



NEW YORK STATE
Unified Court System
OFFICE OF COURT ADMINISTRATION

Agency Bldg., 4., 20th Floor, ESP
Albany, New York 12223 (518) 453-8680

HON. JOSEPH A. ZAYAS
CHIEF ADMINISTRATIVE JUDGE

HON. NORMAN ST. GEORGE
FIRST DEPUTY CHIEF ADMINISTRATIVE JUDGE

DAVID NOCENTI
COUNSEL

MARC C. BLOUSTEIN
LEGISLATIVE COUNSEL

February 21, 2024

Hon. Latrice M. Walker
Assemblymember
Legislative Office Building, Room 713
Albany, NY 12248

Dear Member Walker:

During my testimony regarding the Judiciary Budget before the Legislature at the recent joint fiscal committee public protection hearing, you raised questions regarding how much funding the Office of Court Administration (“OCA”) included in the current and prior budgets for access to counsel in foreclosure proceedings under CPLR 3408.

The Judiciary’s present budget request includes an appropriation of \$104.5 million for civil legal services. In addition to other important outreach, this funding will help support the work of approximately sixty-one different organizations that advise, counsel, and/or represent clients defending themselves in housing and foreclosure matters. Many of these programs also participate in the Homeowner Protection Program (HOPP), which, since 2012, has funded foreclosure prevention services directly from the Executive Budget. HOPP has been administered by the Office of the New York State Attorney General. Last year, this funding totaled approximately \$35-40 million.

It has been suggested that CPLR 3408(b) established a right to counsel for unrepresented homeowners. Although this important reform mandates settlement conferences in all residential foreclosure matters and requires that all unrepresented defendants be deemed to have made a motion to proceed as a “poor person”¹ under CPLR 1101, CPL 3408(b) only instructs the court to determine whether such motions should be granted under the normal standard. CPLR 1102(a), in turn, provides that “[t]he court in its order permitting a person to proceed as a poor person *may* assign an attorney.” *Id.* (emphasis added). However, unlike Assigned Counsel Plan or “18-B” attorneys for criminal matters, no such panel or associated funding currently exists specifically for foreclosure proceedings.²

¹ OCA legislative program bill #80R1 would amend CPLR 1101 to eliminate the outdated term “poor person” and replace it with updated language explaining the process whereby certain individuals may move courts to waive litigation costs, fees, and expenses and to have counsel appointed.

² Compare *New York City Hous. Auth. (NYCHA) v. Johnson*, 148 Misc. 2d 385 (App. Term 1st Dep’t 1990) (holding indigent tenant evicted from public housing was not entitled as matter of due process to appointed counsel;

Currently, in accordance with CPLR 3408, courts provide unrepresented homeowners with information about local civil legal service providers and housing counselors, including those funded by the HOPP program and the Judiciary budget as discussed above. These programs provide representation to a significant percentage of such defendants—especially during the initial conference phase where cases often settle with homeowners remaining in their homes.

As such, an effective strategy to better ensure that homeowners have access to legal advice and representation is through continued support of HOPP and the Judiciary's Civil Legal Services budget. Together these will help to better connect providers and housing counselors with unrepresented defendants throughout the state.

I hope the foregoing addresses your questions. Please contact me if I can provide further information.

Very truly yours,

A handwritten signature in black ink, appearing to be the initials 'JW' or similar, written in a cursive style.

CC: Senator Liz Krueger
Assemblywoman Helene Weinstein

tenant's property interest and continued possession were significant but not so fundamental as to create constitutional right to counsel), *Y.H. v. E.S.*, 76 Misc. 3d 398, 403 (Sup. Ct. Putnam Cnty. 2022) (collecting cases) (noting that without statutory authorization, state courts cannot direct compensation for assigned counsel) *with* County Law Art.18-B, Judiciary Law § 35.



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MARC C. BLOUSTEIN
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February 21, 2024

Hon. Shelley B. Mayer
Chair
NYS Senate Education Committee
Legislative Office Building, Room 509
Albany, NY 12247

Dear Senator Mayer:

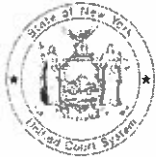
During my testimony regarding the Judiciary Budget before the Legislature at the recent fiscal committee public protection hearing, you inquired about the means by which participants in Family Court can provide feedback concerning their court experience. Specifically, you asked how they can do so when the proceedings have been virtual.

Our feedback program is in its early stages at this point. We have thus far provided signage in many Family Court courthouses, advising members of the public how their questions or complaints regarding treatment by judges and court staff can be heard. We have not, however, yet developed a means by which participants in virtual proceedings can similarly be informed about this process for providing feedback. We are now exploring various possibilities and we hope to have an effective system in place before too long. I will keep you posted regarding this effort.

I hope this is responsive to your question during the hearing. Please feel free to contact me if you have any further questions.

Very truly yours,

CC: Senator Liz Krueger
Assemblywoman Helene Weinstein



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February 21, 2024

Hon. Jessica Ramos
Chair
NYS Senate Labor Committee
Legislative Office Building, Room 307
Albany, NY 12247

Dear Senator Ramos:

During my testimony regarding the Judiciary Budget before the Legislature at the recent fiscal committee public protection hearing, you brought up mental health courts and their funding, and expressed a desire to see an increase in that funding.

As I mentioned at the hearing, while the Judiciary is responsible for the operation of these courts, there is a real need for more programs that can provide the mental health treatment services that are required by mental health court participants. Funding for these programs is mainly the responsibility of local governments. The materials accompanying the Governor's 2025 Executive Budget indicate that it includes funding for both components of the treatment court model: there is \$6.2 million to provide mental health specialists and peers in mental health courts, along with \$2.8 million to provide housing and other support to individuals with mental illness who are either homeless or involved in the criminal justice system (or both), and \$9.6 million to expand the work of forensic teams that support individuals with mental illness in the community. I encourage you to reach out to the Executive Branch for more information regarding this funding.

I hope this information is helpful, and I look forward to working with you and your colleagues to ensure that both the mental health courts and the mental health treatment providers have the funding they need to expand the reach of their vital work. Please feel free to contact me if you have any further questions.

Very truly yours,

CC: Senator Liz Krueger
Assemblywoman Helene Weinstein



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February 21, 2024

Hon. Jamaal T. Bailey
Chair
NYS Senate Codes Committee
Legislative Office Building, Room 609
Albany, NY 12247

Dear Senator Bailey:

During my testimony regarding the Judiciary Budget before the Legislature at the recent fiscal committee public protection hearing, you asked whether the last year's increase in compensation for 18-B attorneys and attorneys for the child ("AFC") has resulted in an increase in the number of these attorneys.

In response, I shared my belief that, since the rate increases took effect, there may have been a negligible increase in the number of attorneys available to provide representation but promised to look into the matter further and to get back to you with more specific information.

I can now advise you that, at the present time, there are 1,575 AFC panel attorneys statewide. This number actually reflects 180 fewer attorneys than last year – or a *reduction* of 10 percent – and over 625 fewer attorneys than there were just six years ago, in 2018.

As for 18-B attorneys, we are told by the Office of Indigent Legal Services that, while they do not have specific numbers for all counties across the State, there is anecdotal evidence to suggest that there has in fact been a slight uptick in the number of such attorneys providing representation.

While these trends are not what we might have hoped for, it has been less than a year since the compensation rate increase was enacted into law, so I think we should be cautious about drawing any firm conclusions at this point as to the long-term impact of this increase upon the number of attorneys willing to provide AFC and Article 18-B representation. We will continue to monitor these numbers. In the meantime, we remain committed to making every other effort to recruit more 18-B attorneys and AFCs.

I hope the above information is helpful, and I look forward to working with you on these important issues. Please contact me if I can provide further information.

Very truly yours,

CC: Senator Liz Krueger
Assemblywoman Helene Weinstein



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February 16, 2024

Hon. Charles D. Lavine
Chair
NYS Assembly Judiciary Committee
Legislative Office Building, Room 831
Albany, NY 12248

Dear Chair Lavine:

During my testimony regarding the Judiciary Budget before the Legislature at the recent fiscal committee public protection hearing, you raised two questions, which I promised to answer in subsequent correspondence.

First, in our budget, we call for the establishment of 28 new Family Court judgeships during the current legislative session. You asked about the cost of these 28 judgeships. That cost to the State would be \$11.6 million during fiscal year 2024-25. This amount includes quarter-year funding for the new judges (*note*: our proposal contemplates that the judgeships would be effective January 1, 2025); and half-year funding for approximately 220 nonjudicial staff to support them. The full annual cost of the judgeships and staff would thereafter be \$36.4 million.¹

Second, you raised a question about the Governor's proposal for enactment of a Judicial Security Act (the "Act"). Specifically, you inquired concerning who could apply thereunder for protection of their personal information. Under section 859(1) of the Act, the following individuals are eligible to apply for such protection:

- actively employed or former Unified Court System ("UCS") judges and judges of the NYC Civil Court Housing Part;
- Federal judges (including senior, recalled or retired Federal judges) who sit or maintain chambers in New York;
- actively employed or former UCS court clerks and court security personnel (together with locally employed personnel who furnish court security pursuant to contract with the UCS);

¹ Note that this cost *does not* include whatever local fiscal impact there would be on account of the need to provide facilities for these judgeships.

- other actively employed or former nonjudicial UCS staff who have been designated by the Chief Administrative Judge either because there is evidence of a threat toward them or their duties warrant designation in order to provide for their safety and security;
- actively employed or former Federal Court clerks and employees of the US Marshal Service serving in New York; and
- other actively employed or former Federal Court employees of a court established in New York who have been designated by the appropriate administrative authority for the Federal Courts either because there is evidence of a threat toward them or their duties warrant designation in order to provide for their safety and security.

Under proposed section 859(2) of the Act, all of the foregoing can apply for the privacy protections afforded by the Act for themselves and for members of their immediate families.

There are some similarities between the Governor's proposal and the bill you have sponsored (A. 5048) that passed the Assembly last year. Both would accord judges and certain other court personnel an opportunity to shield their personal addresses. But there are major differences, too. These include differences in the personnel eligible for protection (*e.g.*, the Governor's proposal protects retired as well as active personnel while A. 5048 protects only active personnel; A. 5048 protects practicing attorneys while the Governor's proposal does not); and, most significantly, A. 5048 only affords court personnel with a means by which to substitute the Secretary of State as a designated addressee for them while the Governor's proposal is a broad "anti-doxxing" measure that gives court personnel a means by which to compel the removal of personal information from the Internet.

I hope I have answered your questions, and I look forward to working with you on both the judicial security legislation and our efforts to increase the number of Family Court judges. Please contact me if I can provide further information.

Very truly yours,

A handwritten signature in black ink, appearing to be the initials 'JW' or similar, written in a cursive style.

CC: Senator Liz Krueger
Assemblywoman Helene Weinstein



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MARC C. BLOUSTEIN
LEGISLATIVE COUNSEL

February 13, 2024

Hon. Kristen Gonzalez
Chair
NYS Senate Internet and Technology Committee
Legislative Office Building, Room 817
Albany, NY 12247

Dear Senator Gonzalez:

During my testimony regarding the Judiciary Budget before the Legislature at the recent fiscal committee public protection hearing, I promised to provide you with more information about the Judiciary's ongoing court modernization efforts.

In October 2023, we created a Division of Court Modernization ("DCM") to administer a Court Modernization Initiative that had been instituted in 2019 to promote and oversee the introduction of modern technology in courtrooms and courthouses throughout the State. DCM's goal is to facilitate the full participation of all stakeholders in the justice process through the use of innovative technology.

As of this time, DCM has accomplished the following:

- Nearly 80% of the over 1,500 courtrooms across the State have had basic audio system upgrades. Approximately 100 of the remaining 300 courtrooms will be upgraded in FY 2025.
- Acoustic treatments have been piloted in 20 courtrooms (including those in Bronx, Kings, Nassau, and Oneida Counties) to decrease echoing and improve sound quality. As many as 50 more courtrooms will be similarly outfitted in FY 2025.
- In the months ahead, Assistive Listening Systems to aid the hearing impaired will be installed in each courtroom and jury room across New York City and in various upstate locations. At present, 81% of the courtrooms in New York are so outfitted.
- Every courtroom in the New York City Civil Court is now equipped with a mobile videoconferencing cart. Other courts are in various stages of upgrade – with the introduction of video monitors and cameras. These include Supreme Court civil term

courtrooms in New York, Kings, and Suffolk Counties, and in the Fifth Judicial District, and in the Saratoga County Family Court. In FY 2025, DCM looks to complete similar upgrades in all courtrooms used by the Court of Claims.

- Through funding from the Queens County District Attorney, advanced evidence presentation systems and videoconferencing systems that support high-quality, in-person, and hybrid court operations have been installed in all Queens Supreme Court criminal parts. Efforts are also underway to collaborate with District Attorneys in other counties to achieve the same ends.
- Digital signage and Help Center solutions are being installed in courthouses across the State, initially in Family Courts and Housing Courts.
- User-friendly technology and tools for jurors are being installed in courthouses to help increase productivity and accessibility during juror orientation, jury selection, trials, and juror deliberations.
- In the months ahead, DCM will open a western regional office, which will help support the rollout of new technology statewide.

I hope this information will be helpful to you. I look forward to working with you and your colleagues to assure that the New York State court system is equipped with the technology needed to facilitate virtual proceedings, support courtroom operations, and promote greater public access to court proceedings. Please contact me if I can provide further information.

Very truly yours,

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CC: Senator Liz Krueger
Assemblywoman Helene Weinstein



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February 13, 2024

Hon. Alex Bores
Assemblymember
Legislative Office Building, Room 431
Albany, NY 12248

Dear Member Bores:

During my testimony regarding the Judiciary Budget before the Legislature at the recent joint fiscal committee public protection hearing, you asked how the Office of Court Administration (“OCA”) is prioritizing the digitization of court documents and filings.

The Unified Court System (“UCS”) has made significant progress in this area over the preceding decades with the steady expansion of electronic filing (“e-filing”) through the New York State Court Electronic Filing program (“NYSCEF”). NYSCEF has now been successfully implemented in Supreme Court (Civil Term) in sixty-one counties, all Surrogate’s Courts, the Court of Claims, the New York City Civil Court (for limited case types), Family Courts in ten counties, and all four departments of the Appellate Division. This growth has been accomplished pursuant to a series of legislative approvals and renewals — most significantly, the 2015 enactment of chapter 237, which gave broad authority to the Chief Administrative Judge to direct the use of e-filing in various courts, including in Supreme Court in any county, in all but a small number of case types.

The COVID-19 public health emergency demanded that OCA rapidly build on this progress. Digitization and access to electronic documents were critical to keeping the courts open while improving overall system resiliency. For approximately three hundred courts located across the state where e-filing had not yet been authorized or implemented, OCA’s Divisions of Technology and E-Filing developed the Electronic Document Delivery System (“EDDS”)—a secure web-based document transmission program that allows court users to submit documents to a court clerk’s office. EDDS — which is still operating and has facilitated well over three million filings since May 2020 — addressed the exigencies that were the impetus for its creation. However, it has its limitations. Specifically, it lacks NYSCEF’s robust functionality and integration into the court system’s case management program. This only further supports our conclusion that additional expansion of e-filing through NYSCEF is desperately needed.

OCA has more recently focused on expanding NYSCEF in the Family Courts and is simultaneously renewing its efforts to bring e-filing to the superior criminal courts.¹ Regarding the latter, we have been carefully engaging with all stakeholders—including prosecutors, institutional defenders, the private defense bar, and county clerks. As we finalize the NYSCEF application pages and plan the roll out, we are working with these criminal court users as well as judges, court staff, and technological experts to build a secure, user-friendly system that will streamline processes, create efficiencies, and provide the necessary functionality to be implemented successfully statewide.

To strengthen our efforts to expand NYSCEF, we have submitted OCA Program Bill #9 (a copy of which is enclosed). This legislation would give the Chief Administrative Judge broader permanent authority to institute voluntary and mandatory e-filing statewide without limitation as to court or case type. In exercising this authority, the Chief Administrative Judge would have to continue to safeguard the rights of unrepresented litigants and consult with all interested parties, including the County Clerks and other relevant stakeholders, before implementing e-filing in a new jurisdiction. Only with passage of this measure could OCA truly move beyond the stopgap-measure of EDDS to provide the modern digitized filing system New York State deserves and needs.

I hope I have answered your questions. Please contact me if I can provide any further information.

Very truly yours,

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Assemblywoman Helene Weinstein

¹ Further legislative authorization would be necessary to include lower criminal courts, such as the New York City Criminal court, as well as the city, district, town, and village courts. See OCA Program Bill #9 §§ 7-10.