



LEGISLATIVE AGENDA

2007 -2008

*CARRYING THE TORCH:
POWER THROUGH COLLOBORATION*

Objectives of the National Bar Association

"...to promote legislation that will improve the economic condition of all American citizens, regardless of race, sex or creed in their efforts to secure a free and untrammelled use of the franchise guaranteed by the Constitution of the United States; and to protect the civil and political rights of the citizens and residents of the United States"

H. R. 1592, Local Law Enforcement Hate Crimes Prevention Act of 2007

The National Bar Association *supports* H.R. 1592, the Local Law Enforcement Hate Crimes Prevention Act of 2007 (see also H. Res. 354 and S. 1105). Introduced by *Rep. John Conyers (D-MI)*, H.R. 1592 provides Federal assistance to States, local jurisdictions, and Indian tribes to prosecute hate crimes .

Passed House Amended. Received in Senate, read twice and referred to the Committee on the Judiciary.

H. R. 1592, Local Law Enforcement Hate Crimes Prevention Act of 2007

- Defines "hate crime" as a violent act causing death or bodily injury because of the actual or perceived race, color, religion, national origin, sexual orientation, gender, gender identity or disability of the victim.
- Amends the federal criminal code to impose a fine and/or prison term of up to 10 years on any person who willfully causes bodily injury to any person, or who, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily harm to any person, because of the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity or disability of such person
- Authorizes the Attorney General, at the request of a state, local, or Tribal law enforcement agency, to provide technical, forensic, prosecutorial, or other assistance in the criminal investigation or prosecution of any crime that: (1) constitutes a crime of violence; (2) constitutes a felony under state, local, or Tribal laws; and (3) is motivated by prejudice based on the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of the victim or is a violation of the state, local, or Tribal hate crime laws.

H.R. 460, THE CRACK-COCAINE EQUITABLE SENTENCING ACT OF 2007

The National Bar Association **supports** H.R. 460, the Crack Cocaine Equitable Sentencing Act of 2007 (*See also* H.R. 79, S. 1383, S. 1685, S.1711). H.R. 460, introduced by *Representative Charles Rangel (D-N.Y.)*, would amend the Controlled Substances Act and the Controlled Substances Import and Export Act to eliminate specified mandatory minimum penalties relating to the trafficking in, and possession, importation, or distribution of, crack cocaine.

Bill may be heard in the House Judiciary Committee in January 2008.

H.R. 460, THE CRACK-COCAINE EQUITABLE SENTENCING ACT OF 2007

- Treats 50 grams of crack the same as 50 grams of other forms of cocaine
- Treats 5 grams of crack the same as 5 grams of other forms of cocaine
- Treats the possession of crack the same as the possession of other forms of cocaine
- Treats the importation of crack the same as the importation of other forms of cocaine
- Requires that the Sentencing Guidelines be amended to conform with the amendments of this Act
- S. 1711 Drug Sentencing and Cocaine Kingpin Trafficking Act of 2007, by Sen. Biden, targets cocaine Kingpins and addresses sentencing disparity between crack and powder cocaine. This bill also deserves the support of the National Bar Association.

H.R. 1593, THE SECOND CHANCE ACT OF 2007

The National Bar Association **supports** H.R. 1593, the Second Chance Act of 2007. (*See also S.1060*).
Introduced by *Rep. Danny Davis (D-IL)*, H.R. 1593 seeks to reduce recidivism, increase public safety, and help State and local governments better address the growing population of ex-offenders returning to their communities.

Passed by the House.

H.R. 1593, THE SECOND CHANCE ACT OF 2007

- Requires the Attorney General to make grants to establish state and local reentry courts to monitor offenders and provide them with access to comprehensive reentry services and programs
- Requires the Attorney General to make grants to establish and administer Comprehensive and Continuous Offender Reentry Task Forces.
- Authorizes the Attorney General to make grants to state and local prosecutors for drug treatment programs that are alternatives to imprisonment. **10M would be appropriated for the fiscal year of 2008 and 2009**
- Authorizes the Attorney General to make grants to states, local governments, territories, and Indian tribes for family substance abuse treatment alternatives to incarceration for nonviolent parent drug offenders.
- Authorizes the Attorney General to make grants to provide prison-based family treatment programs for incarcerated parents of minor children.
- Requires the Attorney General to carry out a grant program to evaluate methods to improve academic and vocational education and educational services for offenders in prisons, jails, and juvenile facilities.
- The Attorney General shall take such steps as are necessary to implement a program to educate employers about existing incentives for hiring former Federal, State, or local prisoners, including the Federal bonding program and tax credits. **5M would be appropriated for the fiscal year of 2008 and 2009.**

S. 453, THE DECEPTIVE PRACTICES AND VOTER INTIMIDATION PREVENTION ACT OF 2007

The National Bar Association **supports** S.453, The Deceptive Practices and Voter Intimidation Prevention Act of 2007. (*See also H.R. 1281*). Introduced by *Senator Barack Obama (D-IL)*, S. 453 prohibits and punishes deceptive practices committed with the intent to prevent another person from voting.

Senate Judiciary Committee recommended bill be considered by the Senate as a whole.

S. 453, THE DECEPTIVE PRACTICES AND VOTER INTIMIDATION PREVENTION ACT OF 2007

- Since 2004, Election Protection collected reports of deceptive practices or voter intimidation from more than 30 states.
- Those who wish to intimidate voters have turned to more sophisticated and nuanced devices - often targeted at minority voters, language minorities, seniors, and young people - trying to win elections through fraud instead of through the democratic process.
- Intentionally misleading voters is currently **not** against the law.
- The act provides comprehensive definitions of what constitutes a deceptive practice
- The act criminalizes such practices and states appropriate penalties.
- The act outlines an innovative system to help disseminate correct information to voters who have been victims of these practices.
- The act creates a reporting structure for incidents that will help citizens to address grievances.
- The act calls on the Department of Justice to work with leading civil rights and voter protection organizations, other Federal agencies and state officials to develop the most effective way to address this problem

H.R. 811, Voter Confidence and Increased Accessibility Act of 2007

The National Bar Association, **supports** H.R. 811, *introduced by Rep. Holt (D-NJ)*, which would make paper ballots or voter-verifiable paper records the ballots of record for purposes of a recount in all federal elections, and require all voting technology to be audited and accessible.

H.R. 811, Voter Confidence and Increased Accessibility Act of 2007

- The bill does not ban the use of touch screen voting machines, however, it does require such machines to produce auditable, voter-verifiable paper records when they are used, beginning with the 2008 presidential elections. Further, the bill does not mandate the use of any specific type of machine – or that machines be used at all. It simply requires that whatever systems are used produce paper records that can be verified by voters and audited by experts.
- The bill makes paper ballots the ballots of record for purposes of a recount in every federal election starting in 2008, whether the voter votes directly on paper or via machine. Under this legislation, all machines must produce durable paper ballots that voters can review to verify that their votes have been accurately recorded.
- The bill creates such standards, and mandates that all recounts be based on paper ballots of record, which must eventually be counted by hand regardless of state law restrictions. This requirement takes effect beginning with the 2008 presidential elections.
- Most states require that ballots be kept secret. The bill expressly codifies this requirement, and takes particular care to ensure that the votes of Americans in the military will be kept secret.

H.R. 916, THE JOHN R. JUSTICE PROSECUTORS AND DEFENDERS INCENTIVE ACT OF 2007

The National Bar Association *supports* H.R. 916, the John R. Justice Prosecutor's and Defender's Incentive Act 2007 (see also H.R. 893 and S. 442). Introduced by *Rep. David Scott (D-GA)*, H.R. 916 would establish a targeted student loan repayment assistance program to recruit and retain qualified attorneys for work as prosecutors and public defenders.

Bill has passed the House. Must be received by the Senate.

H.R. 916, THE JOHN R. JUSTICE PROSECUTORS AND DEFENDERS INCENTIVE ACT OF 2007

- Provide Student Loan Repayment Assistance for those young lawyers that decide to become prosecutors or public defenders
- Student loan debt is the number one obstacle to recruitment and retention of qualified attorneys to careers in a public defense agency. The problem is worst "for low-income students with the highest loans, consisting disproportionately of minorities." (Senate Judiciary Committee in its report in 2003)
- These problems equally affect prosecutors
- Establishes a program of student loan forgiveness for borrowers who agree to remain employed, for at least three years, as either 1) state or local criminal prosecutors; or, 2) state, local or Federal public defenders in criminal cases
- Lawyer can receive up to \$10,000 in any calendar year; or an aggregate total of \$60,000
- Allows a borrower and the Attorney General to enter into an additional loan repayment agreement, after the required three-year period, for a successive period of service which may be less than three years.
- Initial funding in the amount of \$25,000,000 should be appropriated

H.R. 3093, FEDERAL FUNDING FOR THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

The National Bar Association *supports* H.R. 3093, the Commerce, Justice, and Science Appropriations Act, FY 08, which increases funding for EEOC's FY 08 budget from \$327M to \$331M.

H.R. 3093, FEDERAL FUNDING FOR THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

- President recommended a \$4M budget cut at the Equal Employment Opportunity Commission in 2006
- A backlog of cases exists within the EEOC with an anticipated rise to 50,000 by 2007
- Not enough attorneys, investigators and other staff to handle number of cases currently filed; President's version of budget makes it difficult to remedy situation
- House signed off on budget cut; Senate Oversight Committee passed report language to save EEOC from budget cut

H.R. 3093, FEDERAL FUNDING FOR DRUG COURTS

The National Bar Association *supports* H.R. 3093's funding of a federal drug court system and increased funding to state drug courts.

H.R. 3093, FEDERAL FUNDING FOR DRUG COURTS

- Created in the late 80's due to an increase in drug and alcohol related cases and prison overflow; Seen as effective alternative to incarceration
- Voluntary program, where defendant's participation results in a reduction or dismissal of the charges against them
- Defendant is under court supervision and is required to seek job and educational training
- Eligibility is based on legal (prosecutor) and clinical (medical professional) screening; Factors considered in order to be eligible include: does defendant have a victim?, does the victim consent to this program?, are there restitution issues involved?
- Defendant has an opportunity to review program requirements with his/her attorney, the Judge, and the program coordinator
- Program helps in identifying potential habitual offenders early and gets them the much needed help
- Building strong community relationships is also important, as this is a community based program. Defendants should be required to do some community service as part of the rehabilitation process, which will help build their ties to the local community
- Drug Court Teams are usually composed of the judge, prosecutor, defense attorney, treatment provider, law enforcement officer, probation officer, case manager, program coordinator.
- There is also a community advisory board made up of community leaders and professionals, and clergy, who provide advice to the program coordinator and assist in raising funds for the program. These individuals are necessary in order to provide the necessary community support to defendants
- Funding for this program is usually received from the Office of Justice Programs at the Department of Justice, Office of National Drug Control Policy, Center for Substance Abuse Treatment, Center for Substance Abuse Prevention, Edward Byrne Memorial Grant, and local law enforcement block grants. In some cases, defendants are required to pay a participation fee which goes towards funding the program

H.R. 3093, INCREASED FUNDING FOR LEGAL SERVICES CORP.

The National Bar Association *supports* H.R. 3093, which proposes an eight-percent (8%) increase in federal funding for the Legal Services Corporation (LSC).

H.R. 3093, INCREASED FUNDING FOR LEGAL SERVICES CORP.

LSC is an independent, non-profit Corporation created by the Congress in 1974 to promote equal access to justice and to provide high-quality civil legal assistance to low-income Americans.

H.R. 2826, THE HABEAS CORPUS RESTORATION ACT OF 2007

The National Bar Association *supports* H.R. 2826, The Habeas Corpus Restoration Act of 2007. The legislation repeals those provisions of the Detainee Treatment Act of 2005 (DTA) and the Military Commissions Act of 2006 (MCA) that eliminated the jurisdiction of any court to hear or consider applications for a *writ of habeas corpus* filed by aliens who have been determined by the United States to be properly detained as enemy combatants, or are awaiting such determination.

H.R. 2826, THE HABEAS CORPUS RESTORATION ACT OF 2007

- Amends the federal judicial code to allow an alien detained by the United States as an enemy combatant to apply for a writ of habeas corpus, including an application challenging transfer, or bring an action solely for prospective injunctive relief against transfer, except for an alien in a zone of active combat involving U.S. Armed Forces.
- Limits the review of prosecutions, trials, or judgments of a military commission to that provided by the Code of Military Justice or by a habeas corpus proceeding.

S. 1642, THE HIGHER EDUCATION AMENDMENTS ACT OF 2007

The National Bar Association **supports** S. 1642, The Higher Education Amendments Act of 2007. The legislation, *introduced by Sen. Kennedy (D-MA)*, among other things, preserves full funding for the Thurgood Marshall Legal Education Opportunity Program to help disadvantaged students obtain a legal education.

S. 1642, THE HIGHER EDUCATION AMENDMENTS ACT OF 2007

- To award Thurgood Marshall Fellowships to eligible law school students.
- Eligible students are those who participate in summer institutes or comparable summer institutes certified by the Council on Legal Education Opportunity and are enrolled in an accredited law school.

H.R. 2831, Lilly Ledbetter Fair Pay Act

The National Bar Association *supports* the passage of S. 1842/H.R. 2831, which seeks to address the Supreme Court's decision in *Ledbetter v. Goodyear* (550 U. S. ____ (2007)).

Passed the House and sits on the Senate calendar.

H.R. 2831, Lilly Ledbetter Fair Pay Act

- The Supreme Court majority's May 2007 opinion ignored the realities of the workplace and of pay discrimination and severely reduced an employee's ability to challenge discriminatory practices.
- Pay information is often confidential; therefore, employees are rarely able to uncover such discrimination and file claims quickly.
- Fear of retaliation may make an employee reluctant to raise a pay discrimination claim before he or she has had the time to build up a strong work record to prove the retaliatory nature of an adverse employment decision.
- The belief that pay discrimination happens as a single, discrete act and should be challenged as at odds with the spirit of the Civil Rights Act of 1964 and the intent of Congress to provide a more streamlined and simple process for employees attempting to challenge compensation discrimination.
- Reiterates Congress' intent to hold employers accountable for their discriminatory practices and to allow employees a fair chance to challenge unlawful pay discrimination.
- Returns us to the longstanding rule that treated each and every discriminatory paycheck as a new act of discrimination, thus re-starting the 180-day clock for filing a discrimination complaint with the Equal Employment Opportunity Commission.
- Eliminates the need to file repeated and redundant charges, which only burdens the EEOC and makes it more difficult for employees to challenge similar instances of employer discrimination in compensation.
- Recognizes that initial discriminatory decisions regarding pay can have consequences that last far into the employee's career, including raises and pension plan contributions.
- Maintains both the 180-day rule for filing a timely claim and the two-year limitation under Title VII for the recovery of back pay.

H.R. 1905, THE D.C. HOUSE VOTING RIGHTS ACT OF 2007

The National Bar Association *supports* H.R. 1905, the District of Columbia House Voting Rights Act of 2007 (*See also* S. 1257). The legislation, introduced by *Del. Eleanor Holmes Norton (D-D.C.)*, would provide the District of Columbia with full representation in the U.S. House of Representatives.

Bill was passed by the House.

H.R. 1905, THE D.C. HOUSE VOTING RIGHTS ACT OF 2007

- H.R. 1905, would add two voting members to the U.S. House of Representatives—one to represent Washington, DC, and one to represent the next eligible state (Utah).
- The DC VRA establishes DC as a congressional district for the purposes of representation in the House, and Washingtonians would receive a vote in Congress for the first time ever.
- The DC VRA would also provide for an additional representative to the next eligible state (Utah).
- The Constitution gives Congress exclusive legislative authority over DC in Article I, Section 8, Clause 17.
- Legal scholars, including Kenneth Starr, Viet Dinh, Patricia Wald, and others, hold that the Congress has the authority to grant the District of Columbia full congressional voting representation by passing simple legislation.
- A national poll conducted in January 2005 showed that 82 percent of Americans believe that Washingtonians deserve full voting representation in the House and Senate.
- S. 1257 specifically identifies the next eligible state as Utah. Heard by Senate committee and placed on the Senate's calendar of business.

How NBA members can support the Legislative Agenda....

- Each Regional Director and Affiliate Representative should forward the Legislative Agenda to the Affiliate Members
- Affiliate Members should disseminate the information with their members
- Each member should register to receive email alerts about the bills on the Legislative Agenda.
- Members are encouraged to call, write, or email their U.S. Representative and U.S. Senator about the NBA Legislative Agenda
- Each Region, Section and Division should promote the NBA Days on the Hill to their members: **May 2008**
- Each Affiliate Member should promote the NBA Days on the Hill to their membership

Find Your Legislators!

Go to the National Bar Association Website and look for this icon to help you find the name of your Representative and Senator. You will also find their contact information.



Tracking Legislation

Several Sites will help you track legislation

<http://www.house.gov>

<http://www.senate.gov>

<http://www.govtrack.us>*

<http://thomas.gov>

* You can register to receive email alerts

Other Important Websites

www.congressionalblackcaucus.net

www.hillnews.com

www.naacpldf.org

www.rollcall.org

www.sentencingproject.com

www.lawyerscommittee.org

www.pfaw.org

NBA DAYS ON THE HILL

Make plans to attend the
National Bar Association's
Days on the Hill
May 13 – 14, 2008

Go to the NBA website for more information
beginning in February 2008