

Testimony Submitted by

Modern Courts

Public Hearings on the Executive Budget

before the

Joint Fiscal Committees of the

NYS Senate and Assembly

Public Protection

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My name is Denise Kronstadt, Interim Executive Director and Director of Advocacy and Policy for the Committee for Modern Courts. On behalf of Modern Courts, thank you for providing us with the opportunity to submit this testimony in support of the Unified Court System's (UCS) budget request FY 2023-24; continue our long support for funding for civil legal services; comment on the Governor's proposed increase in assigned counsel fees; extend our support for increased funding for technology in our courts, especially as it impacts the Family Court; and continue our decades long advocacy of court simplification.

Judiciary Budget

Modern Courts supports the Judiciary's FY 2024 Budget Request which seeks \$2.47 billion for the State Operating Funds portion of the Judiciary budget, representing an increase of 3.5% from Enacted FY 2023 funding. This budget request seeks the funds that will enable the courts to fulfill their mission to deliver justice in a manner that reflects the full measure of New York's commitment to a just society under the rule of law. The Judiciary budget request also seeks a \$28 million capital appropriation. This funding will allow the Judiciary to continue the infrastructure modernization essential to support efficient operations.

Civil Legal Services

Modern Courts supports the continued funding of civil legal services. These programs are essential to ensure access to justice for New Yorkers in crisis, but who lack sufficient resources to hire a lawyer. For Modern Courts, this is a matter of simple justice that affects the safety and security of families and children. We ask that you

support the Judiciary's request for funding for civil legal services and the providers who provide critically needed legal representation in every county.

Assigned Counsel Fees

Modern Courts supports increasing the hourly rate paid to assigned counsel (18B counsel) representing indigent criminal defendants. Currently there are too few court-appointed attorneys available to represent those in need. The number of 18B attorneys has decreased significantly while the number of cases has continued to increase. The exodus of attorneys is directly related to the compensation rate, set by the legislature, which has remained unchanged since 2004. Although the Governor's budget is a start, the budget proposal falls far short of what is fair and reasonable. The proposal seeks to assign differential rates of pay dependent upon geography, with \$158/hour for matters downstate and \$119/hour upstate. The \$158/hour rate for downstate apparently is based upon the recent decision in [NY County Lawyers Assn et. al. v. State of New York et. al.](#) The proposal also fails to mandate that these increased costs be borne by the State, leaving the costs to the counties - creating an unfunded mandate.

Modern Courts joins with the voices of the criminal defense bar and the NYSBA. The Constitution requires that defendants who cannot afford an attorney must be represented by competent assigned counsel in every case. Adequate compensation is essential to ensure that we fulfill this mandate.

Expanding Electronic Filing in Family Court

Modern Courts believes it is critically important to provide adequate funding so that e-filing can be made available in Family Court throughout the State. As recent reports have starkly highlighted, Family Court is where the least privileged of our residents are most likely to need the justice system, yet it lacks this essential service which is available in Supreme Court, Surrogate's Court, Court of Claims, NYC Housing Court, and NYC Civil Court for many matters, and all four Appellate Divisions. E-filing in Family Court would be a dramatic improvement over the current antiquated and inadequate system, and greatly enhance the opportunity for families to achieve just and speedy resolution of matters that only Family Court can adjudicate.

Improved Technology

Modern Courts believes that the Unified Court System (UCS) needs an effective, user-friendly website that comprehensively informs the public of current court operations and provides guidance to unrepresented litigants. The website should be in multiple languages, be kept up to date, and should include forms with easy-to-comprehend instructional guides. This too will require additional funding and is essential if the Judiciary is to provide true access to justice for all New Yorkers.

Court Simplification

While increased funding for New York's court system is essential, we urge the Legislature to address the long-standing need for structural reform of the court system.

Modern Courts had advocated court simplification for decades, because it will enable the courts to respond flexibly and efficiently both in times of crisis and in day-to-day operations. It will enhance the Judicial Branch's ability to maximize efficiencies and modernize operations statewide with creative responses to changing needs of everyone whom the judicial system serves.

The simplification of the court system will consolidate the current confusing and inefficient patchwork of 11 different trial courts into a three-tier structure comprised of a statewide Supreme Court; a statewide Municipal Court; and our existing Justice Courts. In this way, simplification will provide the greatest benefit in the busiest courts, which overwhelmingly serve low income, marginalized and communities of color.

In the October 2020 [Report from the Special Adviser on Equal Justice in New York State Courts](#), Jeh Johnson found that an under-resourced, over-burdened court system that has a dehumanizing effect on litigants, and has a disparate impact on people of color. The Report noted that "Housing, Family, Civil and Criminal courts of New York City . . . continue to be faced with extremely high volumes of cases, fewer resources to hear those cases and aging facilities. Over and over, we heard about the "dehumanizing" and "demeaning cattle-call culture" in these high-volume courts. At the same time, the overwhelming majority of the civil or criminal litigants in the Housing, Family, Civil and Criminal courts in New York City are people of color."

The Report's fundamental – and fundamentally disturbing – conclusion was that, "The sad picture that emerges is, in effect, a second-class system of justice for people of color in New York State."

Modern Courts urges the Legislature to consider and adopt a constitutional resolution to simplify the court system during the 2022 legislative session.

Most importantly, Modern Courts believes that court simplification will make the court system work better for your constituents – families burdened by having to appear in multiple court venues; unrepresented individuals with few if any resources; survivors of intimate partner violence; and others with limited financial means.

Modern Courts has organized the [Simplify the Courts! Coalition](#) composed of 111 organizations from all parts of the state. The members of the Coalition are independent organizations, with a wide variety of perspectives and interests, who have agreed to work together to simplify our court system to benefit the individuals they represent in New York's trial, family, civil, criminal, and housing courts.