

Memorandum in Support STATEWIDE FUNDING AND OVERSIGHT OF INDIGENT DEFENSE SERVICES

NYSBA #24-C

June 14, 2016

A. 10706
S. 8114

By: M. of A. Fahey
By: Senator DeFrancisco

The Association 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.

The Association, following this tradition, today urges quality public defense, supported by oversight, quality assurances, and sufficient resources to providers of mandated representation.

In 2006, the State Commission on the Future of Indigent Defense Services, chaired by then Chief Judge Judith S. Kaye, examined New York State's county-based indigent criminal defense system, and made the alarming finding 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."

In 2010, the state created the Office of Indigent Legal Services ("Office"). The State Bar Association viewed the creation of that Office as a significant step toward establishment of an independent indigent defense commission with broad powers to adopt standards, evaluate existing programs and service providers, and generally supervise the operation of New York's public defense system.

In the fall of 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 settlement committed the state to paying for improvements to the indigent defense systems in those counties.

We now urge that the Legislature and the Governor take another important step by enacting legislation to provide appropriate state funding and ensure rules and standards for the provision of indigent criminal defense services throughout New York.

The New York State Bar Association strongly supports this legislation to ensure adequate statewide funding and oversight regarding the indigent criminal defense services.