

ABA MODEL RULE

**PROPOSED MODEL RULE RELATIVE  
TO LEGAL ASSISTANCE BY LAW  
STUDENTS**

Report of action taken by American Bar Association House of Delegates, mid-January meeting, 1969.

Judicial Administration (Report No. 28)

The resolution recommended by the Section was approved. It reads:

WHEREAS in 1967 the House of Delegates approved in principle the promulgation and adoption of provisions permitting students in the final year of a regular course of study in an approved law school to appear in court, under adequate supervision by members of the bar in good standing, in behalf of indigent persons or the prosecution in both criminal and civil matters; and

WHEREAS it is the senses of the Council of the Section of Judicial Administration that the provisions permitting law students to appear in court should, as nearly as practicable, be uniform throughout the several states;

BE IT RESOLVED that the American Bar Association adopts the draft of a Proposed Model Rule Relative to Legal Assistance by Law Students appended hereto and urges its consideration by the several states.

**I. Purpose.**

The bench and the bar are responsible for all persons, including those unable to pay for these services. As one means of providing assistance to lawyers who represent clients unable to pay for such services and to encourage law schools to provide clinical instruction in trial work of varying kinds, the following rule is adopted.

**II. Activities.**

A. An eligible law student may appear in any court or before any administrative tribunal in this State on behalf of any indigent person if the person on whose behalf he is appearing has indicated in writing his consent to that appearance and the supervising lawyer has also indicated in writing approval of that appearance, in the following matters:

1. Any civil matter. In such cases the supervising lawyer is not required to be personally present in court.
2. Any criminal matter in which the defendant does not have the right to the assignment of counsel under any constitutional provision, statute, or rule of this court. In such cases the supervising lawyer is not required to be personally present in court.

3. Any criminal matter in which the defendant has the right to the assignment of counsel under any constitutional provision, statute, or rule of this court. In such cases the supervising lawyer must be personally present throughout the proceedings.
- B. An eligible law student may also appear in any criminal matter in behalf of the State with the written approval of the prosecuting attorney or his authorized representative and of the supervising lawyer.
- C. In each case the written consent and approval referred to above shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administration tribunal.

**III. Requirements and Limitations.**

In order to make an appearance pursuant to this rule, the law student must:

- A. Be duly enrolled in this State in a law school approved by the American Bar Association.
- B. Have completed legal studies amounting to at least (4) semesters, or the equivalent if the school is on some basis other than a semester basis.
- C. Be certified by the dean of his law school as being of good character and competent legal ability, and as being adequately trained to perform as a legal intern.
- D. Be introduced to the court in which he is appearing by an attorney admitted to practice in that court.
- E. Neither ask for nor receive any compensation or remuneration of any kind for his services from the person on whose behalf he renders services, but this shall not prevent a lawyer, legal aid bureau, law school, public defender agency, or the State from paying compensation to the eligible law student, nor shall it prevent any agency from making such charges for its services as it may otherwise properly require.

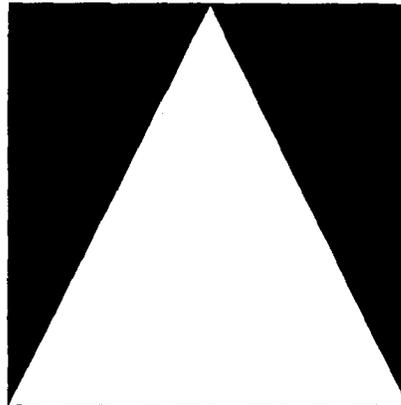
**IV. Certification.**

The certification of a student by the law school dean:

- A. Shall be filed with the Clerk of this Court and, unless it is sooner withdrawn, it shall remain in effect until the expiration of eighteen (18) months after it is filed, or until the announcement of the results of the first bar examination, whichever is earlier. For

any student who passes that examination or who is admitted to the bar without taking an examination, the certification shall continue in effect until the date he is admitted to the bar.

- B. May be withdrawn by the dean at any time by mailing a notice to that effect to the Clerk of this Court. It is not necessary that the notice state the cause for withdrawal.
  - C. May be terminated by this Court at any time without notice or hearing and without any showing of cause.
- V. Other Activities.
- A. In addition, an eligible law student may engage in other activities, under the general supervision of a member of the bar of this Court, but outside the personal presence of that lawyer, including:
    - 1. Preparation of pleadings and other documents to be filed in any matter in which the student is eligible to appear, but such pleadings or documents must be signed by the supervising lawyer.
    - 2. Preparation of briefs, abstracts and other documents to be filed in appellate courts of this State, but such documents must be signed by the supervising lawyer.
    - 3. Except when the assignment of counsel in the matter is required by any constitutional provision, statute or rule of this Court, assistance to indigent inmates of correctional institutions or others persons who request such assistance in preparing applications for and supporting documents for post conviction relief. If there is an attorney of record in the matter, all such assistance must be supervised by the attorney of record, and all documents submitted to the Court on behalf of such a client must be signed by the attorney of record.
    - 4. Each document or pleading must contain the name of the eligible law student who has participated in drafting it. If he participated in drafting only a portion of it, that fact may be mentioned.
  - B. An eligible law student may participate in oral argument in appellate courts, but only in the presence of the supervising lawyer.



**THE AMERICAN BAR ASSOCIATION**  
Law Student Membership

- VI. Supervision.
- The member of the bar under whose supervision an eligible law student does any of the things permitted by this rule shall:
- A. Be a lawyer whose service as a supervising lawyer for this program is approved by the dean of the law school in which the law student is enrolled.
  - B. Assume personal professional responsibility for the student's guidance in any work undertaken and for supervising the quality of the student's work.
  - C. Assist the student in his preparation to the extent the supervising lawyer considers it necessary.
- VII. Miscellaneous.
- Nothing contained in this rule shall affect the right of any person who is not admitted to practice law to do anything that he might lawfully do prior to the adoption of this rule.