

Memorandum in Support

NYSBA #28

May 23, 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 legislation would provide an amendment to the Judiciary Law essential to the work of the judicial wellness and assistance committees operated by bar associations throughout New York State.

Section 499 of the Judiciary Law 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 recognizes that, as with lawyers, judges may be affected by the day-to-day stress of their work. The Association's Judicial Wellness Committee assists 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 and other similar committees receive highly personal and sensitive information regarding judges.

The Association has been concerned that the members of its Judicial Wellness Committee are not adequately covered by current provisions of the Judiciary Law applicable to lawyer assistance committees. By amending the law to add Article 22-A, the protection 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 when a judge in the program may commit a substantial violation of the rules governing judicial conduct. This provision was included to protect the public.

Based on the foregoing, the New York State Bar Association strongly **SUPPORTS** this legislation, which was developed from a proposal of our Judicial Wellness Committee.