



**A Resolution of the New Jersey State Bar Association  
supporting the New Jersey Judiciary as a co-equal branch of government and  
opposing the politicization of the Appellate Division of the New Jersey Superior Court**

WHEREAS, at a time when the independence of the New Jersey Judiciary remains in peril due to the years-long impasse between the executive and legislative branches that led to unprecedented and long-term vacancies on the state Supreme Court and the Superior Courts, a situation so extreme that family and civil trials in multiple counties were shut down for months on end, delaying access to justice and fair adjudication of important matters for thousands of New Jersey residents; and

WHEREAS, the New Jersey 1947 Constitutional Convention specifically and thoughtfully vested authority for assignment of judges to the Appellate Division with the Chief Justice as one of the guiding principles of the Judicial Article to allow for “the proper functioning of all the state and municipal courts” and to ensure that “judicial resources can be fully utilized and litigation promptly decided;” and

WHEREAS, a proposal is expected to be considered by the New Jersey Senate that would change more than 75 years of precedent developed after deliberative review and study as part of the Constitutional Convention that included input from legal scholars across the country and important stakeholders within the state; and

WHEREAS, the Senate’s proposal to amend the New Jersey Constitution would transfer authority to appoint Appellate Division judges from the Chief Justice to the Governor with advice and consent of the Senate, inevitably inserting politics into the appointment process, without transparency as to the rationale for the proposed change and without input from any stakeholders; and

WHEREAS, the New Jersey Judiciary has earned a national reputation for excellence and integrity, for its operations and jurisprudence in the more than 75 years since the modern Judiciary was born under the 1947 Constitution, which sets forth under Article VI, Section VII, Par. 2 that: “The Chief Justice of the Supreme Court shall assign Judges of the Superior Court to the Divisions and Parts of the Superior Court, and may from time to time transfer Judges from one assignment to another, as need appears. Assignments to the Appellate Division shall be for terms fixed by rules of the Supreme Court;” and

WHEREAS, the New Jersey Appellate Division handles an average of 5,000 appeals and upwards of 10,000 motions each year and is a thoughtfully balanced and representative division of the New Jersey Judiciary, which historically operates with a full complement of judges and is currently comprised of 27 judges; and

WHEREAS, New Jersey's Appellate Division judges are uniquely prepared to conduct appellate review of a wide range of appeals, all from the invaluable perspective of having spent significant time at the trial court level and typically having sat in each of the trial divisions of the Superior Court; and

WHEREAS, the Senate's proposed amendment to the New Jersey Constitution calling for a new process for the appointment of Appellate Division judges, and requiring gubernatorial nomination and advice and consent of the Senate, is wholly unnecessary given that every trial court judge elevated to the Appellate Division has already been through the gubernatorial appointment and Senate advice and consent process, often twice; and

WHEREAS, the proposed amendment will all but guarantee that the Appellate Division will be plagued with the same judicial vacancy crisis as the Superior Court, due to inevitable political disagreement and delay, when no such crisis exists under the current constitutional structure;

NOW THEREFORE BE IT RESOLVED, the New Jersey State Bar Association calls upon the Legislature to respect the rigorous review undertaken by the thoughtful leaders at the 1947 Constitutional Convention which established an appointment process for Appellate Division judges that has served New Jersey well for over 75 years and to reject a constitutional amendment that threatens the independence of the Judiciary as a co-equal branch of government and will yield grave consequences impacting the Judiciary's ability to fulfill its constitutional role in serving the citizens of this state.

May 8, 2024