

## Memorandum Urging Approval

NYSBA #28-GOV

July 8, 2016

S. 1606-B  
A.10071

By: Senator Bonacic  
By: M of A Weinstein

Senate Committee: Judiciary  
Assembly Committee: Judiciary  
Effective Date: Immediately

**AN ACT** to amend the Judiciary Law, in relation to judicial wellness or judicial assistance committees

**LAW AND SECTIONS REFERRED TO:** A new Article 22-A of the Judiciary Law

This bill would amend the Judiciary Law to grant assurances of confidentiality to the work of the judicial wellness and judicial assistance committees operated by bar associations throughout New York State.

Section 499 of the Judiciary Law governs committees that assist lawyers affected by alcoholism, drug abuse and other mental health issues. It currently provides that communications between lawyers and members of lawyer assistance committees are privileged, and that the members of such committees are immune from liability when acting in good faith in related matters. This provision, which was enacted in 1993 based on a proposal by the New York State Bar Association, has been critically important to the success of the Association's Lawyer Assistance Program and similar programs of other bar associations.

The Association has recognized that judges, like lawyers, may be affected by the day-to-day stress of their work. It has created a Judicial Wellness Committee to assist judges much as its Lawyer Assistance Committee has been assisting lawyers for more than two decades. As part of their work, the Association's Judicial Wellness Committee, as well as other similar committees, receive highly personal and sensitive information.

The Association has been concerned that the work of its Judicial Wellness Committee is not adequately covered by the current provisions of the Judiciary Law applicable to lawyer assistance committees. By amending the law to add a new Article 22-A, the protections now covering lawyers being assisted by lawyer assistance committees would apply to judges seeking or obtaining help from judicial wellness or assistance committees throughout the state. One important difference between section 499 and Article 22-A is that the privilege does not apply to committee members when information received by a member reveals that a judge is committing or is likely to commit a substantial violation of the rules governing judicial conduct. This provision was included to protect the public, and it has the support of the Commission on Judicial Conduct and the Office of Court Administration.

Based on the foregoing, the New York State Bar Association respectfully urges the Governor to APPROVE this legislation, which was developed by our Judicial Wellness Committee.