



MEMO OF OPPOSITION

S6061 (Hoylman-Sigal) /A5983 (Lavine)

Introduced at request of Governor

Allows Vacancies for Associate Judge of NYS Court of Appeals to Be Appointed from List for Chief Judge

April 5, 2023

TITLE OF BILL

An act to amend the judiciary law, in relation to appointments to the office of associate judge of the court of appeals

SUMMARY OF PROVISIONS

Section 1 adds a new subdivision 2-a to Judiciary Law §68 to provide that where a vacancy for Associate Judge of the Court of Appeals is created by the nomination of an Associate Judge to the position of Chief Judge, the Governor may make an appointment for the vacancy from among the Commission on Judicial Nominations recommendations for the preceding Chief Judge vacancy.

Section 2 provides that the act shall take effect immediately.

STATEMENT OF OPPOSITION

We oppose this legislation because it would statutorily amend a constitutionally prescribed process for appointments to the state's highest court, the Court of Appeals. We share the concerns of [watchdog groups who believe this bill is unconstitutional](#).

We also agree with the watchdogs that the qualifications for Associate Judge are very different from Chief Judge, and these positions should be separately considered by both the Commission on Judicial Nominations and the State Senate. Given that the Chief Judge is required to oversee the entire state court system, which has a [budget](#) of nearly

\$2.5 billion and employs more than 16,000 people, the pool of candidates qualified to be Chief Judge is likely to be much smaller than Associate Judge. Associate Judge candidates would therefore be limited by specifically looking for those with management and administrative experience. This change may also limit the potential diversity of candidates.

Lastly, we are concerned that this legislation was introduced on March 27, 2023 and passed by the Legislature on March 31, 2023, at the height of budget negotiations when many groups and legislators – including those who work with the state’s court system – are focused on other matters. The legislation therefore has not had the benefit of a robust public review, which would allow for a fuller exploration of constitutional and other concerns.

We urge Governor Hochul to withdraw her proposal, and urge the State Senate and Assembly to oppose it.