



Memorandum in Support

Assembly PPGG(A3005-B), Part P
Assigned Counsel Rates

March 20, 2023

The New York State Bar Association (NYSBA) supports raising the assigned counsel rates as proposed in the Assembly one-house budget, A.3005-B, Part P. The Assembly proposal would establish a statewide rate increase that is needed to safeguard equal access to representation throughout the state and responsibly allocates state funding to ensure that assigned counsel is available as required by law. NYSBA urges the Legislature and Executive to ensure that this language is included in the final budget, along with a mechanism for automatic adjustment of rates in future years.

Assigned counsel attorneys are court appointed attorneys who represent indigent clients facing criminal charges, as well as children in a myriad of complex family law matters. The hourly rates of compensation for assigned counsel attorneys 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, often at times of extreme crisis and vulnerability.

The rates for attorneys appointed under Article 18b of the county law, more commonly referred to as “18b attorneys” have remained at \$75 per hour for felony cases, and \$60 per hour for misdemeanors, since 2004 without an increase. In that same time frame, the rates for assigned counsel in the federal courts has been raised 15 times and is more than double the New York State rate at \$164 per hour. Attorney for Children rates have similarly remained unchanged over the last 19 years at \$75 per hour since the last increase during the 2003 budget session. The Supreme Court of the State of New York, New York County has recognized that “children and indigent adults would suffer severe and irreparable harm,” if the current rate is not adjusted, and that “we are again at the same point we were almost 20 years ago.”¹ The Court summarily found that **the current statutory rates violate an individual’s constitutional right to counsel.**

For all of these reasons, the **NYSBA urges the Legislature and Executive to enact a FY 2024 budget that:**

- 1) Raises the County Law § 722-b and Judiciary Law § 35 assigned counsel rates to amounts comparable to their counterparts on the federal level,
- 2) Provides a mechanism for annual review and adjustment of assigned counsel rates that reflect the economic realities of the representation, and
- 3) Provides State funding to cover the rate increase.

¹ See *N. Y. County Lawyers Association v. State of N.Y.* (Sup. Ct. NY. Cty. 2022).