

## Memorandum in Support

NYSBA #19

February 22, 2015

S.6400-A

By: BUDGET

A.9000-A

By: BUDGET

S.6403-A

By: BUDGET

A.9003-A

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**

Chief Judge Judith Kaye’s state Commission on the Future of Indigent Defense Services examined New York State’s county-based indigent criminal defense system. The Commission 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 is an alarming and disheartening finding in a state once lauded for its policies to ensure that people of lesser means are not marginalized.

The Office of Indigent Legal Services (the “Office”) was created in 2010. The State Bar views the establishment of the Office as a step in the right direction toward adopting standards for and evaluating existing programs and service providers, and the general supervision of New York’s public defense system by an independent entity.

Given the important function of the Office – to provide support and relief to localities in fulfilling the mandate of the U.S. and New York constitutions – **the Legislature should appropriate the funds necessary to expand the operation of the Office and maximize the funds from the Indigent Legal Services Fund (ILSF) to county governments.**

#### *Hurrell-Harring v. State*

In 2014, the state agreed to settle a class-action lawsuit (*Hurrell-Harring v. State*) that accused New York State of failing to provide adequate legal defense for the poor in five counties (Suffolk County on Long Island and four upstate counties: Ontario, Onondaga, Schuyler and Washington). The state agreed to pay for significant improvements in those counties.

### Funding To Implement The Settlement In *Hurrell-Harding*

Since its inception, the Office has begun to meet the enormous challenge that faces the state in meeting the constitutional mandate. The settlement of the *Hurrell-Harring* case was an important step. However, that settlement, to which the state is now committed, imposes significant obligations on the part of the Office. Clearly, there needs to be adequate funding to support this settlement. Without such funding, the state will not be able to meet its obligations and would, once again, be facing the risks of litigation. Thus, having entered into the settlement, the state must support the Office with adequate funding for this purpose.

Funding for local aid has had a significant beneficial impact on the work done by providers, and it is important that this statewide effort be continued and expanded. The Office needs to continue to increase support and relief to localities in fulfilling the mandate of the U.S. and New York constitutions to provide the effective assistance of counsel for indigent criminal defendants.