



NEW YORK STATE
BAR ASSOCIATION

STATE LEGISLATIVE PRIORITIES 2024



NEW YORK STATE BAR ASSOCIATION

STATE:

We appreciate the opportunity to present the New York State Bar Association's legislative priorities for 2024. 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 legislation to promote equal access to justice for all. We respectfully request that the Governor and Legislature consider these policies that are imperative to ensure access to justice and the integrity of our justice system.

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 2024, 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.

General Policy Position:

NYSBA supports and defends the settled principle that the courts are a co-equal branch of our government. An independent, well-functioning judicial system, accessible to all, is a bedrock principle of our democracy. In that regard, the Association works to protect the independence of the judiciary, enhance access to the courts, and promote affirmative legislative proposals that benefit the legal profession. Additionally, the Association will continue to work to ensure that attorneys are able to protect their clients' interests and effectively engage in the practice of law.

Legal Representation Issues:

- Increase the rate of compensation for attorneys who provide mandated representation: After decades of stagnation, the assigned counsel rates were finally adjusted as part of the 2023 enacted budget. Effective April of 2023, the rates for AFC (attorneys for children) and 18b attorneys have been raised to \$158 per hour, and the caps on the applicable cases have been raised to \$10,000. However, ongoing state funding is not guaranteed, and existing law does not include any escalator. Rates of compensation to assigned counsel must continue to be met and increased to stop the exodus of practitioners from panels across the state. The resulting shortage of lawyers to represent indigent defendants and minors undermines access to justice in New York. As part of NYSBA's commitment to this issue, the Association commenced a lawsuit in November 2022, seeking to compel an increase in the rates of compensation for assigned counsel equal to the federal rate and to provide a mechanism for continued increases. That lawsuit continues in NYS Supreme Court. It is imperative that the State ensure continued funding in the upcoming fiscal year, without placing excessive burdens on local governments.

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- Establish a right to counsel for immigrants facing deportation: With the recent increase of migrants entering New York State, coupled with the complexities of our current immigration system, guaranteeing access to counsel is the only way to ensure access to justice, equal protection, and due process under the law. **S.999 (Hoylman-Sigal)/ A.170 (Cruz)**
- Provide a Right to Counsel in Housing Proceedings: New York State should establish a right to counsel for low income tenants involved in housing defense proceedings. Housing law is widely acknowledged to be complex and almost impossible to successfully navigate without a lawyer. Unfortunately, most tenants cannot afford to hire an attorney and the free legal services available do not match the scale of need. **S.2721(May)/A.1493(Joyner)**

Notary Requirements:

- Repeal the Record Keeping and Retention Requirements for Non-Electronic Notarizations: A review of the Notary Public License Law reveals no statutory basis for a record keeping and retention requirement prior to the recent enactment of the electronic notarization law. In fact, since 2015, the New York State legislature has repeatedly rejected efforts to statutorily impose notary record keeping requirements, yet an overly broad onerous requirement has been established through regulation adopted by the Department of State. See **A.7241-A (Lavine)**
- Repeal the Requirement that a Licensed Electronic Notary Select a Credential Service Provider Who Meets Certain Technical Requirements: New York, one of the last states to allow Remote Online Notarization (RON), places the burden to use required technology on the notary public, instead of the third-party provider. The Department of State should clarify the Notary regulation to require that an electronic notary use a third-party provider licensed by the Secretary of State through a Self-Certification Model or an Application and Certification Model. This would shift the credentialing requirements away from the electronic notary to the third-party provider and simplify the RON process. This change would eliminate confusion and doubt concerning compliance with the law and promote the underlying purpose of NY Executive Law 135-c (to adopt societal advances and new technology).

In addition to these priorities, the Association also advocates on other critical issues of importance to the legal profession and those they serve. We look forward to discussing these and other policy issues that may arise during the year as events warrant. Policy and contact information can be found at www.nysba.org/governmentrelations/.

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