



Legislation Details (With Text)

File #: Int 0200-2006 **Version:** * **Name:** Creation of an annual report to assess the city's indigent legal representation.

Type: Introduction **Status:** Filed

In control: Committee on Fire and Criminal Justice Services

On agenda: 3/22/2006

Enactment date: **Enactment #:**

Title: A Local Law to amend the New York City Charter, in relation to the creation of an annual report to assess the city's indigent legal representation.

Sponsors:

Indexes:

Attachments:

Date	Ver.	Action By	Action	Result
3/22/2006	*	City Council	Introduced by Council	
3/22/2006	*	City Council	Referred to Comm by Council	
12/31/2009	*	City Council	Filed (End of Session)	

Int. No. 200

By Council Members Avella, Brewer, Foster, James, Koppell, Mark-Viverito, Palma, Sanders Jr. and Seabrook

A Local Law to amend the New York City Charter, in relation to the creation of an annual report to assess the city's indigent legal representation.

Be it enacted by the Council as follows:

Section 1. Statement of findings and purpose. Countless numbers of New Yorkers who cannot afford private legal counsel rely on a system of legal defenders funded by the city. These legal organizations and practitioners represent people in matters before Criminal Court, and children and adults in Family Court, as well as appeals from these courts. The representation provided by the city's indigent legal providers affects life-altering issues, ranging from whether someone goes to jail for a murder charge to whether a child is separated from her parent.

The city's Fiscal Year 2006 budget provides \$215 million for indigent legal defense, with the majority of funding being divided among the Legal Aid Society, the Assigned Counsel (18-B) Program, and seven

alternative legal providers. This total includes \$3 million for Neighborhood Defender Service (“NDS”), \$2.3 million for Office of the Appellate Defender Service (“OAD”), and \$500,000 for Legal Services of New York City that the Council added to the budget.

In budget hearings, mayoral representatives generally stress one issue above all others: cost per case. Quality of representation is discussed, but with much less emphasis and with reference to anecdotal reports, rather than any quantitative data. In the last six years, the Mayor’s budget has not funded NDS and OAD due to their cost per case, with the Council subsequently adding funding for these organizations on account of the value of their services.

It is difficult to apply objective criteria to legal representation, where the characteristics of a particular case may have greater affect on the outcome of the case than the quality of representation. Moreover, “success” can have very different meanings in different cases. For example, in some cases on termination of parental rights, the welfare of a child may be best protected if the child is separated from his or her parents; in other such cases, a child may be better off remaining with his or her parents. Such concerns counsel caution before using objective criteria to assess any particular attorney, especially based on the representation of a small number of cases.

The Council finds that the lack of information available to the Council and Mayor beyond cost per case of the various legal providers limits the ability to understand and assess indigent legal representation in the city. The Council further finds that the overwhelming stress on cost per case discourages legal providers from focusing on what they do and should care most about: providing the best possible defense for their clients. Accordingly, the Council declares that it is reasonable and necessary to mandate the creation of an annual report to assess the city’s indigent legal representation.

§2. Section 13 of chapter one of the New York City Charter is amended to read as follows:

§13. **Coordinator of criminal justice.** a. There is established in the executive office of the mayor a position of coordinator of criminal justice, to be appointed by the mayor. The coordinator shall:

(1) advise and assist the mayor in planning for increased coordination and cooperation among agencies under the jurisdiction of the mayor that are involved in criminal justice programs and activities;

(2) review the budget requests of all agencies for programs related to criminal justice and recommend to the mayor budget priorities among such programs; and,

(3) perform such other duties as the mayor may assign.

b. By October 1 of each year, the coordinator of criminal justice shall submit a report to the council and mayor providing quantitative data assessing, for criminal court, family court and appellate courts, the cost and quality of representation provided by any organization, the panel of attorneys of the appellate division first judicial department and the panel of attorneys of the appellate division second judicial department funded by the city to provide indigent legal defense. Where applicable, such assessment shall include information on the disposition of any assignment.

§3. This local law shall take effect immediately upon enactment.

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Int 456/2004