

RESOLUTION NO. 2016201

RE: URGING GOVERNOR CUOMO TO SIGN INTO LAW PUBLIC DEFENSE
MANDATE RELIEF ACT (S.8114/ A.10706)

Legislators BORCHERT, MICCIO, BOLNER, PULVER, and SAGLIANO and offer the following and move it adoption:

WHEREAS, it is a fundamental right of all persons in the United States to have legal representation in all criminal proceedings; and in the case of *Gideon vs. Wainwright*, 372 U.S. 335, the United States Supreme Court ruled that persons who were unable to afford counsel had a constitutional right to be defended by an appointed attorney paid by the State, and

WHEREAS, the New York State Senate and Assembly have passed legislation entitled Public Defense Mandate Relief Act (S.8114/A.10706) which will require New York State to reimburse counties for expenditures made fulfilling the state's obligation to provide representation for those who cannot afford counsel beginning in 2017 and incrementally reaching 100% in 2023 and thereafter, and

WHEREAS, the Public Defense Mandate Relief Act (S.8114/A.10706) will give the Indigent Legal Service Office the authority "to adopt, promulgate, amend or rescind rules and regulations to carry out the provisions of [Executive Law 832], and

WHEREAS, the Public Defense Mandate Relief Act (S.8114/A.10706) also requires that the various counties and New York City receive an amount equal to the amount paid from the Indigent Legal Services Fund to the counties and NYC in March 2010, and

WHEREAS, New York State has previously entered into an agreement to settle the *Hurrell-Harring vs. State of New York* class action lawsuit and has begun to expend substantial amounts of State funds to create a more equitable and Constitutional system of representation in only the five settlement counties and creating an unequal system of justice in the remaining counties of the State, and

WHEREAS, by entering into such agreement and funding additional services in only the five settlement counties, the State acknowledges that it is constitutionally required to fund public defense services for mandated representation, and

WHEREAS, requiring counties to fund the State's obligation to provide public defense services imposes a significant financial burden on counties dependent on real property taxes to provide needed services; which would be remedied under the Public Defense Mandate Relief Act (S.8114/A.10706) as passed by the New York State Senate and Assembly, now, therefore, be it

RESOLVED, that the Dutchess County Legislature hereby strongly urges Governor Cuomo to sign the Public Defense Mandate Relief Act (S.8114/A.10706} when it is delivered to him, fulfilling the State's obligation under *Gideon vs. Wainwright*, 372 U.S. 335, relieving the taxpayers of Dutchess County and the other counties of the State to fund this State mandate, and, be it further

RESOLVED, that a copy of this resolution be sent to Governor Andrew Cuomo, Senate Majority Leader John Flanagan, Assembly Speaker Carl Heastie, Senator Sue Serino, Senator Terrence Murphy, Assemblywoman Didi Barrett, Assemblyman Kevin Cahill, Assemblyman Kieran Lalor, Assemblyman Frank Skartados, the New York State Office of Indigent Legal Services (ILS), the New York State Defenders Association (NYSDA), the Chief Defenders Association of New York (CDANY), and the New York State Association of Counties (NYSAC).

STATE OF NEW YORK

ss:

COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 8th day of August 2016, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 8th day of August 2016.

CAROLYN MORRIS, CLERK OF THE LEGISLATURE

FISCAL IMPACT STATEMENT

NO FISCAL IMPACT PROJECTED

APPROPRIATION RESOLUTIONS

(To be completed by requesting department)

Total Current Year Cost \$ 0

Total Current Year Revenue \$ 0
and Source

Source of County Funds *(check one)*: Existing Appropriations, Contingency,
 Transfer of Existing Appropriations, Additional Appropriations, Other *(explain)*.

Identify Line Items(s):

Related Expenses: Amount \$ _____

Nature/Reason:

Anticipated Savings to County: \$3,700,000

Net County Cost (this year): _____
Over Five Years: _____

Additional Comments/Explanation:

Once fully implemented, S.8114/ A.10706 would provide Dutchess County 100% funding for indigent legal services saving the county approximately \$3.7M (net to county cost for 2015).

Prepared by: Jessica White, Budget Office