

# CONFERENCE OF CHIEF JUSTICES

## Resolution 18

### **Affirming the Support of the National Consortium of Task Forces and Commissions on Racial and Ethnic Fairness in the Courts**

WHEREAS, the Conference of Chief Justices (CCJ), along with the Conference of State Court Administrators (COSCA), has established a Committee on Access to and Fairness in the Courts, because the principle of equal treatment of all persons before the law is essential to the very concept of justice; and

WHEREAS, the National Consortium of Task Forces and Commissions on Racial and Ethnic Fairness in the Courts (National Consortium) was established in 1988 and its primary purpose is to provide participating groups and individuals an opportunity to discuss and share research and program activities relating to their common mandate to determine the existence of bias in the courts and to recommend and implement action to overcome it; and

WHEREAS, membership in the National Consortium is open to representatives from states that have established racial and ethnic bias task forces or commissions, bar organizations, local state court organizations with racial/ethnic bias components, and individual members; and

WHEREAS, the National Center for State Courts has served as the National Consortium's secretariat and provided direct and in-kind support to this organization since its inception; and

WHEREAS, the National Consortium, through the National Center for State Courts, has provided technical assistance and consultation to state court systems on inquiries regarding racial and ethnic bias in the courts; and

WHEREAS, on August 1, 2002, at its Annual Meeting, CCJ adopted a resolution, "In Support of State Courts' Responsibility to Address Issues of Racial and Ethnic Fairness," that recommended strategies, and urged CCJ/COSCA to take a leadership role and maintain visibility on this important issue;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices reaffirms the principles embodied in COSCA's 2001 Racial and Ethnic Fairness White Paper, and its own August 1, 2002 resolution, and supports the National Consortium's activities and its efforts to promote these principles; and

BE IT FURTHER RESOLVED that the Conference urges those states that have not already done so to establish task forces or commissions on racial and ethnic bias.

# CONFERENCE OF CHIEF JUSTICES

## Resolution 19

### In Support of Pursuing Child Support Initiatives

WHEREAS, in May 2003, the Office of Child Support Enforcement (OCSE) sponsored the 2<sup>nd</sup> National Symposium on Children, Courts, and the Federal Child Support Enforcement Program for the purpose of identifying critical issues that require collaboration among the courts, child support agencies and Medicaid agencies; and

WHEREAS, continued collaboration between State court leaders and OCSE will be needed to improve the outcomes for the children of America who do not live with both parents; and

WHEREAS, following the Symposium, the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) reviewed the many issues discussed at the Symposium and identified three priority issues-- uncollectible arrears, default orders and interstate case processing; and

WHEREAS, potential strategies could include (without limitation) identifying alternatives available to judges for dealing with cases in which the arrears are not realistically collectible, developing model procedures and court rules to reduce the number of default orders and to set appropriate default order amounts, identifying model procedures and court rules that facilitate interstate cooperation and communication, and sponsoring regional training meetings for representatives from the courts and Executive Branch agencies; and

WHEREAS, as the leadership of the State courts, CCJ and COSCA are committed to identifying and implementing reforms that will improve the collection of child support;

NOW, THEREFORE, BE IT RESOLVED, that CCJ is committed to working collaboratively with the OCSE, IV-D agency directors and state legislatures to improve the administration of the child support enforcement program.

BE IT FURTHER RESOLVED that CCJ is committed to examining and making appropriate changes in court processes, procedures and rules that will effectuate improved outcomes for children.

Adopted as proposed by the Courts, Children and Families Committee of the Conference of Chief Justices at the 27<sup>th</sup> Midyear Meeting on January 21, 2004.

# CONFERENCE OF CHIEF JUSTICES

## Resolution 20

### In Recognition of the 25<sup>th</sup> Anniversary of Foster Care Review Boards

WHEREAS, Congress charged courts with providing accountability to the child welfare system responsible for protecting abused, abandoned and neglected children; and

WHEREAS, the role of the courts is to insure that such children are moved expeditiously to permanent and safe homes; and

WHEREAS, Foster Care Review Boards perform a critical function in assisting courts in carrying out these mandated responsibilities, and play an integral part in monitoring case activities and compliance with permanency plans; and

WHEREAS, the insights and recommendations of Foster Care Review Boards provide invaluable assistance to judges; and

WHEREAS, the first Foster Care Review Board program was established in 1978 in New Jersey and Foster Care Review Board programs now exist in twenty-five states;

NOW, THEREFORE, BE IT RESOLVED, that the Conference of Chief Justices recognizes the 25<sup>th</sup> anniversary of the Foster Care Review Board program and expresses appreciation to the Foster Care Review Boards and their citizen volunteers who work with the courts to assist our nation's at-risk children.

# CONFERENCE OF CHIEF JUSTICES

## Resolution 21

### **In Support of Keeping Families Together Act**

WHEREAS, the Conference of Chief Justices (Conference) recognizes that each year thousands of parents must relinquish legal custody of their children to state agencies for the sole purpose of obtaining mental health services for their children who have serious mental or emotional disorders; and

WHEREAS, in 2001, the United States General Accounting Office found that approximately 12,700 children in nineteen states were placed in the custody of the state child welfare and juvenile justice systems for the sole purpose of accessing mental health services; and

WHEREAS, the Keeping Families Together Act (H.R. 3243 and S. 1704) is designed to address the barriers that prevent the families with children who have serious mental or emotional disorders from accessing critical mental health services; and

WHEREAS, the Act would provide states with federal matching dollars to fund state interagency systems of care that would serve children while keeping the children in the legal custody of and living with their families;

NOW, THEREFORE, BE IT RESOLVED that the Conference urges Congress to give favorable consideration to legislation, such as Keeping Families Together, that provides families with needed mental health services for seriously mentally disturbed children while protecting the safety of these children.

Adopted as proposed by the Courts, Children and Families Committee of the Conference of Chief Justices at the 27<sup>th</sup> Midyear Meeting on January 21, 2004.

# CONFERENCE OF CHIEF JUSTICES

## Resolution 22

### State Judicial Branch Budgets in Times of Fiscal Crisis

WHEREAS, state governments are currently experiencing the worst fiscal crisis in decades, and many state courts are facing deep budget cuts, court closures, jury trial suspensions, layoffs, hiring freezes and the like; and

WHEREAS, many state judicial systems have found it difficult to secure adequate resources even in good economic times, and are therefore particularly vulnerable in this fiscal crisis; and

WHEREAS, state courts need to operate from a position of strength in the budget process in order to avoid unreasonable budget cuts and external micro-management that undermine the courts' ability to carry out their mission during difficult fiscal times; and

WHEREAS, judicial governance of certain core functions is essential to meeting the courts' constitutional responsibility to the citizenry; and

WHEREAS, the Judiciary, as a responsible partner in government, recognizes its obligation to share in the sacrifices being made by state government during a fiscal crisis; and

WHEREAS, the Judicial Branch's obligation to be a good partner in government in no way detracts from the necessity of providing the courts with adequate funding given the Judiciary's constitutional status as a separate and co-equal branch of government responsible for upholding the rule of law and performing certain core functions at the heart of democratic government;

NOW, THEREFORE, BE IT RESOLVED, that the Conference in general endorses the broad principles and practical strategies set forth in the White Paper on State Judicial Budgets in Times of Fiscal Crisis (prepared by the Conference of State Court Administrators), including the following principles and strategies:

1. An important determinant of success in obtaining adequate resources in difficult fiscal times is the Judicial Branch's credibility with the other Branches and with the public, based on a track record of good governance, such as
  - Consistent submission over time of prudent, transparent judicial budget requests that provide clear justification for the resources requested, and judicial budget priorities that are consistent from year to year.
  - Sound financial management system-wide and among individual courts.
  - Efforts to measure and report on the courts' management performance.
  - Self-imposed austerity measures during difficult budget times.
2. The Chief Justice is the inspirational leader of the courts and should be a strong, visible advocate for their needs and priorities. The strength and quality of the

Chief Justice's leadership and skills in administering the Third Branch during good economic times carry over into difficult economic times.

3. The State Court Administrator (SCA) bears a major responsibility for how the other branches and public perceive the courts' management and fiscal performance. The SCA must be perceived as credible and knowledgeable on budget matters and as a strong internal leader capable of making difficult budget decisions.
4. Constitutional and statutory provisions bearing on the state's overall budget process can greatly affect the impact of a state's fiscal crisis on the Judiciary. For example:
  - Certain structural conditions, such as permitting the Executive to alter the Judiciary's budget request prior to submission to the Legislature, undermine judicial independence and effective self-governance.
  - Line item restrictions on Judicial Branch spending preclude courts from making most efficient use of their resources.
  - The Judicial Branch should speak with one voice in advancing its budget goals. Those goals may be promoted by state unification of budget and finance through the administrative office of the courts.
5. Courts can respond to a state budget crisis in one or more ways, such as cutting costs and services, increasing revenues, negotiating budget cuts and maintaining their constitutional prerogatives. The following are considerations relating to each:
  - Firm insistence that the Judiciary be treated as a co-equal branch of government in the context of court funding is both appropriate and necessary.
  - Cuts in costs/services cannot rise to the level where courts become mere "case processing centers."
  - Sharing in across-the-board cuts hurts the Judiciary disproportionately because the courts are personnel-heavy, cannot turn away cases, and therefore have little spending flexibility.
  - Where austerity measures are taken, courts should make their sacrifices known, in an effort to build public support and strengthen their budget position.
  - Courts should consider whether to raise revenues by increasing fees and fines but must avoid sending a message that they are responsible for self-funding.
  - Courts must have significant input concerning their response to a budget crisis, rather than others managing the crisis for them.
  - Budget crises may well present opportunities for reform that could not be pursued in more favorable economic times.

Adopted as proposed by the Court Management Committee of the Conference of Chief Justices at the 27<sup>th</sup> Midyear Meeting on January 21, 2004.

# CONFERENCE OF CHIEF JUSTICES

## Resolution 23

### In Support of Principles of Effective Judicial Governance and Accountability

WHEREAS, the Conference of Chief Justices has worked to promote effective judicial governance and accountable state Judicial Branch institutions that provide the highest quality of service to the public; and

WHEREAS, the Conference of State Court Administrators has prepared a Position Paper setting forth principles of effective judicial governance and accountability; and

WHEREAS, the failure to be accountable can foster an environment in which the other branches of government and the public do not understand the Judiciary's role; and in which the other branches are more likely to micro-manage or otherwise diminish the Judiciary's ability to govern its own affairs, and are more likely to criticize particular decisions of individual judges and courts; and

WHEREAS, state courts cannot achieve effective governance without the capacity to manage their own affairs and develop and implement policies and practices in core areas critical to their administration; and

WHEREAS, by identifying the core elements of judicial accountability, state court systems can present to the public and coordinate branches of government their vision of the Judiciary's role in our society and articulate clearly the conditions necessary to providing the highest level of service;

NOW, THEREFORE, BE IT RESOLVED, that the Conference of Chief Justices identifies the following core elements of judicial accountability for state court systems. In each of the following areas, courts should assure that:

#### **Court Performance**

- Cases are processed and disposed of fairly and expeditiously.
- Comprehensive data on filings, caseloads, case processing standards and goals, and expenditures are collected and made readily available.
- Courts institute processes for continuous self-assessment and improvement, including financial audits.
- The judiciary measures and reports on its performance using credible accountability tools, including court performance standards and measures.
- Modern technological innovations are fully utilized to provide complete, accurate and timely information to improve the efficiency and effectiveness of court adjudicative and administrative functions.

- Written information on individual courts, including their state and local operations and procedures, is widely available through electronic and traditional means.

### **Access and Equality**

- All citizens receive equal justice and have equal access to the courts regardless of their backgrounds and economic circumstances.
- Racial, ethnic, gender and other forms of bias, real and perceived, are eliminated from the courts and the entire justice system.
- In designing administrative processes, highest priority is given to the people served. In the development of forms, processes and practices, due consideration is given to consistency among courts to minimize the adverse impact on access, and costs of litigation.
- Litigants involved in court proceedings believe that they have been heard, and understand the decisions of the court.
- Courthouses and courtrooms are accessible, secure, clean, open to all and provide an environment conducive to the administration of justice.
- The public's tax dollars are expended in a cost-effective manner in accordance with sound fiscal practices.
- Jurors' time is used efficiently, and jurors are treated with dignity, provided with all necessary tools and materials to carry out their responsibilities, and compensated adequately.
- Processes are available that give citizens an opportunity to air complaints regarding the operation of the courts, and that courts are responsive to their concerns.

### **Fairness and Courtesy**

- Judges and court personnel are courteous and knowledgeable.
- Time of lawyers, litigants and witnesses is used effectively and due consideration is given to their scheduling needs in developing case assignment and scheduling systems.
- Members of the bar, whose conduct is regulated by the Judiciary, act with competence, professionalism and civility.

### **Judicial Leadership**

- Courts take an active leadership role in fostering positive institutional relationships with the other branches of government and justice system constituencies.
- Assume a more active role in the legislative process on matters affecting court operations and governance, including submission of appropriate legislative proposals.
- Establish inter-branch forums to study and discuss the needs and problems of the courts and other issues of mutual concern.
- Work actively to educate the public, the other branches of government and the media about the Judiciary and its adjudicative and administrative functions.

Adopted as proposed by the Court Management Committee of the Conference of Chief Justices at the 27<sup>th</sup> Midyear Meeting on January 21, 2004.

# CONFERENCE OF CHIEF JUSTICES

## Resolution 24

### **Amending the Federal Court Interpreter Legislation to Include the Territories and Commonwealths of the United States**

WHEREAS, the Conference of Chief Justices, along with the Conference of State Court Administrators, have endorsed the concept of establishing a federal program to assist state courts in providing court interpreter services; and

WHEREAS, S. 1733 has been introduced in Congress which would establish a federal grant program to assist the states in providing court interpreter services; and

WHEREAS, S. 1733 does not define states as including the territories and commonwealths of the United States; and

WHEREAS, the territories and commonwealths of the United States have similar limitations and requirements as the states as described in S. 1733;

NOW, THEREFORE, BE IT RESOLVED that the Conference reaffirms its support of this legislation and urges the sponsors of this legislation to add a definition of states to include the Territories of Guam, American Samoa and the Virgin Islands, and the Commonwealths of the Northern Mariana Islands and Puerto Rico as eligible recipients to receive court interpreter assistance.

Adopted as proposed by the Access to and Fairness in the Courts Committee of the Conference of Chief Justices at the 27<sup>th</sup> Midyear Meeting on January 21, 2004.