

Memorandum in Support

March 17, 2025

EXECUTIVE VERSION: S3005-A/A3005-A (PPGG Budget)

SENATE/ ASSEMBLY VERSIONS: S3005-B/A3005-B (PPGG Budget)

The New York State Bar Association submits this memo in SUPPORT of Part GG of the Executive's Budget, Assembly Part JJ, Senate Part KK, Senate Part LL, Senate Part SS, Senate Part TT, Senate Part GGG, and Senate Part MMM.

Part GG: Creating a body-worn camera program for the Department of Corrections and Community Supervision (DOCCS)

The New York State Bar Association supports the Governor's proposal which would create a new program for mandating body cameras to be worn by DOCCS Corrections Officers. This proposal was also accepted by the Senate and the Assembly in their one-house bills. NYSBA's 2021 *Report and Recommendations of the Task Force for Racial Injustice and Police Reform* called for the expansion of the mandating the use of body cameras to all law enforcement within the state.¹ NYSBA commends Governor Hochul for expediting the \$400 million in funding to install fixed cameras in all state prisons and distribute more body-worn cameras for corrections officers, and agrees with the sentiment that law enforcement must recognize the importance of adapting to technological changes that can be used not only in improving the ability to investigate crimes, but also so law enforcement may better protect themselves and the community from instances of misconduct. We take note that the Assembly and Senate accepted the Executive's proposal and thank them for it.

Assembly Part JJ: Extends the Reparation Commission work from 12 months to 30 months

The New York State Bar Association supports the Assembly's Public Protection Budget Part JJ which would extend the Reparation Commission's mission from 12 months to 30 months. NYSBA's Task Force on Racism, Social Equity and the Law's 2022 Report recommended support for the creation of a commission to study and examine the harm done by slavery and consider possible remedies, including that of reparations.² Decades of segregation, and policies and processes – including but not limited to redlined communities; health deserts; polluted neighborhoods where residents cannot safely drink the water nor breathe the air; disproportionate educational opportunities; and over policing communities of color – have caused a racial wealth

¹ [Report-by-the-Task-Force-for-Racial-Injustice-and-Police-Reform-FINAL-with-HOD-wording-on-cover.pdf](#), Pg. 27, Approved by the New York State Bar Association House of Delegates on June 12, 2021

² [NYSBA-Taskforce-on-Racism-Social-Equity-and-the-Law-11.11.22-FINAL-with-changes-accepted.pdf](#)

gap. The extension of this Commission’s work would ensure that they would receive the proper time to thoroughly study what appropriate actions are necessary to take to attempt to close New York’s racial wealth gap for descendants of American slaves in our State. Therefore, we support this legislation and encourage its inclusion in the final budget.

Senate Part KK: Reform of the 1944 Commission on Law Revision

The New York State Bar Association supports the Senate’s Public Protection and General Government Part KK, which would revitalize the Commission on Law Revision. As provided in the *Report and Recommendations of Task Force on Mental Health and Trauma Informed Representation*, the Legislature should restore appropriations for the New York State Law Revision Commission (“LRC”) as this entity serves a vital role in referring important policy matters to the Legislature and Executive. Defunded since 2016, the LRC is the oldest continuous agency in the common-law world devoted to law reform through legislation. Among many other initiatives, the LRC was the drafter of the Insanity Defense Reform Act of 1980 and Article 81 of the Mental Hygiene Law General Guardianship Statute.³ We are further encouraged by the language in the article that gives precedence to the work of professional Bar organizations like NYSBA, which produces thoughtful and bipartisan analysis every year. Therefore, we support this legislation and encourage its inclusion in the final budget.

Senate Part LL: Increases juror allowance to \$72 per day

The New York State Bar Association supports this part of the Senate’s Public Protection budget proposal which would increase the juror allowance to \$72 dollars a day. NYSBA’s 2023 *Report and Recommendations of the Task Force on Racism, Social Equity and the Law* identified four laws which decrease the participation of people of color in the jury pool and which should be changed to significantly increase the diversity of the jury pool – one was the low level of juror pay.⁴ Jury service should be encouraged and should be a financially feasible option for New Yorkers. For many prospective jurors, jury service is not economically viable, as the current rate of jury pay, \$40 per day, does not adequately replace lost earnings, leading to potential jurors for whom the low pay creates a financial hardship being excused. Low juror pay disproportionately affects those minority and low-income populations who work in jobs that do not provide paid jury leave, acting as a bar to their participation. Increasing jury service pay will increase juror participation by making participation economically viable. Therefore, we support this legislation and encourage its inclusion in the final budget.

³ Report and recommendations of Task Force on Mental Health and Trauma Informed Representation Approved by the House of Delegates on June 10, 2023. P38 (<https://nysba.org/wp-content/uploads/2023/06/final-report-Task-Force-on-Mental-Health-and-Trauma-Informed-Representation-June-2023.pdf>)

⁴ Report and Recommendations of the New York State Bar Association Task Force on Racism, Social Equity, and the Law. Approved by the New York State Bar Association House of Delegates on Jan. 20, 2023, pg. 81([NYSBA-Taskforce-on-Racism-Social-Equity-and-the-Law-11.11.22-FINAL-with-changes-accepted.pdf](https://nysba.org/wp-content/uploads/2023/01/11.11.22-FINAL-with-changes-accepted.pdf))

Senate Part SS: Allow for audio/visual transmission and recording of certain court proceedings.

The New York State Bar Association supports the Senate's Public Protection Budget Part SS, which would allow for the recording of certain court proceedings but does so with the recommendation that the issue be thoroughly studied, especially as technology continues to advance. NYSBA's *2001 Report and Recommendations of the Special Committee on Cameras in the Courtroom* mentions several recommendations that this bill adopts, including that consent of the parties not be required to permit audiovisual coverage of judicial proceedings, that there be televised coverage of the proceedings of the Appellate Divisions and Court of Appeals of the State, and that there be no presumption in favor or against cameras in the court, along with a number of others that seek to preserve the process of justice before all else.⁵

Based on this report, NYSBA adopted the position that cameras should be permitted in court as they can aid the public in understanding the legal system and the lawyer's role in it, and that public understanding and trust is fundamental to our system of justice. However, the report that offers support for this action is over 20 years old and NYSBA recognizes that technology has advanced tremendously since first adopting this as policy. Therefore, while we support this proposal, we caution the need for constant study and monitoring by the Legislature and Office of Court Administration.

Senate Part TT: Use of Restoration Services in Capacity Determination

The New York State Bar Association supports the Senate's Public Protection Budget Part TT, which would provide for the use of restoration services when determining the capacity of a defendant to stand trial. When examining article 730 of the Criminal Procedure Law, the 2023 *Report and Recommendations of the New York State Bar Association Task Force on Mental Health and Trauma Informed Representation* found that the current provisions of this law have resulted in the diversion of scarce resources to the attempt to prepare mentally ill people to stand trial rather than helping them to receive the treatment they need.⁶

This bill would update and modernize article 730 to eliminate provisions which have been deemed unconstitutional and would 1) require that the reports of professionals examining the defendant include the examiner's professional opinion of a reasonable possibility that the person can be restored; 2) create a definition of restoration services to make it clear that restoration is not aimed at recovery but simply at making the defendant legally able to stand trial; 3) delete the provision that the DA must agree to outpatient restoration so a court can make this decision independently

⁵ [report recommendations special committee cameras courtroom march 2001.pdf](#), Pgs. 3-6

⁶ Report and Recommendations of the New York State Bar Association Task Force on Mental Health and Trauma Informed Representation. Approved by the House of Delegates on June 10, 2023. Pg84 [final-report-Task-Force-on-Mental-Health-and-Trauma-Informed-Representation-June-2023.pdf](#)

and (4) allow the conversion of the defendant from a criminal status to a civil status so the defendant can receive mental health treatment leading to recovery.

In adopting this report, NYSBA concluded that the state should adopt this legislation as written. We now do so again.

Senate Part GGG: Death Gamble

The New York State Bar Association supports the Senate's Public Protection Budget Part GGG which enacts the Death Gamble Bill for judges. In 2015, NYSBA adopted a resolution supporting the amendment of section 60 of the retirement and social security law to allow for 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, providing state-paid judges and justices with the same benefits that are provided to most other state employees.⁷

Presently, 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 their pension, but rather receive only a payment of death benefits in lieu of a pension; benefits which are generally of significantly less value than the pension to which such a deceased judge or their beneficiaries would be entitled to if the judge had retired before death. Also, 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. Legislation enacted in 2000 removed the so-called "Death Gamble" for thousands of police officers, fire fighters, and teachers, but specifically excluded members of the judiciary. Many judges enter service later in life and therefore must continue their work at some risk to their family's financial welfare. It is grossly 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. Therefore, NYSBA supports this addition to the budget, closing this significant gap. Therefore, we support this legislation and encourage its inclusion in the final budget.

Senate Part MMM: Automatic Voter Registration

The New York State Bar Association supports the Senate's Public Protection Budget Part MMM, which would enact automatic voter registration. The 2013 NYSBA *Report and Recommendations of the Special Committee on Voter Participation* found that increased registration naturally brought increased voter participation. This also correlated with how modern the methods for registration were. While other states were improving on their technology in the early 2000s, New York was

⁷ [Death-Gamble-Resolution-NYSBA-rev-7-23-15.pdf](#)

not, and this showed in the decline of voter participation between 2008 and 2012.⁸ Understanding this correlation, the Committee offered up a number of recommendations in its report for modernizing the registration process, including looking at automatic registration and studying the voter participation of countries that have implemented it, such as Canada. During the time of the Committee's report, Canada reported that 93% of their citizens were registered, and paralleling this high rate of voter registration was a relatively high rate of voter participation in its elections.

Therefore, NYSBA supports this section of the budget, which would enact automatic voter registration, leading to increased civic engagement among New York's residents.

⁸ NYSBA Special Committee on Voter Participation Final Report, Approved by the House of Delegates January 25, 2013 [Microsoft Word - SCVP Final Report v5.doc](#)