REPORT ON LEGISLATION BY THE
COUNCIL ON JUDICIAL ADMINISTRATION,
COMMERCIAL LAW AND UNIFORM STATE LAWS COMMITTEE,
ESTATE AND GIFT TAXATION COMMITTEE,
LITIGATION COMMITTEE,
STATE COURTS OF SUPERIOR JURISDICTION COMMITTEE AND
TORTS AND PRODUCT LIABILITY COMMITTEE

A.1100-A **M. of A. Bores**

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY proposing amendments to article 6 of the constitution, in relation to the number of supreme court justices in any judicial district

Uncap Justice Act

THIS BILL IS APPROVED

The New York City Bar Association supports the enactment of the Uncap Justice Act, A.1100-A, which would amend the State Constitution to repeal the cap on the number of Supreme Court justices that can serve a particular judicial district. This antiquated and inefficient method for allocating judicial resources negatively impacts the administration of justice not just in the Supreme Court but also in the other courts within the Unified Court System, including what are often called the "People's Courts"—the Family Court, Civil Court and local criminal courts.

Throughout its history, New York State has struggled with an insufficient number of judicial seats necessitating stopgap measures that have resulted in a complicated, overworked, and confusing court system that fails to provide justice to all. The dire need for additional judges overall is a function of the chronic failure to provide adequate judicial resources to New York's Unified Court System. And while the reasons underlying such failure are manifold and multilayered, on a fundamental level, the lack of judicial resources stems largely from the constitutionally prescribed method by which the Legislature determines the number of justices that can be elected to the State Supreme Court. Since enacted in 1846, and as amended in 1961, Article 6 of the New York State Constitution, has set the number of Supreme Court seats—which are elected positions—for geographically-defined areas known as judicial districts by using a solely population-based ratio—i.e., one justice per 50,000 people.

About the Association
The mission of the New York City Bar Association, which was founded in 1870 and has over 20,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

The effect of such a formula is to cap the number of legislatively authorized Supreme Court seats within each judicial district, leaving the Legislature powerless to authorize additional seats to meet the growing and particular needs of the courts in such districts. The purely population-based "constitutional cap" has proven over-simplistic, outdated, and unworkable. It has created a ripple effect that has impacted the entire court system. Specifically, to address the lack of resources at the Supreme Court level, the Office of Court Administration (OCA) has long resorted to adopting makeshift measures that involve designating judges from other courts to sit on the Supreme Court on an "acting" basis. Not only has this "robbing Peter to pay Paul" approach depleted these other courts of judicial resources, but it has also created a de facto permanent and large class of "temporary Acting Supreme Court Justices," sitting in a court other than the one to which they were either elected by the people or appointed by the relevant appointing authority.

In September 2023, the Council on Judicial Administration issued an extensive report which found that there is a "dire need" for the state legislature "to provide the People of the State of New York with a sufficient number of judges to do justice."[1] The report discusses the historical origins of the constitutional cap, assesses the burden that places on the Supreme Court and examines the measures that OCA has implemented to address the need for additional justices and the adverse impact those emergency measures have on the other courts. The report also includes a 49-state survey of methods that other states use to assess their own judicial needs.

Based on the findings of this report and the experiences of our members in the court system, the City Bar believes New York should adopt the Uncap Justice Act and amend the Constitution to repeal the cap on Supreme Court Justices. The need for this amendment has been endorsed by Governor Hochul, who included repealing the cap in her 2024 State of the State address.[2] This is a critical first step to improving the administration of justice in New York[3] and the City Bar urges the Legislature to pass the amendment in the current legislative session so it can be put before voters in a timely manner.

In this era of metrics, the people of New York State are entitled to a modern, flexible, evidence-based method of assessing the state's judicial needs, as is the case in many other states and the federal judiciary.

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[1] "Repeal the Cap and Do the Math: Why we need a modern, flexible, evidence-based method of assessing New York's judicial needs," (reissued and updated Sept. 18, 2024), https://www.nycbar.org/reports/repeal-the-cap-and-do-the-math-why-we-need-a-modern-flexible-evidence-based-method-of-assessing-new-yorks-judicial-needs/?back=1; *see also* "Appendix: 49 State Survey," at http://documents.nycbar.org/files/ConstitutionalCapReportAppendix.pdf; and "Exhibits" at https://drive.google.com/drive/folders/1HhxpQEt68NAmRr8-bz7J0OJUL5PRrd22 (All websites last accessed on Feb. 1, 2026).

[2] *See* pg. 33, at https://www.governor.ny.gov/sites/default/files/2024-01/2024-SOTS-Book-Online.pdf.

[3] In conjunction with repealing the cap on Supreme Court Justices, the City Bar recommends the following for the proper and adequate administration of justice in New York State's courts: (1) language in the Constitution that requires the Legislature to consider whether to change the number of Supreme Court justices in any judicial district at least once every ten years; (2) enabling-legislation to codify a mandatory regular systematic assessment of the courts' specific needs; (3) annual reporting by OCA to analyze the number of judges in each court and request changes when appropriate; (4) establishing assessment methodology for assessing the judicial needs of all courts; (5) adopting transparency measures that ensure publication of the assessment's recommendations for the number of judges needed in each court and judicial district; and (6) consider less time-consuming statutory changes that are immediately available. For example, since the number of judges in courts other than the Supreme Court is not subject to a constitutional cap, the Legislature could immediately assess the judicial needs in those courts with support from appropriate professionals, and change the number accordingly. We would urge OCA to conduct a weighted caseload assessment in Family court immediately.

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Reissued February 2026*

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** This report was first issued in January 2024 during the term of Fran Hoffinger (Chair, Council on Judicial Administration)*