



Legislation Details (With Text)

**File #:** Res 0225-2002    **Version:** \*    **Name:** Amend Article 18-B of the State County Law & Section 35 of the Judiciary Law.  
**Type:** Resolution    **Status:** Filed  
**In control:** Committee on Fire and Criminal Justice Services

**On agenda:** 4/24/2002

**Enactment date:**    **Enactment #:**

**Title:** A Resolution calling upon the Legislature and the Governor of New York to amend Article 18-B of the State County Law and Section 35 of the Judiciary Law to increase the hourly compensation paid to attorneys who represent economically disadvantaged persons as court-appointed counsel in Family Court and Criminal Court, and further exhorting the Legislature and the Governor to provide state funding for the fee increase so as to ensure that the State of New York meets its constitutional and statutory duty to provide appropriate legal representation to persons involved in such proceedings.

**Sponsors:** Helen D. Foster, Leroy G. Comrie, Jr., Lewis A. Fidler, Alan J. Gerson, Robert Jackson, Miguel Martinez, Christine C. Quinn, Domenic M. Recchia, Jr., Philip Reed, Joel Rivera, James Sanders, Jr., Jose M. Serrano

**Indexes:**

**Attachments:**

Date	Ver.	Action By	Action	Result
4/24/2002	*	City Council	Introduced by Council	
4/24/2002	*	City Council	Referred to Comm by Council	
12/31/2003	*	City Council	Filed (End of Session)	

Res. No. 225

A Resolution calling upon the Legislature and the Governor of New York to amend Article 18-B of the State County Law and Section 35 of the Judiciary Law to increase the hourly compensation paid to attorneys who represent economically disadvantaged persons as court-appointed counsel in Family Court and Criminal Court, and further exhorting the Legislature and the Governor to provide state funding for the fee increase so as to ensure that the State of New York meets its constitutional and statutory duty to provide appropriate legal representation to persons involved in such proceedings.

By Council Members Foster, Comrie, Fidler, Gerson, Jackson, Martinez, Quinn, Recchia, Reed, Rivera, Sanders and Serrano

Whereas, Article 18-B of the State County Law mandates the assignment of government-paid attorneys to parties in Family and Criminal Court proceedings who cannot afford to hire their own lawyers; and  
Whereas, Sections 262 and 1120 of the State Family Court Act guarantee the assignment of counsel to indigent persons involved in certain Family Court proceedings and appeals, and sections 241 and 243 of the State Family Court Act guarantee minors who are the subject of Family Court proceedings or appeals the right to legal assistance; and  
Whereas, The Unites States Supreme Court in Gideon v. Wainwright guarantees to criminal defendants the right to counsel, and Article 1, Section 6 of the New York State Constitution guarantees to criminal defendants the right to counsel; and  
Whereas, In the words of one member of the New York Supreme Court bench, "the right to counsel in New York State is a 'cherished principle,' rooted in the State's pre-revolutionary constitutional law and developed independent of its federal counterpart;" and  
Whereas, The rate of compensation for attorneys appointed to represent indigent persons is established in the State County Law and in the Judiciary Law, at the rate of forty dollars (\$40) per hour for in-court time and twenty five dollars (\$25) per hour for out-of-court time spent on behalf of a client, and these rates have not been upwardly adjusted since 1986; and  
Whereas, There is a severe shortage of 18-B attorneys both in Family Court and Criminal Court, resulting in lengthy delays and repeated adjournments in cases; and  
Whereas, The dire shortage of attorneys, resulting in unworkably high caseloads, interferes with the ability of assigned counsel to provide effective, competent representation; and  
Whereas, There have been work stoppages in the recent past that have compromised the ability of the Family Court and Criminal Court to function properly; and  
Whereas, Several judges in Family Court and Criminal Court have begun to take it upon themselves to increase attorney pay by finding "extraordinary circumstances" in some cases, and have thereby ordered payment at a higher rate of compensation to individual appointed attorneys, but a statewide, across-the-board increase in pay to assigned counsel requires an amendment to the State County Law and

Judiciary Law; now, therefore, be it

Resolved, that the Council of the City of New York hereby calls upon the Legislature and the Governor of New York to amend Article 18-B of the State County Law and Section 35 of the Judiciary Law to increase the hourly compensation paid to attorneys who represent economically disadvantaged persons as court-appointed counsel in Family Court and Criminal Court, and further exhorts the Legislature and the Governor to provide state funding for the fee increase so as to ensure that the State of New York meets its constitutional and statutory duty to provide appropriate legal representation to persons involved in such proceedings.