

LEADERSHIP COUNCIL
of
AGING ORGANIZATIONS

Barbara B. Kennelly, Chair

June 15, 2005

Via Fax and Messenger

Honorable Arlen Specter
Honorable Patrick Leahy
Honorable James Sensenbrenner
Honorable John Conyers

Consent decrees play a critical role in our legal system. Everyone benefits from the ability to avoid lengthy and expensive trials by mutual agreement to common-sense, compromise solutions. Unfortunately, this time-honored approach is under unwarranted attack.

The “Consent Decree Fairness Act” (H.R. 1229) would effectively end the consent decree process in any case involving state or local officials. It would do so by letting these officials terminate any federal court consent decree after four years or whenever a new state or local administration takes office. They could do so without even explaining why they think the consent decree was no longer needed or showing they are in compliance with applicable law.

Instead, the legislation would require those who had brought lawsuits leading to consent decrees to demonstrate once again that the agreement should still be enforced – and it would deliberately make it very difficult for them to do so. That would undermine the purpose for entering into consent decrees with state or local officials, and thus leave no option but protracted, high-cost legal battles with those seeking legal redress when due process and other rights are in question.

This is not only unwise, it is unnecessary, as either party in a consent decree can already change the consent agreement any time they can convincingly demonstrate that change is needed.

The sponsors have stated that they believe this legislation is needed to control Medicaid costs. However, consent decrees should not be made a scapegoat for financial challenges in state Medicaid programs that, in fact, are due to spiraling costs throughout the health care system. The specific consent decrees behind their concerns protect due process rights that must be guarded for all Americans – especially those most vulnerable among us whose voices are so easily muted.

Eliminating consent decrees would damage the integrity and efficiency of our legal system. It would have no meaningful impact on the ever-escalating cost problems that plague our entire health care system, which is the real issue that needs to be addressed all across this great nation.

That is why we, the undersigned members of the Leadership Council of Aging Organizations (LCAO), strongly oppose this legislation. We urge you to also oppose it, and look forward to working with you to ensure affordable access to necessary health care in ways that maintain the integrity of our legal system and the rights of all Americans.

June 15, 2005

Sincerely,

AARP
AFL-CIO
AFSCME Retiree Program
Alliance for Aging Research
Alliance for Retired Americans
American Association for International Aging
American Federation of Teachers Program on Retirement and Retirees
American Foundation for the Blind
American Society of Consultant Pharmacists
Association for Gerontology and Human Development in Historically Black Colleges and Universities
Families USA
Gray Panthers
National Academy of Elder Law Attorneys
National Association for Hispanic Elderly
National Association of Professional Geriatric Care Managers
National Association of Social Workers
National Association of State Long-Term Care Ombudsman Programs
National Citizens' Coalition for Nursing Home Reform
National Council on the Aging, Inc.
National Committee to Preserve Social Security and Medicare
National Senior Citizens Law Center
OWL
Service Employees International Union