

**CONFERENCE OF CHIEF JUSTICES
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.