



NEW YORK STATE BAR ASSOCIATION

STATE LEGISLATIVE PRIORITIES
2018



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Integrity of 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. Moreover, in order to enhance the independence of judges, it is necessary to protect judicial pay and pension benefits and to eliminate the so-called "Death Gamble."

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. However, under the current statute, the power of attorney is complicated and expensive for consumers. The Association has developed an affirmative legislative proposal in order 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) Authorize language in the 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.

Right to Discovery in Criminal Justice Matters. The Association's affirmative legislative proposal would amend the criminal procedure law and the penal law, regarding discovery, pretrial motions, securing attendance of witnesses by subpoena, motions to suppress evidence, and tampering with a witness or intimidating a victim. The legislation would modernize the criminal discovery rules, and result in a fairer process, while providing measures to ensure the safety of witnesses.

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Privileged Communications for Lawyers Referral Services. The State Bar Association provides Lawyer Referral Services (LRS) to New Yorkers across the state to help them find a lawyer or be directed to an appropriate resource. These consumers necessarily provide critical information to LRS in order to receive appropriate referrals. Consumers should be able to rely upon LRS for help and assume their information is safe in the hands of the LRS. The Association's proposal would amend the Judiciary Law, to ensure that communications between a consumer of legal services and a legal referral service be deemed to be privileged on the same basis as those provided by law for communications between an attorney and client.

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, *Executive Director*
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