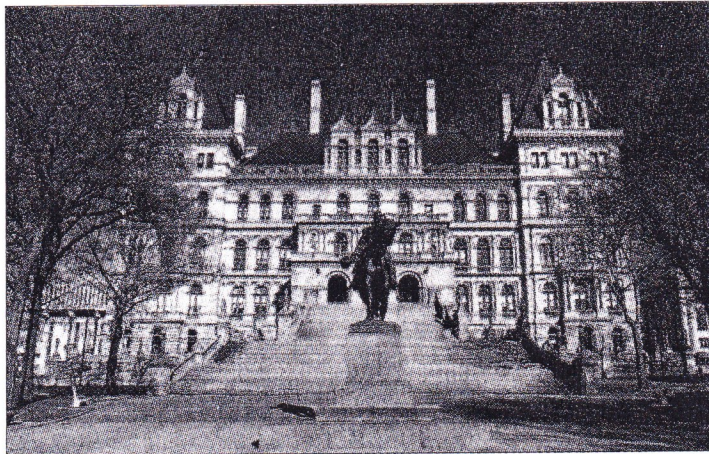


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New York State Capitol in Albany

Judiciary Chairs: Busy Session Ahead For NY Legislators

BY DAN M. CLARK

FOR THE first time in recent history, a major overhaul of New York's trial courts will be given serious thought next year by both of the Legislature's judiciary chairs, who are also aligned on a host of other issues, like the mental health of attorneys and legalizing paid surrogacy.

State Sen. Brad Hoylman, D-Manhattan, and Assemblyman Jeffrey Dinowitz, D-Bronx, also said the judiciary would likely receive its requested spending increase despite the state's major budget deficit.

Dinowitz, a Bronx attorney, said he would actually prefer more funding for the state's courts than what officials asked for in their budget request this month. The state

Office of Court Administration is seeking a 2% increase next year, or an additional \$46 million.

"I think they need more than that, to be perfectly honest," Dinowitz said. "They're asking for 2%, and I think that's pretty consistent with recent years."

Dinowitz said he was confident the request wouldn't be a problem in the Assembly, but that he hadn't spoken to Assembly Speaker Carl Heastie, D-Bronx, or lawmakers who lead the budget negotiation process.

Hoylman, an attorney who represents part of Manhattan, also predicted that the increase would be approved by the state Legislature. He said the request was reasonable and shouldn't be impaired by the state's current fiscal challenges.

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deficit, about two-thirds of which is related to Medicaid costs. Gov. Andrew Cuomo and lawmakers haven't come up with a definitive plan for filling that gap, but cuts in the state budget are possible over the next year.

Hoylman said that, as chair of the Senate Judiciary Committee, he plans to do everything in his power to stop those cuts from reaching the state court system.

"I think it's our responsibility as legislators to make certain that our judicial branch is funded based on their needs," Hoylman said. "Certainly, we should do everything in our power to prevent budget cuts from impacting the administration of justice. I'm not going to let that happen as chair of the Judiciary Committee."

Hoylman and Dinowitz also plan to use the power of their respective committees next year to consider a plan from Chief Judge Janet DiFiore to overhaul the state's current structure of trial courts. DiFiore formally proposed the plan in September.

As it's currently written, DiFiore's proposal would consolidate the state's current set of 11 different trial courts—the lowest tier—into just three. The plan is intended to streamline court operations for litigants who currently have to resolve disputes in multiple courts.

The proposal would require an amendment to the state constitution, which is more complicated than passing a bill. It would have to be approved by the current sitting Legislature, then again by the next class of lawmakers, and then sent to voters for approval.

State court officials are seeking to have the Legislature cast its first vote on the plan next year. If it's pushed off to 2021, the second vote wouldn't be able to happen until 2023 at the earliest.

Neither Hoylman nor Dinowitz were sure if an initial vote would be possible next year, but both

said DiFiore's plan would likely be tweaked to address concerns from various stakeholders who've critiqued it. A pair of legislative hearings were held on the plan in November.

"I don't think this is something that's going to happen very quickly. There are a lot of stakeholders, and a lot of interested parties," Dinowitz said. "When we talk about something so major, I don't think it's something that should be rushed through."

Hoylman said he's been speaking with officials from OCA about concerns over the proposal he's heard from Democrats in the Legislature. His next step, he said, is to keep that line of communication open and adjust as needed.

"We've been in contact with OCA about some of the suggestions my colleagues have been making," Hoylman said. "The bill is really a starting point. I expect there will be some changes to it before it's actually introduced."

Dinowitz and Hoylman are also aligned on at least two other legislative matters, one of which isn't related to their respective roles leading the judiciary committees.

That's the legalization of paid surrogacy, which would allow women to be paid for acting as a surrogate for individuals who can't have a child on their own, like infertile or same-sex couples. Legislation to legalize the practice failed to pass in New York earlier this year.

Hoylman, who's had at least one of his children through a surrogate in California, sponsors the bill in the Senate. Dinowitz isn't the main sponsor of the bill in the Assembly, but he said he's planning to advocate for its passage next year.

"I think that's an important issue to a lot of people," Dinowitz said. "If we are representatives who claim we're pro-family, then we want to create a situation where more people can have families."

The pair of lawmakers is also united on the issue of attorney mental health, specifically in regards to removing it as a considered factor for being admitted to

the state bar in New York. They're both the main sponsor of a bill to address the issue.

There's currently a question on the application for admission to the state bar in New York that asks prospective attorneys if they've dealt with any mental health issues. The form then asks the applicant to elaborate on those issues.

State court officials, in recent weeks, have weighed whether to remove that question from the application, or change it in some way. Sources have said it's likely the question will be removed next year, but that will depend on how state court officials act in the coming weeks.

Both Dinowitz and Hoylman said that, either way, they're planning to pass their bill. The legislation would bar state court officials from asking about mental health on the application.

"The problem with doing something administratively is that it can be undone administratively," Dinowitz said. "So, if we really want this to be the case, then it makes more sense to do it legislatively."

Each lawmaker also said they have other legislative goals related to the state's court system.

Dinowitz said, for example, that lawmakers may consider adding more judgeships to the state Supreme Court in areas where they're able. There's a cap to how many the Legislature can add, per the state constitution.

Hoylman, meanwhile, said he plans to ask for more funding for the state Commission on Judicial Conduct, the panel that evaluates complaints made against the state's judges. It received a major funding increase last year, but Hoylman said it could use more.

"I think we need to fight for adequate funding for the Commission on Judicial Conduct," Hoylman said.

The legislative session is scheduled to begin Jan. 8, 2020 and will run through early June.

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