



NEW YORK STATE
BAR ASSOCIATION

STATE LEGISLATIVE PRIORITIES 2023



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STATE

We appreciate the opportunity to present the New York State Bar Association's legislative priorities for 2023. We respectfully request our Executive and Legislature to consider the provisions we believe will be imperative to ensure access to justice and the integrity of our justice system.

The New York State Bar Association (NYSBA) has been the voice of the legal profession in New York for more than 140 years. Our mission is to shape the development of law, educate and inform the public, and respond to the demands of our diverse and ever-changing legal profession. NYSBA advocates for state and federal legislation and works tirelessly to promote equal access to justice for all.

We live in a fast-changing world with the State Legislature and Congress having to act quickly to respond to health, safety and political events. This document is intended to serve as a blueprint for NYSBA action for 2023, but we recognize the Association will need to be responsive to events and adjust priorities as necessary throughout the year. Flexibility may be critical. However the year develops, the Association will continue to be a staunch advocate for policies that promote our core values and mission to promote equal access to justice for all.

We welcome the opportunity to discuss these priorities with you.

Specific Policy Recommendations:

Clean Slate Act: S.211(Myrie)/A.1029(Cruz)

New Yorkers who have served their sentences should have their conviction records automatically sealed so that they may be able to meaningfully rejoin their communities after their criminal legal system involvement. The Clean Slate Act, carefully balances the harm of perpetual punishment for people with criminal records against society's legitimate interest in allowing access to prior records where absolutely necessary. Sealed records will only be made available to specified court actors and law enforcement agencies in limited circumstances including agencies that issue gun licenses.

Equal Rights Amendment: S.108-a(Krueger)/ A.1283 (Seawright)

As the recent US Supreme Court decision in *Dobbs v. Jackson Women's Health Organization* demonstrates, the fundamental rights of women continue to be under attack in the United States. Discrimination by the government also continues and adequate protections do not exist. The Association supports passage of an Equal Rights Amendment to the New York State Constitution. The amendment would prohibit discrimination based on gender, age, sexual orientation, disability, ethnicity, national origin, and pregnancy.

Permission for NY Admitted Attorneys to Practice without Residency or Office within NYS: S.3261 (Hoylman-Sigal)/A.2218 (Weprin)

New York State Judiciary Law section 470 provides: "A person, regularly admitted to practice as an attorney and counsellor, in the courts of record of this state, whose office for the transaction of law business is within the state, may practice as such attorney or counsellor, although he resides in an adjoining state." 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 and virtual world. There is still a need for attorneys to serve New Yorkers throughout the state, particularly in under-served urban and rural areas. The prohibition of this outdated law will help further access to justice for our residents.

Additional information can be found here:

<https://nysba.org/app/uploads/2020/04/Report-Task-Force-on-Rural-Justice-April-2020-.pdf>

Modernizing Policing at Key Stages:

Harmful policing practices are resulting in misconduct that disproportionately impacts Black people and a culture that allows these practices to continue unchecked. Policing needs to be brought into the 21st century by improving policing at every stage, from hiring to discipline. The Association recommends:

1. Aligning police professionals with other professions in terms of education, licensing, and continuous substantive legal training.
2. Fostering police culture that supports peer intervention when misconduct arises, and enacting duty to intervene legislation.
3. Holding police departments accountable for misconduct through inclusive and empowered community engagement.
4. Increasing transparency between police departments and communities through statewide, mandated use of body cameras and providing enforcement mechanisms for those who fail to abide.
5. Modifying criminal law procedures that hinder holding police officers accountable for misconduct as well as increasing diversity and diversity training for police, district attorneys, public defenders, and courts.
6. Leveraging technology to obtain data, which will improve monitoring and oversight and strengthen accountability.
7. Reforming qualified immunity and creating a civil remedy for violations of a person's rights under the federal and state law.

Legal Representation Issues:

- 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 for Attorneys for the children under the judiciary law have also remained at \$75 per hour for nearly two decades. Rates of compensation to assigned counsel must be increased to stop the exodus of practitioners from panels across the state. The resulting shortage of lawyers to represent indigent defendants and minors undermines access to justice in New York State. **S.1777(Bailey)/ A.240(Magnarelli)**
- Establish a right to counsel for immigrants facing deportation: In the face of increased and indiscriminate 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. **S.999 (Hoylman-Sigal)/ A.170 (Cruz)**
- Provide a Right to Counsel in Housing Proceedings: New York State should establish a right to counsel for low-income tenants involved in housing defense proceedings. Housing law is widely acknowledged to be complex and almost impossible to successfully navigate without a lawyer. Unfortunately, most tenants cannot afford to hire an attorney and the free legal services available do not match the scale of need. **S.2721(May)/A.1493(Joyner)**

General Policy Position:

Integrity of New York's Justice System and Support for the Profession:

The New York State Bar Association adheres to the settled principle that the courts are a co-equal branch of our government. An independent, well-functioning judicial system, accessible to all, is a bedrock component of our democracy. 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. The Association will work to ensure that attorneys are able to protect their clients' interests and effectively engage in the practice of law.

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