

Memorandum in Support

March 18, 2024

A8801/S8301 (Judiciary Budget)

The New York State Bar Association supports an increase in funding for Attorney for the Child (“AFC”) offices; an increase in addition to the amount currently allocated in the judiciary budget earmarked for the New York State AFC offices.¹ This increase would address a reduction in the current case cap of 150 children represented at any given time to 75 dockets (AFC cases) at any given time. In addition, the Association writes in support of annual cost of living adjustments (COLA’s) to the hourly rates for both AFC offices and assigned counsel attorneys (18-B attorneys) statewide.²

AFC offices across this state are suffering an unprecedented level of underfunding that threatens the very safety and well-being of the children they serve, and the system of justice designed to serve them and their families. There cannot be an advancement in equal justice in our courts without acknowledging and correcting the financial inequities and crushing caseloads that have plagued AFC offices representing children in the state’s family courts for years and have now reached a watershed moment. It is essential that equitable funding is allocated to the AFC offices that provide over 90% of AFC representation in New York City and a majority of AFC representation in some of New York's largest upstate cities.

AFC offices have suffered minimal budget increases for close to two decades, while caseloads have increased in number and complexity. As a direct result, overloaded attorneys, stunning attrition, and inadequate salaries plague the AFC offices throughout New York State. This dramatic underfunding of AFC offices threatens their ability to provide the zealous, holistic representation needed by the most marginalized children in NYS.

The lack of pay parity with their government counterparts has consistently drawn attorneys away from AFC work for significantly higher paying positions in the public sector. Throughout the state, as the AFC’s years of experience increase, so does the salary disparity with their government counterparts, creating the dynamic for an AFC “brain drain” with the recurring loss of more experienced attorneys. AFC offices that were inundated with job applicants for a small number of vacant positions ten years ago are sitting with vacancies that are now taking months to fill, if they can be filled at all.

Finally, fairness, dignity, respect, and equity demand a clear-eyed look at the workload guidance provided by the Office of Indigent Legal Services (“OILS”) and how it compares with the guidance

¹[Committee-on-Families-and-the-Law-April-2022-approved.pdf \(nysba.org\)](#)

²[The Need to Increase Assigned Counsel Rates in New York Cover WEB.pdf \(nysba.org\)](#)

for AFC's. OILS has determined that the suggested range for a full-time state intervention practice is no more than 55-65 active cases at any given time.

In stark contrast, §127.5 of the Rules of the Chief Administrator of the Court continues to set the workload standard for AFCs at **150 children**, which mean significantly more than 150 active cases, since one child often has several active dockets at one time. Consequently, while government and legal services offices carry just 55 – 65 cases at any given time, AFCs are outliers with caseload numbers so high that it is virtually impossible to provide the highest quality representation for the predominantly Black and Brown families that come before the NYS Family Courts.

The New York State Bar Association is calling for a judiciary budget enhancement for New York State's AFC offices to provide reasonable and equitable compensation for AFC office attorneys throughout the state and reduce caseloads to ensure that children receive the legal protection they so desperately need. The New York State Bar Association respectfully requests the legislature's support for an increase in the amount currently allocated in the Judiciary budget, earmarked to provide for AFC budget increases in the 2024-2025 budget cycle; and support for building annual cost of living adjustments into all baseline increases for AFC offices and 18-b panel attorneys.