

**AMERICAN BAR ASSOCIATION
FEDERAL LEGISLATIVE AND GOVERNMENTAL PRIORITIES
FOR 2006**

Adopted by ABA Board of Governors February 2006

Access to Legal Services

The ABA supports a strong, well-financed Legal Services Corporation to provide civil legal services for the poor. The ABA opposes legislation that would limit the types of legal services made available to the poor, would dismantle the current effectively operating and locally controlled delivery system, or would reduce federal financial support. The ABA supports 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-income and middle-income workers. The ABA urges the federal, state and local governments to take immediate steps to ensure the provision of sufficient funding for indigent defense services. The ABA supports the provision of legal assistance for low income military personnel as a matter of right.

Access to Legal Education

The ABA urges law schools, state and local bar associations, and federal and state lawmakers to establish loan repayment assistance and loan forgiveness programs for law school graduates accepting low-paying, public interest employment. The ABA supports amending Section 125 of the IRC to allow the pre-tax payment of student loans through employee benefit plans. The ABA supports preservation and full funding for the Thurgood Marshall Legal Educational Opportunity Program to help disadvantaged students obtain a legal education.

Anti-Terrorism and Preservation of Due Process

The ABA urges that U.S. citizens and other residents detained as "enemy combatants" be afforded certain procedural rights, including the opportunity for meaningful judicial review of their status and access to counsel. The Association also urges that military tribunals authorized to conduct trials of suspected terrorists be used only in limited circumstances, that the procedures for trials and appeals be governed generally by the Uniform Code of Military Justice, and that all defendants have the opportunity to receive the effective representation of civilian defense counsel. The ABA opposes the incommunicado detention of foreign nationals in undisclosed locations by the Department of Homeland Security and supports disclosure of the names of the detainees and the nature of the charges involved.

Federal Tort Laws

The ABA generally opposes preemption of the state tort laws by enactment of federal legislation in such areas as medical professional liability, automobile liability, and broad product liability; opposes the creation of a system that requires injured patients to utilize "health courts" which deny injured patients a

right to a trial by jury or full compensation for injuries caused by medical negligence; opposes legislation called the "Lawsuit Abuse Reduction Act" to amend federal and state rules of civil procedure with respect to, among other things, Rule 11 sanctions; and supports amending ERISA so that it no longer would preempt various state health care liability laws. The ABA supports federal legislation that would allow persons alleging non-malignant asbestos-related disease claims to bring a cause of action only when they meet certain medical criteria and that would toll applicable statutes of limitations until that time.

Immigration

The ABA supports legal immigration based on family reunification and employment skills, due process safeguards in immigration and asylum adjudications, and judicial review of such decisions. The ABA also supports the appointment of counsel at government expense for unaccompanied children in immigration proceedings, the restoration of public benefits to legal immigrants and refugees, and improving the wages, working conditions and legal status of farmworkers in the United States. The ABA opposes laws that require employers and persons providing education, health care, or other social services to verify citizenship or immigration status.

Independence of the Legal Profession

The ABA believes that primary regulation and oversight of the legal profession should continue to be vested in the court of highest appellate authority of the state in which the attorney is licensed. The ABA opposes federal laws or regulations that would preempt or interfere with state rules protecting the confidential attorney-client relationship, including: the application of financial institution "privacy protection" provisions of the Gramm-Leach-Bliley Act to attorneys; bankruptcy law provisions that impose new liability and regulations on bankruptcy debtor attorneys; and internal Justice Department policies and the 2004 privilege waiver amendment to the Federal Sentencing Guidelines that authorize and encourage the government to require organizations to waive attorney-client and work-product protections as a condition for obtaining credit for cooperation during investigations.

Independence of the Judiciary

The ABA opposes legislative initiatives that erode the judicial process (including curtailment of the jurisdiction of the federal courts in constitutional cases) or infringe upon the separation of powers between Congress and the courts. The ABA supports the prompt filling of judicial vacancies and urges Congress to adequately fund the federal courts and increase judicial pay as a means of protecting judicial independence.

Public Safety and the Preservation of Civil Liberties

The ABA urges that Congress and the President seek to maintain a balance between support for stronger governmental power to protect public safety and for protecting the integrity of our justice system and maintaining our nation's

individual liberties. The ABA opposes any future electronic surveillance inside the United States for foreign intelligence purposes that does not comply with the Foreign Intelligence Surveillance Act. The Association urges Congress to reject legislative proposals to restrict federal habeas corpus review of state criminal convictions. The Association also opposes federal legislation that would change the historical requirement that criminal convictions require unanimous jury verdicts and to permit less than a jury of twelve peers in capital cases. The Association opposes federal legislation that would result in public dissemination of records related to offenses by juveniles and supports efforts to ameliorate the punitive effects of such collateral sanctions as the loss of jobs, housing and privacy. The Association supports a federal program to survey and to address the use of racial and ethnic profiling in the conduct of traffic stops.

Rule of Law – International

The ABA supports adequate funding for domestic and international agencies that promote the rule of law, including the prompt payment of U.S. assessments to the United Nations for its regular and peacekeeping expenses. The ABA supports ratification of certain international treaties, including the UN Convention Against Corruption, the Convention on the Law of the Sea, the Rome Statute for an International Criminal Court, the Convention on the Elimination of Discrimination Against Women, and the Convention on the Rights of the Child.

Tax Simplification

The ABA supports simplification of the tax laws to the maximum extent possible, consistent with basic equity, efficiency and the need for revenue, so that such laws can be easily understood and complied with by the taxpayers and fairly and consistently administered and enforced by the Treasury Department

U.S. Patent and Trademark Office Funding

The ABA supports making available to the Patent and Trademark Office all revenue generated by user fees charged for patent and trademark services. The ABA opposes the congressional practice of withholding a substantial portion of this revenue from the use of the PTO.

Youth-at-Risk

The Association supports federal legislation to provide funding to strengthen state programs that provide services to youth at risk and to state courts to help them address legal problems of vulnerable youth at risk, including support for programs to assure that youth are afforded full legal rights through any relevant court process and are represented by counsel. The ABA urges that Congress and the states provide greater resources for the court systems serving dependent children and foster youth, including resources for training court personnel, coordination between the courts and agencies serving children, and enhanced tracking and case management of individual cases.