

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 listing names of members voting AYES for section 22.20, including Abercrombie, Ackerman, Barrett (WI), Becerra, Beilenson, Bentsen, Berman, Bishop, Bonior, Boucher, Brewster, Brown (CA), Brown (FL), Brown (OH), Chapman, Clay, Clayton, Clyburn, Collins (IL), Conyers, Coyne, de la Garza, DeFazio, Dellums, Dingell, Dixon, Doggett, Duncan, Durbin, Edwards, Engel, Eshoo, Evans, Farr, Fattah, Fazio, Fields (LA), Filner, Flake, Foglietta, Ford, Frank (MA), Furse, Gjdenson, Gonzalez, Green, Gutierrez, etc.

NOES—291

Table listing names of members voting NOES for section 22.20, including Allard, Archer, Arme, Bachus, Baesler, Baker (CA), Baker (LA), Baldacci, Ballenger, Barcia, Barr, Barrett (NE), Bartlett, Barton, Bass, Bateman, Bereuter, Bevill, Bilbray, Bilirakis, Bliley, Blute, Boehlert, Boehner, Bonilla, Bono, Borski, Browder, Brownback, Bryant (TN), Bryant (TX), Bunn, Bunning, Burca, Burr, Burton, Buyer, Callahan, Calvert, Camp, Canady, Cardin, Castle, Chabot, Chambliss, Chenoweth, Christensen, Chrysler, Clement, Clinger, Coble, Coburn, Coleman, Collins (GA), Combest, Condit, Cooley, Costello, Cox, Cramer, Crane, Crapo, Cremeans, Cubin, Cunningham, Danner, Davis, Deal, DeLauro, DeLay, Deutsch, Diaz-Balart, Dickey, etc.

Table listing names of members who did not vote, including Dicks, Dooley, Doolittle, Dornan, Doyle, Dreier, Dunn, Ehlers, Ehrlich, Emerson, English, Ensign, Everrett, Ewing, Fawell, Fields (TX), Flanagan, Foley, Forbes, Fowler, Fox, Franks (CT), Franks (NJ), Frelinghuysen, Frisa, Frost, Funderburk, Gallegly, Ganske, Gekas, Gephardt, Geren, Gibbons, Gilchrist, Gillmor, Gilman, Goodlatte, Goodling, Gordon, Goss, Graham, Greenwood, Gunderson, Hall (OH), Hall (TX), Hancock, Hansen, Harman, Hastert, Hastings (WA), Hayes, Hayworth, Hefley, Heineman, Herger, Hilleary, Hobson, Hoekstra, Hoke, Holden, Horn, Hostettler, Houghton, Hunter, Hutchinson, Hyde, Inglis, Istook, Jackson-Lee, Johnson (CT), Johnson (SD), Johnson, Sam, Jones, Kanjorski, Kaptur, Kasich, Kelly, Kennedy (RI), Kim, King, Kingston, Klink, Klug, Knollenberg, Kolbe, LaHood, Lantos, Largent, Latham, Lazio, Leach, Lewis (CA), Lewis (KY), Lightfoot, Lincoln, Linder, Lipinski, Livingston, LoBiondo, Longley, Lucas, Manton, Manzullo, Martini, Mascara, McCollum, McCreery, McDade, McHale, McHugh, McInnis, McIntosh, McKeon, Meehan, Menendez, Meyers, Mica, Miller (FL), Molinari, Montgomery, Moorhead, Moran, Morella, Murtha, Myers, Myrick, Nethercutt, Neumann, Ney, Norwood, Nussle, Ortiz, Orton, Oxley, Packard, Parker, Paxon, Payne (VA), Peterson (FL), Peterson (MN), Petri, Pickett, Pombo, Porter, Portman, Poshard, Pryce, Quillen, Quinn, Radanovich, Ramstad, Reed, Regula, Richardson, Riggs, Roberts, Rogers, Rohrabacher, Ros-Lehtinen, Roukema, Royce, Salmon, Sanford, Saxton, Scarborough, Schaefer, Schiff, Schumer, Seastrand, Sensenbrenner, Shadegg, Shaw, Shuster, Sisisky, Skeen, Skelton, Smith (NJ), Smith (TX), Smith (WA), Solomon, Souder, Spence, Stearns, Stenholm, Stockman, Stump, Stupak, Talent, Tanner, Tate, Tauzin, Taylor (MS), Taylor (NC), Tejada, Thomas, Thornberry, Tiahrt, Torricelli, Traficant, Upton, Volkmer, Vucanovich, Waldholtz, Walker, Walsh, Wamp, Watts (OK), Weldon (FL), Weldon (PA), Weller, White, Whitfield, Wicker, Wolf, Wyden, Young (AK), Young (FL), Zeliff, Zimmer, etc.

NOT VOTING—4

Table listing names of members who did not vote, including Andrews, Collins (MI), Metcalf, Wilson.

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 fails to make a timely application for court of appeals review following the denial of such a petition by a district court" in paragraph (1);
(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.";

(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 listing names of members voting AYES for section 22.22, including Allard, Archer, Arme, Bachus, Baesler, Baker (CA), Baker (LA), Ballenger, Barr, Barrett (NE), Bartlett, Barton, Bass, Bateman, Bereuter, Bilbray, Bilirakis, Bliley, Blute, Boehlert, Boehner, Bonilla, Bono, Brewster, Brownback, Bryant (TN), Bunn, Bunning, Burr, Burton, Buyer, Callahan, Calvert, Camp, Canady, Castle, Chabot, Chambliss, Chenoweth, Christensen, Chrysler, Coble, Coburn, Collins (GA), Combest, Condit, Cooley, Costello, Cox, Cramer, Crane, Crapo, Cremeans, Cubin, Cunningham, Danner, Davis, Deal, DeLauro, DeLay, Deutsch, Diaz-Balart, Dickey, etc.

Metcalf	Roberts	Talent
Mica	Roemer	Tate
Miller (FL)	Rogers	Tauzin
Molinari	Rohrabacher	Taylor (MS)
Montgomery	Ros-Lehtinen	Taylor (NC)
Moorhead	Roth	Tejeda
Myers	Roukema	Thomas
Myrick	Royce	Thornberry
Nethercutt	Salmon	Tiahrt
Neumann	Sanford	Traficant
Ney	Saxton	Upton
Norwood	Scarborough	Vucanovich
Nussle	Schaefer	Waldholtz
Ortiz	Schiff	Walker
Oxley	Seastrand	Walsh
Packard	Sensenbrenner	Wamp
Parker	Shadegg	Watts (OK)
Paxon	Shaw	Weldon (FL)
Peterson (MN)	Shays	Weldon (PA)
Petri	Shuster	Weller
Pombo	Skeen	White
Porter	Smith (MI)	Whitfield
Portman	Smith (TX)	Wicker
Pryce	Smith (WA)	Wolf
Quillen	Solomon	Wyden
Quinn	Souder	Young (AK)
Radanovich	Spence	Young (FL)
Ramstad	Stearns	Zeliff
Regula	Stenholm	Zimmer
Richardson	Stockman	
Riggs	Stump	

## NOES—189

Abercrombie	Gonzalez	Nadler
Ackerman	Gordon	Neal
Baldacci	Gunderson	Oberstar
Barcia	Gutierrez	Obey
Barrett (WI)	Hall (OH)	Olver
Becerra	Hamilton	Orton
Beilenson	Harman	Owens
Bentsen	Hastings (FL)	Pallone
Berman	Hayes	Pastor
Bevill	Hefner	Payne (NJ)
Bishop	Hilliard	Payne (VA)
Bonior	Hinchee	Pelosi
Borski	Houghton	Peterson (FL)
Boucher	Hoyer	Pickett
Browder	Jackson-Lee	Pomeroy
Brown (CA)	Jacobs	Poshard
Brown (FL)	Jefferson	Rahall
Brown (OH)	Johnson (SD)	Rangel
Bryant (TX)	Johnson, E. B.	Reed
Cardin	Johnston	Reynolds
Chapman	Kanjorski	Rivers
Clay	Kaptur	Rose
Clayton	Kennedy (MA)	Roybal-Allard
Clement	Kennedy (RI)	Rush
Clinger	Kennelly	Sabo
Clyburn	Kildee	Sanders
Coleman	Kleccka	Sawyer
Collins (IL)	LaFalce	Schroeder
Conyers	Lantos	Schumer
Costello	Laughlin	Scott
Coyne	Levin	Serrano
Cramer	Lewis (GA)	Sisisky
Danner	Lincoln	Skaggs
de la Garza	Lipinski	Skelton
DeFazio	Lofgren	Slaughter
DeLauro	Lowe	Smith (NJ)
Dellums	Luther	Spratt
Deutsch	Maloney	Stark
Dicks	Manton	Stokes
Dingell	Manzullo	Studds
Dixon	Markey	Stupak
Doggett	Martinez	Tanner
Dooley	Mascara	Thompson
Durbin	Matsui	Thornton
Edwards	McCarthy	Thurman
Ehlers	McDermott	Torkildsen
Engel	McHale	Torres
Eshoo	McKinney	Torricelli
Evans	McNulty	Towns
Farr	Meehan	Tucker
Fattah	Meeke	Velazquez
Fazio	Menendez	Vento
Fields (LA)	Meyers	Visclosky
Filner	Mfume	Volkmer
Flake	Miller (CA)	Ward
Foglietta	Mineta	Waters
Ford	Minge	Watt (NC)
Frost	Mink	Waxman
Furse	Moakley	Williams
Gejdenson	Mollohan	Wilson
Gephardt	Moran	Wise
Gibbons	Morella	Woolsey
Gilman	Murtha	Wynn

## NOT VOTING—4

Andrews	Frank (MA)
Collins (MI)	Yates

So the amendment was agreed to.  
The SPEAKER pro tempore, Mr. QUINN, assumed the Chair.

When Mr. DREIER, Chairman, pursuant to order of the House of February 7, 1995, reported the bill back to the House with an amendment adopted by the Committee.

The previous question having been ordered by the order of the House of February 7, 1995.

The following amendment, reported from the Committee of the Whole House on the state of the Union, was agreed to:

Strike out all after the enacting clause and insert:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Effective Death Penalty Act of 1995”.

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—EFFECTIVE DEATH PENALTY****SUBTITLE A—POST CONVICTION PETITIONS: GENERAL HABEAS CORPUS REFORM**

Sec. 101. Period of limitation for filing writ of habeas corpus following final judgment of a State court.

Sec. 102. Authority of appellate judges to issue certificates of probable cause for appeal in habeas corpus and Federal collateral relief proceedings.

Sec. 103. Conforming amendment to the rules of appellate procedure.

Sec. 104. Effect of prior State consideration.

Sec. 105. Period of limitation for Federal prisoners filing for collateral remedy.

**SUBTITLE B—SPECIAL PROCEDURES FOR COLLATERAL PROCEEDINGS IN CAPITAL CASES**

Sec. 111. Death penalty litigation procedures.

**SUBTITLE C—FUNDING FOR LITIGATION OF FEDERAL HABEAS CORPUS PETITIONS IN CAPITAL CASES**

Sec. 121. Funding for death penalty prosecutions.

**TITLE II—FEDERAL DEATH PENALTY PROCEDURES REFORM**

Sec. 201. Federal death penalty procedures reform.

**TITLE I—EFFECTIVE DEATH PENALTY Subtitle A—Post Conviction Petitions: General Habeas Corpus Reform****SEC. 101. PERIOD OF LIMITATION FOR FILING WRIT OF HABEAS CORPUS FOLLOWING FINAL JUDGMENT OF A STATE COURT.**

Section 2244 of title 28, United States Code, is amended by adding at the end the following:

“(d)(1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

“(A) The time at which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review.

“(B) The time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action.

“(C) The time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable.

“(D) The time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.

“(2) Time that passes during the pendency of a properly filed application for State review with respect to the pertinent judgment or claim shall not be counted toward any period of limitation under this subsection.”.

**SEC. 102. AUTHORITY OF APPELLATE JUDGES TO ISSUE CERTIFICATES OF PROBABLE CAUSE FOR APPEAL IN HABEAS CORPUS AND FEDERAL COLLATERAL RELIEF PROCEEDINGS.**

Section 2253 of title 28, United States Code, is amended to read as follows:

**“§2253. Appeal**

“(a) In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

“(b) There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

“(c) An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, 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.”.

**SEC. 103. CONFORMING AMENDMENT TO THE RULES OF APPELLATE PROCEDURE.**

Federal Rule of Appellate Procedure 22 is amended to read as follows:

**“RULE 22****“HABEAS CORPUS AND SECTION 2255 PROCEEDINGS**

“(a) APPLICATION FOR AN ORIGINAL WRIT OF HABEAS CORPUS.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

“(b) NECESSITY OF CERTIFICATE OF PROBABLE CAUSE FOR APPEAL.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the Government or its representative, a certificate of probable cause is not required.”.

**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.”.

**SEC. 105. PERIOD OF LIMITATION FOR FEDERAL PRISONERS FILING FOR COLLATERAL REMEDY.**

Section 2255 of title 28, United States Code, is amended by striking the second paragraph and the penultimate paragraph thereof, and by adding at the end the following new paragraphs:

“A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

“(1) The time at which the judgment of conviction becomes final.

“(2) The time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action.

“(3) The time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable.

“(4) The time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.”.

**Subtitle B—Special Procedures for Collateral Proceedings in Capital Cases**

**SEC. 111. DEATH PENALTY LITIGATION PROCEDURES.**

(a) IN GENERAL.—Title 28, United States Code, is amended by inserting the following new chapter after chapter 153:

**“CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES**

“Sec.

“2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.

“2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.

“2258. Filing of habeas corpus petition; time requirements; tolling rules.

“2259. Scope of Federal review; district court adjudications.

“2260. Certificate of probable cause.

“2261. Application to State unitary review procedure.

“2262. Limitation periods for determining petitions.

“2263. Rule of construction.

**“§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment**

“(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

“(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

“(c) Any mechanism for the appointment, compensation and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record: (1) appointing one or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer; (2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or (3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

“(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

“(e) The ineffectiveness or incompetence of counsel during State or Federal collateral postconviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254 of this chapter. This limitation shall not preclude the appointment of different counsel, on the court’s own motion or at the request of the prisoner, at any phase of State or Federal postconviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

**“§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions**

“(a) Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

“(b) A stay of execution granted pursuant to subsection (a) shall expire if—

“(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258;

“(2) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254; or

“(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.

“(c) On a second or later habeas corpus petition under section 2254, no Federal court shall have the authority to enter a stay of execution or grant relief in a capital case unless—

“(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

“(2) the failure to raise the claim is (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review; and

“(3) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable fact finder would have found the petitioner guilty of the underlying offense.

“(d) Notwithstanding any other provision of law, no Federal district court or appellate judge shall have the authority to enter a stay of execution, issue injunctive relief, or grant any equitable or other relief in a capital case on any successive habeas petition unless the court first determines the petition or other action does not constitute an abuse of the writ. This determination shall be made only by the district judge or appellate panel who adjudicated the merits of the original habeas petition (or to the district judge or appellate panel to which the case may have been subsequently assigned as a result of the unavailability of the original court or judges). In the Federal courts of appeal, a stay may issue pursuant to the terms of this provision only when a majority of the original panel or majority of the active judges determines the petition does not constitute an abuse of the writ.

**“§ 2258. Filing of habeas corpus petition; time requirements; tolling rules**

“Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within one hundred and eighty days from the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

“(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

“(2) during any period in which a State prisoner under capital sentence has a properly filed request for postconviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for postconviction review until final disposition of the case by the highest court of the State, but the time re-

quirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

“(3) during an additional period not to exceed sixty days, if (A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and (B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

**“§2259. Scope of Federal review; district court adjudications**

“(a) Whenever a State prisoner under capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall only consider a claim or claims that have been raised and decided on the merits in the State courts, unless the failure to raise the claim properly is—

“(1) the result of State action in violation of the Constitution or laws of the United States;

“(2) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

“(3) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review.

“(b) Following review subject to the constraints set forth in subsection (a) and subsections (d) and (g) of section 2254 of this title, the court shall rule on the claims properly before it.

**“§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 be issued 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.

**“§2261. Application to State unitary review procedure**

“(a) For purposes of this section, a ‘unitary review’ procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. The provisions of this chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

“(b) A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

“(c) Sections 2257, 2258, 2259, 2260, and 2262 shall apply in relation to cases involving a

sentence of death from any State having a unitary review procedure that qualifies under this section. References to State ‘post-conviction review’ and ‘direct review’ in those sections shall be understood as referring to unitary review under the State procedure. The references in sections 2257(a) and 2258 to ‘an order under section 2256(c)’ shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the one hundred and eighty day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or his counsel.

**“§2262. Limitation periods for determining petitions**

“(a)(1) A Federal district court shall determine such a petition or motion within 60 days of any argument heard on an evidentiary hearing, or where no evidentiary hearing is held, within 60 days of any final argument heard in the case.

“(2)(A) The court of appeals shall determine any appeal relating to such a petition or motion within 90 days after the filing of any reply brief or within 90 days after such reply brief would be due. For purposes of this provision, any reply brief shall be due within 14 days of the opposition brief.

“(B) The court of appeals shall decide any petition for rehearing and or request by an appropriate judge for rehearing en banc within 20 days of the filing of such a petition or request unless a responsive pleading is required in which case the court of appeals shall decide the application within 20 days of the filing of the responsive pleading. If en banc consideration is granted, the en banc court shall determine the appeal within 90 days of the decision to grant such consideration.

“(3) The time limitations contained in paragraphs (1) and (2) may be extended only once for 20 days, upon an express good cause finding by the court that the interests of justice warrant such a one-time extension. The specific grounds for the good cause finding shall be set forth in writing in any extension order of the court.

“(b) The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the re-determination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

“(c) The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

“(d) The failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

“(e) The Administrative Office of United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.

“(f) The adjudication of any petition under section 2254 of this title that is subject to this chapter, and the adjudication of any motion under section 2255 of this title by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters.

**“§2263. Rule of construction**

“This chapter shall be construed to promote the expeditious conduct and conclusion of State and Federal court review in capital cases.”.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part VI of title 28, United States Code, is amended by inserting after the item relating to chapter 153 the following new item:

**“154. Special habeas corpus procedures in capital cases ..... 2256”.**  
**Subtitle C—Funding for Litigation of Federal Habeas Corpus Petitions in Capital Cases**  
**SEC. 121. FUNDING FOR DEATH PENALTY PROCEEDINGS.**

(a) IN GENERAL.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following new section:

**“FUNDING FOR LITIGATION OF FEDERAL HABEAS CORPUS PETITIONS IN CAPITAL CASES**

“SEC. 523. Notwithstanding any other provision of this subpart, the Director is authorized to provide grants to the States, from the funding allocated pursuant to section 511, for the purpose of supporting litigation pertaining to Federal habeas corpus petitions in capital cases. The total funding available for such grants within any fiscal year shall be equal to the funding provided to capital resource centers, pursuant to Federal appropriation, in the same fiscal year.”.

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting after the item relating to section 522 the following new item:

“Sec. 523. Funding for litigation of Federal habeas corpus petitions in capital cases.”.

**TITLE II—FEDERAL DEATH PENALTY PROCEDURES REFORM**  
**SEC. 201. FEDERAL DEATH PENALTY PROCEDURES REFORM.**

(a) IN GENERAL.—Subsection (e) of section 3593 of title 18, United States Code, is amended by striking “shall consider” and all that follows through the end of such subsection and inserting the following: “shall then consider whether the aggravating factor or factors found to exist outweigh any mitigating factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants. The jury shall be instructed that its recommendation concerning a sentence of death is to be based on the aggravating factor or factors and any mitigating factors which have been found, but that the final decision concerning the balance of aggravating and mitigating factors is a matter for the jury’s judgment.”.

(b) CONFORMING AMENDMENT.—Section 3594 of title 18, United States Code, is amended by striking “or life imprisonment without possibility of release”.

The bill, as amended, was ordered to be engrossed and read a third time, was read a third time by title.

The question being put, *viva voce*, Will the House pass said bill?

The SPEAKER pro tempore, Mr. QUINN, announced that the yeas had it.

Mr. CONYERS demanded a recorded vote on passage of said bill, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the affirmative ..... { Yeas ..... 297  
Nays ..... 132

¶22.23 [Roll No. 109]  
AYES—297

- |              |               |               |
|--------------|---------------|---------------|
| Allard       | English       | LoBiondo      |
| Archer       | Ensign        | Longley       |
| Army         | Everett       | Lucas         |
| Bachus       | Ewing         | Manton        |
| Baesler      | Fawell        | Manzullo      |
| Baker (CA)   | Fields (TX)   | Martini       |
| Baker (LA)   | Flanagan      | Mascara       |
| Ballengier   | Foley         | McCollum      |
| Barcia       | Forbes        | McCrery       |
| Barr         | Fowler        | McDade        |
| Barrett (NE) | Fox           | McHale        |
| Bartlett     | Franks (CT)   | McHugh        |
| Barton       | Franks (NJ)   | McInnis       |
| Bass         | Frelinghuysen | McIntosh      |
| Bateman      | Frisa         | McKeon        |
| Batensen     | Frost         | Menendez      |
| Bereuter     | Funderburk    | Metcalf       |
| Bevill       | Galleghy      | Meyers        |
| Bilbray      | Ganske        | Mica          |
| Bilirakis    | Geren         | Miller (FL)   |
| Bliley       | Geren         | Molinari      |
| Blute        | Gilchrest     | Montgomery    |
| Boehler      | Gillmor       | Moorhead      |
| Boehner      | Gilman        | Moran         |
| Bonilla      | Goodlatte     | Morella       |
| Bono         | Goodling      | Murtha        |
| Borski       | Gordon        | Myers         |
| Boucher      | Goss          | Myrick        |
| Brewster     | Graham        | Nethercutt    |
| Browder      | Green         | Neumann       |
| Brownback    | Greenwood     | Ney           |
| Bryant (TN)  | Gunderson     | Norwood       |
| Bunn         | Gutknecht     | Nussle        |
| Bunning      | Hall (TX)     | Ortiz         |
| Burr         | Hamilton      | Orton         |
| Burton       | Hancock       | Oxley         |
| Buyer        | Hansen        | Packard       |
| Callahan     | Harman        | Parker        |
| Calvert      | Hastert       | Paxon         |
| Camp         | Hastings (WA) | Payne (VA)    |
| Canady       | Hayes         | Peterson (FL) |
| Cardin       | Hayworth      | Peterson (MN) |
| Castle       | Hefley        | Petri         |
| Chabot       | Heineman      | Pickett       |
| Chambless    | Hergert       | Pombo         |
| Chapman      | Hillery       | Porter        |
| Chenoweth    | Hobson        | Portman       |
| Christensen  | Hoekstra      | Poshard       |
| Chrysler     | Hoke          | Pryce         |
| Clement      | Holden        | Quillen       |
| Coble        | Horn          | Quinn         |
| Coburn       | Hostettler    | Radanovich    |
| Coleman      | Hunter        | Ramstad       |
| Collins (GA) | Hutchinson    | Regula        |
| Combest      | Hyde          | Richardson    |
| Condit       | Inglis        | Riggs         |
| Cooley       | Istook        | Roberts       |
| Costello     | Johnson (CT)  | Roemer        |
| Cox          | Johnson (SD)  | Rogers        |
| Cramer       | Johnson, Sam  | Rohrabacher   |
| Crane        | Jones         | Ros-Lehtinen  |
| Crapo        | Kanjorski     | Roth          |
| Creameans    | Kasich        | Roukema       |
| Cubin        | Kelly         | Royce         |
| Cunningham   | Kim           | Salmon        |
| Danner       | King          | Sanford       |
| Davis        | Kingston      | Saxton        |
| de la Garza  | Klink         | Scarborough   |
| Deal         | Klug          | Schaefer      |
| DeLay        | Knollenberg   | Schiff        |
| Deutsch      | Kolbe         | Schumer       |
| Diaz-Balart  | LaHood        | Seastrand     |
| Dickey       | Largent       | Sensenbrenner |
| Dicks        | Latham        | Shadegg       |
| Dingell      | LaTourette    | Shaw          |
| Dooley       | Laughlin      | Shays         |
| Doolittle    | Lazio         | Shuster       |
| Dornan       | Leach         | Sisisky       |
| Doyle        | Lewis (CA)    | Skeel         |
| Dreier       | Lewis (KY)    | Skelton       |
| Duncan       | Lightfoot     | Smith (MI)    |
| Dunn         | Lincoln       | Smith (NJ)    |
| Edwards      | Linder        | Smith (TX)    |
| Ehrlich      | Lipinski      | Smith (WA)    |
| Emerson      | Livingston    | Solomon       |

- |             |            |
|-------------|------------|
| Souder      | Tejeda     |
| Spence      | Thomas     |
| Spratt      | Thornberry |
| Stearns     | Tiaht      |
| Stenholm    | Torkildsen |
| Stockman    | Torricelli |
| Stump       | Traficant  |
| Stupak      | Upton      |
| Talent      | Volkmer    |
| Tanner      | Vucanovich |
| Tate        | Waldholtz  |
| Tauzin      | Walker     |
| Taylor (MS) | Walsh      |
| Taylor (NC) | Wamp       |

- |             |             |
|-------------|-------------|
| Watts (OK)  | Weldon (FL) |
| Weldon (PA) | Weldon (PA) |
| Weller      | Weller      |
| White       | White       |
| Whitfield   | Whitfield   |
| Wicker      | Wicker      |
| Wilson      | Wilson      |
| Wolf        | Wolf        |
| Wyden       | Wyden       |
| Young (AK)  | Young (AK)  |
| Young (FL)  | Young (FL)  |
| Zeliff      | Zeliff      |
| Zimmer      | Zimmer      |

NOES—132

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

NOT VOTING—5

- |         |              |       |
|---------|--------------|-------|
| Andrews | Collins (MI) | Yates |
| Clinger | Houghton     |       |

So the bill was passed.

A motion to reconsider the vote whereby said bill was passed was, by unanimous consent, laid on the table.

Ordered, That the Clerk request the concurrence of the Senate in said bill.

¶22.24 CLERK TO CORRECT  
ENGIROSSMENTS

On motion of Mr. MCCOLLUM, by unanimous consent,

Ordered, That in the engrossments of the bill (H.R. 665) to control crime by mandatory victim restitution, (H.R. 666) to control crime by exclusionary rule reform, and of the bill (H.R. 729) to control crime by a more effective death penalty, the Clerk be authorized to correct section numbers, punctuation, cross references, and to make other technical corrections.

¶22.25 PROVIDING FOR THE  
CONSIDERATION OF H.R. 667

Mr. SOLOMON, by direction of the Committee on Rules, reported (Rept. No. 104-25) the resolution (H. Res. 63) providing for the consideration of the

bill (H.R. 667) entitled the "Violent Criminal Incarceration Act".

When said resolution and report were referred to the House Calendar and ordered printed.

¶22.26 MESSAGE FROM THE PRESIDENT—  
NATIONAL EMERGENCY WITH RESPECT  
TO IRAQ

The SPEAKER pro tempore, Mr. QUINN, laid before the House a message from the President, which was read as follows:

*To the Congress of the United States:*

I hereby report to the Congress on the developments since my last report of August 2, 1994, concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 of August 2, 1990. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

Executive Order No. 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq), then or thereafter located in the United States or within the possession or control of a United States person. That order also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. The order prohibited travel-related transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. United States persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order No. 12724, which was issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution 661 of August 6, 1990.

Executive Order No. 12817 was issued on October 21, 1992, to implement in the United States measures adopted in United Nations Security Council Resolution 778 of October 2, 1992. Resolution No. 778 requires U.N. Member States temporarily to transfer to a U.N. escrow account up to \$200 million apiece in Iraqi oil sale proceeds paid by purchasers after the imposition of U.N. sanctions in Iraq, to finance Iraqi's obligations for U.N. activities with respect to Iraq, such as expenses to verify Iraqi weapons destruction, and to provide humanitarian assistance in Iraq on a nonpartisan basis. A portion of the escrowed funds will also fund the activities of the U.N. Compensation Commission in Geneva, which will handle claims from victims of the Iraqi invasion of Kuwait. Member States also may make voluntary contributions to the account. The funds placed in the