

From the NYS Assembly Judiciary Committee



Winter 2017

Carl E. Heastie, Speaker • Jeffrey Dinowitz, Chair
Legislative Office Building, Room 831, Albany, NY 12248 • www.nyassembly.gov

Welcome Message From The Chair



Dear Friend,

On behalf of the New York State Assembly Judiciary Committee, I am pleased to introduce myself as the new Chair of the Committee. For those who do not know me, I represent the 81st Assembly District located in the northwest Bronx, and previously served as chair of the Committee on Corporations, Authorities, and Commissions.

The 2018 legislative session is approaching rapidly, but first I would like to acknowledge Helene Weinstein for her work and efforts during her tenure as chair for over two decades. Assemblywoman Weinstein has been appointed to chair the Assembly Ways and Means

Committee and will continue to make our body proud.

As the legislative session moves forward, I look forward to working with the other members of the committee to help ensure New York's Judicial system is accessible and fair for all. We aim to achieve this by supporting a robust budget for our courts, improving access to justice, furthering legislation that protects the rights of vulnerable and underserved populations and consumers, as well as protecting the fundamental rights of all persons in New York. Included in this newsletter is an update on some of the legislation the Committee considered in 2017 that helps further this mission.

I wish you and yours a happy holiday season as well as a happy and healthy New Year.

Sincerely,

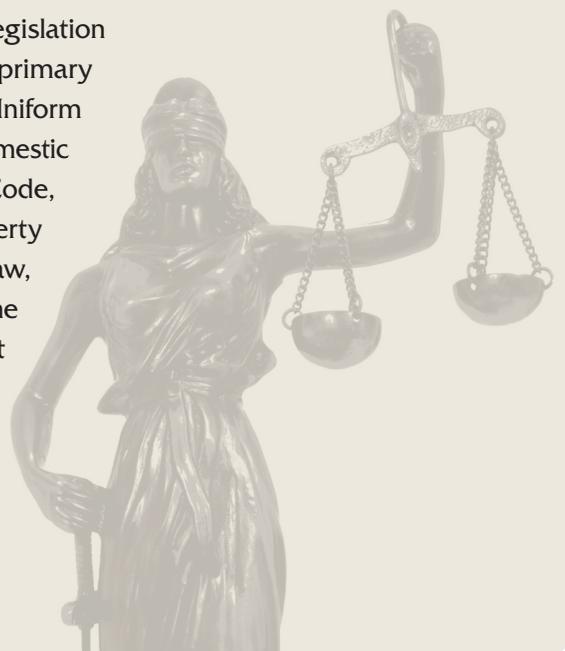
Jeffrey Dinowitz

Chair, New York State Assembly Judiciary Committee

Committee Jurisdiction

The Assembly Committee on Judiciary has jurisdiction over legislation affecting all aspects of both state and local courts. It has primary jurisdiction over Civil Practice Law and Rules, Judiciary Law, Uniform Court Acts, Family Court Act, Surrogate's Court and Procedure Act, Domestic Relations Law, Estates Powers and Trusts Law, Uniform Commercial Code, Lien Law, Debtor-Creditor Law, General Obligations Law, Real Property Law, Real Property Actions and Proceedings Law, Civil Rights Law, Partnership Law, Eminent Domain Procedure Law and Indian Law. The Committee also shares budgetary oversight of the Office of Court Administration and the Department of Law with the Assembly Ways and Means Committee. In addition, all proposed amendments to the New York State Constitution are considered by the Judiciary Committee.

The highlights that follow demonstrate the breadth, diversity, and importance of the Judiciary Committee's work in 2017.



Protecting Domestic Violence Victims, Children and Families

Increasing the Age of Consent for Marriage – A.5524B [Paulin] /S.4407B [Lanza] (Chapter 35 of the Laws of 2017)

This law prohibits marriage of minors less than seventeen years of age and bolsters court oversight and protections for 17-year olds that do seek to marry.

Language Access for Victims of Domestic Violence in Courts – Part BB of Chapter 55 A.3005-C (Chapter 55 of the Laws of 2017)

This law, which was part of the 2017-2018 budget, requires the Office of Court Administration to develop a phased-in program to translate, in writing, all court orders of protection into the top ten most frequently used languages in the courts of each judicial department.

Safeguarding and Expanding Legal Remedies for Victims of Domestic Violence – A.1516 [Zebrowski]/S.5231[Stavisky] (Passed Assembly)

This measure would recognize the unique nature of domestic violence and its impact upon victims, and would allow additional time to victims to bring their claims in court. In most cases, this measure would expand the statute of limitation from one to two years.

Protecting Tenants and Homeowners

Protections for Elderly Facing Foreclosure of Reverse Mortgages – Part FF of A.3008C Budget/S.2008C Budget (Chapter 58 of the Laws of 2017)

In light of the rise in reverse mortgage foreclosure filings the Assembly fought to ensure that the elderly facing foreclosure of their reverse mortgages have equal protection under our foreclosure laws. The measure ensures that all homeowners, including seniors with reverse mortgages, should have the same protections of our foreclosure laws such as receipt of pre-foreclosure notices and entitlement to mandatory foreclosure settlement conferences.

Establishing Time Restrictions to Remove or Remedy Dangerous Housing Conditions – A.255 [Dinowitz]/S.350 [Peralta] (Passed Assembly)

This measure would set a 60 day limit on the time within which a property owner must remedy a dangerous building violation, by requiring landlords to make necessary repairs in a timely fashion or risk losing control over the property.

Increased Protections for Homeowners from Deed Theft Scams – A.1408 [Weinstein]/S.6171 [Hamilton] (Passed Assembly)

This legislation would close existing loopholes in the law to both prevent fraudulent deed theft and mortgage scams, but to also increase the likelihood that a victim will have the opportunity to seek recovery in court. It would also give the District Attorney tools for civil remedies related to fraudulent deed transfers.

Reverse Mortgage Product Comparison – A.5819 [Weinstein]/S.4483 [Hamilton] (Passed Assembly)

This measure would direct the department of financial services to create a website allowing seniors to compare the cost, rate, and service features of reverse mortgage products.

Administration of Justice

Electronic Filing Extension and Expansion – A.8127 [Weinstein] /S.6408A [Bonacic] (Chapter 99 of the Laws of 2017)

This law extends carve-outs for mandatory e-filing in foreclosure and consumer credit cases at the trial level courts. It also expands mandatory e-filing in Appellate Divisions to all classes of cases.

Invasion of Privacy Protection – A.861A [Braunstein]/S.870A [Young] (Chapter 169 of the Laws of 2017)

This law provides a legal cause of action against the taking of harassing or annoying video images of residential backyards.

Translation of Housing Court Papers – A.2890A [Joyner]/S.6076A [Alcantara] (Passed Assembly)

This measure would remove barriers faced by New Yorkers with limited English proficiency in New York City Housing Court. It requires translation of certain housing court documents, in non-payment cases, in the seven most common languages in New York City.

Strengthening New York's Anti-Slapp Law – A.5292 [Weinstein]/S.2183 [Alcantara] (Passed Assembly)

SLAPP (Strategic Lawsuits Against Public Participation) actions are designed to stifle the public's right to free speech and petition about matters of public concern. This is accomplished by bogging people down in court with the time, expense, and energy of defending against frivolous lawsuits. This legislation would strengthen existing law by ensuring that people who are faced with frivolous litigation filed by parties who object to a citizen's participation in matters of public concern are able to recover attorneys' fees incurred in defending themselves.

Trusts and Estates and Guardianships

Clarifying the Prudent Investor Act – Chapter 278 – A.1482 [Weinstein]/S.2079 [Bonacic] (Chapter 278 of the Laws of 2017)

This bill clarifies the effective date of a trustee's power to adjust from income to principal or from principal to income.

Protecting Consumers in Arbitration

Authorizing Arbitration or Mediation Proceedings on Saturday and/or Sunday when All Parties Consent Thereto – A.8154[Simanowitz]/ S.6077[Felder] (Chapter 215 of the Laws 2017)

This measure authorizes arbitration or mediation proceedings to be conducted on any day of the week on consent of all parties and the tribunal, thus providing flexibility to parties who may otherwise be conflicted by lost time from work or school.

Requiring Arbitrators to Set Forth a Basis for their Decisions – A.6372[Titone]/ S.6225[Lanza] (Passed Assembly)

Under current law, arbitrators typically are not obliged to explain why they reached a decision favoring one party or the other. This measure would require arbitrators to do so, thereby better informing parties about their rights to challenge the decision.

Comprehensive Arbitration Reform – A.6983[Titone] (Passed Assembly)

This measure would, among other things, set requirements designed to ensure consumer and employment arbitrator impartiality and neutrality.

Funding New York State's Judiciary

The 2017-2018 State budget adopted without change the Judiciary's budget request in the amount of \$2.18 billion, an increase, in terms of the General Fund Operating Budget, of \$42.7 million, or 2 percent over last year. The courts' budget absorbs statutorily-mandated salary increments for represented non-judicial employees, statutorily-mandated increases for indigent legal defense, supplemental funds for IOLA, a much needed increase in funding for civil legal services to address the crisis in legal services funding. With this year's Judiciary budget, the Office of Court Administration will maintain current staffing levels, filling just a limited number of positions critical to operations, and plans to keep courtrooms open to the public until 5 p.m. each day.

Workers and Consumer Protections

Agricultural Tourism – A.559A[Woerner]/S.1152A[Ortt] (Chapter 338 of the Laws of 2017)

This measure provides clarity for agricultural tourism ("agritourism") proprietors and professionals by establishing processes for recognition and dissemination of the inherent risks involved with participating in agritourism activities such as U-Pick Christmas trees, farm and winery tours, hiking, hunting, and other forms of outdoor recreation.

Enhancing Protections and Disclosures Required in Consumer Contracts – A.1085 [Dinowitz]/S.6069 [Squadron] (Passed Assembly)

This legislation would require plain language to be used in certain consumer contracts involving transactions valued at \$250,000 or less, an increase from present law which specifies \$50,000.

Ensuring Protections in Improper Debt Collection Cases – A.4946 [Simotas]/S.3101 [Gianaris] (Passed Assembly)

Currently, citizens are not permitted to sue debt collectors who violate state law during collection efforts. This legislation would allow private citizens to enforce their own rights, where the government either cannot or will not do so.

Constitutional Amendments Reported by the Committee

Providing for the Forfeiture or Reduction of Pension Benefits by Public Officials who Breach the Public Trust – A.1749 [Buchwald]/S.418 [Croc].

This proposed constitutional amendment which received second passage this year, allows for certain state and local public officers convicted of a felony involving breach of public trust to be subject to the forfeiture of pension benefits. Upon second passage this year, the measure was presented on the ballot for voter consideration and became law.

Health and Safety Projects on Forest Preserves – A.8301 [Englebright]/S.2414 [Little].

This proposed constitutional amendment authorizes public utility lines and bike paths within the Adirondack forest preserve. It also establishes land banks within such preserve for public safety projects. Upon second passage this year, the measure was presented on the ballot for voter consideration and became law.

Access to Justice and Funding for Legal Services

In 2017, the Assembly built on its support for civil legal services in New York State by supporting an increased appropriation for civil legal services through the Judiciary budget by \$15 million for a total of \$100 million to help bridge the tremendous gap between civil legal service needs of low-income New Yorkers and the availability of services to meet these needs. As part of the SFY 2016-17 budget, the Assembly also restored its traditional funding for civil legal services in the amount of \$2.83 million and \$609,000 for domestic violence programs. Further, the SFY 2017-18 enacted budget appropriated \$109.64 million for the New York State Office of Indigent Legal Services, representing an increase of \$10.24 million from the prior year – of which \$8.68 million is to continue to implement

the Hurrell-Harring settlement agreement. In addition, as a part of the 2017-2018 budget, a measure was enacted that will require the state to gradually increase criminal defense funding over the next six years according to a plan developed by the Office of Indigent Legal Services. The plan will ensure defendants have counsel at arraignment, establish new caseload standards so that attorneys can devote sufficient time and attention to each case, and ensure that attorneys receive effective training and have the necessary qualifications and experience. When fully implemented in 2023, it is anticipated that the state will increase funding to counties and New York City through the Office of Indigent Legal Services by approximately \$250 million annually.

NEW YORK STATE ASSEMBLY

Judiciary Committee Chairman Jeffrey Dinowitz is joined by members of the Committee at the annual Judiciary Committee Budget Oversight Hearing on December 1, 2017



Judiciary Budget / Public Hearing on the Implementation of the State Budget on the Judiciary

This hearing provided a synopsis of the current state of the Judiciary with an emphasis on court backlogs, constraints on court resources, and judicial vacancies. It examined, generally, Judiciary's anticipated fiscal needs for the 2018-2019 SFY. The hearing also examined the State's ability to provide access to justice to low income New Yorkers through its funding of civil legal services. Witnesses included the Office of Court Administration, the New York State Bar Association, the New York City Bar Association, the Empire Justice Center, New York Legal Assistance Group, Mobilization for Justice, and Legal Services-NYC.

New York State Assembly, Albany, New York 12248

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Important Contacts

■ **New York State Unified Court System • www.nycourts.gov**

• Office of Court Administration

NYC Office: 212-428-2700 • 25 Beaver Street, Room 852, New York, NY 10004

Albany Office: 518-453-8650 • 4 ESP, Suite 2001, Empire State Plaza, Albany, NY 12223-1450

The New York State Unified Court System is the official name of the judicial branch of New York State government. The Court hears on average over 3 million cases per year on a wide array of issues. Such matters involve civil and criminal complaints, family matters, landlord-tenant cases, and trust and estate issues, among many others.

■ **NYS Attorney General • www.ag.ny.gov**

• The Capitol, Albany, New York 12224 • **1-800-771-7755**

The New York State Office of the Attorney General mediates and litigates various cases against businesses and individuals engaged in fraudulent, misleading, deceptive or illegal trade practices. The Office pays special attention to patterns of complaints involving the same company, in addition to new and unique issues. Otherwise, the Attorney General's office will direct consumers to the appropriate agency.