

**RESOLUTION SUPPORTING AMENDMENT TO SECTION 60 OF NEW YORK'S  
RETIREMENT AND SOCIAL SECURITY LAW**

WHEREAS, under Section 60 of the New York State Retirement and Social Security Law, New York State judges' pensions do not fully vest until retirement; and

WHEREAS, if a New York State judge dies in office, under Section 60 of the New York State Retirement and Social Security Law, the judge's beneficiaries do not receive the proceeds of his or her pension, but rather receive only a payment of death benefits in lieu of a pension; and

WHEREAS, these death benefits are generally of significantly less value than the pension to which such a deceased judge or his or her beneficiaries would be entitled to if the judge had retired before death; and

WHEREAS, under Section 60 of the New York State Retirement and Social Security Law, a deceased judge's beneficiaries may not elect any of the benefit options available to a judge who retires;

WHEREAS, in recent years, for non-judicial personnel of the New York State court system subject to what has been referred to as the "Death Gamble," this disparity has, to some extent, been ameliorated by the proliferation of early retirement opportunities afforded to most public employees; and

WHEREAS, New York State judges have not been able to take advantage of these early retirement opportunities because they have been excluded as a group from each of the relevant statutes and early retirement incentives; and

WHEREAS, legislation enacted in 2000 removed the Death Gamble for thousands of police officers, fire fighters, and teachers, but specifically excluded members of the judiciary; and

WHEREAS, it is unfair that many New York State judges, most of whom become judges later in life, must continue in service at some risk to their families' financial welfare; and

WHEREAS, not only is this grossly unfair in and of itself, it is also unfair that New York State judges, who are the cornerstone of our state's justice system, are excluded from the benefit options available to most other state employees; and

WHEREAS, the “Death Gamble” may be yet another disincentive for many to undertake judicial service; and

WHEREAS, the New York County Lawyers Association issued a report and resolution on June 8, 2015 calling for an amendment to Section 60 of New York’s Retirement and Social Security Law, to alleviate the effects of this unfair situation;

NOW, THEREFORE IT IS

RESOLVED, that The New York State Bar Association urges an amendment to Section 60 of New York’s Retirement and Social Security Law, to permit state-paid judges and justices of the Unified Court System to elect to have their beneficiaries receive a pension in lieu of the regular death benefit, upon their death while in service; and it is further

RESOLVED, that the amendment to New York’s Retirement and Social Security Law should also provide that if a judge did not make the aforementioned election prior to death, the designated beneficiary of the judge’s death benefit be authorized to make the election for the deceased judge posthumously and to choose the pension payment options contained in Section 90 of New York’s Retirement and Social Security Law.