



NEW YORK STATE BAR ASSOCIATION

FEDERAL LEGISLATIVE PRIORITIES

2021



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We appreciate the opportunity to present the New York State Bar Association's legislative priorities for 2021. We respectfully request our Executive and Legislature consider our provisions that 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.

As we have experienced this year, 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 2021, 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 Legislative Proposals:

Provide Greater Student Loan Relief for Attorneys and Non-Attorneys in Rural, Suburban and Urban Areas:

More than 40 million Americans, mostly people under 35 years of age, have student loan debt. Covid-19 has exacerbated the financial challenges these individuals face. While Congress did provide relief, more needs to be done including extending the moratorium on payments, expanding the program to private loans, and providing targeted monetary relief in cases of economic hardship.

Funding for Broadband:

The pandemic and resulting stay-at-home orders left millions of Americans working, educating, and socializing in a virtual world. It has become abundantly clear that broadband service is an important communications tool that has become vitally necessary for educational purposes and medical care, as well as access to justice. There is a significant lack of technology infrastructure in vast portions of New York State and large portions of New York State have limited broadband availability and some areas are completely without any broadband service whatsoever. Appropriate funding is critical for the expansion of a 21st Century digital infrastructure sufficient to provide adequate broadband access to all areas of the nation.

Support for the Legal Services Corporation (LSC):

LSC is an independent non-profit corporation established by Congress in 1974 to provide financial support for civil legal aid to low-income Americans. LSC promotes equal access to justice by providing funding to 133 independent non-profit legal aid programs. New York has seven LSC grantees: Legal Aid Society of Mid-New York, Legal Aid Society of Northeastern New York, Legal Assistance of Western New York, Legal Services NYC, Legal Services of the Hudson Valley, Nassau/Suffolk Law Services Committee, and Neighborhood Legal Services (Buffalo). LSC grantees serve low-income individuals, children, families, seniors, and veterans in 813 offices in every congressional district. It is critically important that Congress provide adequate funding for LSC in order to provide access to justice for those who need assistance.

Cannabis:

As states seek to regulate adult use marijuana, the conflict with existing federal regulations hinders the ability of states to craft effective and legal policies. Congress should enact legislation that: (1) exempts from the Controlled Substances Act any production, distribution, possession, or use of marijuana carried out in compliance with state laws; (2) removes marijuana from Schedule 1 of the Controlled Substances Act; and (3) encourages scientific research into the efficacy, dose, administration, or side effects of commonly used and commercially available cannabis products in the US. These provisions were endorsed by the American Bar Association (ABA) in 2019.

Firearms and Mass Shootings:

NYSBA convened a task force on Mass Shootings and Assault Weapons in an effort, based on available data, to understand the incidence and causes of mass shootings, to describe the role of assault-style weapons in them, and to make recommendations that offer a reasonable chance to reduce the number of mass shootings and casualties that result from them. The United States has more mass shootings and more casualties from mass shootings than any other developed country in the world. NYSBA believes lawyers have a special role to play in addressing gun violence in America. The non-partisan report makes the following recommendations for reasonable and common sense measures to address this national crisis, while remaining consistent with the Second Amendment:

1. Assault Weapons Ban
2. Ban on large-capacity magazines that hold more than 10 rounds of ammunition

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3. Ban on Bump Stocks and other devices that effectively enable semi-automatic firearms to be fired in fully automatic mode.
4. Ban possession of ‘ghost guns’ – firearms without a serial number
5. Enact Universal Background Checks
6. Extend the time for background checks to be completed before finalizing the sale of a firearm
7. Require gun owners to have a license to purchase and possess all types of firearms (state)
8. Expand the category of individuals who are prohibited from purchasing or possessing firearms
9. Ensure all disqualifying events for gun ownership are reported to NICS
10. Passage of Extreme Risk Protection Laws, aka Red Flag Laws
11. Impose penalties for failure to notify the authorities of stolen or lost guns
12. Impose penalties for unlocked and unsecured guns
13. Federal funding for agencies to collect, maintain and analyze data on causes of mass shootings.

Additional information can be found here: <https://nysba.org/app/uploads/2020/11/12.-Final-Report-11.5.2020-Task-Force-on-Mass-Shootings-and-Assault-Weapons-With-cover-FINAL.pdf>

Legislative Reform to Address the Crisis in Immigration Representation:

The condition of immigrants who face civil immigration detention, removal and likely permanent expulsion from the United States is often undermined by the lack of available competent counsel necessary to navigate the “labyrinthine character of modern immigration law.” Without competent counsel in immigration proceedings, a vast majority of non-citizens are ill-equipped to know where to turn for help or how to proceed in an immigration matter. The Association is committed to enactment of a statutory right to appointed counsel to ensure justice for that community of immigrants who are confronted with legal proceedings.

Sealing Records of Criminal Conviction:

The general trend within the criminal justice reform movement has been toward facilitating productive reentry into the social fabric for ex-offenders. The collateral consequences of criminal convictions are numerous and profound, perpetuating a cycle of unemployment and disenfranchisement which can lead to recidivism. As of January 2018, 41 states, including New York, have some form of record sealing or expungement in place. However, there is still no federal law that allows for those convicted of federal crimes to seek the sealing of their criminal records. Federal law should allow those convicted of non-violent federal offenses to petition the court to have records of their conviction sealed.

General Policy Positions:

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, promote affirmative legislative proposals that benefit the profession, and oppose those proposals that would burden it. The Association will work to ensure that attorneys are able to protect their clients’ interests and effectively engage in the practice of law.

Support for States’ Authority to Regulate the Tort System:

Laws covering the area of civil justice are truly the province of state legislatures, the judiciary, and voters. For over 200 years the authority to promulgate “tort law”, including law relating to liability for medical errors, has rested with the states, which have the experience and expertise with these matters. The federal government should leave it to the states to determine how best to provide access to the courts for the injured to exercise their right to seek compensation for their injuries and to make reasonable adjustments to the system.

Integrity of the Justice System:

At all levels of government, 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. Congress should provide appropriate funding to ensure fully functioning courts that will provide equal access to justice for all.

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