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Page 3

**Death Penalty Proposal Will Alleviate Backlog, George Tells Commission**

By MICHAEL A. PIEKARZ, Staff Writer

SACRAMENTO—Chief Justice Ronald M. George yesterday told the California Commission on the Fair Administration of Justice that a constitutional amendment is needed to alleviate the large backlog of full-briefed death penalty appeals pending before the Supreme Court.

George's testimony included a proposal to amend Art. VI, Sec. 12 of the California Constitution as well as corresponding proposals to modify and improve capital-related habeas corpus procedures and increase the number of counsel qualified and willing to accept appointment in capital proceedings.

Citing an increase in capital cases in the past two decades that has led to a backlog in appeals, George said his fellow justices have unanimously endorsed a proposal for a state constitutional amendment to allow the court to transfer death penalty cases to panels of the Court of Appeal.

The proposed amendment seeks to eliminate the restriction on transfer of capital cases to the Court of Appeal, and allow the Supreme Court to summarily affirm Court of Appeal decisions in such cases under certain conditions. The accompanying proposals would increase funding and staffing levels to accommodate the death penalty appellate case load.

George testified that action was needed on all the submitted proposals to reduce the death penalty case backlog, and opined that if the Supreme Court handled only existing death penalty appeals to the exclusion of all other matters it would take three to four years to process existing cases.

"The justices are increasingly disturbed by the delays in capital matters," George told the commission. He said the ever-increasing backlog of automatic appeals threatens to overwhelm the Supreme Court's docket and impair its ability to provide necessary guidance concerning other important issues arising in criminal and civil law.

George said that the proposals were not an attempt to fix all issues involving the court system but were an attempt to open dialogue to address a critical problem requiring legislative intervention. "We have done all we can within existing resources," George explained.

However, he stressed the need for action.

"It's time to do something about it," George said.

In addition to his prepared remarks, George briefly answered commission members' questions about the proposals.

Chief among the concerns raised was whether the proposals would actually reduce the backlog and allow improved function. George stated that the proposals were far from perfect and reiterated that they were made in an attempt to open dialogue on a critical issue.

Opponents quickly pointed out what they said were flaws in the Supreme Court's proposals. A written statement issued by the California Attorneys for Criminal Justice, a defense lawyers' group, was critical of the proposed constitutional amendment because its "limited focus on the appellate review system runs an unintended but genuine risk of masking far more fundamental flaws infecting the state's death penalty system."

CACJ president Rickard Santwier, a Pasadena lawyer, wrote:

"While the system of appellate review may need fixing, that fix should come as part of a sensible re-evaluation of the entire system, not as an appellate band-aid to decrease the workload of the California Supreme Court."

Opponents also contended that the proposals would not alleviate the backlog.

"Our basic criticism is that the proposal is nothing more than a shell game," Natasha Minsker, death penalty policy director for the ACLU of Northern California, said. "The proposals would take us from a one step appeals process to a three step process. How is that going to speed things up?"

Despite the criticism, some agreed with George's assertion that the proposals were an attempt to open dialogue rather than provide a complete systemic fix.

"The court's position comes from a limited perspective and involves only a procedural change that doesn't address all the problems," Minsker said.

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