



Legislation Text

File #: Res 1875-2001, **Version:** *

Res. No. 1875

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 the Public Advocate (Mr. Green); also Council Members Clarke, Cruz, DiBrienza, Foster, Koslowitz, Leffler, Lopez, Michels, Perkins, Pinkett, Quinn, Watkins, White and Robinson

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 United 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.