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#### REPORT OF THE SECRETARY

To: Members of the House of Delegates

#### I. Resolutions Committee

The Resolutions Committee is responsible for monitoring and determining the implementation of recommendations contained in reports adopted by the Executive Committee and/or House of Delegates. The Secretary, as chair, updates the House on the status of these initiatives.

The committee recently contacted NYSBA committees and sections for action regarding recommendations contained in reports issued by the following: (1) <u>Committee on Civil Rights (solitary confinement)</u>; (2) <u>Special Committee on Voter Participation</u>; and (3) <u>Task Force on Family Court</u>. The committee will collect responses and present a report to the Executive Committee at its November meeting on the status of the implementation efforts.

In addition, the committee reached out to committees and sections in March and April for assistance with implementation of the following reports: (1) <u>Special Committee on Immigration Representation</u>; and (2) <u>Special Committee on Veterans</u>. The committee collected responses and submitted them to the Executive Committee for review at this June meeting.

The committee also prepared an implementation plan for a report issued by the <u>Special Committee on Discovery and Case Management in Federal Litigation</u>. This plan was submitted to the Executive Committee for review at this June meeting.

# II. Status of Initiatives Approved by Executive Committee and/or House of Delegates

## A. Shareholders' Remote Attendance and Voting

The Business Law Section proposed legislation that would permit corporations to hold electronic shareholder meetings. The Executive Committee approved the proposal in January 2012. NYSBA's Department of Governmental Relations thereafter submitted the proposal to interested legislators and discussed it with key legislative staff members. Legislation to facilitate shareholders' remote attendance and voting in corporate meetings has been passed by the New York State Assembly. It recently was introduced in the New York State Senate.

#### B. Gender Expression Non-Discrimination Act

The Special Committee on LGBT People and the Law issued a report and recommendations for counteracting discrimination that is faced by transgender and gender-variant individuals. The Executive Committee approved the report and recommendations in June 2010. NYSBA is on record in support of the Gender Expression Non-Discrimination Act ("GENDA"). The legislation will provide important protections with respect to employment, housing, and personal safety. The bill has been passed by the New York State Assembly, and it is awaiting action in the New York State Senate.

### C. <u>Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act</u>

The Elder Law Section advocated for the adoption of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act ("UAGPPJA"). The Executive Committee approved the section's proposal in May 2012. The key concept of the UAGPPJA is that the "home state" of a person should have jurisdiction over that person for guardianship purposes, regardless of where the person is physically located. Section representatives have met with legislators to urge passage of the bill. It has been passed by both houses of the New York State Legislature and is awaiting consideration by Governor Andrew Cuomo.

### D. <u>Interest on Legacies</u>

The Trusts and Estates Law Section issued a report and recommendations for an amendment to the New York Estates, Powers and Trusts Law regarding the payment of interest on legacies. The Executive Committee approved the report and recommendations in October 2008. A bill was created that would change the applicable interest rate that is payable on a delayed payment of a legacy. Currently, the applicable interest rate is a statutorily fixed rate of 6%. The bill would change the rate to a flexible interest rate which is tied to the federal funds rate and better reflects the time value of money. The legislation has been passed by the New York State Assembly, and it has advanced significantly towards passage in the New York State Senate.

## E. Technical Amendments Relating to the Marriage Equality Act

The Trusts and Estates Law Section developed a bill relating to the Marriage Equality Act. The Marriage Equality Act, which was enacted as Chapter 95 of 2011, provides that marriages of same-sex and different-sex couples are to be treated equally in all respects under the law. The current bill makes changes to the following laws that reflect the provisions of the Marriage Equality Act: (1) New York Estates, Powers and Trusts Law; and (2) New York Surrogate's Court Procedure Act. The bill has been passed by the New York State Assembly, and it is under consideration in the New York State Senate.

#### F. In-House Counsel Pro Bono Service

The Corporate Counsel Section proposed an amendment to Part 522 of the Rules of the Court of Appeals. The amendment would permit licensed in-house counsel to provide pro bono services, in addition to providing legal services for their employers. The Executive Committee and the House of Delegates approved the proposed amendment in June 2012. In July 2012, NYSBA recommended the amendment to the Administrative Board of the Courts. In March 2013, the Administrative Board declined to publish the proposal for comment. Last month, Chief Judge Jonathan Lippman announced the creation of an Advisory Group on In-House Counsel Pro Bono Service. The advisory group, which is being chaired by Associate Judge Victoria Graffeo, has been charged with making recommendations on how to effectively use in-house counsel on pro bono projects.

# G. <u>Statement of Client's Rights/Responsibilities</u>

The Committee on Standards of Attorney Conduct recommended amendments to the Statement of Client's Rights, and it prepared recommendations regarding the Statement of Client's Responsibilities. The Executive Committee and House of Delegates approved the committee's related report and recommendations in June 2012. In July 2012, NYSBA recommended to the Administrative Board of the Courts certain amendments to the Statement of Client's Rights. In February 2013, we were advised that the Administrative Board of the Courts had approved these amendments. In April 2013, the Appellate Division of State Supreme Court approved the proposal and amended the Statement of Client's Rights as we recommended. The Statement of Client's Rights is required to be displayed in law offices, and lawyers now need to post a new statement. The new statement is available at www.nysba.org in the "News, Notes, and Notices" section. Similar amendments were made to the Statement of Client's Responsibilities. The Statement of Client's Responsibilities is not contained in a court rule; it has been adopted solely by NYSBA.

#### H. Redaction in Court Filings

At an Executive Committee meeting in April 2013, the Committee on Courts of Appellate Jurisdiction submitted proposed comments on a court rule addressing the redaction of confidential information from court filings. The committee recommended that one uniform rule be adopted by all courts. The Executive Committee appointed a working group to determine whether a specific redaction rule should be recommended. Ultimately, the Executive Committee concluded that uniform redaction rules should be supported, but that such rules should take into account the potential need for special rules to govern certain types of proceedings. The comments of the Committee on Courts of Appellate Jurisdiction, together with comments prepared by the Elder Law Section, were submitted to the Office of Court Administration in May 2013.

Respectfully submitted,

Suce Winds

David P. Miranda