

## JOINT LEGISLATIVE HEARING ON THE 2018-2019 JUDICIARY BUDGET

### REMARKS OF CHIEF ADMINISTRATIVE JUDGE LAWRENCE K. MARKS

JANUARY 30, 2018

Good morning, Chairpersons Young, Weinstein, Bonacic and Dinowitz, committee members, staff, ladies and gentlemen. It is an honor for me to be here to discuss the fiscal needs of the State's Judiciary. On behalf of Chief Judge Janet DiFiore and the entire NYS court system, thank you for the opportunity to speak with you today about the Unified Court System's budget request.

This is the second budget request submitted by Chief Judge DiFiore, and, like the first, this request reflects her highest priority – the Excellence Initiative – a comprehensive, statewide effort to achieve operational and decisional excellence in everything we do in the Judiciary.

The focus of this effort is on the Judiciary's core mission – to fairly and promptly adjudicate each of the millions of cases filed in our courts every year. Our first task has been to address delays, backlogs, and bottlenecks in our courts. In this ongoing effort, we are working closely with local court administrators across the state, and with the bar, prosecutors' offices and other partners in the justice community, to identify the root causes of these delays, and to craft solutions tailored to the needs and circumstances of individual courts and jurisdictions. These locally-based teams have developed and implemented a broad range of initiatives, including changes in how courts process cases, and more effective deployment of judges and court personnel. We are also using technology to collect and analyze caseload data to identify where problems exist, as well as to

measure the effectiveness of our efforts to combat delay.

The result has been real, and in some places dramatic, progress:

- In the Eighth Judicial District, which includes counties that encompass Senator Young's district, there has been a 34 percent reduction in foreclosure cases over standards and goals.
- In Brooklyn, Assemblywoman Weinstein's home county, there has been a 36 percent reduction in older civil cases in Supreme Court.
- In Orange County, Senator Bonacic's home county, older Family Court cases are down more than 50 percent in the past year.
- In the Bronx, Assemblyman Dinowitz's home county, older felony cases are down by 28 percent over the past two years, and older misdemeanors are down by more than 70 percent.
- And across New York City, there has been a substantial reduction in the delays between the filing of a claim and the first court appearance in Small Claims court, a reduction of as much as 60 percent.

These are just a few examples of the progress made. A full report on the status of the Excellence Initiative will be issued next week in conjunction with Chief Judge DiFiore's State of Our Judiciary address, and we invite you to read the report and learn of the progress that has been made across the state, in all levels of court.

We are pleased with what has been accomplished thus far, not just in reducing delays and backlogs, but in changing the culture that, for too long, had tolerated delay

and inefficiency. But there is much more to do, and that is why this budget request is so important. The requested funds will enable us to maintain our workforce, to bolster our infrastructure, and to build on the progress we have made.

We are seeking an increase of \$44.4 million, or 2%, over the current spending level in our operating budget.

Our first priority for using the requested funds is to ensure that the courts have the personnel – the court clerks, court officers, court reporters, court interpreters and back-office staff – that support the work of the judges. Without an adequate number of these key employees, achievement of the goals of the Excellence Initiative will be problematic. Although we are at significantly lower staffing levels than we were before the dramatic budget cuts of 2011 and the ensuing several years of flat-line budgets, we have, over the past two years, made real progress in attacking case backlogs and delays. That would not have been possible if we had been unable to replace employees when they left. This proposed budget will allow us to continue to do so.

The proposed budget will also allow us to continue restoring support for a number of important programs that were reduced following the 2011 budget cuts. For example, the requested budget would allow us to increase funding for community dispute resolution centers (CDRCs), which recruit, train and supervise volunteers who provide low-cost mediation and alternative dispute resolution services in court matters, for people who are unable to pay for these services, and for the CASA (Court Appointed Special Advocate) program, which recruits, trains and supervises volunteers appointed by the Family Court to

advocate for abused, neglected or at-risk children. We have also been able to provide additional funding for the Children's Centers, incrementally restoring services that were cut back in 2011. Hours at all centers have increased since 2011; in the current fiscal year we reopened the center in the Buffalo City Court; and, in the coming year we hope to be able to reopen the center at the 111 Centre Street courthouse in Manhattan.

We also seek increased funding for the Justice Court Assistance Program, which has played an important role in improving the operations of the more than 1,200 Town and Village Courts across the state, to help defray costs associated with the Centralized Arraignment Parts initiative.

In addition to the increase we are seeking in our operating budget, we are again requesting a modest capital appropriation. The current year budget includes a capital appropriation, which we are using for the first phase of an upgrade and modernization of the court system's automation infrastructure and for replacement of obsolete security equipment. We are also using the current year capital appropriation to purchase the privately-owned case management system used by the vast majority of the state's town and village courts. We are pleased to report that the contract for purchase was recently approved by the Office of the State Comptroller. The purchase of this system was specifically authorized by the Legislature in the 2017-2018 budget, and we thank you for your support of this important initiative. This purchase by the Judiciary will ensure the continued availability of this proprietary system to the Justice Courts, facilitate enhancements to the system, and save local governments significant annual licensing fees, as we will provide the system to them free of charge.

This year's capital appropriation request is \$18 million. This money would be used to build and support the court system's infrastructure, particularly our technology and public safety infrastructure. It would allow us to proceed with the second year of modernizing our statewide computer network, by maintaining and updating our computer servers, switches and high-speed cable fiber; as well as the second year of modernizing our public safety infrastructure, by replacing outdated magnetometers and x-ray machines and installing additional security cameras. And it would support our efforts to continue to digitize paper court records, a necessary complement to our e-filing program.

I want to briefly address a number of major projects and initiatives on which we are working. The first is the Raise the Age legislation that was enacted last year. Implementation of this law poses a host of complex operational and logistical issues. We are hard at work preparing for the October 1 effective date of the first phase of the new legislation, and will be ready to accommodate the influx of additional cases in Family Court that will begin on that date. While we are providing central support and guidance, this has been a locally-driven effort, in which we are working with the local courts, state and county agencies, legal services providers, and others with a stake in this major legislative initiative, to craft plans tailored to the particular needs of each of the State's 62 counties. One aspect of this implementation with a budgetary impact concerns the cost of legal representation, as a large volume of cases will move from the adult criminal justice system, where counties bear of the

cost of indigent defense, to the Family Court, where the Judiciary bears this cost. For this reason, the budget request before you includes \$5.7 million in additional funding for the Attorney for the Child program, largely to cover costs associated with the increase of cases in the Family Court.

Planning and implementation are also underway for the creation of centralized, off-hours arraignment parts throughout the state, pursuant to state legislation enacted in 2016. Again, our planning has focused on local needs, allowing the local courts and other stakeholders in each county to develop a plan that works for the needs of the local community. The first four centralized parts began operating last fall, and they are off to a good start, already demonstrating success in achieving the goal of ensuring representation at arraignment in justice courts. A fifth county plan was recently approved, and additional off-hours arraignment parts will be established throughout this calendar year. As noted earlier, our budget request includes an additional \$.5 million in funding for the Justice Court Assistance Program to cover costs associated with the operation of the centralized parts.

The court system is also addressing the opioid crisis that has been plaguing communities across our state. Our groundbreaking Opioid Intervention Court in Buffalo – the first of its kind in the nation – has saved hundreds of lives by combining intensive treatment regimens for opioid users, followed by intensive court monitoring. A variation of the Buffalo court has been established in Bronx County, with a plan underway to expand the Bronx approach throughout New York City. We are also

working with the State District Attorneys Association and other stakeholders to develop a statewide action plan to ensure that the court system, along with the entire criminal justice community, is doing everything it can to address this crisis on a statewide basis.

Finally, a few words about access to justice. Apart from the Excellence Initiative, improving access to justice is our highest priority. We remain committed to assuring access to justice for the hundreds of thousands of people who come to our courts each year without the assistance of a lawyer, as well as for people with disabilities, and the millions of New Yorkers who have limited English proficiency. We are addressing this enormous problem – which we call the “justice gap” – on multiple fronts. For example:

- We are encouraging the bar to perform more pro bono work;
- We are urging law schools to utilize law students to supplement bar efforts;
- We are exploring how non-attorneys, within the bounds of the law, can help;
- We are also leveraging technology to ensure access to justice, through such initiatives as a program that allows victims of domestic violence to seek an order of protection remotely, by video, and another program that allows the court to issue orders of protection in a bilingual format (currently in four languages, with additional languages to come) so that both the protected party and the respondent are on clear notice about the scope of the court’s order.

We have also used our own funding in the Judiciary budget to award monetary grants to legal service providers, so they can hire additional lawyers to represent people

who can't afford a lawyer. Funding for civil legal services in our budget is now \$100 million – the goal that was set a number of years ago. Even though \$100 million is not nearly enough money to provide a lawyer for everyone who cannot afford one, we are continuing that amount in this budget request, and not seeking additional money for civil legal services. We are, however, committed to continue our efforts to ensure that all New Yorkers, regardless of economic status, disability, English language ability, or any other factor, have equal access to our courts.

On behalf of the Chief Judge and the entire New York State Judiciary, I want to thank you for your support of the civil legal services initiative, and indeed, of the Judiciary generally. We look forward to continuing to work with you as we seek to better meet the justice needs of all New Yorkers.