

Chief Judge of the State of New York



Janet Di Fiore

February 26, 2019

Hon. Andrew Cuomo
Governor
State of New York
Executive Chamber
Capitol Building
Albany, NY 12224

Hon. Andrea Stewart-Cousins
Majority Leader
New York State Senate
LOB, Room 907
Albany, NY 12247

Hon. Carl E. Heastie
Speaker
New York State Assembly
LOB, Room 932
Albany, NY 12248

Re: Assigned Counsel Rates in New York State

Dear Governor Cuomo, Majority Leader Stewart-Cousins and Speaker Heastie:

I write to bring to your attention a serious challenge facing our criminal and family justice systems in New York State.

The private lawyers appointed by our state courts to represent indigent criminal defendants, as well as children and parents in family matters, have not received an increase in compensation since 2004, when rates were fixed at \$75 an hour for felonies and representation of children, and \$60 an hour for misdemeanors. In the federal courts, by contrast, the compensation rate has been adjusted 11 different times since 2004 and is presently fixed at \$140 an hour.

Failure to adjust assigned counsel rates has led to a growing shortage of qualified attorneys, resulting in excessive caseloads that diminish the quality of legal representation for indigent litigants, and impairing the ability of our criminal and family courts to operate efficiently. For example, nearly a third of the lawyers serving on our attorney-for-the-child panels have dropped out of the program over the last five years, leading to increased adjournments and delay in many of our family courts.

Thanks to your leadership, New York State has made great progress to strengthen the criminal indigent defense system through the creation of the Office of Indigent Legal Services and increased state funding support for county governments and public defenders. However, in many areas of the state we remain heavily dependent on the hundreds of private attorneys who provide legal representation to people of limited means in our criminal and family courts. Without fair and adequate compensation to ensure an adequate pool of well-qualified assigned counsel, the overall quality of our indigent legal representation system is diminished and the important policy goals of many recent enactments implicating the rights of children and criminal defendants, including the Raise the Age legislation, may be compromised.

I hereby respectfully request that the Executive and Legislative branches act to adjust the rate of compensation for assigned counsel in New York State. Such action is necessary to maintain the quality of justice in our criminal and family courts, and to continue the progress we have made to reduce systemic delays in the New York State courts under our Excellence Initiative.

On behalf of the Judiciary, I thank you for your strong commitment to a well-functioning and equitable indigent legal representation system. We stand ready to provide any assistance that may be needed to bring about this long-deserved and essential increase.

Very truly yours,

A handwritten signature in cursive script, reading "Janet DiFiore". The signature is written in dark ink and is centered below the "Very truly yours," text.

cc: Hon. Lawrence K. Marks