

# NEW YORK STATE ASSEMBLY

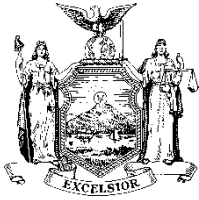
Carl E. Heastie, Speaker

Charles D. Lavine, Chair



## 2023 ANNUAL REPORT

COMMITTEE ON  
Judiciary



THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

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December 15, 2023  
The Honorable Carl E. Heastie  
Speaker of the Assembly  
Room 932, Legislative Office Building  
Albany, New York 12248

CHAIRMAN  
Judiciary Committee

COMMITTEES  
Codes  
Ethics  
Insurance  
Rules

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 2023 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 2023, including strengthening protections for survivors of domestic violence, enhancing protections for tenants and prospective homebuyers from predatory landlords and lenders, and enhancing legal protections for women, workers, and the environment.

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,

Charles Lavine, Chairperson  
Assembly Standing Committee on Judiciary

**2023 ANNUAL REPORT  
NEW YORK STATE ASSEMBLY  
STANDING COMMITTEE ON JUDICIARY**

**Charles D. Lavine, Chair**

**MEMBERS OF THE STANDING COMMITTEE**

**Majority**

Kenneth P. Zebrowski  
David I. Weprin  
Edward C. Braunstein  
Phillip Steck  
Rebecca Seawright  
Latoya Joyner  
Monica P. Wallace  
Latrice M. Walker  
Catalina Cruz  
Karen M. McMahon  
Marcela Mitaynes  
Jenifer Rajkumar  
Jo Anne Simon  
Nader Sayegh

**Minority**

Michael Tannousis  
Michael J. Norris  
Mary Beth Walsh  
Marjorie L. Byrnes  
Keith P. Brown  
Edward A. Flood

**Staff**

Sarah Klein, Assistant Secretary for Program and Policy  
Thomas Smith, Associate Counsel  
Gregory Branca, Analyst  
Joann Butler, Executive Secretary

**TABLE OF CONTENTS**

**I. Committee Jurisdiction .....4**

**II. Summary of Legislative Accomplishments.....5**

    A. Protecting Domestic Violence Victims, Children, and Families.....5

    B. Protecting Tenants, Homeowners and Property Owners.....5

    C. Administration of Justice.....7

    D. Trusts, Estates, and Guardianships.....10

    E. Consumer and Worker Protection.....10

    F. Indian Law.....11

    G. Constitutional Amendments Reported by the Committee.....11

**III. New York State Judiciary**

**Funding.....13**

**IV. Funding for Legal**

**Services.....13**

**V. 2023 Committee Workload Summary .....14**

## **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 2023.

## II. SUMMARY OF LEGISLATIVE ACCOMPLISHMENTS<sup>1</sup>

### A. PROTECTING SURVIVORS OF DOMESTIC VIOLENCE, CHILDREN AND FAMILIES

#### **Training of forensic evaluators conducting custody evaluations for out-of-state children, along with provisions for developing and implementing evaluator training programs and requirements—Chapter 23—A.632 (Dinowitz) / S.860 (Hoylman-Sigal)**

This chapter amendment clarifies rules for forensic custody evaluations involving out-of-state children and the training of evaluators. It permits trained evaluators to conduct these evaluations using video conferencing if the child lives more than 100 miles outside the state. Additionally, the bill addresses training development, requiring collaboration between the Office for the Prevention of Domestic Violence and a recognized organization to handle oversight concerns. Lastly, it extends the timeline from 180 days to a year for creating and implementing the training program outlined in Chapter 740 of the Laws of 2022.

#### **Authority of referees to determine orders of protection—Chapter 323—A.7661 (Wallace) / S.7474 (Ramos)**

This statute extends provisions of law authorizing referees to determine an application for an order of protection brought in family court until September 1, 2025.

#### **Exempting applications for an extreme risk protection order (ERPO) from requiring an index number fee—Chapter 428—A.5835 (Lavine) / S.3436 (Skoufis)**

This law adds ERPO's to the list of exemptions from index number fees.

#### **Passage of the Hope Card Act—Chapter 538—A.5040 (Clark) / S.5935 (Cleare)**

This law requires the Office of Court Administration to develop a program to issue, free of charge to the protected party, a hope card to a petitioner that has been granted a final order of protection. A "hope card" can be either a digital image of the final order of protection delivered via text message or e-mail or a durable wallet-sized card that contains information about an order of protection.

### B. PROTECTING TENANTS, HOMEOWNERS AND PROPERTY OWNERS

#### **Notice requirement of prior flood damage to a leased premises—Chapter 22—A.631 (Carroll) / S.1335 (Hoylman-Sigal)**

This chapter amendment requires a lessor to disclose any prior flood damage to the leased premises that the lessor knows of or reasonably should have known about. The lessor would also be required to disclose the nature of the damage.

#### **Special proceedings by tenants of dwellings outside of New York City for judgment directing deposits of rents and use thereof—Chapter 24—A.966 (McDonald) / S.1341 (Ryan)**

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<sup>1</sup> All references to chapter laws, except where otherwise noted, are chapters of the laws of 2023.

This chapter amendment makes technical edits to Chapter 677 of the Laws of 2022 to replace the phrase “county or city” with “municipality” for the purpose of continuity throughout the law. Furthermore, it also amends the effective date from immediate to 180 days to allow the courts to prepare to implement the new proceeding established under this law.

**Clarifications to special proceeding to convey title to abandoned commercial and industrial real property to a city, town, or village—Chapter 96—A.967 (McDonald) / S.1334 (Cooney)**

This chapter amendment clarifies that a zoning, building, or property maintenance code violation that has been outstanding for at least one year must have the potential to injure or endanger the health and safety of others or to unreasonably annoy others. The underlying chapter required that the zoning, building or property maintenance code violation merely be outstanding and not remediated for at least one year since the original order to correct or the notice of the violation was served on the property owner. Further, it requires proper service through a certified mail or overnight courier. This law also extends the amount of time that a mortgagee or lienor has, after receipt of notice to either commence foreclosure proceedings, or to enter into an agreement with the department responsible for code enforcement to bring the building into compliance from 15 days to 45 days. It also extends the time allowed for procedural challenges from 90 days to 120 days and repeals provisions regarding alternative service in printed publications.

**Special proceedings directing repairs of conditions and other relief in residential real property to clarify jurisdictions, as well as who may be named as a respondent, and corresponding technical amendments—Chapter 36—A.983 (Magnarelli) / S.1332 (May)**

This chapter amendment excludes Nassau, Suffolk, Richmond, New York, Bronx, Kings, and Queens counties, as they already have similar actions available to enforce the warranty of habitability. It also specifies who can be named as a respondent and requires the Office of Court Administration to create user-friendly instructional materials in multiple languages. Additionally, it removes certain mandates for court clerks, defines available relief, and makes other technical and conforming changes, while also extending the effective date for implementation and court system training.

**Relates to the mandatory disclosure of flood history, flood insurance history, and property condition disclosure statements by the seller during the sale of real property—Chapter 484—A.1967 (Carroll) / S.5400 (Hoylman-Sigal)**

This law provides a template disclosure form for use in the sale of real property. Further, it repeals the \$500 buyer credit to waive this type of disclosure during the process of a home sale.

**Requirements of a petition in a summary proceeding to recover possession of real property in the city of Syracuse—Chapter 544—A.3110 (Magnarelli) / S.3497 (May)**

This law requires any petition seeking eviction of a tenant in Syracuse to allege that the petitioner has complied with any local law that requires registration of such rental property.

**Requirements of a petition in a summary proceeding to recover possession of real property in the city of Newburgh—Chapter 579—A.7265 (Magnarelli) / S.6917 (Rolison)**

This law requires any petition seeking eviction of a tenant in Newburgh to allege that the petitioner has complied with any local law that requires registration of such rental property

**The following bills were reported from the Assembly Judiciary Committee and were pending at the conclusion of session:**

**Prohibiting the naming of a dependent child under the age of 18 in petitions and warrants of eviction. A.3827 (Rosenthal) / S.5905 (Brisport)**

This bill would clarify the Housing Stability and Tenant Protection Act of 2019 to preclude a minor child from being named in eviction proceedings or warrants for removal.

**The Lead Based Paint Disclosure Act. A.4820 (Rivera) / S.2353 (Kavanagh)**

This bill would require sellers of residential property to provide buyers with a certificate that the property has been tested for lead-based paint and provide the report of such test. The seller would comply with this requirement by presenting the certificate of such test by a prior owner if filed with and reported to the appropriate department of health. The bill would prohibit the testing from being waived by contractual agreement. Finally, the bill would delineate certain circumstances under which such a certificate is not required.

**Prohibits a mortgage company from requiring a homebuyer seeking a loan on a property to obtain flood insurance exceeding the amount owed on the loan. A.5073 (Hunter) / S.7125 (Breslin)**

This bill would bar mortgage companies from requiring homebuyers seeking a mortgage to obtain flood insurance with a value that exceeds the value of the loan. Further, it would require that, in instances where a mortgage company requires a purchaser to obtain flood insurance, notice shall be given to the property owner to disclose that flood insurance might not cover their full equity or belongings.

**Enhanced protections for landowners and victims in relation to the theft of real property—Chapter 630—A.6656 (Weinstein) / S.6577 (Kavanagh)**

This bill would enhance protections against deed theft by refining the definition of legal actions concerning property disputes. It enables government agencies to request a pause in property-related proceedings during investigations into theft or fraud linked to the property's title or financing. Additionally, it introduces provisions allowing defendants in cases involving mortgage loans, deed theft, or fraudulent real estate transactions to request a stay, while providing the option to file a motion to void property-related instruments if the defendant has been convicted or pleaded guilty to crimes affecting property titles, encumbrances, or possession.

**C. ADMINISTRATION OF JUSTICE**

**Relates to the types of additional damages that are available when an individual has a suit brought against them out of state for the purpose of harassing, intimidating, or punishing the exercise of a right that is protected under New York State law—Chapter 26—A.969 (Burdick) / S.2235 (Mayer)**



This chapter amendment modifies Chapter 218 of the Laws of 2022 by allowing additional damages of up to three times the amount of compensatory damages in lieu of punitive damages in actions arising out of the exercise of rights protected under the New York State Constitution.

**Empowers town and city clerks to issue one day marriage officiant licenses—Chapter 68—A.2901 (Levenberg) / S.2234 (Hoylman-Sigal)**

This chapter amendment authorizes city and town clerks to issue one day marriage officiant licenses. It also allows such town or city clerk’s office to collect a \$25 fee.

**Establishes a procedure to allow the Governor to fill a vacancy for Associate Judge of the Court of Appeals created by the appointment of such sitting Associate Judge for Chief Judge of the Court of Appeals—Chapter 123—A.5983 (Lavine) / S.6061 (Hoylman-Sigal)**

This law permits the Governor to appoint a nominee from a list of recommendations by the Commission on Judicial Nomination to fill a vacancy for Associate Judge of the Court of Appeals within 60 days of receiving such list. If the Governor fails to appoint a nominee within 15 days or gives notice, the Clerk of the Court of Appeals notifies the Commission, which then provides a new list of recommendations within 120 days for the Governor to appoint within a specific timeframe.

**Extension of certain powers of New York City Marshals for one year—Chapter 151—A.6587-A (Lavine) / S.6854 (Hoylman)**

This law extends for one year (until June 30, 2024), the functions, powers, and duties of New York City marshals so that they have the same powers, functions, and duties as sheriffs with respect to the execution of money judgments issued by the Supreme and Family Court courts within New York City.

**Increases the number of court stenographers in Oneida County—Chapter 410—A.6907 (Buttenschon)/ S.6591 (Griffo)**

This law authorizes the district attorney of Oneida County to appoint 5 court stenographers.

**Allows the use of electronic signatures for the limited purpose of salvage car title—Chapter 543—A.1753-A (Dinowitz) / S.3542-A (Breslin)**

This law allows for the execution of a valid power of attorney for the limited purpose of transferring a salvage certificate of title and the execution of an odometer and damage disclosure statement in connection with such title by electronic means. The law also creates an exception to the usual witness and notarial requirements for powers of attorney. This exception applies when an insurer decides that a private automobile has suffered a total loss or constructive total loss under the insurance law.

**Requires that the venue for actions related to student debt owed to the state of New York would take place in the defendant’s county of residence—Chapter 570—A.6672-A (Epstein) / S.586-A (Krueger)**

This law requires actions relating to student debt to be brought in the district where the defendant resides.

**Relates to affirmations to be made by any person, wherever made, in civil actions—  
Chapter 559—A. 5772 (Lavine) / S.5162 (Hoylman-Sigal)**

This law allows any person under penalty of perjury to make an affirmation without personally appearing before a notary public.

**The following bills were reported from the Assembly Judiciary Committee and were pending at the conclusion of session:**

**Requires an objective arbitrator in all arbitration matters. A925 (Dinowitz) / S.461 (Sepulveda)**

This bill would nullify any contract clause mandating arbitration through a biased arbitrator/organization. It would require arbitrators to disclose any potential biases before accepting an appointment and specifies disqualifying factors, such as financial interests, prior relationships, or biases. Furthermore, arbitrators would be required to continuously reveal any new information that might impact their impartiality throughout the arbitration process.

**Relates to the City of Jamestown electing both of its city judges. A.1971 (Goodell) / S.7001 (Borrello)**

This bill would allow for the election of both judges in the City of Jamestown. Currently, one judge is elected, and one judge is appointed by the Mayor.

**Allows attorneys to practice law in New York regardless of whether they live or have an office in the state. A.2218 (Weprin) / S.3261 (Hoylman-Sigal)**

This bill would repeal provisions of the Judiciary Law which require attorneys to maintain a physical office within the state to practice law if residing in an adjoining state.

**Relates to the unification of the courts in the towns of Harmony and North Harmony, in Chautauqua County. A.5941 (Goodell) / S.4249 (Borrello)**

This bill would provide Legislative authorization for the towns of Harmony and North Harmony, of Chautauqua County, to unify their town courts under the authority of the Uniform Justice Court Act.

**Requires court confirmation of awards made in certain public sector arbitrations under certain circumstances. A.6866 (Lavine) / S.6491 (Hoylman-Sigal)**

This bill would require a court to confirm an award made in a public sector arbitration proceeding at the request of a party made within one year of delivery of that award. The court is not required to confirm such an award if a motion to vacate or modify it was filed by the other party within 90 days of delivery of the award. This new provision only applies to awards from an arbitration between a public employer and an employee of the public employer.

**Provides that a foreign corporation's application for authority to conduct business in New York constitutes consent to New York's courts. A.7351 (Weinstein) / S.7476 (Gianaris)**

This bill would codify that a foreign company's application to conduct business in New York constitutes consent to the jurisdiction of New York courts. Further, the bill makes conforming changes across various sections of law to reflect the intent of the bill.

**Allows a party to file a motion to renew in the Court of Appeals if that Court had previously decided an issue of law which is affected by a subsequent enactment of the State Legislature or Congress, or a decision of the United States Supreme Court. A.7464 (Weinstein) / S.7158 (Hoylman-Sigal).**

This bill would allow a litigant to file a motion to renew with the Court of Appeals. Such a motion could only be filed if, after the Court of Appeals finally determined an issue, either the New York legislature or the U.S. Congress enacted legislation, or the U.S. Supreme Court issued a decision, that is contrary to the decision of the Court of Appeals. A motion to renew would have to be filed no later than 90 days after the enactment or decision that forms the basis of the motion.

**Relates to the number of judges in courts. A.7669 (Bores) / S.7534 (Hoylman-Sigal)**

This bill would add 3 family court judges in New York City, and on additional family court judges in Albany, Chemung, Erie, Monroe, Niagara, Oneida, Onondaga, St. Lawrence, Suffolk, and Westchester counties. Further, the bill adds two additional criminal court judges in New York City, and two additional judges to the New York City Civil Court.

#### **D. TRUSTS, ESTATES, AND GUARDIANSHIPS**

**The following bills were reported from the Assembly Judiciary Committee and were pending at the conclusion of session:**

**Expands the class of “close family members” who may recover for a wrongful death and the types of recoverable damages available. A.6698 (Weinstein) / S.6636 (Hoylman-Sigal)**

This bill would broaden the scope of recoverable damages in wrongful death cases to include funeral expenses, medical costs, emotional distress, loss of companionship, and financial losses. It would also expand the definition of "close family members" eligible to claim damages to include spouses, various family relations, and those acting in a parental role, leaving the determination to the fact finder regarding who qualifies as a "close family member."

#### **E. CONSUMER AND WORKER PROTECTION**

**Prohibits employers, officers, or employees from including in any settlement or agreement any term or condition that would prevent the disclosure of the factual foundation for the claim or action unless confidentiality is the complainant's preference—Chapter 658—A.581 (Rozić) / S.4516 (Fernandez)**

This law prohibits the use of nondisclosure agreements in settlements regarding discrimination, harassment, or retaliation cases. It also prevents confidentiality terms from obstructing the complainant's involvement in government investigations or from sharing details related to public benefits. Furthermore, any provision that restricts the disclosure of factual information on future discrimination claims becomes invalid unless the employee is informed about their right to consult law enforcement, specific agencies, or an attorney.

**The following bills were reported from the Assembly Judiciary Committee and were pending at the conclusion of session:**

**Prohibits employers from requiring certain conditions or precondition of employment. A.856 (Dinowitz) / S.3258 (Hoylman-Sigal)**

This bill would seek to prevent employers from requiring employees or job applicants to give up, settle through arbitration, or reduce any rights or benefits granted under New York state or federal law as a condition of employment. However, contracts negotiated with labor unions through collective bargaining would be exempt from this restriction.

**F. INDIAN LAW**

**Grants to State recognition of the Montaukett Indians—Veto Memo 61—A.6919 (Thiele) / S.6721 (Palumbo)**

This bill would include the Montaukett Indians within the term of “Indian nation or tribe” in New York. It would also provide that the Montaukett Indians would have a chief or sachem, three tribal trustees, and a tribal secretary, establish elections and terms of personnel, and address the qualifications of voters and to hold office.

**G. CONSTITUTIONAL AMENDMENTS REPORTED BY THE COMMITTEE**

**Relates to Equal Rights Amendment—A.1283 (Seawright) / S.108-A (Krueger)**

This concurrent resolution would amend the New York Constitution to prohibit discrimination based on ethnicity, national origin, age, disability, and sex, including sexual orientation, gender identity, gender expression, pregnancy, pregnancy outcomes, and reproductive healthcare and autonomy.

**Removes the 5% debt limitations on school districts. A.1771 (McDonald) / S.5025 (Mayer)**

This concurrent resolution would amend the New York Constitution to remove the debt limitation imposed on school districts located in cities with under 125,000 people.

**Relates to the exclusion of certain indebtedness for the construction of sewage facilities when determining current local debt limitations. A.3776 (Conrad) / S.4597 (Martinez)**

This concurrent resolution would provide a ten-year extension, from January 1, 2024, to January 1, 2034. This question appeared on the ballot in the 2023 General Election and was approved by the voters.

**Relates to the Mount Van Hoevenberg Olympic Sports Complex. A.2452 (Jones) / S.5540 (Harkham)**

This concurrent resolution would amend the New York Constitution to allow 323 acres of land in Essex County to be used to construct, operate, and maintain the Mount Van Hoevenberg Olympic Sports Complex, and to require the State to include an additional 2,500 acres of land in the forest preserve of the Adirondack Park. The additional land acquired by the State for inclusion in the Adirondack Park must be found by the legislature to be of equal or greater value to the 323 acres that will be used for the Sports Complex.

**Relates to amendment of state constitution to grant the Debar Pond Institute, Inc., six acres of land upon which stand Debar Lodge and its associated outbuildings for the purpose of preservation—A.2816 (Jones) / S.3030-C (Stec)**

This concurrent resolution would amend the New York Constitution to grant rights of ingress and egress, and the right to use, maintain, and improve the road running to the property from County Route 26, and use and maintain existing utilities, and co-locate future utilities along existing lines. The resolution also grants the Debar Pond Institute the right to draw water for the purpose of fire prevention. In exchange, the Debar Pond Institute would agree to convey not less than 400 acres of land located in the Adirondack State Park so long as the legislature determines that the land is of equal value to the six acres being granted to the Debar Pond Institute. The land granted by the State under the resolution would be reasonably available for public use and visits, secured by a conservation easement held by New York State.

**Relates to the abolition of slavery for persons convicted of crimes. A.3412-B (Epstein) / S.225-B (Myrie)**

This concurrent resolution would amend the New York Constitution to prohibit any incarcerated individual in any state or local prison, penitentiary, jail, or reformatory to be compelled or induced to provide labor against his or her will by actual or threatened force, punishment, sexual assault, or by any other means reasonably likely to cause the incarcerated individual to believe that if they do not provide such labor, either they or another person would suffer any such adverse consequences.

### **III. NEW YORK STATE JUDICIARY FUNDING**

The SFY 2023-2024 Enacted budget adopted the Judiciary's All Funds budget request of \$3.42 billion. This is an increase of \$122 million or 3.7 percent from the SFY 2022-23. This increase is primarily attributed to 270 new non-judicial FTE positions and funding to fill 530 current vacant positions. The SFY 2023-24 budget increased disbursements by \$71.7 million, reflecting increases in personal service expenses. The Judiciary's State Operations Budget increased by \$89.1 million to hire staff to pre-pandemic levels, including filling 530 non-judicial positions and to fund 270 new non-judicial positions.

### **IV. FUNDING FOR LEGAL SERVICES**

The proposed budget includes appropriations totaling \$116 million to support civil legal services to provide a three percent Cost of Living Increase (COLA) for civil legal services providers.

The Judiciary's budget includes \$28 million, an increase of \$3 million, to support continued improvements to court technology infrastructure, including the modernization of the judiciary's secure high-speed network, security equipment, records management, and facility renovation.

**2023 SUMMARY SHEET**

SUMMARY OF ACTION ON ALL BILLS  
REFERRED TO THE COMMITTEE ON

JUDICIARY

**TOTAL NUMBER OF COMMITTEE MEETINGS HELD**     9

ASSEMBLY   SENATE   TOTAL  
BILLS       BILLS     BILLS

**BILLS REPORTED FAVORABLE TO:**

Codes	9		
Judiciary			
Ways and Means	15		
Rules	38		
Floor	6		
<b>TOTAL</b>	<b>68</b>		

**COMMITTEE ACTION**

Held For Consideration	5		
Defeated	0		
Enacting Clause Stricken	0		
<b>REMAINING IN COMMITTEE</b>	<b>414</b>		

**BILLS REFERENCE CHANGED TO:**

**Codes:**

**Ways and Means:**

<b>TOTAL</b>	<b>482</b>		
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