



2009-2010 NCAJ Legislative Agenda

*As Advocates for Justice, our attorneys and legal professionals fight every day to protect people's rights. Yet the legal playing field is not always level. That's why we have placed at the center of our legislative agenda **Four Reforms for Justice** to make our justice system more fair, accessible, and just for everyone.*

Four Reforms for Justice

Comparative Fault: Fairness and Justice for All North Carolinians

Contributory negligence, a harsh and archaic legal rule followed by only four states, is a barrier to justice for all North Carolinians. **To make our civil justice system more equitable, we propose replacing contributory negligence with the Uniform Apportionment of Tort Responsibility Act, a system of comparative fault that fairly balances the interests of all parties.**

A More Fair and Efficient Criminal Calendaring System

When someone is charged with a crime, justice requires that the accused receive a fair trial. Yet, in one of the critical stages of the proceeding, the calendaring of cases, our current system gives one side – the prosecutor -- complete control. In civil cases in North Carolina, and in criminal and civil cases in every other state, both sides have a say in when cases are set for trial. **We propose giving the trial judge control of the criminal calendar, with equal input from the prosecutor and the criminal defense attorney.**

Protecting Citizens from Dangerous and Defective Products

North Carolina makes it more difficult than any other state for its citizens to hold manufacturers accountable for harm caused by defective products. Our "statute of repose," the shortest in the United States, cuts off the right to file suit only six years after the product was manufactured. While injured North Carolinians bear the brunt of sometimes catastrophic injuries, negligent out-of-state manufacturers enjoy a windfall. **We propose reforming and extending the statute of repose to better protect the rights of those who are harmed by dangerous and defective products.**

A Government More Accountable and Responsible to Its Citizens

"The King can do no wrong" is not just a harmless slogan passed down through the centuries from the days of English royalty. Remarkably, the principle of sovereign immunity remains at the core of how the law treats all who suffer harm at the hands of government. A citizen harmed by the negligence of a government employee should have the same legal rights as someone harmed by the wrongdoing of a private business or individual. The current laws addressing governmental immunity are a confusing and complex web, hindering the pursuit of justice. **We propose a local government tort claims act that will enhance an injured citizen's right to hold local governments accountable for their wrongdoing.**



*In addition to the **Four Reforms for Justice**, we anticipate active involvement in the following issues in the 2009-2010 General Assembly.*

Protect the Workers' Compensation System

The current workers' compensation system is working well to protect a worker's right to recovery for injuries suffered on the job. We oppose any attempt to undermine the system and the balance currently struck between the interests of workers and business.

Access to the Courts

The General Assembly must increase funding to the state's chronically underfunded judicial system. We strongly oppose any attempt to cut funding to constitutionally mandated services such as indigent criminal defense.

Juvenile Justice – Raise the Age

North Carolina is the only state to treat all 16 and 17 year olds as adults when they are charged with criminal offenses. We support raising the age of juvenile jurisdiction to 18. This approach will lead to more appropriate treatment of juvenile offenders and provide long-term cost savings.

Protect the Civil Justice System

We will continue to oppose all "tort reform" initiatives that seek to eviscerate the rights of individuals for the benefit of business and insurance interests.

Capital Punishment Reform

We remain committed to a suspension of executions to consider questions of fairness and reform. One important reform is to narrow the range of offenses eligible for capital punishment. We support limitations on capital punishment for defendants with severe mental illness and favor passage of the Racial Justice Act.

False Claims Act

We support the passage of a False Claims Act that will help stop fraud against the government by allowing an individual with knowledge of the fraud to bring a civil claim against an individual or entity defrauding the government.

Immigrant Rights

All residents of North Carolina should have access to drivers' licenses without regard to immigrant status. We oppose legislation intended to marginalize residents based on their immigration status or lack of English proficiency.

Civil Rights

We support legislation to provide attorneys' fees for claims brought under the state constitution, equivalent to fees provided for violations of federal law. We support revising the Racial Profiling and Checkpoints statutes to make these laws more effective in protecting the rights of all residents.



Protecting people's rights.

Minimum Insurance Limits for Trucks

We support legislation to ensure that commercial trucks in North Carolina comply with the federal minimum limits for motor vehicle insurance.

Citizen's Salary Commission

We support the creation of a Citizen's Salary Commission to make recommendations to the General Assembly on appropriate salaries for all three branches of government - executive, judicial, and legislative.

In addition to the initiatives listed above, we list below other issues that remain important to our organization's mission.

Protect Consumers from Oppressive Clauses in Form Contracts

Consumers are routinely presented with form contracts that waive procedural rights to contest wrongdoing of the other party, such as arbitration clauses or clauses to waive the statute of limitations.

Extend Uninsured Motorist Coverage

Uninsured motorist coverage should be available when a disinterested witness is available to corroborate events, and when a motor vehicle causes bodily injury or property damage to an insured without making contact with the vehicle occupied by the insured.

Migrant Workers Rights

North Carolina law should protect migrant workers from retaliatory actions by their employers and offer migrants the status of tenants under the law. We continue to support basic humanitarian improvements in migrant housing.

Limit Lawsuits Under Business Court Jurisdiction

We support limiting business court jurisdiction to specific areas of corporate law, such as securities, antitrust, trademarks and unfair competition.

Protect Homeowner Rights

North Carolina homeowners have some of the most limited rights in the country. We support a Homeowner's Bill of Rights to enhance the legal protections and remedies available to homeowners.

Judicial Selection

We support continued reforms to ensure that North Carolina's judges are highly-qualified and that judges who are elected are chosen by a well-informed electorate.