



Support Increased Access to Assigned Counsel S.3527-a/ A.6013-a

Assigned counsel rates for attorneys representing children and indigent clients in New York have remained stagnant for nearly two decades. The inadequacy of the rates has resulted in an alarming shortage of assigned counsel available to represent individuals who are constitutionally and statutorily entitled to legal representation at their most vulnerable times. Assigned counsel attorneys are court appointed attorneys representing indigent clients facing criminal charges, as well as children in a myriad of complex family law matters. **There are not enough attorneys available to represent indigent clients and children due to inadequate compensation rates.**

- The hourly rates for attorneys appointed under Article 18b of the County Law, commonly referred to as “18b attorneys,” have remained at \$75 for felony cases and \$60 for misdemeanors since 2004.
 - In that same time, the salary for assigned counsel in the federal courts has been raised 15 times and is more than double the New York State rate at \$158 dollars an hour.
- Attorney for Children rates have similarly remained unchanged over the last 17 years at \$75 per hour, with the last increase being enacted as part of the 2003 budget.
- While the pandemic has worsened the financial situation for the most vulnerable New Yorkers – resulting in increased individuals qualifying for assigned counsel – the number of available attorneys has dropped, largely due to the woefully deficient rates.

Consequences:

- Repeated delays in court appearances and hearings. The declining number of attorneys financially able to take on cases results in clients suffering prolonged waiting period before their legal matters are resolved, including remaining incarcerated or separated from family.
- Individuals in need of immediate relief proceeding pro se and making critical legal decisions, without counsel.
- Reduction in experienced attorneys serving as assigned counsel.
- Additional burdens on the court system, threatening its ability to comply with legal mandates and making expediting court review of urgent matters, more difficult if not impossible.

Litigation will not resolve this issue:

NYSBA is aware of the ongoing litigation (New York County Lawyers' Ass'n v. State of New York), to raise the rates. However, it is important to note that regardless of how the court rules on this issue, the rates are set by statute and therefore their adjustment requires legislative action. In 2004 when this issue was initially addressed by the courts, the courts initial preliminary injunction specifically set the rates at 90 dollars per hour until the legislature could act. The time for the legislature to act is now.

What the State Needs to Do: Enact S.3527-a/A.6013-a this legislative session.

For more information and background surrounding the need for assigned counsel rates increases, please contact **NYSBA's Government Relations team at 518.487.5652 or GR@NYSBA.org**.