



NEW YORK STATE LEGISLATIVE CANDIDATE  
SURVEY REPORT  
2010

For the Complete Survey and the Candidates' Individual Responses  
<http://www.moderncourts.org/advocacy/>

Prepared by

Denise Kronstadt, Deputy Director/Director of Advocacy  
Ana Gonzalez/Administrative Assistant

The Committee for Modern Courts  
352 West 54<sup>th</sup> Street  
New York, New York 10019  
212-541-6741

## **The Committee for Modern Courts Legislative Survey Report – October, 2010**

The Committee for Modern Courts sent its New York State Legislative Candidate Survey to more than 300 candidates for the New York State Senate and Assembly.<sup>1</sup> The survey contained eleven questions about the following issues: judicial compensation, simplifying our court system, the cost of judicial elections and the selection process in New York State, Family Court resources, the public defense system in New York State, secure funding for civil legal services and the importance of the court system in the community. (A copy of the complete survey is attached as Appendix 1 and the survey and all responses may be found online at <http://www.moderncourts.org/advocacy/>).

This report summarizes the responses, both answers and comments, of those who answered. There are “Yes,” “No,” and “Comment” sections of the survey allowing all candidates to express their views on the issues presented or explain or qualify their responses. We received 74 responses to our survey. Twenty-six (26) candidates for the Senate responded; 48 candidates for the Assembly responded. Forty-seven (47) Democratic candidates responded (63.5% of total respondents); 23 Republican candidates responded (31.1% of total respondents), one Conservative-only candidate (1.3%) and three candidates who label themselves as “other” (4.1%).<sup>2</sup> Thirty-six (36) respondents are incumbents; 38 are challenger or seeking election to an open seat.

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<sup>1</sup> Mailing addresses or emails were gathered from the NYS Board of Election website, internet searches, candidate’s websites and facebook pages.

<sup>2</sup> We asked the candidates their party affiliation: Democratic, Republican, Working Families, Independence, Conservative and “other.” Many candidates have cross party affiliation but for the purposes of this survey we will rely on the two predominant parties except for those who are candidates and are not affiliated with either the Democratic or Republican parties or who label themselves “other.”

Some respondents did not answer all the questions. Many gave comments. Four incumbent Republican Senators and one incumbent Republican Member of the Assembly provided us with letters stating that they do not respond to surveys and directed us to their records. Those letters are not calculated as responses.<sup>3</sup>

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<sup>3</sup> Four Republican incumbents provided responses by letter which stated it is their policy not to respond to surveys. Those letters are the equivalent to non-responses and are not counted in this survey.

## The New York State Senate Candidates' Responses:

There are 62 seats in the Senate; Modern Courts received 26 responses from Senatorial candidates including eight (8) Republicans, seventeen (17) Democrats and one Conservative. Thirteen (13) incumbents responded and 13 challengers/open seat candidates responded.<sup>4</sup> Three (3) Republican incumbents answered the survey; one from a member of Senate Judiciary Committee.<sup>5</sup> Ten (10) Democratic incumbents answered the survey questions; five (5) are members of the Senate Judiciary Committee. Five (5) Republican challengers answered the survey; one Conservative challenger answered and none of the Republican candidates for an open seat answered the survey. Seven (7) Democratic challengers answered the survey, and one Democratic candidate for an open seat answered the survey.

### List of Candidates for the New York State Senate Who Responded to 2010 Candidate Survey

#### Democratic Senate incumbent candidates who responded to the survey<sup>6</sup>

- Craig M. Johnson                      Senate 7th District
- **John Sampson**                         **Senate 19th District**
- **Diane Savino**                         **Senate 23rd District**
- Liz Krueger                             Senate 26th District
- Thomas K. Duane                     Senate 29th District
- **Jeffrey D. Klein**                     **Senate 34th District**
- Andrea Stewart-Cousins             Senate 35th District
- **Ruth Hassell-Thompson**         **Senate 36th District**
- **Neil D. Breslin**                      **Senate 46th District**
- Antoine M. Thompson                Senate 60th District

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<sup>4</sup> Contested races where we received both candidates responding: SD district 11; in SD District 41 one candidate responded, the other sent a letter stating that he does not respond to surveys.

<sup>5</sup> One of the Republican members of the Senate Judiciary Committee responded that he does not respond to surveys.

<sup>6</sup> Names in Bold are members of the Senate Judiciary Committee; also includes John A. DeFrancisco.

**Republican Senate incumbent candidates who responded to the survey:<sup>7</sup>**

- Frank Padavan Senate 11th District
- Martin Golden Senate 22nd District
- **John A. DeFrancisco Senate 50th District**

**Democratic Senate challenger/open seat candidates who responded to the survey:**

- Carol A. Gordon Senate 8th District
- Tony Avella Senate 11th District
- David Carlucci Senate 38th District
- Didi Barrett Senate 41st District
- Kathleen Joy Senate 50th District
- Edward O’Shea Senate 54th District
- Marc Coppola Senate 61st District

**The Republican Senate challenger candidate who responded to the survey:**

- Anthony Como Senate 15th District
- Joseph Nardiello Senate 25th District
- John Girodes Senate 28th District
- Andrew C. Russo Senate 49th District
- Mark Grisanti Senate 60th District

**Conservative Senate challenger who responded:**

- Avraham Rosenberg Senate 27th District

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<sup>7</sup> The Republican Senate incumbent candidates who sent letters saying that they do not respond to survey: William J. Larkin, Jr., SD39; Stephen M. Saland, SD 41; Hugh T. Farley: SD44; Jim Seward: SD 51.

## **The New York State Assembly Candidates' Responses:**

There are 150 seats in the Assembly. Modern Courts received 48 responses from Assembly candidates. Thirty (30) responses were from Democratic candidates, 15 from Republican candidates and 3 from "other" party candidates. Twenty-three (23) of the responses came from incumbents, 21 of those from Democratic incumbents and 2 from Republican incumbents. Twenty-five (25) challengers responded, six of those from candidates seeking open seats. Of those 25 non-incumbent respondents, nine Democratic candidates responded (six as challengers and 3 for open seats), 12 Republican candidates responded (10 challengers and 2 for open seats) and 3 candidates described themselves as "other" when asked party affiliation (2 are challengers and 1 is seeking an open seat). Four of the Democratic members of the Assembly Judiciary Committee responded, and none of the Republican members of the Judiciary Committee responded.

### **List of Candidates for the New York State Assembly Who Responded to 2010 Candidate Survey**

#### **Democratic Assembly incumbent candidates who responded to the survey:<sup>10</sup>**

- Fred W. Thiele, Jr.            Assembly 2AD
- Robert K. Sweeney            Assembly 11AD
- **Charles Lavine**                **Assembly 13AD**
- Michelle Schimel                Assembly 16AD
- Audrey I. Pheffer                Assembly 23AD
- Barbara M. Clark                Assembly 33AD
- James F. Brennan                Assembly 44AD
- Joan L. Millman                 Assembly 52AD
- **Hakeem Jeffries**                **Assembly 57AD**
- **Jonathan Bing**                 **Assembly 73AD**
- Richard N. Gottfried            Assembly 75AD
- **Jeffrey Dinowitz**               **Assembly 81AD**

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<sup>10</sup> Members of the Assembly Judiciary Committee are in bold

- J. Gary Pretlow Assembly 87AD
- Sandra R. Galef Assembly 90AD
- Ellen C. Jaffe Assembly 95AD
- Kevin Cahill Assembly 101AD
- John J. McEneny Assembly 104AD
- Bill Magee Assembly 111AD
- Donna Lupardo Assembly 126AD
- David Koon Assembly 135AD

**Republican Assembly incumbent candidates who responded to the survey:<sup>11</sup>**

- Teresa R. Sayward Assembly 113AD
- Marc W. Butler Assembly 117AD

**Democratic Assembly challenger/open seat candidates who responded to the survey**

- Dermond Thomas Assembly 14AD
- John Brooks Assembly 19AD
- Mimi Pierre-Johnson Assembly 21AD
- Albert Albanese Assembly 62AD
- Alyssa Kogon Assembly 102AD
- Rudy Johnson Assembly 114AD
- James E. Hare Assembly 137AD
- Christopher M. Barons Assembly 139AD

**The Republican Assembly challenger/open seat candidates who responded to the survey:**

- Deborah McKee Assembly 4AD
- Mohsen Elsayed Assembly 6AD
- Harold Paez Assembly 23AD
- Vince Tabone Assembly 26AD
- Humberto Suarezmotta Assembly 39AD
- Phyllis Carbo Assembly 47AD
- Brian T. Doherty Assembly 48AD
- Paul Niehaus Assembly 73AD
- Joseph McLaughlin Assembly 81AD
- Steven F. McLaughlin Assembly 108AD
- Shawn Skeeel Assembly 111AD

**“Other” party challengers who responded to the survey:**

- Dave Narby Assembly 61AD
- Danny Panzella Assembly 63AD
- Jason D. Jordan Assembly 136AD

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<sup>11</sup> The Republican Assembly incumbent candidates who sent a letters saying that he does not respond to surveys: James Bacalles, AD 136.

# RESPONSES TO THE QUESTIONS:

## ISSUE: JUDICIAL COMPENSATION

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

**Findings:** Seventy-two (72) of the 74 candidates who submitted answers to the survey responded to the question. Forty-five (45) of 47 Democratic candidates responded; all of the 23 Republican candidates responded.

**Sixty three ( 87.5%) of the 72 respondents stated that they would follow the decision in Chief Judge v. Governor and provide a judicial salary increase. Nine (12.5%) said they would not.** Some candidates conditioned their “Yes” or their “No” answers on the fiscal state of the state and one stated that the Court ordered that the Senate “consider” the raise and answered, “Yes.”

### Answers by Party Affiliation

95.6% of the 45 Democratic candidates who responded: (43 out of 45) stated that they would follow the decision of the Court of Appeals and pass legislation that will provide a judicial salary increase.

73.9% of the 23 Republican candidates who responded: (17 of 23) stated that they would follow the decision of the Court of Appeals and pass legislation that will provide a judicial salary increase.

### Answers by Party Affiliation in the Senate

94.1% of the Senate Democratic Candidates who answered the question (16 out of 17) would follow the decision of the Court of Appeals and pass legislation that will provide a judicial salary increase.

87.5% of the Senate Republican Candidates who answered the question (7 out of 8) would follow the decision of the Court of Appeals and pass legislation that will provide a judicial salary increase.

### Answers by Party Affiliation in the Assembly

96.3 % of the Assembly Democratic Candidates who answered the question (27 out of 28) would follow the decision of the Court of Appeals and pass legislation that will provide a judicial salary increase.

66.7% of the Assembly Republican Candidates who answered the question (10 out of 15) would follow the decision of the Court of Appeals and pass legislation that will provide a judicial salary increase.

**Question 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?

**Findings:** Sixty-nine (69) of the 74 candidates who submitted answers to the survey responded to the question..

**Sixty three (91.3%) of the 67 respondents said they would increase judicial salaries independently of any action that may or may not be taken regarding salaries of legislators and executive branch officials. Six (8.7%) of the 67 respondents would not.**

#### **Answers by Party Affiliation**

93% of the 43 Democratic candidates who responded to the question said they would increase judicial salaries independently of any action that may or may not be taken regarding salaries of legislators and executive branch officials.

86.4% of the 22 Republican candidates who responded to the question said they would increase judicial salaries independently of any action that may or may not be taken regarding salaries of legislators and executive branch officials.

#### **Answers by Party Affiliation in the Senate**

100% of the Democratic (15) and the Republican (8) candidates for Senate who responded to the question said they would increase judicial salaries independently of any action that may or may not be taken regarding salaries of legislators and executive branch officials.

#### **Answers by Party Affiliation in the Assembly**

89.3% of the Democratic candidates for the Assembly (25 out of 28) said they would increase judicial salaries independently of any action that may or may not be taken regarding salaries of legislators and executive branch officials.

78.6% of the Republican candidates for the Assembly (11 out of 14) said they would increase judicial salaries independently of any action that may or may not be taken regarding salaries of legislators and executive branch officials.

**Question 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.

**Findings:** Sixty-eight (68) of the 74 candidates who submitted answers to the survey responded to the question.

**Fifty-seven (83.8%) would support the establishment of a Quadrennial Commission. Eleven (16.2%) would not.**

## **Answers by Party Affiliation**

97.6% of the 41 Democratic candidates (40 out of 41) who responded to the question said they would support the establishment of a Quadrennial Commission.

60% of the 22 Republican candidates (15 out of 23) who responded to the question said would support the establishment of a Quadrennial Commission.

## **Answers by Party Affiliation in the Senate**

100% of the Democratic candidates for Senate (14) who responded to the question said they would support the establishment of a Quadrennial Commission.

75% of the Republican candidates for Senate (6 out of 8) who responded to the question said they would support the establishment of a Quadrennial Commission.

## **Answers by Party Affiliation in the Assembly**

96.3% of the Democratic candidates for the Assembly (26 out of 27) said they would support the establishment of a Quadrennial Commission.

60% of the Republican candidates for the Assembly (9 out of 15) said they would support the establishment of a Quadrennial Commissions.

## **Selected Comments:**

### **Judicial Salaries**

John Sampson, SD19, Democratic Incumbent: *Yes. This decision should be honored by action of a commission, as proposed by the Judiciary that takes into account state fiscal conditions among other factors.*

Frank Padavan, SD11, Republican Incumbent: *Voted yes in Senate.*

Joseph Nardiello, SD25, Republican Challenger: *Yes. There's no correlation, in my mind. Salaries of legislators and executive branch officials, in fact -- should be scaled back if it comes to finding salary lines for increases for judicial salaries.*

Kathleen Joy, SD50, Democratic, Challenger: *I would certainly entertain that option. The Commission must be bi-partisan and have a diverse membership to provide a truly independent recommendation.*

Tony Avella, SD11, Democratic Challenger: *Yes. Great idea.*

Avraham Rosenberg, SD27, Other Challenger: *Yes, after 11 years we need to honor our Judges.*

Andrew C. Russo, SD49, Republican Challenger: *Yes. I would support an increase in judicial salaries, but not because of the Court of Appeals decision.*

Martin Golden, SD22, Republican Incumbent: *No. Give the state's financial situation, it is not a good idea to raise judicial salaries when people are losing their jobs.*

Thomas K. Duane, SD29, Democratic Incumbent: *Yes. I believe that there needs to be an independent commission formed to review compensation for all branches of government.*

John A. DeFrancisco, SD50, Republican Incumbent: *The Court of Appeals decision did not tell the legislature to provide a judicial salary increase, it said for the legislature to consider one and I will abide by that decision. . . .Yes; it would obviously depend upon the fiscal health of the state.*

Craig Johnson, SD7, Democratic Incumbent: *I have concerns over the financial impact due to the current economic and fiscal situation of the state.*

Sandy Galef, AD 90, Democratic Incumbent: *We should appoint a commission to review all salaries in judicial and executive positions and have periodic increases.*

Danny Panzella, AD 63, "Other party" Challenger: *Once we are out of the current crisis I would consider an increase in Judicial salaries independent of an increase in legislator and executive salaries.*

Harold Paez, AD 13: Republican Challenger: *This is a qualified YES. The compensation of state employees, including the members of the three branches of government should be in line with national averages in my opinion. Salaries should be evaluated for each branch independently and with regard to previous pay increases.*

James E. Hare, AD 137; Democratic Open Seat: *I do not believe legislators or executive should have a pay raise. I will attempt to keep an open mind on the courts as they are not responsible for the mess we are in.*

Jeffrey Dinowitz, AD 81, Democratic Incumbent: *I strongly support salary increases for judges. Most of them deserve it. So do legislators. I see nothing wrong with passing them as a package. Also, as you know, the salary of judges is significantly higher than that of legislators. I would hope the legislature and the governor would have the guts to do what's right for all three branches, including the judiciary.*

John J. McEneny, AD 104, Democratic Incumbent: *Yes, Provided, however, that there is companion legislation that would extend the same methodology for Members of the Legislature and statewide elected officials.*

## **ISSUE: COURT SIMPLIFICATION**

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

**Findings:** Seventy-one (71) of the 74 candidates who submitted answers to the survey responded to the question.

**Sixty-six (93%) stated that they would support a Constitutional Amendment that would consolidate the State's major trial courts into a two tier structure. Five (7%) said they would not.**

### **Answers by Party Affiliation**

100% of the 41 Democratic candidates (44 out of 44) who responded to the question said that they would support a Constitutional Amendment that would consolidate the State's major trial courts into a two tier structure.

87% of the 22 Republican candidates (20 out of 23) who responded to the question said that they would support a Constitutional Amendment that would consolidate the State's major trial courts into a two tier structure.

### **Answers by Party Affiliation in the Senate**

100% of the Democratic candidates for Senate (15) who responded to the question said that they would support a Constitutional Amendment that would consolidate the State's major trial courts into a two tier structure.

75% of the Republican candidates for Senate (6 out of 8) who responded to the question said that they would support a Constitutional Amendment that would consolidate the State's major trial courts into a two tier structure.

### **Answers by Party Affiliation in the Assembly**

100% of the Democratic candidates for the Assembly (29 out of 29) said they that they would support a Constitutional Amendment that would consolidate the State's major trial courts into a two tier structure.

93.3% of the Republican candidates for the Assembly (14 out of 15) said that they would support a Constitutional Amendment that would consolidate the State's major trial courts into a two tier structure.

**Question 5 and 6:** Respondents were asked to give the basis for their "Yes" of "No" answers using any or all of the following three choices and by commenting.

- Court simplification would/would not provide for a more equitable distribution of resources throughout the court system.
- Court simplification is/is not a means of saving the State and taxpayers money.
- Court simplification is/is not a way to increase diversity on the Appellate courts.

**Findings:** Of the 71 who responded to the question (respondents could provide more than one answer/reason), **close to 87% of the respondents stated the reason for their support for court simplification is that it is a means of saving the State and taxpayers money, 75% said court simplification would provide for a more equitable distribution of resources throughout the court system, and 34% said that court simplification is a way to increase diversity on the Appellate courts.** Those against simplification did not believe it would do any of the choices offered.

### **Selected Comments:**

John Sampson, SD19, Democratic, Incumbent: *Yes. This step must be undertaken cautiously, however, to ensure against undue disruptions in judicial service, quality of litigant experience and workforce efficiency. These assurances should be possible to provide in the Constitution itself, as the 1962 phase of court restructuring provided for nonjudicial employees, see N.Y. Const., art. VI, § 35(1), and the flow of cases, see N.Y. Const. art. VI, § 36.*

Ellen Jaffee, AD 95, Democratic Incumbent: *Absolutely agree . . . . 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. . . by providing a two-tier court system would also have the added benefit of creating a greater pool of applicants eligible to serve as judges and thereby promote greater diversity in our Appellate Division courts.*

### **ISSUE: FAMILY COURT**

**Question 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?

**Findings:** Seventy-two (72) of the 74 candidates who submitted answers to the survey responded to the question.

**Sixty-four (88.9%) answered “Yes”, 8 (11.1%) answered “No.”**

#### **Answers by Party Affiliation**

97.8% of the 46 Democratic candidates (45 out of 46) who responded to the question said that they would support legislation that provides for more Family Court Judges.

77.3% of the 22 Republican candidates (17 out of 22) who responded to the question said that they would support legislation that provides for more Family Court Judges.

### **Answers by Party Affiliation in the Senate**

100% of the Democratic candidates for Senate (17) who responded to the question said that they would support legislation that provides for more Family Court Judges.

75% of the Republican candidates for Senate (6 out of 8) who responded to the question said that they would support legislation that provides for more Family Court Judges.

### **Answers by Party Affiliation in the Assembly**

96.6% of the Democratic candidates for the Assembly (28 out of 29) said they that they would support legislation that provides for more Family Court Judges.

78.6% of the Republican candidates for the Assembly (11 out of 14) said that they would support a legislation that provides for more Family Court Judges.

### **Selected Comments:**

Mark Grisanti, SD 60, Republican, Challenger: *Yes. In Buffalo they are very busy.*

Martin Golden, SD22, Republican Incumbent: *No, can't afford additional courts at this time.*

John A. DeFrancisco, SD50, Republican Incumbent: *Yes, if the state resources are available.*

Jason D. Jordan, AD 136, "Other" party challengers: *New York State Courts are over burdened as they are, especially at the bottom where cases go through the revolving door without receiving the attention to detail they may require on an individual basis; thereby causing children to fall through the cracks in the system. In the case of Family courts the court should act as an advocate for victims and especially children facing greatly uncertain circumstances.*

## **ISSUE: THE COST OF JUDICIAL SELECTION**

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

**Summary of Findings:** The split in answers to this question is closer than any other question asked. Sixty-nine candidates of the 74 candidates who submitted answers to the survey responded to the question.

**Forty (58%) answered "Yes;" twenty-nine (42%) answered "No."**

### **Answers by Party Affiliation**

69.8% of the 46 Democratic candidates (30 out of 43) who responded to the question said that they would support a qualification commission-based appointive system that would create a system that would not require the election of judges. 30.2% (13) would not.

45.5% of the 22 Republican candidates (10 out of 22) who responded to the question said that they would support a qualification commission-based appointive system that would create a system that would not require the election of judges. 54.5% (12) would not.

#### **Answers by Party Affiliation in the Senate**

40% of the Democratic candidates for Senate (6 out of 15) who responded to the question said that they would support a qualification commission-based appointive system that would create a system that would not require the election of judges. 60% (9 out of 15) would not.

25% of the Republican candidates for Senate (2 out of 8) who responded to the question said that they would support a qualification commission-based appointive system that would create a system that would not require the election of judges. 75% (6 out of 8) would not.

#### **Answers by Party Affiliation in the Assembly**

85.7% of the Democratic candidates for the Assembly (24 out of 28) said they that they would support a qualification commission-based appointive system that would create a system that would not require the election of judges. 14.3% (4) would not.

57.1% of the Republican candidates for the Assembly (8 out of 14) said that they would support a qualification commission-based appointive system that would create a system that would not require the election of judges. 42.9% (6) would not.

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

**Summary of Findings:** Sixty-nine of the 74 candidates 74 candidates who submitted answers to the survey responded to the question.

**Fifty-one (73.9%) answered that “Yes,” they would support public financing of judicial campaigns if a qualification commission-based appointive system of selecting judges was not enacted. Eighteen (26.1% of the 67) said they would not support public financing of judicial elections.**

#### **Answers by Party Affiliation**

90.7% of the 43 Democratic candidates (39 out of 43) who responded to the question said that they would support public financing of judicial campaigns.

45.5% of the 22 Republican candidates (10 out of 22) who responded to the question said that they would support public financing of judicial campaigns. 54.5% (12) would not.

#### **Answers by Party Affiliation in the Senate**

94.1% of the Democratic candidates for Senate (16 out of 17) who responded to the question said that they would support public financing of judicial campaigns.

37.5% of the Republican candidates for Senate (3 out of 8) who responded to the question said that they would support public financing of judicial campaigns.

### **Answers by Party Affiliation in the Assembly**

88.5% of the Democratic candidates for the Assembly (23 out of 26) said that they would support public financing of judicial campaigns.

50% of the Republican candidates for the Assembly (7 out of 14) said that they would support public financing of judicial campaigns.

### **Selected Comments:**

Jonathan Bing, AD 73, Democratic Incumbent: *Yes I was a sponsor of the Judiciary Qualification Act, which would establish procedures for judicial screening of candidates for the judiciary. The bill provides for the establishment of judicial screening panels and creates guidelines for financing a judicial campaign. . . I support A. 6728, the Judicial Campaign Finance Reform Act. This bill limits judicial campaign contributions to \$500, and provides for an optional public financing component. A. 6728 would limit the influence of large campaign contributions on judicial races while providing for adequate resources for judicial candidates.*

Jeffrey D. Klein, SD34, Democratic, Incumbent: *No. A Commission based appointive system could adversely affect the representation of minorities and women on the judicial bench. I would support eliminating the judicial delegate system and institute direct elections for judicial seats.*

Tony Avella, SD11, Democratic Challenger: *Absolutely. I sponsored legislation as a New York City Council Member in 2008 calling for a fully public funded campaign finance program in New York City - Int. 803/2008 "Clean Money, Clean Elections" and believe this should be applicable in judicial campaigns as well.*

David Carlucci, SD37, Democratic, Open Seat: *Yes. We need to remove party machines from the judicial selection process. A commission-based system that would bypass the power-brokers and eliminate the influence of corporate interests.*

Carol A. Gordon, SD8, Democratic, Challenger: *By removing the judges from the election process, the legislature would strip power from the people. The people should have more say in their government, not less.*

David I. Weprin, AD 24, Democratic Incumbent: *There needs to be clarity about diversity of appointment of qualified judges that reflect the population of NYS and its judicial districts. If I can be satisfied on this component, I am open to a commission-based system.*

Brian T. Doherty AD 48, Republican Challenger: *No, Judgeships are handed out like wedding favors in New York City. The last thing I would do as a legislator would be to endorse this disgusting practice.*

Phyllis Carbo, AD 47, Republican Challenger: *No, Public financing helps incumbents more than challengers in places like NYC.*

Alyssa Kogon, AD 102, Democratic Challenger: *Yes, I am for campaign finance reform across the board. Judges should be appointed on merit by a non-partisan committee.*

Gregory Johnson, AD 116, Republican Challenger: *Judges run on party affiliations then once elected must go neutral. Eliminate the party affiliation and have them run as individuals.*

## **ISSUE: A PUBLIC DEFENSE SYSTEM**

**Question 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?

**Summary of Findings:** Seventy-two of the 74 candidates who submitted answers to the survey responded to the question. **83.3% (60) of candidates who responded to the question support furthering the advances made in 2010 by supporting a statewide independent defense commission; Twelve (16.7%) answered “No.”**

### **Answers by Party Affiliation**

97.8% of the 45 Democratic candidates (44 out of 45) who responded to the question said that they would support furthering the advances made in 2010 by supporting a statewide independent defense commission.

60.9% of the 23 Republican candidates (14 out of 23) who responded to the question said that they would support furthering the advances made in 2010 by supporting a statewide independent defense commission.

### **Answers by Party Affiliation in the Senate**

100% of the Democratic candidates for Senate who answered the question (17 of 17) would support furthering the advances made in 2010 by supporting a statewide independent defense commission.

62.5% of the Republican candidates for Senate who answered the question (5 out of 8) would support furthering the advances made in 2010 by supporting a statewide independent defense commission.

### **Answers by Party Affiliation in the Assembly**

96.4% of the Democratic candidates for Assembly who answered the question (27 out of 28) would support furthering the advances made in 2010 by supporting a statewide independent defense commission.

73.3% of the Republican candidates for Assembly who answered the question (11 out of 15) would support furthering the advances made in 2010 by supporting a statewide independent defense commission.

## **Selected Comments:**

Kevin Cahill, AD101, Democratic Incumbent, *I was a strong and vocal supporter of the legislation that created the Office of Indigent Legal Services and the Indigent Legal Services Board. In my advocacy, I expressed to colleagues that this is an important step, but likely just a first step. More must be done to assure the adequacy of counsel, without regard to geography or local support.*

Teresa Seward, AD 113, Republican Incumbent: *No, Government is too big already. I couldn't support creating a state commission because I believe it is easier to keep track of Indigent Services locally.*

Didi Barrett, SD41, Democratic Challenger: *Yes-the provision of qualified and dedicated attorneys for all criminal defendants is crucial for maintaining the integrity of our justice system.*

**Question 10:** 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?

**Findings:** Sixty-nine of the 74 candidates who submitted answers to the survey responded to the question.

**87% (60) of the candidates who responded to the question would 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. 13 % (9) do not.**

### **Answers by Party Affiliation**

Almost 98% of the 43 Democratic candidates (42 out of 43) who responded to the question said that they would support a consistent, stable resource to meet the basic human needs of low income New Yorkers as they seek representation in court.

65.2% of the 23 Republican candidates (8 out of 23) who responded to the question said that they would support a consistent, stable resource to meet the basic human needs of low income New Yorkers as they seek representation in court.

### **Answers by Party Affiliation in the Senate**

94.1% of the Democratic candidates for the Senate (16 out of 17) who responded to the question support a consistent, stable resource to meet the basic human needs of low income New Yorkers as they seek representation in court.

62.5% of the Republicans candidates for the Senate (5 out of 8) who responded to the question support a consistent, stable resource to meet the basic human needs of low income New Yorkers as they seek representation in court.

## **Answers by Party Affiliation in the Assembly**

100% of the Democratic candidates for the Assembly (26) who responded to the question support a consistent, stable resource to meet the basic human needs of low income New Yorkers as they seek representation in court

66.7% of the Republican candidates for the Assembly (10 out of 15) who responded to the question support a consistent, stable resource to meet the basic human needs of low income New Yorkers as they seek representation in court.

### **Selected Comments:**

Antoine M. Thompson, SD60, Democratic, Incumbent: *Yes. The lack of resources available to low income New Yorkers amounts to a disenfranchisement of their civil rights, so I agree with a dedicated source for civil legal services.*

Kathleen Joy, SD50, Democratic, Challenger: *Yes. I have seen the continued decline in resources to our legal service agencies. As a Syracuse Common Councilor, we, too have struggled with the balance between funding those important legal service agencies and other needs in the community. I have also seen an increased number of indigent clients who have no means of advocacy. A dedicated funding source would provide a reliable income stream to provide those legal services.*

Antoine M. Thompson, SD60, Democratic, Incumbent: *Yes. The lack of resources available to low income New Yorkers amounts to a disenfranchisement of their civil rights, so I agree with a dedicated source for civil legal services.*

Paul Niehaus, 72 AD, Republican Challenger: *An overhaul and restructuring of the court system that uses available technology to streamline and simplify the litigation process will do much more towards ensuring equal justice than putting additional scarce funds towards continue to operate a broken system.*

Richard N. Gottfried, AD 75, Democratic Incumbent: *There is a long list of basic human needs of low income New Yorkers that need to be met, including health and education, as well as civil legal services. They should be funded by broad-based taxes based on ability to pay and adequate to meet those needs. Dedicated funding sources don't work very well.*

Kevin Cahill, AD 101, Democratic Incumbent: *I have been recognized by the regional legal services community for my efforts to assure adequate representation for people of limited means. I also advocate with colleagues, the leadership of the State Assembly and the Executive for increased funding of Access to Justice and Civil Legal Services. I will not waver in that advocacy and will continue to work to recruit other colleagues to join me.*

Bill Magee, AD111, Democratic Incumbent: *I not only support, but would advocate for a dedicated funding source for civil legal services for low income New Yorkers seeking representation in court as there is an ever increasing need for this in our communities.*

**Question 11:** Please circle 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

**Summary of Findings:** Every candidate who answered this question believed that the court system is important to all members of their communities. The Family Court was considered the most important by the majority of respondents to the survey.

**Selected Comments:**

Jeffrey D. Klein, SD34, Democratic, Incumbent: *I represent a diverse district that encompasses parts of both The Bronx and Westchester. The residents and businesses within my district rely on the entire court system for individual legal matters. The efficient administration of the court system is vital to ensuring that businesses can operate safely and securely, and that residents can live their lives with an assurance of personal safety, as well as with the confidence that their rights are protected. I am supportive of measures proposed by the Courts themselves, as well as by the community to increase access to the Courts, ensure that the Courts run efficiently, and that their administration is conducted with due respect to tax payer dollars. All reforms to any system within our state government must be conducted with careful attention to their budgetary implications and with an eye to fiscal prudence*

Dermond Thomas, AD 14, Democratic Open Seat: *Members of my community want a court system that is fair, efficient and expedient. We must expand the resources available for our judicial system in order to meet these demands.*

# 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  
351 West 54th Street  
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:

Candidate (District No.)

Mailing Address:

City/Town

Email Address:

Phone Number:

# The Committee for Modern Courts 2010 Legislative Survey

## \* 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

## The Committee for Modern Courts 2010 Legislative Survey

**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.

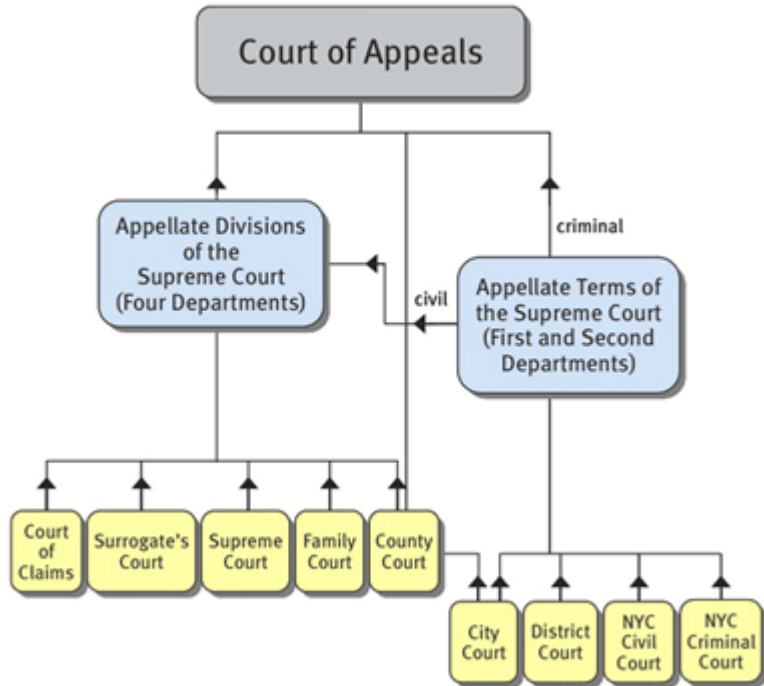
As the following diagram illustrates, simplifying the New York Court system would create a streamlined two-tier structure comprising a new Supreme Court (consisting of the current Supreme Court, County Court, Family Court, Surrogate's Court and the Court of Claims) and a new Municipal Court system which 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.

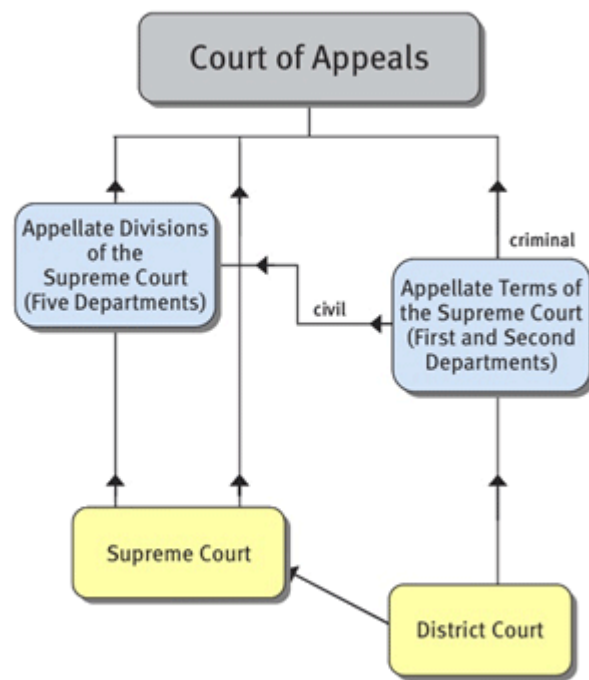
# The Committee for Modern Courts 2010 Legislative Survey

## Current and Proposed Court Structure

### CURRENT STRUCTURE



### PROPOSED STRUCTURE



## The Committee for Modern Courts 2010 Legislative Survey

**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

# The Committee for Modern Courts 2010 Legislative Survey

## 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

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

# The Committee for Modern Courts 2010 Legislative Survey

## 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

## The Committee for Modern Courts 2010 Legislative Survey

**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. . ."

## The Committee for Modern Courts 2010 Legislative Survey

### 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."

## The Committee for Modern Courts 2010 Legislative Survey

**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

# The Committee for Modern Courts 2010 Legislative Survey

## 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