OISS FORM 51 (12/80)

CONGRESSIONAL RECORD
PROCEEDINGS AND DEBATES OF THE 97TH CONGRESS

SENATE

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S. 537	Feb. 24, 1981	S1500-1501

ACTION

Introduced by Mr. Heflin

By Mr. HEFLIN:

S. 537. A bill to aid State and local governments in strengthening and improving their judicial systems through the creation of a State Justice Institute; to the Committee on the Judiciary.

STATE JUSTICE INSTITUTE ACT OF 1981

Mr. HEFLIN. Mr. President, I wish to introduce the State Justice Institute Act of 1981. This legislation will establish a nonprofit corporation known as the State Justice Institute to provide technical and financial assistance to further the development and adoption of improvements in the administration of justice in State and local courts throughout the United States. I wish to thank all of my colleagues for the bipartisan support given the State Justice Institute Act when I first introduced it last Congress. The bill was passed by the Senate on July 21, 1980, without dissent.

Although State courts have always played a key role in our Nation's judicial history, over the last few decades we have witnessed a tremendous growth in their importance. State courts share with the Federal courts the awesome responsibility for enforcing the rights and duties of the Constitution and laws of the United States, a burden which has been increased in recent years through actions taken by the Federal Government. Congressional policy objectives are often dependent upon the State courts to aid in the implementation and enforcement of such legislation. Likewise, the Justice Department has requested State authorities to assume additional responsibility for the prosecution of many criminal matters now handled in Federal court, allowing Federal prosecutors to concentrate on matters that more properly are of higher priority by the Federal Government.

More importantly, the most significant increase of the responsibilities of State courts has come from the Supreme Court of the United States through decisions that have diverted cases from Federal to State courts or increased the procedural due process protecting guaranteed to citizens in criminal, civil, juvenile, and mental health proceedings. The result of these decisions has been an increase in the number of cases handled by State judiciaries as well as an increase in the procedural complexity of State court litigation requiring the development of new safeguards, more efficient procedures, and a much more intensive program of continuing education for members of the State judiciary. It is significant to note that in testimony before the Subcommittee on Jurisprudence

and Governmental Relations of the Senate Judiciary Committee it was revealed that State courts now handled approximately 96 percent of all cases litigated in this country.

It is quite apparent then that the quality of justice in this country is largely determined by the quality of justice dispensed by State courts. We, in the Congress, should thus be keenly aware of the substantial Federal interest involved in maintaining the quality of the administration of justice in State courts.

The State Justice Institute Act recognizes this substantial Federal interest by creating a mechanism whereby State and local courts will be able to receive financial assistance. More importantly, however, this legislation also recognizes the difficulties that have arisen with previous assistance and attempts to correct them. Specifically, the State Justice Institute Act was drafted to insure the independence of State courts from Federal control. By providing that the operations of the State Justice Institute will be supervised by an independent board of directors consisting primarily of representatives of State court judiciaries, this bill offers a clear congressional recognition of the separation of powers principle in the function of State governments and the constitutional requirement of an independent judiciary which is essential for any program of Federal assistance.

Mr. President, as a former State supreme court chief justice, I know full well the importance of an independent judiciary. I could not support legislation which infringes on that independence in any way. In this regard, I want to thank my distinguished colleague from South Carolina, Senator THURMOND, for his amendment adopted during committee consideration of the bill, which added specific language to S. 2387 insuring that the institute does not in any way interfere with the independent nature of the State courts. The amendment also prohibits institute money from being used for funding of regular judicial and administrative activities other than pursuant to the terms of a grant, cooperative agreement or contract with the institute consistent with the requirements of the act.

The State Justice Institute would provide funds for research and development programs with national application which would be beyond the resources of any single judicial system. It would build on previous experiences with financial assistance to State courts, but would insure that any Federal support is administered in the best and most efficient way possible to produce continued State court improvement. The State Justice Institute would furnish a sound basis of support for the national organizations that have been successful in providing support services, training, research, and technical assistance for State court systems. By establishing a mechanism such as the State Justice Institute to provide financial assistance to the State courts, it is not the committee's intent to suggest that primary responsibility for maintenance and improvement of State courts does not remain with the State themselves.

Once again I wish to thank Senator THURMOND for his amendment, adopted by the committee, which added a requirement to S. 2387 that the State or local judicial systems receiving funds administered by the institute provide a matching amount equal to 25 percent of the total cost of the particular program or project. The amendment also provides that in exceptionally rare circumstances this requirement may be waived upon approval of the chief justice of the highest court of the State and a majority of the board.

The State Justice Institute would not fund or subsidize ongoing State court operations, but rather would spotlight problems and shortcomings of our State judiciaries, provide national resources to assist in correcting them, and make the appropriate State judicial officials responsible for their solution. Even though Federal assistance to State courts would be modest compared to the basis financial support given them by State legislatures, Federal financial contribution through the State Justice Institute can provide a "margin of excellence," and thus improve significantly the quality of justice received by citizens who are affected by State courts.