entry in **Tax 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. Urge reauthorization of Older Americans Act with priority on the delivery of legal services to the needy elderly. 4/81

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. 10/69; 2/73

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. 8/80; 2/84

Pro Bono Work. Recognize and support the professional obligation of all attorneys, law firms, corporate employers, and law schools to devote a

reasonable amount of time and support to pro bono and other public service activities that serve those in need or to improving the law, the legal system or the legal profession. 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

Adopt "Standards for Programs Providing Civil Pro Bono Legal Services to Persons of Limited Means" and recommend implementation. 2/96

Pro Bono Work by Government Attorneys. Urge legislation to ensure that government employed attorneys not be prohibited or discouraged from representing pro-bono clients in general or in actions against the government so long as there is no conflict of interest and representation is consistent with the rules of professional responsibility. 8/84

MEDICAL MALPRACTICE

Arbitration. Endorse use of arbitration to resolve medical malpractice disputes with agreement to arbitrate entered into only after a dispute has arisen. 8/77

****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 and 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

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**.

****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

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

Urge that there be public notice and opportunity for comment and analysis as with amendments to APA and Federal Register Act. 2/95

Urge that process by which rules of procedure and evidence at courts-martial are developed and adopted be amended to conform to the procedural model followed in adopting other federal court rules. 2/97

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.

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 overturn the Feres Doctrine and allow members of the armed services to sue the U.S. for damages for injuries caused by negligent medical or dental treatment. 8/87

Habeas Corpus and Military Capital Prisoners. Urge that military capital prisoners be provided with the same opportunity for the assistance of counsel in seeking federal post-conviction habeas corpus relief as is now provided by federal law for persons sentenced to death in the civilian courts in this country. 8/96

Home Sales. Urge Congress to amend the Internal Revenue Code to restore and provide military homeowners fair and equitable tax treatment regarding home sales. (00M100B) 2/00

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 Assistance for Active Duty Forces.** Support legislation to provide basic legal services for lower grade active duty military personnel and their dependents. 8/90

****Legal Assistance for Military Personnel and Dependents.** Support legislation creating a statutory, instead of the current voluntary, authorization for legal assistance. 8/70; 8/72; 8/75; related resolutions 2/71; 2/73; 7/77

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

****Legal Assistance for Reserve Members.** Support provision of such assistance prior to actual mobilization. 2/77

Legal Services within Military Departments. 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

****Legal Services, Voluntary.** 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

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

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 Tribunals: Post 9/11.** 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

Polling Places. See entry under **Election Law.**

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

See also related entry under **Insurance and Tort Law.**

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

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

Security Deposits. Urge help of bar associations in preventing wrongful withholding of military members' security deposits. 2/95

Servicemen's Group Life Insurance. Urge action by secretaries of Defense and Transportation with regard to Coast Guard personnel to publish directives requiring service members to designate beneficiaries "by name" rather than "by law." 8/93

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

Status of Reserve Attorneys. Oppose legislation to remove from paid drill status Military Reserve members serving in legal capacities, whether as individuals or as members of legal units. 7/77

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

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

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

Wills. Urge amendment to USC to require states and territories to recognize a will prepared for current or former members of the armed services if the will was executed under the procedures in Chapter 53 of Title 10 of the U.S. Code. (00M100A) 2/00

PATENT, TRADEMARK AND COPYRIGHT LAW

Attorney's Fees. Support amendment of Lanham Act to authorize awarding of reasonable attorneys' fees in appropriate cases. 2/67

Biological Patents. Favor in principle the patentability of plants, seeds and essential biological processes for the production of plants and seeds under 35 U.S.C. § 101. (601BOG23) 6/01

Favor legislation that would expand of the scope of the Plant Patent Act to include the tuber-propagated and patented plant cultivars reproduced by sexual means. (02M111B) 2/02

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.**

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

Doctrine of Equivalence. 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

Domain Name Ownership Information. Favor a requirement by the Internet Corporation for Assigned Names and Numbers (ICANN) that all domain name registrars provide continued free access to "Whois" information from registrants and applicants. (02M111A) 2/02

First to File. Support enactment of legislation providing that the right to a patent shall belong to the inventor who first files an application for patent containing an adequate disclosure under 35 U.S.C. §112 of the invention or, in the event of an assignment of rights, shall belong to the assignee thereof. (05M102) 2/05

Intellectual Property Rights Under GATT. Support efforts to provide strong intellectual property rights protection in the U.S. and to strengthen such protection in U.S. trading partners support agreement in the Uruguay Round of GATT to provide adequate protection standards, effective internal and border enforcement, and an effective multilateral dispute settlement mechanism. 2/90
See also entries under **International Law**.

Intellectual Property and Antitrust Actions. Support legislation to provide that intellectual property rights shall not be presumed to define a market or establish market power in actions under antitrust laws; support legislation to cover the licensing aspect of such rights. 2/90

Madrid Agreement for International Registration of Trademarks. See entry under **International Law**.

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

See *First to File* entry in this section.

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 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

Patent Infringement 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

Patent Titles. Oppose regulations or legislation which automatically vests in government title to inventions resulting from federally financed research and development contracts. 8/77

Public Contract Patent Rights. See entry under **Public Contract Law**.

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 insure that questions of trademark dilution under the Act are uniformly resolved under

the standard involving likelihood of dilution, rather than actual dilution. (602BOG2.3) 6/02

PRIVACY

Bank Secrecy Act. Support in principle amendments to the Act to protect privacy of financial records, but without inhibiting the ability of law enforcement personnel to carryout effective investigations. 2/75; 8/75

Do Not E-Mail. See entry under **Corporation, Banking and Business Law.**

Do Not Fax. See entry under **Corporation, Banking and Business Law.**

Electronic Commerce. See entry under **Customs and International Trade.**

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 entry under **Criminal Law** entitled **Biological Evidence.**

Privacy of Medical Records. See *Confidentiality* 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 related **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

Critical Technologies Development. Support the concept of establishing a mechanism such as a National Critical Technologies Corporation to stimulate private sector development or commercialization of technologies critical to national security or competitiveness. 2/93

Debarment and Suspension. Support enactment of legislation incorporating 36 principles of a proposed Debarment and Suspension Reform Act. 2/82

Fixed-Price Construction Contracts. Adopt the black letter amendments dated February, 1993, to the Model Federal Acquisition Regulation-Compatible Provisions for Subcontracts under Federal Government Fixed-Price Construction Contracts. 2/93

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

Patent Rights. Oppose measures to require (1) access to, or mandatory licensing of, a contractor's background patents, or (2) waiver by the contractor of title to any invention conceived/developed under the contract, as prerequisites to approval of a government research and development contract. Oppose measure to automatically give the government title to such inventions. 8/77

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 peace time. 2/80

REAL PROPERTY/HOUSING LAW

Affordable Housing Trust Fund. Urges Congress and the President to support the establishment of a federal affordable housing trust fund. (05M111) 2/05

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. Support the creation of community reinvestment programs in all financial institutions to avoid discrimination

and to stabilize housing in low- and moderate-income communities. 2/91

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**.

Federal Transfer Tax Systems. See entry under **Tax 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

Homelessness Prevention. Urge bar associations to develop and support programs and projects which will prevent, reduce or provide alternatives to residential evictions and foreclosures of low-income households. Offer ABA expertise to bar associations which undertake programs consistent with the intent of their resolution. 8/94

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

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

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**.

Public Housing. Support increased funding of public and federally-assisted housing and housing programs which meet the needs of all tenants, particularly those who are low-income, elderly, or have disabilities, and which do not violate principles of civil rights laws. 8/92

Real Estate Settlement Procedures Act (RESPA). Support legislation amending RESPA and favor continued review of the Act. 8/94

Site Specific Zoning. Recommend that in site specific zoning cases, administrative and judicial processes established by law should be followed and state and territorial 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.)

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

Gifts. Support IRC amendment clarifying that existing rules for establishing the value of prior gifts for gift tax purposes extend to estate tax and

generation skipping transfer tax computations. 2/81

IRS Jurisdiction. Support legislation to restrict IRS activities by prohibiting intelligence gathering or investigations based on political or ideological considerations unrelated to administering laws. 2/76

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

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 Disclosure Act. See entry under **Federal Government.**

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 Agreements and Taxation. Support amendments to the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code to enable retirement plans to honor premarital and post-marital agreements between spouses. 8/92

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

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. 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

Retirement Benefits. See *Employee* entry, above.

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 relitigation. 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 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

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

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