

Thank you to the Joint Committee for this opportunity to address you. My name is Brian Zimmerman and I am the Vice President of the Assigned Counsel Association, NYS. We were formed approximately 4 years ago to advocate for our attorneys, who represent, and provide access to justice for indigent adults and children in Family, Criminal, Supreme and Appellate Courts. Providing representation for the most vulnerable of our citizens in these courts is a privilege we have chosen. There is a crisis, however, in that there are too few attorneys to represent the numbers of those in need, whether a domestic violence victim, a child who was neglected, a parent whose children were taken away by the State, a parent simply fighting to see their children, a person charged criminally seeking to defend their innocence while languishing in jail, or seeking appellate redress.

The crisis stems from the fact that available assigned counsel has decreased by approximately 40 to 50% while the number of cases has continued to increase sharply year by year. Why the exodus of attorneys? First and foremost, the compensation rate, set by the legislature, has remained unacceptably at \$75 per hour since 2004, while the costs to live and practice have risen every year for 18 years. It is simply unaffordable to remain as attorneys devoted to this work, and even harder to recruit new attorneys to handle this work. No job in New York State has gone so long without a raise – over 18 years.

The algorithm for the crisis is simple, too many cases and too few attorneys equates to an inability to provide access to Constitutionally mandated representation and it creates needless delays for the Courts to reach decisions for those most in need and most vulnerable, the poor. And, as we know, it disproportionately affects the underserved and our black and brown communities. The lasting trauma inflicted on the adults and children in the indigent communities is immeasurable.

This crisis was predictable, in 2001 a lawsuit about the inadequate rates was resolved with a court imposed rate of \$90 per hour and an admonition for the legislature to act but also to not see the crisis repeat itself. Chief Judge Janet DiFiore, multiple State commissions, the NYS Office of Indigent Legal Services, and the NY State Bar Association have all asked that this crisis be resolved. Nine major Bar Associations in New York City have also commenced legal action in July 2020 challenging New York's failure to provide constitutionally required access to justice and meaningful representation.

Senator Bailey and Assemblyman Magnarelli and former Assemblyman Lentol have proposed legislation to increase those compensation rates for at least the last 3 years under S03527A. and A06013A. This is an issue upstate and downstate.

To assure that this crisis never recurs, we are advocating for attorneys to be compensated at the Federal Defender hourly rate of \$158 per hour, with a cost of living provision. We are asking that the costs above the \$75 per hour be a State expenditure, and not a county expenditure.

We applaud the Senate and Assembly for introducing legislation, but this crisis will not end until the money to fund the legislation is made part of the Final Budget. We are asking the Senate and Assembly to make ending this crisis a legislative priority and include appropriation in the Budgets of each house in support of the legislation already introduced.

Our society is judged by what it does to meet its responsibility to the least fortunate, and never more importantly than when their liberty and equal access to justice is at stake. The time to act is now.

Thank you for your time and for your support.