

Hilleary	McKeon	Schiff
Hobson	Metcalf	Seastrand
Hoekstra	Meyers	Sensenbrenner
Hoke	Mica	Shadegg
Holden	Miller (FL)	Shaw
Horn	Molinari	Shays
Hostettler	Montgomery	Shuster
Houghton	Moorhead	Skeen
Hunter	Moran	Skelton
Hutchinson	Morella	Smith (MI)
Hyde	Murtha	Smith (NJ)
Inglis	Myers	Smith (TX)
Istook	Myrick	Smith (WA)
Johnson (CT)	Nethercutt	Solomon
Johnson (SD)	Neumann	Souder
Johnson, Sam	Ney	Spence
Jones	Norwood	Stearns
Kasich	Nussle	Stenholm
Kelly	Orton	Stockman
Kim	Oxley	Stump
King	Packard	Tate
Kingston	Parker	Tauzin
Klink	Paxon	Taylor (MS)
Klug	Payne (VA)	Taylor (NC)
Knollenberg	Peterson (FL)	Thomas
Kolbe	Peterson (MN)	Thornberry
LaHood	Petri	Tiahrt
Largent	Pickett	Torkildsen
Latham	Pombo	Torricelli
LaTourette	Porter	Traficant
Laughlin	Portman	Upton
Lazio	Poshard	Volkmer
Leach	Pryce	Vucanovich
Lewis (CA)	Quillen	Waldholtz
Lewis (KY)	Quinn	Walker
Lightfoot	Radanovich	Walsh
Lincoln	Ramstad	Wamp
Linder	Regula	Watts (OK)
Lipinski	Richardson	Weldon (FL)
Livingston	Riggs	Weldon (PA)
LoBiondo	Roberts	Weller
Longley	Roemer	White
Lucas	Rogers	Whitfield
Manzullo	Rohrabacher	Wicker
Martini	Ros-Lehtinen	Wilson
Mascara	Roth	Wolf
McCollum	Roukema	Wyden
McCrery	Royce	Young (AK)
McDade	Salmon	Young (FL)
McHale	Sanford	Zeliff
McHugh	Saxton	Zimmer
McInnis	Scarborough	
McIntosh	Schaefer	

NOT VOTING—3

Andrews	Sisisky	Talent
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So the amendment was not agreed to.

After some further time, The Committee rose informally to receive a message from the President.

The SPEAKER pro tempore, Mr. LIGHTFOOT, assumed the Chair.

22.16 MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

The Committee resumed its sitting; and after some further time spent therein,

22.17 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. COX:

Strike section 104 and insert the following:
SEC. 104. EFFECT OF PRIOR STATE CONSIDERATION.

(a) EXHAUSTION OF REMEDIES.—Section 2254(b) of title 28, United States Code, is amended to read as follows:

“(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect

the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State. A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless through its counsel it waives the requirement expressly.”.

(b) STANDARD OF DEFERENCE TO STATE JUDICIAL DECISIONS.—Section 2254 of title 28, United States Code, is amended by adding at the end the following:

“(g) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was decided on the merits in State proceedings unless the adjudication of the claim—

“(1) resulted in a decision that was based on an arbitrary or unreasonable interpretation of clearly established Federal law as articulated in the decisions of the Supreme Court of the United States;

“(2) resulted in a decision that was based on an arbitrary or unreasonable application to the facts of clearly established Federal law as articulated in the decisions of the Supreme Court of the United States; or

“(3) resulted in a decision that was based on an arbitrary or unreasonable determination of the facts in light of the evidence presented in the State proceeding.”.

In the proposed new section 2259(b) of title 28, United States Code, added by section 111, strike “section 2254(d)” and insert “subsections (d) and (g) of section 2254”.

It was decided in the } Yeas 291
affirmative } Nays 140

22.18

[Roll No. 106]

AYES—291

Allard	Coburn	Ganske
Archer	Coleman	Gekas
Armedy	Collins (GA)	Geren
Bachus	Combest	Gilchrest
Baessler	Condit	Gillmor
Baker (CA)	Cooley	Gilman
Baker (LA)	Costello	Goodlatte
Ballenger	Cox	Goodling
Barcia	Cramer	Gordon
Barr	Crane	Goss
Barrett (NE)	Crapo	Graham
Bartlett	Crepeans	Green
Barton	Cubin	Greenwood
Bass	Cunningham	Gunderson
Bateman	Danner	Gutknecht
Bereuter	Davis	Hall (OH)
Bevill	Deal	Hall (TX)
Bilbray	DeLay	Hancock
Bilirakis	Deutsch	Hansen
Bliley	Diaz-Balart	Harman
Blute	Dickey	Hastert
Boehlert	Dooley	Hastings (WA)
Boehner	Doolittle	Hayes
Bonilla	Dornan	Hayworth
Bono	Doyle	Hefley
Borski	Dreier	Heineman
Boucher	Duncan	Herger
Brewster	Dunn	Hilleary
Browder	Edwards	Hobson
Brownback	Ehlers	Hoekstra
Bryant (TN)	Ehrlich	Hoke
Bunn	Emerson	Holden
Bunning	English	Horn
Burr	Ensign	Hostettler
Burton	Everett	Hunter
Buyer	Ewing	Hutchinson
Callahan	Fawell	Hyde
Calvert	Fields (TX)	Inglis
Camp	Flanagan	Istook
Canady	Foley	Jefferson
Castle	Forbes	Johnson (SD)
Chabot	Fowler	Johnson, Sam
Chambliss	Fox	Jones
Chapman	Franks (CT)	Kanjorski
Chenoweth	Franks (NJ)	Kaptur
Christensen	Frelinghuysen	Kasich
Chrysler	Frisa	Kelly
Clement	Frost	Kim
Clinger	Funderburk	King
Coble	Galleghy	Kingston

Klink	Neumann	Skeen
Klug	Ney	Skelton
Knollenberg	Norwood	Smith (MI)
Kolbe	Nussle	Smith (NJ)
LaHood	Ortiz	Smith (TX)
Lantos	Orton	Smith (WA)
Largent	Oxley	Solomon
Latham	Packard	Souder
LaTourette	Parker	Spence
Laughlin	Paxon	Stearns
Lazio	Payne (VA)	Stenholm
Leach	Peterson (FL)	Stockman
Lewis (CA)	Peterson (MN)	Stump
Lewis (KY)	Petri	Stupak
Lightfoot	Pickett	Talent
Lincoln	Pombo	Tanner
Linder	Porter	Tate
Lipinski	Portman	Tauzin
Livingston	Poshard	Taylor (MS)
LoBiondo	Pryce	Taylor (NC)
Longley	Quillen	Tejeda
Manzullo	Quinn	Thomas
Martini	Radanovich	Thornberry
Mascara	Ramstad	Tiahrt
McCollum	Regula	Torkildsen
McCrery	Richardson	Torricelli
McDade	Riggs	Traficant
McHale	Roberts	Upton
McHugh	Roemer	Vucanovich
McInnis	Rogers	Waldholtz
McIntosh	Rohrabacher	Walker
McKeon	Ros-Lehtinen	Walsh
Menendez	Roth	Wamp
Meyers	Roukema	Watts (OK)
Mica	Royce	Weldon (FL)
Miller (FL)	Salmon	Weldon (PA)
Minge	Sanford	Weller
Molinari	Saxton	White
Montgomery	Scarborough	Whitfield
Moorhead	Schaefer	Wicker
Moran	Seastrand	Wilson
Morella	Sensenbrenner	Wolf
Murtha	Shadegg	Wyden
Myers	Shaw	Young (AK)
Myrick	Shays	Young (FL)
Nethercutt	Shuster	Zeliff
	Sisisky	Zimmer

NOES—140

Abercrombie	Gutierrez	Pallone
Ackerman	Hamilton	Pastor
Baldacci	Hastings (FL)	Payne (NJ)
Barrett (WI)	Hefner	Pelosi
Becerra	Hilliard	Pomeroy
Beilenson	Hinchey	Rahall
Bentsen	Houghton	Rangel
Berman	Hoyer	Reed
Bishop	Jackson-Lee	Reynolds
Bonior	Jacobs	Rivers
Brown (CA)	Johnson (CT)	Rose
Brown (FL)	Johnson, E. B.	Roybal-Allard
Brown (OH)	Johnston	Rush
Bryant (TX)	Kennedy (MA)	Sabo
Cardin	Kennedy (RI)	Sanders
Clay	Kennelly	Sawyer
Clayton	Kildee	Schiff
Clyburn	Kleccka	Schroeder
Collins (IL)	LaFalce	Schumer
Conyers	Levin	Scott
Coyne	Lewis (GA)	Serrano
de la Garza	Lofgren	Skaggs
DeFazio	Lowe	Slaughter
DeLauro	Luther	Spratt
Dellums	Maloney	Stark
Dicks	Manton	Stokes
Dingell	Markey	Studds
Dixon	Martinez	Thompson
Doggett	Matsui	Thornton
Durbin	McCarthy	Thurman
Engel	McDermott	Torres
Eshoo	McKinney	Towns
Evans	McNulty	Tucker
Farr	Meehan	Velazquez
Fattah	Meek	Vento
Fazio	Mfume	Visclosky
Fields (LA)	Miller (CA)	Volkmer
Filner	Mineta	Ward
Flake	Mink	Waters
Foglietta	Moakley	Watt (NC)
Ford	Mollohan	Waxman
Frank (MA)	Nadler	Williams
Furse	Neal	Wise
Gejdenson	Oberstar	Woolsey
Gephardt	Obey	Wynn
Gibbons	Olver	Yates
Gonzalez	Owens	

NOT VOTING—3

Andrews	Collins (MI)	Metcalf
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So the amendment was agreed to.

After some further time,

22.19 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. FIELDS of Louisiana:

In the matter proposed to be inserted in section 3593(e) of title 18, United States Code, by section 201, insert "or a sentence of life imprisonment without the possibility of release" after "shall recommend a sentence of death".

Strike subsection (b) of section 201 and eliminate the subsection designation and heading of subsection (a).

It was decided in the negative { Yeas 139 Nays 291

22.20 [Roll No. 107] AYES—139

Table with 3 columns listing names of representatives (e.g., Abercrombie, Ackerman, Barrett) and their corresponding counts for the roll call.

NOES—291

Table with 3 columns listing names of representatives (e.g., Allard, Archer, Arney) and their corresponding counts for the roll call.

Large table listing names of representatives (e.g., Dicks, Dooley, Doollittle) in multiple columns, representing the 'NOT VOTING' section.

NOT VOTING—4

Small table listing names of representatives (Andrews, Collins) who did not vote.

Small table listing names of representatives (Metcalf, Wilson) who did not vote.

So the amendment was not agreed to. After some further time,

22.21 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. SMITH of Texas:

Proposed section 2257 of title 28, United States Code, in section 111 of H.R. 729, is amended—

- (1) in subsection (b)—
(A) by striking "; or "; and
(B) by striking paragraph (2);
(C) by redesignating paragraph (3) as paragraph (2);

(D) by striking the period at the end of paragraph (2) as so designated and inserting "; or "; and

(E) by adding a new paragraph (3) as follows:

"(3) a State prisoner files a habeas corpus petition under section 2254 within the time required in section 2258 and fails to make a substantial showing of the denial of a Federal right or is denied relief in the district court or at any subsequent stage of review.;" and

(2) in subsection (c), by striking "If one of the conditions in subsection (b) has occurred, no Federal court thereafter" and inserting "On a second or later habeas corpus petition under section 2254, no Federal court".

Proposed section 2260 of title 28, United States Code, in section 111 of H.R. 729, is amended to read as follows:

2260. Certificate of probable cause

"An appeal may not be taken to the court of appeals from the final order of a district court denying relief in a habeas corpus proceeding that is subject to the provisions of this chapter unless a circuit justice or judge issues a certificate of probable cause. A certificate of probable cause may only issue if the petitioner has made a substantial showing of the denial of a Federal right. The certificate of probable cause must indicate which specific issue or issues satisfy this standard."

In the table of sections for proposed chapter 154 of title 28, United States Code, in section 111 of H.R. 729, the item relating to proposed section 2260 of title 28, United States Code, is amended by striking "inapplicable".

It was decided in the affirmative { Yeas 241 Nays 189

22.22 [Roll No. 108] AYES—241

Table with 3 columns listing names of representatives (e.g., Allard, Archer, Arney) and their corresponding counts for the roll call.