

ADOPTED**AMERICAN BAR ASSOCIATION****COMMISSION ON IMMIGRATION****REPORT TO THE HOUSE OF DELEGATES****RECOMMENDATION**

1 RESOLVED, That the American Bar Association urges the
2 Department of Homeland Security (DHS) to implement the
3 following policies and procedures within the immigration
4 removal adjudication system:

5
6 (a) Increase use of prosecutorial discretion by both DHS
7 officers and attorneys to reduce the number of Notices to
8 Appear (“NTA”) served on noncitizens who are prima
9 facie eligible for relief from removal, and to reduce the
10 number of issues litigated;

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12 (b) Give DHS attorneys greater control over the initiation
13 of removal proceedings, and in DHS local offices with
14 sufficient attorney resources, establish a pilot program
15 requiring approval of a DHS lawyer prior to issuance of all
16 discretionary Notices to Appear by DHS officers;

17
18 (c) To the extent possible, assign one DHS trial attorney
19 to each removal proceeding;
20

114A

- 21 (d) Cease issuing Notices to Appear to noncitizens who
22 are prima facie eligible to adjust to lawful permanent
23 resident status;
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- 25 (e) Upgrade DHS's data systems to permit better tracking
26 of detainees within the detention system, and improve
27 protocols for transfers of detainees between detention
28 facilities to ensure notification of family members and
29 counsel; and
30
- 31 (f) Create a position within DHS to oversee and
32 coordinate all aspects of DHS immigration policies and
33 procedures, including asylum matters.
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35 FURTHER RESOLVED, That the American Bar Association
36 urges Congress to amend the Immigration and Nationality Act
37 (“INA”) regarding the removal of noncitizens convicted of
38 certain crimes that would:
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- 40 (a) Amend the definition of “aggravated felony” to require
41 that any such conviction must be of a felony and that a
42 term of imprisonment of more than one year must be
43 imposed (excluding any suspended sentence);
44
- 45 (b) Eliminate the retroactive application of the aggravated
46 felony provisions;
47
- 48 (c) Restore an immigration judge’s authority to consider a
49 discretionary application for cancellation of removal for
50 certain lawful permanent residents convicted of an

51 aggravated felony, based on humanitarian and other
52 grounds. Extend the same eligibility based on
53 humanitarian grounds to deserving lawful permanent
54 residents barred from cancellation by the offense “clock-
55 stop” provision; and

56

57 (d) Amend the deportation ground that requires removal
58 based upon conviction of a single crime involving moral
59 turpitude to provide that the conviction must be of a crime
60 for which a sentence of more than one year was imposed.