

**DAILY JOURNAL**  
**AMERICAN BAR ASSOCIATION**  
**HOUSE OF DELEGATES**  
**2003 ANNUAL MEETING**  
**SAN FRANCISCO, CALIFORNIA**  
**AUGUST 11-12, 2003**

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
<b>10A</b>	NEW YORK COUNTY LAWYERS' ASSOCIATION SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES	Urges law enforcement officials to videotape the entirety of all interrogations of crime suspects held at police precincts, courthouses, detention centers and other places where suspects are held for questioning and urges state and territorial legislatures to enact rules of criminal procedure for this practice.	Withdrawn
<b>10B</b>	OHIO STATE BAR ASSOCIATION SOUTH CAROLINA BAR BAR ASSOCIATION OF METROPOLITAN ST. LOUIS OKLAHOMA BAR ASSOCIATION ILLINOIS STATE BAR ASSOCIATION NEW JERSEY STATE BAR ASSOCIATION CUYAHOGA COUNTY BAR ASSOCIATION COLUMBUS BAR ASSOCIATION WEST VIRGINIA STATE BAR PENNSYLVANIA BAR ASSOCIATION	Urges each jurisdiction that regulates the practice of law to continue to define what constitutes the practice of law by case law decisions of its highest court or by court rule.	Approved as Revised*

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\* See attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
10C	BAR ASSOCIATION OF SAN FRANCISCO SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES	Opposes the text of the "Racial Privacy Initiative" or any similar measure which would prohibits any public entity from collecting or sorting any data on the basis of race or ethnicity.	Approved as Amended*
10D	NEW JERSEY STATE BAR ASSOCIATION	Urges all state bars to evaluate their current practices and procedures relating to their Swearing-In ceremonies for lawyers newly admitted to the Bar.	Postponed Indefinitely
11-1	CONSTITUTIONAL AMENDMENT	Amends §1.2 of the Constitution to include the following language as one of the purposes of the Association: "to defend the right to life of all innocent human beings, including all those conceived but not yet born."	Postponed Indefinitely
11-2	CONSTITUTIONAL AMENDMENT	Amends §6.5(a) of the Constitution to provide that, of the six Delegates-at-Large elected to the House, no two shall be accredited to the same state, territory or possession.	Approved
11-3	BYLAWS AMENDMENT	Amends §21.6 of the Bylaws to retain special membership discounts for older lawyers.	Approved (217; 194)
11-4	BYLAWS AMENDMENT	Amends §31.7 of the Bylaws to revise the jurisdictional statement of the Standing Committee on Bar Activities and Services to increase the size of the standing committee.	Approved

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\* See attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
11-5	BYLAWS AMENDMENT	Amends §31.7 of the Bylaws to change the name of the Standing Committee on Continuing Education of the Bar to the Standing Committee on Continuing Legal Education.	Approved
11-6	BYLAWS AMENDMENT	Amends §31.7 of the Bylaws to revise the jurisdictional statement and change the name of the Standing Committee on Legal Assistants to the Standing Committee on Paralegals.	Approved
11-7	BYLAWS AMENDMENT	Amends §31.7 of the Bylaws to create a Standing Committee on Governmental Affairs.	Approved
11-8	BYLAWS AMENDMENT	Amends §31.7 of the Bylaws to create a Standing Committee on Medical Professional Liability.	Approved
100	TASK FORCE ON MODEL DEFINITION OF THE PRACTICE OF LAW STANDING COMMITTEE ON CLIENT PROTECTION WASHINGTON STATE BAR ASSOCIATION YOUNG LAWYERS DIVISION	Urges state and territorial jurisdictions to adopt a definition of the practice of law that should include 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, and that each jurisdiction should determine who may engage in the practice of law and under what circumstances, based upon the potential harm and benefit to the public.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
101A	CRIMINAL JUSTICE SECTION STEERING COMMITTEE ON UNMET LEGAL NEEDS OF CHILDREN SECTION OF LITIGATION SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES	Adopts the black letter <i>ABA Criminal Justice Standards on Collateral Sanctions and Discretionary Disqualification of Convicted Persons</i> dated August 2003, as an addition to the Third Edition American Bar Association Standards, which address issues related to legal disabilities that flow from a criminal conviction over and above the sentence imposed by the court.	Approved as Revised*
101B	CRIMINAL JUSTICE SECTION COMMISSION ON MENTAL AND PHYSICAL DISABILITY LAW SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES STEERING COMMITTEE ON UNMET LEGAL NEEDS OF CHILDREN STANDING COMMITTEE ON LEGAL AID & INDIGENT DEFENDANTS SECTION OF FAMILY LAW SECTION OF LITIGATION GOVERNMENT AND PUBLIC SECTOR LAWYERS DIVISION	Urges state, local and territorial bar associations, judges, prosecutors, defenders and police to address disparate treatment of racial and ethnic minority youth in the justice system and encourages state and local bar associations and law enforcement to instill public confidence in the fairness of the justice system by ensuring the fair treatment of all youth.	Approved
102	DARRELL J. STUTES, SR., ABA MEMBER	Supports the enactment and implementation of just laws by government to secure to each and every child growing in the womb of the mother, the unalienable life and liberty right to live until natural death.	Postponed Indefinitely

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\* See attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
103	COMMISSION ON THE 21 <sup>ST</sup> CENTURY JUDICIARY JUDICIAL DIVISION SECTION OF FAMILY LAW STANDING COMMITTEE ON FEDERAL JUDICIAL IMPROVEMENTS STANDING COMMITTEE ON JUDICIAL INDEPENDENCE COALITION FOR JUSTICE ADMINISTRATIVE LAW AND REGULATORY PRACTICE SECTION	Adopts the <i>Principles and Conclusions of the Commission on the 21<sup>st</sup> Century Judiciary</i> , dated August 2003, to ensure judicial independence, accountability and efficiency and urges all state, local and territorial bar associations to ensure the integrity of state and territorial judiciaries by promoting the implementation of the Principles and Conclusions.	Approved as Revised*
104	JUDICIAL DIVISION COALITION FOR JUSTICE STANDING COMMITTEE ON JUDICIAL INDEPENDENCE YOUNG LAWYERS DIVISION	Urges judges, courts and judicial organizations to undertake outreach activities to the public by making it part of a judge's function to further the public's understanding of the American system of justice.	Approved

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\* See attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
105A	STANDING COMMITTEE ON JUDICIAL INDEPENDENCE STANDING COMMITTEE ON FEDERAL JUDICIAL IMPROVEMENTS JUDICIAL DIVISION SECTION OF FAMILY LAW SECTION OF LITIGATION GENERAL PRACTICE, SOLO AND SMALL FIRM SECTION ILLINOIS STATE BAR ASSOCIATION OHIO STATE BAR ASSOCIATION NEW YORK STATE BAR ASSOCIATION TENNESSEE BAR ASSOCIATION VIRGINIA STATE BAR AMERICAN JUDICATURE SOCIETY YOUNG LAWYERS DIVISION	Recommends that the American Bar Association reaffirm its support for adequate levels of compensation for state judges in order to attract and retain the best-qualified persons to serve on the judiciary and encourages state, local and territorial bar associations to take a leadership role in promoting adequate compensation for state judges.	Approved
105B	STANDING COMMITTEE ON JUDICIAL INDEPENDENCE STANDING COMMITTEE ON ETHICS & PROFESSIONAL RESPONSIBILITY JUDICIAL DIVISION COALITION FOR JUSTICE STANDING COMMITTEE ON FEDERAL JUDICIAL IMPROVEMENTS SECTION OF FAMILY LAW STANDING COMMITTEE ON ELECTION LAW ILLINOIS STATE BAR ASSOCIATION TENNESSEE BAR ASSOCIATION SECTION OF BUSINESS LAW	Amends the <i>ABA Model Code of Judicial Conduct</i> in light of recent First Amendment challenges to judicial campaign speech restrictions.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
106	STANDING COMMITTEE ON LEGAL ASSISTANTS	Grants approval, reapproval and extension of the term of approval to several legal assistant education programs, and withdraws the approval of several programs.	Approved
107	COMMISSION ON LAW AND AGING HEALTH LAW SECTION SENIOR LAWYERS DIVISION COMMISSION ON MENTAL AND PHYSICAL DISABILITY LAW	Recommends specific reforms in the Medicare claims adjudication process to assure that Medicare beneficiaries are afforded due process throughout all levels of the claims and appeals process.	Approved
108	STANDING COMMITTEE ON ENVIRONMENTAL LAW SECTION OF ENVIRONMENT, ENERGY AND RESOURCES SECTION OF STATE AND LOCAL GOVERNMENT LAW SECTION OF INTERNATIONAL LAW AND PRACTICE YOUNG LAWYERS DIVISION SECTION OF BUSINESS LAW ADMINISTRATIVE LAW AND REGULATORY PRACTICE SECTION	Adopts the internationally accepted definition of sustainable development and encourages governments, businesses and other entities to promote sustainable development as well as to adopt and implement legal and policy incentives to support and encourage sustainable development.	Approved
109	SECTION OF ENVIRONMENT, ENERGY AND RESOURCES STANDING COMMITTEE ON ENVIRONMENTAL LAW	Urges Congress and the Administration to elevate protection of the environment of the United States to its highest level by enacting legislation elevating the U.S. Environmental Protection Agency to Cabinet-level status.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
110	ADMINISTRATIVE LAW AND REGULATORY PRACTICE SECTION SECTION OF BUSINESS LAW SECTION OF DISPUTE RESOLUTION COMMISSION ON LAW AND AGING SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES GOVERNMENT AND PUBLIC SECTOR LAWYERS DIVISION	Adopts revisions to the <i>Standards for the Establishment and Operation of Ombudsman Offices</i> , dated August 2003.	Withdrawn
111	SECTION OF INTERNATIONAL LAW AND PRACTICE SECTION OF BUSINESS LAW	Supports the prompt signature, ratification and implementation of The Hague Convention on the Law Applicable to Certain Rights in Respect of Securities Held with an Intermediary by the United States and by other countries.	Approved
112A	SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES SECTION OF FAMILY LAW STEERING COMMITTEE ON UNMET LEGAL NEEDS OF CHILDREN NATIONAL LESBIAN AND GAY LAW ASSOCIATION YOUNG LAWYERS DIVISION	Supports state and territorial laws and court 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.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
112B	SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES SECTION OF SCIENCE & TECHNOLOGY LAW YOUNG LAWYERS DIVISION BEVERLY HILLS BAR ASSOCIATION	Opposes efforts to repeal the sunset provision of the USA PATRIOT Act of 2001 and urges Congress to conduct a thorough review of the implementation of the powers granted to the Executive Branch under the Act before considering any extension or expansion of surveillance authority under the Act.	Approved
113	COMMISSION ON LOAN REPAYMENT AND FORGIVENESS COMMISSION ON INTEREST ON LAWYERS TRUST ACCOUNTS CRIMINAL JUSTICE SECTION GOVERNMENT AND PUBLIC SECTOR LAWYERS DIVISION SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR STANDING COMMITTEE ON LEGAL AID & INDIGENT DEFENDANTS STANDING COMMITTEE ON PRO BONO AND PUBLIC SERVICE COMMISSION ON HOMELESSNESS AND POVERTY GENERAL PRACTICE, SOLO AND SMALL FIRM SECTION LAW STUDENT DIVISION STANDING COMMITTEE ON THE DELIVERY OF LEGAL SERVICES YOUNG LAWYERS DIVISION NATIONAL LEGAL AID AND DEFENDER ASSOCIATION SECTION OF TORT TRIAL AND INSURANCE PRACTICE	Reaffirms encouragement of law schools, state, local and territorial bar associations and foundations, IOLTA programs, public service employers and federal, state and territorial lawmakers to establish programs, such as loan repayment assistance or forgiveness programs and public service scholarships, to enable law graduates to accept and remain in lower-paying government and public service legal employment.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
114	COMMITTEE ON SCOPE AND CORRELATION OF WORK	Recommends that the Special Committee on Medical Professional Liability be discontinued at the conclusion of the 2003 Annual Meeting and that the work of the committee be subsumed into the Section of Health Law.	Chair Ruled Moot Based on Approval of 11-8.
115	STANDING COMMITTEE ON ELECTION LAW SECTION OF STATE AND LOCAL GOVERNMENT LAW GOVERNMENT AND PUBLIC SECTOR LAWYERS DIVISION ADMINISTRATIVE LAW AND REGULATORY PRACTICE SECTION	Adopts <i>Model Statutory Language on Provisional Balloting and Commentary</i> , dated August 2003, which provides specific guidance to states that must draft provisional balloting statutes according to the Help America Vote Act of 2002.	Approved
116A	SECTION OF FAMILY LAW STEERING COMMITTEE ON UNMET LEGAL NEEDS OF CHILDREN GENERAL PRACTICE, SOLO AND SMALL FIRM SECTION	Protects the rights of any live-born human clones by supporting law and policy that establishes a presumption that a live-born human clone is legally a separate and distinct person from its progenitor and that a live-born human clone is a human being and has legal parents.	Withdrawn
116B	SECTION OF FAMILY LAW STEERING COMMITTEE ON UNMET LEGAL NEEDS OF CHILDREN GENERAL PRACTICE, SOLO AND SMALL FIRM SECTION YOUNG LAWYERS DIVISION	Adopts <i>Standards of Practice for Lawyers Representing Children in Custody Cases</i> , dated August 2003, which clarify that a lawyer remains a lawyer whether representing a child or a child's best interests.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
117	SECTION OF STATE AND LOCAL GOVERNMENT LAW SECTION OF HEALTH LAW GOVERNMENT AND PUBLIC SECTOR LAWYERS DIVISION YOUNG LAWYERS DIVISION SECTION OF ENVIRONMENT, ENERGY AND RESOURCES	Supports increased federal funding to state, local and territorial governments, including public authorities, to enable these “first responders” to prevent terrorist attacks and increase their readiness to respond to any attacks that do occur.	Approved (142; 103)
118	STEERING COMMITTEE ON UNMET LEGAL NEEDS OF CHILDREN COMMISSION ON HOMELESSNESS AND POVERTY STANDING COMMITTEE ON PRO BONO AND PUBLIC SERVICE SECTION OF STATE AND LOCAL GOVERNMENT LAW SECTION OF FAMILY LAW	Encourages efforts to secure safe, permanent homes for children in need of substitute care by: a) encouraging increased timeliness and efficiency in the placement process by all involved in the child’s placement; b) supporting ongoing continuing legal education concerning best practices for judges, lawyers and social workers; and c) evaluating and improving laws and policies procedures for the Interstate Placement of Children in need of permanency.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
119A	TASK FORCE ON CORPORATE RESPONSIBILITY SECTION OF BUSINESS LAW SECTION OF TAXATION SECTION OF TORT TRIAL AND INSURANCE PRACTICE STANDING COMMITTEE ON ETHICS & PROFESSIONAL RESPONSIBILITY YOUNG LAWYERS DIVISION SECTION OF REAL PROPERTY, PROBATE AND TRUST LAW TASK FORCE ON IMPLEMENTATION OF SECTION 307 OF SARBANES-OXLEY ACT OF 2002 LAW PRACTICE MANAGEMENT SECTION SECTION OF FAMILY LAW SECTION OF INTERNATIONAL LAW AND PRACTICE SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES ADMINISTRATIVE LAW AND REGULATORY PRACTICE SECTION	Amends Rule 1.6(b) of the <i>ABA Model Rules of Professional Conduct</i> to permit the lawyer to reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary and to amend the related Comment to Rule 1.6.	Approved (218; 201)

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
119B	TASK FORCE ON CORPORATE RESPONSIBILITY SECTION OF BUSINESS LAW SECTION OF TAXATION SECTION OF TORT TRIAL AND INSURANCE PRACTICE STANDING COMMITTEE ON ETHICS & PROFESSIONAL RESPONSIBILITY YOUNG LAWYERS DIVISION SECTION OF REAL PROPERTY, PROBATE AND TRUST LAW TASK FORCE ON IMPLEMENTATION OF SECTION 307 OF SARBANES-OXLEY ACT OF 2002 LAW PRACTICE MANAGEMENT SECTION SECTION OF FAMILY LAW SECTION OF INTERNATIONAL LAW AND PRACTICE SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES ADMINISTRATIVE LAW AND REGULATORY PRACTICE SECTION	Amends Rule 1.13 of the <i>ABA Model Rules of Professional Conduct</i> 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 in the best interest of the organization.	Approved as Amended* (239; 147)

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\* See attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
119C	TASK FORCE ON CORPORATE RESPONSIBILITY SECTION OF BUSINESS LAW SECTION OF TAXATION SECTION OF TORT TRIAL AND INSURANCE PRACTICE STANDING COMMITTEE ON ETHICS & PROFESSIONAL RESPONSIBILITY YOUNG LAWYERS DIVISION SECTION OF REAL PROPERTY, PROBATE AND TRUST LAW TASK FORCE ON IMPLEMENTATION OF SECTION 307 OF SARBANES-OXLEY ACT OF 2002 LAW PRACTICE MANAGEMENT SECTION SECTION OF FAMILY LAW SECTION OF INTERNATIONAL LAW AND PRACTICE SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES	Adopts corporate governance policies and related governance practices which involve structural and procedural reforms designed to enhance the independence and resources of outside directors or public corporation, increase the flow of material information and analysis to those directors, and enhance the ability of the lawyers representing public corporations to exercise and bear independent professional judgment.	Approved
120	COMMISSION ON DOMESTIC VIOLENCE SECTION OF FAMILY LAW YOUNG LAWYERS DIVISION NATIONAL ASSOCIATION OF WOMEN LAWYERS SECTION OF HEALTH LAW SECTION OF TAXATION STEERING COMMITTEE ON UNMET LEGAL NEEDS OF CHILDREN SECTION OF TORT TRIAL AND INSURANCE PRACTICE STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS	Encourages law schools and law students to promote awareness of domestic violence through law school activities and programs.	Approved as Amended*

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\* See attached

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
121	COMMISSION ON HOMELESSNESS AND POVERTY STEERING COMMITTEE ON UNMET LEGAL NEEDS OF CHILDREN COMMISSION ON MENTAL AND PHYSICAL DISABILITY LAW COMMISSION ON LAW AND AGING SECTION OF FAMILY LAW COMMISSION ON DOMESTIC VIOLENCE FORUM COMMITTEE ON AFFORDABLE HOUSING AND COMMUNITY DEVELOPMENT LAW STANDING COMMITTEE ON LEGAL AID & INDIGENT DEFENDANTS STANDING COMMITTEE ON PRO BONO AND PUBLIC SERVICE YOUNG LAWYERS DIVISION SECTION OF TORT TRIAL AND INSURANCE PRACTICE SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES	Opposes legislation to repeal the federal Section 8 low- income housing voucher program or similar legislative 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 and urges state, local and territorial bar associations to promote a better understanding of the Section 8 low-income housing voucher program.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
122	STANDING COMMITTEE ON LAW AND NATIONAL SECURITY ADMINISTRATIVE LAW AND REGULATORY PRACTICE SECTION JUDGE ADVOCATES ASSOCIATION BAR ASSOCIATION OF METROPOLITAN ST. LOUIS YOUNG LAWYERS DIVISION GENERAL PRACTICE, SOLO AND SMALL FIRM SECTION STANDING COMMITTEE ON ARMED FORCES LAW	Opposes the pursuit in the courts of one nation of war crimes charges against the uniformed military personnel or government officials of another nation where there is no international consensus that the conduct alleged, even if proven, would constitute a war crime justifying universal jurisdiction under international law, and where such other nation possesses and has demonstrated a willingness to employ a bona fide procedure to investigate and prosecute war crimes within its own system of justice.	Postponed Indefinitely (114; 105)
300A	SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR	Concurs with the decision of the Council of the Section of Legal Education and Admissions to the Bar that the University of St. Thomas School of Law in Minneapolis, Minnesota be granted provisional approval.	Approved
300B	SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR	Concurs in the action of the Council of the Section of Legal Education and Admissions to the Bar in adopting the additions and revisions to the Standards for Approval of Law Schools, the Interpretations of the Standards and the Rules of Procedure dated August 2003.	Approved

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION TAKEN</u>
300C	SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR	Concurs in the action of the Council of the Section of Legal Education and Admissions to the Bar in adopting the additions and revisions to the Standards for Approval of Law Schools, the Interpretations of the Standards, and the Rules of Procedure related to the Accreditation Process dated August 2003.	Approved
301	TASK FORCE ON ENEMY COMBATANTS SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES SECTION OF CRIMINAL JUSTICE NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK BEVERLY HILLS BAR ASSOCIATION	Calls upon Congress and the Executive Branch to ensure that all defendants in any military commission trials that may take place have the opportunity to receive the zealous and effective assistance of Civilian Defense Counsel.	Approved
400	REPORT WITH RECOMMENDATION ON ARCHIVING	Recommends that certain Association policies that pertain to public issues and are 10 years old or older be archived.	Approved as Revised*

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\* See attached

## ATTACHMENT

(NOTE: Deletions are struck through; Additions are underlined)

### Report No. 10B

The recommendation was revised to read as follows:

RESOLVED, That the American Bar Association urges each jurisdiction that regulates the practice of law to continue to define what constitutes the practice of law by case law decisions of its highest court or by court rule.

### Report No. 10C

The recommendation was amended to read as follows:

RESOLVED, That the American Bar Association opposes the text of the “Racial Privacy Initiative” or any similar measure which would prohibit any public entity (including schools, employers, or law enforcement agencies) from collecting or sorting any data on the basis of race or ethnicity, and urges bar organizations and associations to join in opposing such measures; ~~the “Racial Privacy Initiative,” which will appear on a statewide California ballot on October 7, 2003, and which would prohibit any California public entity (including schools, employers, or law enforcement agencies) from collecting or sorting any data on the basis of race or ethnicity; and~~

FURTHER RESOLVED, That the American Bar Association urges state, local and territorial bar associations to engage in educational programs for the electorate, the media and other organizations to inform those groups about ~~the deficiencies of the Racial Privacy Initiative and~~ the compelling reasons to collect and maintain ethnic and racial data.

**Report No. 101A**

**The recommendation was revised to read as follows:**

RESOLVED, That the American Bar Association adopts the black letter *ABA Criminal Justice Standards on Collateral Sanctions and Discretionary Disqualification of Convicted Persons*, dated August 2003.

**BLACK LETTER  
ABA STANDARDS FOR CRIMINAL JUSTICE (THIRD EDITION)  
COLLATERAL SANCTIONS AND DISCRETIONARY DISQUALIFICATION OF  
CONVICTED PERSONS  
(AUGUST 2003)**

....  
**Part II. Collateral Sanctions**  
....

**Standard 19-2.3 Notification of collateral sanctions before plea of guilty**

(a) The rules of procedure should require a court to ensure, before accepting a plea of guilty, that the defendant has been informed of collateral sanctions made applicable to the offense or offenses of conviction under the law of the state or territory where the prosecution is pending, and under federal law. Except where notification by the court itself is otherwise required by law or rules of procedure, this requirement may be satisfied by confirming on the record that defense counsel's duty of advisement under Standard 14-3.2(f) has been discharged.

(b) Failure of the court or counsel to inform the defendant of applicable collateral sanctions shall not be a basis for withdrawing the plea of guilty, except where otherwise provided by law or rules of procedure, or where the failure renders the plea constitutionally invalid.

**Standard 19-2.4 Consideration of collateral sanctions at sentencing**

(a) The legislature should authorize the sentencing court to take into account, and the court should consider, applicable collateral sanctions in determining an offender's overall sentence.

(b) The rules of procedure should require the court to ensure at the time of sentencing that the defendant has been informed of collateral sanctions made applicable to the offense or offenses of conviction under the law of the state or territory where the prosecution is pending, and under federal law. Except where notification by the court itself is otherwise required by law or rules of procedure, this requirement may

be satisfied by confirming on the record that defense counsel has so advised the defendant.

(c) Failure of the court or counsel to inform the defendant of applicable collateral sanctions shall not be a basis for challenging the sentence, except where otherwise provided by law or rules of procedure.

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### **Report No. 103**

**The recommendation was revised to read as follows:**

RESOLVED, That the American Bar Association adopts the Principles and Conclusions of the Commission on the 21<sup>st</sup> Century Judiciary, dated August 2003, to ensure judicial independence, accountability and efficiency.

FURTHER RESOLVED, That the American Bar Association urges all state, local and territorial bar associations to ensure the integrity of state and territorial judiciaries by promoting the implementation of the Principles and Conclusions of the Commission on the 21<sup>st</sup> Century Judiciary.

**American Bar Association  
Commission on the 21<sup>st</sup> Century Judiciary  
Principles and Conclusions  
August 2003**

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**I. ENDURING PRINCIPLES**

- A. Judges should uphold the law.
- B. Judges should be independent.
- C. Judges should be impartial.
- D. Judges should possess the appropriate temperament and character.
- E. Judges should possess the appropriate capabilities and credentials.
- F. Judges and the Judiciary should have the confidence of the public.
- G. The judicial system should be ~~racially~~ diverse and reflective of the society it serves.
- H. Judges should be constrained to perform their duties in a manner that justifies public faith and confidence in the courts.

## II. PRESERVING THE JUDICIARY'S INSTITUTIONAL LEGITIMACY

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### C. Diversification of the Justice System

- Members of the legal profession should expand their use of training and recruitment programs to encourage ~~minority~~ lawyers who reflect diversity to join their firms, they should include them fully in firm life, and they should prepare them for pursuing careers on the bench following their years in practice.
- Courts should promote a representative work force and diverse court appointments.
- Courts should act aggressively to ensure that language barriers do not limit access to the justice system.
- Courts should have in place formal policies and processes for handling allegations of bias.
- Information regarding diversity should be shared among the courts in a state and among the states.
- Measures should be adopted to improve and expand jury pool representation.

....

## III. IMPROVING JUDICIAL SELECTION

### A. The preferred system of state court judicial selection is a commission-based appointive system, with the following components:

- The governor should appoint judges from a pool of judicial aspirants whose qualifications have been reviewed and approved by a credible, neutral, non-partisan, diverse deliberative body or commission.
- Judicial appointees should serve ~~a single, lengthy term of least 15 years~~ ~~or~~ until a specified age. Judges so appointed should not be subject to reselection processes, and should be entitled to retirement benefits upon completion of judicial service.
- Judges should not otherwise be subject to reselection, nonetheless remain subject to regular judicial performance evaluations and disciplinary processes that include removal for misconduct.

....

**Report No. 119B**

**The recommendation was amended to read as follows:**

**RESOLVED**, That Rule 1.13 of the Model Rules of Professional Conduct and its Comment be amended as follows:

**RULE 1.13: ORGANIZATION AS CLIENT**

....  
(b) If a lawyer for an organization knows ~~facts from which a reasonable lawyer, under the circumstances, would conclude~~ that an officer, employee or other person associated with the organization is engaged in action, intends to act or refuses to act in a matter related to the representation that is a violation of a legal obligation to the organization, or a violation of law which reasonably might be imputed to the organization, and that is likely to result in substantial injury to the organization, then the lawyer shall proceed as is reasonably necessary in the best interest of the organization. Unless the lawyer reasonably believes that it is not necessary in the best interest of the organization to do so, the lawyer shall refer the matter to higher authority in the organization, including, if warranted by the circumstances, to the highest authority that can act on behalf of the organization as determined by applicable law.

....

**Comment**

**The Entity as the Client**

....

[3] When constituents of the organization make decisions for it, the decisions ordinarily must be accepted by the lawyer even if their utility or prudence is doubtful. Decisions concerning policy and operations, including ones entailing serious risk, are not as such in the lawyer's province. Paragraph (b) makes clear, however, that when the lawyer knows ~~facts that would lead a reasonable lawyer under the circumstances to conclude~~ that the organization is likely to be substantially injured by action of an officer or other constituent that violates a legal obligation to the organization or is in violation of law that might be imputed to the organization, the lawyer must proceed as is reasonably necessary in the best interest of the organization. As defined in Rule 1.0(f), knowledge can be inferred from circumstances, and a lawyer cannot ignore the obvious. ~~The lawyer's obligation to proceed as is reasonably necessary in the best interest of the organization is determined by the conclusions that a reasonable lawyer would, under the circumstances, draw from the facts known. The terms "reasonable" and "reasonably" imply a range within which the lawyer's conduct will satisfy the requirements of Rule 1.13. In determining what is reasonable in the best interest of the organization the circumstances at the time of determination are relevant. Such circumstances may include, among others, the lawyer's area of expertise, the time constraints under which the lawyer is acting, and the lawyer's previous experience and~~

~~familiarity with the client. For example, the facts suggesting a violation may be part of a large volume of information that the lawyer has insufficient time fully to comprehend. Or the facts known to the lawyer may be sufficient to signal the likely existence of a violation to an expert in a particular field of law but not to a lawyer who works in another specialty. Under such circumstances the lawyer would not have an obligation to proceed under Paragraph (b).~~

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### **Report No. 120**

**The recommendation was amended to read as follows:**

~~RESOLVED, That the American Bar Association encourages law schools and law students to promote awareness of incorporate education about domestic violence within their substantive, clinical, and specialty law curricula and through law school activities and programs.~~

~~FURTHER RESOLVED, That this policy is not intended to impact the accreditation of law schools.~~

### **Report No. 400**

**The following policies were removed from Report No. 400. They were returned to the list of active policies without debate.**

<b><u>Policy Number</u></b>	<b><u>Title</u></b>
24	Qualified Medicare Beneficiary Program
58	Immigration and Nationality Act