

Conference of Chief Justices Conference of State Court Administrators

PRESIDENT

Randall T. Shepard
Chief Justice
Supreme Court of Indiana
304 Indiana State House
200 W. Washington Street
Indianapolis, IN 46204
(317) 232-2550
Fax: (317) 233-2990
rshepard@courts.state.in.us



PRESIDENT

Jonathan Lippman
Chief Administrative Judge
Office of Court Administration
140 Grand Street, Suite 704
White Plains, NY 10601
(914) 997-7980
Fax: (914) 997-7781
jlippman@courts.state.ny.us

August 15, 2005

Honorable Arlen Specter, Chairman
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20519

Honorable Patrick J. Leahy, Ranking Member
Senate Judiciary Committee
152 Dirksen Senate Office Building
Washington, DC 20519

Re: Streamlined Procedures Act of 2005 (S. 1088)

Dear Senators Specter and Leahy:

We have enclosed a copy of a joint resolution adopted by the Conference of Chief Justices and the Conference of State Court Administrators. In the resolution, we urge your committee to delay further action to amend the Anti-Terrorism and Effective Death Penalty Act (AEDPA) or otherwise make changes to existing statutes affecting the filing and processing of habeas corpus petitions.

We are concerned that making significant statutory changes now will lead to a new period of uncertainty. As we note in the resolution, after years of legal challenges and litigation, the interpretation and effect of the AEDPA is just recently begun to be settled. We suggest that before any statutory changes are made that additional study is necessary to understand the impact of the AEDPA and the causes for unwarranted delay. Using the results of such an evaluation, strategies can be developed to effectively address the documented problems.

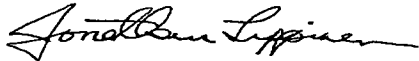
We offer our assistance to work with you and the federal courts to conduct the study and to develop and implement strategies to address documented problems.

National Center for State Courts
GOVERNMENT RELATIONS OFFICE
2425 Wilson Boulevard, Suite 350
Arlington, VA 22201
Voice: (703) 841-0200 FAX: (703) 841-0206

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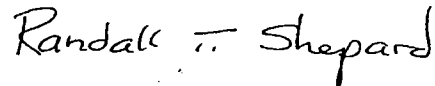
Thank you for your consideration of our concerns and suggestions. We would welcome the opportunity to work with you and your committee on this issue. Please feel free to contact either of us or our staff at the National Center for State Courts (NCSC).

Sincerely,



Honorable Jonathan Lippman, President
Conference of State Court Administrators

Sincerely



Hon. Randall T. Shepard, President
Conference of Chief Justices

cc: Ms. Mary McQueen, President, NCSC
Ms. Kay Farley, Director, NCSC Government Relations Office
Judge Greg Mize (ret.), NCSC Government Relations Office

Encl.

JOINT RESOLUTION OF THE CONFERENCE OF CHIEF JUSTICES AND CONFERENCE OF STATE COURT ADMINISTRATORS

Resolution 16

In Support of Gathering Further Information Concerning the Effects of the Anti-Terrorism and Effective Death Penalty Act of 1996 to Determine Whether Amendments Are Needed

WHEREAS, state courts have an interest in the finality of their judgments and an interest in ensuring that such judgments are fairly and effectively rendered; and

WHEREAS, federal habeas corpus review of both capital and non-capital convictions is an established part of the legal structure of our nation and a considerable body of law concerning this process has developed in the United States Supreme Court, the lower federal courts, and the state courts; and

WHEREAS, in 1996 the United States Congress adopted the Federal Antiterrorism and Effective Death Penalty Act (AEDPA) in order to improve the fair and timely review of state court judgments by the federal courts; and

WHEREAS, the interpretation and effect of AEDPA only recently has begun to be settled after years of legal challenges and litigation; and

WHEREAS, affording those claiming to be wrongfully convicted an opportunity to obtain reasonable and timely review of their convictions and providing victims and their families with the fair and timely resolution of charges and punishment of those found to have violated their rights are integral to our system of justice; and

WHEREAS, Congress presently is considering far-reaching changes to AEDPA and the traditional right to seek habeas corpus in the federal courts in S. 1088 and H.R.3035; and

WHEREAS, the changes contemplated in these measures may preclude state defendants in both capital and non-capital matters from seeking habeas corpus relief in the federal courts, and may deprive the federal courts of jurisdiction in the vast majority of these matters, all with unknown consequences for the state courts and for the administration of justice;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices and the Conference of State Courts Administrators support delaying further action on amending the AEDPA or otherwise changing the existing statutes affecting the filing and processing of habeas corpus petitions in the federal courts, as contemplated in H.R. 3035 and S. 1088, presently pending before the United States Congress; and

BE IT FURTHER RESOLVED that the Conferences urge that additional study and analysis be undertaken to evaluate the impact of AEDPA to date and the causes of unwarranted delay, if any, including the availability and allocation of resources, and to consider appropriate targeted measures that will ameliorate the documented problems and avoid depriving the federal courts of their traditional jurisdiction without more supporting evidence; and

BE IT FURTHER RESOLVED that the Conferences are interested in working cooperatively with Congress and the federal courts to identify problems related to the AEDPA and stand ready to assist in the development and implementation of strategies to address those identified problems.

Adopted as proposed by the CCJ/COSCA Government Affairs Committee at the 57th Annual Meeting on August 3, 2005.

JOINT RESOLUTION OF THE CONFERENCE OF CHIEF JUSTICES AND CONFERENCE OF STATE COURT ADMINISTRATORS

Resolution 18

In Support of Increasing Public Confidence in the Criminal Justice System by Reducing the Risk of Wrongful Convictions

WHEREAS, a part of the mission of the Conference of Chief Justices is to improve the administration of justice in the states, commonwealths and territories of the United States; and

WHEREAS, part of the mission embraces the development and advancement of policies in support of the common interests and shared values of state judicial systems regarding criminal justice; and

WHEREAS, the power of the state to restrict the freedom of persons through the criminal justice system should be respectfully exercised with the utmost care and caution; and

WHEREAS, protecting the innocent and convicting the guilty are two key goals of our constitutional criminal justice system; and

WHEREAS, the faithful search for new methods and practices by which we can increase reliability and accountability, and thereby public confidence, in the criminal justice system is prudent and reasonable; and

WHEREAS, the people of the United States rightly look to and expect the judiciary to safeguard and promote fairness and reliability in the criminal justice system; and

WHEREAS, advancements in science and technology and the work of innocence projects and commissions identify and demonstrate methods of improving reliability and accountability - and thereby building public confidence - in the criminal justice system; and

WHEREAS, the wrongful conviction of an innocent person leaves the actual perpetrator free and undermines public trust and confidence in our criminal justice system; and

WHEREAS, DNA evidence and recent exonerations of wrongfully convicted persons have raised public concern regarding the reliability of some criminal convictions;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices and Conference of State Court Administrators support state judicial officers and appropriate public entities in their efforts to prevent the conviction of persons charged with criminal acts they did not commit; and

BE IT FURTHER RESOLVED, that the Conference of Chief Justices and Conference of State Court Administrators also support the continuation and improvement of appropriate procedures for hearing and considering post-conviction claims of innocence.

Adopted as proposed by the CCJ/COSCA Public Trust and Confidence in the Judiciary Committee at the 57th Annual Meeting on August 3, 2005.