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EDITORIAL

## *Repairing New York's Justice System*

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New York's justice system has fallen into crisis. Yet Albany is not dealing with three big problems dragging the system down — missing judicial pay raises, glaring deficiencies in indigent defense services and the swelling workload overwhelming Family Court.

These problems need not fester. But with just three weeks remaining in the legislative session, Gov. David Paterson and members of the State Senate and Assembly are running out of time to take action and avoid further damage.

**Judicial pay:** By now the need for a significant pay increase for state judges is beyond debate. Their last raise was in 1999, an unconscionable lag that puts New York at 49th of the 50 states in judicial pay when the cost of living is taken into account. After years of trying to reason with, beg and shame Albany's key players, the state's chief judge, Judith Kaye, reluctantly filed a lawsuit, charging that the refusal to pay judges adequately violates the constitutional separation of powers.

Whether that creative legal argument will prevail remains to be seen. But the fact that Judge Kaye

felt compelled to sue should be a source of embarrassment to legislators, especially Assembly Democrats, who have held judicial pay hostage while they maneuver for their own raises.

For the judicial branch to be at loggerheads with the legislative and executive branches over pay is not a healthy situation. The Legislature should remove the motivation for the lawsuit by raising judicial salaries to the level of Federal District Court judges, and creating a state commission, along the lines Judge Kaye has proposed, to help set salary levels for judges and legislators.

**Indigent defense:** A 2006 report prepared for Judge Kaye cited major problems in the way counties are providing legal aid in criminal cases, including exploding caseloads, atrocious lawyering and "grossly inadequate" financing.

It sensibly called for a state takeover of public defense services under the direction of an independent commission, which would enforce uniform standards from county to county.

Governor Paterson has voiced support for the idea. Of course,

money this year is tight. But one step that can easily be taken this session would be to create the commission and have a small staff begin working on a detailed plan for overhauling the system.

**Family Court:** With the caseload soaring, and new duties imposed by a 2005 law mandating more frequent court review of children in foster care, New York urgently needs more Family Court judges. Lawmakers should promptly grant Judge Kaye's request to add 39 Family Court judges statewide.

The Legislature should also fix a serious gap in the law: the inability of people in serious relationships with no children in common to obtain orders of protection in Family Court. Most states allow such orders, which are critical for public safety.

But the Republican-controlled State Senate has blocked them for years largely out of reluctance to treat same-sex couples as "family."

On all of these issues, Albany needs to pull the state's justice system, which was once a national leader, into the 21st century.