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Federal 2d

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From the editor

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 wrought sweeping changes to the law of bankruptcy, and Volumes 19 and 20 of A.L.R. Federal 2d bring readers two notable issues arising out of the new law. Volume 19 contains an annotation discussing the effect of the “hanging” or “anti-cramdown” paragraph added to the Bankruptcy Code by BAPCPA ([19 A.L.R. Fed. 2d 157](#)) and Volume 20 contains an annotation addressing the construction and application of BAPCPA’s requirement that debtors complete a course in personal financial management (20 A.L.R. Fed. 2d). Also found within these volumes are annotations discussing U.S. Supreme Court cases in two controversial and highly litigated areas. Volume 19 includes an annotation containing analysis of the Supreme Court decisions on campaign finance laws ([19 A.L.R. Fed. 2d 1](#)) and Volume 20 includes a discussion of Supreme Court abortion cases (20 A.L.R. Fed. 2d). These and many other annotations ensure that A.L.R. Federal 2d continues to bring you a wide variety of timely federal topics.

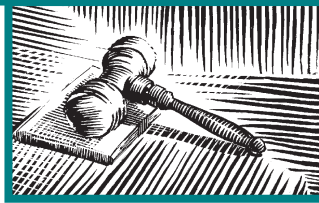
Brenda M. Williamson, J.D.

Highlights

ASSAULT AND BATTERY

Offense of Assaulting Federal Officer

The federal statutes do not define assault, or battery, or assault and battery, but use the term “assault” in specifying certain types of actions that are punishable as offenses. Among the statutes are those making it a punishable offense to assault: federal officials or members of their immediate families in order to retaliate against, impede, or influence such federal officials; certain diplomatic officials; process servers; and persons having lawful charge, control, or custody of any mail matter or of any money or other property of the United States, with the intent to rob, steal, or purloin such mail, money, or prop-



erty of the United States. The federal courts have jurisdiction to prosecute assaults committed within the special maritime and territorial jurisdiction of the United States. In a prosecution for assault under a federal statute which uses but does not define the word as-

sault, an indictment that contains all the essential elements of the offense mentioned in the statute, without defining the word “assault,” is sufficient. Federal law prohibits an assault upon any officer or employee of the United States or of any agency or any branch of the U.S. Government while he or she is engaged in, or on account of the performance of, his or her official duties. This annotation collects and discusses the cases which have considered who is a “federal officer” for purposes of the offense of

assaulting a federal officer under 18 U.S.C.A. § 111. [19 A.L.R. Fed. 2d 457](#)

BANKRUPTCY

Effect of Bankruptcy “Hanging” or “Anti-Cramdown” Provision

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) imposes several new restrictions on debtors who file bankruptcy, particularly individuals. One such restriction precludes the bifurcation, or division into secured and unsecured portions, of certain undersecured claims in a proceeding under Chapter 13 of the Bankruptcy Code. This restriction is found in a paragraph added by BAPCPA to 11 U.S.C.A. § 1325(a) but not assigned a numerical or alphabetical designation. Because of its lack of a formal citation, courts often refer to the paragraph as the “hanging” or “anti-cramdown” paragraph of § 1325(a). One question that has arisen under this hanging paragraph is whether a debtor’s surrender of the collateral for a secured claim is sufficient to pay the claim in full. This annotation collects and analyzes all the cases discussing this “hanging” or “anti-cramdown” paragraph. [19 A.L.R. Fed. 2d 157](#)

CONSTITUTIONAL LAW

U.S. Supreme Court— Campaign Finance Cases

Campaign finance laws have implicated many constitutional concerns, chief among them being that restrictions on contributions or expenditures in connection with political campaigns amount to an

infringement of the type of speech that lies at the core of the First Amendment. This annotation collects and discusses U.S. Supreme Court cases in which the Court considered and discussed the validity, construction, or application of state or federal statutes, including the Federal Election Campaign Act (2 U.S.C.A. §§ 421 et seq.) and the Bipartisan Campaign Reform Act of 2002 (amending FECA), regulating the financing of campaigns for political office. [19 A.L.R. Fed. 2d 1](#)

HABEAS CORPUS

Antiterrorism and Effective Death Penalty Act

In 1996, as part of the Antiterrorism and Effective Death Penalty Act (more commonly referred to as “AEDPA”), Congress enacted 28 U.S.C.A. § 2244(d). Section 2244(d)(1) creates a one-year limitation period for the filing of federal habeas petitions by persons in custody pursuant to the judgment of a state court. Although 28 U.S.C.A. § 2244(d)(1) provides that “a 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court,” the courts have recognized that, under appropriate circumstances, equitable factors permit the tolling of this one-year period. This annotation collects and analyzes the federal cases discussing actions or inactions on the part of persons other than the petitioner or the petitioner’s counsel and other factors as grounds for such equitable tolling. [19 A.L.R. Fed. 2d 491](#)

Coming Soon

Listed below are a few of the topics scheduled to be published in Volume 20 of A.L.R. Fed. 2d in July 2007. Some of the annotations listed may be rescheduled.



established that these limitations periods are subject to the equitable tolling doctrine, but that such tolling is to be applied sparingly. This annotation collects and analyzes those cases addressing general principles with regard to equitable tolling of the time period in which to file a Title VII charge with the EEOC under 42 U.S.C.A. § 2000e-5(e)(1). [20 A.L.R. Fed. 2d](#)

CIVIL RIGHTS

Title VII—Tolling of EEOC Filing Time Limitation

The Civil Rights Act of 1964, 42 U.S.C.A. § 2000e-5(e)(1), provides that a Title VII charge must be filed with the Equal Employment Opportunity Commission (EEOC) within 180 days after the alleged unlawful employment practice occurred, or within 300 days if the aggrieved person has initially instituted proceedings with a state or local agency. It has been

RECORDS

Federal Agency Records— First Amendment Issues

The Privacy Act provides that governmental agencies shall “maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity.” This provi-

sion (5 U.S.C.A. § 552a(e)(7)) has raised many issues for the courts, including whether a governmental agency's records implicate an individual's exercise of his or her First Amendment rights. This annotation collects and discusses all the cases decided under 5 U.S.C.A. § 552a(e)(7). **20 A.L.R. Fed. 2d**

SENTENCING AND PUNISHMENT

Mandatory Victims Restitution Act— Constitutional Issues

The Mandatory Victims Restitution Act (MVRA), 18 U.S.C.A. § 3663A, effective April 24, 1996, requires federal district courts to order a defendant to make restitution to victims of certain crimes for the full amount of the victims' losses, without consideration of the defendant's economic circumstances. Several issues of constitutional dimension have been raised and adjudicated pertaining to the MVRA and its application, and this annotation collects and discusses

all cases considering federal and state constitutional issues pertaining to the MVRA or its application. **20 A.L.R. Fed. 2d**

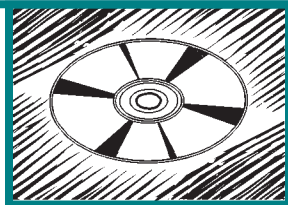
UNITED STATES

Challenges to Electoral College and Electors

Under the U.S. Constitution, the President and Vice President of the United States are elected by presidential electors, nominated and appointed (elected) in each state in the manner that the state legislature directs. Therefore, the Electoral College does not allow U.S. citizens to vote directly for the President and Vice President but only for the appointment of presidential electors, who then vote directly for the presidential candidates. This annotation collects and discusses cases which have addressed challenges to the Electoral College and presidential electors. **20 A.L.R. Fed. 2d**

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The following is a complete list, arranged alphabetically by topic, of annotations contained in Volume 19 of A.L.R. Fed. 2d or scheduled for publication in Volume 20 of A.L.R. Fed. 2d. Some of the annotations listed may be rescheduled.



U.S.C.A. §§ 2000e-16a, 2000e-16b, and 2000e-16c, and Implementing Regulations. **20 A.L.R. Fed. 2d**

CLASS ACTIONS

Propriety, Under Rules 23(a) and 23(b) of Federal Rules of Civil Procedure, as Amended in 1966, of Class Action Seeking Relief Against Pollution of Environment. **19 A.L.R. Fed. 2d 303**

ELECTIONS AND VOTING

Validity, Construction, and Application of Campaign Finance Laws—Supreme Court Cases. **19 A.L.R. Fed. 2d 1**

Challenges to Presidential Electoral College and Electors. **20 A.L.R. Fed. 2d**

EMPLOYEE RETIREMENT INCOME SECURITY ACT

Validity and Operation of Cash Balance Pension Plans Under ERISA and Internal Revenue Code. **19 A.L.R. Fed. 2d 241**

ENVIRONMENTAL LAW

Propriety, Under Rules 23(a) and 23(b) of Federal Rules of Civil Procedure, as Amended in 1966, of Class Action Seeking Relief Against Pollution of Environment. **19 A.L.R. Fed. 2d 303**

EVIDENCE

Admissibility of Lay and Expert Testimony in Actions Alleging Violations of Equal Pay Act. **19 A.L.R. Fed. 2d 639**

ABORTION

Women's Reproductive Rights Concerning Abortion, and Government Regulation Thereof—U.S. Supreme Court Cases. **20 A.L.R. Fed. 2d**

BANKRUPTCY AND INSOLVENCY

Effect of "Hanging" or "Anti-Cramdown" Paragraph Added to 11 U.S.C.A. § 1325(a) by Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA). **19 A.L.R. Fed. 2d 157**

Construction and Application of Requirement, in Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA), that Debtor Complete Course in Personal Financial Management (11 U.S.C.A. §§ 727(a)(11), 1328(g)). **20 A.L.R. Fed. 2d**

CIVIL RIGHTS AND DISCRIMINATION

Equitable Tolling of Time Period for Filing Charge with Equal Employment Opportunity Commission for Violation of Employment Opportunities Provision Under Section 706 of Civil Rights Act of 1964 (42 U.S.C.A. § 2000e-5(e)(1))—General Principles. **20 A.L.R. Fed. 2d**

Validity, Construction, and Application of Government Employee Rights Act of 1991 (GERA), 42

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Remedies Available in Private Action Under Sections 616 and 617 (15 U.S.C.A. §§ 1681n, 1681o) of Fair Credit Reporting Act—Other than Attorney’s Fees. **20 A.L.R. Fed. 2d**

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FEDERAL COMMUNICATIONS ACT AND COMMISSION

Federal Regulation of Paging Services. **20 A.L.R. Fed. 2d**

HABEAS CORPUS

Actions or Inactions on Part of Persons Other than Petitioner or Petitioner’s Counsel and Factors Other than Limitations of Petitioner, Problems Relating to or Lack of Counsel, or Inadequate Access to Legal Materials, as Grounds for Equitable Tolling of One-Year Limitations Period Established in Antiterrorism and Effective Death Penalty Act for Writ of Habeas Corpus Sought by Person in Custody Pursuant to Judgment of State Court (28 U.S.C.A. § 2244(d)(1)). **19 A.L.R. Fed. 2d 491**

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Construction and Application of United Nations Convention on the Rights of the Child, 28 I.L.M. 1448 (1989)—Global Cases. **20 A.L.R. Fed. 2d**

LIMITATION OF ACTIONS

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Actions or Inactions on Part of Persons Other than Petitioner or Petitioner’s Counsel and Factors Other than Limitations of Petitioner, Problems Relating to or Lack of Counsel, or Inadequate Access to Legal Materials, as Grounds for Equitable Tolling of One-Year Limitations Period Established in Antiterrorism

and Effective Death Penalty Act for Writ of Habeas Corpus Sought by Person in Custody Pursuant to Judgment of State Court (28 U.S.C.A. § 2244(d)(1)). **19 A.L.R. Fed. 2d 491**

PUBLIC OFFICERS AND EMPLOYEES

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Plain, Speedy, and Efficient Nature of State Remedy Under Tax Injunction Act (28 U.S.C.A. § 1341) Prohibiting Federal District Courts from Interfering with Assessment, Levy, or Collection of State Real Property Taxes. **19 A.L.R. Fed. 2d 383**

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UNITED STATES

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