

## **IN SUPPORT OF**

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CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY proposing amendments to article 6 of the constitution, in relation to the composition of judicial departments and the restructuring of the unified court system, and the repeal of sections 9, 10, 11, 13, 14, 15, 34, 35, 36, 36-a, 36-c and 37 of article 6 of the constitution relating thereto

This measure to amend Article VI of the Constitution is being introduced at the request of the Chief Judge and Chief Administrative Judge, on behalf of the New York State Judiciary.

In New York State, there are nine major trial courts. Whatever its original virtues, this multitude of forums, each with its own particular subject matter and geographical jurisdiction, and its often unique and complicated procedural niceties, is in need of serious repair. It is confusing to the public and a trap for unwary members of the bar and their clients who fail to negotiate its many byways. It has proven to be an inefficient and, at times, ineffective medium for the resolution of some of society's most troublesome justice issues — most notably, issues involving the scourge of domestic violence and other matters of family justice. Over and over, we have seen that it needlessly generates higher costs in litigation because it often requires parties — particularly those involved in domestic relations matters where jurisdiction is divided between Supreme and Family Court — to venture back and forth between courts so as to secure complete relief. Lastly, the proliferation of trial courts, each having limited authority, invites counterproductive competition among segments of the public and the justice community for limited resources; and invidious and unhealthy comparisons between courts fueled by parochial views concerning the importance of individual courts to the public.

Spurred by concern for these and other problems with the trial court structure, judges, lawyers and a great number of interest groups have, for many years, studied possible reforms. Many have concluded that some form of restructuring, with consolidation of existing courts into a single court, is vitally needed. Past efforts to accomplish such a restructuring have foundered, however. While there are many reasons for these failures, we think that, at heart, restructuring has not been embraced for two fundamental reasons. First, there has been no clear articulation of

its specific benefits to the community today. Second, until now, court restructuring proposals that have been placed before the Legislature have largely been sterile offerings, simply merging a varying number of courts into the Supreme Court while leaving to some vague future date explication of critical details as to how the merged system actually would work.

We believe there is substantial support in the community for a restructuring of the trial court structure; and that it is only for want of a well-defined proposal that is properly responsive to contemporary needs that this reform has till now been deferred. Accordingly, we are offering this measure, which we believe represents a fresh approach to court restructuring. Our proposal would amend the Constitution to consolidate New York's nine major trial courts into three courts: (1) a Supreme Court; (2) a Surrogate's Court; and (3) a District Court. To achieve this consolidation, the Court of Claims, the County Court, and the Family Court would be abolished, with their judges then becoming justices of the Supreme Court. Surrogate's Court would be continued in all 62 counties, but the separately-elected office of Surrogate would be preserved only in the most populated counties (*i.e.*, those having at least 200,000 persons), while in all other counties the function of Surrogate would be discharged by a local justice of the Supreme Court. Finally, a statewide District Court System would be established, consisting of the New York City Civil and Criminal Courts and the upstate City Courts, along with the existing District Courts on Long Island.

Of crucial importance to the public's vital concern that its court system be modernized so that it may better cope with issues of family justice, our proposal: (1) requires that many, if not most, family offenses be prosecuted at the Supreme Court level, (2) provides greater authority for Supreme Court to bring before a single judge and court separate judicial proceedings involving the interests of the members of a single family, and (3) establishes a new separate division of Supreme Court in which family-related litigation (including domestic violence cases, matrimonials, and matters that now are brought in Family Court) will be heard.

This measure also would:

- eliminate the longstanding constitutional limit whereby the number of Justices of the Supreme Court in any Judicial District may not be increased to exceed a ratio of one for every 50,000 people in that District.
- authorize the Legislature to increase the maximum jurisdictional ceiling in the lower civil courts up to \$50,000.
- reconstitute judges of the Housing Part of what now is the NYC Civil Court as full-fledged constitutional judges.
- direct establishment of a Fifth Judicial Department by the Legislature; and provide that if it fails to do so by January 1, 2005, the Chief Administrator must do so.

- provide that there shall be no decrease in salaries or reduction in status and rights of the nonjudicial personnel of abolished courts in office on the date of abolition, on account of such abolition.

This measure does not, by itself, seek to resolve the State's longstanding debate on the selection process for judges. It provides only that all judges affected by the consolidation will continue to be elected, or appointed, as they were under prior law.

Also of significance, this measure, by expanding the corps of Justices of the Supreme Court, will expand the pool of judges: (1) eligible for designation to the Appellate Division, and (2) eligible for certification to service beyond age 70.

Legislative History: None. New proposal.