NEW YORK CITY BAR ASSOCIATION

NEW YORK STATE LEGISLATIVE AGENDA

2025

WWW.NYCBAR.ORG

2025 NEW YORK STATE LEGISLATIVE AGENDA

The City Bar's **2025 New York State Legislative Agenda** is rooted in our mission 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. The agenda focuses on positions relevant to the current legislative debate or of particular importance to the City Bar, as well as legislative proposals drafted by our committees.[1] The City Bar's committees generate dozens of reports over the course of each legislative session and this agenda represents only a portion of those positions. For a full directory of City Bar reports, including positions on regulatory changes and our local, federal and international work, please visit our website.[2]

Contact:
Elizabeth Kocienda, Director of Advocacy | 212.382.4788 | ekocienda@nycbar.org
Mary Margulis-Ohnuma, Senior Policy Counsel | 212.382.6767 | mmargulis-ohnuma@nycbar.org
Raabia Qasim, Associate Policy Counsel | 212.382.6655 | rqasim@nycbar.org

[1] To further explore the agenda, please visit https://www.nycbar.org/issues/new-york-state-legislative-agenda/.

[2] *See* https://www.nycbar.org/reports/.

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.

TABLE OF CONTENTS

THE JUDICIARY, THE PROFESSION & THE FAIR, EFFECTIVE ADMINISTRATION OF JUSTICE 3

REPEAL THE POPULATION-BASED CONSTITUTIONAL CAP ON SUPREME COURT JUSTICES AND ADOPT A MODERN, FLEXIBLE, EVIDENCE-BASED METHOD OF ASSESSING NEW YORK'S JUDICIAL NEEDS 3

SUPPORT ENHANCED FUNDING AND SUPPORT FOR CIVIL LEGAL SERVICES IN THE JUDICIARY BUDGET 4

STRENGTHEN AND EXPAND RIGHT TO COUNSEL, ASSIGNED COUNSEL, AND SIMILAR STRUCTURES – INCLUDING VIA SUSTAINABLE PAY STRUCTURES 4

REFORM AND MODERNIZE THE ADMINISTRATION OF CLASS ACTIONS IN NEW YORK'S COURTS 5

PROVIDE INTERNET ACCESS TO INDIVIDUALS LIVING IN TEMPORARY HOUSING THROUGHOUT NEW YORK STATE TO ENSURE ADEQUATE ACCESS TO SERVICES 6

PERMIT NONRESIDENT ATTORNEYS TO PRACTICE IN NEW YORK WITHOUT MAINTAINING A PHYSICAL OFFICE IN STATE 6

GOOD GOVERNMENT 7

RAISE AND RESET EXPECTATIONS ABOUT STATE ETHICS ENFORCEMENT IN NEW YORK 7

CRIMINAL JUSTICE REFORM IN NEW YORK 8

ENACT THE COMMUNITIES NOT CAGES BILL PACKAGE 8

SUPPORT FOR PAROLE REFORMS 8

ENACT THE TREATMENT NOT JAIL ACT 9

CHILDREN & FAMILIES 9

PROTECT CHILDREN DURING CUSTODIAL POLICE INTERROGATIONS 9

ENACT THE ANTI-HARASSMENT IN REPORTING BILL 10

ADOPT A PARENTAL BILL OF RIGHTS IN CHILD PROTECTIVE SERVICES INVESTIGATIONS 10

REFORM AND IMPROVE NEW YORK FAMILY COURT FOR ALL LITIGANTS 11

BUSINESS & CONSUMER AFFAIRS 11

PRESERVE NEW YORK'S PREEMINENCE AS A LEADING COMMERCIAL JURISDICTION BY ENACTING THE NEW YORK EMERGING TECHNOLOGIES AMENDMENTS TO THE UNIFORM COMMERCIAL CODE 11

REGULATE THE USE OF NONCOMPETE AGREEMENTS FOR LOWER-SALARY EMPLOYEES 12

ENACT THE UNIFORM SPECIAL DEPOSITS ACT 13

THE JUDICIARY, THE PROFESSION & THE FAIR, EFFECTIVE ADMINISTRATION OF JUSTICE

REPEAL THE POPULATION-BASED CONSTITUTIONAL CAP ON SUPREME COURT JUSTICES AND ADOPT A MODERN, FLEXIBLE, EVIDENCE-BASED METHOD OF ASSESSING NEW YORK'S JUDICIAL NEEDS

New York State struggles with an insufficient number of judicial seats. 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, the lack of judicial resources stems in part from the population-based cap on the number of judges in each judicial district that is prescribed by the State Constitution. By capping the number of legislatively authorized Supreme Court seats within each judicial district to one justice per 50,000 people, the Legislature is left powerless to authorize additional seats to meet the growing and particular needs of the courts in such districts. 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 "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.[3]

To address this issue New York should adopt a constitutional amendment to repeal the cap on Supreme Court Justices.[4] The need for this amendment has been endorsed by Governor Hochul,[5] Chief Judge Wilson[6] and many other organizations and bar associations.[7] The City Bar urges the Legislature to give second passage to the amendment in the current legislative session so it can be put before voters in a timely manner.

In conjunction with repealing the cap on Supreme Court Justices, the City Bar supports legislation requiring that the OCA's Chief Administrative Judge analyze the caseloads and workloads of judges in each court throughout the court system and request changes when appropriate on an annual basis.[8] This data would help inform the Legislature in carrying out its constitutional duty to set the number of judicial seats in each court, giving OCA the responsibility to initially identify the need to change the number of judicial seats. Having an adequate number of judges in each court is essential to providing civil litigants with access to the court and to assure that all parties in criminal cases can pursue justice in the courts. In this era of metrics, the people of New York 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.

---

[3] *See* 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.

[4] *See* https://www.nycbar.org/reports/no-cap-act-supreme-court-justices/.

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

[6] *See* pg. 4, at https://www.nysenate.gov/sites/default/files/admin/structure/media/manage/filefile/a/2024-01/chief-administrative-judge.pdf.

[7] *See* https://www.nycbar.org/wp-content/uploads/2024/06/NoCapActSupporters.pdf.

[8] *See* https://www.nycbar.org/reports/ensure-adequate-judicial-resources-in-nys-courts-do-the-math/.

SUPPORT ENHANCED FUNDING AND SUPPORT FOR CIVIL LEGAL SERVICES IN THE JUDICIARY BUDGET

The City Bar is deeply committed to increasing access to justice and ensuring adequate resources for our justice system.[9] Civil legal services funding remains critically important, if not lifesaving, for New Yorkers of low income who cannot afford counsel. It translates into an individual or family moving from a homeless shelter to their own home or avoiding eviction or foreclosure to stay in their home; accessing public benefits, medical care, or other vital life essentials; or, in the case of the burgeoning community of asylum-seekers in New York, starting a new life away from the threat of persecution. Each victory in matters like these can and should make us proud. At the same time, civil legal services funding brings great value to New York's economy and is a sound investment. In its most recent fiscal year, City Bar Justice Center services realized $14.4 million in measurable direct financial benefits for clients, representing nearly a 300% return on investment relative to its budget – yet those benefits stemmed from less than 3% of total matters handled. Numerous successful matters – e.g., securing asylum, resolving a landlord/tenant or family law dispute – may not have a cognizable financial value, but have tremendous human value in freedom secured, rights vindicated, and stresses alleviated. In short, civil legal services funding both "does good" and is a good investment. By now, the civil legal services and nonprofit community is familiar with the 2019 report of the Permanent Commission on Access to Justice which presented a detailed analysis finding that Judiciary Civil Legal Services funding resulted in a return of $10 to our state's economy for every $1 of funding. Given this context, and the goal of extending and deepening New York's post-pandemic recovery, maintaining if not further increasing each dollar of that funding remains imperative. That is especially true as the safety net effects of pandemic assistance funding and the eviction and foreclosure moratoriums fade, and providers like the City Bar Justice Center see a rise in appeals for pro bono assistance across a range of civil matters for which such providers are the only recourse for hundreds of thousands of New Yorkers annually.

STRENGTHEN AND EXPAND RIGHT TO COUNSEL, ASSIGNED COUNSEL, AND SIMILAR STRUCTURES – INCLUDING VIA SUSTAINABLE PAY STRUCTURES

In addition to funding general civil legal services providers, it is critical that policies be supported that strengthen and expand right to counsel, assigned counsel, and similar structures – including with respect to counsel compensation.

New York City's Housing Court Right to Counsel (RTC) law was enacted in 2017 and has shown promising results, demonstrating that disturbing trends could be reversed. We must do more to support the RTC law and assure that all tenants who are entitled to counsel are able to obtain counsel and are connected with their lawyers as early in the eviction process as possible and that the legal services providers have sufficient resources and a pipeline of qualified attorneys to assure that all who are entitled are able to obtain representation. Moreover, tenants throughout New York State, not just tenants in New York City,

[9] *See* https://www.nycbar.org/reports/testimony-submitted-for-the-chief-judges-statewide-2024-civil-legal-services-hearing/?back=1.

should have a right to legal representation when they face eviction. The City Bar supports the passage of statewide RTC legislation.[10]

The City Bar also continues to endorse the statutory changes required to sustainably provide reasonable and equitable compensation for assigned counsel programs, including 18-B attorneys providing representation in Family Court, Surrogate's Court and Criminal Court, and Attorneys For Children (AFC). Failure to adequately fund the services of these attorneys has resulted in further marginalization of the thousands of indigent New Yorkers who rely on court appointed legal counsel for representation in matters of fundamental importance.

While the 2024-2025 state budget included salary increases for 18-B attorneys, this raise has not been sufficient to recruit the number of attorneys needed to fully serve New Yorkers in need. As a result, attorney caseloads remain high, and attorney shortages persist. Unlike their federal and state-employed counterparts, 18-B attorneys do not have a compensation structure that accounts for increasing wages over time, leading to further difficulties in recruiting and retaining attorneys. Additionally, the 2024-2025 budget failed to include a cost-of-living adjustment for 18-B attorneys. The high cost of living in New York State, particularly in New York City, encourages these attorneys to seek more lucrative opportunities elsewhere, often resulting in less time spent on their 18-B cases and further exacerbating the burden on an already overextended system.

AFC offices are severely underfunded yet handle over 90% of the legal representation of children in Family Court in New York City and other cities across our State. AFC offices have suffered essentially flat budgets for close to twenty years. Moreover, such funding conditions, coupled with the outrageously high caseload cap of 150 child clients per attorney, have driven experienced staff to resign and have severely hampered the ability of AFC offices to hire new staff. This, in turn, has impacted the ability of those offices to provide crucial legal representation to some of New York's most vulnerable children and young people. New York State must correct the gross funding inequity that has for years plagued the attorneys who represent children in our Family Courts. Substantially more funding is needed in order for AFC institutional providers to create sustainable, equitable workplaces, which in turn will ensure zealous advocacy and access to justice for the vulnerable youth whom they serve.

We believe that New York State must implement a sustainable compensation structure for assigned counsel — one that includes regular pay increases, as well as a cost-of-living adjustment. This will help ensure that these attorneys and their offices can devote the necessary time and resources to their clients, which will contribute to the equity essential for the fair administration of justice across the City and State.

REFORM AND MODERNIZE THE ADMINISTRATION OF CLASS ACTIONS IN NEW YORK'S COURTS

The City Bar supports amending Article 9 of the Civil Practice Law and Rules to reform and modernize the administration of class actions in New York's courts.[11] In 1975, New York enacted its current Article 9 for class actions, and the statute has not been materially changed since. Generally, the amendments would:

[10] *See* https://www.nycbar.org/reports/report-in-support-of-creating-a-statewide-right-to-counsel-in-eviction-proceedings/?back=1.

[11] *See* https://www.nycbar.org/reports/report-in-support-of-legislation-to-reform-and-modernize-the-administration-of-class-actions-in-new-yorks-courts/?back=1.

(1) permit class certification for actions demanding a statutory penalty or minimum measure of recovery; (2) amend language which disfavors class actions against governmental entities; (3) adopt language stating that motions for class certification be made "at an early practicable time" rather than within 60-days of a responsive pleading; (4) provide guidance with specified factors to be considered in appointing class counsel; and (5) provide a more flexible notice provision concerning discontinuance, dismissal or compromise of the class action. ***City Bar Proposal***

PROVIDE INTERNET ACCESS TO INDIVIDUALS LIVING IN TEMPORARY HOUSING THROUGHOUT NEW YORK STATE TO ENSURE ADEQUATE ACCESS TO SERVICES

We support legislation that would provide internet access to individuals residing in temporary housing throughout New York State.[12] Since May 2020, with the release of the City Bar Justice Center's report, "Homeless Need Internet Access To Find a Home: How Access to Internet and Technology Resources can Support Homeless Families Transition out of Homeless Shelters," the City Bar and the City Bar Justice Center have issued multiple reports and advocated for reliable internet access to be available to shelter residents as part of the #wifi4homeless campaign.[13] New York's shelters are overwhelmingly lacking internet access, an essential service which could reduce the length of residents' stays and facilitate their successful exit into permanent housing. Without reliable internet access, shelter residents cannot search and apply for permanent housing or jobs, participate in remote classrooms or complete assigned homework, apply for government benefits, stay connected to friends and family, access basic entertainment, or obtain necessary medical care. Many critical services have become reliant on internet-based platforms as we have moved to a hybrid world post-COVID. Everything from legal services and virtual court appearances to counseling and telehealth are now offered remotely and often preferred by service providers. Poor or no internet connectivity leaves many shelter residents unable to effectively participate in critical services needed for their well-being. This can lead to unnecessary interactions with the criminal justice and court systems, further straining overburdened systems. This legislation would represent a significant step forward by ensuring that all shelter residents across New York State are guaranteed reliable internet access.

PERMIT NONRESIDENT ATTORNEYS TO PRACTICE IN NEW YORK WITHOUT MAINTAINING A PHYSICAL OFFICE IN STATE

The City Bar supports the repeal of Judiciary Law § 470 to permit attorneys to be licensed to practice in New York without maintaining New York residency or office space.[14] Under Judiciary Law § 470, an attorney licensed in New York who maintains an office in state may practice in New York even if they are out-of-state residents. This antiquated residency requirement does not reflect the current reality of hybrid work and the virtual practice of law. With the increasing reliance on electronic court appearances and the desire from both lawyers and their clients to be able to meet remotely, the concept of forcing

[12] *See* https://www.nycbar.org/reports/support-for-legislation-providing-internet-access-to-individuals-living-in-temporary-housing-throughout-new-york-state/?back=1.

[13] *See* https://www.citybarjusticecenter.org/wp-content/uploads/2020/05/Homeless-Need-Internet-Access-to-Find-a-Home-2020-Report.pdf.

[14] *See* https://www.nycbar.org/reports/support-for-repealing-judiciary-law-470-allowing-nonresident-attorneys-to-practice-in-new-york/?back=1.

attorneys – who are overwhelmingly small and solo practitioners – to maintain expensive office space is unnecessary and does nothing to improve access to affordable legal services. The current law creates new motion practice gamesmanship, costing litigants needless legal expense, wasted time, and no tactical advantage. At the time of its enactment, the logic behind the rule was that it helped ensure personal service on a nonresident attorney. However, the Court of Appeals has acknowledged there are enough measures already in place outside of Judiciary Law § 470 to ensure proper service on a nonresident attorney, thus rendering Judiciary Law § 470 obsolete. Moreover, compliance with the current law is financially burdensome for nonresident attorneys and thus, again, increases clients' legal expenses without providing any clear benefit. With modern technology, the presence of a physical office address is not a determining factor of successful or professional representation, nor does it enhance attorney oversight or regulation. Removing the physical office requirement in New York will lower attorney costs, enhance access to justice, expand services offered and promote access to justice as a meaningful career choice.

GOOD GOVERNMENT

RAISE AND RESET EXPECTATIONS ABOUT STATE ETHICS ENFORCEMENT IN NEW YORK

The creation of the Commission on Ethics and Lobbying in Government (COELIG) as a replacement to the Joint Commission on Public Ethics (JCOPE) has provided the opportunity to "reset" public and state officers' and employees' expectations about state ethics oversight.[15] We urge the Legislature to continue to look critically at ethics oversight in New York and consider additional reforms as needed to ensure COELIG is operating in a way that is effective, transparent and fulfills its mission. Additional reforms could include prohibiting *ex parte* communications between Commissioners and the elected officials (or their representatives) who appointed them; requiring additional reporting on the campaign activity of lobbyists; and releasing financial disclosure statements as open data.[16]

The City Bar also supports efforts by COELIG to modernize ethics compliance. We have joined with good government groups to support legislation that will require electronic filing of all lobbying filings[17] and financial disclosure statements.[18] These bills will save state time and resources, reduce the potential for fraud, waste and abuse, and help increase transparency. The archaic paper filing system places a burden on both the state workers processing the requests, and on members of the public seeking information found in the forms. Requiring that lobbying filings and financial disclosure statements be filed electronically will expedite the process and greatly increase transparency.

- New for 2025 -

---

[15] *See* https://www.nycbar.org/reports/letter-to-celg-commissioners-about-resetting-expectations-about-state-ethics-enforcement-in-new-york/?back=1.

[16] *See* https://reinventalbany.org/wp-content/uploads/2022/03/Memo-to-Legislature-on-Ethics-Commission-Appointment-March-23-2022.pdf#page=5.

[17] *See* https://www.nycbar.org/reports/legislation-requiring-electronic-filing-of-all-lobbying-filings/?back=1.

[18] *See* https://www.nycbar.org/reports/legislation-requiring-electronic-filing-of-all-financial-disclosure-statements/.

CRIMINAL JUSTICE REFORM IN NEW YORK

ENACT THE COMMUNITIES NOT CAGES BILL PACKAGE

The City Bar supports enactment of the ***Communities Not Cages*** suite of bills.[19] These three sentencing reform bills are a long overdue overhaul of the most pernicious aspects of New York's sentencing laws. They also increase judicial discretion and should ultimately provide cost savings to the state.

- The ***Eliminate Mandatory Minimums Act*** allows judges to consider the individual before them in sentencing rather than requiring them to sentence people to predetermined sentences and reduces the potential for coercive pleas. Importantly, the bill establishes rehabilitation and successful reentry into the community as the purpose of sentencing, and it directs judges to impose the "minimum sentence necessary" to achieve those goals. Judges would be able to consider sentences that would be most effective in addressing the individual's behavior and the unique circumstances of the offense and enable more people to remain with their families and communities. Notably, the bill does not change New York's maximum allowable sentences, and judges could continue to impose long sentences in instances where they deem them appropriate.

- The ***Second Look Act*** would enable those currently incarcerated with long sentences to petition judges for reduced sentences. Under present New York law, there is almost no process for judges to reduce an incarcerated individual's sentence—no matter how much evidence there is that serving the remainder of that sentence would be fruitless for both the individual and the state. By providing an outlet by which indicators of rehabilitation could justify release, the Act would incentivize good behavior and participation in rehabilitative programming while ensuring that individuals do not languish in prisons for long sentences that do not benefit community safety.

- The ***Earned Time Act*** would enable those serving long sentences to earn credit to reduce their sentences by complying with prison rules and by participating in treatment, education, vocational training, and work programs. Incentivizing individuals to use in-prison programs that focus on self-improvement encourages rehabilitation. It will also help reduce recidivism rates and reduce New York's correctional costs.

As New York was the first state to enact harsh mandatory sentencing laws and provided other states a blueprint to do so, it is fitting for the state to lead the country in comprehensive sentencing reform that reduces mass incarceration.

SUPPORT FOR PAROLE REFORMS

Nearly 1 in 5 incarcerated people under the Department of Corrections and Community Supervision's (DOCCS) custody is serving a life or virtual life sentence (with a maximum sentence of 50 years or more) – a total of over 9,000 people. Of this group, over 1,200 are serving a sentence of life without parole or a virtual life without parole sentence (a minimum term of 50 years or more) and are effectively sentenced to die in prison without any individualized review or public safety assessment. Even as the total DOCCS' population has fallen by more than 30 percent since 2000, the number of older people in prison has more

[19] *See* https://www.nycbar.org/reports/communities-not-cages-act/?back=1.

than doubled during the same time period as a result of these long sentences. There are now over 10,000 people aged 50 and older and over 5,700 people age 55 and older in DOCCS' custody. They represent more than 20 percent of all people in New York's prisons. Older incarcerated people often have serious health problems and the cost of incarcerating them is conservatively estimated to be $1 billion per year.

Years of evidence, including decades of DOCCS' own data, shows that people age out of crime, and that older people pose the lowest risk of recidivism when released. The ***Elder Parole bill*** would permit the Board of Parole to evaluate all incarcerated people over the age of 55 who have served at least 15 years in prison for possible parole release. It does not mandate release, but allows the Board to make an individualized public safety assessment to determine whether an individual is safe to be released to parole supervision even if he or she has not completed the court-imposed minimum term. We urge the Legislature to pass this sensible reform that allows the parole board to consider release for this population, which would permit consideration of an individual's own rehabilitative process, changing norms around sentencing, and an acknowledgement of the unnecessary harshness of imprisoning people well past the age where they are likely to commit further crimes.[20]

ENACT THE TREATMENT NOT JAIL ACT

Despite the fact that large numbers of people with mental health disorders are funneled into and through the criminal justice system, the criminal legal system is not structured to assist people with significant mental health problems and address their needs. A recent study found that half of all people incarcerated in New York City jails had a mental illness; the State prison system is similar, with more than 14,000 incarcerated in State prisons who suffer from mental illnesses. The ***Treatment Not Jail Act*** would help ensure that people who come into contact with the criminal justice system receive appropriate therapeutic treatments for various functional impairments, including mental health disorders and substance use disorder by expanding diversion courts in several ways.[21] The Treatment Not Jail Act would create a new norm to address mental health disorders in a manner that is humane, just, and will also increase public safety by addressing some of the pressures that cause people to commit crimes.

CHILDREN & FAMILIES

PROTECT CHILDREN DURING CUSTODIAL POLICE INTERROGATIONS

The City Bar supports legislation to protect children during custodial police interrogations. Youth are uniquely vulnerable to making an unknowing, unintelligent, or involuntary waiver of their Miranda rights and of providing unreliable or false confessions.[22] The proposed legislative amendment defines key terms in the current law and provides additional safeguards to protect the Constitutional rights of children. The amendment defines when the police must contact the youth's parent or guardian and requires that a youth subjected to custodial interrogation first consult an attorney. New York's current interrogation law

[20] *See* at "Age 55 bill," https://www.nycbar.org/reports/a-pathway-out-of-mass-incarceration-and-towards-a-new-criminal-justice-system-recommendations-for-the-new-york-state-legislature/?back=1.

[21] *See* https://www.nycbar.org/reports/support-for-the-treatment-not-jail-act/?back=1.

[22] *See* https://www.nycbar.org/reports/legislation-to-protect-children-during-custodial-police-interrogation/?back=1.

fails to protect children, despite their well-known vulnerabilities, as recognized by passage of recent legislative reforms, such as Raise the Age, that center on where a young person is in their development in approaches to public safety. The effect of New York's current approach is disproportionately visited upon Black and Latino youth subject to custodial interrogations. New York's youth justice system continues to be marked by deep racial and ethnic disparities from arrest to case resolution. An attorney can assist youth in understanding their legal rights and the potential consequences of waiving those rights.

ENACT THE ANTI-HARASSMENT IN REPORTING BILL

Under current state law, anyone may call the child maltreatment hotline, for any reason, and anonymously lodge a report of abuse or neglect. Because members of the public are not required to provide any identifying information, this results in many false and malicious reports of child maltreatment. The ***Anti-Harassment in Reporting Bill*** (also known as the *Confidential Reporting Bill*) would benefit children and families by ending the anonymous reporting of alleged child maltreatment and requiring all reporters to identify themselves, thereby deterring false and malicious reporting. The bill provides that reports will continue to remain confidential, except for the investigating child protective specialists. Reports of child abuse and neglect, and the resulting investigations, cause varied and long-lasting harms to children and their families. Reports show that the majority of calls to child abuse hotlines result in no findings of child maltreatment, and many are made for the purpose of harassment. False allegations of child abuse or neglect have a particularly detrimental impact on families of color, who have a history of overrepresentation and disparate treatment within family court and child protective service systems. Families of color are more likely to be reported to and investigated by child protective services, and have higher rates of family separation and foster care placement once involved with the child protective system. The City Bar argues this bill would improve our system for reporting and investigating child maltreatment, and would represent an important step toward reducing the disparate impact of the child welfare system on Black, brown and Indigenous families.[23]

ADOPT A PARENTAL BILL OF RIGHTS IN CHILD PROTECTIVE SERVICES INVESTIGATIONS

The City Bar supports amending the Social Services Law to require child protective services to orally disclose certain information to parents and caretakers who are the subject of a child protective services investigation.[24] The bill ensures that investigators retain all existing legal authority to protect children and acknowledges the possibility that emergency circumstances may exist, while also providing parents the information they need to protect their families from unwarranted intrusion. Specifically, the bill requires child protective investigators to inform parents and caretakers of certain rights and information at the beginning of a child protective investigation, including that unless court-ordered, the parent is not required to permit the child protective investigator to enter their residence; that the parent is entitled to be informed of the allegations against them; that the parent is not required to speak to the child protective investigator, and any statements made to the investigator may be used against the parent in an administrative or court proceeding, and that the parent is not required to permit the investigator to interview the child or children. The bill also requires a child protective investigator to inform the parent

[23] *See* https://www.nycbar.org/reports/bill-to-reduce-false-child-maltreatment-reports/?back=1.

[24] *See* https://www.nycbar.org/reports/report-in-support-of-a-parental-bill-of-rights-in-child-protective-services-investigations/?back=1.

of their right to seek the advice of an attorney and have that attorney present when the parent is interviewed by the child protective investigator. This plain language "Parental Bill of Rights" bill does not create any new rights, but ensures that parents under government investigation know their rights before giving authorities access to their children, homes and medical information.

REFORM AND IMPROVE NEW YORK FAMILY COURT FOR ALL LITIGANTS

Long-standing, deep inequities in New York's historically under-resourced Family Court has left that court ill-equipped to respond quickly, consistently, fairly and comprehensively to the needs of all litigants, particularly since the outbreak of the COVID-19 pandemic.[25] Family Court primarily serves unrepresented litigants, lower-income families and communities of color. As found by Secretary Jeh Johnson in his 2020 Equal Justice report and our members who work in and study the Family Court,[26] Family Court operates as a second-class system of justice.

The City Bar has made recommendations to improve the conditions in Family Court that are achievable and necessary and already subject to broad consensus among Family Court stakeholders. Recommendations include calls for Family Court to adopt NYSCEF e-filing; provide regular statistical reporting; enact uniform rules; expand technological capabilities for remote proceedings and for communications with stakeholders; act expediently to provide all lawyers who work in the Family Court with UCMS access; move judges, staff, and other resources from other trial courts as necessary and appropriate to tackle backlogs and delays; and expand judicial resources and management training for jurists. We also encourage the court system to provide clear, public-facing information regarding implementation efforts, monitoring, and how stakeholders can regularly provide input as part of the process.[27]

Additional Family Court judges and personnel will help ameliorate some of the backlog; however, in order to comprehensively and effectively tackle the inequities in Family Court, all three branches of government will need to be committed to that goal and will need to work collaboratively with all stakeholders to get there.

BUSINESS & CONSUMER AFFAIRS

PRESERVE NEW YORK'S PREEMINENCE AS A LEADING COMMERCIAL JURISDICTION BY ENACTING THE NEW YORK EMERGING TECHNOLOGIES AMENDMENTS TO THE UNIFORM COMMERCIAL CODE

New York commercial and financial law has unique respect for freedom of contract and strong protections for the negotiability of commercial instruments. This has long made New York the preferred U.S. jurisdiction for paper-based commercial and financial transactions; however, this is not the case for

[25] *See* https://www.nycbar.org/reports/the-impact-of-covid-19-on-the-new-york-city-family-court-recommendations-on-improving-access-to-justice-for-all-litigants/?back=1.

[26] *See* https://www.nycourts.gov/LegacyPDFS/IP/ethnic-fairness/pdfs/FHW%20-%20Report%20on%20the%20NYC%20Family%20Courts%20-%20Final%20Report.pdf.

[27] *See* https://www.nycbar.org/reports/testimony-on-new-york-state-family-court/?back=1.

transactions involving digital assets. Enacting the ***New York Emerging Technologies Amendments***[28] is necessary to preserve New York's preeminence as a leading commercial jurisdiction by adapting New York's Uniform Commercial Code (UCC) to recent and potential future developments in technology and related new methods of doing business. The amendments will promote and encourage technological and commercial advances that decrease transactional costs and enhance the efficiency, certainty and security of commercial and financial transactions governed by the New York UCC. The importance of these improvements to the New York UCC cannot be overstated. Technological and commercial advances that decrease transactional costs and enhance the efficiency, certainty and security of commercial and financial transactions are major factors that are considered when market participants are deciding whether to choose New York as the governing law and the jurisdiction to resolve disputes and whether businesses will decide to locate their businesses in New York.

The amendments will also help ensure New York's leadership in commercial and financial progress and growth and will disincentivize migration of digital commerce to other jurisdictions which more clearly promote and encourage technological and commercial advances. The New York UCC has not been updated since 2014 and there have been many important advancements in technology since that time. New York is now in a position where it must act expeditiously to enact the New York Emerging Technologies Amendments. As of the issuance of this agenda, 24 states and the District of Columbia have already modernized their UCCs, and further delays by New York could mean loss of revenue from digital technologies related transactions for New York.[29] It could also mean further damage to the reputation of New York as a leader in commerce and finance. It is likely that some states and some countries (such as England, which has already reformed their commercial laws) are already challenging New York as a leader in emerging technologies and electronic transactions. It is therefore essential that New York adopt the New York Emerging Technologies Amendments this session. ****City Bar Proposal****

REGULATE THE USE OF NONCOMPETE AGREEMENTS FOR LOWER-SALARY EMPLOYEES

New York now stands alone as an outlier in trade secrets law. Federal law under the Defend Trade Secrets Act and the laws of 49 states under their versions of the Uniform Trade Secrets Act impose statutory requirements and restrictions on trade secrets issues—except in New York, the lone remaining common law jurisdiction in the country. New York has no statutory law generally concerning trade secrets or noncompete agreements. The City Bar proposes a limited—but important—change to New York's unique status as a common law jurisdiction—namely, enactment of a statute to regulate the use of noncompete agreements as applied to lower-salary employees (as opposed to a complete ban on noncompetes) in order to ensure equity and fairness in employment markets while preserving New York's traditional role as the nation's commercial leader.[30] More formal guidelines and standards are necessary to ensure

[28] *See* https://www.nycbar.org/reports/ny-emerging-technologies-amends-ucc/.

[29] *See* https://www.nycbar.org/issues-policy/policy-department-resources/talking-points-resources-ny-emerging-technologies-amendments-to-the-ucc/.

[30] *See* https://www.nycbar.org/reports/legislating-fairness-regulating-the-use-of-noncompete-agreements-for-lower-salary-employees/?back=1. *See also* https://www.nycbar.org/reports/letter-to-governor-hochul-in-opposition-to-ban-on-non-competition-agreements/?back=1.

fairness in the application of noncompete agreements that can have profound consequences for employees and for regulation of the employment market.

ENACT THE UNIFORM SPECIAL DEPOSITS ACT

The City Bar supports enacting the ***Uniform Special Deposits Act*** in New York as promulgated by the Uniform Law Commission in 2023 (the "Act").[31] The Act would create a versatile new type of bank account – a "Special Deposit" – to ensure the safety and certainty of trillions of dollars of common transactions engaged in by New York consumers and businesses every day. The Act will permit depositors and their banks to "opt-in" to clear statutory rules that will protect a Special Deposit from premature creditor interference or the bankruptcy of the depositor. By eliminating unnecessary litigation risks that exist under current law, the Act will make Special Deposits much more useful and certain for the funding of transfers where final disbursement of the funds is contingent on some future event. In particular, the Act will (1) give banks and their customers a flexible payment mechanism to ensure safe, secure and efficient payments to account beneficiaries; (2) protect all parties from uncertainties under existing law, including depositor bankruptcy risks and premature creditor claims; and (3) enhance New York's status as a preeminent commercial jurisdiction by giving banks a valuable new service to offer their customers and by avoiding the loss of business to other states that may adopt the Act. The Act does not replace existing law, but only supplements the law by allowing banks and their customers to take advantage of Special Deposits if they choose to do so. Except as otherwise provided, the Act preserves freedom of contract and application of general rules of commercial law.

- New for 2025 -

[31] *See* https://www.nycbar.org/reports/uniform-special-deposits-act-new-york/?back=1.