

## Memorandum in Support

NYSBA #8-A

March 16, 2017

S.2003-B  
A.3003-B

By: BUDGET  
By: BUDGET

S.2005-A Part D, §14  
A.3005-A Part D, §18

By: BUDGET  
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**

Our 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.

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 the State Bar Association strongly supported. In 2014, the state entered into settlement in the case of Hurrell-Harring v State of New York, assuming adequate funding in five of New York's counties outside of the City of New York.

In 2016, we supported legislation, S.8114 (DeFrancisco)/A.10706 (Fahy), to ensure adequate statewide funding and oversight regarding indigent criminal defense services. That legislation was vetoed on December 31.

We commend the Governor for proposing to extend the substance of the Hurrell-Harring settlement to counties throughout the state. This would be a critical step to improve indigent criminal defense services in New York State. **Nevertheless, we strongly object to funding the proposals in part by increasing the Biennial Attorney Registration Fee, as has been proposed by the Governor and supported by the Assembly.** Further, we oppose provisions of the legislative proposal that would diminish the independence of the Office of Indigent Legal Service by providing inappropriate authority to the Division of the Budget regarding plans to implement improvements

The Association 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 2017-18 budget, in order to ensure that indigent defendants receive effective representation in New York State's criminal justice system.