



The Probable Fiscal Impact of Court Consolidation



NEW YORK STATE UNIFIED COURT SYSTEM

NOVEMBER 2019

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I. EXECUTIVE SUMMARY

In November 1961, the State's voters approved an amendment adding a new Judiciary Article – Article VI – to the Constitution. This was largely in response to public concern over a massive increase in court caseloads during the 1950s and the accompanying growth of long delays in the processing of these caseloads. Hoping that adjustment of the trial court structure and in the way the courts were administered would expedite caseload disposition, the drafters of new Article VI chose to abolish several trial courts that were then part of New York's Judiciary while continuing many others and creating some new ones.¹ The drafters also introduced a new system of regional court management.² In all, new Article VI produced a significantly remodeled court structure, marked by 11 separate trial courts administered by the several Appellate Divisions. While today, almost 60 years after adoption of new Article VI, the Appellate Divisions no longer oversee operations in the trial courts, the number of such courts in place continues to be 11.

Over the decades since Article VI was adopted, many inadequacies in the court system it birthed have come to light. Indeed, many were apparent within just a few years of Article VI's adoption. By the late 1960s and early 1970s, the burgeoning caseloads that had galvanized support for adoption of Article VI had returned; and inspired the State to make some further major changes in the Judiciary. In mid-1976, largely prompted by a severe State and National fiscal crisis, the Legislature enacted the Unified Court Budget Act, by which the State assumed the burden of paying for all of the courts except the Justice Courts. A year and a half later, the voters approved a series of amendments to Article VI, among which was a change in its court administration model: *i.e.*, the Chief Judge succeeded to the Administrative Board as the Judiciary's policy-making authority, and a newly-created office of Chief Administrator of the Courts assumed the responsibilities for trial court management that the Appellate Divisions had taken on almost two decades earlier.³

These changes have proven to be extremely beneficial to the State – permitting it to control Judiciary spending in a responsible way; broadly to extend access to justice; effectively to implement an ever-increasing number of State mandates regarding children, tenants, consumers, businesses, crime victims, and many others who come before the courts; and to ensure the most expeditious disposition of the millions of cases filed with the courts each year. But, despite tremendous progress over the past decade, some caseload delays persist. The price of justice continues to be steep. The courts continue to be plagued by political and cultural obstacles to more rapid and effective deployment of judicial and nonjudicial resources to meet evolving caseload demands. And the court system remains a largely opaque institution that is little understood by any but the most knowledgeable lawyers and judges.

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1. Abolished were the Children's Courts, the Court of General Sessions of the County of New York, the County Courts of Bronx, Kings, Queens, and Richmond Counties, the City Court of New York City, the Domestic Relations Court of New York City, the Municipal Court of New York City, the Court of Special Sessions of New York City, and the City Magistrates' Courts of New York City. Created were the Family Court and the New York City Civil and Criminal Courts.
 2. This new system stripped the trial courts of their long-held authority to run themselves, and created two new administrative vehicles. First, the Administrative Board of the Judicial Conference, consisting of the Chief Judge of the Court of Appeals and the Presiding Justices of the four Appellate Divisions, was given responsibility for setting policy for the Judiciary. Second, the Appellate Divisions were authorized to supervise the day-to-day administration and operation of the courts in their respective Judicial Departments, *i.e.*, to run the trial courts.
 3. Also among these amendments were a change in the method of selecting Judges of the Court of Appeals (from statewide election to gubernatorial appointment (along with senatorial advice and consent) from among candidates recommended by a commission on judicial nomination), and introduction of the present Commission on Judicial Conduct.

Given its present design and resource levels, however, it is unclear as to just how much more the court system can be improved without major changes in its constitutional enabling authority. Indeed, even if there is broad satisfaction today with the courts and their functioning – especially in the wake of the Chief Judge’s Excellence Initiative – that satisfaction must be viewed through a special lens. At this time, the Judiciary is benefitting from an era in which the number of cases annually filed with the courts has diminished. This fact undoubtedly has helped the courts to manage with fewer resources – as they have been constrained to do ever since the State’s fiscal crisis in 2011 and the staff reductions it necessitated, reductions that remain in effect to this day. Offsetting this, however, is the fact that, with each passing legislative session, new procedures are being added that the courts must apply in the processing of cases filed with them – especially in Family Court, criminal courts, and housing courts. These procedures frequently are labor-intensive for court system personnel and especially time-consuming – which can slow down disposition of cases by requiring more litigant appearances in court and delaying case processing.

The trial court structure, in particular, is badly in need of streamlining. While court administrators have done yeoman’s work in getting all they can out of our 11-court design – most recently through application of the Chief Judge’s Excellence Initiative – our system remains far from optimal.

The problems with our court system are not new. They have been evident for many years, and have been the inspiration for many past efforts to restructure New York’s trial court system. These efforts include serious proposals before the Legislature as far back as 1970,⁴ and as recently as 2007.⁵

As will be further detailed in [Part II\(C\)](#) of this report (see [pages 7-9, *infra*](#)), Chief Judge Janet DiFiore has now issued her own call for restructuring the trial courts through consolidation of their numbers into a smaller, more manageable system. Recognizing that past efforts to restructure the courts often foundered upon public concern that those efforts would be too expensive for the public treasury to bear, Chief Administrative Judge Marks directed that OCA personnel consider court consolidation in detail and provide a more definitive view as to just what the costs *and savings* of such a consolidation would likely be. [Part III](#) of this report (see [pages 10-15, *infra*](#)) sets forth this internal analysis and findings.

In our judgment, the anticipated additional cost to government of court consolidation as proposed by the Chief Judge would, by the 2027-28 State fiscal year – the first fiscal year in which the proposed consolidation would be fully effective – increase the annual Judiciary Budget by the following amounts:

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4. In 1970, at the request of Governor Rockefeller, the Legislature established the Dominick Commission (named after its chair, State Senator Clinton Dominick). This Commission sat for three years and produced a wide-ranging set of recommendations for court system reform, among them one for merger of the trial courts. While none of these recommendations were adopted by the Legislature out of the gate, many of them inspired later efforts to amend Article VI. Most notable among those efforts was the 1986 Legislature’s first passage of amendments consolidating the trial court structure into a two-tiered system consisting of a Supreme Court (created by merging the Court of Claims, County Court, Family Court, Surrogate’s Court, the New York City Civil and Criminal Courts, and the District Courts into the existing Supreme Court) and a cohort of lower courts consisting of the upstate City and Justice Courts. (*note: In 1987, these amendments failed to gain second passage and died before they could go to the voters.*)
 5. In 2007, Chief Judge Judith Kaye appointed a blue-ribbon commission (known informally as the “Dunne Commission,” after its chair, New York City lawyer Carey Dunne) to study the court system and to recommend its structural reform. Formally titled the “Special Commission on the Future of the Judiciary,” the Dunne Commission proceeded to issue two reports. The first, filed in 2007, called for merger of the State’s major trial courts and the addition of a Fifth Judicial Department. The second, filed the following year, provided a comprehensive study of the State’s Justice Court system, along with a series of reforms designed to strengthen the Justice Courts as public institutions. As part of its first report, the Commission produced a proposal that would have consolidated the trial court structure into a three-tiered system consisting of a Supreme Court (created by merging the Court of Claims, County Court, Family Court, and the Surrogate’s Court into the existing Supreme Court), a statewide District Court (consisting of the present New York City Civil and Criminal Courts, the District Courts, and the upstate City Courts), and the Justice Courts. While this proposal was introduced in the Legislature, it failed to gain first passage.

- \$3.8 million to equalize the salaries of all Supreme Court Justices;⁶ plus
- \$14.3 million to provide adjustments in nonjudicial staffing, including normalizing chamber staff for all of the new Supreme Court Justices, and in compensation for Supreme Court chamber staff and existing part staff.

The aggregate of these amounts can be offset by savings of \$5 million annually in nonpersonal service costs that consolidation would make possible. *Thus, the net necessary cost to the State of the Chief Judge's proposal would be \$13.1 million (\$3.8 million + \$14.3 million - \$5 million) a year or less than one-half of one percent of the Judiciary's annual budget.*

Our analysis also addresses the potential for savings that court consolidation may generate for individual litigants, businesses, municipalities, and others. These savings, to some of which it is difficult to attach a dollar figure, include:

- savings for litigants and their attorneys of slightly over 4.5 million hours each year. These are hours they would otherwise be spending in court and they are saved by eliminating unnecessary court appearances where litigants have related Family and matrimonial, or Family and criminal, or Family, matrimonial, and criminal cases pending at the same time, or where cases can be more evenly distributed so that judges can better manage them.
- further savings for litigants equaling \$14.8 million in travel expenses they need not incur because they will be spared one million trips to court annually.

As with its assessment of potential savings for litigants, the analysis does not attempt to place a monetary value upon the time that can be saved by attorneys through court consolidation. Such an enterprise would require extensive research and study beyond our present ability to undertake and complete within the foreseeable future. Undoubtedly, many individual litigants will realize some savings with consolidation because their attorneys will need to make fewer appearances in court, but, at present, we are not confident in our ability to predict the overall annual aggregate of such savings.⁷

6. While there is no constitutional requirement that such equalization be the rule, public policy considerations strongly favor that there be pay parity among judges of the same court level.

7. A past study of court consolidation's fiscal impact concluded that the amount of such savings might be significant.

II. THE NEW YORK JUDICIARY AND COURT CONSOLIDATION

A. NEW YORK'S PRESENT COURT STRUCTURE

New York's court system consists of the Court of Appeals; two other appellate courts beneath it – the Appellate Divisions of Supreme Court and the Appellate Terms of Supreme Court; and eleven separate trial courts (including a statewide Supreme Court that sits in all 62 counties, a Court of Claims that sits in eight court districts across the State, a County Court in each of the 57 counties outside New York City, a Family Court that sits city-wide in New York City and in each of the 57 counties outside the City, a Surrogate's Court that sits in each of the 62 counties, a New York City Civil Court, a New York City Criminal Court, District Courts in Nassau and Suffolk Counties, a City Court in each of the 61 cities outside New York City, and Town and Village Justice Courts).

The structure and jurisdiction of these courts are as follows:

THE COURT OF APPEALS

This is New York's appellate court of last resort. It hears appeals from decisions of the intermediate appellate courts and, in a few instances, directly from the trial courts. It has seven judges – a Chief Judge and six Associate Judges. Each is appointed to a fourteen-year term by the Governor, with the advice and consent of the State Senate, from among candidates recommended by a Commission on Judicial Nomination.

THE APPELLATE DIVISION

This is New York's major intermediate appellate court. It sits as four separate courts, one for each of the State's four Judicial Departments. The Appellate Divisions in the First and Second Judicial Departments (which, together, cover New York City, the five counties immediately north of the City, and Long Island) each have seven Justices, while those in the Third and Fourth Judicial Departments (which, together, cover the State's 50 counties north and west of Orange and Dutchess Counties) each have five Justices. These Justices are designated to the Court by the Governor from among the corps of Supreme Court Justices. Each Court also has such number of additional Justices as the Governor may designate from among the Supreme Court Justices upon a certification of need by the Court. Each Appellate Division is headed by a Presiding Justice. The terms of Appellate Division Justices vary: each Presiding Justice serves for the duration of the term to which he or she was elected to Supreme Court; the remaining Justices serve for the duration of the terms to which they were elected to Supreme Court or five years, whichever is shorter, or, where they are additional Justices, they serve until the end of the terms to which they were elected to Supreme Court or until the Appellate Division certifies to the Governor that the need for their services no longer exists, whichever comes first.

THE APPELLATE TERM

This court is an intermediate appellate court. It is established in the discretion of the Appellate Division in a Judicial Department, which may create an Appellate Term for the entirety of the Department or for one or more Judicial Districts or counties in the Department. As of this time, there are three Appellate Terms established in the First and Second Judicial Departments (one for the First and Twelfth Judicial Districts, one for the Second, Eleventh, and Thirteenth Judicial Districts, and one for the Ninth and Tenth Judicial Districts); none in the Third and Fourth Judicial Departments. Appellate Terms hear appeals taken from local criminal courts and civil courts of limited monetary jurisdiction. Appellate Terms each have between three and five Justices who are Supreme Court Jus-

tices designated by the Chief Administrative Judge with the approval of the Presiding Justice of the local Appellate Division.

THE SUPREME COURT

This is New York's highest trial court, enjoying unlimited general and original civil and criminal jurisdiction. In New York City, it sits in both civil and criminal terms. In the former, it presides over matrimonial actions and larger monetary and equitable disputes; in the latter, it presides over felony cases. Outside the City, it sits primarily as a civil court although it may – in some places and at some times – exercise felony jurisdiction. There are just under 340 Justices of the Supreme Court across the State.⁸ Each is elected to office on a Judicial District-wide basis for a fourteen-year term.

THE COURT OF CLAIMS

A statewide court, the Court of Claims is the exclusive judicial forum for the exercise of jurisdiction over claims against the State and certain other public entities specified by statute, counter-claims by the State against a claimant, and cross-claims between conflicting claimants.⁹ As provided by statute, there are 86 Judges of the Court of Claims. Each is appointed to a nine-year term by the Governor, with the advice and consent of the State Senate. As noted (see [footnote 10](#)), many Court of Claims Judges are assigned to service as Acting Supreme Court Justices, especially in New York City. This includes all 59 of the so-called “paragraph (b), (d), and (e)” Court of Claims Judges and some of the “paragraph (a)” Judges. See Court of Claims Act §2(2).¹⁰ Court of Claims’ jurisdiction is exercised exclusively by Judges in the “paragraph (a)” group.

THE COUNTY COURT

There is a separate County Court in each of the 57 counties outside New York City. While the Court enjoys limited civil jurisdiction (*i.e.*, including jurisdiction over cases involving damage claims of \$25,000 or less, and jurisdiction of summary proceedings), it rarely exercises this jurisdiction. Instead, it functions principally as a criminal court in which felonies are tried. In the Third and Fourth Judicial Departments, it also functions as an intermediate appellate court, hearing appeals from the upstate City Courts and Justice Courts. In some counties, by statute, the County Court Judge also serves as the Surrogate and, sometimes, as a Family Court Judge.¹¹ See NY Const., Art. VI, §14. County Court Judges are elected county-wide for ten-year terms.

THE FAMILY COURT

There is a single Family Court that serves New York City and a separate Family Court in each of the 57 counties outside such City. Family Court exercises jurisdiction over a broad range of family-related matters, including: (1) family offenses, (2) child custody, (3) adoptions, (4) persons in need of

8. Judiciary Law §140-a. The work of these Justices is regularly supplemented by the use of Acting Supreme Court Justices, especially in New York City. Acting Supreme Court Justices are judges of other trial courts – *i.e.*, the Court of Claims, the County Court, the Family Court, the Surrogate’s Court, and the New York City Civil and Criminal Courts – who are designated to service on Supreme Court by the Chief Administrative Judge. See NY Const., Art. VI, §26. It has been necessary over the past decades to rely more and more upon the services of Acting Supreme Court Justices. This is because, while Supreme Court’s workload has steadily increased and become more complex, the Constitution prevents the Legislature from adding new elected Justices to meet this increase by capping the number of Justices it may create in a Judicial District such that that District may have no more than one Justice for every 50,000 residents.

9. In 1929, the State waived its sovereign immunity from liability for the torts of its officers and employees, conferring jurisdiction upon the Court of Claims – then a statutory body – over such torts. See L. 1929, c.467. In 1950, the State’s voters amended the Constitution to make the Court of Claims a constitutional court. In 1961, when adopting new Article VI, the voters continued the Court’s constitutional stature.

10. These references to paragraphs are to the paragraphs of section 2(2), through the enactment of which the Legislature has authorized new Court of Claims judgeships over the years.

11. We refer to such counties as having “multi-bench” courts.

supervision and juvenile delinquency, (5) paternity, (6) child abuse and neglect, and (7) termination of parental rights. All Family Court Judges serve ten-year terms. In New York City, they are appointed to office by the Mayor; outside the City, they are elected county-wide.

THE SURROGATE'S COURT

There is a separate Surrogate's Court in each county of the State. Surrogate's Court has jurisdiction over a broad range of matters affecting the affairs of decedents, probate of wills, administration of estates, and guardianship of the property of minors. It also exercises – concurrently with Family Court – jurisdiction over adoptions. There are separately-elected Surrogates in each borough of New York City – two each in Manhattan and Brooklyn, one each in the remaining three boroughs – and in 24 counties outside the City.¹² All Surrogates are elected county-wide. In New York City, they serve fourteen-year terms; outside the City, they serve ten-year terms.

THE NEW YORK CITY CIVIL COURT

The Civil Court is the court of limited civil jurisdiction for New York City. Its jurisdiction includes: (1) disputes involving damage claims of \$25,000 or less, (2) summary proceedings and other landlord-tenant matters, (3) commercial claims, and (4) small claims. The Court exercises most of its landlord-tenant jurisdiction in a statutorily-established Housing Part presided over by 50 quasi-judicial Housing Judges. Civil Court Judges are elected to ten-year terms either county-wide or from districts within counties as determined by the Legislature. As with Judges of the Court of Claims, many Civil Court Judges are designated for extended periods as Acting Supreme Court Justices for New York City by the Chief Administrative Judge. Housing Judges of the Civil Court are appointed to five-year terms by the Chief Administrative Judge from among persons recommended for such service by a special Advisory Council.

THE NEW YORK CITY CRIMINAL COURT

The Criminal Court is the local criminal court for New York City. It exercises preliminary jurisdiction over felonies and trial jurisdiction over misdemeanors and other minor offenses. Criminal Court Judges are appointed to ten-year terms by the Mayor. Like Civil Court Judges, many Criminal Court Judges are designated for extended periods of service as Acting Supreme Court Justices in New York City by the Chief Administrative Judge.

THE DISTRICT COURT

There are separate District Courts in Nassau County and in the area occupied by the five westernmost towns in Suffolk County. Under the Constitution, additional District Courts may be established in other counties by statute subject to local approval by referendum. The District Court exercises the combined jurisdiction of the New York City Civil and Criminal Courts, except that it may not adjudicate damage claims in excess of \$15,000. District Court Judges are elected district-wide to six-year terms.

THE CITY COURTS OUTSIDE NEW YORK CITY

There is a separate City Court established for each of the 61 cities outside New York City. These Courts exercise the same jurisdiction as the District Courts, including the \$15,000 limit on civil jurisdiction. Their Judges may be full-time or part-time (*i.e.*, permitted to practice law on the side) as provided by statute. Also as is provided by statute, City Court Judges may be elected city-wide or appointed (by a City Mayor or Common Council) for ten-year terms (if full-time) or for six-year terms (if part-time).

12. As noted, *supra*, the Constitution permits the Legislature to confer the powers of the Surrogate in counties outside New York City upon a County Court Judge. See Judiciary Law §184(2).

THE TOWN AND VILLAGE JUSTICE COURTS

There are Justice Courts serving many towns and villages across the State. With a few exceptions, including a limit on their authority to adjudicate damage claims to claims of \$3,000 or less, they exercise the same jurisdiction as the City Courts. Many Town and Village Justices are non-lawyers and all serve part-time. Most are elected town- or village-wide for four-year terms.

B. FUNDING NEW YORK’S COURT STRUCTURE

The operating costs of all of New York’s courts – except for the Town and Village Justice Courts – are borne by the State and paid through the Judiciary Budget. See Judiciary Law §39 (L. 1976, c. 966 [the “Unified Court Budget Act”]). Funding for the Justice Courts remains the responsibility of the Towns and Villages in which they are established although there are several State-aid programs available to support Justice Court operations.¹³

Responsibility for the provision of court facilities – courthouses, court rooms and other areas for court business, chambers for judges and justices, etc. – lies with the municipal governments in the counties and cities in which courts sit.¹⁴ This responsibility has been relieved in modest measure by the Court Facilities Act of 1987,¹⁵ by which the State adopted an aid program to assist municipalities in meeting the costs of new construction and rehabilitation of their court facilities; and, through a later statutory enactment, by which the State assumed full responsibility for funding the costs of interior cleaning and minor repairs in courthouses.¹⁶

C. THE CHIEF JUDGE’S PROPOSAL FOR TRIAL COURT CONSOLIDATION

This past February, the Chief Judge, as part of her annual State of Our Judiciary Message, called for constitutional amendments to consolidate New York’s unwieldy trial court structure. Since then, she has prepared a specific constitutional proposal.¹⁷ This proposal serves as the basis for the fiscal analysis provided later in this report. Closely modeled after the Dunne Commission proposal,¹⁸ the Chief Judge’s proposal would amend Article VI of the Constitution to merge the trial court structure in New York, distilling the State’s 11 trial courts into a three-level system, including: a Supreme Court, with the Court of Claims, the County Court, the Family Court, and the Surrogate’s Court being abolished and merged into the existing Supreme Court; a statewide Municipal Court, with separate branches of the Court sitting in New York City (replacing the New York City Civil and Criminal Courts), in Nassau and Suffolk Counties (replacing the Nassau and Suffolk County District Courts),¹⁹ and in each city outside New York City (replacing the 61 upstate City Courts); and the Justice Courts as now constituted.²⁰

13. *E.g.*, Judiciary Law Art. 21-B [Justice Court Assistance Program].

14. L. 1976, c. 966; see also Judiciary Law §39(3)(a) [requiring that local governments – in the wake of enactment of the Unified Court Budget Act – continue to furnish facilities for the courts and “such additional facilities suitable and sufficient for the transaction of business as may [thereafter] become needed ...”].

15. L. 1987, c. 825.

16. L. 1996, c. 686.

17. See [Appendix A](#).

18. See [footnote 5](#), *supra*.

19. And, in theory, in other counties or parts of counties outside New York City inasmuch as the proposal authorizes (but does not require) the creation of comparable Municipal Courts in counties outside of Nassau and Suffolk Counties.

20. See [Appendix B](#) for diagrams comparing New York’s current trial court structure with the trial court structure that would replace it under the consolidation proposal.

1. DIFFERENCES BETWEEN THE CHIEF JUDGE’S PROPOSAL AND THE DUNNE COMMISSION PROPOSAL

As noted, the Chief Judge’s proposal has been closely modeled after the Dunne Commission proposal. There are a few differences, however, and those differences are significant. First, while both proposals call for the same restructuring of the trial courts (*i.e.*, merger of today’s superior courts into the Supreme Court; reconstitution of all the other State-paid courts into a statewide court of lesser jurisdiction – called the Municipal Court in the Chief Judge’s proposal, the District Court in the Dunne Commission proposal; and no changes in the Justice Courts), the Dunne Commission proposal provided that the restructuring should be effectively immediate while the Chief Judge’s proposal provides that it should be phased in over a period of five years.

Second, the Dunne Commission proposal called for establishment of a Fifth Judicial Department while the Chief Judge’s proposal calls only for legislative authority to adjust the number of Judicial Departments once every ten years.

Third, the Chief Judge’s proposal varies from the Dunne Commission proposal in that the former changes entitlement to certification for continued judicial service after age 70 mandatory retirement for Supreme Court Justices. Under the Dunne Commission proposal, the constitutional rule would have remained as at present, *i.e.*, each Supreme Court Justice (and Judge of the Court of Appeals), upon reaching mandatory retirement, would be eligible for certification for continued service on Supreme Court for up to three two-year terms upon a finding that his or her services “are necessary to expedite the business of the court and that he or she is mentally and physically able and competent to perform the full duties of such office”.²¹

Under the Chief Judge’s proposal, however, while certification will remain generally available, it will not be available to Supreme Court Justices who first assume such office after January 1, 2022 unless they have served at least ten years in the office before mandatory retirement.²²

2. TIMETABLE UNDER THE CHIEF JUDGE’S PROPOSAL

In accordance with the timetable that follows, the judges of the courts being merged into Supreme Court, and their successors in office, will become Supreme Court Justices. So, too, will most Acting Supreme Court Justices in New York City then in office.²³ The judges of the courts being merged into the statewide Municipal Court, together with the Housing Judges of the New York City Civil Court, will become Municipal Court Judges.

- **January 1, 2022:**²⁴ the constitutional amendments become a part of the Constitution and take effect.
- **October 1, 2022:** the Court of Claims is abolished; Acting Supreme Court Justices in New York City having at least six months’ tenure in such office (including New York City Civil and

21. By statute, the Administrative Board of the Courts is responsible for certifying eligible judges and justices. Judiciary Law §§114, 115.

22. Supreme Court Justices who first take office prior to January 1, 2022 will not be required to meet the ten-year service qualification, and may be certificated upon retirement regardless of the length of their service on Supreme Court.

23. This change is proposed in recognition of the fact that, as of this writing, there are ten Family Court Judges and over 100 Civil and Criminal Court Judges serving as Acting Supreme Court Justices in New York City – approximately, one-third of the City’s Supreme Court bench. Not granting these Judges status as Supreme Court Justices as part of the consolidation, while eliminating the Chief Administrative Judge’s authority to designate Acting Supreme Court Justices (which, along with elimination of the present constitutional cap on the number of Supreme Court judgeships that may be created, is an important element of the Chief Judge’s proposal), would strip Supreme Court of much of its judicial manpower, which then could only be replaced through the addition of expensive new Supreme Court judgeships.

24. This timetable assumes first passage of the necessary constitutional amendment during the 2020 legislative session, second passage during the 2021 session, and voter approval in November 2021.

Criminal Court Judges so designated and perhaps some Family Court Judges who also have been so designated) become Supreme Court Justices.

- **January 1, 2025:** the County Court, Family Court, and the Surrogate’s Court are abolished.
- **January 1, 2027:** the New York City Civil and Criminal Courts, the District Courts, and the upstate City Courts are abolished and the statewide Municipal Court system is established; Housing Judges of the New York City Civil Court become Article VI judges in the branch of the Municipal Court established in New York City.

Along with these changes: (i) the present constitutional cap on the number of Supreme Court Justices that the Legislature may create is eliminated; (ii) authority to temporarily assign lower court judges to service on Supreme Court is eliminated; and (iii) provision is made for the establishment of six divisions for the merged Supreme Court (Family, Probate, Criminal, State Claims, Commercial, and General), subject to the Chief Administrator’s authority to increase or decrease their number.

3. JURISDICTION IN THE NEW COURT STRUCTURE

Under the OCA proposal, the jurisdictional allocation to the trial courts will be:

- **Supreme Court:** The consolidated Supreme Court will exercise all of the jurisdiction it formerly exercised plus any jurisdiction exercised by the courts abolished and merged with it (e.g., jurisdiction over claims against the State [from the Court of Claims], and over appeals from the lower courts in the Third and Fourth Judicial Departments [from the County Courts]).
- **Municipal Court:** Throughout the State, the Municipal Court will exercise all of the jurisdiction now exercised by the New York City Civil and Criminal Courts, except that its civil monetary jurisdiction will be \$50,000 or such other amount as the Legislature may prescribe.
- **Justice Courts:** There will be no change in the current jurisdiction of these courts. The Legislature will continue to enjoy authority to fix that jurisdiction subject only to the constraint that it may not be greater than that of the other lower courts (i.e., the Municipal Courts).

4. FUNDING THE NEW COURT STRUCTURE

The Chief Judge’s proposal, if adopted by the voters, would not change the manner of funding the court system. The 1976 Unified Court Budget Act, by which the State assumed responsibility for funding the operational needs of the courts, is a statute enabled by present section 29(a) of Article VI of the Constitution. That section authorizes the Legislature to distribute responsibility for such funding among the State, the counties, New York City, and other political subdivisions of the State. The section would not be altered under the Chief Judge’s proposal, except to eliminate its references to courts proposed to be abolished.²⁵

25. Section 29(a) now reads: “The legislature shall provide for the allocation of the cost of operating and maintaining the court of appeals, the appellate division of the supreme court in each judicial department, the supreme court, the court of claims, the county court, the surrogate’s court, the family court, the courts for the city of New York established pursuant to section fifteen of this article and the district court, among the state, the counties, the city of New York and other political subdivisions.” The Chief Judge’s proposal would rewrite this provision to read: “The legislature shall provide for the allocation of the cost of operating and maintaining the court of appeals, the appellate division of the supreme court in each judicial department, the appellate terms, the supreme court, and the municipal courts among the state, the counties, the city of New York and other political subdivisions.” Such a rewriting would not require any change in the provisions of the Unified Court Budget Act.

III. THE FISCAL IMPACT OF TRIAL COURT CONSOLIDATION

A. PRIOR COSTS/SAVINGS ANALYSES

This report builds upon a foundation laid by two past studies of the costs to government that we might expect court consolidation to generate. These two studies are: (1) a 2002 examination of the projected fiscal impact of an early trial court merger proposal promoted by Chief Judge Judith Kaye (“The Budgetary Impact of Trial Court Restructuring”²⁶), and (2) a 2007 reexamination of that impact included in the report of the Dunne Commission (“The Special Commission on the Future of the New York State Courts,” Appendix ii²⁷). The principal findings of these two studies may be summarized as follows:

1. 2002 STUDY

The proposal that was the focus for this study was the same as the Chief Judge’s present proposal in all relevant respects. Assessing the fiscal impact of that 2002 proposal, the 2002 study concluded that, by permitting the disposition in a single court of related cases that now must be heard and determined in multiple courts, court consolidation could be expected to save the state a potential total of \$128.1 million over a five-year period, or \$26.2 million annually. This figure was based upon a contemporary OCA study of the Kings County (Brooklyn) courts that revealed that, in one year, 130 domestic violence cases in local criminal court overlapped²⁸ with 122 Family Court cases – a 94% rate of overlap. It also revealed that a sample of 477 matrimonial cases overlapped 173 Family Court cases – a 36% rate of overlap. Extrapolating these rates statewide, the study determined that, annually, there should be 125,580 Family Court cases that overlap with domestic violence cases in local criminal court or with matrimonial cases in Supreme Court.²⁹ Using this hypothetical number of Family Court cases, the study assumed that, through elimination of various redundancies in case processing,³⁰ some \$200 might be saved per overlapped case through a reduction in the number of nonjudicial positions. The result: \$128.1 million in projected State savings over five years, or \$26.2 million annually.

The 2002 study also concluded that the State could save a further \$12.8 million over five years, or \$2.5 million annually, by eliminating 60 mid-level court managers. Of note, however, the study does not make clear how these proposed reductions in nonjudicial staffing would be realized, i.e., whether, in fact, through lay-offs or reductions in anticipated future requests for additional positions.

The study offsets these projected savings with an expected \$1.9 million annual cost for the Judiciary Budget – representing the price of judicial salary parity. Of note: no mention is made of any costs to be associated with implementing nonjudicial salary parity, with normalizing the allocation of chamber staff to all the judges who would become Supreme Court Justices under court consolidation, or with potential expansion of the pool of certificated Supreme Court Justices.

26. See [Appendix C](#) for the text of this study.

27. See [Appendix D](#) for the text of the relevant portion of this study.

28. The study describes overlaps as occurring “when cases arising from the same or related circumstances are filed in two different courts.” 2002 Study, p. 13.

29. 2002 study, Appendices C-2 – C-3. It is noted in the study that this figure of 125,580 cases represented nearly 20% of the annual Family Court caseload.

30. See *ibid.*, p. 14, for a partial list of such redundancies, i.e., the tasks that now are duplicated by court personnel in different courts for related cases.

2. 2007 STUDY

The Dunne Commission undertook its own original analysis of the costs of the prevailing court structure and the savings that could be anticipated if that structure were revised – again, in accordance with a court consolidation plan resembling the Chief Judge’s present proposal. Its study concluded that such a revision could save \$502 million annually, of which amount (i) \$443 million would be savings to individual litigants, businesses, municipalities, and others, and (ii) the remaining \$59 million would be savings directly realizable by the court system itself. At the same time, the study projected the same \$1.9 million annual cost to the Judiciary Budget identified in the 2002 study. In so doing, the 2007 study appeared to limit itself – as had the 2002 study – to measuring costs solely on the basis of the price tag to be placed on implementing pay parity among the judges and justices of the consolidated courts.³¹

In calculating the \$502 million savings figure, the study envisioned savings on account of two changes made possible by trial court consolidation: (1) earlier resolution of cases due to more efficient allocation of caseloads, and (2) unified treatment of Family Court cases.

A. Earlier Resolution of Cases

The study determined that there then were approximately 1.2 million complex matters³² annually, and assumed that, if these cases could be reassigned to underutilized courts, they might be spared additional court dates and resolved sooner. Using data from OCA showing that these complex cases averaged 3.9 court dates apiece, it was calculated that the 1.2 million complex matters produced an aggregate of 4.8 million court dates. Further, extrapolating from data recorded in the consolidation of the Bronx Criminal Court with Criminal Term of the Bronx Supreme Court³³ – a consolidation that, at the time, showed a 14% increase in the number of Bronx criminal cases disposed annually – the study concluded that, statewide, trial court consolidation would yield a 10% reduction in the number of appearances associated with the 1.2 million complex cases. The result: 468,000 court dates that could be avoided.

The study then determined that, if those 468,000 court dates could be avoided, affected litigants could be spared approximately \$83 million in personal productivity and travel costs.³⁴ Further, it predicted that avoidance of 468,000 court dates would generate approximately \$231 million in avoidable attorney costs.³⁵

B. Unified Treatment of Family Court Cases

The 2007 study undertook an analysis of overlapping Family Court cases much like the analysis that was provided in the 2002 study. Different numbers were used, however. In particular, it was determined that, each year, there were 240,000 sets of such cases (not 125,580, as assumed by the 2002 study). Moreover, relying upon a then-recent study of IDV courts in Bronx and Erie Counties, it was assumed that consolidating these overlapping cases for disposition in one court would save 1.7 court dates per case.

31. There is no mention at all of the cost to the Judiciary of implementing *intra*-court pay parity among the nonjudicial employees of the merged Supreme and Municipal Courts, respectively, or of the cost of adjusting the chamber staff of all the new Supreme Court Justices that consolidation would occasion.

32. The study defined “complex matter” as a case that “generate[s] multiple court appearances prior to disposition.” The figure of 1.2 million complex matters was drawn from a 2005 OCA report.

33. In 2004, the Chief Judge established the Criminal Division of the Bronx Supreme Court. Its purpose was to permit transfer of Bronx cases charging crimes that were pending in the New York City Criminal Court to Supreme Court. 22 NYCRR Parts 42, 142.

34. See 2007 study [analysis provided on pages 116-117, based upon assumptions that personal time saved in not having to attend the unnecessary court dates would equal 3.4 million hours, that the value of each of these hours would be \$22.39, and that it costs litigants on average \$10 to travel to and from a court date].

35. *Ibid.*, Figure 4, at p. 119.

The result: 408,000 court dates that could be avoided, or \$68 million per year that could be saved in personal productivity and travel costs; plus approximately \$61.2 million in attorney costs.³⁶

In projecting \$59 million in annual savings to the Judiciary Budget, the 2007 study employed much the same analysis as did the 2002 study in arriving at its estimate that an aggregate of \$140.9 million in savings could be realized over five years. Both found that savings would flow from eliminating operational redundancies attributable to the present need to hear overlapping cases in separate forums. The difference between the studies in the amount of the potential savings they found is attributable to variations in their calculation of the number of overlapping cases and in the savings per case consolidation could be expected to produce.³⁷ Both studies based their analyses upon the idea that, once appearances were reduced through court consolidation, nonjudicial staffing could be reduced based upon fixed ratios of staff to filings: *i.e.*, 350 filings per full-time equivalent nonjudicial position (FTE) in Family Court, 518 filings per FTE in criminal court. Both studies also found that restructuring would enable savings through administrative consolidation. The 2007 study determined that those savings would be \$5.35 million annually.

Of note: as was the case with the 2002 study, the 2007 study does not make clear how these savings are to be realized, *i.e.*, whether, in fact, they contemplate lay-offs or reductions in anticipated future requests for additional positions. Our unconfirmed understanding is that the 2007 study anticipated that the bulk of the projected \$59 million in savings would be realized through attrition in the ranks of nonjudicial employees.

B. THE COST TO GOVERNMENT OF THE CHIEF JUDGE'S PROPOSAL

This section provides an original analysis of the fiscal consequences of a trial court consolidation phased in over five years as provided in the Chief Judge's proposal. The analysis will summarize both the likely costs of court consolidation as well as any benefits such consolidation can offer for litigants and attorneys.

In this section, we will focus on the necessary costs of consolidation. Displayed in Table 1, these costs include the price of providing judicial and nonjudicial pay parity,³⁸ and of upgrading existing nonjudicial staff in the courts that are merged with Supreme Court so that the staffing structure is consistent in the Supreme Court post-merger.³⁹ Also, the Table 1 costs include the price of making

36. *Ibid.* [analysis provided on pages 119-121, based upon assumptions that personal time saved in not having to attend the unnecessary court dates would equal 3.67 million hours, that the value of each of these hours would be \$16.28, and that it costs litigants on average \$10 to travel to and from a court date]. See [Figure 6](#), at [p. 121](#).

37. The 2002 report assumed that there would be 125,580 overlapping cases, and that consolidating them would save \$200 per case. From this, it calculated that \$128 million in savings could be realized over five years, or more than \$25 million annually. By contrast, the 2007 report assumed that there would be 240,000 such cases, and that consolidating them would save \$232 per case. From this, it calculated that \$55.68 million in savings could be realized annually (or about \$278.5 million over five years).

38. Note that, for purposes of this analysis, it is assumed that all Supreme Court Justices should have pay parity among themselves; and, likewise, that all Municipal Court Justices should have pay parity among themselves. Also, that all nonjudicial employees working in the same titles in the same court should be paid at the same levels.

39. At present, each Supreme Court Justice has a grade 17 personal secretary and a grade 31 law clerk to Justice. While each Judge of the Court of Claims has the same nonjudicial staffing allocation, as do some judges of the county-level courts to be merged with Supreme Court, many judges of the latter courts do not. Nor do most Judges of the New York City Civil and Criminal Courts who would become Supreme Court Justices under the Chief judge's proposal.

changes in the pay levels and staffing of existing part staff in the merged courts. Together, these costs amount to \$18.1 million.⁴⁰

These necessary costs can be offset by \$5 million in savings through a reduction in non-personal services,⁴¹ meaning that the net cost of court consolidation in accordance with the Chief Judge’s proposal in the first fiscal year during which consolidation will be fully in effect (2027-2028) will be \$13.1 million, or less than one-half of one percent of the Judiciary’s annual budget.

TABLE 1 – COURT OPERATIONS IMPACT SUMMARY: NECESSARY COSTS						
Costs	Phase I		Phase II		Phase III	
	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28
A. Judicial Pay Parity	\$0	\$0	\$553,040	\$2,234,283	\$2,631,585	\$3,794,028
B. Nonjudicial Staff & Salary Adjustments (in-part staff)	\$4,441,881	\$9,061,437	\$10,371,593	\$13,758,381	\$14,033,549	\$14,314,220
Total	\$4,441,881	\$9,061,437	\$10,924,633	\$15,992,664	\$16,665,134	\$18,108,248

C. SAVINGS THE PROPOSAL WILL PRODUCE

1. SAVINGS TO STATE AND LOCAL GOVERNMENT

Aside from the \$5 million in nonpersonal service savings alluded to earlier, we believe any conclusion that the Judiciary can realize budgetary savings on account of consolidation is far too speculative. In our judgment, it is not useful to draw any direct correlation between court part staffing needs and workload. The former are not only based on the latter but also upon types of cases, which will not change with court consolidation. Indeed, because one of the major aims of consolidation is to provide flexibility in the assignment of cases to court parts and to facilitate rapid deployment of resources to meet caseload exigencies, it will become necessary to ensure that all divisions of Supreme Court have the appropriate level and number of staff to meet the broad spectrum of cases that can come before the consolidated court. Such savings as might theoretically be realized through a reduction in court appearances associated with the elimination of overlapping cases will be more than offset by the costs associated with properly upgrading all divisions of Supreme Court.

40. In passing, we note that, at least during the first decade following adoption of the Chief Judge’s proposal to consolidate the trial courts, there will be no additional cost associated with certification of Supreme Court Justices for continued judicial service after reaching mandatory retirement at age 70. Under the proposal, while all Supreme Court Justices who took office prior to January 1, 2022 (the effective date of the proposal) will remain eligible for certification on the same terms as they are now, Supreme Court Justices who first take office on or after such date will need to serve at least ten years in such office before they can become eligible for certification. For this reason, there will be no cost attached to certification for at least a decade, notwithstanding that consolidation of Supreme Court will ultimately enlarge the pool of Justices that may be eligible for certification. Indeed, unless there is a significant change in the average age at which Supreme Court Justices first take office following adoption of amendments to Article VI, it is possible that the Chief Judge’s proposal will actually result in a small reduction in the cost of certification to the State over the short term. A survey of the 256 Supreme Court Justices now sitting in trial terms across the State shows that 40 of them, or about 16%, first took office at age 61 or older. If that percentage persists post-consolidation, the number of Supreme Court Justices seeking certification may be expected to decrease marginally and, with it, the number of Justices actually certificated.

41. Unlike the 2002 and 2007 studies, the analysis in this report does not foresee any budgetary savings on account of an anticipated elimination of large numbers of overlapping cases. Among the reasons for this: The Judiciary’s workforce was significantly depleted by the budget cuts following the 2011 State fiscal crisis, cuts from which the courts have yet to fully recover. Today, the Judiciary employs some 1,600 fewer nonjudicial staff than before that crisis. Under the circumstances, we do not feel it could be possible to diminish nonjudicial staff further still, whatever the benefits of court consolidation might otherwise be.

Further, as earlier noted (see [footnote 41](#)), the Judiciary today still must contend with the significantly-diminished nonjudicial staffing levels imposed upon the courts following the 2011 State fiscal crisis. Whatever benefits court consolidation may make possible, whether it be the earlier resolution of cases or the unified treatment of overlapping cases, the Judiciary will not soon be in a position to exploit them in the form of further staffing cuts.

2. SAVINGS TO LITIGANTS

We believe, as did the 2007 Dunne Commission, that court consolidation will significantly reduce the number of litigant appearances. Similarly, we believe – as did the 2007 study’s authors – that consolidation, by permitting more even distribution of caseloads, will generally enable judges to pay greater time and attention to the cases before them. This should open the door to more opportunity for the application of creative case management techniques and, ideally, to earlier disposition of greater numbers of cases.

The charts included in [Appendix E](#) to this report are provided to quantify these benefits. The Table A chart shows that reallocation of the judicial workload, i.e., more even distribution of caseloads among judges, can be expected to spare litigants some 2.7 million fewer appearances in court, while saving them the \$8.7 million in travel costs to be borne in commuting back and forth to those court appearances.⁴²

The [Table B](#) chart in [Appendix E](#) shows that unified treatment of Family Court cases in a consolidated trial court structure, i.e., routing Family Court cases that are related to pending matrimonial or criminal cases, or both, before a single court, can be expected to spare litigants some 1.84 million hours annually that otherwise would be spent appearing in court, while saving them the \$6.1 million in travel costs associated with commuting back and forth to court 408,000 times.⁴³

In sum, the annual societal savings resulting from adoption of the Chief Judge’s proposal, not all of which can be translated into accurate dollar forecasts, are estimated to be:

- On account of reallocation of judicial workload, there will be:
 - » 591,000 fewer litigant appearances in court;
 - » 2.7 million hours saved resulting from those fewer litigant appearances;
 - » \$8.7 million saved in travel costs to court.
- On account of consolidation of Family Court into Supreme Court there will be:
 - » 408,000 fewer appearances in Family Court;
 - » 1.84 million hours saved resulting from fewer appearances in Family Court;
 - » \$6.1 million saved in travel costs not incurred.

42. The 2007 study also found that substantial savings – calculated at \$231 million annually – could be realized in eliminating attorney fees associated with appearances rendered unnecessary by more effective management of cases resulting in fewer court dates. While we agree that individual litigants will realize savings in attorney fees, we do not feel competent to try to fix the precise measure of those savings. We are comfortable, however, predicting that an effect of consolidation will be to enable the limited number of providers of civil legal services to indigent populations to use time freed from having to make additional court appearances to represent more clients.

For a similar reason, we do not try to translate the projected 2.7 million fewer court appearances into dollars saved. While the 2007 study sought to attach a value to litigant productivity – it assigned an average worth to each litigant hour and multiplied that amount by the number of such hours believed to be freed up by consolidation, yielding an aggregate of approximately \$134 million in savings – our confidence in our ability to make a similar prediction today is limited. While a savings of 2.7 million litigant hours will have financial consequences for litigants, e.g., in the form of wages they might earn during those hours, we cannot assume that all affected litigants are employed or that they will use the time freed up for them to engage in remunerative activities.

43. Once again, we do not feel qualified to follow the model of the 2007 study, which assigned a significant dollar value to the litigant hours in court expected to be saved by unified treatment of overlapping Family Court cases; and which appeared to foresee a significant cost savings in attorney fees not charged because their clients were spared court dates.

3. THE DUNNE COMMISSION ANALYSIS: UPDATED.

As already noted (see [page 11](#)), in 2007, the Dunne Commission undertook its own original analysis of the costs and savings that could be anticipated if the trial court structure were revised. Its study concluded that such a revision could save \$502 million annually, of which amount \$443 million would be in the form of savings to individual litigants, businesses, municipalities, and others while the remaining \$59 million would be savings to the State directly realizable through the Judiciary Budget. It also concluded that the annual cost to the courts for judicial pay parity would be \$1.9 million.

Our current analysis of the annual cost to the Judiciary's Budget of consolidation, concluding that it will cost somewhat more than the 2007 study forecast, is set forth in [Part III\(B\)](#) of this report. See [page 12](#) *et seq, supra*.

As for the \$443 million savings figure, we again note that we do not believe ourselves competent either to confirm or to challenge it in the present report.

This said, it may nonetheless be helpful to see where application of the 2007 study methodology to 2019 caseloads takes us. The \$443 million dollar estimate was derived through analysis of the anticipated impacts of two changes made possible by trial court consolidation: (1) earlier resolution of cases due to more efficient allocation of caseloads, and (2) unified treatment of Family Court cases. [Appendix E](#) to this report depicts the value of litigant hours in 2019 as predicted through application of the 2007 methodology and its premises. It shows that reallocation of the caseload is equal in value to \$83.7 million, while unified treatment of Family Court cases could have a monetary value of \$43 million. That these figures are less than they were in the 2007 study is because caseloads have dropped in the interim.⁴⁴

In addition, we examined instances of overlapping Family Court and local criminal court cases, and of Family Court and matrimonial cases, to ascertain a more accurate number of overlapping cases for 2018. We conducted this review by using the Judiciary's Universal Case Management System that covered 14 counties at the time, and then extrapolating the data statewide. This was done to compare the overlap percentages of 94% (Family Court and local criminal court cases) and 36% (Family Court and matrimonial cases) used in the 2002 and, again, in the 2007 studies. This review included a match of names and dates of birth. Its results revealed a lower percentage of overlapping cases. The Family Court and local criminal court case match was 13%, while the Family Court and matrimonial case match was 3%. When extrapolated statewide, we found 100,000 overlapping Family Court and local criminal court cases, and 20,000 Family Court and matrimonial cases – which is exactly one-half of the number provided in the 2007 report.

The 2007 study also found that reallocation of the caseload might save \$231 million in attorney's fees, while unified treatment of Family Court cases might save an additional \$61.2 million in such fees based on an extensive CCI study of attorney hours by case type. In order to make a comparable calculation today, in 2019, further studies would be necessary.

44. In 2010, some 1.9 million civil cases were commenced in Supreme Court, County Court, and the other State-paid courts of lesser civil jurisdiction and approximately 1.3 million criminal cases in the State's superior and lower criminal courts (excluding the Justice Courts). In that same year, Family Court took in just under three-quarters of a million filings. In the intervening eight years, these caseload levels have dropped. In 2018, the last full year for which comprehensive data are available, 1.47 million civil cases were commenced in Supreme Court, County Court, and the other State-paid courts of lesser civil jurisdiction and just over one-half million criminal cases in the State's superior and lower criminal courts (excluding the Justice Courts). Likewise, in that same year, Family Court received just over one-half million new filings. Overall, these numbers show a 33% decrease in cases filed annually with the State Judiciary between 2010 and 2018.

IV. CONCLUSION

Over the years, the Judiciary has frequently proposed the consolidation of the trial courts. Accompanying some of these proposals, have been analyses predicting consolidation's likely fiscal impact upon government and the private sector. Until now, the most comprehensive such analysis was undertaken by the Dunne Commission to support its 2007 consolidation proposal. This study concluded that consolidation of the trial courts could yield savings of \$502 million annually – \$59 million for the State through the Judiciary Budget, and \$443 million for individual litigants, businesses, municipalities, and others. The study also concluded that consolidation would generate an annual cost of \$1.9 million to the courts.

In February of this year, Chief Judge DiFiore renewed the Judiciary's call for court consolidation. In conjunction with this call, she commissioned preparation of a new, updated analysis of the fiscal impact of such a consolidation. The instant report sets forth this analysis.

The analysis draws two main conclusions:

- Past predictions that consolidation would produce some \$59 million in annual savings for the Judiciary (offset by \$1.9 million in increased expenses) seem unduly optimistic today. Caseloads are smaller, the nonjudicial workforce has been significantly diminished (largely the result of the 2011 State fiscal crisis), judges are paid more, and the Judiciary has already taken greater steps to implement administrative consolidation of the courts. The result: economies that once might have been realized as a result of consolidation (*i.e.*, earlier resolution of cases due to more efficient allocation of caseloads and unified treatment of Family Court cases) may no longer be achievable. In fact, consolidation will not produce savings but, instead, can be expected to have a comparatively modest fiscal impact: approximately \$13 million annually (*or less than one-half of one percent of the Judiciary's current budget*) once the Chief Judge's proposal is fully implemented.
- Although the Dunne Commission's prediction that consolidation will make possible considerable litigant savings remains generally valid, reductions in caseloads over the intervening years cloud any firm conclusion as to the measure of those savings.

APPENDIX A

THE CHIEF JUDGE'S PROPOSAL

The Chief Judge's Proposal

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY proposing amendments to article 6 of the constitution, in relation to consolidation of the unified court system, and the repeal of sections 9, 10, 11, 12, 13, 14, 16, 34, 35, 36, 36-a, 36-c and 37 and subdivision j of section 22 of article 6 of the constitution relating thereto

Section 1. Resolved (if the _____ concur), That section 1 of article 6 of the constitution be amended to read as follows:

Section 1. a. There shall be a unified court system for the state. The state-wide courts shall consist of the court of appeals[,] and the supreme court including the appellate divisions and the appellate terms thereof[, the court of claims, the county court, the surrogate's court and the family court,] as hereinafter provided. [The legislature shall establish in and for the city of New York, as part of the unified court system for the state, a single, city-wide court of civil jurisdiction and a single, city-wide court of criminal jurisdiction, as hereinafter provided, and may upon the request of the mayor and the local legislative body of the city of New York, merge the two courts into one-city-wide court of both civil and criminal jurisdiction.] The unified court system for the state shall also include the [district] municipal, town[, city] and village courts [outside the city of New York,] as hereinafter provided.

b. The court of appeals, the supreme court including the appellate divisions and the appellate terms thereof as hereinafter provided, the [court of claims, the county court, the surrogate's court, the family court, the courts or court of civil and criminal jurisdiction of the city of New York,] municipal courts and such other courts as the legislature may determine shall be courts of record.

c. All processes, warrants and other mandates of the court of appeals[,] and the supreme court including the appellate divisions and the appellate terms thereof[, the court of claims, the county court, the surrogate's court and the family court] as hereinafter provided may be served and executed in any part of the state. All processes, warrants and other mandates of the municipal courts [or court of civil and criminal jurisdiction of the city of New York] may, subject to such limitation as may be prescribed by the legislature provided it applies uniformly to all municipal courts, be served and executed in any part of the state. The legislature may provide that processes, warrants and other mandates of [the district court may be served and executed in any part of the state and that processes, warrants and other mandates of] town[,] and village [and city]

courts [outside the city of New York] may be served and executed in any part of the county in which such courts are located or in any part of any adjoining county.

§2. Resolved (if the _____ concur), That subdivision a of section 2 of article 6 of the constitution be amended to read as follows:

a. The court of appeals is continued. It shall consist of [the] a chief judge and [the] six [elected] associate judges [now in office, who shall hold their offices until the expiration of their respective terms, and their successors], and such justices of the supreme court as may be designated for service in said court as hereinafter provided. The [official] terms of the chief judge and the six associate judges shall be fourteen years.

Five members of the court shall constitute a quorum, and the concurrence of four shall be necessary to a decision; but no more than seven judges shall sit in any case. In case of the temporary absence or inability to act of any judge of the court of appeals, the court may designate any justice of the supreme court to serve as associate judge of the court during such absence or inability to act. The court shall have power to appoint and to remove its clerk. The powers and jurisdiction of the court shall not be suspended for want of appointment when the number of judges is sufficient to constitute a quorum.

§3. Resolved (if the _____ concur), That subdivisions a, c and d of section 4 of article 6 of the constitution be amended to read as follows:

a. (1) The state shall be divided into four judicial departments. The first department shall consist of the counties within the first and twelfth judicial [district] districts of the state. The second department shall consist of the counties within the second, ninth, tenth [and], eleventh, and thirteenth judicial districts of the state. The third department shall consist of the counties within the third, fourth, and sixth judicial districts of the state. The fourth department shall consist of the counties within the fifth, seventh, and eighth judicial districts of the state. [Each department shall be bounded by the lines of judicial districts.]

(2) Once every ten years, the legislature may increase or decrease the number of judicial departments, or alter the boundaries of the judicial departments[, but without changing the number thereof]. Upon any adjustment hereunder, each department shall be bounded by the lines of judicial districts, and the justices of each appellate division affected by such adjustment may be re-apportioned, and appeals in their respective courts transferred, as provided by subdivision g of section twenty-seven of this article.

Appendix A

c. The governor shall designate the presiding justice of each appellate division, who shall act as such during his or her term of office and shall be a resident of the department. The other justices of the appellate divisions shall be designated by the governor, from all the justices [elect-ed to] of the supreme court other than those appointed to fill a vacancy pursuant to subdivision a of section fifteen of this article, for terms of five years or the unexpired portions of their respec-tive terms of office, if less than five years.

d. The [justices heretofore designated shall continue to sit in the appellate divisions until the terms of their respective designations shall expire. From time to time as the terms of the designations expire, or vacancies occur, the governor shall make new designations. The] gover-nor may also, on request of any appellate division, make temporary designations in case of the absence or inability to act of any justice in such appellate division, for service only during such absence or inability to act.

§4. Resolved (if the _____ concur), That subdivisions a, b, c, and d of section 6 of article 6 of the constitution be amended to read as follows:

a. The state shall be divided into [eleven] thirteen judicial districts. The first judicial dis-trict shall consist of the [counties] county of [Bronx and] New York. The second judicial district shall consist of the [counties] county of Kings [and Richmond]. The third judicial district shall consist of the counties of Albany, Columbia, Greene, Rensselaer, Schoharie, Sullivan, and Ulster. The fourth judicial district shall consist of the counties of Clinton, Essex, Franklin, Fulton, Ham-ilton, Montgomery, St. Lawrence, Saratoga, Schenectady, Warren, and Washington. The fifth ju-dicial district shall consist of the counties of Herkimer, Jefferson, Lewis, Oneida, Onondaga, and Oswego. The sixth judicial district shall consist of the counties of Broome, Chemung, Chenango, Cortland, Delaware, Madison, Otsego, Schuyler, Tioga, and Tompkins. The seventh judicial district shall consist of the counties of Cayuga, Livingston, Monroe, Ontario, Seneca, Steuben, Wayne, and Yates. The eighth judicial district shall consist of the counties of Allegany, Cattarau-gus, Chautauqua, Erie, Genesee, Niagara, Orleans, and Wyoming. The ninth judicial district shall consist of the counties of Dutchess, Orange, Putnam, Rockland, and Westchester. The tenth judicial district shall consist of the counties of Nassau and Suffolk. The eleventh judicial district shall consist of the county of Queens. The twelfth judicial district shall consist of the county of Bronx. The thirteenth judicial district shall consist of the county of Richmond.

b. Once every ten years the legislature may increase or decrease the number of judicial

districts or alter the composition of judicial districts and thereupon re-apportion the justices [to be thereafter elected] of the supreme court in the judicial districts so altered. Each judicial district shall be bounded by county lines.

c. [The] Except as otherwise provided in this article, the justices of the supreme court shall be chosen by the electors of the judicial district in which they are to serve[. The] for terms of [justices of the supreme court shall be] fourteen years from and including the first day of January next after their election.

d. The supreme court is continued. [It shall consist of the number of justices of the supreme court including the justices designated to the appellate divisions of the supreme court, judges of the county court of the counties of Bronx, Kings, Queens and Richmond and judges of the court of general sessions of the county of New York authorized by law on the thirty-first day of August next after the approval and ratification of this amendment by the people, all of whom shall be justices of the supreme court for the remainder of their terms. The legislature may increase the] In each judicial district, it shall consist of such number of justices [of the supreme court in any judicial district] as may be authorized by law, except that [the number in any district shall not be increased to exceed one justice for fifty thousand, or fraction over thirty thousand, of the population thereof as shown by the last federal census or state enumeration. The legislature may decrease the number of justices of the supreme court in any judicial district, except that]:

(1) the number in any judicial district shall not be less than the number of justices of the supreme court authorized by law in such judicial district on [the effective date of this article] December thirty-first, two thousand twenty-one; and

(2) there shall be at least one justice of the supreme court in each county outside the city of New York chosen by the electors thereof.

§5. Resolved (if the _____ concur), That section 7 of article 6 of the constitution be amended to read as follows:

§7. a. The supreme court and any division thereof shall have general original jurisdiction in law and equity, including the jurisdiction of the former court of claims following its abolition pursuant to section twenty-seven of this article subject, however, to such power as the legislature had to withdraw jurisdiction from the court of claims on the day immediately preceding such abolition; the appellate jurisdiction of the former county court following its abolition pursuant to such section twenty-seven, except that the legislature may provide, in accordance with section

eight of this article, that one or more appellate terms shall exercise any or all of such appellate jurisdiction; and [the] such other appellate jurisdiction as herein provided. [In the city of New York, it] Except as the legislature may otherwise provide pursuant to paragraph (4) of subdivision a of section ten of this article, the supreme court shall have exclusive jurisdiction over crimes prosecuted by indictment[, provided, however, that the legislature may grant to the city-wide court of criminal jurisdiction of the city of New York jurisdiction over misdemeanors prosecuted by indictment and to the family court in the city of New York jurisdiction over crimes and offenses by or against minors or between spouses or between parent and child or between members of the same family or household].

b. If the legislature shall create new classes of actions and proceedings, the supreme court shall have jurisdiction over such classes of actions and proceedings, but the legislature may provide that another court or other courts shall also have jurisdiction and that actions and proceedings of such classes may be originated in such other court or courts.

c. Except as the chief administrator of the courts may otherwise provide, the supreme court shall have the following divisions effective January first, two thousand twenty-five or such other date as shall be provided herein:

(1) a family division, for actions and proceedings for marital separation, divorce, annulment of marriage and dissolution of marriage, and actions and proceedings within the jurisdiction of the former family court on December thirty-first, two thousand twenty-four;

(2) a probate division, for actions and proceedings within the jurisdiction of the former surrogate's court on December thirty-first, two thousand twenty-four;

(3) a criminal division, for crimes and other violations of law;

(4) effective October first, two thousand twenty-two, a state claims division, for actions and proceedings within the jurisdiction of the former court of claims on September thirtieth, two thousand twenty-two;

(5) a commercial division, for civil actions and proceedings as may be provided by law or prescribed by the chief administrator; and

(6) a general division, for all other actions and proceedings in the supreme court.

To the extent practicable, justices assigned to any such divisions shall be experienced in the business coming before them.

Notwithstanding any provision of this subdivision, each of the divisions specified herein

may exercise all of supreme court's jurisdiction under this section.

§6. Resolved (if the _____ concur), That subdivisions d and e of section 8 of article 6 of the constitution be amended to read as follows:

d. If so directed by the appellate division of the supreme court in the first or second judicial department establishing an appellate term, [an] such appellate term shall have jurisdiction to hear and determine appeals [now or hereafter authorized by law to be taken to the supreme court or to the appellate division other than appeals from the supreme court, a surrogate's court, the family court or appeals in criminal cases prosecuted by indictment or by information as provided in section six of article one] from the municipal court in the city of New York sitting in such judicial department.

e. As may be provided by law, an appellate term shall have jurisdiction to hear and determine appeals from [the district] a municipal court outside the city of New York or from a town[,] or village [or city] court [outside the city of New York].

§7. Resolved (if the _____ concur), That sections 9, 10, 11, 12, 13, 14, 16, 34, 35, 36, 36-a, 36-c, and 37 and subdivision j of section 22 of article 6 of the constitution be REPEALED.

§8. Resolved (if the _____ concur), That sections 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, and 33 of article 6 of the constitution be renumbered sections 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 28.

§9. Resolved (if the _____ concur), That section 9 of article 6 of the constitution, as renumbered by section 8 of this resolution, be amended to read as follows:

§9. [a.] The [legislature shall by law establish a single court of city-wide civil jurisdiction and a single court of city-wide criminal jurisdiction in and for the city of New York and the legislature may, upon the request of the mayor and the local legislative body of the city of New York, merge the two courts into one city-wide court of both civil and criminal jurisdiction. The said city-wide courts] municipal court system is hereby established effective January first, two thousand twenty-seven. Under such system:

a. There shall be a municipal court in the city of New York. It shall consist of such number of judges as may be [provided] authorized by law. The judges of the municipal court [of city-wide civil jurisdiction] in the city of New York shall be residents of such city and, except as otherwise provided in this article, shall be [chosen] selected in the manner provided by law for terms of ten years [by the electors of the counties included within the city of New York from

districts within such counties established by law. The judges of the court of city-wide criminal jurisdiction shall be residents of such city and shall be appointed for terms of ten years by the mayor of the city of New York.

b. The court of city-wide civil jurisdiction of the city of New York shall have jurisdiction over the following classes of actions and proceedings which shall be originated in such court in the manner provided by law: actions and proceedings for the recovery of money, actions and proceedings for the recovery of chattels and actions and proceedings for the foreclosure of mechanics liens and liens on personal property where the amount sought to be recovered or the value of the property does not exceed twenty-five thousand dollars exclusive of interest and costs, or such smaller amount as may be fixed by law; over summary proceedings to recover possession of real property and to remove tenants therefrom and over such other actions and proceedings, not within the exclusive jurisdiction of the supreme court, as may be provided by law. The court of city-wide civil jurisdiction shall further exercise such equity jurisdiction as may be provided by law and its jurisdiction to enter judgment upon a counterclaim for the recovery of money only shall be unlimited.

c. The court of city-wide criminal jurisdiction of the city of New York shall have jurisdiction over crimes and other violations of law, other than those prosecuted by indictment, provided, however, that the legislature may grant to said court jurisdiction over misdemeanors prosecuted by indictment; and over such other actions and proceedings, not within the exclusive jurisdiction of the supreme court, as may be provided by law.

d. The provisions of this section shall in no way limit or impair the jurisdiction of the supreme court as set forth in section seven of this article]. Where a term of office prescribed hereunder is elective, it shall be from and including the first day of January next after election.

b. There shall be municipal courts outside the city of New York as follows:

(1) The legislature may, at the request of the board of supervisors or other elective governing body of any county outside the city of New York, establish a municipal court for the entire area of such county or for a portion of such county consisting of one or more cities, or one or more towns which are contiguous, or of a combination of such cities and such towns provided at least one of such cities is contiguous to one of such towns; provided that: (i) no law establishing a municipal court hereunder for an entire county shall become effective unless approved at a general election on the question of the approval of such law by a majority of the votes cast thereon by

the electors within the area of any cities in the county considered as one unit and by a majority of the votes cast thereon by the electors within the area outside of cities in the county considered as one unit; and (ii) no law establishing a municipal court hereunder for a portion of a county shall become effective unless approved at a general election on the question of the approval of such law by a majority of the votes cast thereon by the electors within the area of any cities included in such portion of the county considered as one unit and by a majority of the votes cast thereon by the electors within the area outside of cities included in the portion of the county considered as one unit.

(2) Unless the legislature shall otherwise provide, a municipal court shall be established for the area of each city outside the city of New York.

The judges of a municipal court outside the city of New York shall be residents of the county or portion thereof for which such court has been established and shall be chosen by the electors of such county or portion thereof for terms of six years; except that judges of a municipal court established pursuant to paragraph (2) of this subdivision shall be residents of the city for which such court is established unless otherwise provided by law, and shall be chosen in such manner and for such terms as shall be provided by law. Where a term of office prescribed hereunder is elective, it shall be from and including the first day of January next after election.

c. The legislature may create districts of a municipal court outside the city of New York established pursuant to paragraph (1) of subdivision b of this section, which shall consist of an entire county or of an area less than a county; and may discontinue any district of such a municipal court. The judges of a municipal court for which districts have been created hereunder shall be apportioned among such districts as may be provided by law and, to the extent practicable, in accordance with the population and the volume of judicial business.

d. Each municipal court outside the city of New York shall consist of such number of judges as may be authorized by law, provided there shall be at least one judge for each municipal court and, for each municipal court in which districts have been created hereunder, at least one judge for each of such districts.

§10. Resolved (if the _____ concur), That article 6 of the constitution be amended by adding a new section 10 to read as follows:

§10. a. Once established pursuant to section nine of this article, the municipal courts shall enjoy uniform jurisdiction statewide. Such jurisdiction shall include the following classes

of actions and proceedings, which shall be originated in such courts in the manner provided by law:

(1) actions and proceedings for the recovery of money, actions and proceedings for the recovery of chattels, and actions and proceedings for the foreclosure of mechanics liens and liens on personal property where the amount sought to be recovered or the value of the property does not exceed fifty thousand dollars exclusive of interest and costs, or such other amount as may be fixed by law; provided, however, that the jurisdiction of the municipal court to enter judgment upon a counterclaim for the recovery of money only shall be unlimited;

(2) actions and proceedings in law and equity involving the enforcement of state and local laws for the establishment and maintenance of housing standards, summary proceedings to recover possession of real property and to remove tenants therefrom, and such other actions and proceedings, not within the exclusive jurisdiction of the supreme court, as may be provided by law;

(3) such equity jurisdiction as may be provided by law;

(4) jurisdiction over crimes and other violations of law other than those prosecuted by indictment; provided, however, that the legislature may grant to the municipal courts jurisdiction over misdemeanors prosecuted by indictment and over such other criminal actions and proceedings, not within the exclusive jurisdiction of the supreme court, as may be provided by law; and

(5) any other jurisdiction exercised by the former city-wide courts of civil and criminal jurisdiction for the city of New York on December thirty-first, two thousand twenty-six not otherwise provided herein and, where it is provided by law after such date, such further jurisdiction as those courts might have exercised on such date had such jurisdiction then been provided by law.

b. The municipal court in the city of New York and such other municipal courts outside such city as the legislature may provide shall have a housing division, for actions and proceedings specified in paragraph (2) of subdivision a of this section, and such further divisions as the chief administrator of the courts may provide.

c. The provisions of this section shall in no way limit or impair the jurisdiction of the supreme court as set forth in section seven of this article.

§11. Resolved (if the _____ concur), That section 11 of article 6 of the constitution, as renumbered by section 8 of this resolution, be amended to read as follows:

§11. a. Courts for towns[,] and villages [and cities outside the city of New York] are con-

tinued and shall have the jurisdiction prescribed by the legislature but not in any respect greater than the jurisdiction of [the district] a municipal court as provided in section [sixteen] ten of this article.

b. The legislature may regulate such courts[, establish uniform jurisdiction, practice and procedure for city courts outside the city of New York] and may discontinue any village [or city] court [outside the city of New York existing on the effective date of this article]. The legislature may discontinue any town court [existing on the effective date of this article] only with the approval of a majority of the total votes cast at a general election on the question of a proposed discontinuance of the court in each such town affected thereby.

c. [The legislature may abolish the legislative functions on town boards of justices of the peace and provide that town councilmen be elected in their stead.

d.] The number of [the judges] justices of each of such town[, and] village [and city] courts and the classification and duties of [the judges] such justices shall be prescribed by the legislature. The terms, method of selection and method of filling vacancies for the [judges] justices of such courts shall be prescribed by the legislature[,]; provided, however, that the justices of town courts shall be chosen by the electors of the town for terms of four years from and including the first day of January next after their election.

§12. Resolved (if the _____ concur), That section 13 of article 6 of the constitution, as renumbered by section 8 of this resolution, be amended to read as follows:

§13. a. The supreme court may transfer any action or proceeding, except one over which it shall have exclusive jurisdiction which does not depend upon the monetary amount sought, to any other court having jurisdiction of the subject matter within the judicial department provided that such other court has jurisdiction over the classes of persons named as parties. As may be provided by law, the supreme court may transfer to itself any action or proceeding originated or pending in another court within the judicial department [other than the court of claims] upon a finding that such a transfer will promote the administration of justice.

b. The [county court shall transfer to the supreme court or surrogate's court or family court any action or proceeding which has not been transferred to it from the supreme court or surrogate's court or family court and over which the county court has no jurisdiction. The county court may transfer any action or proceeding, except a criminal action or proceeding involving a felony prosecuted by indictment or an action or proceeding required by this article to be dealt

with in the surrogate's court or family court, to any court, other than the supreme court, having jurisdiction of the subject matter within the county provided that such other court has jurisdiction over the classes of persons named as parties.

c. As may be provided by law, the supreme court or the county court may transfer to the county court any action or proceeding originated or pending in the district court or a town, village or city court outside the city of New York upon a finding that such a transfer will promote the administration of justice.

d. The surrogate's court shall transfer to the supreme court or the county court or the family court or the courts for the city of New York established pursuant to section fifteen of this article any action or proceeding which has not been transferred to it from any of said courts and over which the surrogate's court has no jurisdiction.

e. The family court shall transfer to the supreme court or the surrogate's court or the county court or the courts for the city of New York established pursuant to section fifteen of this article any action or proceeding which has not been transferred to it from any of said courts and over which the family court has no jurisdiction.

f. The courts for the city of New York established pursuant to section fifteen of this article] municipal court shall transfer to the supreme court [or the surrogate's court or the family court] any action or proceeding which has not been transferred to [them] it from [any of said courts] the supreme court and over which the [said courts for the city of New York have] municipal court has no jurisdiction.

[g.] c. As may be provided by law, the supreme court shall transfer any action or proceeding to any other court having jurisdiction of the subject matter in any other judicial district or county provided that such other court has jurisdiction over the classes of persons named as parties.

[h.] d. As may be provided by law, the [county] municipal court[, the surrogate's court, the family court and the courts for] in the city of New York [established pursuant to section fifteen of this article], sitting outside the first judicial department, may transfer any action or proceeding, other than one which has previously been transferred to it, to any other court in the second judicial department, except the supreme court, having jurisdiction of the subject matter [in any other judicial district or county] provided that such other court has jurisdiction over the classes of persons named as parties.

[i.] e. As may be provided by law, [the district] a municipal court outside the city of New York or a town[,], or village [or city] court [outside the city of New York] may transfer any action or proceeding, other than one which has previously been transferred to it, to any other court, [other than] except the [county court or the surrogate's court or the family court or the] supreme court, having jurisdiction of the subject matter in the same or an adjoining county provided that such other court has jurisdiction over the classes of persons named as parties.

[j.] f. Each court shall exercise jurisdiction over any action or proceeding transferred to it pursuant to this section.

[k.] g. The legislature may provide that the verdict or judgment in actions and proceedings so transferred shall not be subject to the limitation of monetary jurisdiction of the court to which the actions and proceedings are transferred if that limitation be lower than that of the court in which the actions and proceedings were originated.

§13. Resolved (if the _____ concur), That section 14 of article 6 of the constitution, as renumbered by section 8 of this resolution, be amended to read as follows:

§14. a. No person[, other than one who holds such office at the effective date of this article,] may assume the office of judge of the court of appeals[,], or justice of the supreme court[,], or judge of the court of claims] unless he or she has been admitted to practice law in this state at least ten years. No person[, other than one who holds such office at the effective date of this article,] may assume the office of judge of [the county court, surrogate's court, family court, a court for the city of New York established pursuant to section fifteen of this article, district] a municipal court [or city court outside the city of New York] unless he or she has been admitted to practice law in this state at least five years or such greater number of years as the legislature may determine.

b. A judge of the court of appeals, justice of the supreme court, [judge of the court of claims, judge of a county court, judge of the surrogate's court, judge of the family court] or judge of a municipal court [for the city of New York established pursuant to section fifteen of this article who is elected or appointed after the effective date of this article] may not:

(1) hold any other public office or trust except an office in relation to the administration of the courts, member of a constitutional convention, or member of the armed forces of the United States or of the state of New York in which latter event the legislature may enact such legislation as it deems appropriate to provide for a temporary judge or justice to serve during the period of

the absence of such judge or justice in the armed forces;

(2) be eligible to be a candidate for any public office other than judicial office or member of a constitutional convention, unless he or she resigns from judicial office; in the event a judge or justice does not so resign from judicial office within ten days after his or her acceptance of the nomination of such other office, his or her judicial office shall become vacant and the vacancy shall be filled in the manner provided in this article;

(3) hold any office or assume the duties or exercise the powers of any office of any political organization or be a member of any governing or executive agency thereof;

(4) engage in the practice of law, act as an arbitrator, referee or compensated mediator in any action or proceeding or matter or engage in the conduct of any other profession or business which interferes with the performance of his or her judicial duties; except that, if the legislature so provides, a judge of a municipal court outside the city of New York established pursuant to paragraph (2) of subdivision b of section nine of this article may engage in the practice of law.

Judges and justices of the courts specified in this subdivision shall also be subject to such rules of conduct as may be promulgated by the chief administrator of the courts with the approval of the court of appeals.

c. Qualifications for and restrictions upon justices of the [judges of district,] town[,] and village [or city] courts [outside the city of New York, other than such qualifications and restrictions specifically set forth in subdivision a of this section,] shall be prescribed by the legislature[,]; provided, however, that the legislature shall require a course of training and education to be completed by such justices [of town and village courts selected after the effective date of this article] who have not been admitted to practice law in this state. [Judges] Justices of such courts shall also be subject to such rules of conduct not inconsistent with laws as may be promulgated by the chief administrator of the courts with the approval of the court of appeals.

§14. Resolved (if the _____ concur), That section 15 of article 6 of the constitution, as renumbered by section 8 of this resolution, be amended to read as follows:

§15. a. When a vacancy shall occur, otherwise than by expiration of term, in the office of an elective justice of the supreme court[, of judge of the county court, of judge of the surrogate's court or judge of the family court outside the city of New York], it shall be filled for a full term at the next general election held not less than three months after such vacancy occurs and, until the vacancy shall be so filled, the governor by and with the advice and consent of the senate, if the

senate shall be in session, or, if the senate not be in session, the governor may fill such vacancy by [an] appointment [which]; except that, where the vacancy is in the office of a justice who was a judge of the city-wide court of civil jurisdiction of the city of New York who became a justice of the supreme court pursuant to subparagraph C of paragraph (1) of subdivision b of section twenty-seven of this article, or his or her successor in office, the mayor of the city of New York shall fill such vacancy by appointment. Each appointment pursuant to this subdivision shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

b. When a vacancy shall occur, otherwise than by expiration of term, in the office of [judge of the court of claims] an appointive justice of the supreme court, it shall be filled for the unexpired term in the same manner as an original appointment.

c. When a vacancy shall occur, otherwise than by expiration of term, in the office of judge elected to the [city-wide] municipal court [of civil jurisdiction of] in the city of New York, it shall be filled for a full term at the next general election held not less than three months after such vacancy occurs and, until the vacancy shall be so filled, the mayor of the city of New York may fill such vacancy by an appointment which shall continue until and including the last day of December next after the election at which the vacancy shall be filled. When a vacancy shall occur, otherwise than by expiration of term on the last day of December of any year, in the office of judge appointed to the [family court within the city of New York or the city-wide] municipal court [of criminal jurisdiction of] in the city of New York, the mayor of the city of New York shall fill such vacancy by an appointment for the unexpired term; except that, where the vacancy is in the office of a judge who was a housing judge of the city-wide court of civil jurisdiction of the city of New York who became a judge of the municipal court pursuant to subparagraph C of paragraph (1) of subdivision c of section twenty-seven of this article, or his or her successor in office, the mayor shall fill such vacancy by appointment for the unexpired term from a list of persons found qualified by an advisory council established by law.

d. When a vacancy shall occur, otherwise than by expiration of term, in the office of judge of [the district] a municipal court outside the city of New York established pursuant to paragraph (1) of subdivision b of section nine of this article, it shall be filled for a full term at the next general election held not less than three months after such vacancy occurs and, until the vacancy shall be so filled, the board of supervisors or the supervisor or supervisors of the [affect-

ed district] area for which the court was established if such [district] area consists of a portion of a county or, in counties with an elected county executive officer, such county executive officer may, subject to confirmation by the board of supervisors or the supervisor or supervisors of such [district] area, fill such vacancy by an appointment which shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

e. When a vacancy shall occur, otherwise than by expiration of term, in the office of judge of a municipal court outside the city of New York established pursuant to paragraph (2) of subdivision b of section nine of this article, it shall be filled in the manner provided by law.

§15. Resolved (if the _____ concur), That section 17 of article 6 of the constitution, as renumbered by section 8 of this resolution, be amended to read as follows:

§17. a. Judges of the court of appeals and justices of the supreme court may be removed by concurrent resolution of both houses of the legislature, if two-thirds of all the members elected to each house concur therein.

b. Judges of [the court of claims, the county court, the surrogate's court, the family court, the courts for the city of New York established pursuant to section fifteen of this article,] the [district] municipal court and such other courts as the legislature may determine may be removed by the senate, on the recommendation of the governor, if two-thirds of all the members elected to the senate concur therein.

c. No judge or justice shall be removed by virtue of this section except for cause, which shall be entered on the journals, nor unless he or she shall have been served with a statement of the cause alleged, and shall have had an opportunity to be heard. On the question of removal, the yeas and nays shall be entered on the journal.

§16. Resolved (if the _____ concur), That section 19 of article 6 of the constitution, as renumbered by section 8 of this resolution, be amended to read as follows:

§19. a. The compensation of a judge of the court of appeals, a justice of the supreme court, a judge of [the] a municipal court [of claims, a judge of the county court, a judge of the surrogate's court, a judge of the family court, a judge of a court for the city of New York established pursuant to section fifteen of this article, a judge of the district court or of] and a retired judge or justice shall be established by law and shall not be diminished during the term of office for which he or she was elected or appointed. [Any judge or justice of a court abolished by section thirty-five of this article, who pursuant to that section becomes a judge or justice of a

court established or continued by this article, shall receive without interruption or diminution for the remainder of the term for which he or she was elected or appointed to the abolished court the compensation he or she had been receiving upon the effective date of this article together with any additional compensation that may be prescribed by law.]

b. Each judge of the court of appeals, justice of the supreme court[,], and judge of [the] a municipal court [of claims, judge of the county court, judge of the surrogate's court, judge of the family court, judge of a court for the city of New York established pursuant to section fifteen of this article and judge of the district court] shall retire on the last day of December in the year in which he or she reaches the age of seventy. Each such former judge of the court of appeals and justice of the supreme court may thereafter perform the duties of a justice of the supreme court, with power to hear and determine actions and proceedings[.]; provided, however, that it shall be certificated in the manner provided by law that the services of such judge or justice are necessary to expedite the business of the court and that he or she is mentally and physically able and competent to perform the full duties of such office. Any such certification shall be valid for a term of two years and may be extended as provided by law for additional terms of two years. A retired judge or justice shall serve no longer than until the last day of December in the year in which he or she reaches the age of seventy-six. A retired judge or justice shall be subject to assignment by the appellate division of the supreme court of the judicial department of his or her residence. Any retired justice of the supreme court who had been designated to and served as a justice of any appellate division immediately preceding his or her reaching the age of seventy shall be eligible for designation by the governor as a temporary or additional justice of the appellate division. [A retired judge or justice shall not be counted in determining the number of justices in a judicial district for purposes of subdivision d of section six of this article.

c. The provisions of this section shall also be applicable to any judge or justice who has not reached the age of seventy-six and to whom it would otherwise have been applicable but for the fact that he or she reached the age of seventy and retired before the effective date of this article.]

§17. Resolved (if the _____ concur), That section 20 of article 6 of the constitution, as renumbered by section 8 of this resolution, be amended to read as follows:

§20. a. A justice of the supreme court may perform the duties of office or hold court in any county and may be temporarily assigned to the supreme court in any judicial district [or to

the court of claims]. A justice of the supreme court [in the city of New York] may be [temporarily] assigned to [the family court in the city of New York or to the surrogate's court in any county within the city of New York when required to dispose of the business] any division or divisions of such court.

b. [A judge of the court of claims may perform the duties of office or hold court in any county and may be temporarily assigned to the supreme court in any judicial district.

c. A judge of the county court may perform the duties of office or hold court in any county and may be temporarily assigned to the supreme court in the judicial department of his or her residence or to the county court or the family court in any county or to the surrogate's court in any county outside the city of New York or to a court for the city of New York established pursuant to section fifteen of this article.

d. A judge of the surrogate's court in any county within the city of New York may perform the duties of office or hold court in any county and may be temporarily assigned to the supreme court in the judicial department of his or her residence.

e. A judge of the surrogate's court in any county outside the city of New York may perform the duties of office or hold court in any county and may be temporarily assigned to the supreme court in the judicial department of his or her residence or to the county court or the family court in any county or to a court for the city of New York established pursuant to section fifteen of this article.

f. A judge of the family court may perform the duties of office or hold court in any county and may be temporarily assigned to the supreme court in the judicial department of his or her residence or to the county court or the family court in any county or to the surrogate's court in any county outside the city of New York or to a court for the city of New York established pursuant to section fifteen of this article.

g. A judge of a court for the city of New York established pursuant to section fifteen of this article may perform the duties of office or hold court in any county and may be temporarily assigned to the supreme court in the judicial department of his or her residence or to the county court or the family court in any county or to the other court for the city of New York established pursuant to section fifteen of this article.

h.] A judge of [the district] a municipal court [in any county] may perform the duties of office or hold court in any county [and], may be [temporarily] assigned to [the county court in the

judicial department] any district of his or her [residence or to a] court [for the city of New York established pursuant to section fifteen of this article or], and may be temporarily assigned to [the district] any municipal, town, or village court in [any county] the judicial department of his or her residence. Housing judges of the city-wide court of civil jurisdiction established pursuant to former section fifteen of this article who became judges of the municipal court in the city of New York pursuant to subparagraph C of paragraph (1) of subdivision c of section twenty-seven of this article and their successors in office shall be assigned to the housing division of such municipal court but may preside over any action or proceeding pending in such municipal court and may be temporarily assigned to the same courts as any other municipal court judge. Any other judge of the municipal court in the city of New York may be assigned to such housing division.

[i. Temporary assignments of all the foregoing judges or justices listed in this section, and of judges of the city courts pursuant to paragraph two of subdivision j of this section, shall be made by the chief administrator of the courts in accordance with standards and administrative policies established pursuant to section twenty-eight of this article.

j. (1) c. The legislature may provide for temporary assignments within the county of residence or any adjoining county[,] of [judges] justices of town[,] and village [or city] courts [outside the city of New York]. Such assignments may include temporary assignment to a municipal court outside the city of New York provided the justice so assigned has been permitted to practice law in this state for at least five years or such greater number of years as the legislature may determine.

[(2) In addition to any temporary assignments to which a judge of a city court may be subject pursuant to paragraph one of this subdivision, such judge also may be temporarily assigned by the chief administrator of the courts to the county court, the family court or the district court within his or her county of residence or any adjoining county provided he or she is not permitted to practice law.

k.] d. Temporary assignments of all the foregoing judges and justices listed in this section shall be made by the chief administrator of the courts in accordance with standards and administrative policies established pursuant to section twenty-two of this article.

e. While temporarily assigned pursuant to the provisions of this section, any judge or justice shall have the powers, duties and jurisdiction of a judge or justice of the court to which assigned. After the expiration of any temporary assignment, as provided in this section, the judge

or justice assigned shall have all the powers, duties and jurisdiction of a judge or justice of the court to which he or she was assigned with respect to matters pending before him or her during the term of such temporary assignment.

§18. Resolved (if the _____ concur), That subdivision a of section 23 of article 6 of the constitution, as renumbered by section 8 of this resolution, be amended to read as follows:

a. The legislature shall provide for the allocation of the cost of operating and maintaining the court of appeals, the appellate division of the supreme court in each judicial department, the appellate terms, the supreme court, and the [court of claims, the county court, the surrogate's court, the family court, the courts for the city of New York established pursuant to section fifteen of this article and the district court,] municipal courts among the state, the counties, the city of New York, and other political subdivisions.

§19. Resolved (if the _____ concur), That article 6 of the constitution be amended by adding a new section 27 to read as follows:

§27. a. (1) The justices of the supreme court in office on December thirty-first, two thousand twenty-one shall, for the remainder of the terms for which they were selected, be justices of the supreme court in and for the judicial district in which they were elected or for which they were appointed. Retired justices who, on December thirty-first, two thousand twenty-one, were authorized to perform the duties of a justice of the supreme court pursuant to certification in accordance with the provisions of subdivision b of former section twenty-five of this article, shall be certificated justices of the supreme court for the remainder of the terms for which they were certificated and thereafter shall be eligible for further certification in accordance with subdivision b of section nineteen of this article. Each designation of a justice of the supreme court to the appellate division or an appellate term in effect on December thirty-first, two thousand twenty-one, not otherwise required to expire on account of any provision of this article then in effect, shall continue in effect on January first, two thousand twenty-two.

(2) Effective January first, two thousand twenty-two, each action and proceeding pending in the supreme court on December thirty-first, two thousand twenty-one shall be deemed pending in the supreme court in the county in which such action or proceeding was pending on such date, or otherwise as may be provided by law.

b. (1) Effective October first, two thousand twenty-two:

A. the court of claims shall be abolished;

Appendix A

B. each action and proceeding pending in the court of claims on September thirtieth, two thousand twenty-two shall be deemed pending in the supreme court in the county in which such action or proceeding was pending on such date, or otherwise as may be provided by law;

C. each judge of the city-wide court of civil jurisdiction or the city-wide court of criminal jurisdiction of the city of New York, as established pursuant to former section fifteen of this article, or of the family court in such city, who, on September thirtieth, two thousand twenty-two and for the six-month period immediately preceding such date, was temporarily assigned to the supreme court pursuant to former section twenty-six of this article shall, for the remainder of the term of office in which he or she was then serving, be a justice of the supreme court in and for the judicial district in which he or she was elected to such term or, if appointed, in which he or she resided on such date. Thereafter, his or her office shall be an office of justice of the supreme court, to be filled in the same manner and for the same term as provided by this article on December thirty-first, two thousand twenty-one for a judge of the court from which he or she was assigned to serve on the supreme court.

(2) Effective January first, two thousand twenty-five:

A. the county court, the surrogate's court and the family court shall be abolished; and

B. each action and proceeding pending in a court abolished pursuant to subparagraph A of this paragraph on December thirty-first, two thousand twenty-four shall be deemed pending in the supreme court in the county in which such action or proceeding was pending on such date, or otherwise as may be provided by law.

(3) Upon abolition of the courts specified in subparagraph A of paragraph (1) and subparagraph A of paragraph (2) of this subdivision, their seals, records, papers, and documents shall be deposited in the offices of the clerks of the supreme court of such counties as may be provided by law. Each of the judges of these courts in office on the date of their abolition shall, for the remainder of the term of office for which he or she was selected to the abolished court, be a justice of the supreme court in and for the judicial district in which he or she was elected to such term or, if appointed, in which he or she resided on such date. Thereafter, his or her office shall be an office of justice of the supreme court, to be filled in the same manner and for the same term as provided by this article on December thirty-first, two thousand twenty-one for his or her office on the abolished court.

c. Effective January first, two thousand twenty-seven:

Appendix A

(1) A. the city-wide courts of civil and criminal jurisdiction for the city of New York, established pursuant to former section fifteen of this article shall be abolished;

B. each action and proceeding pending in a court abolished pursuant to subparagraph A of this paragraph on December thirty-first, two thousand twenty-six shall be deemed pending in the municipal court in the city of New York; and

C. each judge of a court specified in subparagraph A of this paragraph in office on the date of its abolition shall, for the remainder of the term of office he or she was then serving on the abolished court, be a judge of the municipal court in the city of New York. Thereafter, his or her office shall be an office of judge of the municipal court in the city of New York, to be filled in the same manner and for the same term as provided by this article on December thirty-first, two thousand twenty-one for the office he or she held on such date. For purposes of this paragraph, housing judges for the city-wide court of civil jurisdiction in office on December thirty-first, two thousand twenty-six shall be deemed judges of such city-wide court of civil jurisdiction on such date; provided, however, the successors in office to each such housing judge shall be residents of the city of New York and, subject to the provisions of subdivision c of section fifteen of this article, shall be appointed for a term of ten years by the mayor of such city from a list of persons found qualified by an advisory council established by law.

(2) A. the district courts heretofore continued or established in Nassau and Suffolk counties pursuant to former section sixteen of this article shall be continued as municipal courts and deemed to have been established pursuant to paragraph (1) of subdivision b of section nine of this article;

B. each action and proceeding pending in a district court on December thirty-first, two thousand twenty-six shall be deemed pending in the municipal court that is the successor to such district court established pursuant to paragraph (1) of subdivision b of section nine of this article; and

C. each judge of a district court in office on December thirty-first, two thousand twenty-six shall, for the remainder of the term for which he or she was selected, be a judge of the municipal court that is the successor to such district court established pursuant to paragraph (1) of subdivision b of section nine of this article.

(3) A. the city courts outside the city of New York, as authorized by former section seventeen of this article, shall be abolished;

B. each action and proceeding pending in a city court outside the city of New York on December thirty-first, two thousand twenty-six shall be deemed pending in the municipal court that is the successor to such city court established pursuant to paragraph (2) of subdivision b of section nine of this article; and

C. each judge of a city court in office on December thirty-first, two thousand twenty-six shall, for the remainder of the term for which he or she was selected, be a judge of such municipal court that is the successor to such city court established pursuant to paragraph (2) of subdivision b of section nine of this article.

d. In the event that a judgment or order was entered before the date of abolition of a court hereunder, or continuation of a court as another court, and a right of appeal existed and notice of appeal therefrom is filed after such date, such appeal shall be taken to such court as it might have been taken before the effective date of this section, except such an appeal from a city, town or village court in the third or fourth judicial department shall be taken to any appellate term that has been established if, prior to December thirty-first, two thousand twenty-six, such appeal could have been taken thereto or, otherwise, to the supreme court. Further appeal from a decision of an appellate court in an action subject to this paragraph shall be as provided by law, consistent with this article.

(4) Upon abolition of the courts specified in subparagraph A of paragraph (1) and subparagraph A of paragraph (3) of this subdivision, and continuation of the district courts authorized by former section sixteen of this article as municipal courts, their seals, records, papers and documents shall become the seals, records, papers and documents of the appropriate municipal court as may be provided by law.

e. In the event that an appeal was decided by a county court before January first, two thousand twenty-five and a further appeal could be taken as of right and notice of appeal therefrom is filed after such date, such appeal may be taken to any appellate court to which such an appeal could have been taken prior to such date. Further appeal from a decision of such appellate court shall be governed by the provisions of this article. If a further appeal could not be taken as of right, such appeal shall be governed by the provisions of this article.

f. As may be provided by law, the nonjudicial personnel of the courts abolished or continued by this section in office on the date of abolition shall, to the extent practicable, be continued without decrease in salaries and with the same status and rights in the courts established

or continued by this article; and especially skilled, experienced and trained personnel shall, to the extent practicable, be assigned to like functions in the municipal court or the supreme court, as appropriate. If the abolition or continuation of such courts shall require or make possible a reduction in the number of nonjudicial personnel, or in the number of certain categories of such personnel, such reduction shall be made, to the extent practicable, by provision that the death, resignation, removal, or retirement of an employee shall not create a vacancy until the reduced number of personnel has been reached.

g. Notwithstanding any provision of this article to the contrary, where there is an adjustment in the number of the judicial departments of the state or in the boundaries of such departments pursuant to paragraph (2) of subdivision a of section four of this article:

(1) The legislature shall provide for the transfer of appeals then pending in the appellate division or in an appellate term in each department so adjusted to the appellate division or an appellate term, respectively, for the department in which such appeals could have been taken had such adjustment been effective on the date such appeal was taken, or if no appellate term has been established therefor, to the supreme court.

(2) The governor may re-apportion, among the departments so adjusted, the justices theretofore designated to the appellate divisions thereof, provided that: (i) the presiding justice of any judicial department affected by such adjustment shall be the presiding justice of the department that includes the county of his or her residence for the remainder of his or her term of office, unless there already is a presiding justice in such department, in which event he or she shall serve as a justice in such department for the duration of the term of office for which he or she was designated as presiding justice; and (ii) each other justice designated pursuant to subdivision c of section four of this article to the appellate division of any department so adjusted shall, for the remainder of the term for which he or she was so designated, be a justice designated pursuant to such subdivision in the department to which he or she is re-apportioned.

(3) Where compliance with paragraph (2) of this subdivision is inconsistent with the provisions of section four of this article as to a judicial department affected by such adjustment, until such time as there is compliance with such provisions all subsequent designations of justices by the governor to the appellate division of such department shall be as provided by law.

(4) If a department is abolished, the legislature shall provide for the deposit of the seals, records, papers, and documents of the appellate division thereof, as appropriate.

§20. Resolved (if the _____ concur), That article 6 of the constitution be amended by adding a new section 29 to read as follows:

§29. a. Except as provided in subdivision b of this section, this article and all amendments thereto, as heretofore approved and ratified by the people, shall remain in full force and effect.

b. The repeal of sections nine, ten, eleven, twelve, thirteen, fourteen, sixteen, thirty-four, thirty-five, thirty-six, thirty-six-a, thirty-six-c and thirty-seven and subdivision j of section twenty-two of this article, the amendments to sections one, two, four, six, seven and eight of this article, the renumbering of and, as renumbered, the amendments to sections nine, eleven, thirteen, fourteen, fifteen, seventeen, nineteen, twenty and twenty-three of this article, the renumbering of sections twelve, sixteen, eighteen, twenty-one, twenty-two, twenty-four, twenty-five, twenty-six and twenty-eight of this article, and the addition of new sections ten, twenty-seven and twenty-nine to this article, as first proposed by a concurrent resolution passed by the legislature in the year two thousand nineteen, entitled “CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY proposing amendments to article 6 of the constitution, in relation to consolidation of the unified court system, and the repeal of sections 9, 10, 11, 12, 13, 14, 16, 34, 35, 36, 36-a, 36-c and 37 and subdivision j of section 22 of article 6 of the constitution relating thereto”, shall become a part of the constitution on the first day of January next after the approval and ratification of such amendments by the people and shall be effective on such date.

c. Notwithstanding subdivision b of this section, the provisions of this article in effect on December thirty-first, two thousand twenty-one shall continue to apply to any court or courts specified in such provisions, and the judge or judges thereof, until the abolition of such court or courts as provided pursuant to section twenty-seven of this article.

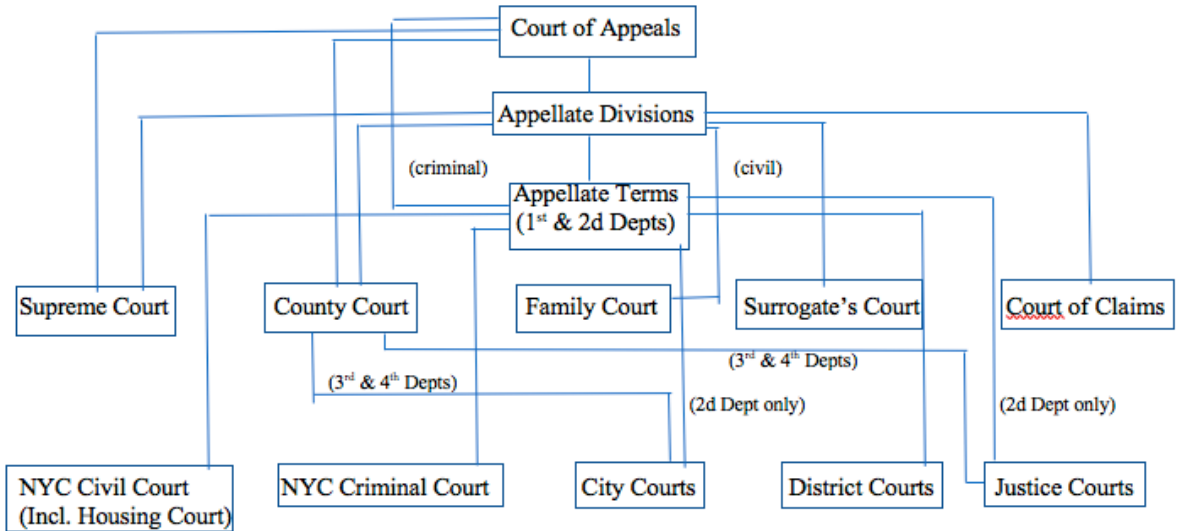
§21. Resolved (if the _____ concur), That the foregoing amendments be referred to the first regular legislative session convening after the next succeeding general election of members of the assembly, and, in conformity with section 1 of article 19 of the constitution, be published for 3 months previous to the time of such election.

APPENDIX B

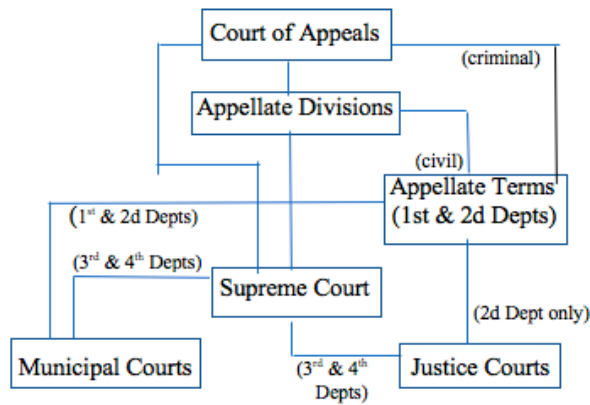
COMPARING TRIAL COURT STRUCTURES

Comparing Trial Court Structures

NEW YORK STATE UNIFIED COURT SYSTEM CURRENT TRIAL COURT STRUCTURE



NEW YORK STATE UNIFIED COURT SYSTEM PROPOSED TRIAL COURT STRUCTURE



APPENDIX C

“THE BUDGETARY IMPACT OF TRIAL COURT RESTRUCTURING”

The Budgetary Impact of Trial Court Restructuring

New York State Unified Court System

February 2002

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I. Executive Summary

No state in the nation has a more complex court system structure than New York. New York's trial court system consists of eleven separate courts — the Supreme Court, the Court of Claims, the County Court, the Family Court, the Surrogate's Court, the New York City Civil and Criminal Courts, the District Courts on Long Island, the City Courts outside of New York City, and the Town and Village Justice Courts.

Numerous inefficiencies and anomalies exist in this arcane structure, including:

- ▶ A single family may be before two or more courts – a divorce proceeding is heard in Supreme Court, while a related child custody proceeding and a criminal domestic violence case are heard in Family Court and the local criminal court, respectively.
- ▶ A single incident, such as an accident on a state highway or a surgical procedure in a state hospital, can lead to related lawsuits heard in different courts – a claim against the State is brought in the Court of Claims, and suits against other state defendants or private parties are brought in the Supreme Court.
- ▶ Currently, each of the different court types in each county has its own management structure and each has its own system for the delivery of administrative services, with resulting duplication and economically-wasteful fragmentation.

The Unified Court System's restructuring proposal addresses these problems by reconfiguring the nine State-funded trial courts (*i.e.*, all trial courts except the Town and Village Courts) into a three-tiered structure, consisting of a Supreme Court, a Surrogate's Court and a District Court (See Appendix A, the proposed State Constitutional Amendment). In addition, the Court System's proposal gives the Supreme Court responsibility for presiding over most domestic violence cases, and enhances the Court's ability to hear these cases along with matrimonial and other related cases involving the parties.

Court restructuring is not just good public policy. A simplified and consolidated structure will also result in substantial savings for the taxpayers of the State of New York. This report quantifies those potential savings. The analysis is simple but compelling – it is more efficient and less expensive to run a court system with three trial courts than a system with nine courts, and it is more efficient and less expensive to try related cases before a single judge in a single court than before a number of different judges in a number of different courts.

The analysis, which considers both the savings and costs of the restructuring proposal, identifies a net cost savings potential of over \$131 million in the first five years following the effective date of the restructured court system (See Appendix B).

Specifically, it is estimated that:

- ▶ \$128.1 million would be saved from unified treatment of related cases and the resulting reduction in separate trial court filings. Restructuring will significantly reduce the costs to the Judiciary of processing its growing caseload, allowing related matters to be heard before a single judge in the reconstituted Supreme Court. Under the Court System's proposal, it is estimated that 125,580 cases each year would be treated together with other existing related cases. The proposed system would not only be far more convenient and comprehensible to the parties, but would eliminate costly case processing redundancies.

- ▶ \$12.8 million would be saved by cost reductions in court management associated with improved coordinated court oversight and the elimination of administrative fragmentation. A simplified court structure will permit increased efficiency of court operations through coordinated delivery of administrative services and a streamlined trial court management structure. Court management under the current trial court structure requires that there be separate court managers for each of the separate trial courts resulting in administrative fragmentation. Once the Supreme, County and Family Courts are merged, it will be possible to streamline leadership in the consolidated Supreme Court in each county and as a result to reduce, through attrition, the number of court management lines within the trial courts.

The estimated combined savings to the State of almost \$141 million would be offset by an estimated modest cost of \$1.9 million per year (\$9.5 million over five years) for increases to some judicial salaries to eliminate salary disparities which presently exist.

Thus, a consolidated court structure will provide an estimated net savings to the State of over **\$131 million** in the first five years following trial court consolidation with over **\$73 million** of that savings being realized in the first three years following implementation of the proposal.

II. The New York Judiciary and Court Restructuring

A. New York's present court structure

New York's Unified Court System consists of the Court of Appeals; two intermediate appellate courts, the Appellate Division of the Supreme Court in each of the four Judicial Departments and the Appellate Term of the Supreme Court in the First, Second, Ninth, Tenth, Eleventh and Twelfth Judicial Districts; and 11 separate trial courts, including the Supreme Court, the Court of Claims, the County Court, the Family Court, the Surrogate's Court, the New York City Civil and Criminal Courts, the District Courts on Long Island, City Courts outside of New York City, and Town and Village Justice Courts.

By operation of the 1976 Unified Court Budget Act (L. 1976, c. 966), the State has assumed responsibility for paying the full operational costs of all these courts except the Town and Village Justice Courts.

The Court of Appeals. The Court of Appeals is New York's appellate court of last resort. It hears appeals from decisions of the intermediate appellate courts and, in limited instances, from the trial courts. Its seven judges are appointed to 14-year terms by the Governor, with the advice and consent of the State Senate, from among candidates found well-qualified by the State Commission on Judicial Nomination.

The Appellate Division. The Appellate Division is New York's major intermediate appellate court. It is established as four separate courts, one for each of the State's four Judicial Departments. Each of the Departments is headed by a Presiding Justice and hears appeals from orders and judgments of the trial courts within its respective Department. The justices of the Appellate Division departments are designated by the Governor from among the justices of the Supreme Court. Their terms vary, with the Presiding Justices serving for the duration of their terms as justices of the Supreme Court, and the associate justices serving either five-year terms or, where designated on a temporary basis, terms of indeterminate length.

The Appellate Term. The Appellate Term is an intermediate appellate court, established in selected areas of the State (exclusively the downstate region) to hear appeals from courts of limited civil and criminal jurisdiction. It is established as two separate courts, one each for the First and Second Departments. Each Appellate Term is headed by a Presiding Justice who, along with the associate justices, is designated by the Chief Administrative Judge with the approval of the Presiding Justice of the local Judicial Department from among the justices of the Supreme Court residing in the geographical region served by the Appellate Term.

The Supreme Court. The Supreme Court is New York's trial court of broadest general and original jurisdiction. In New York City, it sits both as a civil court, where it presides over matrimonial actions and larger monetary and equitable disputes, and as a criminal court, where it presides over felony cases. Outside New York City, Supreme

Court sits primarily as a civil court. Justices of the Supreme Court are elected to office on a judicial district-wide basis for 14-year terms. Often, their efforts are supplemented by use of acting justices of the Supreme Court, most of whom sit in New York City. These acting justices of the Supreme Court are drawn from the ranks of judges of the Court of Claims, the New York City Family, Civil and Criminal Courts, and the upstate county-level courts. They are designated by the Chief Administrative Judge pursuant to his constitutional powers. The large number of such designations is necessary because, while the Supreme Court workload has steadily increased over the years, the Legislature is prohibited by the Constitution from creating new Supreme Court judgeships in a Judicial District where the number of Supreme Court judgeships will exceed the ratio of one for every 50,000 residents in the District.

The Court of Claims. The Court of Claims is a statewide court. It exercises jurisdiction over claims against the State or by the State against a claimant or between conflicting claimants. Many judges of the Court of Claims, however, are designated as acting Supreme Court justices, primarily to preside over felony parts of Supreme Court.

The County Court. County Court sits in each of the 57 counties outside of New York City. County Court, which has limited civil jurisdiction, is primarily a criminal court in which felonies are tried. Its judges are elected to office countywide for terms of ten years. By act of the Legislature, many County Court judges are elected to serve both in County Court and Family Court, or in County Court and Surrogate's Court, or in all three courts.

The Family Court. Family Court sits in each of the 57 counties outside of New York City and, as a single body, in New York City. Family Court presides over a broad spectrum of matters, including: (1) family offense proceedings; (2) child custody and dependent support proceedings; (3) adoptions; (4) PINS and delinquency proceedings; (5) paternity proceedings; (6) abuse and neglect; and (7) termination of parental rights proceedings. Outside New York City, its judges are elected to office countywide for terms of ten years; in the City, judges are appointed to office by the Mayor for terms of ten years.

The Surrogate's Court. Surrogate's Court sits in each of the State's 62 counties. Surrogate's Court has jurisdiction over all litigation relating to the affairs of decedents, probate of wills, administration of estates and guardianship of the property of minors. It also exercises, concurrently with Family Court, jurisdiction over adoptions. Outside New York City, there are separately-elected Surrogates in 23 counties (in the remaining 34 counties, the local County Court judge presides over Surrogate's Court). They are elected to office countywide for terms of ten years. In New York City, there is one Surrogate in each borough except Manhattan, where there are two. In the City, Surrogates are elected to office countywide for terms of 14 years.

The New York City Civil Court. The Civil Court has jurisdiction of: (1) civil cases where the amount in dispute does not exceed \$25,000; (2) landlord – tenant proceedings; (3) commercial claims proceedings; and (4) small claims proceedings. It

has a special Housing Part, staffed by quasi-judicial housing judges, through which it exercises its landlord and tenant jurisdiction. Civil Court judges are elected to office countywide or district-wide for terms of ten years. Many of these judges are designated as acting Supreme Court Justices and perform long-term service in the Supreme Court in New York City.

The New York City Criminal Court. The Criminal Court is the local criminal court for New York City, exercising jurisdiction over lesser crimes and offenses. Its judges are appointed to office by the Mayor for terms of ten years. As with judges of the Civil Court, many judges of the Criminal Court are designated as acting Supreme Court justices and perform long-term service in the Supreme Court in New York City.

The District Court. The District Court, which now can be established anywhere in the State outside of New York City, has heretofore been established only on Long Island — in Nassau and Suffolk Counties. It serves as the local criminal court for those counties. It also serves as a lower civil court, having jurisdiction of: (1) civil cases where the amount in dispute does not exceed \$15,000; (2) landlord – tenant proceedings; (3) commercial claims proceedings; and (4) small claims proceedings. District Court judges in Nassau and Suffolk County are elected district-wide for terms of six years.

The City Courts outside New York City. There is a City Court established for each of the 61 cities outside New York City. Some of these courts are served by judges who are full-time, *viz.*, they are not permitted to practice law in addition to their judicial duties. Others are served by a mix of full-time and part-time judges; still others, by part-time judges only. Some judges are appointed, some elected. Full-time judges serve for terms of ten years while part-time judges serve for terms of six years. Each City Court is the local criminal court for the city in which it is established. It also is a civil court, having jurisdiction of: (1) civil cases where the amount in dispute does not exceed \$15,000; (2) landlord – tenant proceedings; (3) commercial claims proceedings; and (4) small claims proceedings.

Town and Village Justice Courts. The Justice Courts serve the many towns and villages of the State. Their justices, many of whom are not lawyers, serve part-time. Most are elected to office for terms of four years. With limited exceptions, each Justice Court is the local criminal court for the town or village in which it is established. It is also a civil court, having jurisdiction of: (1) civil cases where the amount in dispute does not exceed \$3,000; (2) landlord – tenant proceedings; (3) commercial claims proceedings; and (4) small claims proceedings.

B. The court system's restructuring proposal

The court system's restructuring proposal would reconfigure the nine State-funded trial courts into a three-tiered structure, consisting of a Supreme Court, a Surrogate's Court, and a statewide District Court. More specifically:

- ▶ County Court, Family Court, and the Court of Claims would be abolished and their functions (and judges and nonjudicial personnel) consolidated with those of Supreme Court. Incumbent judges of these courts on January 1, 2004 would become justices of the Supreme Court for the balance of their terms.
- ▶ Surrogate's Court would continue to sit in each county, and the office of Surrogate in the State's 17 largest counties would be retained. In the remaining 45 counties, the duties of the Surrogate would be assumed by a local justice of the Supreme Court.
- ▶ The New York City Civil and Criminal Courts, the existing District Courts in Nassau and Suffolk Counties, and the 61 City Courts outside New York City would be reconstituted as courts within a new statewide District Court system. Incumbent judges of these courts on January 1, 2004 would become judges of the District Court for the balance of their terms.

The newly-established statewide District Court system would be configured so that there would be two District Courts in New York City, one exercising civil jurisdiction and one criminal jurisdiction, two District Courts on Long Island corresponding to the existing Nassau and Suffolk County District Courts, and 61 additional District Courts, replacing the existing upstate City Courts. These District Courts would have the same jurisdiction now enjoyed by the separate trial courts they would replace, *viz.*, jurisdiction over lesser crimes and offenses and civil jurisdiction including small claims, commercial claims and landlord - tenant proceedings. There would be two substantive changes, however:

- ▶ domestic violence offenses that heretofore would have been tried in local criminal courts would, in many instances, now be subject to automatic, post-arraignment removal to Supreme Court; and, in all other instances, subject to discretionary removal,¹ and

¹ The authority of Supreme Court to transfer to itself matters pending in lower courts would generally be broadened to permit such transfers, in *any* cases, whenever the Court determined they would promote the administration of justice. Moreover, special provision would be included for disposition of criminal domestic violence offenses, as follows:

- ▶ Where the highest domestic violence offense charged is a violation, the prosecutor would enjoy discretion to direct that, following arraignment in a local criminal court, the case be removed to Supreme Court.

Appendix C

- ▶ the Legislature would be authorized to increase the maximum monetary amount for which a civil suit could be brought up to \$ 50,000.

Also of note, in New York City, the city-wide District Court of civil jurisdiction would exercise its jurisdiction over housing-related matters in a special housing division of the Court. That would not be so in the District Courts sitting outside the City.

Further, the restructuring proposal should affect current practices regarding the temporary assignment of lower court judges to higher courts - at least outside New York City. There, the consolidation of the county-level courts with Supreme Court would eliminate the need for such temporary assignments almost altogether. In the City, elimination of the Constitution's one-per-50,000 restriction on the number of justices of the Supreme Court that the Legislature may create for a Judicial District *could*, in the long term, reduce dependence upon temporary assignments of lower court judges to Supreme Court.²

Finally, the proposal establishes a process that will produce a Fifth Judicial Department for the State. By this process, the Legislature will have one year, beginning January 1, 2004, during which it can establish a Fifth Judicial Department. Should it not do so, the Chief Administrative Judge will have the period between January 1st and February 28th of 2005 in which to offer the Judiciary's plan for a Fifth Judicial Department. Once the Judiciary's plan is presented, the Legislature would have one year in which to substitute an alternative plan. Failing to do so, the Judiciary's plan would take effect.³

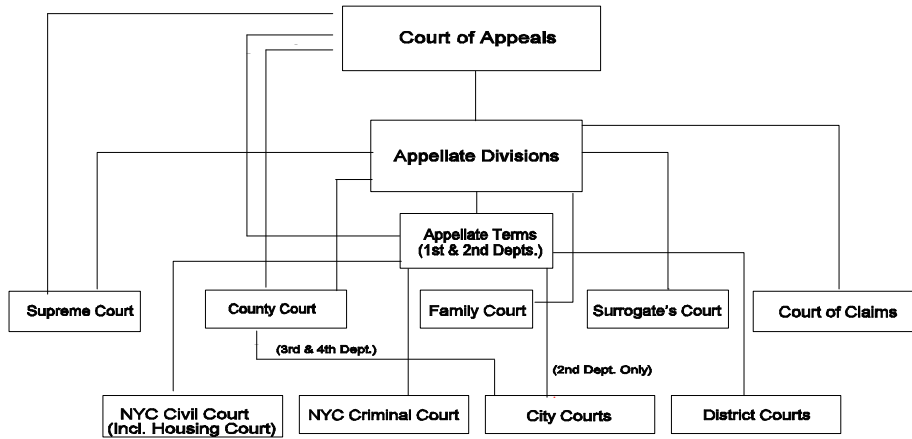
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- ▶ Where the highest domestic violence offense charged is a misdemeanor and the case is filed in the New York City Criminal Court or in any other local criminal court that sits in a county seat, the case must automatically be removed to Supreme Court following arraignment. Where the case has been filed in any other local criminal court, post arraignment removal would not be automatic but the prosecutor would enjoy discretion to direct that the case be removed to Supreme Court.
 - ▶ Where a domestic violence felony is charged, the case must automatically be removed to Supreme Court following arraignment, regardless of venue.
 - ▶ Where, regardless of the offense charged, there already is related litigation pending in Supreme Court involving the defendant, the case must automatically be removed to Supreme Court following arraignment.

² The elimination of the one-per-50,000 restriction on the number of justices of the Supreme Court is a required provision in the Constitutional amendment because the designation of existing County Court, Family Court, and Court of Claims judges as justices of the Supreme Court would otherwise result in a violation of the restriction in certain counties. The proposed amendment, however, does not itself create any additional judgeships. Separate legislative action would be required to create new judgeships, and any resulting potential additional costs have not been factored into the Schedule of Potential Net Savings.

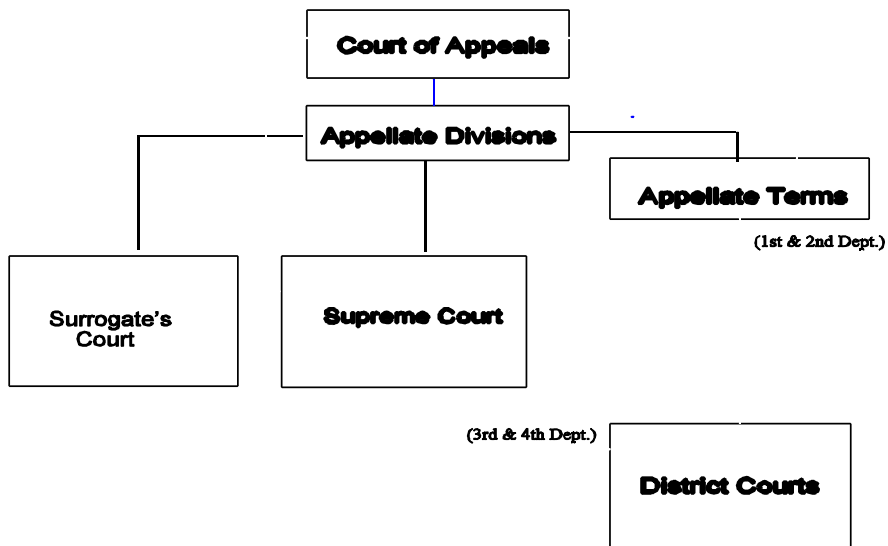
³ Any additional potential cost resulting from the creation of a Fifth Judicial District would be as a result of further legislative action and has not been factored into the Schedule of Potential Net Savings.

The following diagrams illustrate the simplified court structure under the proposal:

**NEW YORK STATE UNIFIED COURT SYSTEM
CURRENT TRIAL COURT STRUCTURE**



**NEW YORK STATE UNIFIED COURT SYSTEM
PROPOSED RESTRUCTURING OF THE TRIAL COURTS**



C. The benefits of court restructuring

While this report focuses on fiscal issues, it is important also to recognize the weighty public policy justifications for court restructuring. The benefits of the proposal – to the public generally, to individual litigants, to the court system, and to the State itself – are numerous, and include:

- ▶ More Effective Focus on Domestic Violence Cases. By reconstituting the Supreme Court to allow parties embroiled in criminal Domestic Violence proceedings and related Family Court matters (e.g., family offense, matrimonial proceedings, custody, visitation and support proceedings) to be heard by one judge in one court, court restructuring eliminates the need for these litigants to go to more than one court in order to obtain complete relief and will insure greater consistency and equity in judicial decisions.
- ▶ Improved Case Management. Court restructuring will enable better case management and implementation of administrative efficiencies not now possible. This will expedite movement of cases through the system, save public tax dollars, and significantly reduce the disposition costs of cases.
- ▶ Better Public Understanding of and Respect for the Justice System. A simplified court structure will be more understandable to the public and accessible to self-represented litigants, thereby encouraging greater respect for the rule of law.
- ▶ Increased Uniformity of Rules and Procedures. Court restructuring will enable greater uniformity in court rules and procedures. This will simplify the tasks of lawyers, court clerical personnel and judges, and reduce the cost of litigation.
- ▶ Elimination of Jurisdictional Disputes. By simplifying New York’s trial court structure, court restructuring will eliminate many of the jurisdictional disputes that now arise between courts. This will expedite movement of cases through the system and reduce the cost of litigation.
- ▶ Ease the Burden of Matrimonial Litigation. The consolidation of the Family Court function with that of Supreme Court, also will ease the burdens faced by parties to matrimonial litigation, saving time, money and the litigants’ emotional energy by allowing them to appear before one judge in one court on all related matters.
- ▶ Greater Consistency in Public Claims. By also consolidating the Court of Claims in Supreme Court and eliminating the need for those claimants to go to more than one court in order to obtain complete relief, court restructuring will insure greater consistency and equity in public claims judicial decisions.
- ▶ Promotion of Business-Friendly Environment. To the extent court restructuring reduces the cost of litigation and speeds the resolution of disputes, it will make New York a more business-friendly environment — encouraging businesses to stay or relocate here. This should provide a significant source of jobs and revenue for the State.
- ▶ Broader Pool of Judges Eligible for Appellate Court Designation. Court

restructuring that merges one or more of the major trial courts into Supreme Court will broaden the pool of judges eligible for designation to the Appellate Divisions and Appellate Terms. This will bring more judges with experience in family and other matters to the intermediate appellate courts. Also, it should enable more women and minorities to become judges of those appellate courts.

A recent study confirms the benefits of a simpler, consolidated trial court structure. That study, while not attempting to quantify the impact of trial court unification, identified the following benefits of unification:

- Provides an environment for more effective utilization of judicial and support resources and reduced duplication of effort;
- Allows for greater cooperation and teamwork between the judiciary, other branches of government, and the community;
- Creates a more efficient structure for governance of the courts;
- Allows for more efficient case processing and timely disposition of cases;
- Allows for redirection of resources towards increased and improved public services;
- Enhances opportunities for innovation; creates an environment for self-evaluation and re-engineering of operations;
- Provides more coherence to the courts, a single point of entry, an increased understanding by other branches of government and the public;
- Increases uniformity in policies, practices and rules both within a county and throughout the state;
- Provides for greater public access;
- Allows the court to act as a unified entity, speaking with one voice in dealing with the public, county agencies, and the justice system partners;
- Increases focus on accountability and quality of service.¹

¹ American Institutes for Research, "Analysis of Trial Court Unification in California: A Final Report," submitted to the Administrative Office of the Courts (AOC) and the Judicial Council of California, September 28, 2000, page 37. In 1998, the residents of California passed a State constitutional amendment providing for the voluntary unification of the superior and municipal courts in California's counties if a majority of the two courts' judges within a county voted to create a unified superior court. In November 2000, the AOC released this report which contained the results of a study on the initial impact of 53 trial courts unified as of April 1999 pursuant to the amendment.

III. The Fiscal Impact of Court Restructuring

A. The savings restructuring makes possible

New York State's current system of nine separate trial courts with specialized jurisdictions inevitably creates inefficiencies and is not conducive to the effective management of the caseload. Court restructuring, specifically – the elimination of the duplicative case processing that is inherent in the present system of multiple courts having related jurisdiction – will eliminate the structural obstacles to efficient management.²

1. *Unified Treatment of Related Cases.* Restructuring will significantly reduce the costs to the Judiciary of processing its growing caseload by allowing related matters to be heard before a single judge in the reconstituted Supreme Court. Under the Court System's proposal, it is estimated that more than 125,000 cases each year would be treated together with other existing related cases, thereby eliminating case processing redundancies made necessary by the present system of multiple courts with overlapping jurisdiction. As set forth below, the case consolidation contemplated by court restructuring, with the attendant savings realized in general operating expenses and integration of information systems, will save the State a potential total of \$128.1 million from 2004 to 2008.

Under New York's present trial court structure, many litigants are required to be in more than one court at a time to obtain complete relief. Nowhere is this overlap more striking than in the area of family-related matters. Under the current system, a single family might be in:

- Supreme Court in a matrimonial action to dissolve the marriage;
- Family Court in various proceedings relating to custody, support or other issues; and
- Criminal Court in a domestic violence case.

The underlying problems that have brought the family to these various courts are clearly related. However, under the current structure, the problems are considered separately, in different cases, in different courts, before different judges.

For the parties, this system is burdensome and confusing. For the various judges hearing the separate cases, the system is frustrating because the family's problems are not distinct and unrelated, but should be considered by a single judge in a broader context. For the taxpayer, the system is inefficient and wasteful, requiring different courts to undertake substantial duplicative work.

² Regardless of the reduction in duplicative efforts allowed by the implementation of court restructuring, no court employees will lose their jobs or suffer any diminution in pay from the implementation.

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The court system's restructuring proposal addresses these issues by simplifying the existing nine trial court system so that a single judge would hear and decide the family's various, but related, problems. Restructuring would permit similar treatment of related cases in other areas as well, such as a medical malpractice case, where the claim against a State hospital must be brought in the Court of Claims, while the claim against the State-paid physician must be brought in Supreme Court. Similarly, petitions involving rehearings on custody, visitation and support orders would be brought in one court for review and determination by one judge, ideally the judge making the original determination.³

This simplified court structure will result in significant cost savings. The reason is simple – it is more efficient and less expensive to try related cases before a single judge in one court, than before different judges in a number of different courts. Simplification of the court structure, and the resulting unified treatment of related cases, will permit efficiencies of scale and the elimination of a substantial amount of redundant work.

A recent study conducted in the Brooklyn courts by the Office of Court Administration found a substantial overlap among Supreme, Family and Criminal court cases. These overlaps occur when cases arising from the same or related circumstances are filed in two different courts. The high overlap rate exists between cases filed in the lower criminal (domestic violence cases) and Family Court. This study found that 130 domestic violence cases matched to 122 original family court cases, a 94% overlap rate. Matrimonial cases filed in the Supreme Court also overlap with family court cases. In this study a sample of 477 matrimonial cases matched to 173 original family court cases, a 36% overlap rate. When these overlap rates are applied to statewide caseloads the total number of annual family court cases overlapping with Domestic Violence and Matrimonial cases is 125,580 (See Appendix C).

These companion cases in family courts involved:

³ Restructuring will also result in more efficient handling and disposition of juvenile offender cases, however, no analysis of the fiscal benefit in this regard is reflected in the total savings discussed in this report. These cases, which involve juveniles charged with certain serious designated felonies, can be brought in a criminal court or in Family Court. Such cases often begin in the criminal court, where a trial is held, and then are transferred to the Family Court for sentencing. These cases generally require more time to process than other juvenile delinquency petitions in Family Court because they involve more serious offenses and are more complex. Permitting disposition of these cases by a single judge in a single court — and thereby reducing duplication in the multitude of clerical and procedural processing tasks they entail — will greatly facilitate their processing.

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- ▶ family offenses,
- ▶ custody and visitation,
- ▶ child abuse and neglect, and
- ▶ support.

Based on these figures, it is estimated that, under the proposed plan, 125,580 Family Court cases per year would be treated together with existing Matrimonial or Domestic Violence cases. This is nearly **20%** of the annual Family Court caseload.

Significant case processing savings result from the unified treatment of these 125,580 cases. For example, the following is a partial list of redundant tasks which, under the current system, are duplicated by court personnel in different courts for related cases:

- ▶ Acceptance, dating and reviewing of petition or application and necessary support papers;
- ▶ Checking the computer file or master case index card file for existing or previous cases involving the same parties;
- ▶ Assigning a docket number;
- ▶ Entering data into the computer system to create case file;
- ▶ Creating case summary sheet and permanent record of court proceedings;
- ▶ Case folder preparation and transmittal for scheduling and calendar preparation;
- ▶ Notifying parties and scheduling case;
- ▶ Ensuring that case files and materials are available and complete;
- ▶ Managing the calendar;
- ▶ Maintaining record of court action and appearances and proceedings;
- ▶ Preparing orders, conforming copies to signed order and affixing notice of entry to signed order;
- ▶ Certifying copies and distributing copies of the order and its attachments/appendices;
- ▶ Assigning hearing dates and preparing and distributing notices of new scheduled dates to parties;
- ▶ Transmitting of statistical information;
- ▶ Transmitting files, calendar and court action records to appropriate office;
- ▶ Updating computer file and case summary sheet, and filing original order and case file.

Under a simplified system, these costly and time-consuming case processing redundancies would be eliminated because the information would only be entered once rather than multiple times at different locations on incompatible information systems. The potential net savings resulting from unified treatment of cases is estimated to be over \$200 per case. Thus, the proposed consolidation of 125,580 cases each year

would result in an estimated savings of \$128.1 million over a five year period.¹

Similarly, preparation and recording of court orders and all other relevant case information must be entered into case management information systems. Presently, there are a significant number of different automated case management information systems in Supreme, County and Family Courts. This lack of standardization and the related redundancies in data entry and records management is inefficient and costly. Consolidation will provide the framework for replacing these systems with one robust case management system that will allow the court system to take full advantage of CourtNet, the court system's statewide information network. Additionally, it would allow for streamlining of the court system's computer equipment and employee training techniques which also will allow trial courts to easily share information among divisions and to more readily access information repositories such as the Domestic Violence Registry. Further, uniformity in systems and equipment would facilitate the reassignment of non-judicial personnel from one court to another in an effort to efficiently and justly address increasing caseloads.

2. *Administrative Consolidation.* Court restructuring also will provide the organizational framework needed to achieve the goal of increasing efficiency of court operations through coordinated, unified court management. For example, under a revised structure a single presiding judge and county-level court administrator could be designated for each county. This management structure would support enhanced judicial coordination and cross-assignment of court personnel to meet caseload demands. A single authority for trial court budgeting, planning and personnel administration across all Supreme Court divisions and District Courts would streamline management control.

Reducing the number of administrative structures can also reduce middle management and supervisory costs. The consolidation of management authority in a single executive position for a county's courts, for example, would gradually reduce the salary costs of the current fragmented court structure. A tighter management structure would also facilitate cross-assignment and cross-training of court personnel allowing for the avoidance of costs for increased staffing as caseload demands change and grow. It is estimated that a minimum of 60 fewer mid-level court managers would be required. The annual savings are projected to increase from \$.51 million in 2004 to \$ 4.6 million in 2008, for a five year cumulative total of \$12.8 million (See Appendix E).

B. The costs of court restructuring

While, as discussed above, court restructuring will result in a significant savings to the public treasury, there will be some limited costs that partially offset the larger savings. Those costs are estimated at \$1.9 million annually.

¹ The \$128.1 million estimated savings includes \$8.9 million attributable to furnishings and equipment needs eliminated as a result of the proposed unified treatment of related cases (See Appendix D).

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These costs will result from the equalization of judicial compensation. In 1977, the State assumed responsibility for the costs of court operations statewide, excluding only those of the Town and Village Justice Courts. See L. 1976, c. 966. Since then, disparities in the pay of judges serving on the same courts and performing like functions have persisted. These disparities have given rise to a significant number of lawsuits, all challenging the constitutionality of the existing pay scheme as it applies to individual judges or groups of judges. These lawsuits, some of which have been successful, are ongoing.

Court restructuring should eliminate many, if not all, of these salary disparities. As has been the case, all justices of the Supreme Court should continue to earn identical wages. Salary parity should produce an estimated net annual increase of \$1.9 million in the Judiciary budget's appropriation request for judicial salaries.

IV. Conclusion

The foregoing analysis demonstrates that restructuring New York's trial courts in the manner proposed by the court system will produce meaningful savings for the State from the day it is implemented. While there will be an annual modest cost of \$1.9 million, attributable to the equalization of judicial salaries in several courts, this cost will be more than offset by a series of economies made possible only in a restructured court system. If the court system's plan is put into effect January 1, 2004, as proposed, the State can expect, in the year 2004 alone, to realize an estimated net savings of \$23.7 million. By the fifth year of the implementation, the annual estimated net savings will increase to \$29.5 million, with an estimated cumulative five-year savings of \$131.4 million.

In undertaking any analysis of the fiscal consequences of restructuring the court system, additional benefits to the taxpayer should not be overlooked: (1) potential for saving litigants the sizeable attorney's fees they now pay to litigate jurisdictional disputes and to venture back and forth between courts where jurisdictional fragmentation prevents one court from disposing of all elements of a dispute; and (2) potential for making New York a more attractive place for business to remain or in which to relocate and thereby create more jobs and greater tax revenues.

V. Appendices

Appendix A	Court System's Plan for Court Restructuring
Appendix B	Schedule of Potential Net Court Restructuring Savings
Appendix C	Overlap Study Between the Supreme Court, Criminal Court and Family Court in Brooklyn – January 2002
Appendix D	Potential Savings from the Unified Treatment of Related Cases
Appendix E	Potential Savings from Administrative Consolidation

Appendix A

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

Section 1. Resolved (if the _____ concur), That section 1 of article 6 of the constitution be amended to read as follows:

§1. a. There shall be a unified court system for the state. The state-wide courts shall consist of the court of appeals, the supreme court including the appellate divisions and appellate terms thereof, [the court of claims, the county court,] the surrogate's court and the [family court] district court, as hereinafter provided. [The legislature shall establish in and for the city of New York, as part of the unified court system for the state, a single, city-wide court of civil jurisdiction and a single, city-wide court of criminal jurisdiction, as hereinafter provided, and may upon the request of the mayor and the local legislative body of the city of New York, merge the two courts into one city-wide court of both civil and criminal jurisdiction.] The unified court system for the state shall also include the [district,] town[, city] and village courts [outside the city of New York], as hereinafter provided.

b. The court of appeals, the supreme court including the appellate divisions and the appellate terms thereof, [the court of claims, the county court,] the surrogate's court, the [family court, the courts or court of civil and criminal jurisdiction of the city of New York,] district court and such other courts as the legislature may determine shall be courts of record.

c. All processes, warrants and other mandates of the court of appeals, the supreme court including the appellate divisions and the appellate terms thereof, [the court of claims, the

county court,] and the surrogate's court [and the family court] may be served and executed in any part of the state. All processes, warrants and other mandates of the [courts or] district court [of civil and criminal jurisdiction of the city of New York] may, subject to such limitation as may be prescribed by the legislature, be served and executed in any part of the state. The legislature may provide that processes, warrants and other mandates of [the district court may be served and executed in any part of the state and that processes, warrants and other mandates of] town[,] and village [and city] courts [outside the city of New York] may be served and executed in any part of the county in which such courts are located or in any part of any adjoining county.

§2. Resolved (if the _____ concur), That subdivisions a and c of section 4 of article 6 of the constitution be amended to read as follows:

a. The state shall be divided into four judicial departments. The first department shall consist of the counties within the first and twelfth judicial [district] districts of the state. The second department shall consist of the counties within the second, ninth, tenth and eleventh judicial districts of the state. The third department shall consist of the counties within the third, fourth and sixth judicial districts of the state. The fourth department shall consist of the counties within the fifth, seventh and eighth judicial districts of the state. Each department shall be bounded by the lines of judicial districts. Once every ten years the legislature may alter the boundaries of the judicial departments, but without changing the number thereof; except that, on or after January first, two thousand four, the legislature shall divide the state into five judicial departments and, in the event it shall fail to do so by January first, two thousand five, the chief administrator of the courts, after consultation with the presiding justices of the several departments and not later than February twenty-eighth, two thousand

five, shall submit to the legislature a plan for the division of the state into five judicial departments, which plan shall become effective one year following submission unless the legislature shall sooner divide the state into five judicial departments.

c. The governor shall designate the presiding justice of each appellate division, who shall act as such during his or her term of office and shall be a resident of the department. The other justices of the appellate divisions shall be designated by the governor, from all the justices [elected to] of the supreme court, other than those appointed to fill a vacancy pursuant to subdivision a of section fifteen of this article, for terms of five years or the unexpired portions of their respective terms of office, if less than five years.

§3. Resolved (if the _____ concur), That section 6 of article 6 of the constitution be amended to read as follows:

a. The state shall be divided into [eleven] twelve judicial districts. The first judicial district shall consist of the [counties] county of [Bronx and] New York. The second judicial district shall consist of the counties of Kings and Richmond. The third judicial district shall consist of the counties of Albany, Columbia, Greene, Rensselaer, Schoharie, Sullivan, and Ulster. The fourth judicial district shall consist of the counties of Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, St. Lawrence, Saratoga, Schenectady, Warren, and Washington. The fifth judicial district shall consist of the counties of Herkimer, Jefferson, Lewis, Oneida, Onondaga, and Oswego. The sixth judicial district shall consist of the counties of Broome, Chemung, Chenango, Cortland, Delaware, Madison, Otsego, Schuyler, Tioga, and Tompkins. The seventh judicial district shall consist of the counties of Cayuga, Livingston, Monroe, Ontario, Seneca, Steuben, Wayne, and Yates. The eighth judicial district shall consist of the counties of Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, and

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Wyoming. The ninth judicial district shall consist of the counties of Dutchess, Orange, Putnam, Rockland, and Westchester. The tenth judicial district shall consist of the counties of Nassau and Suffolk. The eleventh judicial district shall consist of the county of Queens. The twelfth judicial district shall consist of the county of Bronx.

b. Once every ten years the legislature may increase or decrease the number of judicial districts or alter the composition of judicial districts and thereupon re-apportion the justices to be thereafter [elected] selected in the judicial districts so altered. Each judicial district shall be bounded by county lines.

c. [The] Except as otherwise provided in this article, the justices of the supreme court shall be chosen by the electors of the judicial district in which they are to serve[. The] and shall serve for terms of [justices of the supreme court shall be] fourteen years from and including the first day of January next after [their] election.

d. The supreme court is continued. [It] Effective January first, two thousand four, it shall consist of the number of justices of the supreme court, including the justices designated to the appellate divisions and the appellate terms of the supreme court, judges of the court of claims, judges of the county court [of the counties of Bronx, Kings, Queens and Richmond], judges of the surrogate's court in offices abolished pursuant to section twenty-eight of this article and judges of the family court [of general sessions of the county of New York] authorized by law on [the] December thirty-first [day of August next after the approval and ratification of this amendment by the people], two thousand three, all of whom shall be justices of the supreme court for the remainder of their terms. The legislature may increase or decrease the number of justices of the supreme court in any judicial district, except that [the number in any district shall not be increased to exceed one justice for fifty thousand, or fraction over thirty

thousand, of the population thereof as shown by the last federal census or state enumeration. The legislature may decrease the number of justices of the supreme court in any judicial district, except that: (1) the number in any judicial district shall not be less than the number of justices of the supreme court authorized by law in such judicial district on [the effective date of this article] December thirty-first, two thousand three, and (2) there shall be at least one justice of the supreme court in each county outside the city of New York chosen by the electors thereof.

e. The clerks of the several counties shall be clerks of the supreme court, with such powers and duties as shall be prescribed by law.

§4. Resolved (if the _____ concur), That section 7 of article 6 of the constitution be amended to read as follows:

§7. a. The supreme court shall have general original jurisdiction in law and equity, including the jurisdiction of the courts abolished pursuant to paragraph one of subdivision a of section twenty-eight of this article (subject, however, to such power as the legislature had on the date of their abolition to withdraw jurisdiction from such courts), and the appellate jurisdiction herein provided. In the city of New York, it shall have exclusive jurisdiction over crimes prosecuted by indictment, provided, however, that, except as otherwise provided by this article, the legislature may grant to [the city-wide] a district court of [criminal jurisdiction of] the city of New York jurisdiction over misdemeanors prosecuted by indictment [and to the family court in the city of New York jurisdiction over crimes and offenses by or against minors or between spouses or between parent and child or between members of the same family or household].

b. The supreme court shall consist of such divisions as the chief administrator of the

courts may establish from time to time, except that, in each county of the state, he or she shall establish a single division in which the supreme court shall exercise jurisdiction over criminal actions and proceedings charging one or more offenses that, pursuant to law, constitute family offenses; over actions and proceedings for marital separation, divorce, annulment of marriage and dissolution of marriage; over such actions and proceedings as were within the jurisdiction of family court on December thirty-first, two thousand three; and over such other actions and proceedings as the chief administrator shall provide. Subject to the provisions of subdivision a of this section, the chief administrator shall prescribe the jurisdiction of such other divisions as he or she may establish pursuant to this subdivision.

To the extent practicable, justices assigned to divisions, terms and parts of supreme court shall be experienced in the business coming before them; and, within appropriations made available therefor by the legislature, shall receive such training as may be necessary to insure the fair administration of justice.

c. If the legislature shall create new classes of actions and proceedings, the supreme court shall have jurisdiction over such classes of actions and proceedings, but the legislature may provide that another court or other courts shall also have jurisdiction and that actions and proceedings of such classes may be originated in such other court or courts.

§5. Resolved (if the _____ concur), That subdivisions d and e of section 8 of article 6 of the constitution be amended to read as follows:

d. If so directed by the appellate division of the supreme court establishing an appellate term, an appellate term shall have jurisdiction to hear and determine appeals now or hereafter authorized by law to be taken to the supreme court or to the appellate division other than appeals from the supreme court[,] or a surrogate's court[, the family court] or appeals in

criminal cases prosecuted by indictment or by information as provided in section six of article six of the constitution.

e. As may be provided by law, an appellate term shall have jurisdiction to hear and determine appeals from the district court outside the city of New York or a town[,] or village or city] court [outside the city of New York].

§6. Resolved (if the _____ concur), That sections 9, 10, 11, 13, 14, 15, 34, 35, 36, 36-a, 36-b and 37 of article 6 of the constitution be REPEALED.

§7. Resolved (if the _____ concur), That sections 12, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32 and 33 of article 6 be renumbered sections 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27.

§8. Resolved (if the _____ concur), That subdivision a of section 9 of article 6 of the constitution, as renumbered by section 7 of this resolution, be amended to read as follows:

a. The surrogate's court is continued in each county in the state. [There] In each county having a population of more than two hundred thousand persons, as shown by the last federal census or state enumeration prior to January first, two thousand four, there shall be at least one judge of the surrogate's court [in each county] and such number of additional judges of the surrogate's court as may be provided by law. In each other county, a justice of the supreme court chosen by the electors thereof shall also act as and discharge the duties of surrogate.

§9. Resolved (if the _____ concur), That section 10 of article 6 of the constitution, as renumbered by section 7 of this resolution, be amended to read as follows:

§10. a. The district court system of the state of New York is hereby established.

b. In the city of New York, the legislature shall by law establish a single district court of city-wide civil jurisdiction and a single district court of city-wide criminal jurisdiction for such

~~city and the legislature may, upon the request of the mayor and the local legislative body of the city of New York, merge the two courts into one district court of both city-wide civil and city-wide criminal jurisdiction.~~

c. Outside the city of New York, there shall be district courts as follows:

(1) The [district court of Nassau county may be continued under existing law and the] legislature may, at the request of the board of supervisors or other elective governing body of any county outside the city of New York, establish [the] a district court for the entire area of such county or for a portion of such county consisting of one or more cities, or one or more towns which are contiguous, or of a combination of such cities and such towns provided at least one of such cities is contiguous to one of such towns[.

b. No; provided that: (i) no law establishing [the] a district court hereunder for an entire county shall become effective unless approved at a general election on the question of the approval of such law by a majority of the votes cast thereon by the electors within the area of any cities in the county considered as one unit and by a majority of the votes cast thereon by the electors within the area outside of cities in the county considered as one unit[.

c. No, and (ii) no law establishing [the] a district court hereunder for a portion of a county shall become effective unless approved at a general election on the question of the approval of such law by a majority of the votes cast thereon by the electors within the area of any cities included in such portion of the county considered as one unit and by a majority of the votes cast thereon by the electors within the area outside of cities included in such portion of the county considered as one unit.

(2) Unless the legislature shall otherwise provide, a district court shall be established for the area of each city outside the city of New York.

d. (1) The district court of city-wide civil jurisdiction of the city of New York shall have [such] jurisdiction [as may be provided] over the following classes of actions and proceedings which shall be originated in such court in the manner provided by law: actions and proceedings for the recovery of money, actions and proceedings for the recovery of chattels and actions and proceedings for the foreclosure of mechanics liens and liens on personal property where the amount sought to be recovered or the value of the property does not exceed fifty thousand dollars exclusive of interest and costs, or such smaller amount as may be fixed by law; and over such other actions and proceedings, not within the exclusive jurisdiction of the supreme court, as may be provided by law. The court also shall have jurisdiction over the following, which it shall exercise in a housing division thereof: actions and proceedings in law and equity involving the enforcement of state and local laws for the establishment and maintenance of housing standards; summary proceedings to recover possession of real property and to remove tenants therefrom; and any other actions and proceedings otherwise within the jurisdiction of the court as may be provided by law. The district court of city-wide civil jurisdiction of the city of New York shall exercise such equity jurisdiction as may be provided by law and its jurisdiction to enter judgment upon a counterclaim for the recovery of money only shall be unlimited. Subject to the provisions of subdivision g of section thirteen of this article, the district court of city-wide criminal jurisdiction of the city of New York shall have jurisdiction over crimes and other violations of law, other than those prosecuted by indictment, provided, however, that the legislature may grant to such court jurisdiction over misdemeanors prosecuted by indictment; and over such other actions and proceedings, not within the exclusive jurisdiction of the supreme court, as may be provided by law.

(2) Each district court outside the city of New York shall have such jurisdiction as may

court or courts [for] of the city of New York as provided in [section fifteen] paragraph one of this [article, provided, however, that in actions and proceedings for the recovery of money, actions and proceedings for the recovery of chattels and actions and proceedings for the foreclosure of mechanics liens and liens on personal property, the amount sought to be recovered or the value of the property shall not exceed fifteen thousand dollars exclusive of interest and costs] subdivision.

e. The legislature may create districts of [the] a district court outside the city of New York established pursuant to paragraph one of subdivision c of this section which shall consist of an entire county or of an area less than a county; and may discontinue any district of such a district court.

f. [There] The district courts shall consist of such number of judges as may be authorized by law, provided there shall be at least one judge [of the district] for each district court and, for each such court outside the city of New York in which districts have been created hereunder, at least one judge for each [district] of such districts [and such number of additional judges in each district as may be provided by law].

g. The judges of [the district] each district court outside the city of New York shall be apportioned among [the] any districts within such court as may be provided by law, and to the extent practicable, in accordance with the population and the volume of judicial business.

h. The judges of the district court of city-wide civil jurisdiction of the city of New York shall be residents of such city and shall be chosen for terms of ten years by the electors of the counties included within the city of New York from districts within such counties established by law; except that the mayor of the city of New York, on the recommendation of a commission

established by law, shall appoint from the residents of such city, for terms of ten years, such number of judges of the housing division of such court as may be provided by law. The judges of the district court of city-wide criminal jurisdiction of the city of New York shall be residents of such city and shall be appointed for terms of ten years by the mayor of the city of New York. The judges of each district court outside the city of New York shall be residents of the [district] county or portion thereof for which such court has been established and shall be chosen by the electors of [the district. Their] such county or portion thereof for terms [shall be] of six years, except that judges of a district court established pursuant to paragraph two of subdivision c of this section shall be chosen in such manner and for such terms as shall be provided by law.

Where a term of office prescribed hereunder is elective, it shall be from and including the first day of January next after [their] election.

i. The legislature may regulate and discontinue [the] any district court [in any county or portion thereof] outside the city of New York.

§10. Resolved (if the _____ concur), That section 11 of article 6 of the constitution, as renumbered by section 7 of this resolution, be amended to read as follows:

§11. a. Courts for towns[,] and villages [and cities outside the city of New York] are continued and shall have the jurisdiction prescribed by the legislature but not in any respect greater than the jurisdiction of [the district] a district court outside New York city as provided in section [sixteen] ten of this article.

b. The legislature may regulate such courts[, establish uniform jurisdiction, practice and procedure for city courts outside the city of New York] and may discontinue any village [or city] court [outside the city of New York] existing on the effective date of this article. The legislature may discontinue any town court existing on the effective date of this article only

with the approval of a majority of the total votes cast at a general election on the question of a proposed discontinuance of the court in each such town affected thereby.

c. The legislature may abolish the legislative functions on town boards of justices of the peace and provide that members of the town [councilmen] council be elected in their stead.

d. The number of [the judges] justices of each of such town[,] and village [and city] courts and the classification and duties of [the judges] such justices shall be prescribed by the legislature. The terms, method of selection and method of filling vacancies for the [judges] justices of such courts shall be prescribed by the legislature, provided, however, that the justices of town courts shall be chosen by the electors of the town for terms of four years from and including the first day of January next after their election.

§11. Resolved (if the _____ concur), That section 13 of article 6 of the constitution, as renumbered by section 7 of this resolution, be amended to read as follows:

§13. a. The supreme court may transfer any action or proceeding, except one over which it shall have exclusive jurisdiction which does not depend upon the monetary amount sought, to any other court having jurisdiction of the subject matter within the judicial department provided that such other court has jurisdiction over the classes of persons named as parties. [As may be provided by law, the] The supreme court may transfer to itself any action or proceeding originated or pending in another court within the judicial department [other than the court of claims] upon a finding that such a transfer will promote the administration of justice.

b. The [county court shall transfer to the supreme court or surrogate's court or family court any action or proceeding which has not been transferred to it from the supreme court or surrogate's court or family court and over which the county court has no jurisdiction. The

county court may transfer any action or proceeding, except a criminal action or proceeding involving a felony prosecuted by indictment or an action or proceeding required by this article to be dealt with in the surrogate's court or family court, to any court, other than the supreme court, having jurisdiction of the subject matter within the county provided that such other court has jurisdiction over the classes of persons named as parties.

c. As may be provided by law, the supreme court or the county court may transfer to the county court any action or proceeding originated or pending in the district court or a town, village or city court outside the city of New York upon a finding that such a transfer will promote the administration of justice.

d. The] surrogate's court shall transfer to the supreme court or [the county court or the family] a district court [or the courts for] of the city of New York [established pursuant to section fifteen of this article] any action or proceeding which has not been transferred to it from any of [said] such courts and over which the surrogate's court has no jurisdiction.

[e. The family court shall transfer to the supreme court or the surrogate's court or the county court or the courts for the city of New York established pursuant to section fifteen of this article any action or proceeding which has not been transferred to it from any of said courts and over which the family court has no jurisdiction.

f. The courts for] c. A district court of the city of New York [established pursuant to section fifteen of this article] shall transfer to the supreme court or the surrogate's court [or the family court] any action or proceeding which has not been transferred to [them] it from any of [said] such courts and over which [the said courts for the city of New York have] such district court has no jurisdiction.

[g.] d. As may be provided by law, the supreme court shall transfer any action or

proceeding to any other court having jurisdiction of the subject matter in any other judicial district or county provided that such other court has jurisdiction over the classes of persons named as parties.

[h.] e. As may be provided by law, the [county court, the] surrogate's court[, the family court] and [the courts for] a district court of the city of New York [established pursuant to section fifteen of this article] may transfer any action or proceeding, other than one which has previously been transferred to it, to any other court, except the supreme court, having jurisdiction of the subject matter in any other judicial district or county provided that such other court has jurisdiction over the classes of persons named as parties.

[i.] f. As may be provided by law, [the] a district court outside the city of New York or a town[, or village [or city] court [outside the city of New York] may transfer any action or proceeding, other than one which has previously been transferred to it, to any district court or to any town or village court[, other than the county court or the surrogate's court or the family court or the supreme court,] having jurisdiction of the subject matter in the same or an adjoining county provided that such other court has jurisdiction over the classes of persons named as parties.

[j.] g. Where a criminal action or proceeding charging one or more offenses that, pursuant to law, constitute family offenses is originated in a court other than the supreme court, such court, following arraignment in accordance with law, shall transfer such action or proceeding to the supreme court, unless: (1) the highest offense constituting a family offense that is charged in the action or proceeding is classified as a violation pursuant to law, or (2) the highest offense constituting a family offense that is charged in the action or proceeding is classified as a misdemeanor pursuant to law and the court in which the action or proceeding is

originated is a district court outside the city of New York or a justice court and such court of origination is not located in the same city, town or village in which proceedings of the supreme court in the county in which such court of origination is located are conducted. In either of such events, the court of origination shall transfer such action or proceeding to supreme court only where the prosecutor therein so requests; provided, however, upon such a transfer, the supreme court may decline to accept it, in which case transfer of the action or proceeding shall be deemed a nullity and all further proceedings therein shall be in the court of origination. Notwithstanding the foregoing, the court of origination, at any time following arraignment, shall transfer any criminal action or proceeding to which this subdivision applies to the supreme court immediately upon notification that there are one or more other civil or criminal actions or proceedings involving the defendant in the division of supreme court established pursuant to subdivision b of section seven of this article.

h. Each court shall exercise jurisdiction over any action or proceeding transferred to it pursuant to this section.

[k.] i. The legislature may provide that the verdict or judgment in actions and proceedings so transferred shall not be subject to the limitation of monetary jurisdiction of the court to which the actions and proceedings are transferred if that limitation be lower than that of the court in which the actions and proceedings were originated.

§12. Resolved (if the _____ concur), That section 14 of article 6 of the constitution, as renumbered by section 7 of this resolution, be amended to read as follows:

§14. a. No person[, other than one who holds such office at the effective date of this article,] may assume the office of judge of the court of appeals[, or] or justice of the supreme court[, or judge of the court of claims] unless he or she has been admitted to practice law in this

state at least ten years. No person[, other than one who holds such office at the effective date of this article,] may assume the office of judge of the [county court,] surrogate's court[, family court, a court for the city of New York established pursuant to section fifteen of this article, district] or judge of a district court [or city court outside the city of New York] unless he or she has been admitted to practice law in this state at least five years or such greater number of years as the legislature may determine.

b. A judge of the court of appeals, justice of the supreme court[, judge of the court of claims, judge of a county court], judge of the surrogate's court[, judge of the family court] or judge of a district court [for] of the city of New York [established pursuant to section fifteen of this article who is elected or appointed after the effective date of this article] may not:

(1) hold any other public office or trust except an office in relation to the administration of the courts, member of a constitutional convention or member of the armed forces of the United States or of the state of New York in which latter event the legislature may enact such legislation as it deems appropriate to provide for a temporary judge or justice to serve during the period of the absence of such judge or justice in the armed forces;

(2) be eligible to be a candidate for any public office other than judicial office or member of a constitutional convention, unless he or she resigns his or her judicial office; in the event a judge or justice does not so resign his or her judicial office within ten days after [his acceptance of] accepting the nomination of such other office, his or her judicial office shall become vacant and the vacancy shall be filled in the manner provided in this article;

(3) hold any office or assume the duties or exercise the powers of any office of any political organization or be a member of any governing or executive agency thereof;

(4) engage in the practice of law, act as an arbitrator, referee or compensated mediator

in any action or proceeding or matter or engage in the conduct of any other profession or business which interferes with the performance of his or her judicial duties.

Judges and justices of the courts specified in this subdivision shall also be subject to such rules of conduct as may be promulgated by the chief administrator of the courts with the approval of the court of appeals.

c. Qualifications for and restrictions upon [the] judges of the district[,] courts outside the city of New York and justices of town[,] and village [or city] courts [outside the city of New York], other than such qualifications and restrictions specifically set forth in subdivision a of this section, shall be prescribed by the legislature, provided, however, that the legislature shall require a course of training and education to be completed by justices of town and village courts [selected after the effective date of this article] who have not been admitted to practice law in this state. Judges and justices of such courts shall also be subject to such rules of conduct not inconsistent with law as may be promulgated by the chief administrator of the courts with the approval of the court of appeals.

§13. Resolved (if the _____ concur), That section 15 of article 6 of the constitution, as renumbered by section 7 of this resolution, be amended to read as follows:

§15. a. When a vacancy shall occur, otherwise than by expiration of term, in the office of an elected justice of the supreme court[, of judge of the county court,] or of judge of the surrogate's court [or judge of the family court outside the city of New York], it shall be filled for a full term at the next general election held not less than three months after such vacancy occurs and, until the vacancy shall be so filled, the governor by and with the advice and consent of the senate, if the senate shall be in session, or, if the senate not be in session, the governor may fill such vacancy by an appointment which shall continue until and including

the last day of December next after the election at which the vacancy shall be filled.

b. When a vacancy shall occur, otherwise than by expiration of term, in the office of an appointed justice of the supreme court or an appointed judge of [the] a district court of [claims] the city of New York, it shall be filled for the unexpired term in the same manner as an original appointment.

c. When a vacancy shall occur, otherwise than by expiration of term, in the office of a judge elected to the [city-wide] district court of city-wide civil jurisdiction of the city of New York, it shall be filled for a full term at the next general election held not less than three months after such vacancy occurs and, until the vacancy shall be so filled, the mayor of the city of New York may fill such vacancy by an appointment which shall continue until and including the last day of December next after the election at which the vacancy shall be filled. [When a vacancy shall occur, otherwise than by expiration of term on the last day of December of any year, in the office of judge appointed to the family court within the city of New York or the city-wide court of criminal jurisdiction of the city of New York, the mayor of the city of New York shall fill such vacancy by an appointment for the unexpired term.]

d. When a vacancy shall occur, otherwise than by expiration of term, in the office of judge of [the] a district court outside the city of New York established pursuant to paragraph one of subdivision c of section ten of this article, it shall be filled for a full term at the next general election held not less than three months after such vacancy occurs and, until the vacancy shall be so filled, the board of supervisors or the supervisor or supervisors of the [affected district] area for which the court was established if such [district] area consists of a portion of a county or, in counties with an elected county executive officer, such county executive officer may, subject to confirmation by the board of supervisors or the supervisor or

supervisors of such [district] area, fill such vacancy by an appointment which shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

e. When a vacancy shall occur, otherwise than by expiration of term, in the office of judge of a district court outside the city of New York established pursuant to paragraph two of subdivision c of section ten of this article, it shall be filled in the manner provided by law.

§14. Resolved (if the _____ concur), That subdivision b of section 17 of article 6 of the constitution, such section as renumbered by section 7 of this resolution, be amended to read as follows:

b. Judges of the [court of claims, the county court, the] surrogate's court, the [family court, the] district court or courts [for] of the city of New York [established pursuant to section fifteen of this article], the district [court] courts outside the city of New York established pursuant to paragraph one of subdivision c of section ten of this article and such other courts as the legislature may determine may be removed by the senate, on the recommendation of the governor, if two-thirds of all the members elected to the senate concur therein.

§15. Resolved (if the _____ concur), That section 19 of article 6 of the constitution, as renumbered by section 7 of this resolution, be amended to read as follows:

§19. a. The compensation of a judge of the court of appeals, a justice of the supreme court, a judge of the [court of claims, a judge of the county court, a judge of the] surrogate's court, a judge of [the family court, a judge of a court for the city of New York established pursuant to section fifteen of this article, a judge of [the] a district court [or of] and a retired judge or justice shall be established by law and shall not be diminished during the term of office for which he or she was elected or appointed. [Any judge or justice of a court abolished

section thirty-five of this article, who pursuant to that section becomes a judge or justice of a court established or continued by this article, shall receive without interruption or diminution for the remainder of the term for which he was elected or appointed to the abolished court the compensation he had been receiving upon the effective date of this article together with any additional compensation that may be prescribed by law.]

b. Each judge of the court of appeals, justice of the supreme court, judge of the [court of claims, judge of the county court, judge of the] surrogate's court[, judge of the family court, judge of a court for the city of New York established pursuant to section fifteen of this article] and judge of [the] a district court shall retire on the last day of December in the year in which he or she reaches the age of seventy. Each such former judge of the court of appeals and justice of the supreme court may thereafter perform the duties of a justice of the supreme court, with power to hear and determine actions and proceedings, provided, however, that it shall be certified in the manner provided by law that the services of such judge or justice are necessary to expedite the business of the court and that he or she is mentally and physically able and competent to perform the full duties of such office. Any such certification shall be valid for a term of two years and may be extended as provided by law for additional terms of two years. A retired judge or justice shall serve no longer than until the last day of December of the year in which he or she reaches the age of seventy-six. A retired judge or justice shall be subject to assignment by the appellate division of the supreme court of the judicial department to his or her residence. Any retired justice of the supreme court who had been designated to and served as a justice of any appellate division immediately preceding his or her reaching the age of seventy shall be eligible for designation by the governor as a temporary or additional justice of the appellate division. [A retired judge or justice shall not be counted in determining

the number of justices in a judicial district for purposes of section six subdivision d of this article.

c. The provisions of this section shall also be applicable to any judge or justice who has not reached the age of seventy-six and to whom it would otherwise have been applicable but for the fact that he reached the age of seventy and retired before the effective date of this article.]

§16. Resolved (if the _____ concur), That section 20 of article 6 of the constitution, such section as renumbered by section 7 of this resolution, be amended to read as follows:

§20. a. A justice of the supreme court may preside in any division of such court, may perform the duties of his or her office or hold court in any county and may be temporarily assigned to the supreme court in any judicial district [or to the court of claims], including any division thereof. A justice of the supreme court in the city of New York may be temporarily assigned to [the family court in the city of New York or to] the surrogate's court in any county within the city of New York when required to dispose of the business of such court. A justice of the supreme court outside the city of New York may be temporarily assigned to the surrogate's court in any county outside the city of New York.

b. [A judge of the court of claims may perform the duties of his office or hold court in any county and may be temporarily assigned to the supreme court in any judicial district.

c. A judge of the county court may perform the duties of his office or hold court in any county and may be temporarily assigned to the supreme court in the judicial department of his residence or to the county court or the family court in any county or to the surrogate's court in any county outside the city of New York or to a court for the city of New York established pursuant to section fifteen of this article.

d.] A judge of the surrogate's court in any county within the city of New York may perform the duties of his or her office or hold court in any county and may be temporarily assigned to the supreme court in the judicial department of his or her residence, including any division thereof.

[e.] c. A judge of the surrogate's court in any county outside the city of New York may perform the duties of his or her office or hold court in any county and may be temporarily assigned to the supreme court in the judicial department of his or her residence [or to the county court or the family court in any county], including any division thereof, or to a district court [for] of the city of New York [established pursuant to section fifteen of this article].

[f. A judge of the family court may perform the duties of his office or hold court in any county and may be temporarily assigned to the supreme court in the judicial department of his residence or to the county court or the family court in any county or to the surrogate's court in any county outside of the city of New York or to a court for the city of New York established pursuant to section fifteen of this article.

g.] d. A judge of a district court [for the city of New York established pursuant to section fifteen of this article] may perform the duties of his or her office or hold court in any county, may preside in any division or district of his or her court or, if he or she is a judge of a district court of the city of New York, anywhere in such city, and may be temporarily assigned; (1) to the supreme court in the judicial department of his or her residence [or to the county court or the family court in any county or to the other court for the city of New York established pursuant to section fifteen of this article.

h. A judge of the district court in any county may perform the duties of his office or hold court in any county and may be temporarily assigned to the county court in the judicial

department of his residence or to a court for the city of New York established pursuant to section fifteen of this article or to the district], including any division thereof, if he or she is not permitted to practice law; and (2) to any district court in [any county] the judicial department of his or her residence.

[i.] e. Temporary assignments of all the foregoing judges or justices listed in this section[, and of judges of the city courts pursuant to paragraph two of subdivision j of this section,] shall be made by the chief administrator of the courts in accordance with standards and administrative policies established pursuant to section [twenty-eight] twenty-two of this article.

[j. (1)] f. The legislature may provide for temporary assignments, within the county of residence or any adjoining county, of [judges] justices of town[,] and village [or city] courts outside the city of New York[.

(2) In addition to any temporary assignments to which a judge of a city court may be subject pursuant to paragraph one of this subdivision, such judge also may be temporarily assigned by the chief administrator of the courts to the county court, the family court or the district court within his or her county of residence or any adjoining county provided he or she is not permitted to practice law]. Such assignments may include temporary assignments to a district court outside the city of New York established pursuant to paragraph two of subdivision c of section ten of this article.

[k.] g. While temporarily assigned pursuant to the provisions of this section, any judge or justice shall have the powers, duties and jurisdiction of a judge or justice of the court to which assigned. After the expiration of any temporary assignment, as provided in this section, the judge or justice assigned shall have all the powers, duties and jurisdiction of a judge or

justice of the court to which he or she was assigned with respect to matters pending before him or her during the term of such temporary assignment.

§17. Resolved (if the _____ concur), That subdivision a of section 23 of article 6 of the constitution, such section as renumbered by section 7 of this resolution, be amended to read as follows:

a. The legislature shall provide for the allocation of the cost of operating and maintaining the court of appeals, the appellate division of the supreme court in each judicial department, the appellate terms of the supreme court, the supreme court, the [court of claims, the county court, the] surrogate's court[, the family court, the courts for the city of New York established pursuant to section fifteen of this article] and [the] a district court, among the state, the counties, the city of New York and other political subdivisions.

§18. Resolved (if the _____ concur), That article 6 of the constitution be amended by adding 2 new sections 28 and 29 to read as follows:

§28. a. (1) The court of claims, the county court and the family court shall be abolished January first, two thousand four. Upon the abolition of such courts, their seals, records, papers and documents shall, unless otherwise provided by law, be deposited in the offices of the clerks of supreme court of the several counties in which they now exist. Each of the judges of these courts in office on the date of their abolition shall, for the remainder of the term of office for which he or she was elected or appointed to the abolished court, be a justice of the supreme court in and for the judicial district in which he or she was elected to that term or, if appointed, in which he or she resided on that date. Thereafter, his or her office shall be an office of justice of the supreme court, to be filled in the same manner and for the same term as provided by this article on December thirty-first, two thousand three for the office he or she held on that date.

Any other office of judge of a court abolished pursuant to this subdivision that is vacant on January first, two thousand four also shall be an office of justice of the supreme court on and after that date, to be filled in the same manner and for the same term as provided by this article on December thirty-first, two thousand three for that office in the court of which it was a part on that date.

(2) The office of judge of the surrogate's court shall be abolished on January first, two thousand four except in those counties in which a judge of the surrogate's court is required pursuant to section nine of this article. Each judge in such an office, in office on such date, shall, for the remainder of the term of office for which he or she was elected or appointed, be a justice of the supreme court in and for the judicial district in which he or she was elected to that term or, if appointed, in which he or she resided on that date. Thereafter, his or her office shall be an office of justice of the supreme court, to be filled in the same manner and for the same term as provided by this article on December thirty-first, two thousand three for the office of judge of the surrogate's court outside the city of New York. Any office to which this paragraph applies that is vacant on January first, two thousand four also shall be an office of justice of the supreme court on and after that date, to be filled in the same manner and for the same term as provided by this article on December thirty-first, two thousand three for the office of judge of the surrogate's court outside the city of New York .

(3) Notwithstanding any other provision of this article, no judge who becomes a justice of the supreme court pursuant to this subdivision may be designated to sit in the appellate division or in an appellate term during the term of office in which he or she was serving on January first, two thousand four.

b. The justices of the supreme court in office on December thirty-first, two thousand

three shall, for the remainder of the terms for which they were elected or appointed, be justices of the supreme court in and for the judicial district in which they were elected or for which they were appointed; and, except upon individual agreement otherwise with the chief administrator of the courts, each of such justices shall be assigned only to exercise jurisdiction over such actions and proceedings as were within the jurisdiction exercised by supreme court on December thirty-first, two thousand three. Retired judges and justices who, prior to January first, two thousand four, were authorized to perform the duties of a justice of the supreme court pursuant to certification in accordance with the provisions of subdivision b of section twenty-five of this article then in effect, shall be certificated justices of the supreme court for the remainder of the terms for which they were certificated, and thereafter be eligible for further certification in accordance with subdivision b of section nineteen of this article.

c. (1) Effective January first, two thousand four:

(i) the city-wide court of civil jurisdiction for the city of New York, as authorized by former section fifteen of this article, shall be continued as the district court of city-wide civil jurisdiction of such city, and the judges of such city-wide court in office on December thirty-first, two thousand three, including the housing judges thereof, shall, for the remainder of the terms for which they were elected or appointed, be judges of the district court of city-wide civil jurisdiction; and

(ii) the city-wide court of criminal jurisdiction for the city of New York, as authorized by former section fifteen of this article, shall be continued as the district court of city-wide criminal jurisdiction of such city and the judges of such city-wide court in office on December thirty-first, two thousand three shall, for the remainder of the terms for which they were appointed, be judges of the district court of city-wide criminal jurisdiction.

(2) Effective January first, two thousand four:

(i) the district courts, as authorized by former section sixteen of this article, shall be continued as district courts outside the city of New York established pursuant to paragraph one of subdivision c of section ten of this article and the judges of such courts in office on December thirty-first, two thousand three shall, for the remainder of the terms for which they were elected or appointed, be judges of such district courts;

(ii) the city courts outside the city of New York, as authorized by former section seventeen of this article, shall be continued as district courts outside the city of New York established pursuant to paragraph two of subdivision c of section ten of this article and the judges of such courts in office on December thirty-first, two thousand three shall, for the remainder of the terms for which they were elected or appointed, be judges of such district courts.

d. there shall be no decrease in salaries or reduction in status and rights of the nonjudicial personnel of the courts abolished by this section in office on the date of abolition, on account of such abolition;

e. Each action and proceeding pending in the supreme court on December thirty-first, two thousand three shall be deemed pending in the supreme court as of January first, two thousand four. Each action and proceeding pending in the court of claims, the county court or the family court on the date of abolition of such courts shall be transferred to the supreme court in the county in which the action or proceeding was pending, or otherwise, as may be provided by law. Each action and proceeding pending in the city-wide court of civil or criminal jurisdiction for the city of New York, in a district court, or in a city court outside the city of New York on December thirty-first, two thousand three shall be transferred to the appropriate

district court of the city of New York or to the appropriate district court outside such city.

f. In the event that a judgment or order was entered before the effective date of this section and a right of appeal existed and notice of appeal therefrom is filed after such effective date, such appeal shall be taken from the supreme court, a court abolished pursuant to subdivision a of this section, a city-wide court of civil and criminal jurisdiction for the city of New York, a city court outside the city of New York, or a district court to such court as it might have been taken before the effective date of this section. Further appeal from a decision of an appellate court in an action subject to this paragraph shall be as provided by law, consistent with this article.

g. In the event that an appeal was decided before the effective date of this section and a further appeal could be taken as of right and notice of appeal therefrom is filed after such effective date, such appeal may be taken from the appellate division of the supreme court to the court of appeals and from any other court to the appellate division of the supreme court. Further appeal from a decision of the appellate division of the supreme court shall be governed by the provisions of this article. If a further appeal could not be taken as of right, such appeal shall be governed by the provisions of this article.

h. Should the state be divided into five judicial departments as provided in subdivision a of section four of this article, the legislature may provide for the transfer between departments of the appellate division of appeals pending in the appellate division as of the date the state is divided into five judicial departments as the interests of justice require; provided no appeal may be transferred to a department other than the department in which such appeal could have been taken had the state been divided into five judicial departments on the date the appeal was taken.

§29. a. Except as provided in subdivision b of this section, this article and all amendments thereto, as heretofore approved and ratified by the people, shall remain in full force and effect.

b. The amendments to sections one, four, six, seven and eight and to sections nine, ten, eleven, thirteen, fourteen, fifteen, seventeen, nineteen, twenty and twenty-three as renumbered by section seven of this resolution, and the addition of new sections twenty-eight and twenty-nine to this article, as first proposed by a concurrent resolution passed by the legislature in the year two thousand two, entitled "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" shall become a part of the constitution on the first day of January next after the approval and ratification of the amendments proposed by such concurrent resolution by the people and the provisions thereof shall become effective on such date.

§19. Resolved (if the _____ concur), That the foregoing amendments be referred to the first regular legislative session convening after the next succeeding general election of members of the assembly, and, in conformity with section one of article nineteen of the constitution, be published for three months previous to the time of such election.

Unified Court System
Schedule of Potential Net Court Restructuring Savings
Budget Impact - 5 Year Summary

Amounts in millions

Item	2004	2005	2006	2007	2008	Cumulative
SAVINGS						
<i>Unified Treatment of Related Cases</i>	\$22.46	\$23.14	\$23.83	\$24.54	\$25.28	\$119.25
<i>Administrative Consolidation</i>	0.51	1.57	2.58	3.54	4.56	12.75
<i>General Operating Expenses (NPS)</i>	1.37	1.40	1.44	1.48	1.51	7.20
<i>Automation / Furnishings</i>	<u>1.15</u>	<u>0.00</u>	<u>0.00</u>	<u>0.50</u>	<u>0.00</u>	<u>1.66</u>
TOTAL	\$25.49	\$26.10	\$27.85	\$30.07	\$31.35	\$140.86
COSTS						
<i>Judge Salary Parity</i>	(\$1.89)	(\$1.89)	(\$1.89)	(\$1.89)	(\$1.89)	(\$9.46)
NET BUDGET IMPACT	\$23.60	\$24.21	\$25.96	\$28.17	\$29.46	\$131.40

**Overlap Study Between the Supreme Court, Criminal Court
and Family Court in Brooklyn - January 2002**

Purpose

1. Determine the number of overlapping cases between the Supreme Court (matrimonial cases) and Family Court in Brooklyn. Determine the number of overlapping cases between the Criminal Court (domestic violence cases) and Family Court in Brooklyn.

Methodology

2. Matrimonial Case Sample

Use all matrimonial cases filed in Kings County Supreme Court during January 2001. This sample of 477 cases represents 8% of the 5,643 annual matrimonial filings in Kings.

Domestic Violence Case Sample

Use 130 (8%) cases randomly selected from the 1,628 domestic violence cases currently pending in the Brooklyn Criminal Court.

3. Produce worksheets with one matrimonial or domestic violence case per page.
4. Family court staff checks plaintiff (or complainant) and defendant names against all cases filed between 1999 and the present in the Family Court's automated system (AFCRIS).
5. For a case to be considered overlapping, names on the Matrimonial or Domestic Violence case must match names in an original case or cases in the Family Court system. Matched Family Court cases are indicated on the worksheet.

Results6. Matrimonial/Family Overlap

The sample of 477 matrimonial cases matched to 173 original Family court cases. This is an average of .363 original Family Court cases for every matrimonial case. The statewide estimate is:

64,507	Annual Matrimonial Filings ¹
<u>x .363</u>	Original Family Court cases per matrimonial case

23,416	Original Family Court cases overlapping with matrimonial cases
<u>x .92</u>	Supplemental Proportion ²
21,543	

Family Court cases overlapping with Supreme Court matrimonial cases: 23,416 + 21,543 = 44,959

Domestic Violence/Family Court Overlap

The sample of 130 domestic violence cases matched to 122 original Family court cases. This is an average of .938 original Family Court cases for every domestic violence case. The statewide estimate is:

44,766	Annual Domestic Violence Filings ³
<u>x .938</u>	Original Family Court cases per DV case

41,990	Original Family Court cases overlapping with Domestic Violence cases
<u>x .92</u>	Supplemental Proportion
38,631	

Family Court Overlapping with Domestic Violence cases: 41,990 + 38,631 = 80,621

¹ The average number of matrimonial cases filed in the Supreme Courts statewide during the twelve year period of 1990-2001 was 64,507. (Source: UCS Caseload Activity Reporting System)

² A Supplemental petition is filed in Family Court when there is a violation or modification of the original petition order. There are .92 supplemental petitions for each original Family Court petition. During calendar year 2000 there were 359,301 original petitions filed and 332,188 (.92) supplemental petitions filed in the Family Court statewide. Source: UCS Caseload Activity Reporting System, Report of Caseload Activity by Type of Proceeding.

³ During 2001, the actual number of domestic violence cases filed in the New York City Criminal Court was 24,239. The number of domestic violence cases filed in the City and District Courts outside New York City is estimated to be 20,527. This estimate is derived using the ratio of 0.825 domestic violence cases for each of the 24,881 orders of protection issued during 2001. The 0.825 ratio is an average of the actual ratio of the number of orders of protection to the number of domestic violence cases in the NYC Criminal Court (24,239/30,571 = 0.79) and ratio of orders of protection to the number of family offense filings in 2000 in the Family Courts statewide (57,051/66,148 = 0.86).

Appendix C -3**7. Total Number of Overlapping Cases**

44,959	Mat/Family Overlap
+	
80,621	Criminal Court DV/Family Court Overlap
125,580	

8. Filings and Nonjudicial FTE Offset

80,814	Net Family Court Case reduction (Family case overlaps 125,580 -44,766 DV lower criminal cases transferred to new Supreme Court)
229	NJ FTE Offset (net family court case reduction 80,814/353 Filings Ratio to NJ position FTE) ⁴
44,766	Lower Criminal Court Case reduction (DV criminal cases transferred to new Supreme Court)
86	NJ FTE Offset (lower criminal case reduction 44,766/518 Filings Ratio to NJ position FTE) ⁵
315	Total NJ FTE Offset (Family Court NJ FTE Offset: 229 plus lower criminal case NJ FTE offset:86)

⁴691,489 Family Court calendar year 2000 filings/1,960.5 nonjudicial Family Court FTE's = 353 Family Court filings per NJ FTE Assigned: Source OCA Division of Financial Management Resource Comparison Report, July, 2001. For each year, the Family Court FTE offset is multiplied by the average salary in computing the potential nonjudicial position savings from unifying related cases. An average salary of \$55,096 was used in year one, incremented by 3% each year for projected salary increases. The calculation also includes fringe benefits at 30% of salary.

⁵669,187 Net City and District Court criminal calendar year 2000 filings/1,291.2 nonjudicial City and District Court criminal case only FTE's = 518 City and District Court criminal filings per NJ FTE Assigned: Source OCA Division of Financial Management Resource Comparison Report, July, 2001. For each year, the lower criminal courts FTE offset is multiplied by the average salary in computing the potential nonjudicial position savings from unifying related cases. An average salary of \$53,973 was used in year one, incremented by 3% each year for projected salary increases. The calculation also includes fringe benefits at 30% of salary.

**Unified Court System
Potential from Unified Treatment of Related Cases**

	2004	2005	2006	2007	2008	Total
	Savings	Savings	Savings	Savings	Savings	Savings
General NPS	1.37	1.40	1.44	1.48	1.51	7.20
Equipment	1.15			0.50		1.66
Total	2.52	1.40	1.44	1.98	1.51	8.86

Note:

General nonpersonal service (NPS) estimate based upon 2% of the NPS General Fund allocation base (\$68.5 million). The equipment estimate assumes a cost of \$2,052 per employee for furnishings (per 2001 Cost per Part Guidelines) and \$1,603 per employee for a computer and printer (UCS Cost Guidelines). It further assumes computer replacement on a 3 year cycle.

APPENDIX D

**“THE SPECIAL COMMISSION ON THE FUTURE OF
THE NEW YORK STATE COURTS,” APPENDIX II**

— APPENDIX ii —
THE FINANCIAL COST OF OUR CURRENT STRUCTURE:
AN ECONOMIC ANALYSIS

We have conducted a detailed economic analysis of the costs of our current structure and the substantial savings that would result if the court system were restructured. As set forth more fully below, we estimate that approximately \$502 million in annual savings would be realized if the state's trial courts were consolidated along the lines set forth in this Report. Of this total, \$443 million (and 8.8 million litigant and attorney hours) would be saved by individual litigants, businesses, municipalities and others. In addition, we estimate that more than \$59 million in annual budgetary savings would be realized by the court system under our plan.¹⁷⁸

From a fiscal point of view, the problem with the current structure is that there are too many courts with limited jurisdiction. As a result, it is impossible under the current system to manage cases and caseloads in a rational, systemwide manner. Figure 1 below illustrates the wide caseload disparities that currently exist among certain of the state's courts.

Court	Sitting Judges (full-time equivalents)¹⁷⁹	Dispositions	Dispositions per Judge
Supreme Court (civil cases)	376	197,214	525
Supreme Court and County Court (felony cases)	241	53,577	222
Court of Claims	27	1,703	63
Family Court	277 ¹⁸⁰	587,181 ¹⁸¹	2,120
Surrogate's Court	50	113,753	2,275

Data provided by OCA

¹⁷⁸ As stated in OCA's 2002 budgetary analysis, the budgetary savings figure does not include the following: (1) additional costs that could result if, after the constitutionally imposed cap on the number of Justices of the Supreme Court is eliminated, the Legislature creates new Supreme Court positions; and (2) any additional costs that could result if a Fifth Judicial Department is created. See THE BUDGETARY IMPACT OF TRIAL COURT RESTRUCTURING, *supra* note 72, at 8 nn.2-3.

¹⁷⁹ The number of sitting judges is expressed in terms of full-time equivalents to reflect that: (1) some Justices in the Supreme Court hear both criminal and civil cases, (2) some County Court judges also serve in the Surrogate's Court, the Family Court or both, and (3) some judges handle supervisory and administrative tasks in addition to hearing cases.

¹⁸⁰ Includes 125 support magistrates.

¹⁸¹ Includes matters heard by judges and support magistrates; excludes matters handled by attorney referees and judicial hearing officers.

A. Costs to Individuals, Businesses, Municipalities and Others

For those who use New York's courts, the current system wastes time and money in two fundamental ways.

First, as discussed above in Section Three, in the current system, it is generally not possible to reallocate cases from overburdened courts to those with excess capacity. For this reason, docket disparities persist (see Figure 1 above),¹⁸² and cases on the dockets of overburdened courts receive less judicial attention than they would if the system allowed for reallocation of cases. For these languishing cases, less judicial attention means less opportunity for judicial case management (*i.e.*, for the utilization of strategies designed to hasten judicial resolution or settlement), and, as a result, less probability of early dispute resolution. As described below, approximately 3.4 million hours of litigant time and \$314 million in economic value would be saved if the present system were consolidated to permit more efficient allocation of caseloads, thereby facilitating effective case management and earlier dispositions in a greater number of cases.

Second, the current system limits the ability of a single judge to take jurisdiction over all claims arising from a given event or transaction. For example, a variety of different legal claims typically attend criminal allegations of domestic violence. As discussed above in Section Three, under the current system, these claims generally must be adjudicated in separate courts. As described below, approximately 3.7 million litigant hours and \$129 million of economic value would be saved if the present system were consolidated, thereby permitting a single judge to hear all of the actions pertaining to a single family.

¹⁸² For example, judges sitting in the Supreme Court disposed of 525 civil cases each in 2005. By contrast, Court of Claims judges disposed of just sixty-three cases each during that same time period.

Savings from Earlier Resolution of Cases Due to More Efficient Allocation of Caseloads

Each year, there are approximately 1.2 million “complex” matters¹⁸³ (*i.e.*, matters that generate multiple court appearances prior to disposition) filed in the New York courts that could benefit from effective case management. (See Figure 2 below.) If these languishing cases could be reallocated to underutilized courts, they would receive more judicial attention, and many of them would be resolved at an earlier phase of the litigation process, thereby avoiding court dates and attendant costs to litigants.¹⁸⁴

As a first step in our analysis, we estimate that each of the above-described 1.2 million complex cases generates an average of 3.9 court dates,¹⁸⁵ and that the total number of court dates for all 1.2 million cases is approximately 4.68 million.

As a second step, data from OCA indicates that the creation of the Criminal Division of the Bronx County Supreme Court (accomplished through the consolidation of the Criminal Term of the Bronx County Supreme Court and the Bronx County Criminal Court) has led to a 14% increase in the number of Bronx criminal cases disposed of each year.¹⁸⁶ Based on this 14% increase in dispositions (which resulted from more

¹⁸³ See N.Y. State Office of Court Admin., New York State Unified Court System: Total Filings & Dispositions for 2005, Calculation of Unrelated Cases, and Type of Attorney. Note that the remaining cases are either (1) minor matters that require no more than one court appearance each or (2) related cases arising from an incident of domestic violence, which are addressed later in this appendix.

¹⁸⁴ Research confirms that judicial involvement can play a key role in resolving cases at an early stage of litigation. See, e.g., DAVID C. STEELMAN ET AL., MICHIGAN TRIAL COURT CONSOLIDATION: FINAL EVALUATION EXECUTIVE SUMMARY 6 (1999) (“Data suggest that consolidation in most of the demonstration courts has generally either helped reduce the size and age of pending case inventories or helped a court deal with increased filings.”); see also DAVID C. STEELMAN WITH JOHN A. GOERDT AND JAMES E. McMILLAN, CASEFLOW MANAGEMENT: THE HEART OF COURT MANAGEMENT IN THE NEW MILLENNIUM 4 (2000) (“The objectives of early intervention are to resolve cases as early in the process as reasonable and to reduce the costs for the parties and the court of doing so.”).

¹⁸⁵ See N.Y. State Office of Court Admin., New York State Unified Court System Appearance Analysis (September 26, 2006).

¹⁸⁶ See N.Y. State Office of Court Admin., Analysis of Bronx Criminal Division.

efficient allocation of caseloads among judges), we (more conservatively) assume that if trial court consolidation were accomplished in New York, there would be a 10% reduction in the number of appearances in connection with the above-

Figure 2: Analysis of Cases That Could Benefit from Case Management

Type of Case	Number	Percentage
Civil	517,000	43%
Criminal	270,000	23%
Family	403,000	34%
Total	1,190,000	100%

Data provided by OCA

described 1.2 million complex cases.¹⁸⁷ That is, if the New York State trial courts were consolidated, approximately 468,000 court appearances in connection with the above-described 1.2 million cases could be avoided.

The remainder of this section quantifies the value associated with the 468,000 court dates that could be avoided through a restructuring of the courts.

Litigant Productivity and Travel Savings. The total value of the litigant productivity and travel savings that could be realized through more efficient allocation of caseloads is approximately \$83 million per year. As set forth in Figure 3 below, some 3.4 million hours were spent by litigants in connection with the above-described 468,000 court dates that could be avoided through trial court consolidation. The economic value of these 3.4 million hours is approximately \$75 million, assuming that the hours are valued at an average hourly compensation rate of \$22.39.¹⁸⁸ Furthermore, the 750,000 litigant court trips associated with these 468,000 court dates generate

¹⁸⁷ Notably, this 10% efficiency estimate mirrors that found by the Dominick Commission. See TEMP. COMM'N ON THE STATE COURT SYS. (PART 2), *supra* note 90, at 13 n.d (1973) (projecting that court merger would lead to a 10% reduction in the number of "judicial man years" required to handle then-existing caseloads).

¹⁸⁸ This \$22.39 hourly compensation figure was derived by a two-step process. First, a weighted average was calculated using the following assumptions. It was assumed that litigants in civil cases (which make up 43% of the 1.2 million complex case total) earn the statewide average of \$24.27 per hour. See (continued...)

some \$7.5 million each year in avoidable litigant travel expenses, assuming that it costs a litigant \$10 to travel to and from court for a given court date.

Attorney Savings. The above-referenced 468,000 avoidable court dates also result in approximately \$231 million in avoidable attorney costs. This figure estimates the avoidable attorney hours for private counsel, government-employed counsel, and assigned counsel. (See Figure 4 below.) As set forth in Figure 4, \$203.1 million (88%) of this total is attributable to avoidable private-counsel hours, \$13.45 million (6%) is attributable to avoidable government-counsel hours, and \$14.01 million (6%) is attributable to avoidable assigned-counsel hours.

Savings from Unified Treatment of Related Family Matters

The current system deals with related proceedings in a fundamentally inefficient manner. As discussed above, such inefficiency is particularly acute with respect to related family matters, which under the current court structure must be adjudicated in separate courts (most often with separate

(...continued)

N.Y. DEP'T OF LABOR, OCCUPATIONAL EMPLOYMENT STATISTICS (2006). It was further assumed that litigants in criminal cases (which make up 23% of the 1.2 million complex case total) earn an average hourly wage of \$5.59, which was derived based on assumptions that: (1) 41% of criminal defendants are indigent and have no hourly income, (2) the 50.7% of criminal defendants who are wage-earners but who are represented by public defenders earn the 2007 state minimum wage of \$7.15 per hour, (3) the 7.9% of criminal defendants who can afford private counsel earn the statewide average of \$24.27 per hour, and (4) the 0.4% of criminal defendants who are self-represented earn \$11.17. See N.Y. STATE OFFICE OF COURT ADMIN., SELF REPRESENTED LITIGANTS IN THE NEW YORK CITY FAMILY COURT AND NEW YORK CITY HOUSING COURT 4 (2000). Finally, it was assumed that litigants in Family Court cases (which make up 34% of the 1.2 million complex-case total) earn an average hourly wage of \$11.46, which was derived based on assumptions that (1) the 69% of Family Court litigants who are self-represented earn \$11.17 per hour, (2) the 22% of Family Court litigants who have public representation earn on average the 2007 state minimum wage of \$7.15 per hour, and (3) the 9% of Family Court litigants who have private counsel earn the statewide average of \$24.27 per hour. The above-described Family Court figures take into account those Family Court litigants who have no income. The weighted average of the preceding assumptions results in an average hourly wage of \$15.61.

Second, the resulting hourly wage was adjusted to reflect fringe benefits. According to the United States Department of Labor's Bureau of Labor Statistics, wages and salaries comprise 70.4% of the total average employee compensation package, while benefits account for the remaining 29.6%. See BUREAU OF LABOR STATISTICS, EMPLOYER COSTS FOR EMPLOYEE COMPENSATION – MARCH 2005. Based on that data, the average hourly wage of \$15.61 was adjusted to \$22.39 to reflect the total average hourly employer cost for employee compensation per hour.

Figure 3: Avoidable Litigant Costs Through More Efficient Allocation of Caseloads

Avoidable Court Dates	468,000
Litigants Per Court Date	1.6 ¹⁸⁹
Avoidable Litigant Court Trips	750,000
Hours Per Court Trip	4.5 ¹⁹⁰
Total Avoidable Litigant Court Hrs.	3.37 MM
Average Hourly Compensation	\$22.39
Value of Avoidable Litigant Court Hrs.	\$75.4 MM
Avoidable Litigant Travel Costs (\$10 per court date)	\$7.5 MM
Total Avoidable Litigant Costs	\$82.9 MM

Data provided by OCA

attorneys), thereby increasing litigant costs and delaying resolution of claims. According to OCA, each year there are 240,000 sets¹⁹¹ of overlapping family-related cases that could be adjudicated before a single judge instead of separate courts. Based on data from a recent study of IDV Courts in Bronx and Erie Counties, it is assumed that unified treatment of related family matters would lead to 1.7 fewer court dates per case.¹⁹²

¹⁸⁹ This assumption is based on OCA data indicating that approximately 32% of the 1.2 million complex cases are civil matters in which the litigants are represented by counsel. Another 10% are civil matters in which at least one litigant is self-represented. Approximately 36% of the 1.2 million complex cases are criminal adjudications, and in such cases the defendant attends all court appearances. Finally, 22% are Family Court matters, and research indicates that two litigants typically attend court appearances in connection with these matters. *See* AMY MENNERICH ET AL., THE POTENTIAL COST-EFFECTIVENESS OF TRIAL COURT RESTRUCTURING IN NEW YORK STATE 27 n.4 (2005) (the "CENTER FOR COURT INNOVATION STUDY"). Taking all of these factors into consideration, OCA has estimated that 1.6 litigants attend each court appearance in connection with the 468,000 avoidable court dates.

¹⁹⁰ This 4.5 hour assumption is supported by a study that found that the average Family Court litigant waited approximately two hours prior to the commencement of the appearance. *See* JULIA VITULLO-MARTIN & BRIAN MAXEY, NEW YORK FAMILY COURT: COURT USER PERSPECTIVES (2000). In addition, based on informal survey data, OCA observed that it took two hours to file a petition in Family Court and four hours to see a judge. *See* FAMILY COURT ACCESS COMMITTEE, FAMILY COURT ACCESS PROJECT PHASE I: IMPROVING THE PETITION FILING PROCESS FOR SELF REPRESENTED LITIGANTS (2002). Based on this data, it is estimated that a Family Court date takes 2.5 hours per litigant. In addition, it is assumed that each court visit requires two hours of travel time per litigant.

¹⁹¹ This 240,000 figure is derived from OCA data indicating that each year there are: 220,000 Family Court cases that overlap with a criminal proceeding in County Court or NYC Criminal Court; 20,000 Family Court cases that overlap with housing proceedings in City Court, District Court or NYC Civil Court; and 20,000 Family Court cases that overlap with matrimonial proceedings in Supreme Court. This 260,000 figure was discounted by 20,000 to reflect the fact that some number of these cases involve three or more overlapping proceedings.

¹⁹² The CENTER FOR COURT INNOVATION STUDY, *supra* note 189, at 26.

Figure 4: Calculation of Avoidable Attorney Hours						
	Private Attorneys (\$225 per hour)¹⁹³		Government Attorneys (\$54 per hour)¹⁹⁴		Assigned Attorneys (\$60-\$75 per hour)¹⁹⁵	
	<i>Appearances</i>	<i>Hours</i>	<i>Appearances</i>	<i>Hours</i>	<i>Appearances</i>	<i>Hours</i>
Civil - Supreme Court (3.5 hrs. per appearance (Felony Cases))	144,000	504,000	3,000	10,500	n/a	n/a
Civil - other (2.5 hrs. per appearance)	132,000	330,000	700	1,750	n/a	n/a
Criminal (1.5 hrs. per appearance)	8,000	12,000	105,000	157,500	97,000	146,000
Family (1.5 hrs. per appearance)	28,000	42,000	35,000	52,500	34,000	51,000
Total	312,000	888,000	143,700	222,250	131,000	196,500
Total Hourly Attorney Costs	\$200 MM		\$12.01 MM		\$12.7 MM	
Travel Costs (\$10 per appearance)	\$3.12 MM		\$1.44 MM		\$1.31 MM	
Total Avoidable Attorney Costs	\$203.12 MM		\$13.45 MM		\$14.01 MM	

Data provided by OCA

That is, if the state's trial courts were consolidated, 408,000 court dates would be avoided in connection with the above-described 240,000 sets of related cases involving Family Court proceedings.

The remainder of this section quantifies the value associated with these 408,000 court dates.

Litigant Productivity and Travel Savings. The total value of the litigant productivity and travel savings that could be realized through unified treatment of the above-described 240,000 sets of related cases is approximately \$68 million per year. As set forth in Figure 5 below, some 3.67 million hours

¹⁹³ \$225 per hour is the statewide average billing rate for private attorneys after adjusting for inflation. See N.Y. STATE BAR ASS'N, ECONOMICS OF LAW PRACTICE IN NEW YORK STATE 16-21 (2004) (setting forth the statewide averages for equity partners, non-equity partners, and non-partner attorneys in law firms).

¹⁹⁴ This figure, which includes a fringe-rate factor, was calculated by OCA based on internal data and information received from other agencies.

¹⁹⁵ According to OCA, the assigned-counsel rate paid in connection with these cases is approximately \$75 per hour. It should be noted that some of the attorneys assigned to the above-described cases are employed by institutional providers of legal services. OCA has indicated that \$60-to-\$75 per hour is a reasonable estimate of the cost to counties for such institutional providers.

were spent by litigants in connection with the above-described 408,000 court dates that would have been avoided through trial court consolidation. The economic value of these 3.67 million hours is approximately \$60 million, assuming that the hours are valued at an hourly compensation rate of \$16.28.¹⁹⁶ Furthermore, the 816,000 litigant court trips associated with these 408,000 court dates generate approximately \$8 million each year in avoidable litigant travel expenses (assuming that it costs a litigant \$10 to travel to and from court for a given court date).

Attorney Savings. In connection with the above-described 240,000 sets of overlapping family-related cases, there are also approximately \$61.2 million in avoidable attorney costs. (See Figure 6 below.) As set forth in Figure 6, \$36.45 million (60%) of this total is attributable to avoidable private-counsel hours and \$24.75 million (40%) is attributable to avoidable assigned-counsel hours.

These savings can be realized because under a restructured system, court dates for a set of related cases can be scheduled for a single day before a single judge. This would eliminate the jurisdictional and logistical obstacles that had previously prevented a litigant from being represented by a single attorney with comprehensive knowledge of all aspects of the family-related cases involving that litigant. Given the advocacy advantages to such representation by a single attorney, it is

¹⁹⁶ This \$16.28 hourly wage figure was derived by OCA by taking a weighted average of the following assumptions. First, it was assumed that self-represented Family Court litigants (who make up 69% of all Family Court litigants) earn an average hourly wage of \$11.17. See N.Y. STATE OFFICE OF COURT ADMIN., SELF REPRESENTED LITIGANTS IN THE NEW YORK CITY FAMILY COURT AND NEW YORK CITY HOUSING COURT 4 (2000). Second, it was assumed that Family Court litigants with appointed counsel (who make up 22% of all Family Court litigants) earn the 2007 state minimum wage of \$7.15 per hour. Third, it was assumed that Family Court Litigants with private counsel (who make up 9% of all Family Court litigants) earn the statewide average salary of \$24.27. It should be noted that the above-described assumptions take into account that a certain number of Family Court litigants have no income.

The weighted average of the preceding assumptions results in an average hourly wage of \$11.46. According to the United States Department of Labor's Bureau of Labor Statistics, wages and salaries comprise 70.4% of the total average employee compensation package, while benefits account for the remaining 29.6%. See BUREAU OF LABOR STATISTICS NEWS, EMPLOYER COSTS FOR EMPLOYEE COMPENSATION – MARCH 2005. Based on that data, the average hourly wage of \$11.46 was adjusted to \$16.28 to reflect the total average hourly employer cost for employee compensation.

assumed that once court restructuring is fully implemented, each litigant involved in a set of overlapping family-related cases will choose to be represented by a single attorney for all such cases in which they are involved.¹⁹⁷

Figure 5: Avoidable Litigant Costs Through Unified Treatment of Related Cases Involving Family Court Matters

Avoidable Court Dates	408,000
Litigants Per Court Date	2 ¹⁹⁸
Avoidable Litigant Court Trips	816,000
Hours Per Court Trip	4.5
Total Avoidable Litigant Court Hrs.	3.67 MM
Average Hourly Compensation	\$16.28
Value of Avoidable Litigant Court Hrs.	\$59.7 MM
Avoidable Litigant Travel Costs (\$10 per court date)	\$8.16 MM
Total Avoidable Litigant Costs	\$67.86 MM
<i>Data provided by OCA</i>	

Figure 6: Avoidable Attorney Costs Through Unified Treatment of Related Cases Involving Family Court Matters

	Assigned Counsel	Private Counsel
Sets of Related Cases	44,000 ¹⁹⁹	21,600 ²⁰⁰
Attorney Hours Avoided (assuming 7.5 hrs. avoided per set of related cases) ²⁰¹	330,000	162,000
Average Hourly Rate	\$60 - \$75 ²⁰²	\$225 ²⁰³
Value of Attorney Hours Avoided	\$24.75 MM	\$36.45 MM
<i>Data provided by OCA</i>		

¹⁹⁷ The court system has begun training assigned counsel to enable them to represent clients in criminal, family and matrimonial court matters. Once a cadre of assigned counsel has been cross-trained and is available to represent a litigant in all related family matters, the savings described herein can be fully realized.

¹⁹⁸ See CENTER FOR COURT INNOVATION STUDY, *supra* note 192, at 27 n.4.

¹⁹⁹ See N.Y. State Office of Court Admin., Analysis of Counsel Type in New York State Family Courts (2006).

²⁰⁰ See *id.*

²⁰¹ See N.Y. State Office of Court Admin., Analysis of 18-B Billing (2006).

²⁰² See *supra* note 195.

²⁰³ See ECONOMICS OF LAW PRACTICE IN N.Y. STATE, *supra* note 193.

B. Analysis of Budgetary Savings

For the taxpayer, the current system is inefficient and wasteful, requiring different courts to undertake substantial duplicative work. As set forth below, a simplified court structure could save the people of New York more than \$59 million a year in the court system's budget.

Unified Treatment of Related Cases

Restructuring will significantly reduce the costs of processing cases by allowing related matters to be heard before a single judge in the reconstituted Supreme Court. The following is a partial list of redundant tasks which, under the current system, are duplicated by court personnel in different courts for related cases:

- Accepting, dating and reviewing petitions and applications and necessary support papers;
- Checking for existing or previous cases involving the same parties;
- Assigning docket numbers;
- Creating and maintaining case files;
- Preparing and maintaining case folders for scheduling and calendar preparation;
- Notifying parties and scheduling appearances;
- Managing court calendars;
- Maintaining records of court appearances and proceedings;
- Preparing and distributing orders;
- Assigning hearing dates and preparing and distributing notices of newly scheduled dates to parties;
- Transmitting statistical information to OCA;
- Transmitting files, calendar and court action records to appropriate offices;
- Updating computer files and case summary sheets, and filing original orders and case files.

Under a simplified system, these case processing redundancies would be eliminated. Based on OCA's 2002 budgetary analysis (as adjusted for inflation and annualization of the five-year savings projected in that report), the resulting net savings is estimated to be some \$232 per case. Thus, the proposed consolidation of 240,000 cases each year would result in an estimated savings of \$55.68 million a year.

Administrative Consolidation

Court restructuring will also provide the framework needed to increase efficiency of court operations through coordinated court management. For example, under our proposal, a single presiding judge and county-level court administrator could be designated for each county. This management structure would support enhanced judicial coordination and cross-assignment of court personnel to meet caseload demands. A single authority for trial court budgeting, planning and personnel administration across all Supreme Court Divisions and District Courts would streamline management control.

Reducing the number of administrative structures can also reduce middle management and supervisory costs. The consolidation of management authority in a single executive position for a county's courts, for example, would gradually reduce the salary costs of the current fragmented structure. A tighter management structure would also facilitate cross-assignment and cross-training of court personnel allowing for the avoidance of costs for increased staffing as caseload demands change and grow. It is estimated that a minimum of sixty fewer mid-level court managers would be required. The reduction in this cadre of mid-level managers would be realized through attrition, and, after five years, would result in a projected savings of \$5.35 million a year.

The Costs of Court Restructuring

As discussed above, court restructuring will result in a significant savings to OCA's budget. However, there will be some costs that will partially offset the larger savings. Those costs are estimated at \$1.9 million annually.

APPENDIX E

ANTICIPATED SAVINGS FOR LITIGANTS, ETC.: STUDIES COMPARED

Appendix E

TABLE A-1 (REALLOCATION OF JUDICIAL WORKLOAD)					
	2007 Study	2019 Savings Based on 2007 Methodology	2019 Savings/ Costs Based on Revised Analysis	2007 Study Notes	2019 Analysis Notes
Reallocation of Judicial Workload	\$314 million	\$83.7 million (excludes atty. savings)	\$8.7 million (travel costs); 2.7 million litigant hours saved, with 591,000 fewer roundtrips to courthouses annually	2007 Study took complex cases (+1 appearances), average # of appearances (3.9) and assumed a 10% reduction in # of appearances based on Bronx merger. Result: 1.2 million complex cases, 3.9 appearances per case X 10% = 468,000 fewer appearances	See Table A-2 (Appearance Overlap Analysis), <i>infra</i> . Annual average appearances for contested matrimonials, and Family Court and criminal cases = 369,200 appearances saved (4,683 Family Court/ matrimonial cases, and 364,517 Family Court/ criminal cases) [note: calendared, not actual, appearances used]
A. Litigant Productivity Subtotal	\$75 million	\$75 million	2.7 million litigant hours saved and 591,000 fewer roundtrips to courthouse annually	2007 Study found 3.37 million hours saved annually by litigants = \$75 million. [based on 468,000 fewer court appearances with 1.6 litigants per appearance (=748,800 avoidable trips). Estimates 4.5 hours per trip (worth \$22.39/hour). For 2019, based on Table A-2 (Appearance Overlap Analysis), <i>infra</i> , and inflation, savings is the same.	We are unable to assign monetary value to litigant time savings. By contrast, 2007 Study saw litigant productivity as a savings.
B. Litigant Travel Subtotal	\$75 million	\$8.7 million	\$8.7 million	2007 Study estimated \$10/court trip for 750,000 trips. See Table A-3 (2007 Study Updated)	Inflation applied to \$10 rate. 2007 Study assumptions continued.
C. Attorney Savings Subtotal	\$231 million	N/A	N/A	2007 Study was based on a detailed study of appearances. Data provided by case type and attorney type (Supreme civil, civil other, criminal, Family)	Extensive analysis required to update. Unlikely that fewer appearances would result in attorneys working fewer hours.

Appendix E

TABLE A-2 (APPEARANCE OVERLAP ANALYSIS)	
Average Contested Matrimonial Appearances 2013-2018	156,086 [Average appearances per case 2013-2018 = 12.5]
Overlap with Family Court Appearances	3% [Name and DOB match (75%)]
Appearances Saved	4,683
NYC Criminal Appearances 2018	1,216,615 [lower criminal average appearances per case 2018 = 5]
Outside NYC Criminal Appearances 2018	1,587,365 [Family average appearance per case 2018 = 3.4]
Total Criminal Court Appearances 2018	2,803,980
Overlap with Family	135 [Name and DOB match (75%)]
Appearances Saved	364,517
Total	369,200

TABLE A-3 (UPDATING 2007 STUDY re AVOIDABLE LITIGANT COSTS)			
Avoidable Litigant Costs re Judicial Reallocation	2007	2019	Comment
Avoidable Court Dates	468,000	369,200	For 2019 data, see Table A-2 (Appearance Overlap Analysis)
Litigants Per Court Date	1.6	1.6	2007 estimate used (see 2007 Study, footnote 180, p. 118)
Avoidable Court Trips	750,000	591,000	Avoidable court dates times litigants per court date
Hours Per Court Trip	4.5	4.5	2007 estimate used (see 2007 Study, footnote 190, p. 118)
Total Avoidable Litigant Hours	3,370,000	2,700,000	
Average Hourly Compensation	\$22.39	\$28	See 2007 Study, footnote 188 . Inflation factor applied.
Value of Avoidable Litigant Hours	\$75,400,000	\$75,600,000	
Avoidable Litigant Travel Costs	\$7,500,000	\$8,700,000	2007 Study used \$10/trip; For 2019, inflation factor applied [\$15]
Total Value of Litigant Savings	\$82,900,000	\$84,300,000	

Appendix E

TABLE B-1 (UNIFIED TREATMENT OF FAMILY-RELATED CASES)					
	2007 Study	2019 Savings Based on 2007 Methodology	2019 Savings/ Costs Based on Revised Analysis	2007 Study Notes	2019 Analysis Notes
Uniform Treatment of Family-Related Cases	\$129 million	\$43 million (excludes atty. savings)	\$6.1 million (travel costs); 1.84 million litigant hours saved, with 408,000 fewer roundtrips to courthouses annually		See Table A-2 (Appearance Overlap Analysis), <i>infra</i> . Annual average appearances for contested matrimonials, and Family Court and criminal cases = 369,200 appearances saved (4,683 Family Court/ matrimonial cases, and 364,517 Family Court/ criminal cases) [note: calendared, not actual, appearances used]
A. Litigant Productivity Subtotal	\$59.7 million	\$36.9 million	1.84 million litigant hours saved and 408,000 fewer people in court annually	2007 Study relied upon CCI Bronx/Erie County study to determine that there would be 1.7 fewer appearances with treatment of related cases. Same approach applied in 2019. Number is less because present caseloads are less. See Table B-2 (Updating 2007 Study re Avoidable Litigant Costs).	We are unwilling to assign monetary value to litigant time savings. By contrast, 2007 Study saw litigant productivity as a savings. WG does not see monetary savings for employers/ employees as necessarily resulting from fewer court appearances
B. Litigant Travel Subtotal	\$8.2 million	\$6.1 million	\$6.1 million	It is reasonable to apply the same assumptions to 2019 with inflation factors applied. See Table B-2 (Updating 2007 Study re Avoidable Litigant Costs).	
C. Attorney Savings Subtotal	\$61.2 million	N/A	N/A	The assumption underlying expectation of savings is that attorneys will have same appearance dates with same judge for related (overlap) cases. The number of related cases for attorneys (63,000) was based on extensive OCA analysis on attorney representation by case type and also 18-B billing data. Assumed that, on average, attorneys spend 7.5 hours/case.	Extensive analysis required to update. Unlikely that fewer appearances would result in attorneys working fewer hours.

Appendix E

TABLE B-2 (UPDATING 2007 STUDY re AVOIDABLE LITIGANT COSTS)			
Avoidable Litigant Costs re Judicial Reallocation	2007	2019	Comment
Avoidable Court Dates	408,000	204,000	2007 Study relied upon CCI Bronx/ Erie County study to determine that there would be 1.7 fewer appearances with treatment of related cases. Amounts are determined by overlap cases (2007 = 240,000; 2019=120,000). See 2007 Study, p. 118 .
Litigants Per Court Date	2	2	2007 estimate used (see 2007 Study, footnote 189, p. 118)
Avoidable Court Trips	816,000	408,000	2007 estimate used (see 2007 Study, footnote 190, p. 118)
Hours Per Court Trip	4.5	4.5	2007 Study relied upon CCI Bronx/ Erie County study to determine that 4.5 hours = 2 hours [travel] + 2.5 hours [in court]. See 2007 Study, footnote 189 .
Total Avoidable Litigant Hours	3,670,000	1,840,000	
Average Hourly Compensation	\$16.28	\$20.11	See 2007 Study, footnote 188 . Inflation factor applied.
Value of Avoidable Litigant Hours	\$59,700,000	\$36,900,000	
Avoidable Litigant Travel Costs	\$8,160,000	\$6,120,000	2007 Study used \$10/trip; For 2019, inflation factor applied [\$15]
Total Value of Litigant Savings	\$67,860,000	\$43,000,000	



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