

## Talking Points from The Justice Project

**The way in which *habeas corpus* petitions are used is a complex issue that requires further study before any sweeping changes are made to the current system. The Streamlined Procedures Act, however, is a far-reaching measure that would drastically limit the writ of *habeas corpus* based solely on anecdotal evidence, not thoughtful analysis of the criminal appeals process.**

### **The Act:**

- **Is opposed by a broad array of judges, prosecutors, defense attorneys, and victims' advocates from across the political spectrum-** A dozen retired judges, 48 out of 50 members of the Conference of Chief Justices, over sixty former prosecutors, and a number of leading conservatives, have urged Congress to further study the appeals process before radically changing the current system.
- **Would generate years of litigation and delay-** Contrary to the title of the legislation, the Streamlined Procedures Act would generate years of delay in the resolution of criminal cases because it would overturn a series of Supreme Court decisions, disregard long-established principles of federalism, and invite constitutional challenges on the theory that it impairs the independence of the federal courts. In 1996, Congress tried to reform *habeas corpus* by enacting the Anti-Terrorism and Effective Death Penalty Act (AEDPA). The AEDPA legislation contained provisions that the federal courts, along with the Supreme Court, have taken years to interpret. Just as the courts have finally begun to smooth out the 1996 law, this new effort to reform *habeas corpus* would bring the appeals process to a halt.
- **Would lead to more errors and unfairness in the justice system-** The current system of indigent defense in the United States often fails to guarantee defendants a fair trial and state courts fall short in their responsibility to correct the errors that occur during the trial phase. In fact, federal courts rule in favor of *habeas* petitions in 40 percent of the cases that come before them. By cutting federal courts out of the review process, these serious errors will go uncorrected calling into question the integrity of the criminal justice process.
- **Would increase the likelihood that an innocent person will be executed-** The stream of innocent prisoners being freed from prisons around the U.S. in recent years has revealed serious flaws in our criminal justice system. Congress has worked to correct some of these problems with last year's enactment of the Innocence Protection Act, but the Streamlined Procedures Act would undercut much of that progress. When an innocent person is convicted of a crime it is most often because the defendant received ineffective assistance of counsel or an act of police or prosecutorial misconduct occurred in the case. Innocent prisoners need to be able to challenge their cases by filing *habeas corpus* petitions that can then clear the way for them to prove their innocence.