



**NYSAC**  
NEW YORK STATE  
ASSOCIATION OF COUNTIES

New York State Association of Counties  
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## **Memorandum in Support**

**S.8114 (DeFrancisco) /A.10706 (Fahy)**  
**S.6341-B (DeFrancisco) /A6202-C (Fahy)**  
**S.8115 (DeFrancisco)**

*AN ACT to amend the county law and the executive law, in relation to  
Indigent Legal Defense Services*

The New York State Association of Counties (NYSAC) has reviewed the above referenced legislation and supports its enactment into law.

The above bills provide counties with meaningful mandate relief by providing a full state fiscal takeover of indigent defense services while at the same time increasing the quality of legal services for the poor. Additionally and importantly this legislation provides important litigation mitigation protection for counties and their taxpayers.

In 1963 the United States Supreme Court held in the landmark decision, Gideon v. Wainwright, that all criminal defendants have the right to be represented by counsel, regardless of their ability to afford an attorney. This constitutional responsibility was assigned to the states. In New York State, these responsibilities, and most of the costs associated with this service have been shifted to counties and local taxpayers.

On November 8, 2007 the American Civil Liberties Union (ACLU) filed suit against the State of New York and 5 counties—Ontario, Onondaga, Schuyler, Suffolk and Washington. In Hurrell Haring et al. v the State of New York, the ACLU challenged the indigent defense system, claiming that New York State is failing to meet the constitutionally-required standard of providing adequate indigent criminal defense services. Specifically the plaintiff's sought additional funding for the system's operations, first arrangement counsel rights, an increase of public defense staffing to lower caseloads, increased training for those providing public defense, and an increase public defense support staff such as investigators.

In an October 2014 settlement, the State of New York agreed to provide expanded indigent defense services, including case caps for public defenders and providing counsel for defendant first arraignment. Under the agreement, the State must pick up

the added costs for these increased services in the five counties, but provides no additional state funding for the remaining 52 counties, which remain exposed to costly and unnecessary litigation.

These bills would require the State reimburse counties for the costs of providing indigent defense services. The measure, consistent with Hurrell Haring, allows for an incremental 7 year state fiscal takeover that will result in 100% of State fiscal annually responsibility thereafter.

These bills state that all counties provide increased indigent defense services, such as first arraignment and case caps for indigent defense providers. Reimbursement by the State for these added services are included in the bill.

It is for the above stated reasons that supporting these bills is a main priority for NYSAC.

*The New York State Association of Counties (NYSAC), founded in 1925, is a bi-partisan municipal association representing the counties of New York State. NYSAC is the only statewide association representing the interests of close to 5,000 elected and appointed county officials, including county executives, legislators, supervisors, administrators, commissioners and other county employees who deliver essential services to the public.*

TO: Assembly, Senate  
6/15/16