



NEW YORK STATE BAR ASSOCIATION

FEDERAL LEGISLATIVE PRIORITIES

2023



NEW YORK STATE BAR ASSOCIATION

FEDERAL:

We appreciate the opportunity to present the New York State Bar Association's legislative priorities for 2023. We respectfully request our Executive and Legislature to consider the provisions 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.

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 2023, 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:

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 to promote equal access to justice. New York has seven LSC grantees that serve low-income individuals, children, families, seniors, and veterans throughout the state and 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.

Firearms and Mass Shootings:

The United States has more mass shootings and more casualties from mass shootings than any other developed country in the world. 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, and to make recommendations that offer a reasonable chance to reduce the number of mass shootings while respecting the Second Amendment. Based on the findings of the Task Force report, the Association supports the following initiatives:

- Bans on:
 - Assault weapons
 - Large-capacity magazines that hold more than 10 rounds of ammunition
 - Bump Stocks and other devices that effectively enable semi-automatic firearms to be fired in fully automatic mode.
- Possession of "ghost guns" - firearms without a serial number.
- Enactment of Universal Background checks
- Extension of the time for background checks to be completed before finalizing the sale of a firearm
- Expansion of the category of individuals who are prohibited from purchasing or possessing firearms
- Ensuring all disqualifying events for gun ownership are reported to NICS.
- Passage of Extreme Risk Protection Laws, aka Red Flag Laws.
- Imposition of penalties for failure to notify the authorities of stolen or lost guns and for unlocked and unsecured guns.
- Providing 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 complexities 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.

Equality Act:

The Equality Act, would expand the protected category of "sex" to include "sexual orientation and gender identity" and provide additional protections within the new expanded category. It would bar discrimination in employment, public schools, housing, credit opportunities, juries, and federally funded programs on the basis of sex, gender identity, and sexual orientation. It also would prohibit discrimination in places of public accommodation, restaurants, entertainment venues, retail stores, transportation services, health-care facilities, and funeral homes. The New York State Bar Association proudly supports

FEDERAL LEGISLATIVE PRIORITIES FOR 2023

the bill because “[e]very person should be treated with respect and dignity and should be able to live without fear, no matter who they are or whom they love” (see Section 1, 1/20/21 Biden Executive Order).

Women’s Rights and a Federal Right to Abortion:

The U.S. Supreme Court ruling in *Dobbs v. Jackson Women’s Health Organization* denied women their right to be equal citizens and their right to privacy under the 14th Amendment. The Court’s decision to roll back individual rights, particularly in an area that was considered settled law, is deeply disturbing. As lawyers, we are sworn to uphold the law, and as a state bar association, we advocate for individuals who are not treated equally under the law. Congress needs to act to protect the rights of all individuals and ensure the right to abortion services and care.

Modernizing Policing at Key Stages:

We are at a crisis point with policing in the United States. Harmful policing practices are resulting in misconduct that disproportionately impacts Black people and a culture that allows these practices to continue unchecked. Policing needs to be brought into the 21st century by improving policing at every stage, from hiring to discipline. The Association supports:

- Creating a national registry to track problem officers to bolster police accountability and prevent problem officers from moving from one department to another.
- Prohibiting profiling based on race and religion and mandating training on profiling.
- Banning chokeholds, carotid holds and no-knock warrants.
- Amending the prosecution standard for police from “willfulness” to “recklessness” and reforming qualified immunity.
- Requiring stronger data reporting on police use of force
- Providing federal funds to ensure use of body cameras.

Additional information can be found here:

<https://nysba.org/app/uploads/2021/06/Report-by-the-Task-Force-for-Racial-Injustice-and-Police-Reform-FINAL-with-HOD-wording-on-cover.pdf>

Voting Rights:

The right to vote is a fundamental value guaranteed by the United States Constitution. It establishes a benchmark for public participation and must be protected and preserved. The New York State Bar Association supports measures that increase voter participation and inclusion of all communities; prevent discriminatory voting practices anywhere in the United States; and protect access to the ballot and the sanctity of the vote.

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.

Provide Greater Student Loan Relief:

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.

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:

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. Laws covering the area of civil justice are truly the province of state legislatures, the judiciary, and voters. 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.

Sherry Levin Wallach
President

Richard C. Lewis
President-Elect

Pamela McDevitt
Executive Director



NEW YORK STATE BAR ASSOCIATION

One Elk Street, Albany, NY 12207

518.463.3200

NYSBA.ORG