The Committee on the Rights of the Homeless of the Criminal Law and Individual Rights Section of the District of Columbia Bar has approximately 160 members. Proposed comments were circulated to approximately 60 committee members, and final comments were prepared by a steering subcommittee of the full committee.

The views expressed herein represent only those of the Criminal Law and Individual Rights Section of the the District of Columbia Bar and not those of the District of Columbia Bar or of its Board of Governors.
The Criminal Law and Individual Rights Section of the District of Columbia Bar appreciates the opportunity to comment on Bill 8-156, "The District of Columbia Right to Overnight Shelter Act of 1984 Amendment Act to Establish a Comprehensive Homelessness Assistance Program of 1989." The Section's Committee on the Rights of the Homeless monitors legislation, litigation, and administrative actions affecting homeless persons in the District of Columbia and undertakes activities aimed at meeting the legal needs of homeless persons and the organizations assisting them, including the Washington Legal Clinic for the Homeless.

While we support provisions in Bill 8-156 designed to encourage housing production, improved coordination of homeless services and other long-term solutions to the homeless problem, the Section is troubled by both the legal and policy implications of the bill's provisions. They have the potential of sending the neediest among the homeless back to the streets, producing a costly administrative nightmare, and seriously interfering with the constitutional and statutory rights of the homeless.

Policy Considerations: We are concerned that the overall message conveyed by this bill is that people are homeless by choice, and that with the appropriate restrictions, they will find alternative housing, suitable employment, or will return to the jurisdictions they left in pursuit of D.C. homelessness benefits. These premises are unfounded and potentially harmful to public attitudes and to the willingness of the homeless to seek shelter. It will be extremely difficult and costly to enforce requirements for a 10 day waiting period, a 10 day stay limit, registration, reimbursement or six month residency, in light of the unstructured and unpredictable
nature of homelessness. Furthermore, it is hard to see what such requirements will accomplish. A ten day stay restriction in an area with such severe housing shortages will arbitrarily return people to the streets. Persons with histories of mental illness or criminal convictions may stay on the streets to avoid the requirement to disclose their past. The proposed reimbursement requirement will yield as little revenue for the city as have similar requirements for public assistance recipients elsewhere in the country. At the same time, it is likely to severely weaken the chances of the homeless person to achieve self-sufficiency.

**Potential Legal Problems:** Residency requirements for receipt of government benefits have repeatedly been challenged in the courts interfering with the constitutional right to travel. The proposals to determine "transient status," compel people to leave the District, and require disclosure of birthplace when registering for a shelter appear overbroad and hardly related to any valid governmental purpose. Requirements for disclosure of mental and physical health problems, credit history, and "any additional information the Mayor may require" could conflict with protections afforded by laws against discrimination in housing, employment, and consumer credit, among others. The proposal to identify persons "at risk of homelessness" could be dangerously ambiguous in certain contexts, such as identifying nonresidents. None of these troublesome provisions promise any due process for persons compelled to leave the District or turned away from a shelter, in contrast to the public housing tenant facing eviction or the food stamp recipient whose benefits may be terminated.
The D.C. Bar Committee on the Rights of the Homeless opposes Bill 8-210, "The Housing Assistance Act of 1989" on similar grounds. Requirements to register vehicles, register to vote, file taxes, and enroll children in D.C. schools as a precondition to being admitted to shelters will discourage persons who lack the necessary documentation (and cash in the case of car registration and income tax filing) from going to shelters. Furthermore, these requirements are unnecessary as similar requirements already exist under current D.C. law. The provision in Bill 8-210 that alleviates the District's obligation to provide shelter when the Housing Assistance Fund is depleted has the potential of rewarding administrators for inefficient use of funds while penalizing homeless persons whose needs for shelter are unrelated to available revenues in a given year. Of greatest concern from a legal standpoint is the proposal to bar monetary damages in lawsuits brought under the Right to Overnight Shelter Act. It would appear that the determination of appropriate relief in an individual case would be best left to the judicial system.

In conclusion, the D.C. Bar Committee on the Rights of the Homeless urges the Council to closely consider the potential policy and legal problems of these two bills, and to continue its support of the segment of the population that has been failed by so many other governmental programs. Thank you.