LEGISLATION AFFECTING THE FEDERAL RULES OF PRACTICE AND PROCEDURE[1]
109th Congress

SENATE BILLS

- S. 5 - *Class Action Fairness Act of 2005*
  - Introduced by: Grassley
  - Date Introduced: 1/25/05
  - Status: Read twice and referred to the Senate Committee on the Judiciary (1/25/05). Senate Judiciary Committee reported bill favorably without amendment (2/3/05). Passed Senate by vote of 72-26 (2/10/05). Passed House by vote of 279-149 (2/17/05). Signed by President (2/18/05) (Pub. L. No. 109-2).
  - Related Bills: H.R. 516
  - Key Provisions:

— Section 3 amends **Part V of title 28, U.S.C.**, to include a new chapter on Consumer Class Action Bill of Rights and Improved Procedures for Interstate Class Actions. The new chapter includes provisions on judicial review and approval of noncash settlements, prohibition on the payment of bounties, review and approval of proposed settlements (protection against loss by class members and prohibition against discrimination based on geographic location), and notification of proposed settlement to appropriate state and federal officials.

— Section 4 amends **section 1332 of title 28, U.S.C.**, to give district courts original jurisdiction of any civil action in which the amount in controversy exceeds $5 million, exclusive of interest and costs, and is a class action in which (1) any plaintiff class member is a citizen of a state different from any defendant, (2) any plaintiff class member is a foreign state or subject of a foreign state and any defendant is a citizen of a state, or (3) any plaintiff class member is a citizen of a state and any defendant is a foreign state or a subject of a foreign state.

A district court may decline to exercise jurisdiction where more than 1/3 but less than 2/3 of the plaintiff class members and the primary defendants are citizens of the state in which the action was originally filed. In reaching its decision, the district court may rely on the following considerations: (a) whether the claims asserted involve matters of national or interstate interest, (b) whether the claims asserted will be governed by laws of the state in which the action was originally filed or by the laws of other states, (c) whether the case was pleaded in such a manner so as to avoid federal jurisdiction, (d) whether the class action was

[1]The Congress has authorized the federal judiciary to prescribe the rules of practice, procedure, and evidence for the federal courts, subject to the ultimate legislative right of the Congress to reject, modify, or defer any of the rules. The authority and procedures for promulgating rules are set forth in the Rules Enabling Act. 28 U.S.C. §§ 2071-2077.

brought in a forum with sufficient nexus with the plaintiff class members, (e) whether the number of citizens in the plaintiff class who are citizens of the state where the action was filed is substantially larger than the number of citizens from any other state, and the citizenship of the other members is dispersed among a substantial number of states, and (f) whether, during the three-year period preceding the filing of the class action, one or more claims asserting the same or similar factual allegations were filed on behalf of the same or other persons against any of the defendants.

— Section 4 also provides that a district court may not exercise jurisdiction over any class action as provided above where (a) 2/3 or more of the plaintiff class and the primary defendants are citizens of the state in which the action was filed, (b) the primary defendants are states, state officials, or other governmental entities; or (c) the number of all members of all proposed plaintiff classes in the aggregate is less than 100. Section 4 adds additional grounds for excluding class actions from federal jurisdiction: (1) more than 2/3 of the members of all proposed plaintiff classes in the aggregate are citizens of the State in which the action was filed; (2) at least one defendant is a party from whom plaintiffs seek "significant relief," whose conduct forms a "significant basis" for plaintiffs' claims, and who is a citizen of the State where the action was originally filed; (3) the principal injuries resulting from the alleged conduct occurred in the State where the action was originally filed; and (4) a class action "asserting the same or similar factual allegations against any of the defendants on behalf of the same or other persons" was filed during the three-year period preceding the filing of the class action.

— Section 5 provides for removal of interstate class actions to a United States district court and for review of orders remanding class actions to State courts. Section 5 also provides that the court of appeals may consider an appeal from a district court's remand order. If the court of appeals accepts the appeal, the court must render a decision within 60 days after the appeal was filed, unless an extension of time is granted. (An extension of time may be granted for no more than 10 days.)

— Section 6 directs the Judicial Conference of the United States to submit reports to the Senate and House Judiciary Committees on class action settlements. In these reports, the Judicial Conference shall include the following: (1) recommendations on the "best practices" that courts can use to ensure that settlements are fair; (2) recommendations to ensure that the fees and expenses awarded to counsel in connection with a settlement appropriately reflect the time, risk, expense, and risk that counsel devoted to the litigation; (3) recommendations to ensure that class members are the primary beneficiaries of settlement; (4) the actions that the Judicial Conference will take to implement its recommendations.

— Section 7 states that the amendments to Civil Rule 23, which were approved by the Supreme Court on March 27, 2003, would take effect on the date of enactment or December 1, 2003, whichever occurred first.

- S. 155 - *Gang Prevention and Effective Deterrence Act of 2005*
  - Introduced by: Feinstein
  - Date Introduced: 1/25/05
  - Status: Read twice and referred to the Senate Committee on the Judiciary (1/25/05). Considered by Judiciary Committee (7/28/05). Judiciary Committee considered and markup session held (6/29/06).
  - Related Bills: H.R. 1279
  - Key Provisions:
    — Section 206 amends **Evidence Rule 804(b)(6)** to admit a statement offered against a party who conspired in a wrongdoing that resulted in the unavailability of the declarant.

- S. 256 - *Bankruptcy Abuse Prevention and Consumer Protection Act of 2005*
  - Introduced by: Grassley
  - Date Introduced: 2/1/05
  - Status: Referred to the Senate Committee on the Judiciary (2/1/05). Judiciary Committee reported favorably with amendments (2/17/05). Passed Senate by vote of 74-25 (3/10/05). Referred to House Committees on the Judiciary and Financial Services (3/15/05). House Judiciary Committee held mark-up session and ordered bill reported by vote of 22-13 (3/16/05). House Report 109-31 filed (4/8/05). Committee on Financial Services discharged (4/8/05). Passed House by a vote of 302 - 126 (4/14/05). Signed by the President (4/20/05) (Pub. L. No. 109-8).
  - Related Bills: H.R. 685
  - Key Provisions:
    — Section 221 amends **11 U.S.C. § 110** by inserting a new provision that allows the Supreme Court to promulgate rules under the Rules Enabling Act or the Judicial Conference to prescribe guidelines that establish a maximum allowable fee chargeable by a bankruptcy petition preparer.
    — Section 315 states that within 180 days after the bill is enacted, the Director of the Administrative Office of the U.S. Courts shall establish procedures for safeguarding the confidentiality of any tax information required to be provided under this section. Section 315 also directs the Director to prepare and submit a report to Congress on, among other things, the effectiveness of said procedures.
    — Section 319 expresses the sense of Congress that **Bankruptcy Rule 9011** should be amended to require the debtor or debtor's attorney to verify that information contained in all documents submitted to the court or trustee be (a) well grounded in law and (b) warranted by existing law or a good-faith argument for extension, modification, or reversal of existing law.
    — Section 419 directs the Judicial Conference, after consultation with the Executive Office of the United States Trustee, to propose amendments to the **Bankruptcy Rules** and **Bankruptcy Forms** that require Chapter 11 debtors to disclose certain information by filing and serving periodic financial reports. The required information shall include the value, operations, and profitability of any closely held corporation, partnership, or any other entity in which the debtor holds

a substantial or controlling interest.
— Section 433 directs the Judicial Conference to, within a reasonable time after the date of enactment, propose new **Bankruptcy Forms** on disclosure statements and plans of reorganization for small businesses.
— Section 434 adds **new section 308 to 11 U.S.C. chapter 3** (debtor reporting requirements). Section 434 also stipulates that the effective date "shall take effect 60 days after the date on which rules are prescribed under section 2075 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a)."
— Section 435 directs the Judicial Conference to propose amendments to the **Bankruptcy Rules** and **Bankruptcy Forms** to assist small business debtors in complying with the new uniform national reporting requirements.
— Section 601 amends **chapter 6 of 28 U.S.C.,** directing (1) the clerk of each district court (or clerk of the bankruptcy court if certified pursuant to section 156(b) of this title) to compile bankruptcy statistics pertaining to consumer credit debtors seeking relief under Chapters 7, 11, and 13; (2) the Director of the Administrative Office of the U.S. Courts to compile such statistics and make them available to the public; and (3) the Director of the Administrative Office of the U.S. Courts to prepare and submit to Congress an annual report concerning the statistics collected. This report is due no later than July 1, 2008.
— Section 604 expresses the sense of Congress that (1) it should be the national policy of the United States that all public data maintained by the bankruptcy clerks in electronic form should be available to the public and released in usable electronic form subject to privacy concerns and safeguards as developed by Congress and the Judicial Conference.
— Section 716 expresses the sense of Congress that the Judicial Conference should, as soon as practicable after the bill is enacted, propose amendments to the **Bankruptcy Rules** regarding an objection to the confirmation plan filed by a governmental unit and objections to a claim for a tax filed under Chapter 13.
— Section 1232 amends **28 U.S.C. § 2075** to insert: "The bankruptcy rules promulgated under this section shall prescribe a form for the statement required under section 707(b)(2)(C) of title 11 and may provide general rules on the content of such statement."
— Section 1233 amends **28 U.S.C. § 158** to provide for direct appeals of certain bankruptcy matters to the circuit courts of appeals.

[SA #26 amends 11 U.S.C. § 107 restricts public access to certain sensitive information of the debtor.]

- S. 737 - *Security and Freedom Enhancement Act of 2005*
  - Introduced by: Craig
  - Date Introduced: 4/6/05
  - Status: Referred to the Senate Committee on the Judiciary (4/6/05).
  - Related Bills: None

• Key Provisions:

— Section 3 amends **18 U.S.C. § 3103** by requiring that notice be given to the subject of the search warrant within 7 days after execution of the warrant.

- S. 829 - *Sunshine in the Courtroom Act of 2005*
  - Introduced by: Grassley
  - Date Introduced: 4/18/05
  - Status: Read twice and referred to the Senate Committee on the Judiciary (4/18/05). Senate Judiciary Committee held hearing (11/9/05). Senate Judiciary Committee approved by vote of 10-6 (3/30/06).

  - Related Bills: None
  - Key Provisions:

    — Section 3 authorizes the presiding judge of an appellate court to permit the photographing, electronic recording, broadcasting, or televising of any public proceeding over which the judge presides. Section 3 also authorizes the presiding judge of a district court to permit the photographing, electronic recording, broadcasting, or televising of any public proceeding over which the judge presides. The Judicial Conference may issue advisory guidelines on the broadcast of court proceedings.

    — Section 4 contains a sunset provision that terminates the authority of a district court judge to allow the broadcast of district court proceedings three years after enactment of the Act.

- S. 852 - *Fairness in Asbestos Injury Resolution Act of 2005*
  - Introduced by: Specter
  - Date Introduced: 4/19/05
  - Status: Read twice and referred to the Senate Committee on the Judiciary (4/19/05). Senate Judiciary Committee held mark-up sessions (4/28/05, 5/11/05, 5/12/05, 5/19/05); Senate Judiciary Committee reported bill favorably by a vote of 13-5 (5/26/05). Placed on legislative calendar (6/16/05). Report No. 109-97 filed (6/30/05). Senate Judiciary Committee held hearing (11/17/05). Cloture motion to proceed invoked by vote of 98-1 (2/7/06). Motion to waive Congressional Budget Act failed by vote of 58-41 (2/14/06). Recommitted to Senate Judiciary Committee in accord with Budget Act (2/14/06).
  - Related Bills: S. 3274; H.R. 1957.
  - Key Provisions:

    — Section 302 provides that a claimant may petition for judicial review of the administrator's decision awarding or denying compensation under the Act. Exclusive jurisdiction rests in the circuit court where the claimant resides at the time the final order is issued. The circuit court must review the decision on an expedited basis.

    — Section 403 provides that the Act supersedes federal and state law insofar as these laws may relate to any asbestos claim filed under the Act. Section 403 also states that, except as provided, the remedies set forth shall be the exclusive

remedy for any asbestos claim.

- S. 1088 - *Streamline Procedures Act of 2005*
  - Introduced by: Kyl
  - Date Introduced: 5/19/05
  - Status: Read twice and referred to the Senate Committee on the Judiciary (5/19/05). Committee hearing held (7/13/05). Committee consideration and mark-up sessions held (7/14/05, 7/28/05, 10/6/05, 11/16/05).
  - Related Bills: H.R. 3035
  - Key Provisions:

    — Section 2 amends **28 U.S.C. § 2254** to require federal courts to dismiss unexhausted claims with prejudice, unless the claim falls within limited exceptions for review.

    — Section 3 amends **28 U.S.C. § 2244** to limit amendments to a pending petition for writ of habeas corpus.

    — Section 4 amends **28 U.S.C. § 2254** to limit federal habeas review of a claim that was found by a state court to be barred procedurally or denied on the merits and on the ground that the claim was not properly raised under state procedural law.

    — Section 7 amends **28 U.S.C. § 2254** to impose time limits for a court of appeal to hear and decide an appeal in a habeas corpus proceeding from the district court

    — Section 11 amends **18 U.S.C. § 3771(b)** to provide that a victim of a crime in a habeas corpus proceeding be afforded the same rights as provided victims of crimes in federal criminal prosecutions under 18 U.S.C. § 3771(b).

- S. 1348 - *Sunshine in Litigation Act of 2005*
  - Introduced by: Kohl
  - Date Introduced: 6/30/05
  - Status: Read twice and referred to the Senate Committee on the Judiciary (6/30/05).
  - Related Bills: None.
  - Key Provisions:

    — Section 2 amends **28 U.S.C. Chapter 111** by inserting a new section 1660. New section 1660 provides that a court shall not enter an order pursuant to Civil Rule 26(c) that (1) restricts the disclosure of information through discovery, (2) approves a settlement agreement that would limit the disclosure of such agreement, or (3) restricts access to court records in a civil case unless the court conducts a balancing test that weighs the litigants' privacy interests against the public's interest in health and safety.

    — Section 3 states that the Act takes effect 30 days after enactment or applies only to orders entered in civil actions or agreements entered into on or after the effective date.

- S. 1739 - *To amend the material witness statute to strengthen procedural safeguards, and for other purposes*

- Introduced by: Leahy
- Date Introduced: 9/21/05
- Status: Read twice and referred to the Senate Committee on the Judiciary (9/21/05).
- Related Bills: None
- Key Provisions:

— Section 1 amends **Criminal Rule 46(h)** by deleting the reporting requirement in Rule 46(h)(2). The legislation sets forth new reporting requirements under the bill.

● S. 1768 - *To permit the televising of Supreme Court proceedings*

- Introduced by: Specter
- Date Introduced: 9/26/05
- Status: Read twice and referred to the Senate Committee on the Judiciary (9/26/05). Senate Judiciary Committee held hearing (11/9/05). Senate Judiciary Committee approved by vote of 12-6 (3/30/06).
- Related Bills: None
- Key Provisions:

— Section 1 amends **28 U.S.C. Chapter 45** by adding a new § 678 that requires the Supreme Court to allow television coverage of all open sessions unless the Court decides, by majority vote, that such coverage would violate a party's due process rights.

● S. 1874 - *Alien Tort Statute Reform Act*

- Introduced by: Feinstein
- Date Introduced: 10/17/05
- Status: Read twice and referred to the Senate Committee on the Judiciary (10/17/05).
- Related Bills: None
- Key Provisions:

— Section 2 amends 28 U.S.C. § 1350 by, among other things, vesting district courts with original jurisdiction over a civil action brought by an alien asserting a claim of torture, extrajudicial killing, genocide, piracy, slavery, or slave trading. Section 2 may also affect **Civil Rule 9** by requiring that the complaint state specifically facts describing each alleged tort, reasons why the action may be brought under the section, and facts showing the defendant had specific intent to commit the alleged tort.

● S. 2831 - *Free Flow of Information Act of 2006*

- Introduced by: Lugar
- Date Introduced: 5/18/06
- Status: Read twice and referred to the Senate Committee on the Judiciary (5/18/06). Senate Judiciary Committee held hearing (9/20/06).
- Related Bills: None
- Key Provisions:

— Section 4 provides that a federal court may not grant a request made by a

government attorney in a criminal investigation to compel a journalist—or any person who employs or contracts with a journalist—to disclose the identity of a confidential informant or turn over any confidential records that the journalist obtained or created while acting in a professional news-gathering capacity. (Section 5 prohibits a court from compelling a journalist to make similar disclosure at the request of a criminal defendant. Section 6 prohibits a court from compelling a journalist to make similar disclosure in a civil action.) Under sections 4-6, a court may order the journalist to identify the source of his or her information or turn over confidential records if, among other things: (1) the journalist is given adequate notice and an opportunity to be heard; (2) the party seeking the information has exhausted alternate sources to obtain the information; (2) the information sought is critical to the resolution of the relevant proceedings; and (3) the information sought is not peripheral, nonessential, or speculative. The showing must be made by clear and convincing evidence.

- S. 3274 - *Fairness in Asbestos Injury Resolution Act of 2006*
  - Introduced by: Specter
  - Date Introduced: 5/26/06
  - Status: Introduced in the Senate and placed on legislative calendar (5/26/06). Read second time and placed on legislative calendar (6/5/06). Judiciary Committee held hearing (6/7/06).
  - Related Bills: S. 852
  - Key Provisions:

- S. 3734 - *Multidistrict Litigation Restoration Act of 2005*
  - Introduced by: Hatch
  - Date Introduced: 7/26/06
  - Status: Read twice and referred to Senate Judiciary Committee (7/26/06).
  - Related Bills: H. 1038
  - Key Provisions:

    — Section 2 contains findings of Congress and a statement of purpose of the legislation.

    — Section 3 amends **28 U.S.C. § 1407** to permit the transferee court in a multidistrict-litigation case to retain jurisdiction over the case for trial. The transferee court may also retain jurisdiction to determine compensatory damages.

HOUSE BILLS

- H.R. 420 - *Lawsuit Abuse Reduction Act of 2005*
  - Introduced by: Smith
  - Date Introduced: 1/26/05
  - Status: Referred to the House Judiciary Committee (1/26/05). Referred to House Subcommittee on Courts, the Internet, and Intellectual Property (3/2/05). Subcommittee discharged (5/20/05). House Judiciary Committee held markup session and reported bill,

as amended, favorably by a vote of 19-11 (5/26/05). House Report No. 109-123 filed (6/14/05). House passed by a vote of 228-184 (10/27/05).

• Related Bills: None

• Key Provisions:

— Section 2 amends **Civil Rule 11** by requiring the court to impose an appropriate sanction upon attorneys, law firms, or parties who violate provisions of the rule.

— Section 3 would make **Civil Rule 11** applicable to state cases affecting interstate commerce.

— Section 4 generally provides that a personal injury claim filed either in state or federal court may be filed only in the state or federal district where (1) the person bringing the claim (a) resides at the time of filing, or (b) resided at the time of the alleged injury; (2) the alleged injury or circumstances giving rise to the personal injury claim occurred; or (3) the defendant's principal place of business is located.

— Section 6 amends Civil Rule 11 by requiring a federal district court to suspend an attorney from the practice of law in that court for one year if the attorney has violated Rule 11 three or more times.

— Section 7 creates a rebuttable presumption that Rule 11 has been violated when a party litigates—in any forum—an issue previously litigated and lost on the merits on 3 consecutive prior occasions.

— Section 8 provides for enhanced sanctions for anyone who "influences, obstructs, or impedes, or attempts to influence, or obstruct, or impede" a pending federal court case through the willful and intentional destruction of documents in the case. If the party is an attorney, the attorney shall also be held in contempt of court.

— Section 9 states that a court may not seal a Rule 11 proceeding unless the court finds that the justification for sealing outweighs any interest in public health and safety.

● H.R. 516 - *Class Action Fairness Act of 2005*

• Introduced by: Goodlatte

• Date Introduced: 2/2/05

• Status: Referred to the House Committee on the Judiciary (2/2/05).

• Related Bills: S. 5

• Key Provisions:

— Section 3 amends **Part V of title 28, U.S.C.**, to include a new chapter on Consumer Class Action Bill of Rights and Improved Procedures for Interstate Class Actions. The new chapter includes provisions on judicial review and approval of noncash settlements, prohibition on the payment of bounties, and review and approval of proposed settlements (protection against loss by class members and against discrimination based on geographic location).

— Section 4 amends **section 1332 of title 28, U.S.C.**, to give district courts original jurisdiction of any civil action in which the amount in controversy exceeds $5 million, exclusive of interest and costs, and is a class action in which (1) any plaintiff class member is a citizen of a state different from any defendant, (2) any plaintiff class member is a foreign state or subject of a foreign state and any defendant is a citizen of a state, or (3) any plaintiff class member is a citizen

of a state and any defendant is a foreign state or a citizen or subject of a foreign state.

than 1/3 but less than 2/3

A district court may decline to exercise jurisdiction where more of the plaintiff class members and the primary defendants are citizens of the state in which the action was originally filed. In reaching its decision, the district court may rely on the following considerations: (a) whether the claims asserted involve matters of national or interstate interest, (b) whether the claims asserted will be governed by laws of the state in which the action was originally filed or by the laws of other states, (c) whether the case was pleaded in such a manner so as to avoid federal jurisdiction, (d) whether the number of citizens in the plaintiff class who are citizens of the state where the action was filed is substantially larger than the number of citizens from any other state, and the citizenship of the other members is dispersed among a substantial number of states, and (e) whether one or more claims asserting the same or similar factual allegations were filed on behalf of the same or other persons against any of the defendants.

These provisions do not apply in any civil action where (a) 2/3 or more of the plaintiff class and the primary defendants are citizens of the state where the action was originally filed; (b) the primary defendants are states, state officials, or other governmental entities; or (c) the number of proposed plaintiff class members is less than 100.

— Section 5 provides for removal of interstate class actions to a federal district court and for review of orders remanding class actions to state courts.

— Section 6 amends **section 1292(a) of title 28, U.S.C.**, to allow appellate review of orders granting or denying class certification under Civil Rule 23. Section 6 also provides that discovery will be stayed pending the outcome of the appeal.

- H.R. 650 - *Vaccine Accessibility for Children and Seniors Act of 2005*
  - Introduced by: Keller
  - Date Introduced: 2/8/05
  - Status: Referred to House Committees on Energy and Commerce and Judiciary (2/8/05). Referred to Subcommittee on Health (2/25/05).
  - Related Bills: None.
  - Key Provision:

    — Section 4 provides that a district court must suspend an attorney from the practice of law in that court for one year if the court finds that the attorney violated Civil Rule 11 three times in a lawsuit alleging damages arising from a vaccine-related injury associated with a vaccine administered after October 1, 1988.

- H.R. 685 - *Bankruptcy Abuse Prevention and Consumer Protection Act of 2005*
  - Introduced by: Sensenbrenner
  - Date Introduced: 2/9/05
  - Status: Referred to the House Committees on the Judiciary and Financial Services (2/9/05). Referred to the House Subcommittee on Commercial and Administrative Law (4/4/05). Referred to the House Subcommittee on Financial Institutions and Consumer Credit (5/13/05).
  - Related Bills: S. 256

- H.R. 1038 - *Multidistrict Litigation Restoration Act of 2005*
  - Introduced by: Sensenbrenner
  - Date Introduced: 3/2/05
  - Status: Referred to the House Committee on the Judiciary (3/2/05). Referred to the House Subcommittee on Courts, the Internet, and Intellectual Property (3/2/05). Subcommittee held mark-up session and forwarded to full committee (3/3/05). Judiciary Committee held mark-up session and ordered reported by voice vote (3/9/05). H. Rprt. 109-24 filed (3/17/05). Passed by House (4/19/05). Referred to Senate Judiciary (4/20/05).
  - Related Bills: S. 3734
  - Key Provisions:
    — Section 2 amends **28 U.S.C. § 1407** to permit the transferee court in a multidistrict-litigation case to retain jurisdiction over the case for trial. The transferee court may also retain jurisdiction to determine compensatory damages.

- H.R. 1279 - *Gang Deterrence and Community Protection Act of 2005*
  - Introduced by: Forbes
  - Date Introduced: 3/14/05
  - Status: Referred to the House Committee on the Judiciary (3/14/05). Referred to House Subcommittee on Crime, Terrorism, and Homeland Security (4/5/05). Subcommittee held mark-up session and forwarded to full committee by vote of 5-3 (4/12/05). Committee held mark-up session and ordered reported by vote of 16-11 (4/20/05). House Report No. 109-74 filed (5/5/05). House passed by vote of 279-144 (5/11/05). Received in Senate and referred to Committee on the Judiciary (5/12/05).
  - Related Bills: H.R. 4472, S. 155
  - Key Provisions:
    — Section 113 amends **Evidence Rule 804(b)(6)** by codifying the ruling in *United States v. Cherry*, 217 F.3d 811 (10th Cir. 2000), which permits admission of statements of a murdered witness to be introduced against the defendant who caused the unavailability of the witness and members of the conspiracy if such actions were foreseeable by conspirators.

- H.R. 1751 - *Secure Access to Justice and Court Protection Act of 2005*
  - Introduced by: Gohmert
  - Date Introduced: 4/21/05

• Status: Referred to the House Committee on the Judiciary (4/21/05). Committee held mark-up session and ordered reported by vote of 26-5 (4/21/05). House Report No. 109-74 filed (11/7/05). House passed by vote of 375-45 (11/9/05). Received in Senate and referred to Committee on the Judiciary (11/10/05).
• Related Bills: H.R. 1710, S. 829, S. 1968
• Key Provisions:

— Section 22 allows presiding judge of an appellate or district court to permit the photographing, recording, or televising of court proceedings. (The legislation also has a sunset provision that rescinds the authority of a district court three years after enactment of the Act.) The legislation also authorizes the Judicial Conference to promulgate advisory guidelines in the use of electronic media in the courtroom.

● H.R. 2601 - *Foreign Relations Authorization Act, Fiscal Years 2006 and 2007*
• Introduced by: Smith
• Date Introduced: 5/24/05
• Status: Referred to the Committee on International Relations (5/24/05). Favorably reported by Committee on International Relations (7/13/05). Passed House by a vote of 351-78 (7/20/05). Received in the Senate (7/22/05).
• Related Bills: None
• Key Provisions:

— Section 217 amends the Omnibus Diplomatic and Antiterrorism Act of 1986 to provide that in connection with investigations of corruption, waste, and fraud by U.S. officers and employees, including the illegal sale of U.S. passports and visas: (1) the federal district court for the District of Columbia shall have authority to issue warrants; and (2) Diplomatic Security Service special agents shall have authority to execute such warrants.

● H.R. 3035 - *Streamline Procedures Act of 2005*
• Introduced by: Lungren
• Date Introduced: 6/22/05
• Status: Referred to the House Committee on the Judiciary (6/22/05). Referred to Subcommittee on Crime, Terrorism, and Homeland Security (6/27/05). Subcommittee hearing held (6/30/05 and 11/10/05).
• Related Bills: S. 1088
• Key Provisions:

— Section 2 amends **28 U.S.C. § 2254** to clarify when the applicant has exhausted state-court remedies.

— Section 3 amends **28 U.S.C. § 2244** to clarify when an application for writ of habeas corpus may be amended.

— Section 4 amends **28 U.S.C. § 2254** to clarify the grounds when a federal court may consider claims found by a state court to be barred procedurally.

— Section 8 amends **28 U.S.C. § 2254** by establishing time limits for reviewing and deciding an application for writ of habeas corpus.

- H.R. 3060 - *Terrorist Death Penalty Enhancement Act of 2005*
  - •Introduced by: Carter
  - • Date Introduced: 6/24/05
  - • Status: Referred to House Committee on the Judiciary (6/24/05). Referred to the Subcommittee on Crime, Terrorism and Homeland Security (6/27/05). Subcommittee held hearing (6/30/05).
  - • Related Bills: H.R. 1763, H.R. 5040
  - • Key Provision:
    - — Section 301 amends **Criminal Rule 24(c)** to permit the court to empanel up to 9 alternate jurors, and to allow each side an additional 4 peremptory challenges when 7-9 alternate jurors are empaneled.

- H.R. 3199 - *USA PATRIOT and Terrorism Prevention Reauthorization Act of 2005*
  - •Introduced by: Sensenbrenner
  - • Date Introduced: 7/11/05
  - • Status: Referred to House Committee on the Judiciary and Intelligence (7/11/05). Judiciary Committee held mark-up session and ordered reported by vote of 23-14 (7/13/05). Judiciary and Intelligence Committee Report No. 109-174 filed (7/18/05). House passed by vote of 257-171 (7/21/05). Passed Senate with an amendment (substituted text of S. 1389) (7/29/05). Senate requests conference (7/29/05). House appointed conferees (11/9/05). House Report No. 109-333 filed (12/8/05). House approved Report No. 109-333 by a vote of 251-174 (12/14/05). Cloture not involved in Senate by a vote of 52-47 (12/16/05). Senate agreed to Conference Report by vote of 89-10 (3/2/06). Signed by President (3/9/06). Public Law No. 109-177 (3/9/06).
  - • Related Bills: S. 1266, S. 1389, S. 2082, S. 2118, S. 2167, HR 4506, HR 4647.
  - • Key Provision:
    - — Section 231 amends **Criminal Rule 24(c)** to permit the court to empanel up to 9 alternate jurors, and to allow each side an additional 4 peremptory challenges when 7-9 alternate jurors are empaneled.
    - **[Section deleted in compromise legislation.]**
    - **—** Section 735 amends 18 U.S.C. § 994(w) and requires the sentencing court to submit certain information, including the statement of reasons, in a format approved by the U.S. Sentencing Commission.

- H.R. 3433 - *Parent-Child Privilege Act of 2005*
  - • Introduced by: Andrews
  - • Date Introduced: 7/26/05
  - • Status: Referred to House Committee on the Judiciary (7/26/05). Referred to Subcommittee on Courts, the Internet, and Intellectual Property (8/23/05).
  - • Related Bills: None.
  - • Key Provision:
    - — Section 2 amends **Article V of the Federal Rules of Evidence** by establishing a parent-child privilege. Under proposed new Evidence Rule 502(b), neither a parent nor a child shall be compelled to give adverse testimony against the other

in a civil or criminal proceeding. Section 2 also provides that neither a parent nor a child shall be compelled to disclose any confidential communication made between that parent and child.

- H.R. 4472 - *Adam Walsh Child Protection and Safety Act of 2006*
  - Introduced by: Sensenbrenner
  - Date Introduced: 12/8/05
  - Status: Referred to the House Committees on the Judiciary and Ways and Means (12/8/05). House considered bill under suspension of rules and passed by voice vote (3/8/06). Received in Senate (3/9/06) and placed on Legislative Calendar (3/16/06). Read second time and placed on Legislative Calendar (3/27/06). S. Amdt. 4686 in the nature of a substitute approved by unanimous consent (7/20/06). Passed the Senate (7/20/06). Signed by President (7/27/06) (Pub. L. No. 109-248).
  - Related Bills: H.R. 3132, H.R. 3133, H.R. 4905
  - Key Provisions:
    — Section 212 provides that in a federal habeas corpus proceeding, the court must ensure certain rights to the crime victim.
    — Section 214 directs the Standing and Evidence Rules Committees to study and consider whether to amend the FRE to make the confidential marital communications privilege and the adverse spousal privilege inapplicable "in any Federal proceeding in which a spouse is charged with a crime against . . . (1) a child of either spouse; or (2) a child under the custody or control of either spouse."

- H.R. 5040 - *Death Penalty Reform Act of 2006*
  - Introduced by: Gohmert
  - Date Introduced: 3/29/06
  - Status: Referred to House Committee on the Judiciary (3/29/06). Referred to the Subcommittee on Crime, Terrorism and Homeland Security (3/29/06). Subcommittee held hearing (3/30/06).
  - Related Bills: H.R. 3060
  - Key Provision:
    — Section 8 amends **Criminal Rule 24(c)** to permit the court to empanel up to 9 alternate jurors, and to allow each side an additional 4 peremptory challenges when 7-9 alternate jurors are empaneled.

- H.R. 5585 - *Financial Netting Improvements Act of 2006*
  - Introduced by: McHenry
  - Date Introduced: 6/12/06
  - Status: Referred to the House Committees on the Judiciary and Financial Services (6/12/06). House Financial Services Committee held markup session and ordered reported out of committee (6/14/06). Reported by House Financial Services Committee. House Report 109-648 filed (9/12/06). House Judiciary Committee discharged (9/22/06).
  - Related Bills: None.

• Key Provisions:

— Section 7 amends **11 U.S.C. § 330** by increasing the compensation of Chapter 7 Trustees from $45 to $100 and amends 28 U.S.C. § 1930 by increasing the Chapter 7 filing fee from $245 to $300. The amendments take effect 60 days after enactment but do not apply to cases commenced before the effective date.

SENATE RESOLUTIONS

- S.J. Res.

HOUSE RESOLUTIONS

- H.J. Res.