

# The Committee for Modern Courts 2010 Legislative Survey

## Survey Instructions

Dear Candidate for the New York State Senate or Assembly,

On behalf of the Committee for Modern Courts, I ask that you please provide Modern Courts with responses to our 2010 Legislative Survey. Modern Courts is a statewide nonpartisan not-for-profit organization dedicated to improving the administration of justice and the court system in New York State.

Modern Courts does not endorse candidates but we will provide a report, including your individual responses, to the media. We will also post your responses (or lack of a response) and the survey results on our website. The responses and our report have received widespread media coverage in the past.

Please complete the survey on or before October 16, 2010. For your convenience, please use this online survey for your responses. You also should receive a printed survey in your mail, although an online response is preferable. If you prefer to use the printed form, please return it to our office on or before October 16 - by mail, e-mail, [advocacy@moderncourts.org](mailto:advocacy@moderncourts.org) or fax (212) 541-7301.

Thank you for taking the time from you campaign to answer these critical questions that concern all New Yorkers.

For any questions, please contact our Deputy Executive Director and Director of Advocacy, Denise Kronstadt, 212-541-6741 x. 103 or [advocacy@moderncourts.org](mailto:advocacy@moderncourts.org).

Dennis R. Hawkins  
Executive Director  
Committee for Modern Courts  
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New York, NY 10019  
[www.moderncourts.org](http://www.moderncourts.org)

**\* 1. You are required to complete every entry in questions 1 -4 in order to continue taking the survey. If "none" is your answer, please type "none" in the space provided. Thank you.**

Name:	<input type="text"/>
Candidate (District No.)	<input type="text"/>
Mailing Address:	<input type="text"/>
City/Town	<input type="text"/>
Email Address:	<input type="text"/>
Phone Number:	<input type="text"/>

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## \* 2. Are you a candidate for the Senate or the Assembly?

- Senate
- Assembly

## \* 3. What is your party affiliation?

- Democratic
- Republican
- Working Families
- Conservative
- Independence
- Other

## \* 4. Are You an Incumbent or Challenger?

- Incumbent
- Challenger
- Open Seat

# The Committee for Modern Courts 2010 Legislative Survey

## Survey Questions

### ISSUE: JUDICIAL COMPENSATION

New York State judges have not received a pay raise in more than eleven years. An independent study by the National Center for State Courts ranks New York 48th of the 50 states in judicial salary levels when adjusting for cost of living index.

In *Chief Judge v. Governor*, decided on February 10, 2010, the Court of Appeals held that the separate and independent judicial compensation provision in the New York Constitution establishes the requirement for separate and independent consideration of judicial salaries. Consideration, therefore, of judicial compensation by the legislature and Governor must be separate and independent of the consideration of other political or policy initiatives. The Court of Appeals held that by failing to grant the state's judges a raise for 11 years, the New York Legislature had created a "crisis" by linking judicial pay to unrelated issues which violated the separation of powers doctrine and threatened the judiciary's independence.

### 1. Would you follow the decision of the Court of Appeals and pass legislation that will provide a judicial salary increase?

Yes

No

Comment

	5
	6

### 2. Would you increase judicial salaries independently of any action that may or may not be taken regarding salaries of legislators and executive branch officials?

Yes

No

Other (please specify)

	5
	6

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**3. Would you support the establishment of a Quadrennial Commission that would provide an alternative method of determining of judicial compensation and remove it from the legislative process? The Commission, made up of members appointed by all three branches of government, would use objective economic data to recommend fair and appropriate compensation every four years.**

Yes

No

Other (please specify)

### ISSUE: SIMPLIFYING OUR COURTS

The Commission on the Future of the Courts, established by the former Chief Judge, Hon. Judith S. Kaye, proposed a consolidation of the state's eleven major trial courts into a streamlined, two-tier structure. The Commission concluded that this reform would greatly improve the administration of justice and save the State and taxpayers over \$500 million a year. The Commission found that the "trial court structure reveals a needlessly complex system that causes much confusion even for those familiar with its configuration."

The Commission reported that one of the worst consequences of our present court structure is its impact on families. Divorce actions are brought in Supreme Court, other family disputes are in the Family Court, and sometimes a criminal proceeding may be pending in Criminal Court. It is not only the inconvenience of going from court to court that creates problems for families, it is the different orders from different courts that results in the waste of money, grave confusion and often offers some the opportunity to use the delays, confusion and conflicting orders as a means to perpetuate dangerous situations.

Providing a two-tier court system would also have the added benefit of creating a greater pool of applicants eligible to serve as judges in our Appellate Division courts. Now the only judges eligible to be appointed to the Appellate Division are Supreme Court justices. Yet many women and people of color serve in our Family Court, the Court of Claims, Surrogate's Court and County Court but remain excluded from this potential appointment. By expanding the pool to include judges from these other courts, we could also promote greater diversity in our Appellate Courts.

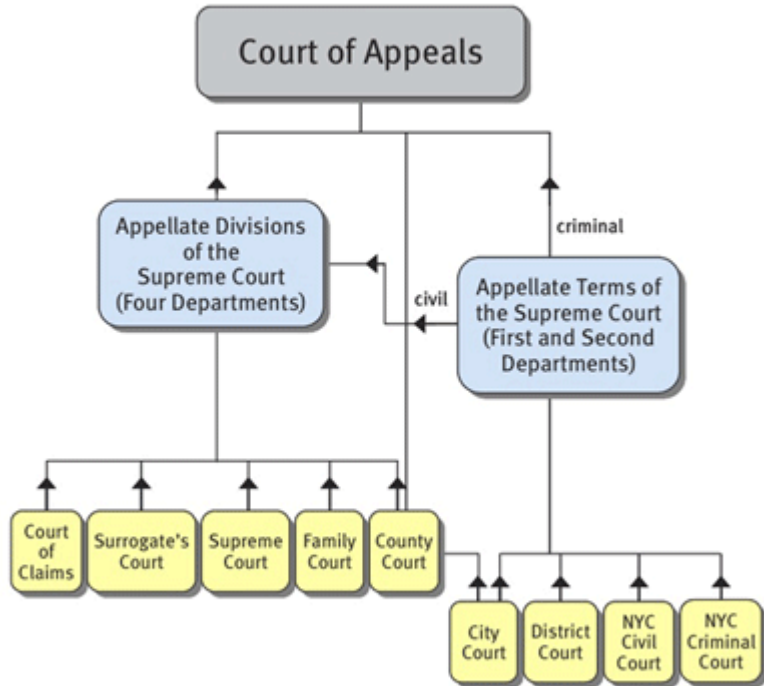
As the following diagram illustrates, simplifying the New York Court system would create a streamlined two-tier structure comprising a new Supreme Court (consisting of the current Supreme Court, County Court, Family Court, Surrogate's Court and the Court of Claims) and a new Municipal Court system which would be called District Courts, comprising the current District Courts on Long Island, the New York City Civil and Criminal Courts, and the City Courts outside New York City. This does not create a new structure of the Town and Village Justice Courts.

If you want more information before answering the question please go to [www.moderncourts.org](http://www.moderncourts.org) and follow the links to advocacy. You will be able to find a link to the commission's findings and recommendations.

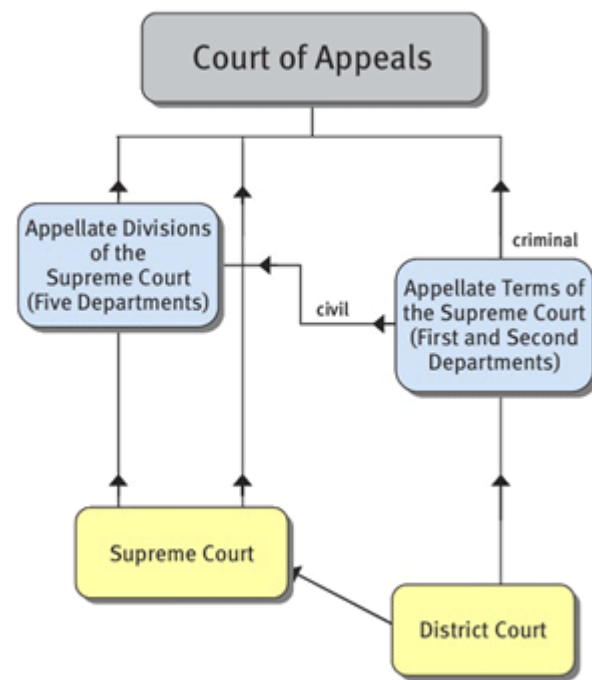
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## Current and Proposed Court Structure

### CURRENT STRUCTURE



### PROPOSED STRUCTURE



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**4. Would you support a Constitutional Amendment that would consolidate the State's major trial courts into a two tier structure?**

Yes

No

Comment

**5. If you answered "yes" to the above question, please mark the reason(s) for your response:**

Court simplification would provide for a more equitable distribution of resources throughout the court system.

Court simplification is a means of saving the State and taxpayers money.

Court simplification is a way to increase diversity on the Appellate courts.

Other (please comment)

Comment

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## 6. If you answered "no" to the above question, please mark the reason(s) for your response:

- Court simplification will not provide for a more equitable distribution of resources throughout the court system.
- Court simplification is not a means of saving the State and taxpayers money.
- Court simplification is not a way to increase diversity on the Appellate courts.
- Other (please comment)

Comment

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ISSUE: FAMILY COURT

Until the Legislature enacts new laws restructuring the court system, Family Court will continue to carry the burden of the greatest number of cases with the least amount of resources. Although reforms of the Family Court over the last decade have afforded great improvements in the system, it remains the stepchild of the court system with excessive caseloads that outnumber the cases heard in other trial courts. This disparity negatively affects the well-being of children and families.

## 7. Legislation (A.08957/S.05968-A) was introduced in the 2010 Legislative Session that would provide 21 more Family Court judges across the State. Would you support legislation that provides for more Family Court Judges?

- Yes
- No

Comment

	5
	6

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## ISSUE: THE COST OF JUDICIAL ELECTIONS

The Supreme Court's recent decision in Citizens United v. Federal Election Commission, held that the First Amendment prevents government from limiting independent corporate and union campaign expenditures, even expenditures focusing on campaigns of elected judges who preside over corporate and labor cases. According to the New York State Commission to Promote Confidence in Judicial Elections, "nine out of 10 registered voters believe that it is important for a judge to be independent from political party leaders and campaign contributors." The sense that judges may be beholden to financial donors -- whether actual or even just perceived -- undermines public confidence in our courts. Roughly 73 percent of full-time judges are elected. The most notable exception of course, is our state's highest court, the Court of Appeals, whose justices are appointed and confirmed through a qualification commission-based appointive system.

Some judicial races for Supreme Court justice in New York State can cost close to \$300,000 and even more in contested elections. A contest for Surrogate's Court in New York City can cost more than one million dollars. Although New York has ethical laws that prohibit judges from knowing the source of contributions, many of the direct contributions are made by attorneys, corporations and private individuals. The amount that an individual or corporation may contribute to a judicial race in New York equals as much as \$50,000.00 in certain counties. Judicial elections are also often controlled by political party leaders who determine who will be the candidate for judicial office.

The expense of campaigns coupled with the political control of the choice of candidates eliminates the opportunity for many well qualified attorneys to seek judicial office.

### **8. Would you support a qualification commission-based appointive system that would create a system that would not require the election of judges?**

Yes

No

Comment

	5
	6

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**9. If a qualification commission-based appointive system of selecting judges was not enacted, would you support the public financing of judicial campaigns?**

Yes

No

Comment

### ISSUE: A PUBLIC DEFENSE SYSTEM

It is a basic Constitutional right that counsel is assigned for indigent criminal defendants. In New York, counties are mandated to provide and fund public defense services with only limited state aid. As a result the quality and standards of service vary from county to county.

In 2010, legislation was passed and signed into law that creates an Office of Indigent Legal Services and the Indigent Legal Services Board in the Executive Branch (Executive Law Sect. 30). The purpose of the Office and Board is to monitor, study, and make efforts to improve the quality of services provided by public defenders, legal aid offices, assigned counsel, conflict offices, and those providing Family Court representation. The Office will make recommendations about the distribution of state funds to individual localities for public defense, and the Board will make the final decision on those recommendations.

Former Chief Judge Judith S. Kaye's Commission on the Future of Indigent Defense Services, recommended as follows, "the delivery of indigent defense services in New York State should be restructured to insure accountability, enforceability of standards, and quality representation. To this end there should be established a statewide defender office. . ."

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### 10. Would you further the advances made in 2010 towards fully meeting the Constitutional requirements of right to counsel by supporting a statewide independent defense commission such as the one recommended by the Commission on the Future of Indigent Defense Services?

Yes

No

Comment

#### ISSUE: ACCESS TO JUSTICE AND CIVIL LEGAL SERVICES

Civil Legal Service providers offer free legal services, education, and advocacy for people with low income or other barriers to accessing the legal system. Legal representation in court affords the best possible means of equal access to justice. Without representation a litigant enters the court system at an extreme disadvantage. In addition to the benefits afforded individuals and families who receive representation, civil legal service offices provide an often unseen service to the stability and economic well-being of communities and local businesses by seeking the enforcement of building and health codes, preventing the blight of foreclosures, and keeping workers working instead of making numerous visits to court. In addition, when federal benefits are secured, economic burdens on state and local governments is reduced.

Chronically underfunded for decades and now struggling with the economic crisis, legal services providers have been forced to close offices, lay off staff, eliminate or severely curtail certain types of services including family law, disability advocacy, consumer (bankruptcy, debt, foreclosure), fair hearings, housing, and child support.

In 2010, at a time when low income New Yorkers are in the great need of legal representation, State funding has decreased more than 70%.

Chief Judge Jonathan Lippman, who established a Task Force to Expand Access to Civil Legal Services in New York, stated, "No issue is more fundamental to the courts' constitutional mission than ensuring equal justice for all. The availability of affordable legal representation for low-income New Yorkers is indispensable to our ability to carry out that mission."

The Assembly and the Senate resolved in June 2010, that "... the fair administration of justice requires that every person who must use the courts have access to adequate legal representation."

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**11. Would you support a dedicated funding source for civil legal services that would provide a consistent, stable resource to meet the basic human needs of low income New Yorkers as they seek representation in court?**

Yes

No

Comment

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## 12. ISSUE: COURTS IN YOUR COMMUNITY

Please mark and comment on which of the following components of our court system are important to the members of your community.

- Jury Duty
- Court Facilities
- Judges
- City Court
- Family Court
- Supreme Court
- Village or Town Justice Courts
- Interpreters for Court Proceedings

Comment