

INTERCOUNTY LEGISLATIVE COMMITTEE OF THE ADIRONDACKS

Resolution No. 2 of 2015

Introduced by: Mike Tabolt, Lewis County

RESOLUTION IN SUPPORT OF NYS ASSEMBLY BILL A 6202-A, CALLING ON THE STATE TO ASSUME THE COSTS OF INDIGENT LEGAL DEFENSE SERVICES AND FOR THE COMPLETE REIMBURSEMENT TO ALL COUNTIES FOR EXPENSES ASSOCIATED WITH THE INDIGENT LEGAL DEFENSE UNFUNDED MANDATE

WHEREAS, in 1963 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, adding another unfunded mandated expense to the counties; and

WHEREAS, the decision to entrench responsibility at the county level by the State of New York has resulted in a system in which the county and local property tax payers are burdened with the vast majority of cost for this State responsibility; and

WHEREAS, public defense services are inadequately financed by the State of New York; and

WHEREAS, in 2006 the Kaye Commission on the Future of Indigent Defense Services declared the New York State System of County-Delivered Indigent Services to be in crisis, and urged the expeditious establishment of an Independent Public Defense Commission overseeing a STATE-FUNDED, statewide defender system; and

WHEREAS, the State of New York settled the *Matter of Hurrell-Harring, et al v. State of New York*, a systemic lawsuit seeking to transform the indigent defense system into a statewide defender system consistent with the State's responsibility under *Gideon v. Wainwright*; and

WHEREAS, in settlement of *Hurrell-Harring*, the State accepted its responsibility to ensure that each person charged with a crime in the five (5) counties named in the lawsuit, is represented by counsel at arraignment; that Indigent Legal Services (ILS) caseload/workload standards are implemented; that dedicated funding be provided to implement specific quality improvements; and that the State will undertake its best efforts to pay in full for these long-needed measures; and

WHEREAS, the settlement of the *Hurrell-Harring* matter has resulted in disparity between the five named counties of the lawsuit and the remaining fifty-seven (57) counties with respect to the financial benefit provided by the State to individual county indigent legal defense plans; and

WHEREAS, Assemblywoman Patricia Fahy has introduced legislation (A6202-A) designed to address the inequity created by the *Hurrell-Harring* settlement, through a phase-in indigent legal defense funding model that would ultimately see the State assume its responsibility to fund indigent defense and reimburse all Counties for their indigent legal defense expenditures delegated to them in 1965; and

WHEREAS, State Senator Joseph Griffo and other Senators are working in the State Senate toward a Bill designed to address this inequity and unfunded mandate delcagated to the Counties; and

WHEREAS, the InterCounty Legislative Committee of the Adirondacks seeks to support these efforts and proposed Bills.

NOW, THEREFORE, BE IT RESOLVED, as follows:

Section 1. That the InterCounty Legislative Committee of the Adirondacks supports the efforts of Assemblywoman Patricia Fahy and Senator Griffo in their respective efforts to bring forth legislation designed to alleviate the financial burdens imposed upon the fifty-seven (57) counties by the continued unfunded mandate of indigent legal defense.

Section 2. That the InterCounty Legislative Committee of the Adirondacks calls upon the State Assembly and Senate to enact legislation as Assemblywoman Fahy has proposed, to address the inequity created by the *Hurrell-Harring* settlement through a phase-in funding model for indigent legal defense that would ultimately have the State reimburse all counties for indigent legal defense expenditures, thereby having the State assume its responsibility to fully fund indigent legal defense.

Section 3. That the InterCounty Legislative Committee of the Adirondacks declares that the State funding of indigent criminal defense will relieve the financial strain on county governments for these unfunded mandates, and will provide proper justice to indigent defendants, and the fair and appropriate fiscal responsibility for same.

Section 4. That copies of this resolution shall be forwarded a certified copy of this resolution to New York Governor Andrew M. Cuomo, New York State Senator Joseph Griffo, Senator Patricia Ritchie; S e n a t o r John J. Bonacic, Senator Rich Funke, Senator Patrick Gallivan, Senator William J. Larkin, Jr., Senator Elizabeth O’C. Little, Senator Kathleen Marchione, Senator Thomas O’Mara, Senator James L. Seward, Senator Catharine M. Young and Chairman of the Transportation Committee Senator Joseph E. Robach, Assemblymen Kenneth Blankenbush, A s s e m b l y m a n William Magee, Assemblyman William A. Barclay, Assemblywoman Aileen M. Gunther, Assemblywoman Claudia Tenney, Assemblyman Anthony Brindisi, Assemblyman Marc Butler, Assemblywoman Janet DuPree, Assemblywoman Carrie Woerner, Assemblyman Steve McLaughlin; Assemblyman Clifford W. Crouch, Assemblyman Sam Roberts, New York State Defenders’ Association, New York State Office of Indigent Legal Services, New York State Association of Counties (NYSAC), and all others deemed necessary and proper; and be it further

RESOLVED, that the resolution shall take effect immediately.

Dated: November 19, 2015.