

## CBA LEGISLATIVE AGENDA April 2021

The Connecticut Bar Association has authorized **Association positions** on the following issues for the 2021 regular legislative session of the Connecticut General Assembly:

**Tax on Legal Services.** The CBA, on behalf of the CBA Executive Committee, opposes the imposition of any tax on legal services. Approved by the House of Delegates, December 14, 2020; expires end of 2023 Legislative session.

**Human Trafficking.** The CBA, on behalf of the Committee on Human Trafficking and the Human Rights and Responsibilities sections, support legislation that strengthens anti-human trafficking efforts, not limited to redefining trafficking to a federal statute; providing additional anti-trafficking training; and extending confidentiality provisions, providing immunity from prosecution and establishing affirmative defenses for victims of child trafficking in connection with trafficking-related offenses. Approved by the House of Delegates, June 17, 2019; expires end of 2022 Legislative session.

**Right to Counsel in Eviction Cases.** The CBA, on behalf of the Pro Bono Committee, supports legislation for a pilot program to be established in one judicial district to provide legal representation for defendants and plaintiffs in residential eviction cases as was recommended by the Civil Gideon Pilot Program report to the CT General Assembly, July 1, 2019 and the Task Force to Improve Access to Legal Counsel in Civil Matters. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

**Civics Education Task Force.** The CBA, on behalf of the Civics Education committee, supports legislation which would establish the Connecticut Civics Education Task Force to review and improve civics education in Connecticut and develop guidelines, standards and curricula for that purpose. Approved by the House of Delegates, March 22, 2021; expires end of 2024 Legislative session.

**Civil Gideon.** The CBA, on behalf of the Pro Bono Committee, supports legislation of a pilot program for counsel for indigents in civil restraining orders under CGS 46b-15. Currently applicants and respondents without sufficient funds lack access to counsel. This bill arises out of the Task Force for Right to Counsel in Civil Matters. Approved by the House of Delegates, October 19, 2020; expires end of 2023 Legislative session.

**Legal Services to Homeless Veterans.** The CBA, on behalf of the Pro Bono Committee supports the Legal Services to Homeless Veterans Act of 2017 that would amend Title 38, United States Code, to authorize the Secretary of Veterans Affairs to award grants or enter into contracts with public and private entities to provide pro bono legal services to homeless veterans and veterans at risk of homelessness. Such grants and contracts are subject to the availability of funds. Approved by the House of Delegates, October 19, 2020; expires end of 2023 Legislative session.

**Foreclosure Mediation Program.** The CBA, on behalf of the Consumer Law Section, supports legislation to extend the Foreclosure Mediation Program (FMP) through 2023 as proposed by S.B. 823, which was approved by the Judiciary Committee, and by H.B. 6996, which has been approved by the Banking Committee. Presently the FMP is scheduled to sunset on June 30, 2019. Approved by the House of Delegates, June 17, 2019; expires end of 2022 Legislative session. (PA19-145)

**Elimination of Transcription Services.** The CBA, on behalf of the CBA Executive Committee, Litigation, Appellate Advocacy, Estates & Probate, Human Rights and Responsibilities, Law Librarians, Administrative Law and Education Law sections oppose legislation seeking the elimination of transcription services for public hearings at the legislature. Legislative intent will be missing in that dialogue between the person testifying and the legislator will not be available through transcription. Approved by the House of Delegates, June 18, 2018; expires end of 2021 Legislative session.

A CBA Section has an authorized position on the following issues during the 2021 regular legislative session of the Connecticut General Assembly:

***Alternative Dispute Resolution Section:***

**Uniform Mediation Act.** The Alternative Dispute Resolution section supports legislation promoting uniformity in mediation, establishing the integrity of the mediation process as a method of resolving conflict and self-determination, and setting forth clear guidelines safeguarding the confidentiality of mediation proceedings. Approved by the House of Delegates, December 16, 2019; expires end of 2022 Legislative session.

***Animal Law Section:***

**Big Six.** The Animal Law Section supports legislation to prohibit the importation and trade of big six African species. These endangered animals are sought by trophy hunters and armed commercial poachers who sell ivory and organs. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

***Business Law Section:***

**Virtual Meetings.** The Business Law section supports legislation to amend the Connecticut Business Corporation Act (CBCA) and Connecticut Revised Nonstock Corporation Act (CRNCA) to approve shareholder and member meetings on a virtual basis without a physical location, which will replace the Governor's Emergency Orders on the matter. Approved by the House of Delegates, December 14, 2020; expires end of 2023 Legislative session.

**Series LLC.** The Business Law section supports the establishment of Series LLCs in CT with acceptable language at the appropriate time. This Act will provide the ability to use one LLC to create divisions of the LLC in a series so each series can hold separate assets, potentially separate management, and retain legal independence from each division in the series. It has potential broad application for a variety of entrepreneurial companies seeking to hold multiple portfolio ventures under one master holding structure. It has been authorized by the Uniform Law Commission. Approved by the House of Delegates, October 19, 2020; expires end of 2023 Legislative session.

**Establishing Benefit Limited Liability Companies.** The Business Law section supports legislation creating a Connecticut Benefit Limited Liability Companies Act similar to the Connecticut Benefit Corporation Act. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

***Child Welfare and Juvenile Law:***

**Banning of chemical agents on youth under 18.** The Child Welfare and Juvenile Law supports legislation from the Juvenile Justice Policy and Oversight Committee recommendation from its Incarceration Workgroup to ban use of all chemical agents on youth under the age of 18 by January 1, 2022. Approved by the House of Delegates, March 22, 2021; expires end of 2024 Legislative session.

**Specific Steps form (JM106).** The Child Welfare and Juvenile Law section supports amending language in the Juvenile Court to the Specific Steps form through approved discussions with the Judicial Branch and with the Department of Children and Family. The Specific Steps are the roadmap for the parent to end Protective Supervision or for the reunification of the child to occur. Approved by the House of Delegates, January 13, 2020; expires end of 2022 Legislative session.

**Restoration of Terminated Parental Rights.** The Child Welfare and Juvenile Law section supports legislation in a case where parental rights have been terminated pursuant to section 17a-112, and where a child was never adopted, a petition may be filed in the Superior Court for Juvenile Matters that would restore the parental rights of one or both parents of children found to be “unadoptable” and should have the option to revisit the biological parents under the right set of circumstances. Approved by the House of Delegates, December 17, 2018; expires end of 2021 Legislative session.

**Petition for Permanent Transfer of Guardianship.** The Child Welfare and Juvenile Law section supports proposed legislation that would change the “Motion” for Permanent Transfer of Guardianship (PTOG) to a “Petition” for Permanent Transfer of Guardianship. Adoption, neglect, and termination of parental rights petitions are all treated as separate petitions, rather than as motions. Changing the motion for permanent transfer of guardianship to a petition would provide the Court greater uniformity. In addition, there should be a greater protection for parents due to the parents’ loss of their right to return to Court to seek a reinstatement. Approved by the House of Delegates, December 17, 2018; expires end of 2021 Legislative session.

***Commercial Law and Bankruptcy:***

**US SBA Forms.** The Commercial Law and Bankruptcy section supports that the United States Small Business Administration (the “SBA”) amend questions 1 and 2 on the Paycheck Protection Program Second Draw Borrower Application Form (the “Application”) immediately to define the term “delinquent” and to ask whether the applicant has filed for bankruptcy. Approved by the House of Delegates, March 22, 2021; expires end of 2024 Legislative session.

**Venue.** The Commercial Law and Bankruptcy section supports legislation that removes language currently contained in the United States Bankruptcy Code permitting companies to file for bankruptcy where they are incorporated or where smaller affiliates operate in favor of filing where the debtor's principal place of business or principal assets are located. Approved by the House of Delegates, December 14, 2020; expires end of 2023 Legislative session.

***Construction Law Section:***

**False Claims Act.** The Construction Law Section opposes the establishment of a state False Claims Act which could potentially be misused. It would impose significant civil and criminal penalties; is an incorrect remedy for problems associated with the state contract bidding process; and would likely reduce business with the state and revenue. The Section is not opposed to legislation that would include penalties resulting from willful or intentional fraudulent conduct. Approved by the House of Delegates, January 13, 2020; expires end of 2022 Legislative session.

**State Contracts Enforcement.** The Construction Law Section supports legislation which would authorize and allow the enforcement of state construction contracts signed by the State's authorized representatives Approved by the House of Delegates, January 13, 2020; expires end of 2022 Legislative session.

**Pass Through Claims.** The Construction Law Section supports legislation amending C.G.S. §4-61 to allow general contractors to include subcontractor pass-through claims in a claim against the state arising out of a highway or public works contract without requiring the contractor to first admit liability for the subcontractor's claim. Approved by the House of Delegates, January 13, 2020; expires end of 2022 Legislative session.

**Occupational Licensing and Building Trades and Contractor Debarment.** The Construction law section opposes legislation which grants to the Labor Commission the authority to debar any person or firm from working on state or municipal projects for a period of up to five (5) years based on a finding by the Commissioner on the basis of "substantial evidence" listed in the legislation. The proposed bill is unnecessary because substantial authority already exists in current statutes to allow the Labor Commissioner to debar a contractor who knowingly and willfully violates said laws. Approved by the House of Delegates, January 13, 2020; expires end of 2022 Legislative session.

***Disability Law Section:***

**Open for Hearings.** The Disability Law section supports communicating with their Members of Congress for assistance to persuade the Social Security Administration to reopen the Hearings Offices within the next six weeks since their present closures nationwide have resulted in considerable harm to the disabled, and there does not seem to be any urgency from SSA to open. Approved by the CBA Executive Committee, July 29, 2020; expires end of 2021 Legislative session.

**Teacher's Disability Allowance.** The Disability Law section supports legislation that allows a disabled former teacher to apply for disability allowance after he or she leaves active teaching, as long as the disability began when the former teacher was an active member of the teachers' retirement system. Approved by the House of Delegates, March 22, 2021; expires end of 2024 Legislative session.

***Elder Law Section:***

**Community Spouse Protected Amount.** The Elder Law Section supports legislation and/or administrative and regulatory advocacy that would increase the minimum Community Spouse Protected Amount to the maximum Community Spouse Protected Amount in the Medicaid long-term care coverage group for married couples. Approved by the House of Delegates, March 18, 2019; expires end of 2021 Legislative session.

**Aid in Dying.** The Elder Law Section supports legislation that allows an adult, competent, Connecticut resident, who has been determined by two physicians to be competent and have a terminal illness, to request aid in dying for them to self-administer from their attending physician, with appropriate safeguards. Approved by the Board of Governors, February 22, 2021; expires end of 2021 Legislative session.

**Technology in Nursing Facilities.** The Elder Law Section supports legislation that permits nursing facility or assisted living facility residents to use any audio, video, or voice activated technology, that would otherwise be available to them in the community, providing it ensures that the rights of other residents are respected and their privacy is protected. Approved by the Board of Governors, February 22, 2021; expires end of 2021 Legislative session.

**Transfer of Assets.** The Elder Law Section opposes and seeks changes to proposed regulations effecting patient transfer of assets and nursing home eligibility qualifications issued by the Department of Social Services intending to implement provisions of the 2006 Federal Deficit Reduction Act (DRA). Approved by the House of Delegates, December 16, 2019; expires end of 2022 Legislative session.

**Applied Income.** The Elder Law Section opposes legislation that would add additional grounds for allowing nursing home facilities to transfer or discharge patients, including but not limited to residents who fail to pay applied income to the facility for more than sixty days. Approved by the House of Delegates, December 16, 2019; expires end of 2022 Legislative session.

**Inaccessible Assets.** The Elder Law section opposes legislation from the Department of Social Services (DSS) to remove the word "inaccessible" as it applies to assets and income in Medicaid and certain other programs. Approved by the House of Delegates, December 16, 2019; expires end of 2022 Legislative session.

**Life Use Estates Regulations.** The Elder Law Section opposes the CT Department of Social Services (DSS) proposed regulations to amend UPM Section 4030.35, which would change the calculation of interest on life use estates. This proposed regulation would greatly overstate the value of a life use. Approved by the House of Delegates, December 16, 2019; expires end of 2022 Legislative session.

**Life Use Recovery.** The Elder Law Section opposes an expansion of the state's right of recovery for medical assistance benefits paid to include claims against life uses. Approved by the House of Delegates, December 16, 2019; expires end of 2022 Legislative session.

**Supported Decision Making Agreement By a Person with a Disability.** The Elder Law Section opposes legislation, with conditional support for the underlying concept, reflecting efforts made nationally to reduce the number of disabled but capable persons who are conserved or under guardianship, by creating a statutory process for the disabled person to enter into an agreement with a "Supporter" who would support the disabled person in making their own important life decisions, and help them gather information and communicate their decisions, with the decisions to be those of the disabled person. Approved by the House of Delegates, June 17, 2019; expires end of 2022 Legislative session.

**Probate Court Orders Compliance.** The Elder Law Section supports legislation that would require state agencies to recognize, apply and enforce any order, denial or decree of a Probate Court. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Medicaid Eligibility for Home Care Services.** The Elder Law Section supports legislation requiring the Department of Social Services to provide payments for Medicaid services almost immediately upon application for services, as long as the individual didn't transfer any assets for less than fair market value during the 60 months before applying for services. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Deadline for Fair Hearing Decisions.** The Elder Law Section opposes legislation which would reverse or in any way diminish the holding in *Handel v. Commissioner of Social Services*, 183 Conn. App. 392 (2018), requiring DSS to issue a fair hearing decision within 90 days of the request for a fair hearing. Approved by the House of Delegates, March 18, 2019; expires end of 2021 Legislative session.

**Prior Title Holders.** The Elder Law Section supports legislation which prevents a previously recorded interest in property from losing its priority to an unrecorded or subsequently recorded claim or lien by the state against a person for repayment of state aid. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**To expand the definition of "exploitation" under C.G.S. § 17b-450.** The Elder Law section supports legislation that would allow for a means by which to hold nursing home facilities responsible for offering legal advice to admitted patients and/or their families in qualifying for Medicaid, but said advice may not be in the best financial interest of the patient. Approved by the House of Delegates, December 14, 2020; expires end of 2023 Legislative session.

**Waivers.** The Elder Law Section opposes legislation which would repeal C.G.S. 17b-8. C.G.S. providing legislative oversight by the Appropriations and Human Services committees over requests for waivers by the Department of Social Services to the Centers for Medicare and Medicaid Services. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Agency Efficiency in the Regulation Process.** The Elder Law Section opposes legislation that would allow agency heads the ability to not promulgate certain legislative regulations. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Non-Taxable Annuity.** The Elder Law Section opposes legislation that seeks to include the nontaxable annuity income from the spouse of an institutionalized individual who is a Medicaid recipient to the spouse's income for purposes of determining the amount that the spouse owes as a contribution as a "legally liable relative." Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Disclosure of Additional Costs.** The Elder Law section supports legislation to expand the types of long term care facilities which are required to disclose additional costs and notices to residents and to emphasize federal law prohibiting third party guarantees of payment. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Budget line items.** The Elder Law Section opposes the elimination of line item budget review in Human Services. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Personal Needs Allowance.** The Elder Law Section supports legislation increasing the personal needs allowance for nursing home residents on Medicaid. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Caregiver Agreements.** The Elder Law Section opposes legislation that would require a written agreement between a Medicaid applicant or recipient and a family member. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Medicare Savings Program.** The Elder Law Section opposes legislation which would decrease benefits provided under the Medicare Savings Program. Approved by the House of Delegates, December 14, 2020; expires end of 2023 Legislative session.

**Protections of Elderly from Abuse.** The Elder Law section opposes banking legislation calling on elder abuse protections that are too broad in scope and do not provide any procedural safeguards including notice, recourse, or appeal rights to the bank customer/elderly person. Approved by the House of Delegates, December 14, 2020; expires end of 2023 Legislative session.

**Money Follows the Person.** The Elder Law section supports legislation that would increase the availability of home and community based services for the elderly and individuals under age sixty-five, including but not limited to, increasing the number of persons served in various Medicaid waiver programs and/or increasing the availability of services under the Money Follows the Person Program. Approved by the House of Delegates, December 14, 2020; expires end of 2023 Legislative session.

**Requiring Community Service.** The Elder Law section opposes legislation that would require work or community service of those receiving public assistance. Approved by the House of Delegates, December 14, 2020; expires end of 2023 Legislative session.

**Elder Exploitation.** The Elder Law section opposes legislation which is intended to prevent elder abuse and exploitation but is so broadly drafted as to create significant adverse unintended consequences for the families of elderly citizens. Elderly being defined as anyone 60+. Approved by the House of Delegates, December 14, 2020; expires end of 2023 Legislative session.

**Surviving Spouse a Statutory Share.** The Elder Law section opposes legislation that would provide a Probate Court judge with the discretion to award a surviving spouse a statutory share of an estate that exceeds one-third of all property passing under a will based on the equities of the case. Approved by the House of Delegates, December 14, 2020; expires end of 2023 Legislative session.

***Elder Law and Estates and Probate Sections:***

**Statutory Share.** The Estates and Probate and the Elder law sections oppose legislation to increase the value of a surviving spouse's statutory share. Approved by the House of Delegates, December 16, 2019; expires end of 2022 Legislative session.

***Environmental Law Section:***

**Transfer Act Audit Period.** The Environmental Law section supports legislation which proposes shortening of the time period during which the Department of Energy and Environmental Protection may conduct an audit of a verification filed pursuant to the Transfer Act, CGS Section 22a-134 et seq., which governs remediation of certain industrial and commercial properties in Connecticut at the time when ownership of an establishment is transferred. Approved by the House of Delegates, June 17, 2019; expires end of 2022 Legislative session. (PA19-75)

**Administrative Orders on Consent.** The Environmental Law Section supports legislation to clarify that the power of the Connecticut Department of Energy and Environmental Protection to "issue, modify or revoke" administrative orders under Conn. Gen. Stat. §22a does not authorize unilateral revocation of administrative orders on consent. Approved by the House of Delegates, March 18, 2019; expires end of 2021 Legislative session.



***Estates and Probate Section:***

**Probate Court Operations.** The Estates and Probate Section supports legislation proposed by the Probate Court to address technical provisions, in which the key components will enable electronic filing in the probate courts. The bill also could repeal existing law that permits unconstitutional freezing of assets upon mere application for conservatorship without due notice or hearing. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

**Gift Tax Repeal.** The Estates & Probate section supports legislation to eliminate the Connecticut gift tax. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

**Remote Notarization.** The Real Property, Estates and Probate, and the Paralegals sections oppose bills that would permit documents, including deeds and mortgages, to be notarized remotely, such as online, rather than in the physical presence of the person taking the acknowledgment. This process of notarization increases the chances of fraud and signing documents under duress, as well as making it easier to violate UPL Laws. Approved by the House of Delegates, March 22, 2021; expires end of 2024 Legislative session.

**Revocation by Dissolution of Marriage.** The Estates and Probate section supports legislation which would revoke certain beneficiary designation or testamentary transfers passing to a former spouse following a dissolution of the marriage. This legislation would provide similar relief to the current law which revokes testamentary provisions under a will for a former spouse. The proposal is intended to assist the divorced individual who hasn't yet had a chance to revise their beneficiary designations. Approved by the House of Delegates, January 13, 2020; expires end of 2022 Legislative session.

**Trust Law.** The Estates and Probate section supports the adoption of legislation that would adopt legislation modernizing and codifying Connecticut trust law to keep trust business in Connecticut and remain competitive with neighboring states. The legislation includes enhanced protection for beneficiaries more in line with the Restatement Third of Trusts, authority to appoint a director to enable retention of unique assets, such as closely-held business interests, prospective elimination of the rule against perpetuities to allow for longer term protection of trust assets and adoption of law enabling the protection for the qualified disposition of assets in self-settled trusts. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session. (PA19-137)

***Estates & Probate and Real Property Sections:***

**Infinite Duration of the Succession, Estate and Probate Fee Liens.** The Estates & Probate and Real Property sections support legislation to address the fact that a) Probate Court fee liens and estate/successions tax liens are of infinite duration; and b) property is sometimes conveyed or mortgaged without such liens being cleared. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

**Family Law Section:**

**Arbitration in certain divorce proceedings.** The Family Law section supports a legislative or regulatory concept that permits the use of arbitration to resolve issues related to child custody, visitation and child support that arise in the context of a dissolution of marriage, a legal separation or in post-judgment motions. This allows families to arbitrate child related issues by agreement, and will help minimize conflict by expediting potential resolutions outside of court and will help reduce court backlogs. Approved by the Board of Governors, February 22, 2021; expires end of 2021 Legislative session.

**Affidavits.** The Family Law Section opposes legislation that permits the Judicial branch to amend statutes to allow the Judicial branch to remove testimony regarding family laws matters and relying instead on the use of affidavits. Approved by the House of Delegates, March 23, 2021; expires end of 2024 Legislative session

**Coercive Control.** The Family Law Section opposes legislation that amends the General Statutes to prioritize coercive control over all other best interest factors in determining the outcome of custody, visitation and parenting cases. The definition of coercive control is too broad and the changes to the above-mentioned statutes are not necessary and increase the costs of litigating these matters to litigants. The proposed process will place children in the middle of their parents' divorce. The proposed litigation erodes the best interests of the child standard. It further incorporates new types of evidentiary standards which are difficult to comprehend. Approved by the CBA Executive Committee, March 26, 2021; expires end of 2021 Legislative session.

**Domestic Violence and Criminal Justice Reforms.** The Family Law section supports legislation, such as SB6, that makes various changes relating to restraining orders, stalking, patterns of coercive controlling, social services for domestic violence victims, counsel for people seeking restraining orders, and crimes based on bigotry or bias. Approved by the CBA Executive Committee, March 26, 2021; expires end of 2021 Legislative session.

**Immunity.** The Family Law Section opposes legislation that would remove tort immunity from all counsel and from AMCs and GALs (Carrubba v. Moskowitz, 274 Conn. 533 [2005]) involved in civil and family matters. The section also opposes abolishment of common law immunity for attorneys for statements made in a courtroom in the prosecution of a case. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

**Supervised Visitation.** The Family Law section opposes legislation which would limit the circumstances under which the court might order supervised visits between a parent and child, or limit the period during which supervised visits may be ordered, or limit the qualifications of providers, or otherwise limit the court's discretion to enter visitation orders designed to protect the best interests of the child. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

**Immunity for Psychologists & Psychiatrists.** The Family Law section supports legislation which would confer quasi-judicial immunity in tort litigation on licensed mental health professionals appointed by the court to perform forensic evaluations of the parties and/or their child (ren) in custody cases. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

**Uniform Parentage Act.** The Family Law section supports the Uniform Parentage Act with proposed amendments regarding presumed parentage and findings on *defacto* parentage. Approved by the House of Delegates, March 16, 2020; expires end of 2022 Legislative session.

**Family Court evaluations.** The Family Law section opposes legislation that would (1) allow each parent to select his/her own evaluator in a child custody case, (2) delay necessary medical care for a child, (3) remove the child's guardian ad litem from the list of persons who may receive a copy of an evaluation report, and (4) permits copies of such a report to be provided directly to the parents without a requirement that the report be kept confidential by the parents. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

**Custody.** The Family Law section opposes any attempt to reduce or eliminate judicial discretion to enter orders regarding custody or parental access (visitation) or eliminate the "best interests of the child" standard. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

#### ***Human Rights & Responsibilities Section***

**CHRO.** The Human Rights and Responsibilities section supports legislation (SB1023) that amends various statutes relating to the responsibilities of the Commission on Human Rights and Opportunities (CHRO) with provisions on sexual harassment training, the filing of discriminatory practice complaints, the approval of affirmative action plans, the administration of oaths, the deprivation of rights, privileges or immunities on account of age, and reasonable accommodation of a person with a disability. And suggests amending mailing process. Approved by the CBA Executive Committee, March 26, 2021; expires end of 2021 Legislative session.

#### ***Human Rights & Responsibilities Section and Pro Bono Committee:***

##### **Access to Legal Counsel for Indigent Individuals in Immigration Removal**

**Proceedings.** The Pro Bono Committee and the Human Rights and Responsibilities Section support legislation to establish a right to legal representation for indigent respondents in hearings pending at the Connecticut Executive Office for Immigration Review. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

#### ***International Law Section:***

**Mediation Convention.** The International Law Section supports the ratification of United Nations Convention on International Settlement Agreements Resulting from Mediation (New York, 2018) (the "Singapore Convention on Mediation"). This convention was signed by the United States on July 8, 2019. It promotes the expedited enforcement of settlement agreements. Approved by the House of Delegates, October 19, 2020; Expires end of 2023 Legislative session.

**Choice of Law.** The International Law Section supports the enactment of a commercial choice of law statute. This draft bill substantially tracks New York general obligation §5-1401[1] and §5-1402. The predictability of contractual provisions is very important in commercial transactions, including international trade. A commercial contractual provision between parties of equal bargaining position should mean what it says. Currently under Connecticut law, such a provision might not be enforced because a transaction has no “reasonable relationship” to Connecticut. Approved by the House of Delegates, October 19, 2020; Expires end of 2023 Legislative session.

**Alien Tort Claims.** The International Law section supports the enactment of a state-based alien tort claims act. Approved by the House of Delegates, December 14, 2020; expires end of 2023 Legislative session.

**UNCITRAL Model Law.** The International Law Section supports the 2005 revisions to the UNCITRAL Model Law on International Commercial Arbitration (the original version is enacted in Connecticut General Statutes Title 50a). The revisions clarify a number of points not well covered when the Model Law was drafted in 1985: interim measures of protection and to modernize the form required for an arbitration agreement. Approved by the House of Delegates, October 19, 2020; Expires end of 2023 Legislative session.

**Choice of Courts.** The International Law Section supports ratification of Hague Convention of 30 June 2005 on Choice of Court Agreement. The convention was concluded with significant input from the United States. It was signed by the United States on January 19, 2009. It will promote the enforcement of judgments multi-nationally. Approved by the House of Delegates, October 19, 2020; Expires end of 2023 Legislative session.

**Hague Foreign Judgements.** The International Law Section supports the ratification of Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (July 2, 2019). The convention was recently concluded with significant input from the United States. It will promote the enforcement of judgments multi-nationally. Approved by the House of Delegates, October 19, 2020; Expires end of 2023 Legislative session.

***LGBT+ Section:***

**Uniform Parentage Act.** The LGBT+ section supports the Uniform Parentage Act with proposed amendments regarding presumed parentage and findings on *defacto* parentage. Approved by the House of Delegates, March 16, 2020; expires end of 2022 Legislative session.

***Litigation Section:***

**Court Reporters.** The Litigation section supports any state legislation requiring the state licensing of shorthand reporters to ensure the integrity and competence of court reporters. Approved by the House of Delegates, October 19, 2020; Expires end of 2023 Legislative session (PA19-64).

**Tax Appeals.** The Litigation Section opposes legislation which proposes to prohibit contingency attorneys' fee agreements in certain appeals of property tax assessments to the Connecticut Superior Court. Approved by the House of Delegates, March 16, 2020; expires end of 2022 Legislative session.

***Paralegals Sections:***

**Remote Notarization.** The Real Property, Estates and Probate, and the Paralegals sections oppose bills that would permit documents, including deeds and mortgages, to be notarized remotely, such as online, rather than in the physical presence of the person taking the acknowledgment. This process of notarization increases the chances of fraud and signing documents under duress, as well as making it easier to violate UPL Laws. . Approved by the House of Delegates, March 22, 2021; expires end of 2024 Legislative session.

***Planning & Zoning Section:***

**Zoning Variances.** The Planning and Zoning Section supports legislation that would amend CGSA Sec. 8-6 to authorize the zoning board of appeals to have the authority to grant a Use Variance and an Area Variance. Approved by the House of Delegates, March 22, 2021; expires end of 2024 Legislative session.

**Online Legal Notices.** The Planning and Zoning Section supports legislation such as SB698 that online legal notices may be listed on the town/city/borough websites rather than only in the newspapers. Approved by the CBA Executive Committee, March 5, 2021; expires end of 2021 Legislative session.

**Land Use Appeals.** The Planning and Zoning Section supports legislation (SB938) on land use appeals in which a Superior Court hearing would no longer be required for the settlement of an appeal. Approved by the House of Delegates, March 22, 2021; expires end of 2024 Legislative session.

**Extending Permit Deadlines.** The Planning and Zoning Section supports legislation (SB-970) that would extend timeframes to complete work under certain permits. The General Statutes set certain deadlines to complete work under certain permits (site plans, subdivisions, and wetlands permits). If work is not completed within such timeframes, the permits generally expire. Approved by the CBA Executive Committee, March 5, 2021; expires end of 2021 Legislative session.

**Access to Public Records.** The Real Property and the Planning and Zoning Sections support the CBA to lobby the Governor's office to provide guidance/instructions to municipalities and other governmental agencies to provide reasonable, physical access to government offices for the purpose of accessing and researching public records, including Land Records, which in the reasonable opinion of the person seeking access, cannot be reasonably accessed online. Approved by the House of Delegates, October 19, 2020; expires end of 2023 Legislative session.

**Real Property Section:**

**Commercial Real Estate Receivership.** The Real Property section supports the adoption in Connecticut of the Uniform Commercial Real Estate Receivership Act. Receivership is an equitable remedy allowing a court to oversee the orderly management and disposition of property subject to a lawsuit. This Uniform Commercial Real Estate Receivership Act applies to receiverships involving commercial real estate, and provides a standard set of rules for courts to apply. It will result in greater predictability for litigants, lenders, and other parties doing business with a company subject to receivership. Approved by the House of Delegates, December 17, 2018; expires end of 2021 Legislative session.

**State-Wide Tax on Real Property.** The Real Property and the Tax Law sections opposes legislation (SB171, An Act Establishing a State-Wide Tax on Real Property), establishing a one mill state-wide tax on commercial and residential real property, with the first three hundred thousand dollars of the assessed value of a residential property exempt from the tax, being passed on to the tenants. Approved by the House of Delegates, March 22, 2021; expires end of 2024 Legislative session.

**Remote Notarization.** The Real Property, Estates and Probate, and the Paralegals sections oppose bills that would permit documents, including deeds and mortgages, to be notarized remotely, such as online, rather than in the physical presence of the person taking the acknowledgment. This process of notarization increases the chances of fraud and signing documents under duress, as well as making it easier to violate UPL Laws. Approved by the House of Delegates, March 22, 2021; expires end of 2024 Legislative session.

**Real Estate Abutting a Way.** The Real Property section opposes HB5373, an Act Concerning Real Estate Abutting a Way, which is unnecessary, as is construing any instrument conveying real property to include grantor's fee interest in a way abutting the real property. Approved by the House of Delegates, March 22, 2021; expires end of 2024 Legislative session.

**Mortgage Recording Act.** The Real Property section opposes HB5287, An Act Establishing a Mortgage Recording Tax which would impose a tax on the privilege of recording a mortgage on real property located in Connecticut and an additional tax on the buyer. Approved by the House of Delegates, March 22, 2021; expires end of 2024 Legislative session.

**Attorneys Unnecessary for Closings.** The Real Property section opposes SB321, AAC Real Estate Closings and Mortgage Loan Transactions, permitting non-attorneys to represent the legal interests of parties to real estate closings and using preferred attorneys by mortgage lenders, plus it's the unauthorized practice of law. Approved by the House of Delegates, March 22, 2021; expires end of 2024 Legislative session.

**Amending validating provision in PA 19-85.** The Real Property section supports an amendment to Public Act 19-85 to modify the exception to the validating provision from “such instrument fails to state the consideration reflecting fair market value” to “such instrument reflects the granting of an interest in the property for no or nominal consideration” or words to that effect. Approved by the House of Delegates, March 22, 2021; expires end of 2024 Legislative session.

**Access to Public Records.** The Real Property and the Planning and Zoning Sections support the CBA to lobby the Governor’s office to provide guidance/instructions to municipalities and other governmental agencies to provide reasonable, physical access to government offices for the purpose of accessing and researching public records, including Land Records, which in the reasonable opinion of the person seeking access, cannot be reasonably accessed online. Approved by the House of Delegates, October 19, 2020; expires end of 2023 Legislative session.

**Real Estate Closings.** The Real Property Section supports legislation such as SB 320, “An Act Concerning Real Estate Closings and Attorneys and Law Firms Preferred by Mortgage Lenders” in support TO (1) prohibit persons other than attorneys admitted in this state from representing the legal interests of parties to real estate closings concerning real property in this state, and (2) prohibit mortgage lenders from inducing or requiring prospective mortgagors to use preferred attorneys or law firms to represent such mortgagors in proposed mortgage loan transactions concerning real property in this state. Approved by the House of Delegates, March 18, 2019; expires end of 2021 Legislative session. (PA19-88)

**Fixed Recording Fees.** The Real Property Section supports proposed legislation that would set recording fees by category of document (e.g., one fee for a deed, one fee for a mortgage), regardless of number of pages of the document; to support legislation that would set fixed recording fees for documents to be filed on the land records in Connecticut; to support such legislation in order to simplify the disclosures process in connection with residential closings occurring after federal Consumer Financial Protection Bureau regulations in effect on October 3, 2015. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Non-attorney title producers to sell Title Insurance.** The Real Property Section opposes any legislation which would place title insurance sales in the hands of non-attorneys who are not knowledgeable about real property law and legal concepts pertaining to title. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

***Real Property and Estates & Probate Sections:***

**Infinite Duration of the Succession, Estate and Probate Fee Liens.** The Estates & Probate and Real Property sections support legislation to address the fact that a) Probate Court fee liens and estate/successions tax liens are of infinite duration; and b) property is sometimes conveyed or mortgaged without such liens being cleared. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

### ***Veterans and Military Affairs Section***

**Defining “Veteran”.** The Veterans and Military Affairs section supports legislation to alter the definition of “veteran” to be more inclusive by amending § 27-103 (a) (2) to include any person that the United States Department of Veterans Affairs (the “VA”) has determined eligible for certain federal veterans benefits by reason of an administrative determination made pursuant to 38 C.F.R. § 3.12 and/or 38 C.F.R. § 3.360. Approved by the House of Delegates, December 14, 2020; expires end of 2023 Legislative session.

**Mental Health Resources for Veterans.** The Veterans and Military Affairs section supports legislation to expand the VA commissioner’s obligations requiring the commissioner in consultation with the Mental Health and Addictions Commissioner to collect data to better identify mental health needs of members of the armed forces and direct resources to address such needs, hopefully leading to more efficient use of resources to provide aid. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

### ***Workers Compensation Section***

**Repeal of the Medical Panel in Occupational Disease Cases.** The Workers Compensation section supports legislation to repeal C.G.S. section 31-298a. The medical panel concept, enacted in 1981 to establish a panel of five to ten expert pulmonologists "for use in solving controverted medical issues in claims for workers' compensation due to occupational lung disease," failed decades ago for a number of reasons. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Repeal of the Transfer of Employer Liability to the Second Injury Fund.** The Workers Compensation section supports legislation to repeal of CGS 31-349, subsections (b) through (f). A basic principle of workers' compensation law is that the employer takes the employee as he finds him or her at the time of an injury arising out of and in the course of employment. This principle means that the effects of preexisting conditions, latent tendencies or predispositions are fully compensable, when they increase the pathological effects of a work-related injury or disease. Approved by the House of Delegates, October 15, 2018; expires end of 2021 Legislative session.

**Burial Costs.** The Workers Compensation section supports legislation to support an increase in the burial expense contained in C.G.S. section 31-306(1) from the current amount of \$4,000.00 up to \$10,000.00. Approved by the House of Delegates, December 14, 2020; expires end of 2023 Legislative session.

**WCC titling.** The Workers' Compensation section supports legislation proposed by the WCC that would change the title of Workers Compensation Commissioner to "Administrative Law Judge" to accurately reflect the adjudicative functions of Commissioners to more appropriately reflect their adjudicative duties interpreting and resolving legal disputes in accordance with Connecticut law. Approved by the House of Delegates, March 18, 2019; expires end of 2021 Legislative session.



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**Workers Compensation Locations.** The Workers Compensation section supports maintaining all eight workers' compensation district offices. These offices are operated through the fees collected and have no impact on state funding. The Stamford office is being targeted for closure. Approved by the House of Delegates, December 17, 2018; expires end of 2021 Legislative session.

### ***Women and the Law Section***

**Grant Program for Women and Minority Owned Businesses.** The Women and the Law Section supports legislation that will provide grant funds targeted to female and minority-owned business adversely affected by the Covid-19 pandemic to ensure that equal capital is provided accordingly. (HB5481) Approved by the CBA Executive Committee; expires end of 2021 Legislative session.

**Female Genital Mutilation.** The Women and the Law Section supports such legislation prohibiting Female Genital Mutilation. Connecticut is one of just eleven states that does not have any law outlawing this practice. (SB1069) Approved by the CBA Executive Committee; expires end of 2021 Legislative session.

A **CBA committee** has an authorized position on the following issues during the 2021 regular legislative session of the Connecticut General Assembly:

**Rule 8.4 (7)**

A number of sections and committees **support** a proposal to the Rules Committee of the Superior Court that amends Rule 8.4 (Misconduct) of the Connecticut Rules of Professional Conduct to make it professional misconduct for an attorney to engage in discrimination or harassment in the practice of law by engaging in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, color, ancestry, sex, pregnancy, religion, national origin, ethnicity, disability, status as a veteran, age, sexual orientation, gender identity, gender expression or marital status in conduct related to the practice of law. This paragraph does not limit the ability of a lawyer to accept, decline or withdraw from a representation. Approved by the House of Delegates, September 10, 2020; expires end of 2023 Legislative session.

**Pro Bono Committee**

**Legal Counsel to Civil Matters.** The Pro Bono Committee **supports** legislation that would reconstitute a task force to improve access to legal counsel in civil matters by examining the feasibility of establishing a program that provides legal services to individuals in civil matters. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

**Right to Counsel for Immigrant Children.** The Pro Bono Committee **supports** legislation that would amend the general statutes to ensure that the children of immigrants are represented in issues regarding their well-being. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

**Right to Housing.** The Pro Bono Committee **supports** legislation such as SB194 to establish a right to housing in Connecticut, providing for the right to protection from housing loss, which implicates government programs such as eviction prevention programs and legal assistance in evictions. Approved by the House of Delegates, March 23, 2021; expires end of 2024 Legislative session.

**Pro Bono Committee and Human Rights & Responsibilities Section:**

**Access to Legal Counsel for Indigent Individuals in Immigration Removal Proceedings.** The Pro Bono Committee and the Human Rights and Responsibilities Section **support** legislation to establish a right to legal representation for indigent respondents in hearings pending at the Connecticut Executive Office for Immigration Review. Approved by the House of Delegates, October 21, 2019; expires end of 2022 Legislative session.

### ***Standing Committee on Professional Ethics***

**Practice Pending** (Rule 5.5). The Professional Ethics Committee supports a proposed amendment to Rule 5.5 of the Connecticut Rules of Professional Conduct (Unauthorized Practice of Law) which would create a new category of permissible temporary practice that would permit a lawyer who has relocated to Connecticut from another state to practice in Connecticut provided that he or she seeks admission in Connecticut (by exam, motion, or transfer of UBE score) within a reasonable time after relocating. Approved by the House of Delegates, December 16, 2019; expires December 16, 2022.

**Lawyer Advertising.** The Ethics Committee supports to recommend to the Rules Committee of the Superior Court that Rules 7.1-7.5 of the Connecticut Rules of Professional Conduct be amended to conform our state's Rules with the American Bar Association's amendment, at its August 2018 meeting, of the provisions concerning lawyer advertising in the Model Rules of Professional Conduct. Approved by the House of Delegates, March 18, 2019; expires March 18, 2022.

### ***Standing Committee on Professional Ethics and the Pro Bono Committee***

**Rule 1.8 (e).** The Standing Committee on Professional Ethics and the Pro Bono Committee supports amending Rule 1.8 (e) of the Connecticut Practice Book to permit a lawyer representing a client pro bono to provide modest gifts to the client to pay for basic living expenses. Approved by the House of Delegates, March 22, 2021; expires March 22, 2024.

**Pro bono practice in limited circumstances.** The Standing Committee on Professional Ethics and the Pro Bono Committee support a proposal to amend Rule 5.5 of the Rules of Professional Conduct to include pro bono practice under limited circumstances as a new category of permissible practice in Connecticut by emeritus attorneys licensed and in good standing in other jurisdictions. Approved by the House of Delegates, March 16, 2020; expires March 16, 2023.

### ***CBA Policing Task Force***

**Inspector General Candidates.** The CBA Policing Task Force supports an amendment of Section 33(a) of Special Session Public Act 20-1, An Act Concerning Police Accountability, HB6004, to be changed so that candidates outside of the State Criminal Justice Commission are eligible for the position of Inspector General and for positions within the staff of the Inspector General's Office. Approved by the House of Delegates, October 19, 2020; expires end of 2023 Legislative session.

**Policing Violations.** The CBAPTF supports to recommend that the Inspector General be directed to make findings regarding whether police officers involved in incidents under investigation violated any police procedures, policies, or protocols during the course of the incident, and if violations occurred, whether discipline should be considered. Approved by the House of Delegates, December 14, 2020; expires end of 2023 Legislative session.

**Comprehensive Public Reports.** The CBAPTF *supports* to recommend that public reports issued by the Inspector General involving police use of deadly force should include a comprehensive set of facts to ensure public confidence in the investigative process. Approved by the House of Delegates, December 14, 2020; expires end of 2023 Legislative session.

**Subpoenas.** The CBAPTF *supports* to recommend that the Inspector general have the authority to issue subpoenas to civilians who may have witnessed a use of force incident and/or have relevant knowledge or information regarding the incident. Approved by the House of Delegates, December 14, 2020; expires end of 2023 Legislative session.

**Statute of Limitations.** The CBAPTF *supports* to recommend that the one-year statute of limitations for bringing an action pursuant to Section 41 of the Act be extended to three years. Approved by the House of Delegates, December 14, 2020; expires end of 2023 Legislative session.

**Accreditation Standards.** The CBAPTF *supports* to recommend that the accreditation standards for law enforcement agencies be revised to allow chiefs the option of selecting compliance with the Connecticut Police Officer Standards and Training Council Tier III standards of the national Commission on Accreditation for Law Enforcement Agencies Accreditation standards. Those opting to achieve Tier III accreditation by 2025 should reach Tier I by 2021 and Tier II accreditation by 2023. Approved by the House of Delegates, December 14, 2020; expires end of 2023 Legislative session.

**Citizen Complaints.** The CBAPTF *supports* to recommend that the Connecticut Police Officer Standards and Training Council be tasked with updating the current model form and developing a standardized, statewide reporting form and process for reporting citizen complaints. Approved by the House of Delegates, December 14, 2020; expires end of 2023 Legislative session.

**Study of social worker and mobile crisis units.** The CBAPTF *supports* to recommend that Section 18 of the Act be expanded to include a comprehensive feasibility study on the use of social workers and mobile crisis units by police in Connecticut and would assess the use of social workers to respond remotely, in person, and/or to accompany police officers on calls for assistance. Approved by the House of Delegates, December 14, 2020; expires end of 2023 Legislative session.

**Minimum Standards for CRB.** The Police Accountability Task Force *supports* recommendations that municipalities consider certain minimum standards when creating a Civilian Review Board pursuant to Section 17 of PA 20-1 (“AAC Police Accountability”) Approved by the House of Delegates, March 22, 2021; expires end of 2024 Legislative session.

**Establish CRB.** The Police Accountability Task Force supports amending PA 20-1 (17) to require all communities with police departments, or under the jurisdiction of the Connecticut State Police Resident Trooper Program, establish a CRB (if one does not already exist). Approved by the House of Delegates, March 22, 2021; expires end of 2024 Legislative session.

**Reports Database.** The Police Accountability Task Force supports recommending within PA20-1 that the Inspector General (“IG”) create and maintain a public database of pertinent information derived from completed investigative reports issued by the IG concerning police use of deadly force. Approved by the House of Delegates, March 22, 2021; expires end of 2024 Legislative session.

**Early Intervention System.** The Police Accountability Task Force supports recommending through PA 20-1 that certain police departments develop and implement an early intervention system (“EIS”) pilot program to detect and prevent adverse incidents. Approved by the House of Delegates, March 22, 2021; expires end of 2024 Legislative session.

**Factual Observation Data.** The Police Accountability Task Force supports recommending through PA20-1 that factual observations be derived from data regarding deadly force incidents in Connecticut. Approved by the House of Delegates, March 22, 2021; expires end of 2024 Legislative session.

**Pass HB6462, An Act Concerning Use of Force By A Peace Officer.** The Police Accountability Task Force supports recommending that the Connecticut General Assembly pass H.B. 6462, “An Act Concerning Use of Force by a Peace Officer”. Background: On March 8, 2021, the Judiciary Committee unanimously approved H.B. 6462 (Joint Favorable Substitute), which provides that Section 29 of Public Act 20-1 of the July special session concerning the use of force by peace officers take effect on January 1, 2022 and be amended as listed in attached position request. Approved by the House of Delegates, March 22, 2021; expires end of 2024 Legislative session.

**Behavioral health assessment.** The Police Accountability Task Force supports amending the law to prohibit discharging, disciplining, discriminating, or otherwise penalizing a police officer because of the results of a behavioral health assessment. Approved by the House of Delegates, March 22, 2021; expires end of 2024 Legislative session.

**Pattern of misconduct.** The Police Accountability Task Force supports amending the Act to grant civil “pattern-or-practice” enforcement authority to the Attorney General. This authority would be invoked only when there is evidence of a persistent pattern of misconduct in a police department or evidence of a regular practice in place that unlawfully discriminates or violates civil rights, rather than an isolated incident. Approved by the House of Delegates, March 22, 2021; expires end of 2024 Legislative session.

*\*\* Although there are a number of authorized positions that have become public acts (note parenthesized) as voted through the Connecticut General Assembly or through the Practice Book rule changes approved at the annual judges meeting, the positions still remain on this Legislative agenda until the authorization expires.*

