

Supporting The Passage Of A6202B/ S6341, Calling On The State Of New York To Increase Indigent Legal Defense System Funding

Referred to: The Law Enforcement and Public Safety Committee (Chairman Briggs and Legislators Fabiano, Lapp, Maio, and Rodriguez)

Legislator Manna Jo Greene and Legislators Loughran and Rodriguez offer the following:

WHEREAS, the United States Supreme Court held in *Gideon v. Wainwright* that the right to counsel for one charged with a crime is fundamental and that it is the state's responsibility to supply lawyers for those unable to afford them; and

WHEREAS, in 1965 the State of New York delegated this state responsibility to counties; and

WHEREAS, the decision to place responsibility at the county level in the State of New York has resulted in a system by which the county and local property taxpayers are burdened with the vast majority of costs for this state responsibility; and

WHEREAS, the shift of costs for this state mandated service has become so imbalanced that the counties of New York now cover over 80% of the cost; and

WHEREAS, implementation of the constitutional right to counsel under *Gideon* is a state, not county, obligation; and

WHEREAS, Assemblymember Patricia Fahy and Senator John DeFrancisco recently sponsored a same-as bill (A6202B/S6341B) recognizing that indigent defense is a State fiscal responsibility and requiring the State, not the county, to pay for such service; and

WHEREAS, the Ulster County Legislature commends Assemblymember Fahy and Senator DeFrancisco for championing a state fiscal takeover of indigent defense services, which will directly lead to improvements to this vital service for residents in need, and provide meaningful fiscal mandate relief for counties and real property taxpayers; and

WHEREAS, the State and multiple counties were sued, and ultimately settled, *Hurrell-Harring, et. al v. State of New York*, which sought to transform the indigent defense system and called for more government funding to be invested in the system; and

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WHEREAS, the Hurrell-Harring settlement requires the parties involved in the suit to provide additional indigent defense services and costly increases including first arraignment counsel, case load caps for public defenders, and additional staff and support for public defenders; and

WHEREAS, the proposed 2015-16 Budget only allocates increased funding to the five counties involved in the Hurrell-Harring lawsuit for expanding indigent defense; and

WHEREAS, the remaining 52 counties need increased funding so that expanded indigent defense services are uniform throughout the State; and

WHEREAS, the Governor has stated recently that the entire New York State justice system needs to be examined to insure it provides the most equitable and fair treatment possible; and

WHEREAS, the state can improve the public defense system by incrementally increasing state funding, designing a cost-effective way to finance the system over time, and relieving counties of a responsibility delegated to them since 1965; now therefore be it

RESOLVED, that the Ulster County Legislature supports A6202B/S6341B requiring New York State reimburse to counties the full amount of expenditures for indigent legal services; and, be it further

RESOLVED, that the Ulster County Legislature supports any increased state funding to the indigent legal defense system and calls upon the state to ensure counties will not be forced to pay for the additional requirements resulting from the Hurrell-Harring settlement; and, be it further

RESOLVED, that the Clerk of the Ulster County Legislature shall forward copies of this resolution to Governor Andrew Cuomo, Assembly and Senate Majority and Minority Leaders, all Ulster County elected Assemblymen and Senators and the New York State Association of Counties,

and move its adoption.

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ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

Passed Committee: Law Enforcement and Public Safety on _____.

FINANCIAL IMPACT:

NONE