

Memorandum in OPPOSITION

Unfunded Mandate On Committee Agenda and Calendar

April 20, 2009

A. 5899, by M. of A. O'Donnell

S. 4091, by Sen. Sampson

AN ACT to amend the uniform justice court act, in relation to the right of defendants in misdemeanor or felony cases to have such matter appear before a judge or justice admitted to practice law in New York.

The Conference of Mayors has reviewed this bill and recommends that it be defeated. This legislation would amend the uniform justice court act to give criminal defendants the discretion in deciding whether they want to appear before a judge or justice admitted to the New York State bar when they are assigned a non-attorney judge or justice.

The existing structure of village and town courts, in allowing non-attorneys to serve as judges or justices after an extensive training program, is one that needs to remain in place in order to avoid clogging up an already inundated court system. Statistics currently reflect that approximately 67% of all town and village justices are non-attorneys, which is an incredibly significant amount. Shifting the burden of criminal cases into a crowded court system will wreak havoc on the ability of defendants to obtain justice as swiftly and quickly as possible. Although NYCOM agrees that the quality of judges and justices should not be sacrificed for purposes of efficiency, the vast majority of village and town justices are well-versed jurists who perform their duties with dedication, professionalism and diligence. In fact, an analysis of sanctions issued to justices over the past twenty years has revealed that non-attorney judges and justices were no more likely to engage in improper behavior on the bench than those judges who are admitted to the bar. Further, the highest court of this state has opined that there is no right to a trial before an attorney judge.

Passage of this bill would have disastrous economic and administrative effects on all municipalities throughout the state. Transferring thousands of cases from perfectly capable non-attorney judges to those admitted to the bar will require additional staff, additional time in finding judges that qualify, thereby furthering hindering the imposition of justice, and expanded facilities and resources. Such a change amounts to an unfunded mandate, as such expenses are covered by local governments. Furthermore, such an undertaking in the current economic climate essentially works to guarantee that expediency and justice will fall by the wayside.

Finally, transfer of these cases will overwhelm a justice system that is already overburdened, as the reduced pool of judges that qualify will see a dramatic increase in their caseloads, thereby stalling the system. A criminal defendant should not be given the option to forum shop and determine which judge may or may not be more sympathetic to his or her case.

For the foregoing reasons, the Conference of Mayors opposes this bill and recommends that it be defeated.

KO/eos