Mandatory State Bar Associations

## Managing Keller

The following information regarding mandatory bars and how they manage Keller related activities was compiled by State Bar of Michigan between February 2014 and May 2014. This was a significant research initiative to support the Michigan Supreme Court Task Force on the Role of the State Bar of Michigan. As information was gathered, executive directors from several state bars expressed an interest in receiving this compilation of material. We are pleased to share this information with those who find it useful. Please note that the State Bar of Michigan does not update this compilation as policies and statutes change in various states. Users are encouraged to check with the state bars directly to learn of any relevant changes.

Return to main contents page http://www.michbar.org/opinions/keller.cfm





- Alabama State Bar

  - Historical highlights
    Unique characteristics of the bar
    Legislative tracking

### HISTORICAL HIGHLIGHTS OF THE ALABAMA STATE BAR

A meeting preparatory to the formation of a bar association of Alabama was held in Montgomery on December 13, 1878. Pursuant to a call issued at this meeting, on January 15, 1879, delegates from the bar of each county met at a preliminary conference in the Hall of the House of Representatives for organizing the State Bar Association. At this conference, ending January 20, 1879, the constitution and by-laws of the Alabama State Bar Association were adopted and officers elected to serve until the first annual meeting set for the first Tuesday in December 1879. W. L. Bragg of Montgomery was elected the first president of the Alabama State Bar Association.

Thus, the state bar was founded and on February 12, 1879, an Act incorporating the Alabama State Bar Association was approved by the Governor.

On December 4, 1879, the first annual meeting of the bar was held in Montgomery and E. W. Pettus of Dallas County was elected president.

At the suggestion of Thomas Goode Jones of Montgomery, at the annual meeting in 1881, a committee for the preparation and adoption of a code of legal ethics for the bar was created, the first code of legal ethics in the country. The Alabama Code of Ethics was adopted by the bar at its annual meeting in 1887 and was the foundation of the canons of ethics adopted by the American Bar Association.

The state bar, as a voluntary body, continued in its efforts toward the improvement of the legal profession, but it was not until August 9, 1923, that the efforts of the bar culminated in the approval of an Act of the Alabama legislature providing for the organization, regulation and government of the Alabama State Bar, thereby creating an "integrated bar" as we now know it.

Pursuant to this Act, the first meeting of the Alabama State Bar Commission was held on January 8, 1924, when the Board of Commissioners appointed the first Board of Examiners and adopted rules regulating requirements for admission to practice law and governing the conduct of attorneys in Alabama.

### THE UNIQUE CHARACTERISTICS OF THE ALABAMA STATE BAR

In 1923, the legislature passed legislation integrating the Alabama State Bar Association with state government. Integration made membership in a traditionally voluntary association mandatory, thereby allowing the Alabama Supreme Court to better regulate the legal profession. The state bar's enabling legislation appears in §§34-3-1 through 88, Code of Alabama (1975). Under this chapter and rules of the supreme court, the state bar serves a dual role. First, the state bar is the licensing and regulatory agency for lawyers in Alabama. The state bar protects the public by ensuring that lawyers who are granted licenses are not only minimally competent to practice law but also abide by the profession's ethical standards. Second, the state bar is a private association with responsibilities largely of a service nature, e.g. education, publications and improvement of the administration of justice. These activities benefit the legal profession as well as the general public. (See §34-3-43(7).)

The state bar is unlike a traditional state agency which ordinarily operates under the executive branch of government. The Supreme Court has duly noted that "members of the bar of Alabama are members of a private incorporated association." Ex Parte Griffith, 278 Ala. 344, 348, 178 So.2nd 169 (1965). State bar members are officers of the court irrespective of the fact that the state bar was created under the aegis of legislation. Ex Parte Griffith at 348. Furthermore, the funds of the state bar are not state funds, at least in the normal sense. Annual license fees and fees paid by applicants for admission are "...deposited in the state treasury to the credit of the Alabama State Bar and constitute a separate fund ..." (Emphasis added.) (§34-3-4.) This section arguably creates a trust fund where state bar funds are held solely for the benefit of the state bar and can be disbursed only by the Board of Bar Commissioners. (§34-3-44.) Thus, the state bar's funds come from sources other than the state and are held in a manner comparable with funds which are considered non-state funds. See Knutson v. Bronner, 721 So.2nd 678, 681 (Ala. 1998).

Although the bar is subject to certain legislative controls relating to its fiscal operations, the Board of Bar Commissioners exercises a judicial function under state law in administering the supreme court's rules and is subject to its oversight. Alabama State Bar v. Watson, 289 Ala. 729, 733 272 So.2d 240 (1972). For this reason, the Board of Bar Commissioners is an arm of the court. Board of Com'rs of the Alabama State Bar v. Baxley, 295 Ala. 100, 109 324 So.2nd 256 (1975). As an arm of the court, the commission's employees are non-merit employees, as are employees of the judicial branch, fulfilling responsibilities entrusted to the commission by the supreme court. The legislature recognized that the state bar was regulated by the judicial branch and not the legislative branch of government by excluding it from the provisions of the Sunset Law (§42-20-1 et seq.).

## Legislative Tracking Sheet - Civil

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Subject	LLC's, Formation of co, agreement, rights where operating agreement is silent	Employer who acts to protect employee wages from CS WH order personally liable for debt	Uniform Commercial Code; Secured Transactions	Civil Procedure-Certain caregiver volunteers immune from civil action	frimunity for officers, employees, agents of State certain local school bds & State Bd of Edu	Firearms-regulation, possession & use of	Certain contracts for legal services voidable, recovery of atty fees & expenses	Limited Liability for certain motorcycle & 4- wheel off-road events	Uniform Commercial Code-Secured transactions	Communication privileged between legislators & employees & officers of the Legislature	10 Commandments, display of on State property & at public schools, authorized	Municipal subdivision reg, nothing to impair lawful contract for the purchase/sale of any lot in subdiv	Sovereign immunity; immunity for officers, employees, agents of the state, State Bd of Edu	Court costs assessed by auth other than Const revert to Gen Fund; court may not waive fees	Create add'I judge in Tuscaloosa Co, conditional upon county comm, providing funds	GF budget, appropriations for ordinary expenses of exe, legislative, & judicial departments	JOP, estates, band of conservators, executors, administrators, fability limited unless grossly negligent, judicial immunity further provided for	Communication between legislator & emplayees & officers of the Legislature is privileged, const. amend.	Leg. standing com.,granted subpoena
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# Legislative Tracking Sheet - Civil

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Cts.private judges requirements to serve, homer appellate judges eligible to serve, Atty Gen, defense DeMarco CV/JU of cases brought against private judge		Ots.private judges requirements to serve appellate judges eligible to serve, Atty G of cases brought against private judge	,tormer en, defense	1/16	AGDR	5/6	AMD							ROZ
Local governmental entities, counties, municipalities and political subdivisions, employees included in definition of government entity		Local governmental entities, counties, nand political subdivisions, employees in definition of government entity	nunicipalities cluded in	1/22	C&MG	2/20	FAV							2
McMillan CV/JU State in Acts of AL, requirement deleted		Supreme Ct, rules, publication by State in Acts of AL, requirement	Sec of deleted	1/22	AGD(	2772	FAV							8 9 8
Class action lewsuits filed in AL plan for undistributed funds to be distributed to Child Abuse & Neglect Prevention Depart if class members cannot be located, or if distribution to class is not economically ball CV/CC reasible, or if class members do not make a claim to		Class action lawsuits filed in Al. plan for funds to be distributed to Child Abuse & Prevention Depart if class members can located, or if distribution to class is not refeasible, or if class members do not make	undistributed Neglect not be conomically e a claim to	1/22	W&MG				***************************************		***************************************			2
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19th Ju Circuit Judicial Com, creation, membership, appointments to fill vacancies in offices of circuit & Beckman CV & JU district judge, circuit clk & D.A, const. amend.	19th Ju Circuit Judicial Com, creation, m appointments to fill vacancies in offices c CV & JU district judge,circuit clk & D.A, const. am.	19th Ju Circuit Judicial Com, creation, m appointments to fill vacancies in offices of district judge, circuit clk & D.A, const. am.	embership, if circuit & and.	2	À	***************************************								S S
15th Judicial Circuit, Montgomery Co., circuit & district   ludges, term of office, reduced to 4 years, const.   Holmes(A)   JU & CV   amend.	15th Judicial Circuit, Montgomery Co., ci judges, term of office, reduced to 4 years JU & CV amend.	15th Judicial Circuit, Montgomery Co., ci judges, term of office, reduced to 4 years amend.	rouit & district s, const.	2	MGMC							***************************************		PCA
Landford and tenant act, refunds of deposits, landford obligation, termination of lease, abandonment of property and eviction procedures, further provided for		Landlord and tenant act, refunds of deposibilities, abandoni poligiblery, termination of lease, abandoni property and eviction procedures, further	its, landord nent of provided for	2/20	Ç&SB								04404044444444444444444444444444444444	PCA