



NEW YORK STATE BAR ASSOCIATION

STATE LEGISLATIVE PRIORITIES  
2020



# NEW YORK STATE BAR ASSOCIATION

**Support for New York’s Justice System.** An independent, well-functioning judicial system, accessible to all, is a bedrock principle of our democracy. The courts, more than any other arm of government, are the bulwark of liberty. As practitioners we have a strong interest in the impact that the Judiciary Budget has on the operation of the court system. The Governor and Legislature must appropriate adequate resources, which should be wisely and clearly administered by the courts, to ensure that they fulfill their essential role.

**Reorganize the State Court System.** The state court system is comprised of 11 different trial courts – a structure that has been described as “the most archaic and bizarrely convoluted” in the nation. Chief Judge DiFiore has proposed amendment of antiquated provisions in our state constitution to modernize the system. NYSBA’s policy is consistent with the Chief Judge’s proposals, including the following: The Surrogate’s Court, County Court, Family Court, and the Court of Claims would be combined in the Supreme Court and would no longer exist as separate courts. Successors to the former judges of those courts would serve terms that would be the length of current terms. The limitation of no more than one Supreme Court judge per 50,000 residents would be repealed. And, the Legislature would be given the power to create a 5th department.

**Reform Statutory Power of Attorney.** The statutory power of attorney is one of the most widely-used legal documents, permitting the naming of an agent to manage financial affairs. It is commonly used in the elder-law context when there is the threat of an illness that may result in the inability to handle financial affairs in the future. Properly used, it can avoid the need for a time-consuming and expensive guardianship proceeding. Based on legislation enacted in 2009 and 2010, the power of attorney is now complicated to execute. The Association has developed an affirmative legislative proposal to: (1) Simplify the current power of attorney form; (2) Prevent third parties from improperly refusing to accept a consumer’s valid power of attorney; (3) Provide protection for third parties who follow the process for accepting a power of attorney; and, (4) Permit acceptance of a power of attorney form that substantially conforms with the statutory language, in order to prevent the harsh consequence of the form being invalidated because of harmless error in completing the form.

**Legal representation for persons in immigration matters.** New York State should establish a right to counsel for immigrants facing deportation. In the face of increased immigration enforcement by the federal government, and given the complexities of our current immigration system, guaranteeing access to counsel is the only way to ensure that all New Yorkers have access to justice, equal protection, and due process under the law.

Henry M. Greenberg  
*President*

Scott M. Karson  
*President-Elect*

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**Permit attorneys admitted in New York to practice in the state without a residency or office within the state.** Judiciary Law section 470 was enacted in its current form in 1909 following predecessor statutes dating from 1862. A central concern at the time was the difficulty in serving documents on attorneys not located in New York. The concerns that led to the adoption of this section more than a century ago no longer exist, and the current statutory prohibition serves no purpose in today's global environment. Repeal of section 470 would not create any significant difficulties arising from the lack of an attorney's physical office within the state.

**Increase the rate of compensation for attorneys who provide mandated representation.** The last increase in assigned-counsel rates was in 2004, when they were increased to \$75 per hour, in and out of court, for all matters under County Law Section 722. That is, felonies, violation of probation in connection with a felony conviction, appeals, parole representation, family court representation, and post-judgment motions. Fees of \$60 per hour, in and out of court, are paid for representation of a person charged with a misdemeanor or lesser offence and no felony. Rates of compensation to assigned counsel should be increased to prevent the exodus of practitioners from panels across the state. The shortage of lawyers to represent indigent defendants undermines the administration of justice in New York State.

**Support for the Legal Profession.** A core mission of the New York State Bar Association is to represent the interests of the legal profession. In that regard, the Association will work to protect the independence of the judiciary, enhance access to the courts, and promote affirmative legislative proposals that benefit the profession. It is just as important to oppose those proposals that would burden the profession. The Association will work to ensure that attorneys are able to protect their clients' interests and effectively engage in the practice of law.

Pamela McDevitt  
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