



Court of Claims

State of New York

*Empire State Plaza
P.O. Box 7344, Capitol Station
Albany, New York 12224*

May 16, 2024

Hon. Kathy Hochul
Governor of New York State
NYS Capitol Building
Albany, NY 12224

Hon. Andrea Stewart-Cousins
Majority Leader, New York State Senate
907 Legislative Office Bldg.
Albany, NY 12247

Hon. Robert Jackson
Chair, New York State Senate
Civil Service and Pensions Committee
306 Legislative Office Bldg.
Albany, NY 12247

Hon. Robert G. Ort
Minority Leader, New York State Senate
Capitol Building - Room 315
Albany, NY 12247

Hon. Alexis Weik
Ranking Member, New York State Senate
Civil Service and Pensions Committee
413 Legislative Office Bldg.
Albany, NY 12247

Hon. Carl E. Heastie
Speaker, New York State Assembly
932 Legislative Office Bldg.
Albany, NY 12248

Hon. Stacey Pheffer Amato
Chair, New York State Assembly
Committee on Governmental Employees
839 Legislative Office Bldg.
Albany, NY 12248

Hon. William A. Barclay
Minority Leader, New York State Assembly
933 Legislative Office Bldg.
Albany, NY 12248

Hon. Joe DeStefano
Ranking Member, New York State Assembly
Committee on Governmental Employees
430 Legislative Office Bldg.
Albany, NY 12247

Re: S7567A/A9143

Dear Governor Hochul, Majority Leader Stewart-Cousins, Speaker Heastie, Senator Jackson, Assemblymember Pheffer Amato, Minority Leader Ort, Minority Leader Barclay, Senator Weik and Assemblymember DeStefano:

Our Associations write to urge the Legislature to pass, and the Governor to sign into law, S7567A/A9143. The companion bills, sponsored by Senator Sepulveda in the Senate and Assemblymember Tapia in the Assembly, amend the Retirement and Social Security Law to

address an unfortunate and unfair circumstance that strikes sitting New York State judges who die while holding office.

This misfortune, which has befallen a number of our colleagues, is commonly referred to as the "Death Gamble." The Death Gamble denies the beneficiaries of the deceased judge, regardless of the number of years the judge was in state service - - either in judicial service or in non-judicial service - - the retirement/service pension benefits they otherwise would have enjoyed had the judge retired prior to death. Currently, when a judge dies in service, the judge's beneficiaries receive only a lump sum benefit that often is but a fraction of what a long-standing judge's family would receive in service pension benefits. To make matters worse, the lump sum benefit is reduced 4% annually for each year the judge continues in service after turning age 60.

While the proposed legislation does not eliminate the Death Gamble, as the New York State Legislature has previously done for thousands of teachers, firefighters and police officers, the legislation could substantially augment the pension benefits that a deceased judge's beneficiaries would receive.

The reasons for enacting this sensible legislation are many. Among those reasons are the following:

- because many judges assume the bench later in their professional lives, and remain on the bench to a more advanced age than most public servants, the Death Gamble risk to which judges are exposed is magnified;
- the Death Gamble has caused many of our colleagues with years of judicial experience to retire prematurely in order to protect their families' well being, denying New Yorkers the benefits of well-seasoned and experienced judges who often perform specialized-court service; those retirements mean the loss of special expertise in such areas as mental health, alcohol and drug addiction, domestic violence and veteran affairs, among numerous other areas of specialized knowledge;
- within the recent past, one judge, our colleague, died suddenly, unexpectedly and tragically at the age of 55; this judge had many years of state service and the judge's spouse and children were denied the judge's well-earned service pension benefits;
- several sitting judges perished during the COVID crisis; although the exact circumstance each such judge faced is unknown, if even one judge's family suffered the loss of that judge's service pension benefits, that would be one family too many;
- in recent years, although not enacted, the Legislature twice passed legislation that, under easily-met circumstances, required the Administrative Board of the Unified Court System to certify interested judges to permit service beyond the mandatory retirement age of 70, to serve up to the age of 76; in 2021, the legislation passed the Assembly 149-0 and passed the Senate 63-0; in 2022, the legislation passed the Assembly 150-0 and passed the Senate 62-1; the Death Gamble actually serves as a disincentive to undertake that path, a path the Legislature twice saw fit, virtually unanimously, to promote in an effort to keep on efficient and experienced judges.

Elimination of the Death Gamble has been supported by a number of bar groups over the years. For example, the New York County Lawyers Association recently urged passage of A9143 (<https://www.nycla.org/resource/statement-letter/new-york-county-lawyers-association-applauds-assembly-bill-9143/>).

We urge you to consider and pass S7567A/A9143 during the 2024 legislative session. The measure appropriately addresses an inequity that challenges over 1100 New York State judges, many of whom have individually provided decades of service to all New Yorkers.

Thank you.

New York State Court of Claims "A" Judges Association
Association of Court of Claims Judges of the State of New York
New York State Association of Acting Supreme Court Justices
Asian American Judges Association of New York (AAJANY)
Association of Judges of the Criminal Court of the City of New York
New York State Family Court Judges Association
New York State County Court Judges Association
Judicial Friends Association
Latino Judges Association
New York State Association of City Court Judges
New York City Civil Court Judges Association
The Surrogates' Association of the State of New York
New York State Magistrates Association
New York Women Judges Association
Association of Housing Court Judges of the Civil Court of the City of New York
Association of Justices of the Supreme Court of the State of New York
Supreme Court Justices Association of the City of New York
New York City Family Court Judges Association

cc: Hon. Luis R. Sepulveda
Hon. Yudelka Tapia
Elizabeth Fine, Counsel to Governor Hochul