



NEW YORK STATE BAR ASSOCIATION

FEDERAL LEGISLATIVE PRIORITIES 2014



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Integrity of the Justice System. At all levels of government an independent, well-functioning judicial system, accessible to all, is a bedrock principle of our democracy. The courts more than any other arm of government, are the bulwark of liberty. Accordingly, sequestration, which was imposed by the Budget Control Act of 2011, should be eliminated. If the budget sequestration process remains in place, it will cripple the operation of the federal courts and the Legal Services Corporation, thereby limiting access to the justice system for individual New Yorkers and business entities. The Association will continue to urge federal policymakers to address important fiscal issues so as to prevent impairing access to justice.

Support Increased Voter Participation. In the United States, voting is one of our most fundamental rights, ensuring our ability to participate in the electoral process. However, the rate of voter participation is of concern throughout the nation. Measures to remove barriers to registration and voting and to encourage participation, while maintaining the integrity of the process, could go a long way to improve civic engagement and enhance our democracy. The Voter Empowerment Act would, among other things, amend the National Voter Registration Act of 1993 (NVRA) to require each state to make available official public websites for online voter registration. It also would authorize automated voter registration of certain individuals and establishes other initiatives to promote voter registration, such as same day registration and voter registration of individuals under 18 years of age.

Repeal of the Defense of Marriage Act (DOMA)/Support the Respect for Marriage Act. In Windsor, the Supreme Court struck down Section 3 of DOMA, which excluded married same-sex couples from federal protections, responsibilities, and programs. Section 2 of DOMA, which purports to excuse the states from honoring the marriage of same-sex couples performed by a sister state, still stands. The Respect for Marriage Act would repeal Section 2 of DOMA, and would also provide a uniform rule for recognizing couples under federal law, ensuring that all lawfully married couples will be recognized under federal law, no matter where they live. The Association supports legislation that would follow the well-established principle of “full faith and credit”, and require states to recognize each other’s marriage licenses for same-sex couples. The law should grant federal recognition to same-sex marriages entered into in any state that allows them, regardless of the couple’s state of residence. The Association supports equity for same-sex couples and objects to discrimination against individuals on the basis of their sexual orientation and, therefore, urges repeal of the remaining sections of DOMA and urges enactment of the Respect for Marriage Act.

Support legislative reform to address the state of crisis in immigration representation. The condition of immigrants who face civil immigration detention, removal and likely permanent expulsion from the United States is often undermined by the lack of available competent counsel necessary to navigate the “labyrinthine character of modern immigration law.” Without competent counsel in immigration proceedings, a vast majority of noncitizens are ill-equipped to know where to turn for help or how to proceed in an immigration matter. The Association is committed to enactment of a statutory right to appointed counsel to ensure justice for that community of immigrants who are confronted with sanctions under U.S. laws on immigration.

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Administration of Justice.

Support for the Rules Enabling Act rule-making process and maintaining Rule 11 of the Federal Rules of Civil Procedure (“FRCP”). The Lawsuit Abuse Reduction Act (LARA) would amend FRCP Rule 11 – via a process that is inconsistent with the Rules Enabling Act, 28 USC sections 2072-74 – to reinstate a mandatory sanctions provision that was deleted from the FRCP in 1993. Enactment of LARA would constitute bad public policy by restoring a system that was in effect from 1983 to 1993, and which was thoroughly discredited because it did not allow for ameliorative action by the courts. If enacted, LARA would significantly multiply satellite litigation, substantially degrade the efficiency of the courts, and greatly increase costs of the litigation process.

Support for states’ authority to regulate the tort system. Laws covering the area of civil justice are truly the province of state legislatures, the judiciary, and voters. For over 200 years the authority to promulgate “tort law”, including law relating to liability for medical errors, has rested with the states, which have the experience and expertise with these matters. The federal government should leave it to the states to determine how best to provide access to the courts for the injured to exercise their right to seek compensation for their injuries and to make reasonable adjustments to the system.

Support for the Legal Profession. A core mission of the New York State Bar Association is to represent the interests of the legal profession. In that regard, the Association will work to protect the independence of the judiciary, enhance access to the courts, promote affirmative legislative proposals that benefit the profession, and oppose those proposals that would burden it. The Association will work to ensure that attorneys are able to protect their clients’ interests and effectively engage in the practice of law.



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One Elk Street, Albany, NY 12207

518.463.3200

www.nysba.org