

Memorandum in Support

NYSBA #6

February 1, 2019

S. 1503

By: BUDGET

A. 2003

By: BUDGET

S. 1500

By: BUDGET

A. 2000

By: BUDGET

Senate Committee: Finance

Assembly Committee: Ways and Means

THE NEW YORK STATE BAR ASSOCIATION SUPPORTS ADEQUATE FUNDING FOR THE OFFICE OF INDIGENT LEGAL SERVICES AND AID TO LOCALITIES

Indigent Criminal Defense

The New York State Bar Association (NYSBA) has long been a leader in advocating for the provision of legal services for the poor and otherwise disadvantaged. Over 100 years ago, NYSBA created a special committee dedicated to that issue and endorsed the concept of public defenders to provide representation to indigent criminal defendants.

In 2004, then-Chief Judge Judith S. Kaye created the Commission on the Future of Indigent Defense Services to examine New York State's indigent criminal defense system.

The Commission's 2006 report concluded that there is "a crisis in the delivery of defense services to the indigent throughout New York State and that the right to the effective assistance of counsel, guaranteed by both the federal and state constitutions, is not being provided to a large portion of those who are entitled to it." This finding was both alarming and disheartening.

Since then, there have been developments in New York State to address this issue. In 2010, state leaders created the Office of Indigent Legal Services, an important step that NYSBA strongly supported. In 2014, the state entered into a settlement in the case of *Hurrell-Harring v. State of New York*, agreeing to provide sufficient additional funds to assure adequate legal representation for indigent criminal defendants in five of New York's counties outside of the 00 New York City.

We commend the Governor and the Legislature for previous action to extend the substance of the *Hurrell-Harring* settlement to counties throughout the state.

This is a critical step to improve indigent criminal defense services in New York State. However, we strongly object to funding the proposals in part by increasing the biennial attorney registration fee, which attempts to transfer to lawyers the societal obligation to fund constitutionally-mandated indigent criminal defense.

NYSBA continues to support a statewide, state-funded system with an independent entity to oversee quality and delivery of public defense services, as part of the 2019-20 budget, to ensure that indigent defendants receive effective representation in New York State's criminal justice system.