



STATE CAPITOL



NEW YORK STATE BAR ASSOCIATION  
LEGISLATIVE PRIORITIES  
2011



# NEW YORK STATE BAR ASSOCIATION

**Integrity of New York's Justice System.** An independent, well-functioning judicial system, accessible to all, is a bedrock principle of our democracy. The courts, more than any other arm of government, are the bulwark of liberty. As the State of New York faces the challenges and limitations presented by a down economy, the Governor and Legislature must ensure that adequate resources are provided so that the courts can meet their essential role.

For the courts to properly meet their essential role, all segments of society must have access to the courts. An independent judiciary is meaningless if the aggrieved cannot come before it. An independent judiciary also relies upon effective counsel. Despite the many pro bono hours attorneys provide to the indigent each year, adequate government funding is necessary to ensure access to the justice system for the poor and most vulnerable. State supported funding for civil legal services for the poor remains inadequate. Adequate funding provided by a dedicated revenue stream is necessary and prudent. The Judiciary's proposed 2011-12 budget recognizes the substantial unmet need for civil legal services throughout the state and includes \$25 million to begin implementation of recommendations to address the need. The investment of resources to promptly protect individual rights will save substantial dollars that would otherwise be spent by government for social services, housing and other programs.

Further, in too many areas of the state, the current public defense system has not served the criminal justice system well. The right to the effective assistance of counsel is guaranteed by both the federal and state constitutions. Because of concerns that constitutional standards are not being met in all circumstances, the recently created Office of Indigent Legal Services should be well funded in order to carry out its mission. Areas to be addressed include the adoption of standards, and evaluation of existing programs and service providers to ensure the fair and efficient operation of New York's public defense system.

Wrongful convictions cast serious doubt on a fundamental assumption of our criminal justice system – that the innocent are protected. Steps must be taken to lessen the likelihood of wrongful convictions. It is essential that our criminal justice system ensure that the innocent remain free and that the guilty are not free to commit more crimes. Moreover, the eradication of wrongful convictions is essential to maintain the public's trust and confidence in our criminal justice system.

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To this end the Association has drafted a package of legislation that, if enacted, would eliminate some of the common causes of wrongful convictions. This legislation addresses the following areas: establishing a procedure for law enforcement to follow when conducting eyewitness identifications; vacating a conviction based on the discovery of new DNA evidence; monetary remedies for those wrongfully convicted; evidentiary treatment of informant testimony; mandating the electronic recordation of custodial interrogations; and the treatment of exculpatory material by the government.

**Ethics and New York State and Local Government.** All those who serve in or seek to serve in public office should promote and enhance the public's trust and confidence in government by adhering to the highest ethical standards. The Association's Task Force on Government Ethics studied and reported on issues relating to public sector ethics laws, focusing on i) improving the structure of the state's enforcement mechanisms in the area of ethics, consistent with our notions of fairness and due process; ii) enhancing the ability of state prosecutors to bring criminal charges where a public official fails to provide honest services to the public; iii) enhancing the requirements of public disclosure where needed to increase transparency and the public's knowledge of potential conflicts; and, iv) modernizing the ethics laws applicable to municipal government.

The Task Force report, which was approved by our House of Delegates on January 28, 2011, makes recommendations intended to increase the public's confidence in government.

**Marriage Equality for Same-Sex Couples.** Under the current state law, there are significant differences in the legal treatment of marital relationships and committed same-sex relationships in a wide range of matters such as property rights, financial support, responsibilities to children, health care, social security, long-term care, domestic violence, access to the court system, and other issues. The Association continues to support legislative resolution of this issue.

**Support for the Legal Profession.** A core mission of the New York State Bar Association is to represent the interests of the legal profession. In that regard, the Association will work to protect the independence of the judiciary, enhance access to the courts, promote affirmative legislative proposals that benefit the profession, and oppose those proposals that would burden it. The Association will work to ensure that attorneys are able to protect their clients' interests and effectively engage in the practice of law.



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