



Testimony

Public Hearings on the Executive Budget

before the

Joint Fiscal Committees of the Senate and Assembly

Public Protection

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February 7, 2008

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On behalf of Modern Courts, I want to thank the Committees for providing our organization with the opportunity to present testimony today.

The Committee for Modern Courts is an independent nonpartisan statewide court reform organization committed to improving the court system for all New Yorkers. Modern Courts supports a judiciary that provides for the fair administration of justice, equal access to the courts, and that is independent, highly qualified and diverse. By research, public outreach, education and lobbying efforts, Modern Courts seeks to advance these goals and to ensure that the public confidence in the judiciary remains strong.

Modern Courts asks that you meet the formidable two-fold task of successfully ensuring that (1) New York State judges receive an increase in compensation and (2) the continuing conflict for the increase sees its final battle this year. The inclusion of funds for increased judicial compensation in the Governor's budget provides an opportunity to break the log jam that for far too long has tied judicial salary increases to political disputes. Modern Courts further vigorously supports the increases coupled with legislation that would create a Quadrennial Commission – an objective mechanism - as a means by which judicial compensation can be determined in the future. Such a system ensures that New York's judiciary will remain independent.

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Modern Courts has long believed that insufficient compensation may dissuade our most talented and committed lawyers from becoming judges. For most judges, the call to public service, rather than the salary, is the motivating factor in seeking judicial office. But the judiciary and, perhaps more importantly, the public are ill-served by the failure to adjust judicial compensation more than twice in 20 years.

We are encouraged by the positive feedback we receive from legislators who understand the importance of an independent and well qualified judiciary and by the actions of the Senate in passing legislation last year to support the increases. Once again this support may provide a principled acknowledgement of the need for increases – but the time for action on this issue is now.

Modern Courts also support initiatives that provide greater resources and funding towards the creation of a truly independent indigent defense system in New York as outlined in Chief Judge Kaye’s Commission on the Future of Indigent Defense Services. New York State needs a model for providing public defense services that relieves the heavy fiscal burden placed on counties by the current system while ensuring quality legal representation, accountability, and efficiency in providing those services. Without quality controls such as caseload limits, training requirements, and other standards,

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ineffective and inefficient public defense will continue to damage not only the clients but the whole criminal justice system. This year the executive budget includes three million dollars (\$3,000,000.00) for the purpose of providing the State the resources to monitor the indigent defense system. It seeks to create a data-collection mechanism that will lead to continuous analysis of the criminal defense delivery system throughout the State. That office will also recommend measures to improve the quality of indigent representation. The bill also mandates that the Office develop a plan for a more rational distribution of available State funds, in a manner that is consistent with the needs of the counties. It does not establish an Independent Public Defense Commission, as recommended by the Commission Report, and strongly supported by Modern Courts, but it begins to advance the principle that our indigent defense system needs great improvements in order to meet the Constitutional rights to counsel. We support its inclusion in the budget as long as measures are taken to ensure its independence.

According to the ABA, 80% of the civil legal needs of low income individuals go unmet nationally. Here in New York, this “justice gap” has been estimated at over 85%. The Committee for Modern Courts supports the inclusion of state funding for civil legal services in the budget in an amount at least equal to funding provided last year - \$15.85 million. This year the amount of state funding in the budget has been reduced to one million dollars (\$1,000,000.00). State funding represents secure, stable funding for the

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provision of civil legal services and should be fully restored to the budget. IOLA grants and the expanded resource IOLA now offers as a result of greater interest rates benefit civil legal services immensely and need to continue, but such benefits are subject to the difficult economic time we are facing right now. Certainly increasing IOLA funding has offered civil legal service providers greater resources, but this should be done in conjunction with the funding in the State budget the Governor and Legislature jointly allocated last year. It is troubling that the poorest citizens, who at times of economic stress have the greatest need to access to justice, may lose critical services as a result of the loss of over \$14 million provided last year in the budget. For Modern Courts, this is a matter of simple justice.

Modern Courts also supports the inclusion of additional funding sought by the Office of Court Administration to improve training, technology and security for town and village justice courts. Again this may not relieve the myriad of issues faced by local courts but it provides concrete support to enhance the fair administration of justice in our local courts.

Thank you.

Modern Courts is a nonpartisan, nonprofit, statewide court reform organization founded in 1955. Through research, advocacy, and the efforts of more than 600 in-court volunteers statewide, Modern Courts helps ensure fair and efficient justice for all New Yorkers. Led by concerned citizens, prominent lawyers, and business leaders, Modern Courts is the only organization in New York State devoted exclusively to improving the judicial system.