

CONFERENCE OF CHIEF JUSTICES

Resolution 26

In Opposition to Federal Usurpation of State Court Authority as Guaranteed by the United States Constitution

WHEREAS, the Conference of Chief Justices has long committed itself to protect and strengthen independent state judicial proceedings as a central part of the federal system of American Government; and

WHEREAS, the Conference has consistently taken strong issue with any efforts that threaten the independence and integrity of state judicial systems; and

WHEREAS, the United States House of Representatives approved the “Lawsuit Abuse Reduction Act of 2004” (H.R. 4571) in the 108th Congress, which contravenes the fundamental principles of federalism; and

WHEREAS, Section 3 of H.R. 4571, which would mandate a new Federal Rule 11 in all state litigation where a state court determines, on motion, that the action “affects interstate commerce,” may violate the authority of state governments and courts guaranteed by the United States Constitution; and

WHEREAS, Section 4 would establish federal mandated venue and jurisdiction rules for all state personal injury cases, and such comprehensive reforms in state litigation should occur in and through state courts and legislatures which are situated to determine and control the impact of reform within their own communities;

NOW, THEREFORE, BE IT RESOLVED that the Conference strongly opposes legislation like H.R. 4571 that would drastically change the traditional state role in determining ethics, jurisdiction and venue rules in state litigation.

Adopted as proposed by the Professionalism and Competence of the Bar Committee of the Conference of Chief Justices at the 28th Midyear Meeting on January 26 2005.