

**2013 Annual Report
New York State Senate
Judiciary Committee**



Senator John J. Bonacic, Chairman

**Senator Ruth Hassell-Thompson, Ranking Minority
Member**

January 8, 2014

Senator Dean Skelos
Majority Coalition Leader
New York State Senate
Room 330 Capitol
Albany, New York 12247

Senator Jeffrey Klein
Majority Coalition Leader
New York State Senate
Room 432 Capitol
Albany, New York 12247

Dear Majority Coalition Leaders Skelos and Klein:

As Chairman of the New York State Senate Judiciary Committee, I am pleased to present to you the Committee's 2013 Annual Report.

The attached report details the New York State Senate Judiciary Committee's activities over the past year. I would like to thank the Ranking Minority Member, Senator Ruth Hassell-Thompson, for her hard work and attentiveness to this committee. I would also like to thank the members of the committee for their participation and commitment.

I look forward to working with the members of the New York State Senate Judiciary Committee to ensure that we continue to move in a positive, productive direction in 2014.

Sincerely,

A handwritten signature in black ink that reads "John J. Bonacic". The signature is written in a cursive style with a large, sweeping initial "J".

JOHN J. BONACIC
State Senator

Committee Members

Senator John J. Bonacic, Chairman
Senator Ruth Hassell-Thompson, Ranking Minority Member

Senator Eric Adams
Senator Joseph P. Addabbo, Jr.
Senator Neil D. Breslin
Senator David Carlucci
Senator John A. DeFrancisco
Senator Martin Malavé Dilan
Senator Adriano Espaillat
Senator John J. Flanagan
Senator Charles J. Fuschillo, Jr.
Senator Kemp Hannon
Senator Brad Hoylman
Senator Andrew J. Lanza
Senator Kenneth P. LaValle
Senator Betty Little
Senator Michael F. Nozzolio
Senator Thomas F. O'Mara
Senator Bill Perkins
Senator Michael H. Ranzenhofer
Senator Diane J. Savino
Senator Toby Ann Stavisky
Senator Lee M. Zeldin

Committee Staff

Langdon Chapman, Senior Counsel
Jessica Cherry, Counsel
David Gruenberg, Majority Counsel
Michael Ventre, Committee Clerk

Judiciary Budget for State Fiscal Year 2013-2014

The Legislature adopted a Unified Court System Budget of \$2.65 billion, which reflected an increase of \$94 million or 3.7%.

Summary of Judiciary Committee Action on Bills

Total number of bills referred to Committee in 2013	284
Total number of bills reported by Committee in 2013	33
Total number of bills reported by Committee that passed the Senate	25
Total number of bills reported by Committee that became law in 2013	13
Total number of constitutional amendments reported by Committee that were adopted	2
Total number of constitutional amendments reported by Committee that were defeated	1
Total number of bills reported by Committee that were vetoed in 2013	0

Bills Reported by Judiciary Committee that were Enacted Into Law in 2013

Chapter 21 of the Laws of 2013 – S.2735 Zeldin/A.195 Zebrowski

This law clarifies when a failure to obtain a required license to conduct business will affect the power to bring suit regarding a later business transaction.

Chapter 22 of the Laws of 2013 – S.2610 Fuschillo/A.197 Braunstein

This law clarifies what constitutes the unauthorized practice of law and that admission to practice law pro hac vice or as a legal consultant are subject to the rules of the Court of Appeals. It provides that practicing or appearing as an attorney-at-law without being admitted and registered shall be a class E felony instead of a misdemeanor.

Chapter 113 of the Laws of 2013 – S.4833 Bonacic/A.6551 Lavine

This law authorizes programs permitting use of facsimile transmission or electronic means to commence an action or special proceeding, in relation to electronic filing in civil proceedings in Nassau county.

Chapter 204 of the Laws of 2013 – S.5004 Bonacic/A.6553 Skartados

This law provides that once deliberations have begun, the court may allow an alternate juror to participate in such deliberations only if a regular juror becomes unable to perform the duties of a juror.

Chapter 205 of the Laws of 2013 – S.4850 Bonacic/A.6554 Braunstein

This law expands the persons who may seek the remedy of a protective order to non-parties in relation to the use of discovery devices, such as a subpoena for records.

Chapter 283 of the Laws of 2013 – S.5078 Bonacic/A.7460 Buchwald

This bill requires that an attorney, upon his or her conviction of a crime in any court, file the record of his or her conviction with the Appellate Division within 30 day of that conviction.

Chapter 348 of the Laws of 2013 – S.4852 Bonacic/A.6555 Lavine

This law clarifies and amends the “anti-lapse” statute in the Estates, Powers and Trusts Law. The law clarifies that distribution by representation is applied to multi-generational class gifts and makes clear that the anti-lapse statute applied to a gift of a future interest in a trust created by a will (that do not have a condition precedent)

Chapter 402 of the Laws of 2013 – S.4644-C Bonacic/A.7375 Weinstein

This law permits a minor signatory to an acknowledgement of paternity to file a petition to vacate it any time up to 60 days after the signatory reaches the age of 18. Subsequently, a DNA test will be ordered to establish paternity.

Chapter 432 of the Laws of 2013 – S.3789 Bonacic/A.4061 Weinstein

This law is a technical change to the effective date of the exercise of a power of appointment and an authorized trustee's authority to invade trust principal.

Chapter 482 of the Laws of 2013 – S.3790A Bonacic/A.7061 Braunstein

This law makes corrections and adds clarifying amendments to the “decanting statute.” The statute permits a trustee to invade the trust principal to exercise that power by creating new trusts. This allows the rewriting of an irrevocable trust by permitting trust assets to be appointed to another trust.

Chapter 483 of the Laws of 2013 – S.4272 Bonacic/A.7062 Weinstein

This law amends the SCPA to remove any requirement that a resigning fiduciary seek to file a judicial account. A fiduciary may now resign, his or her letters may be revoked, and he or she may be permitted to settle their account judicially or informally. Notice of the application must be given to the persons and in a manner directed by the court. The Surrogate maintains discretion in directing the filing of a judicial account, this just removes the automatic requirement.

Chapter 490 of the Laws of 2013 – S.4042-A Bonacic/A.8013 Gabryszak

This law authorizes the chief administrator of the courts to establish rules for special proceedings authorized under section 9--518 of the uniform commercial code to remedy the issue of knowingly filing wrongful financing statement to retaliate against a public official for acting in his or her official capacity.

Chapter 548 of the Laws of 2013 – S.4043-B Bonacic/A.6552-B Morelle

This law proposes modifications in many City Court judgeships including, in some instances, conversion of part-time positions to full-time status.

Bills Reported by Judiciary Committee that were Defeated Through Ballot Proposals in 2013

S.4934 Bonacic /A.7969 Weinstein: The constitutional amendment would allow Court of Appeals Judges to serve until 80 (but they must be appointed/re-appointed prior to the end of the year they turn 70). It would allow Supreme Court Judges and Appellate Division Judges to retire at 70 but be certificated until 80 (instead of the current rule of only being certificated until age 76). Supreme Court Judges would certificate in Supreme and Appellate Division Justices would certificate in the Appellate Division.

Bills Reported by Judiciary Committee that were Adopted Through Ballot Proposals in 2013

S.4689 Little/ A.7684 Sweeney: This constitutional amendment settles an 100 year old land dispute over competing claims of title between the State and private parties in the town of Long Lake, Hamilton County over disputed title in township 40, Totten and Crossfield Purchase.

S.1562 Lavalley/ A.4395 Thiele: This constitutional amendment allows any person who has received an appointment through civil service to be entitled to additional credit if said individual was classified as a veteran with disabilities after the first appointment or promotion.

Bills Reported by Judiciary Committee that were Vetoed by the Governor in 2013

None.

2013 Judicial Confirmations

Professor Jenny Rivera, confirmed for the New York State Court of Appeals, for a term expiring January 14, 2027.

The Honorable Sheila Abdus-Salaam, for the New York State Court of Appeals, for a term expiring April 28, 2027.

The Honorable Roger S. Hayes for Justice of the Supreme Court of the First Judicial District to fill a term expiring on December 31, 2013.

The Honorable John G. Ingram for Justice of the Supreme Court of the Second Judicial District to fill a term expiring on December 31, 2013.

The Honorable William I. Mogulescu for Justice of the Supreme Court of the First Judicial District to fill a term expiring on December 31, 2013.

The Honorable Jeremiah J. Moriarity III for Justice of the Supreme Court of the Eighth Judicial District to fill a term expiring on December 31, 2013.

The Honorable Thomas J. McNamara for the Court of Claims to fill a term expiring on January 22, 2022.

The Honorable Richard E. Sise for the Court of Claims to fill a term expiring on January 22, 2022.

The Honorable Denise L. Sher for the Court of Claims to fill a term expiring on December 31, 2022.

2013 Public Hearings of the Judiciary Committee

**September 24, 2012: Legislative Office Building, Hearing Room A, Albany,
NY 12247; 11:00 AM – 2:00 PM**

SUBJECT: Spousal Maintenance Recalculation

PURPOSE:

On Tuesday, September 24, 2013, the New York State Senate Standing Committee on the Judiciary held a public hearing regarding statutory spousal maintenance in connection with No Fault Divorce. The committee heard testimony from organizations and experts in Matrimonial Law about the report of the Law Revision Commission on spousal maintenance that was released last spring.

The report the hearing was based on is available on the Law Revision Commission website at <http://www.lawrevision.state.ny.us/>.

The public record of the hearing is available on the New York State Senate Judiciary website at <http://www.nysenate.gov/testimony/testimony-submitted-public-record-spousal-maintenance-awards>.