



COMMITTEE ON
Judiciary

2019 ANNUAL REPORT

NEW YORK STATE ASSEMBLY



CARL E. HEASTIE, *Speaker*

JEFFREY DINOWITZ, *Chair*



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STATE OF NEW YORK
ALBANY

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December 15, 2019
The Honorable Carl E. Heastie
Speaker of the Assembly
Room 932, Legislative Office Building
Albany, New York 12248

Re: Annual Report of the Committee on Judiciary – 2019

Dear Speaker Heastie:

As Chairperson of the Assembly Standing Committee on Judiciary, I am pleased to present to you the Committee's Annual Report for the 2019 Legislative Session.

The Annual Report reviews the work of the Committee on Judiciary and highlights many of its major initiatives. It also includes a brief overview of various budgetary matters that concern the courts of the state and other areas within the committee's purview.

The Judiciary Committee tackled many high-profile issues in 2019, including protections for domestic violence victims, children and families, tenants and homeowners, workers and consumers and the elderly and disabled.

A top priority of the Committee each year is ensuring that funding is added to the state budget for civil legal services for low-income New Yorkers. The Judiciary Committee remains a strong advocate for providing civil legal services to those in need. This year, the Assembly continued its support for civil legal services in New York State by restoring its traditional funding as well as an increased appropriation for civil legal services through the Judiciary budget.

I would like to acknowledge the hard work of the members of the Committee on Judiciary and all of the members of the Assembly for their continued commitment to its work and to progressive legislation. As always, your continued support is deeply appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey Dinowitz". The signature is written in a cursive, flowing style.

Jeffrey Dinowitz, Chairperson
Assembly Standing Committee on Judiciary

**2019 ANNUAL REPORT
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON JUDICIARY**

Jeffrey Dinowitz, Chair

MEMBERS OF THE STANDING COMMITTEE

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Andrew Goodell
Michael J. Norris
Mary Beth Walsh
Marjorie Byrnes

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Daniel Salvin, Assistant Secretary for Program & Policy
Kerry Mierzwa, Associate Counsel
Nicholas E. Tishler, Associate Counsel
Amanda Wagner, Analyst
Joann Butler, Executive Secretary

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I. 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 amendments to the 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 2019.

II. SUMMARY OF LEGISLATIVE ACCOMPLISHMENTS¹

A. PROTECTING DOMESTIC VIOLENCE VICTIMS, CHILDREN AND FAMILIES

Waives the state fee for marriage licenses for active duty members of the armed forces and authorizes towns and cities to elect to waive their fees for marriage licenses and certificates – Chapter 177 – A. 55 (Buchwald) / S. 3756 (Mayer)

This law authorizes towns or cities to waive the portion of the \$30.00 fee to which the town or city is entitled when either of the parties making application for a certificate of marriage is a member of the armed forces of the United States on active duty and specifies that the \$22.50 to which the Commissioner of Health is entitled shall not be collected.

Relates to adoption by a petitioner where such petitioner's parentage is legally-recognized – Chapter 258 – A.460 (Paulin) / S.3999 (Hoylman)

This law codifies in statute that a second parent petition to adopt, where the petitioner's parentage is legally-recognized under New York State law, shall not be denied solely on the basis that the petitioner's parentage is already legally-recognized.

Establishes a time period in which an action to recover damages for injury arising from domestic violence must be brought – Chapter 245 – A.1945 (Zebrowski) / S.2416 (Kaplan)

This law increases the statute of limitations for civil suits related to injury caused by domestic violence to two years.

Relates to permitting combination last name changes to occur when separated by a space – Chapter 497 – A. 3487 (Simon) / S. 4622 (Kaplan)

This law offers to marrying couples the option of combining their surnames by adding a space in addition to adding a hyphen.

Imposes restrictions on a sex offender's custody of a child – Chapter 182 - A. 4784C (Fall) / S. 2836-C (Savino)

This law creates a rebuttable presumption that it is not in the best interests of a child who was the victim of certain felony sex offenses for the perpetrator of those offenses to have either custody of or unsupervised visits with that child.

Relates to the date of adjustment and amount of the spousal maintenance cap – Chapter 523 – A. 7518 (Joyner) / S.5515 (Montgomery)

This law amends the Family Court Act, and the Domestic Relations Law in relation to the date of adjustment, as well as the amount of the spousal maintenance cap.

Relates to orders for temporary spousal support in conjunction with temporary and final orders of protection in Family Court and calculation of maintenance cap in Family and Supreme Court – Chapter 335 – A.7529 (Wallace) / S. 6423 (Mongomery)

This law authorizes Family Court to issue temporary spousal support when issuing temporary and

¹ All references to chapters, except where otherwise noted, are to chapters of the laws of 2019.

final orders of protection.

Relates to the notification of allowance for infant – Chapter 427 – A.8033 (Seawright) / S.5514 – A (Montgomery)

This law requires notice to be given to either the parent or legal guardian of the infant, and if there is more than one, to both parents or legal guardians of the infant at the same time when an allowance is made for an infant's support.

Relates to the establishment and modification of child support orders and increases the annual service fee for child support services – Chapter 313 – A.8344 (Wright) / S.6560 (Persaud)

This law requires that incarceration not be considered voluntary unemployment for the purposes of imposing income on a parent in a child support case and increases a federal annual service fee from \$35 to \$50.

The following bills were reported by the Assembly Judiciary Committee and were pending at the conclusion of session.

Relates to name change upon marriage – A.1044 (Simotas) / S.2505 (Kaplan)

This bill allows one or both parties to a marriage to elect to change their middle name on their marriage license.

Relates to relation to judgments of parentage for children conceived through assisted reproduction or pursuant to surrogacy agreements; repealer – A.1071 – C (Paulin) / S.2071 – B (Hoylman)

This bill establishes a child's relationship to his or her parents where the child is conceived through third party reproduction including children born through gestational/ surrogacy arrangements.

Relates to allowing a person having a lawful order of custody of a child to make medical decisions for such child – Chapter 623 – A.1239 (Jaffee) / S.3248 (Salazar)

This bill includes non-parents with lawful orders of custody as persons who may make medical decisions for minors in their care.

Includes acts of domestic violence in the criteria the court shall consider in determining the equitable disposition of property during divorce proceedings – A.1967 (Zebrowski) / S.11345 (Hoylman)

This bill requires the courts to consider acts of domestic violence when determining the equitable disposition of property in a divorce proceeding.

Relates to orders committing guardianship and custody of a child – A.2199 – A (Joyner) / S.4203 – A (Savino)

This bill grants Family Court judges the discretion to order continued visitation and/or contact between children and their birth parents and/or their siblings after a parent's rights have been terminated.

Designates lay individuals as one-day marriage officiants in order to solemnize marriages – A.4895 (Galef) / S.3652 (Biaggi)

This bill adds a “one-day marriage officiant”, as designated by the Secretary of State, to the list of who may solemnize a marriage under the domestic relations law and outlines the requirements that must be met to designate a lay person as a one-day marriage officiant.

Relates to court ordered forensic evaluations and reports in child custody and visitation proceedings – A.5621 (Weinstein) / S. 4686 (Biaggi)

The bill provides for uniform access to court ordered forensic mental health evaluation reports and underlying data by litigants, their counsels and the counsel for the attorney for the child in child custody and visitation cases.

Relates to support orders for adult dependent children – A.6658 – C (Woerner) / S. 5276 – B (Persaud)

This bill allows a court in its discretion to award child support past the age of 21 for a developmentally disabled child.

Relates to the visitation rights of great-grandparents – A. 6887 (Cook) / No Same As

This bill allows great-grandparents to commence special proceedings to obtain visitation rights of certain infant great-grandchildren.

Relates to notification of rights of victims of domestic violence in Criminal and Family Court – A.7395 (Weinstein) / S.6158 (Liu)

This bill simplifies the language of the notice of rights and expectations that is required to be provided by law enforcement to domestic violence victims. It expands the breadth of the information provided and makes the notice available, at a minimum, in plain English, Spanish, Chinese, and Russian.

Relates to venue in matrimonial actions – A.7517 (Dinowitz) / No Same As

This bill requires that venue in a matrimonial action be fixed where one of the parties to such action resides absent good cause to be shown to fix it elsewhere.

Prohibits the use of certain restraints on children appearing before Family Court – A.7528 (Gantt) / S. 6534 (Montgomery)

This bill prohibits the use of physical restraints on youth in Family Court, except under certain conditions and upon certain findings made by the court.

Relates to the authority of certain city clerks to designate persons who may perform marriage ceremonies – A.7776 (DenDekker) / S. 6178 (Liu)

This bill allows city clerks to designate deputy city clerks and staff to perform marriage ceremonies when needed.

Relates to who may solemnize a marriage – A.8031 – A (Romeo) / S.6330 – A (Krueger)

This bill expands the types of judges who are eligible to solemnize a marriage to include all federal court of appeals and federal district judges.

B. PROTECTING TENANTS, HOMEOWNERS AND PROPERTY OWNERS

Relates to inspecting, securing and maintaining vacant and abandoned residential real property Chapter 168 - A. 1800 (Magnarelli) / S. 4182 (Salazar)

This law requires a servicer in a mortgage foreclosure action of residential real property to pay homeowners' association or cooperative fees as needed to maintain the property.

Requires landlords to mitigate damages if a tenant vacates a premises in violation of the terms of the lease – Part of Chapter 36 the “Housing Stability and Tenant Protection Act of 2019” – A.1973 – A (Zebrowski) / S.2949 –A (Stavisky)

This bill creates a duty for residential premises landlords to mitigate damages where a tenant has breached their lease.

Establishes the right of tenants to call police or emergency assistance without fear of losing their housing – Chapter 263 – A. 2665A (Lavine) / S. 4567-A (Hoylman)

This law protects tenants who are victims of domestic violence or who are threatened with violence from being penalized and potentially evicted under municipal ordinances and other local laws for having called for police and emergency services assistance as well as protecting other residents who call on behalf of those tenants.

Relates to disclosing if the property subject to lien is real property improved or to be improved with a single family dwelling – Chapter 538 – A.4766 – B (Buchwald) / S.5491 (Harckham)

This law amends the section of the law stating what content is required to be in a notice of lien - to include the classification of the property subject to a lien.

Provides for the regulation of distressed home loans – Chapter 167 – A. 5615 (Weinstein) / S. 1688 (Montgomery)

This law strengthens and expands upon the Home Equity Theft Act of 2006 ("HETPA") by providing greater consumer protections for owners of homes that are either in default or in foreclosure.

Requires the inclusion of instruction in ethical business practices and recent legal matters in the continuing education requirements for real estate licensees – Chapter 392 – A.6082 (Dinowitz) / S. 3839 (Hoylman)

This law expands the continuing education for real estate licensees to require two and a half hours pertaining to ethical business practices and one hour pertaining to legal updates.

Relates to home inspection professional licensing – Chapter 541– A.6149 (Lupardo) / S. 4122 (Gaughran)

This law updates training requirements for home inspectors.

Relates to summary judgment proceedings to recover possession of real property in non-payment proceedings in the city of New York; repealer – Part of Chapter 36 the “Housing Stability and Tenant Protection Act of 2019” – A.6576 (Dinowitz) / S.4526 (Hoylman)

This law amends a provision of the 1997 Rent Regulation Reform Act to provide a more fair and equitable process during eviction proceedings.

The following bills were reported by the Assembly Judiciary Committee and were pending at the conclusion of session.

Provides for a notice to the owner of record when a conveyance of residential real property is recorded with county clerk or city registrars -- A.440-A (Perry) / S.5372 (Comrie)

This bill targets title fraud by requiring the county clerk or city registrar, where applicable, to provide notice to the owner of record when recording a conveyance of residential real property. When recording a conveyance of property to a new owner, this written notice must be provided to the owner of record, for which the clerk is permitted to charge a reasonable fee to cover the cost.

Provides for the removal of persons from campgrounds by the owner or operator thereof, or his or her agent – A.1569 – A (Jones) / S.1944 – A (Little)

This bill provides for the removal of persons who create a disturbance or otherwise violate lawful regulations from campgrounds.

Enacts the "zombie property remediation act of 2019" relating to foreclosure actions involving abandoned properties – A.1859 – A (Magnarelli) / S. 5079 – A (Skoufis)

This bill allows a city, village or town to commence a proceeding to compel a bank to move forward with a foreclosure or to release a mortgage on a building that has been deemed “Vacant and Abandoned” pursuant to Real Property Actions and Proceedings Law Section 1309 or Section 1971.

Prohibits commercial leases from including a waiver of the right to a declaratory judgment action – A.2554 – (Otis) / S.10414 (Liu)

This bill prohibits commercial leases from including a waiver of the right to a declaratory judgment action.

Establishes time restrictions for court issued consent orders for work performance to remove or remedy conditions in such petition – A.2625 (Dinowitz) / S.3320 (Jackson)

The bill sets a 60 day limit on the time within which a property owner must remedy a dangerous building violation.

Relates to prohibiting pre-payment penalties for mortgages secured by real property owned in a cooperative form of ownership – A.2667 – (Dinowitz) / S. 3347 (Hoylman)

This bill prohibits pre-payment penalties for mortgages secured by real property owned in a cooperative form of ownership where over fifty percent of the units are shareholder occupied.

Prohibits clauses in leases requiring the declawing of animals – A.4516 (Glick) / No Same As

This bill prohibits clauses in leases that require a tenant’s pet to be declawed as a restriction to occupancy.

Relates to prohibiting mortgagees from requiring mortgagors of certain real property to purchase flood insurance exceeding certain limits – A.4770 – A (Hunter) / S. 4269 – A (Breslin)

This bill prohibits banks from mandating that a homeowner purchase compulsory flood insurance that is in excess of the amount of the mortgage and provide notice of the minimum insurance liability that is required.

Requires notaries public and commissioners of deeds to complete and retain certain documents relating to the transfer of residential real property – A. 5201 (Walker) / S.812 (Lanza)

This bill requires notaries and commissioners of deeds to prepare and file with the clerk or office of the register a notarial record containing detailed information in connection with conveyances of title to residential real property in an effort to combat fraud.

Relates to pleading requirements in mortgage foreclosure actions – A. 5611 (Weinstein) / S. 3216 (Comrie)

This bill requires that a plaintiff in any mortgage foreclosure action, not just high cost home loans and subprime home loans, allege affirmatively that at the time the proceeding is commenced it has standing to bring the action, and that it has complied with notice requirements contained in other statutes, and that the failure to do so shall be a defense to the action.

Protects defendants in a residential mortgage foreclosure action from inadvertent waiver – A.5619 (Weinstein) / S. 5160 (Kavanagh)

This bill provides that an affirmative defense alleging plaintiff's lack of standing in a mortgage foreclosure action on a home loan is not waived by defendant's failure to raise defense in a responsive pleading.

Directs the Department of Financial Services to establish a website for federal home equity conversion mortgage product comparison – A.5625 – A (Weinstein) / S. 3221 (Sanders)

This bill directs the Department of Financial Services, to create a new website which will compare HUD home equity conversion mortgage information, rates, and features to seniors.

Regulates reverse mortgages issued under the Federal Home Equity Conversion Mortgage for Seniors Program – Chapter 581 – A. 5626 (Weinstein) / S. 4407 (Gounardes)

This bill prohibits deceptive advertising and issuance of reverse mortgages; requires that independent counseling be provided to applicants for such mortgages; requires lenders to provide notice of duty of mortgagor to pay certain property related expenses when equity in the real property is low or depleted; prohibits foreclosure on mortgaged property based on the failure of the mortgagor to live on the property, until an inspection has been made at the property; establishes right of action with treble damages for violations of provisions.

Expands the definition of "tenant" for the purposes of required notice during a mortgage foreclosure action – A.6370 (Williams) / S. 5357 (Comrie)

This bill expands the definition of "tenant" for the purpose of providing statutory notice of rights during a mortgage foreclosure action.

Requires the posting of broker and management information on commercial property – A.6432 (O'Donnell) / No Same As

The bill requires commercial spaces to post broker and property management information after one month of a new vacancy.

Relates to requiring a certificate of merit in proceedings to recover possession of real property – A. 6985 (Epstein) / S.4723 – A (Ramos)

This bill requires that a certificate of merit by an attorney certifying that the attorney has reviewed the facts of the case and that, based on consultation with representatives of the petitioner identified in the

certificate and the attorney's review of pertinent documents, there is a reasonable certifying that the attorney has reviewed the facts of the case and that, based on consultation with representatives of the petitioner identified in the certificate and the attorney's review of pertinent documents, there is a reasonable basis for the commencement of such action; and provides that where a petitioner willfully fails to provide copies of required papers and documents the court may dismiss the petition without prejudice.

C. ADMINISTRATION OF JUSTICE

Permits New York City Department of Social Services to participate in proceedings in housing part of civil court – Chapter 397 - A.676 (Niou) / S.2326 (Kavanagh)

This law, at the request of any party or on the court's own initiative, authorizes the Housing Part of the New York City Civil Court to implead the Department of Social Services as a party if public assistance payments to a tenant are at issue in the case.

Relates to the admissibility of images, maps, locations, distances, calculations or other information for a web mapping service – Chapter 223 - A.1489 (Dinowitz) / S.1264 (Gianaris)

This is a chapter amendment that makes changes to provisions of Chapter 516 of the laws of 2018, to repeal provisions of such chapter and enact similar provisions relating to the admissibility of information taken from a web mapping service, a global satellite imaging site, or an internet mapping tool.

Increases the monetary exclusion on the requirement of plain language in consumer contracts – Chapter 363 – A.2653 – A (Dinowitz) / S. 3704 – A (Kavanagh)

This law increases the applicability of the plain language law to consumer contracts involving amounts up to \$250,000.

Relates to voiding and rendering unenforceable contract provisions limiting certain speech by contractees – Chapter 498 – A.3548 (Dinowitz) / S. 2455 – A (Krueger)

This law prohibits contractual provisions which limit or waive the consumer's right to make any statement regarding the seller or lessor, and allows for penalties against violators.

Relates to extending the authorization for the New York City marshals to exercise the same functions, powers and duties as sheriffs with respect to the execution of money judgments – Chapter 47 – A.4745 (Dinowitz) / S.5776 (Hoylman)

This law extends until 2024, provisions which confer on New York City Marshals the same functions, powers and duties as Sheriffs with respect to the execution of money judgments of the Supreme and Family Courts.

Provides an exemption from jury duty for breastfeeding women – Chapter 538 – A. 5424 (Crespo) / S. 748 (Montgomery)

This law requires that the commissioner of jurors excuse or postpone jury service for up to two years for breastfeeding women when the request is supported by a physician's note confirming that the prospective juror is breastfeeding.

Relates to the statute of limitations for public water suppliers to commence an action for injury

to property – Chapter 442 - A.5477C (Thiele) / S. 3337-C (Gaughran)

This law protects the public from water contamination by expanding the triggering dates for applying the three-year statute of limitations for public water suppliers and wholesale water suppliers to commence an action for injury to property resulting from the contamination of the public water supplier's source of water supply.

Relates to judgment by confession – Chapter 214 - A.7500 (Dinowitz) / S. 6395 (Hoylman)

This law restricts the filing of affidavits of confession of judgment against defendants either to the county designated as the defendant's residence on the affidavit when it was executed or where the defendant resided at the time of filing. Government agencies are exempted from this provision.

Relates to the privilege between a personal representative and the attorney to lifetime trustees – Chapter 529 – A. 7601 (Dinowitz) / S. 6409 (Gaughran)

This law clarifies existence and durability of the attorney-client privilege between the personal representative of a lifetime trustee and the lifetime trustee.

Relates to the use of electronic means for the commencement and filing of papers in certain actions or proceedings – Chapter 212 – A. 7969 (Dinowitz) / S. 6256 (Hoylman)

This law extends provisions of law dealing with electronic filing through September 1, 2020.

Relates to the statute of limitations for certain crimes related to fraudulent practices – Chapter 184 – A.8318 (Carroll) / S.6536 (Gianaris)

This bill returns the statute of limitations for actions brought under the Martin Act and under section 63(12) of the State's Executive Law to six-years, which was overturned/reduced in a Court of Appeals decision to 3 years. The Martin Act is one of the state's most powerful tools to prosecute financial fraud, and Section 63(12) is the cornerstone of the state's consumer protection laws. This six-year timeline is essential to the Attorney General to protect investors and consumers, prevent bad practices, and hold companies accountable for fraud and illegal conduct.

The following bills were reported by the Assembly Judiciary Committee and were pending at the conclusion of session.

Relates to the imposition of penalties and remedies in suits brought for the vindication of civil rights or human rights – A.292 – A (Steck) / No Same As

This bill provides the exact same mechanism for enforcing civil rights provided for under our State Constitution and State law as exists for enforcing the Federal Constitution and Federal law.

Provides that limited liability for persons held jointly liable shall not apply to parties held liable for failing to provide reasonable security or failing to provide security required by federal, state or local law, rules or regulations – A.361 (Paulin) / S.482-A (Hoylman)

This bill provides that limitations on liability will not apply to any parties held liable for failing to provide security required by federal, state or local laws, rules or regulations.

Relates to securing payment of wages for work already performed; creates an employee lien – A.486-B (Rosenthal) / S.2844-B (Ramos)

This bill strengthens the current laws to increase the likelihood that victims of "wage theft" will be able to secure payment of unpaid wages for work already performed from their employers.

Requires the Office of Court Administration to collect and maintain data on limited English proficient litigants in the state – Chapter 621 – A.754A (Joyner) / S.1950-A (Bailey)

This bill requires that the Office of Court Administration collect and maintain specified data on limited English proficient litigants in all courts except those designated as town or village courts. This data shall be made publicly available on the website of the Office of Court Administration without any identifying information.

Establishes restrictions on consumer and employment contracts – A.852 (Simotas) / S.2817 (Comrie)

This bill gives a consumer or employee the right to seek a court order to reform any contract that is not written in plain English and, in the case of consumer contracts, does not contain all terms of the contract in a single document.

Relates to the provision of a waiver before the execution of a confidentiality agreement – A.869 (Simotas) / S.2037 (Biaggi)

This bill provides that a party signing a confidentiality agreement must be provided with a waiver appended to the agreement explaining the rights the party is giving up and that the agreement is void if it prohibits, prevents or otherwise restricts the signing party from lodging a complaint with or testifying, assisting, or participating in any manner with an investigation by an appropriate local, state, or federal agency, or filing or disclosing any facts necessary to receiving unemployment insurance, Medicaid or other public benefits to which the party is entitled.

Relates to increasing penalties for failure to execute and file satisfied judgments of \$5,000 or more with proper clerk – A. 1026 (Rosenthal) / S. 2719 (Krueger)

This bill amends the Civil Practice Law and Rules to increase the penalty for failing to file a satisfaction of judgment, from \$100 to \$500, for judgments over \$5,000.

Establishes an affirmative defense for damages for any claim relating to genetically engineered Chapter 612 – A. 1104 – A (Abinanti) / S. 4206 – A (Metzger)

This bill grants farmers an affirmative defense against patent infringement suits which assert that the farmer is using seed with patented traits.

Creates a private right of action for improper debt collection procedures – A. 1119 (Simotas) / S. 1835 (Gianaris)

This bill creates a private right of action for improper debt collection procedures allowing plaintiffs to recover punitive damages and reasonable attorney fees.

Restrictions on non-disclosure provisions settlement agreements of hydraulic fracturing actions – A. 1219 (Rosenthal) / No Same As

This bill provides that any settlement agreement that in any manner relates to hydraulic fracturing cannot include or be subject to any non-disclosure agreement where any facts disclosed in that action relate to a threat to the public health or safety subject to court approval.

Relates to the liability of the state to any person who suffers damage as a result of a defect in a

state highway – Vetoed - A. 1235 (Abinanti) / S.5422 (Kennedy)

This bill eliminates language in the Highway Law that exempts the state from liability for damages suffered by any person caused by defects in the state highways between May 1 and November 15.

Relates to creating a private right of action for unconsented removal or tampering with a sexually protective device – A. 1313 (Paulin) / S. 4400-B (Savino)

This bill provides for compensatory and punitive damages and allows a court to consider the emotional impact of a defendant's conduct.

Provides for children under the age of eighteen to wear protective headgear while skiing or snowboarding – A.1405 (Simon) / S. 2345 (Kavanagh)

This bill imposes a duty on ski operators to provide helmets to those under the age of 18 years.

Expands venue choices for tenants and lessees in actions against landlords – A. 1526-A (Gottfried) / S. 3468-B (Hoylman)

This bill extends small claims jurisdiction to cases where a claimant is a tenant or lessee of real property owned by the defendant and such real property is situated within the county, within a district of the court in the county, within the municipality in which the court is located or within the city of New York, as the case may be.

Increases fees for the provision of certain services by the sheriff – A.2361 (Dinowitz) / S.4239 (Hoylman)

This bill increases the statutorily fixed fees for services provided by New York City sheriffs and marshals to reflect the rate of inflation since the rates were last increased in 2002.

Enacts the Patient Privacy Protection Act – A.2370 (Dinowitz) / S.6194 (Parker)

This bill prohibits ex-parte interviews of party's treating physicians or health care providers in personal injury, medical, dental, or podiatric malpractice, or wrongful death actions.

Provides, in tort cases where one defendant has settled, that remaining defendants must elect prior to trial as to reduction in liability - A. 2372 (Dinowitz) / S. 6081 (Hoylman)

This bill provides that in tort cases where one defendant has settled, the remaining defendants must elect, prior to trial, whether to reduce liability by the amount of the settlement or by the amount of the equitable share of damages delegated to the settler in the verdict.

Establishes a time limit on utilizing third-party practice – A. 2579A (Dinowitz)

This bill establishes a 20-day time limit measured from filing of note of issue on commencing third-party practice unless time is extended by consent or by the court upon written application of any of the parties to the main action.

Awards attorney fees and expert witness fees in appropriate cases – A. 2475 (Dinowitz) / S.3923 (Biaggi)

This bill amends the Executive Law to provide for an award of attorney's fees and expert witness fees in all appropriate cases of discrimination.

Relates to mandating greater levels of disclosure by non-fiduciaries that provide investment advice – A.2476 – A (Dinowitz) / S. 2872 – A (Hoylman)

This bill mandates greater levels of disclosure by non- fiduciaries that provide investment advice and requires signed acknowledgement of disclosure at the initial meeting informing clients that the advisor owes them no fiduciary duty.

Permits certain persons to commence an action for unjust conviction in the court of claims – A.2860 (Gantt) / No Same As

This bill creates an exception to the Court of Claims Act that authorizes a specific person to commence an action for unjust conviction.

Requires persons or entities providing benefits in the event of disability to not impose onerous or unreasonable conditions for the payment of benefits thereunder – A.3101 (Dinowitz) / S.4026 (Parker)

This bill requires persons or entities providing benefits in the event of disability to do so in good faith by not requiring onerous or unreasonable conditions for payment of benefits and provides for enforcement thereof.

Relates to expanding service of process to the Department of State in the city of New York – A.3300 (Dinowitz) / S.3348 (Hoylman)

This bill allows service of process on the Secretary of State in New York City in addition to Albany.

Prohibits the imposition of certain fees at the expiration of a term on a motor vehicle lease – A. 3345 (Englebright) /S. 5921 (Sanders)

This bill provides that no turn-in fee can be charged at the expiration of a motor vehicle lease which constitutes solely an additional fee for administrative, handling or clerical charges.

Creates additional remedies for unlawful discharge, imposition of penalties, or discrimination due to an employee's absence from employment for jury duty – A.3534 (Dinowitz) / S. 3351 (Hoylman)

This bill provides that a civil action can be brought or civil penalties can be levied against an employer for violations arising from an employee's exercising of the right to be absent from employment due to jury duty.

Increases the jurisdictional limit from \$3,000 to \$5,000 for justice courts and increases filing fees - A.3799 (Zebrowski) / S. 5951 (Breslin)

This bill increases the jurisdictional limit from \$3,000 to \$5,000 for justice courts generally and in small claims actions and increases filing fees from \$15.00 to \$20.00.

Relates to minimum educational requirements of town and village justices – A. 3801 (Zebrowski) / No Same As

This bill permits a local government to require, by majority vote of their governing body, that their justices be attorneys.

Increases the compensation for trial and grand jurors for service in each court of the unified court system – A. 4673 (DenDekker) / S. 5709 (Hoylman)

This bill increases compensation for trial and grand jurors who serve in courts of the unified court system from \$40.00 to \$72.00 per day.

Relates to removing the lifetime ban on jury duty for convicted felons who have completed their sentencing – A.4760 – A (Aubry) / S.221 – A (Benjamin)

This bill amends the Judiciary Law to remove the lifetime ban on jury duty for convicted felons who have completed their sentences.

Relates to the time to file a claim in a toxic tort case – A.4879 (Ramos) / S.4920 (Sanders)

This bill allows for greater time in filing a civil lawsuit based on an injury caused by specific toxic ecological factors when such cause was unknown.

Prohibits contracts for the purchase or lease of consumer goods from restricting venue in an action relating to such contract – A.5607 (Weinstein) / S.429 (Hoylman)

This bill proscribes venue limitations in contracts relating to the adjudication or arbitration of disputes concerning consumer goods.

Relates to enacting the Uniform Voidable Transactions Act; repealer – A. 5622 (Weinstein) / S. 4236 (Hoylman)

This bill repeals article 10 of the Debtor and Creditor Law, enacted in 1927, entitled "Fraudulent Conveyances," and replaces article 10 with the "Uniform Voidable Transactions Act," which takes account of the later enacted Uniform Commercial Code and federal bankruptcy law.

Reforms the statutory short form and other powers of attorney for purposes of financial and estate planning; repealer – A.5630 / (Weinstein) – S.3923 (Hoylman)

This bill reforms the statutory short form and other powers of attorney for purposes of financial and estate planning.

Relates to prohibiting agreements between employers that directly restrict the current or future employment of any employee - A.5776-B (Dinowitz) / S. 3937-B (Hoylman)

This bill prohibits agreements between employers that directly restrict the current or future employment of any employee and allows for a cause of action against employers who engage in such agreements.

Relates to prohibiting certain conditions or preconditions of employment – A.5777 (Dinowitz) / S. 3754 (Hoylman)

This bill amends the general obligations law to prohibit employers from requiring certain conditions or preconditions of employment.

Expands protections against Strategic Legal Action Against Public Participation ("SLAPP") lawsuits - A. 5991 (Weinstein) / S. 52 (Hoylman)

This bill clarifies the language "action involving public petition and participation" to include cases involving controversies over a public application or permit as well as cases where constitutional rights of free speech are involved. The bill also requires a court to award costs and attorney's fees for frivolous SLAPP lawsuits including fees resulting from motions to dismiss and motions for summary judgment.

Relates to a fee exemption in proceedings brought under article 81 of the Mental Hygiene Law – A. 6074 (Titus) / S. 2753 (Comrie)

This bill exempts a fiduciary, court evaluator, guardian ad litem, court appointed attorney and a court

examiner from paying filing fee for guardianship motions filed under article 81 of the Mental Hygiene Law.

Relates to the disclosure of the records of court proceedings in certain mental hygiene proceedings – A.6229 (Thiele) / S. 4835 (Carlucci)

This bill provides that court records in a proceeding under articles 77, 78 and 81 of the Mental Hygiene Law shall not be perused, examined, disclosed, taken or copied by any other person than a party, the attorney or counsel of a party, the guardian, the court evaluator or the court examiner except by order of the court.

Enacts the "Consumer Credit Fairness Act" – A.6909 – B (Weinstein) / S.4827 – B (Thomas)

This bill strengthens consumer protections in consumer debt collection proceedings.

Relates to small claims court jurisdiction - A.7525 (DenDekker) / S. 6417 (Gianaris)

This bill increases the small claims court jurisdiction amount to no more than ten thousand dollars in the New York City Civil Courts.

Relates to the attorney licensing fund - A. 7527 (Quart) / No Same As

This bill provides that the fund shall be available for the judiciary in operating its candidate examination, candidate fitness, and attorney disciplinary programs.

Relates to contracts in small print, procedural reciprocity for arbitration agreements in consumer transactions and consumer arbitration – A. 7597 (Dinowitz) / No Same As

This bill regulates the enforcement and contents of written agreements to arbitrate disputes in consumer transactions and prohibits contractual provisions requiring agreements under certain circumstances in the case of claims for personal injuries or wrongful death.

Relates to the failure to provide notice of a default judgment – A.7598 (Seawright) / No Same As

This bill requires that parties who are entitled to but have not been provided with notice of an application to enter a default judgment may do so within 120 days after having obtained knowledge of entry of the judgment.

Relates to admissibility of an opposing party's statement – A.7599 (Dinowitz) / S. 6335 (Hoylman)

This bill amends the rules of evidence to permit the admission of an opposing party's statement if made by an agent or employee made within the scope of that relationship.

Relates to the permitted submissions in a default judgment – A.7600 (Abinanti) / S. 6471 (Hoylman)

This bill specifies the proof that a party entitled to judgment can submit in an inquest for damages.

Relates to commissions for receivers of rents and profits – A.7605 (Braunstein) / No Same As

This bill provides that receivers are entitled to such commissions as the court that appointed the receiver allows.

Relates to class actions – A.8034 (Dinowitz) / S. 6334-A (Hoylman)

This bill eliminates a restriction where a penalty or minimum recovery is involved, adds language expressly permitting class actions against governmental entities, replaces fixed deadline for making motion to certify classes with a practicability standard, provides substantive criteria and procedures for selection of class counsel, includes settlement of an action as a reason for prejudgment termination of an action, replaces mandatory notice provisions in favor of authorizing court to exercise its discretion to direct notice where appropriate to protect the interests of the class or putative class and allows award of attorney's fees where not otherwise limited by law.

D. PROTECTING CONSUMERS IN ARBITRATION

The following bills were reported by the Assembly Judiciary Committee and were pending at the conclusion of session.

Requires employment and consumer dispute arbitrations to be submitted to neutral third party arbitrators, and establishes prohibited arbitration agreements and provisions – A.3265 (Dinowitz) / S.3684 (Hoylman)

The bill clarifies the intent and purpose of the existing laws regarding arbitration including defining arbitration and neutral third party arbitrator, clarifying that any contract language requiring a controversy be submitted to an arbitrator or arbitration organization that isn't a neutral third party arbitrator shall be void and requires an arbitrator prior to accepting appointment to disclose to all parties to the agreements to arbitrate any known facts that would impact their impartiality to the proceeding.

Relates to providing for vacation of an arbitration award on the ground that the arbitrator was affiliated with a party, or has a financial interest in a party or the outcome – A.3337 (Dinowitz) / S.5669 (Sepulveda)

The bill requires disclosure of possible conflicts and provides for vacating an award if an arbitrator has an undisclosed financial interest.

Authorizes the vacating of an arbitration award on the basis of arbitrator disregard of the law – A.5610 (Weinstein) / S.2396 (Hoylman)

This bill permits an arbitration award to be vacated due to arbitral manifest disregard of law.

Provides that arbitration awards in consumer and employment disputes, where the arbitration is conducted pursuant to a contract, shall include all issues in dispute and findings thereon – A. 7572 (Dinowitz) / S. 2630 (Lanza)

This bill requires in specified consumer disputes where arbitration is conducted pursuant to a contract, that the award state the issues in dispute, contain the arbitrator's findings of fact and conclusions of law and contain a decision on all issues submitted to the arbitrator.

E. TRUSTS AND ESTATES AND GUARDIANSHIPS

Relates to the granting of letters of administration and letters of administration with will annexed – Chapter 319 – A.795 (Abinanti)/ S. 4155 (Hoylman)

This law remedies inconsistencies in the law for issuance of letters of administration and letters of

administration with the will annexed (cum testamento annexo, or c.t.a.) and bring the law into accord with judicial interpretations.

Makes certain technical amendments to the Estates, Powers and Trusts Law and the Surrogate's Court Procedure Act to reflect the provisions of the marriage equality act – Chapter 420 – A5604 (O'Donnell) / S. 300 (Hoylman)

This law makes certain technical amendments to the Estates, Powers and Trusts Law and the Surrogate's Court Procedure Act to reflect the provisions of the Marriage Equality Act.

Removes references to section 1801 of the Surrogate's Court Procedure Act - Chapter 520 - A. 7407 (Schimminger) / S. 4903 (Ranzenhofer)

This law updates Surrogate's Court Procedure Act to reflect repeal of section 1801 in 1994.

Relates to testamentary disposition to trustee under, or in accordance with, terms of existing inter vivos trust – Chapter 352 – A. 7519 (Stirpe) / S. 5513 (Hoylman)

This law relates to testamentary disposition to trustee under the terms of an existing inter vivos trust and the timing of the transfer of assets and signing of the will.

Relates to raising the value of a small estate – Chapter 557 – A. 7571-A (Dinowitz) / S. 4951-A (Sepulveda)

This law raises the value of a small estate from \$30,000.00 to \$50,000.00 to enable more people to administer smaller estates without the cost of paying an attorney.

The following bills were reported by the Assembly Judiciary Committee and were pending at the conclusion of session.

Relates to providing a presumption that credit shelter bequests be construed to set aside the maximum amount that may be shielded from both federal and state estate taxes – A.3226 (Dinowitz) / S.6080 (Hoylman)

This bill allows a construction of testamentary documents that credit shelter bequests set aside the maximum amount that may be shielded from both federal and state estate taxes.

Establishes the right of privacy and the right of publicity for both living and deceased individuals – A. 5605-B (Weinstein) / S. 5959-B (Savino)

This bill provides that an individual's persona is the personal property of the individual and is freely transferable and descendible; provides for the registration with the department of state of such rights of a deceased individual; and forbids the use of a digital replica for purposes of trade within an expressive work.

Expands the types of damages that may be awarded to the persons for whose benefit an action for wrongful death is brought – A. 5612 (Weinstein) / S. 4006 (Hoylman)

This bill would permit the families of wrongful death victims to recover compensation for non-economic losses such as emotional anguish.

Establishes the Uniform Partition of Heirs property act – Chapter 596 – A.7058-A (Dinowitz) / S.4865-A (Hoylman)

This bill counteracts “predatory partition actions” by establishing the Uniform Partition of Heirs Property Act which supplements the general partition statute and governs actions to partition heirs property and which favors mutually agreeable resolutions and prioritize co-tenants who opt for partition in kind.

Relates to the commissions of donees of a power in trust, including donees of a power during minority – Chapter 601 – A. 7522 (Buchwald) / S. 5512 (Hoylman)

This bill amends the Surrogate’s Court Procedure Act to extend to donees of a power in trust during minority the rules already applicable to other donees of a power in trust concerning commissions and other matters.

Relates to the computation and allocation of the commissions of trustees of charitable trusts; repealer – A.7523 (Dinowitz) / No Same As

This bill amends sections of the Surrogate's Court Procedure Act to provide that an individual trustee of a wholly charitable trust may receive commissions at the same rates as an individual trustee of a non-charitable trust, with a reduced rate of 80% of the rates for a non-charitable trust with a principal value of up to \$20,000,000, and a reduced rate of 50% on the principal value in excess of \$20,000,000, and makes other clarifications to existing law affecting wholly charitable trusts and split interest trusts as described in the bill.

F. CONSTITUTIONAL AMENDMENTS

Calling for ratification of the Equal Rights Amendment – A.271 (Seawright) / S.3249 (Salazar)

This bill amends section 11 of article 1 of the constitution to guarantee equal protection of the laws of New York to persons on the basis of sex.

Removes ten day advance voter registration requirement – A.777 (Carroll) / S.1048 (Gianaris)

This bill removes the ten day advance voter registration requirement.

Authorizes ballot by mail by removing cause for absentee ballot voting – A.778 (Vanel) / S.1049 (Comrie)

This bill authorizes ballot by mail by removing cause for absentee ballot voting.

Relates to the state commission on prosecutorial conduct – A.781 (Perry) / S.1190 (Bailey)

This bill amends certain provisions of law that created the State Commission on Prosecutorial Conduct in order to improve the efficiency, fairness and effectiveness.

Concerns the voting age for presidential elections – A.950 (Cusick) / S.3822 (Savino)

This bill amends the State Constitution to allow persons who are 17 years old at the time of a primary election for president of the United States and who will be 18 years old at the time of the general election for which the primary election is held to vote in such primary election.

Relates to the right to clean air and water and a healthful environment – A2064 (Englebright) /

S2072 (Carlucci)

This bill amends the State Constitution's bill of rights to include a right to clear air and water and a healthful environment.

Relates to the jurisdiction over the classes of actions and proceedings which shall be originated in the New York City Civil Court – A. 7714 (Dinowitz) / S. 6346 (Sepulveda)

This bill increases the amount from \$25,000 to \$50,000 for actions and proceedings in the New York City Civil Court.

III. JUDICIARY COMMITTEE HEARINGS

PUBLIC HEARING ON THE RIGHTS OF CHILDREN IN COURT

In recent years, there have been various discussions on ways to improve the New York Court System. One topic of discussion concerns ensuring the rights of children in court. This topic has been addressed in numerous ways, from bills restricting the use of restraints on children in the courtroom to groundbreaking legislation such as "Raise the Age". Consistent with the Assembly's determination to protect the rights of children, the Assembly Judiciary Committee held a hearing on October 24, 2019, on the court's role in custody, visitation and child support cases to analyze the current status of the system and learn where improvements can be made. The Committee heard testimony on several topics, including the current use of forensic evaluations and the qualifications of those who decide what is in the best interest of the child in New York's Family Court System.

PUBLIC HEARINGS ON COURT CONSOLIDATION

In the last 50 years there have been five major initiatives for reorganizing New York's court system. The current effort promulgated by the Chief Judge of the State of New York aims at reducing the 11 trial courts that now exist into two. The proposal calls for the abolishment of the Court of Claims, the County Court, the Surrogate's Court the Family Court and the District and city-wide New York City Courts and would replace those courts with a reconstituted Supreme Court and a newly created Municipal Court system through a "merge in place" scheme. The current proposal does not address the Town and Village Courts. The Assembly and Senate Judiciary Committees held joint hearings on November 13, 2019, in New York City and on November 21, 2019, in Albany. Individuals representing associations of the various trial courts, legal services providers, bar associations, court administration, unions and other interested parties presented thoughtful arguments for and against the proposal.

IV. NEW YORK STATE'S JUDICIARY FUNDING

The 2019-2020 State budget adopted without change the Judiciary's budget request in the amount of \$2.28 billion, an increase in terms of the General Fund Operating Budget of \$44.7 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 fiduciary, court evaluator, guardian ad litem, court appointed attorney or by the court examiner 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. The Judiciary's budget includes \$24 million to support improvements to court technology, infrastructure, including modernization of the Judiciary's secure, high-speed area network and the purchase of an automated case management system, an increase of \$6 million from 2018-2019.

Additionally, the following Article VII legislation was enacted as part of the 2019-2020 State budget to:

- Amend the real property actions and proceedings law and other laws relating to home mortgage loans, to make provisions relating to notice of foreclosure and mandatory settlement conferences in residential foreclosure actions permanent.

V. FUNDING FOR LEGAL SERVICES

In 2019, the budget included a total of \$100 million to support the recommendations of an Office of Court Administration Taskforce to expand civil legal services. Further, the SFY 2019-20 enacted budget appropriated \$210.90 million for the New York State Office of Indigent Legal Services, representing an increase of over \$49.65 million from the prior year. This additional funding is necessary to support the second year of the statewide *Hurrell-Harring* Initiative, enacted in the 2018-2019 budget, that will require the state to gradually increase criminal defense funding over the next six years. The program ensures defendants have counsel at arraignment, establishes new caseload standards so that attorneys can devote sufficient time and attention to each case, and ensures 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.

2019 SUMMARY SHEET

SUMMARY OF ACTION ON ALL BILLS
REFERRED TO THE COMMITTEE ON

JUDICIARY

TOTAL NUMBER OF COMMITTEE MEETINGS HELD

12

ASSEMBLY SENATE

TOTAL

BILLS BILLS BILLS

BILLS REPORTED FAVORABLE TO:

	<u>BILLS</u>	<u>BILLS</u>	<u>BILLS</u>
Codes	61	0	61
Judiciary	0	0	0
Ways and Means	12	0	12
Rules	12	0	12
Floor	45	0	45
TOTAL	130	0	130

COMMITTEE ACTION

Held For Consideration	0	0	0
Defeated	0	0	0
Enacting Clause Stricken	1	0	1
REMAINING IN COMMITTEE	279	25	304

BILLS REFERENCE CHANGED TO:

Codes

TOTAL	1	0	1
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