

## Supplemental Memorandum Urging The Governor's APPROVAL

### STATEWIDE FUNDING AND OVERSIGHT OF INDIGENT DEFENSE SERVICES

NYSBA #24-C-Supplemental-GOV

November 2, 2016

A. 10706  
S. 8114

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

The New York State Bar Association has previously submitted a memorandum in support of this bill, which is critically important to enhancing the indigent defense services to which criminal defendants are constitutionally entitled and to relieving the fiscal stress faced by many counties. This memorandum serves to supplement the points raised in our prior memorandum.

The Association is aware that arguments have been presented to you regarding concerns related to the eligibility guidelines that have been issued by the Office of Indigent Legal Services (OILS). In considering these arguments, we urge you to keep in mind that these guidelines are not directly covered by the provisions contained in the bill. The authority of OILS to develop guidelines stems from the statute that created that office and the settlement agreement in the *Hurrell-Harring* lawsuit, to which the State is a party. Thus, the bill that will be before you relates only to the matter of state funding of defense services, which is separate and apart from the OILS' guidelines. In other words, you can approve the bill as urged by our Association, which would be a major advance in indigent representation, and separately continue to discuss the OILS' guidelines with those who have an interest in that topic. Those guidelines are simply not dependent on your action on the bill.

In short, we urge that issues concerning the guidelines be separated from your review of this most important bill, which we, again, urge you to approve.