

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a serif font, centered between two horizontal blue bars.

NEW YORK
CITY BAR

COUNCIL ON JUDICIAL ADMINISTRATION

**WRITTEN TESTIMONY IN SUPPORT OF THE
JUDICIARY’S 2024-2025 BUDGET REQUEST**

The New York City Bar Association urges the Legislature to accept the FY 2025 Budget Request (“Budget”) of the Unified Court System (“UCS”), and to supplement the Budget with additional funding to bring operations in certain courts and programs to acceptable levels, as discussed below.¹ The \$2.7 billion request is \$182 million (7.2%) above current year authorized expenditures. The increase includes an additional \$131.2 million to maintain core operations, primarily for increased personnel and professional services provider costs. The bulk of the Budget goes to fund the Courts of Original Jurisdiction (“COJ”), including the Supreme and County Courts, Family Courts, Surrogate’s Courts, City and District Courts, and certain other courts and court functions. The requested COJ funding totals \$1.97 billion, which represents an increase of \$98.8 million (5.3%) above the current year adjusted appropriation.² The request is slightly above the \$1.88 billion requested in the last pre-pandemic Judiciary budget submitted in November 2019.³ The COJ budget request includes funding for 20 new judgeships (3 Supreme, 13 Family, and 4 City Court) authorized by the Legislature in 2023. It also seeks funding for an additional 28 Family Court judgeships, the creation of 5 new Housing Court judgeships, and the establishment of 470 new nonjudicial positions to support court operations and meet growing caseload demands. The budget allocation to the Family Courts includes a 10% increase (totaling \$20.2 million) over last year’s appropriation primarily to accommodate the increased judgeships.

The Budget also supports continuing efforts to upgrade technology supporting court operations, including courtroom videoconferencing and assistive listening device systems. Efforts to expand the New York State Courts Electronic Filing system to courts around the state are continuing, which makes the handling of documents filed in court proceedings more efficient and increases public access to filings. The costs associated with handling, transporting, storing and tracking physical documents are reduced. The expanded use of e-filing throughout the court system should be supported and encouraged.

¹ The FY 2025 Budget addresses spending for the fiscal year commencing April 1, 2024. *See* https://www.nycourts.gov/LegacyPDFS/admin/financialops/FPCM-PDFs/V2_jdbgt/FY2025_FINAL-JudiciaryBudget.pdf (All websites last accessed on Feb. 5, 2024). This testimony endeavors to use best data available for the various courts and issues discussed. This includes, in some instances, data outside of the FY 2025 Budget document itself.

² Budget at 4.

³ FY 2021 Budget at 5.

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has 23,000 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 overall increase includes an additional \$50.8 million to address what the court system describes as “gaps” in court operations, especially in high-volume courts that serve vulnerable populations, and to fund enhancements promoting fairness and equity in the delivery of judicial services. These additional costs include \$17.3 million to fund the 28 new Family Court and 5 new Housing Court judgeships (and associated costs), and \$5.7 million to fund 50 new court attorney positions in the Family and other lower courts. They also include, among other items, enhanced funding levels for providers, including Attorney for the Child (10.7% increase), civil legal services and other court-funded services providers.

The Budget seeks to restore judiciary staffing to near pre-pandemic levels. This effort to bring the court system back to pre-pandemic service levels is overdue, and we support it. Even with this effort, there will be serious unmet needs which need to be addressed, as described below.

Additional judgeships will only partially ameliorate shortages of Supreme Court judgeships around the state, and especially in New York County, resulting from an outdated provision in the state constitution setting a population-based cap on authorized judgeships. That provision is addressed in a September 2023 report prepared by the Constitutional Cap Subcommittee of the Council on Judicial Administration. The report recommends replacing the population-based cap on the number of Supreme Court judgeships in any judicial district, *see* N.Y. Const. Art. VI, § 6, with a data-based periodic assessment of judicial needs.⁴

The Budget contains a “2022 Statewide Workload by Court Type” table (“Table”) showing annual filings versus dispositions for each of the Courts of Original Jurisdiction.⁵ The data provides a sense of which courts appear to be keeping up with their case filings, and which seem to be falling behind. (Unfortunately, the data is for the year 2022, so was nearly a year out of date by the time the Budget was published in December 2023).

The Table shows that most courts were keeping their dockets reasonably current, or even shrinking their backlogs, but that the NYC Civil Court and NYC Housing Court were losing ground. The data suggest a need to increase Civil Court and Housing Court resources. During 2022, the Civil Court experienced 230,650 new filings while disposing of only 169,583 cases, while the Housing Court had 126,498 new filings against only 79,425 dispositions. The Surrogate’s Courts also showed backlog growth in 2022, with 146,396 filings versus only 114,394 dispositions.

HOUSING COURT

The Housing Court faced a dramatic jump in filings due to the expiration of the pandemic-era eviction moratorium in January 2022. Housing Court filing levels apparently remained elevated in 2023, as statewide eviction filings rose from 193,736 in 2022 to 210,642 in 2023.⁶ In addition

⁴ Available at <https://www.nycbar.org/reports/no-cap-act-supreme-court-justices/>.

⁵ Budget at 11.

⁶ *See* Statewide Landlord Tenant Eviction Dashboard on the NYSUCS Division of Technology & Court Research website at <https://ww2.nycourts.gov/lt-evictions-33576>.

to new filings, Housing Court dockets are filled with pandemic era cases which were stayed for Emergency Rental Assistance Program (“ERAP”) determinations and are now back on the calendar.

The Budget proposes a 24.4% (\$7.5 million) increase in the Housing Court budget allocation, including funding for five additional Housing Court judges and new nonjudicial positions. But case backlogs, as well as the current shortage of Housing Court personnel and Right to Counsel providers, show that more is needed. Beyond adding new judges and court attorneys, essential clerical personnel, court interpreters, and court staff lost during the pandemic must be replaced and, with the advent of e-filing and sophisticated technology, staff must be sufficiently trained on its use.

The Housing Court budget allocation includes funding for expanded use of Housing Court Answers (HCA), a not-for-profit organization that provides information and support for self-represented tenants and landlords. As a high percentage of cases are going forward without tenant representation despite the right to counsel law, HCA is a necessary part of the housing court process. The population served by NYC Housing Court are predominantly Black and Brown people who face the imminent loss of their homes by eviction. The budget should reflect the need to dignify the process and chip away at the “cattle call” culture, as well as to address issues of fairness and equal treatment for this state’s diverse citizens as recommended by the Special Adviser’s Report.⁷

NYC CIVIL COURT

The Budget’s proposed increase for the NYC Civil Court appears to be only 0.5%,⁸ out of line with the overall 5.3% proposed budget increase for Courts of Original Jurisdiction. The Budget’s failure to address the chronic backlogs in Civil Court is unexplained. In addition to the Table data showing significant backlog growth in 2022, anecdotal information suggests substantial dysfunction from lack of staff. For example, it now takes about two years *after* a case is decided for clerks to issue a judgment in NYC Civil Court – a perfect example of justice delayed amounting to justice denied.

The Budget in its current format makes it difficult to assess whether proposed Judiciary resources are adequate or appropriately sized. The supporting data could be more timely and robust. As noted, the Workload Table relies on year-old data. Although the Budget shows how it compares with prior year expenditures, there is little to enable an assessment as to whether the proposed Budget reasonably matches *current* needs. For example, although the Table portrays the Supreme Courts as keeping up with their civil-side caseload during 2022 (with 153,000 dispositions approximating the number of new filings that year), it is otherwise unrevealing. We understand that, even now, it takes nearly three months to get a judgment entered in New York

⁷ Available at <https://www.nycourts.gov/whatsnew/pdf/SpecialAdviserEqualJusticeReport.pdf>.

⁸ The proposed increase for the NYC Civil Court is not broken out in the Budget. The 0.5% figure is calculated by comparing the \$69.7 million budget proposed last year for such courts (’24 Budget at 32, available at https://ww2.nycourts.gov/sites/default/files/document/files/2022-11/FY2024_FINAL_JudiciaryBudget.pdf) to the \$70.1 million figure proposed in the Budget (at 27).

City Supreme Court after a case is decided, indicating a staffing shortage. The time between filing final paperwork in an uncontested divorce to obtaining a judgment of divorce takes considerably longer, in some cases nearly a year. Although the Budget notes a goal “to rebuild [the] workforce to reach the pre-pandemic [staffing] levels,”⁹ there is little in the Budget permitting an accurate assessment of whether it is adequate to the task. Hopefully, the ongoing expansion of e-filing will make it easier to collect and present such data on a timely basis for budgeting purposes.

The City Bar supports the Budget’s attempt to maintain and enhance funding in certain areas, but there is more work to be done. We urge the Legislature to adopt the Budget, recognizing that additional resources should be committed to the Judiciary to ensure that the court system can deliver the level of fair and speedy justice that the residents of New York expect.

Council on Judicial Administration
Fran Hoffinger, Chair¹⁰

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⁹ Budget at ii.

¹⁰ Mitchell Berns, Fran Hoffinger, Sara Wagner, and Rick Scarola assisted in the preparation of this report.