



# 2015 NEW YORK STATE LEGISLATIVE AGENDA

## New York City Bar Association

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NEW YORK  
CITY BAR

## 2015 NEW YORK STATE LEGISLATIVE AGENDA

### INTRODUCTION

The New York City Bar Association (the “City Bar”), which was founded in 1870, is an independent organization and professional home for over 24,000 members dedicated to facilitating and improving the administration of justice and to promoting reform of the law. The City Bar accomplishes this mission by harnessing the expertise of the legal profession to identify and address legal and public policy issues. Our 160 committees focus on specific practice areas of law, the courts and the legal profession; they regularly issue reports and policy statements, submit amicus curiae briefs, draft public policy proposals, provide comments on pending legislation, and testify at hearings on issues of public concern at the city, state and federal levels. The City Bar has earned its reputation as a public-spirited bar association by speaking up strongly for integrity in the political process and a fair and effective judicial system.

The City Bar’s committees generate dozens of reports over the course of each legislative session. Our **2015 New York State Legislative Agenda** represents only a portion of those positions. It focuses on issues that are relevant to the current legislative debate or of particular importance to the City Bar, as well as legislative proposals drafted by our committees.\*

### SUMMARY

- Support efforts to bring about meaningful ethics, rules and campaign finance reform to end Albany’s “pay to play” culture and bring greater transparency to the legislative process.
- Support adequate funding for civil legal services.
- Raise the age of criminal responsibility to 18 years old for all crimes.

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\* To view a complete listing of our legislative policy positions, visit <http://www.nycbar.org/legislative-affairs/overview>.

- Modernize New York's public procurement construction laws to provide public owners with a wider variety of procurement and delivery modes, as necessary and appropriate, to reduce costs, speed delivery and improve quality and safety.
- Provide state funding to support legal representation of unaccompanied migrant youth.
- Support access to justice initiatives, including proposals to consolidate the state's major trial courts and requiring judicial appointments by a commission of lawyers and non-lawyers.
- Support the Gender Expression Nondiscrimination Act so that gender identity and gender expression are included as protected classes under the New York Human Rights Law.
- Support the Women's Equality Act.
- Extend Temporary Disability Insurance benefits to cover family care leave from the workplace.
- Support efforts to require the New York State Board of Examiners of Sex Offenders to consult a validated risk instrument when it makes a recommendation to the court regarding the appropriate risk level of a sex offender.
- Advance City Bar-drafted bill to amend the Arts and Cultural Affairs Law to better protect art authenticators against frivolous lawsuits.
- Advance City Bar-drafted bill to clarify and expand the category of claimants under the Unjust Conviction and Imprisonment Act so that individuals are not unreasonably or arbitrarily barred from bringing claims.
- Advance City Bar-drafted legislation to amend the Estates, Powers and Trusts Law related to the Uniform Transfers to Minors Act and to amend the Real Property Tax Law to coordinate the treatment of three types of tax transparent entities eligible for real property tax abatements.

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## Support efforts to bring about meaningful ethics, rules and campaign finance reform to end Albany’s “pay to play” culture and bring greater transparency to the legislative process

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The City Bar is concerned that the public overwhelmingly perceives that a person’s access to and influence on state government and its policymakers is directly proportional to the amount of money that person can contribute to an elected official’s campaign coffers. The ever-present spectre of “money in politics” combined with ethical scandals and a veil of secrecy around some legislative activities erodes public trust and disincentivizes the public from participating in the democratic and electoral processes. A scandal-weary public is ready for change. We support three areas of reform: strengthen existing ethics laws and truly empower the agency that enforces them; provide greater transparency in the way the legislative process works; and create a public campaign finance system for all New York elections.

**Ethics Reform.** With the recent arrest of Assembly Speaker Sheldon Silver, questions about the source of outside income and the disclosure of client information by attorney-legislators will continue to be scrutinized by the press and the public. The City Bar [reaffirms](#) its belief that, as a general rule, there is no basis for excluding lawyers from the same level of public scrutiny to which other legislators are held. Current disclosure laws can and should be made even stronger to ensure the public’s confidence in the governing process. Indeed, robust financial-disclosure requirements have applied to legislators, including those who are attorneys, for decades in other states. Such requirements should be guided by the following general principles:

- The type of information we believe should be disclosed is not, in the ordinary situation, entitled to protection under either a claim of privilege or confidence, and in any event a system can be designed to address particular situations where the public’s interest in disclosure is outweighed by a client’s interest in secrecy. So, for example, when family, criminal, or certain transactional matters (e.g., a planned hostile take-over) that have not been revealed in the public records are involved, such matters could be shielded from disclosure.
- Exceptions could be made in the unusual circumstance where disclosure of the fact of representation itself is privileged, or where disclosure is likely to be embarrassing or detrimental to the client.
- An independent commission should be established to determine whether an exception is warranted in particular cases or whether certain information should be kept confidential in a case of extreme hardship that would not violate the public interest.

- Following current law, any expanded disclosure requirements should apply prospectively, i.e. only to new clients and new matters for existing clients as of the law's effective date, and direct that attorney-legislators inform clients in writing of their disclosure obligations under Section 73-A.

The value of legislator disclosures is only as good as the agency that enforces them. The City Bar has long championed the need for a single independent agency that would be principally responsible for overseeing and enforcing ethics laws for the Executive, the Legislature and lobbyists alike. In 2011, the Joint Commission on Public Ethics (JCOPE) was established. In 2014, after careful analysis of the work undertaken by JCOPE since its inception, the City Bar and Common Cause [concluded](#) that JCOPE is not acting with sufficient vigor and, in certain circumstances, JCOPE is hampered by legislatively imposed limitations. The report included a set of recommendations that could be undertaken immediately – without legislation - in order to strengthen JCOPE, along with the following legislative recommendations: 1) eliminate the express political test for gubernatorial appointments; 2) reduce gubernatorial appointments to four; 3) reduce legislative leader appointments to a total of six; 4) add appointments by the Chief Judge, the Attorney General and the Comptroller; 5) make the size of the Commission an odd number, namely thirteen; and 6) eliminate the political party component of the special vote requirement for enforcement decisions. Making changes to strengthen JCOPE would signal to the public the Legislature's true commitment to ethics reform.

**Legislative Transparency.** It is in the public's interest to have a Legislature that is transparent, deliberative and accountable to the citizens of the state. We encourage both houses to hold public discussions of their operating rules and ways they can be improved, in a manner that takes into account the public's interest in having a Legislature that is transparent, deliberative and accountable to the citizens of the state. We [urge](#) the adoption of new rules that will: 1) limit legislators to serving on a maximum of three committees in any given time period; 2) require committee members to be physically present to have their votes counted; 3) require that all bills must be accompanied with the appropriate fiscal and issue analysis before receiving a vote and that all bills voted out of committee be accompanied by committee reports showing the work of the committee on the bill; 4) mandate a 'mark-up' process for all bills before they are voted out of committee; 5) explicitly provide each committee with control over its own budget; and 6) institutionalize conference committees, so that when bills addressing the same subject have been passed by both chambers, a conference committee will be convened at the request of the prime sponsor from each chamber or the Speaker and Majority Leader.

The City Bar also [supports](#) legislation requiring that the proceedings and voting records of committee and session activities conducted by both houses be posted online. New Yorkers should be able to easily navigate the legislative websites and find information. In this digital age, travel to Albany should no longer be a prerequisite to information-gathering about the legislative process and a particular bill's activity.



**Campaign Finance.** The City Bar supports public campaign financing in New York elections. We believe that, as guiding principles, campaign finance reform can be best achieved through: 1) the voluntary public financing of political campaigns at levels designed to attract candidates into the public financing program; 2) stricter limits on political contributions; 3) enhanced disclosure of campaign contributions and expenditures; 4) more effective enforcement of campaign financing laws; 5) curbs on transfers by legislative party committees; 6) effective regulation of “independent” expenditures on campaigns that are coordinated with a candidate and 7) stricter controls over the use of funds raised for campaigns.

## Support adequate funding for civil legal services

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The City Bar has long been committed to providing fair and equal access to justice, which we address both through policy initiatives and providing direct legal assistance. We continue to advocate for an adequate funding of the federal Legal Services Corporation and have supported each of the increases in legal services funding presented in recent State Judiciary budgets. Through Chief Judge Lippman’s and Chief Administrative Judge Prudenti’s leadership, the Judiciary Budget for the current fiscal year now includes \$55 million for civil legal services, in addition to \$15 million in IOLA replacement funds, and an additional \$15 million is included in next year’s proposed Judiciary Budget. We support the Judiciary’s original goal of a \$100 million increase in annual civil legal services funding. This is a crucial element of any effort to provide additional legal assistance to those who cannot afford it. The fact that over two million people continue to enter New York courthouses every year to fend for themselves without counsel is testimony to how much more we need to do. The combination of increased caseloads with more pro se litigants not only adds to the burden on judges and staff, but also represents a fundamental imbalance in the justice system. Civil legal services provide an essential safety net to those New Yorkers most at risk and limits hardships that are often more burdensome on government in the long run.

## Raise the age of criminal responsibility to 18 years old for all crimes

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The City Bar [supports](#) raising the age of criminal responsibility to 18 years old for all crimes because that change will protect the well-being of our youth, reduce recidivism and improve public safety. Under current law, New York stands nearly alone in prosecuting all 16- and 17- year-olds in the adult criminal justice system, regardless of the severity of the alleged crime. Each year, approximately 40,000 16- and 17-year-olds are arrested and face the possibility of prosecution as adults in New York’s criminal courts, the vast majority for minor crimes. And, if these young people are detained or incarcerated because of a criminal court order, they are confined in adult prisons and jails. Only youths under the age of 16 can be prosecuted as juveniles in family court. Even then, New York treats 13-,

14-, and 15-year-olds accused of committing certain serious crimes as “juvenile offenders” who may be prosecuted as adults.

New York needs to change the way it handles youth in the criminal justice system. New York remains stubbornly behind the national consensus that treating youth appropriately for their age serves to protect their well-being, improve public safety and reduce recidivism. It is one of only two states (the other being North Carolina) that prosecutes all youth as adults once they turn 16. Because the decision-making capacity of young people improves as they move into adulthood, most young offenders are not likely to become adult offenders. Yet, our criminal justice system largely treats youth the same as adults, saddling them with the lifetime consequences of a criminal conviction despite the fact that young adult brains do not have the same decision-making capacity as adult brains. These consequences can prevent young people from accessing employment and educational opportunities necessary for them to become productive adults.

Moreover, there is a robust body of research showing that prosecuting youth in the adult system—even youth charged with violent offenses—is not effective for preventing future violence. Youth are safer and fare better when held in facilities designed specifically for youth and which implement a child welfare model and other best practices, such as trauma-informed care. Adult facilities often engage in practices that are particularly detrimental to youth and do not help to reduce recidivism.

## Modernize New York’s public procurement construction laws to provide public owners with a wider variety of procurement and delivery modes, as necessary and appropriate, to reduce costs, speed delivery and improve quality and safety

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For the past ten years, the City Bar has been [reviewing](#) the statutory scheme for New York’s built environment, focusing primarily on those laws that regulate construction for public projects. The result of this review is clear: New York needs to address its outdated, inefficient and inflexible built environment laws. The City Bar is excited to see the momentum that is building behind this issue and we urge the Governor and the Legislature to seize this opportunity for reform. The ABA’s Model Procurement Code for Public Infrastructure Procurement (MCPIP) provides an excellent basis for statutory language. With the MCPIP as a foundation, the state should convene a reform commission that brings all related stakeholders to the table to establish a new procurement code that is both modern and reflective of New York State’s particular history and construction markets. We urge that the commission be given a deadline to complete its work, so that this necessary reform can be accomplished without too much additional time passing.

By modernizing its public construction procurement laws, New York can best allocate and protect its significant investments on the horizon. With the wide range of infrastructure projects the state will be undertaking in the coming term, from the Tappan

Zee Bridge project to the modernization of the state's airports to continued post-storm resiliency and recovery efforts, the time to reform New York's built environment laws is now.

## Provide state funding to support legal representation for unaccompanied migrant youth

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Nearly 70,000 unaccompanied immigrant children entered the United States in fiscal year 2014 and nearly 6,000 have reunified with family living in New York State. We believe the government's top priority in responding to this humanitarian crisis should be to protect vulnerable children by ensuring they are represented by counsel in their immigration proceedings. Congress has failed to act, and states and localities are left to fill the justice gap.

Almost half of children in removal proceedings are currently unrepresented. The New York City Council has provided funding, in partnership with two private foundations, to support legal representation for children who live in New York City. However, the majority of unaccompanied immigrant children relocating to New York State (the second highest receiving state after Texas) are reuniting with family members outside of the five boroughs. In fiscal year 2014, Nassau and Suffolk Counties received 3,046 children; Orange, Putnam, Rockland and Westchester Counties received 682 children.

Legal service providers report that up to 90% of unaccompanied children have a valid claim under U.S. immigration law to remain in the United States. Immigration proceedings are known to be exceedingly complex and the likelihood of winning protection is much lower for children without lawyers. Historical data show that without counsel, only one in ten children won permission to stay in the United States, and among those represented by legal counsel, 47% of children could remain lawfully in the United States.

Congress has delegated to the state courts the power to make factual findings that form the basis of a claim for special immigrant juvenile status (SIJS)—a form of immigration relief that many unaccompanied immigrant children qualify for. As a result, New York State family courts will see many more children filing motions for SIJS factual findings in light of the increase in new arrivals. Providing legal counsel would not only improve due process and results for children, but would also improve the efficiency of proceedings in New York State courts.

Given the unprecedented number of unaccompanied immigrant children who have relocated to New York during this past year, the City Bar strongly [urges](#) New York State to act now and take all necessary steps to provide funding for lawyers to represent unaccompanied children. Children who are able to secure a guardianship or custody order in family court will be on the path to more stable lives supporting their integration into school and appropriate access to our existing child health systems. Providing lawyers will help ensure that we discharge our obligation—fairly and with full respect for due



process—to determine who among these children has a right to stay in this country and who must return home.

## Support access to justice initiatives, including proposals to consolidate the state’s major trial courts and requiring judicial appointments by a commission of lawyers and non-lawyers

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Core to the City Bar’s mission is ensuring the fair and effective administration of justice. Court simplification and requiring commission-based judicial appointments of judges and are two ways to achieve those goals.

The City Bar has long [supported](#) proposals to consolidate the state’s major trial courts, in the firm belief that a truly unified court system will be more efficient and will result in justice that is better, swifter and less expensive than the current patchwork of courts. We see consolidation as an absolutely essential reform for the benefit of both the court system and the public. We urge the Legislature to pass legislation to this effect proposed by the [Special Commission on the Future of the New York State Courts](#).

We believe that the state’s major trial courts should be consolidated into either one tier comprising all of the state’s courts of record or a two-tier structure consisting of 1) Supreme Court with specialized divisions, and 2) a District Court with jurisdiction over misdemeanor cases, housing cases, and civil cases involving less than \$50,000. This consolidation would eliminate confusion and waste and would create a much more nimble, efficient and user-friendly system.

To make court consolidation truly effective, we believe it should be bolstered by changes to our state’s judicial selection system to provide for a commission-based appointment system. A commission-based appointment system would reduce the role of politics and lead to a more qualified judiciary. Under this approach, broad-based, diverse, and independent judicial qualifications commissions, composed of lawyers and non-lawyers, would recommend a limited number of candidates per vacancy to the appointing authority, and that person could appoint only from among those candidates. The candidates for appointment would be evaluated on intellectual capacity, integrity, independence, experience, temperament, fairness. The limit on the number of candidates who can be released from the commissions will ensure that only the most meritorious are proposed instead of all who are adequate.

Proponents of the current elective system argue that although candidates are chosen through party conventions instead of primaries, the voice of the people is still paramount because the public has the final say in the general election. However, the truth is that few citizens know anything about sitting jurists and even less about the candidates who aspire to sit on the bench. Unlike legislators or other public officials, judicial candidates have no platform on which to run and, because of the rules of judicial ethics, cannot address how they would decide issues that might come before them. In short, the lack of an intelligent

dialogue on issues leaves a befuddled electorate with little, if any, information to choose between the aspiring candidates. With scant information available on judicial candidates, voters usually select judges simply on party affiliation. That gives the party bosses ultimate control over the makeup of much of our state judiciary. While many Supreme Court Justices are truly fine jurists, the system is in no way designed to assure the public that quality, rather than party loyalty, is the major selection criteria.

## Support the Gender Expression Nondiscrimination Act so that gender identity and gender expression are included as protected classes under the New York Human Rights Law

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Although New York State’s Human Rights Law currently prohibits discrimination based on sex and sexual orientation, these categories do not explicitly and adequately protect individuals who are discriminated against because of their actual or perceived gender identity or expression, such as transgendered persons. The City Bar [supports](#) the passage of the Gender Expression Nondiscrimination Act (GENDA) which adds “gender identity and expression” to the list of categories protected under various statutes prohibiting discrimination by the state and/or in employment, education, housing, and public accommodations. The bill extends nondiscrimination protections to transgender and gender variant people, and further adds “gender identity and expression” to the list of categories in the hate-crimes statute, making crimes motivated by animus toward a person’s gender identity or expression eligible for a penalty enhancement.

New York courts have held that existing laws banning discrimination based on sex or sexual orientation do not protect transgender people. Thus, the numerous lawsuits alleging discrimination based on gender identity and expression have been almost uniformly unsuccessful. A number of localities in New York have already recognized the pressing need for the protections GENDA provides, passing laws prohibiting discrimination based on gender identity and expression. Those localities include Suffolk, Tompkins and Westchester counties, and the cities of Albany, Binghamton, Buffalo, Ithaca, New York, Rochester and Syracuse. This bill would greatly help in affording protections to transgender and gender variant people from discrimination, harassment, and assault to the same extent such protections are now provided to other groups under New York law, e.g. racial minorities, as well as those individuals who identify as gay and lesbian.

## Support the Women’s Equality Act

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The City Bar [supports](#) the Women’s Equality Act, with recommendations as noted below. The Act lays out a plan for advancing women’s rights in a wide variety of areas. Such measures include:

- Strengthening sex trafficking laws by increasing penalties for trafficking, removing the requirement that prosecutors establish coercion when the victims are minors,

creating an affirmative defense in prostitution prosecutions where the defendant's participation was a result of having been a victim of sex trafficking, creating a private right of action for trafficking victims, and improving the delivery of services to trafficking victims. We note one concern, however: this part of the Act expands the application of sex offender registration to certain new crimes. While expansion of sex offender registration can be an effective tool to target a small and dangerous class of violent sex offenders, the expansion as contemplated by this part raises overbreadth and due process concerns. In addition, we have concerns regarding the current Risk Assessment Instrument being used by the NYS Board of Examiners of Sex Offenders and believe it is badly outdated and invalid, as discussed below. On balance, we recommend that the provisions expanding the pool of sex offender registrants be tabled until further study can be undertaken.

- Moving abortion from the Penal Law to the Public Health Law and codifying the holding of *Roe v. Wade*.
- Requiring employers to provide equal pay to similarly positioned employees doing work that requires equal skill, effort and responsibility. This portion of the Act is aimed at closing the pay gap and ending wage variations based on sex by providing workers with wage transparency, so that a victim of pay discrimination will have a right to access the necessary information needed to bring a successful claim for meaningful damages.
- Expanding the New York State Human Rights Law so that all employers will be subject to the Human Rights Law prohibitions against sexual harassment, regardless of the number of employees.
- Combating employment discrimination against women through three measures. The first would provide reasonable attorney's fees to the prevailing party in employment discrimination cases where sex was the basis of the discrimination (although we feel strongly that this provision should be extended to *all* cases of employment discrimination, not just those based on sex). The second measure would prohibit employment discrimination based on familial status. The final measure would require employers to provide reasonable accommodations to the known "pregnancy-related conditions" of an employee.
- Better protecting victims of domestic violence. The first would prohibit housing discrimination against domestic violence victims, and permit a private right of action where such discrimination has occurred. Another provision amends the Family Court Act and Judiciary Law to establish a pilot program for filing of petitions for temporary orders of protection electronically and allowing victims the option to provide testimony via audio-visual means.
- Providing better economic protections to women. The Act would allow for reasonable attorney's fees to the prevailing party in credit or housing-related credit

discrimination cases where sex was a basis of the discrimination. These amendments will expand the protections of the law which currently allow an award of attorney's fees only in cases of housing discrimination, and compensatory damages and other relief (but not attorney's fees) in cases of credit discrimination. This will help level the playing field between women and discriminatory creditors by making it feasible for women to obtain competent counsel. The Act also includes a provision to establish a task force to study the impact of source of income on access to housing.

## Extend Temporary Disability Insurance benefits to cover family care leave from the workplace

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New York's workers' compensation law and insurance law should be amended to provide partial wage replacement to workers who need time off to care for a seriously ill family member or to bond with a new child. Under proposed legislation, this program would work in conjunction with New York's existing Temporary Disability Insurance (TDI) program. At present, TDI covers leave related to a worker's own illness or injury, including pregnancy and childbirth, but does not cover any form of leave related to the care of others. With a TDI structure already in place, New York is in position to expand the program to provide limited wage replacement for individuals who need to take a family leave from the workplace. Legislation permitting wage replacement for family leave has passed in California, New Jersey, Rhode Island and Washington.

Such legislation is critical to the health, wellbeing, and economic security of New York's working families. Family and work patterns have shifted dramatically over the past several decades, creating an urgent need for more robust family leave policies. The federal Family and Medical Leave Act (FMLA), which was enacted in 1993, guarantees up to 12 weeks of unpaid, job-protected leave for employees of covered entities. However, because FMLA guarantees only unpaid leave, many eligible workers who need to take family leave are not able to do so. The lack of family leave benefits as well as job protection for persons employed by uncovered entities means that a significant percentage of the U.S. workforce cannot effectively balance work and family responsibilities. These issues are even more confounding for women, who continue to be the primary caregivers for sick, elderly and disabled family members and low-income workers, who are less likely to have employer-provided family leave benefits.

It is time for New York to provide a meaningful way for employees to fulfill their work and family responsibilities. Providing family leave benefits will promote economic security and support family wellbeing. For these reasons, the City Bar [urges](#) the Legislature to pass extending TDI benefits to provide partial wage replacement to all New York employees who need to take family care leave from the workplace, along with job protection upon return from leave.

## Support efforts to require the New York State Board of Examiners of Sex Offenders to consult a validated risk instrument when it makes a recommendation to the court regarding the appropriate risk level of a sex offender

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Individuals convicted of sex offenses in New York State are currently assigned their risk level as a sex offender using an outdated and unscientific Risk Assessment Instrument (RAI). These classifications are extremely important as they affect individuals' registration requirements as well as the extent to which the community is provided information about them, such as the nature of their offense, their physical appearance, their home address, and their place of employment.

Although it has been used to classify tens of thousands of individuals, the current RAI employed by the Board of Examiners of Sex Offenders is not a valid method to predict sex offenders' likelihood to reoffend. The RAI was based on outdated research when it was created in 1996, and has never been updated, even though most advances in the field of predicting sex offenders' recidivism rates have occurred during those years. Furthermore, studies show that many factors used by the RAI to predict an individual's risk of reoffense do not correlate with risk and that there are more predictive factors that are not included in the instrument. Several validated risk assessment instruments exist and are used by other states.

The Board's reliance on an inferior instrument harms not only registered offenders, but also the public. Risk assessments are only effective if individuals are properly classified so that the public and law enforcement can invest their limited energy on monitoring the most high-risk individuals. Currently, the Board's use of the RAI dilutes the effectiveness of the law by overestimating individuals' risk.

The City Bar therefore [supports](#) legislation which would amend the Sex Offender Registration Act to require that the Board consult a "validated risk instrument" when it makes its recommendation to courts regarding the appropriate risk level of a sex offender and that the instrument be revalidated through "a periodic retroactive study at least every five years to determine the predictive value of the risk assessment instrument".

## Advance City Bar-drafted bill that would amend the Arts and Cultural Affairs Law to better protect art authenticators against frivolous lawsuits

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The City Bar [supports](#) legislation which addresses certain deficiencies in provisions of the New York Arts and Cultural Affairs Law: namely, the absence of protections under the law for authenticators in rendering independent, good-faith opinions about the authenticity, attribution and authorship of works of fine art. The art market is peculiarly



vulnerable in that the value of works of art is dependent upon their authenticity. Although authenticity is in large part the driver in art transactions, authenticity can be difficult to determine. Not surprisingly, in view of the necessary imperfections of the authentication process, authenticators must practice their profession at their own risk. They have been sued in the course of rendering opinions in good faith about the authenticity, attribution or authorship of artworks on a variety of theories, such as negligence, negligent misrepresentation, fraud, product disparagement, defamation, as well as on antitrust grounds. Usually, under the law, the expert prevails, after having spent thousands of hours and dollars on a legal defense rather than practicing his or her profession. But that does not prevent an expert from being harassed by frivolous lawsuits brought by unhappy plaintiffs displeased with an expert's opinion.

Acknowledging authenticity's unique role as a driver in the art market, the vulnerability of the market to fakes and forgeries flooding the stream of commerce and, consequently, the considerable legal exposure of authenticators who practice their profession in good faith, this proposal defines with clarity that segment of the art market that should be encouraged to practice its profession, and provides a mechanism through which authenticators can do so and thereby promotes legitimate commerce in New York's thriving art market.

## Advance City Bar-drafted bill that would clarify and expand the category of claimants under the Unjust Conviction and Imprisonment Act so that individuals are not unreasonably or arbitrarily barred from bringing claims

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When individuals are wrongfully convicted they should be entitled to compensation. In New York, Court of Claims Act §8-b, known as the "Unjust Conviction and Imprisonment Act" (UCIA), provides a cause of action that permits people who have been wrongly convicted and imprisoned to seek compensation. But, as written, the statute excludes many deserving persons before they even get in the courthouse door. To correct this problem, the City Bar has [recommended](#) amending the UCIA in two ways. The first amendment would insure that, so long as all statutory requirements are met, including a showing of innocence, an individual whose conviction is reversed on any ground will be eligible to recover. The second amendment would insure that anyone who made a false inculpatory statement despite his or her innocence is also eligible to recover, so long as all other statutory requirements are met.

## Advance City Bar-drafted legislation to amend the Estates, Powers and Trust Law related to the Uniform Transfers to Minors Act and to amend the Real Property Tax Law to coordinate the treatment of three types of tax transparent entities eligible for real property tax abatements

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The City Bar has proposed two bills aimed at ensuring that the laws pertaining to New York trusts and estates remain up-to-date and effective. The first set of amendments are to Estates, Powers and Trust Law (EPTL) Sections §7-6.14 and 7-6.20. The Uniform Transfers to Minors Act (UTMA), as set forth in EPTL §7-6, provides a mechanism under which gifts can be made to a minor without the drawbacks sometimes associated with a guardianship arrangement or trust, such as legal fees, court supervision, or tax complexities. The proposed amendments to the UTMA would make explicit a custodian's authority to transfer all or part of the custodial property to a §2503(c) trust.

The second bill proposes amendments to the Real Property Tax Law to coordinate the treatment of tax transparent entities eligible for real property tax abatements. Tax transparent entities are not taxed either in a representative capacity or in their own capacity as a tax paying entity, but the tax is levied on the investors, in their domicile, on their share of income in the entity. This proposal builds on recommendations suggested by the City Bar to legislation enacted in 2013. The 2013 legislation provided that tax abatements could be granted to a cooperative or condominium dwelling unit held in trust for the benefit of a person or persons who would otherwise be eligible for the abatement had they owned the unit directly. The proposed amendments would extend this qualification for a real property tax abatement to: 1) legal life estates, 2) single member limited liability companies, and 3) multiple member limited liability companies owned exclusively by spouses.