

March 15, 2019

NY State Fiscal Year 2019-20 Executive Budget Proposal

The Women's Bar Association of the State of New York ("WBASNY"), appreciates the Governor's objective to address the numerous challenges women face in our society. As an organization comprised of 4,400 attorneys and judges across the state in private practice, government, academia and the courts dedicated to the advancement of women in law and society, we share that objective. WBASNY members and leadership have reviewed the Executive Budget various sections of proposal for State Fiscal Year 2019-20 that we believe would impact women and children in the law and society. Our positions and discussion on these sections are addressed below:

**Education, Labor and Family Assistance Article VII Legislation**

**Part D** – Enacts the Senator Jose R. Peralta New York State DREAM Act

WBASNY supports this Part and applauds the Legislature for passage of stand alone legislation earlier this year. WBASNY recognizes the moral imperative for this legislation as well as its long-term fiscal benefits. New York invests time and money in the K-12 education of all of its residents, but we curtail that investment if we deprive undocumented students, who tend to come from low-income or economically disadvantaged homes, of the financial means to successfully complete a higher education. Individuals with college degrees have a greater earning capacity than those that are less educated. Moreover, increasing the affordability of college decreases drop-out rates. New York's tax revenues will increase over time as more students obtain higher degrees. These long-term benefits inure to all New Yorkers.

**Part J** – Remove Certain Requirements for Domestic Violence Victims Seeking Shelter in a Domestic Violence Shelter

WBASNY supports this Part which would eliminate the State requirement that domestic violence victims seeking shelter in a domestic violence shelter apply for Public Assistance ("PA") and that providers charge victims with sufficient resources a fee for services.

**Part K** - Reform Persons In Need of Supervision (PINS) provisions

WBASNY opposes this Part which eliminates all detention and placements of PINS except for sexually trafficked youth, a huge change for Family Court. The Family Court Advisory and Rules Committee suggests that current law be retained because there are some cases (fortunately infrequent) where detention and/or placement is needed. Sometimes residential treatment-type placements are more appropriate than mental hospital commitments and many counties will not accept voluntary social services placements from parents of their teen-age children.

**Part Q** – Ensure Equal Pay

WBASNY supports prohibiting employers from asking job candidates about their wage history as an effective and practical way to reduce wage discrimination both within the legal profession and generally because it forces employers to value the job rather than entrenching prior discrimination the worker might have experienced in prior positions. Salary history is often used as a tool for setting wages, and interviewers are often authorized to offer a certain percentage above the candidate's current salary. Such a prohibition does not stop a well qualified candidate from getting a higher rate of pay: employers can take such qualifications into account when making an offer and the candidate can make a counter offer if the offer is perceived as below what the candidate is worth

**Part R** - Gender Expression Non-Discrimination Act (“GENDA”)

WBASNY supports GENDA and applauds the Legislature for passing and the Governor for signing into law stand alone legislation earlier this year. The state has the responsibility to act to assure that every individual within this state is afforded an equal opportunity to enjoy a full and productive life, and that the failure to provide such equal opportunity, whether because of discrimination, prejudice, intolerance or inadequate education, training, housing or health care not only threatens the rights and proper privileges of its inhabitants, but menaces the institutions and foundation of a free democratic state and threatens the peace, order, health, safety and general welfare of the state and its inhabitants. This new law will codify and ensure that the public understands that discrimination on the basis of gender identity and expression is prohibited.

**Part S** – Extend New York Human Rights Law to Cover All Students

WBASNY supports this Part which would amend the definition of educational institution to include both public and private schools to clarify that all students are afforded protection against discrimination.

**Part T** – Prohibit Source of Income Discrimination

WBASNY supports this Part which would amend Human Rights Law to add lawful source of income as a protected class and to prohibit housing discrimination on the basis of lawful source of income.

**Part X** – Ensure Breastfeeding is Protected in the Workplace

WBASNY supports this Part which would clarify that lactation is a pregnancy-related condition entitled to reasonable accommodations in the workplace.

**Part Y** – Prohibit Conversion Therapy for Minors

WBASNY supports prohibiting conversion therapy for minors and applauds the Legislature for passing and the Governor for signing into law stand alone legislation earlier this year. The

American Psychological Association has linked gay conversion therapy to depression, social withdrawal, substance abuse, intimate relationship issues, high risk sexual behaviors, loss of faith, and suicide. The risks are particularly acute for youth. Every major medical and mental health association in the country has warned that these practices are ineffective, and most have condemned them as harmful.

### **Health and Mental Hygiene Article VII Legislation**

#### **Part M** - Comprehensive Contraceptive Coverage Act

WBASNY supports this Part and applauds the Legislature for passage of stand alone legislation earlier this year. This legislation would codify in state law access to contraception. It is widely accepted that birth control is highly effective at reducing unintended pregnancy, which may have negative health consequences for both women and children. The ability to plan and space pregnancies through the use of birth control keeps New York women healthy and in a position to make decisions for their future.

#### **Part R** - Establish the Maternal Mortality Review Board.

WBASNY supports this Part which would establish in the Department of Health a maternal mortality review board to review maternal deaths, assess the cause of death and factors leading to death and preventability for each maternal death reviewed and to develop strategies for reducing the risk of maternal mortality, and to assess and review maternal morbidity. WBASNY supports the intent of establishing such a review board to address this significant issue and offers the following recommendations:

- Ensure that information from the review board does not create a "standard of care" burden of proof to be used in any action of any kind in any court or before any other tribunal, board, agency or person; and
- Maternal demise as a consequence of deliveries by midwives or home-birthing should be included in the work being conducted by the review board.

#### **Part S** – Enact the Reproductive Health Act

WBASNY supports this Part and applauds the Legislature for passage of stand alone legislation earlier this year. WBASNY continues to be a strong supporter of a woman's fundamental right to choose and make her own reproductive decisions. The State of New York recognized the importance of protecting this right by enacting its abortion laws in 1970, and the United States Supreme Court solidified this protection when it decided Roe v Wade three years later.

### **Public Protection and General Government Article VII Legislation**

#### **Part D** – Provide Market-Based Interest Rate on Court Judgments

WBASNY strongly opposes the Governor's budget proposal which provides a market-based interest rate on court judgments and accrued claims, and replaces the provision of the CPLR which provides for nine percent per annum interest on judgments for damages (except where otherwise provided by statute). This provision would have a devastating effect on the less-monetized spouse in a matrimonial action, which unfortunately will harm women and children more often than men.

#### **Part P** – Child Victims Act

WBASNY supports certain sections of the bill: extending the statute of limitations for civil lawsuits for sexually related offenses to 50 years from the date of the offense, eliminating notice of claim for child sexual assault cases, and reviving previously time-barred claims for a period of one year.

This bill provides for the timeliness of commencing criminal and civil action for sexual offenses committed against children.

#### **Part R** – Amend Rape Shield Law

WBASNY supports this Part which would amend the criminal procedure law in relation to admissibility of a victim's sexual conduct in a sex offense.

#### **Part T** – Eliminate the Statute of Limitations for Rape in the 2nd and 3rd degrees

This bill would amend the criminal procedure law to eliminate the statute of limitations for Rape in the 2nd and 3rd degrees.

#### **Part U** – Domestic Violence Survivors Justice Act

WBASNY supports this Part and applauds the Legislature for the recent passage of stand alone legislation which would expand sentencing and re-sentencing options for judges in cases where a defendant was a domestic violence victim at the time of the offense.

#### **Part QQ** – Establish Child-Parent Security Act

WBASNY supports this Part which would permit enforceable surrogacy contracts provided the carrier is not the genetic mother of the child and provided there is full compliance with all of the safeguards incorporated in the Act. The Act is a comprehensive bill which also addresses the legal status of children conceived through sperm, egg, and embryo donation. The Act focuses also on intent to parent, as opposed to a biological connection, and allows for non-intimate partners to be recognized as the parents so long as the intent to conceive a child together can be demonstrated.