

## EDITORIALS

## Patchwork justice

If you are poor and in trouble with the law, you have the right to an attorney. But that right is more like a roll of the dice in New York, where much depends on where you will be tried. Some counties have public defender programs that have full-time staff attorneys who have spent their careers defending the indigent. Others use private attorneys as assigned counsel. Still others rely on Legal Aid attorneys. Incredibly, some lawyers are expected to handle thousands of cases a year.

Not surprisingly, this patchwork system yields patchwork results. That is, some programs have no trouble meeting state quality standards, while others are at risk of losing state funds if they fail to improve.

The reasons for these disparities are economic. While some counties have the money to maintain a fully staffed public defender's office, others do not. Some downstate counties with rich tax bases have the means to provide full-time counsel, while rural upstate counties are often strapped for revenue. The state provides a share of the funds for these programs, but only if the counties meet the state standards for quality. If they fail, the state will punish them by denying the aid, which creates a Catch 22: the very programs that are failing are denied the funds needed to improve their services.

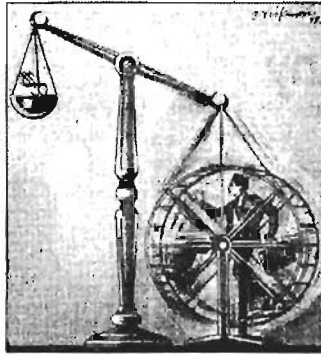
There ought to be a better system, and there could be if the Senate would

follow the Assembly's lead and approve legislation that would establish a study commission to recommend changes. As envisioned under the Assembly measure, the panel would look at what improvements are needed, what they would cost and how they would be funded.

It could be the first step toward a state takeover of the system, which is long overdue. Or it might become, as some counties justifiably fear, another unfunded mandate, just as the Leg-

islature often imposes requirements on counties without providing any revenue to carry them out. There is also this variation: The state begins a partnership with the counties, say on a 50-50 basis, only to cut back on its share, or eliminate it entirely, when the economy weakens. That almost happened this year, when the budget proposed by former Gov. Eliot Spitzer would have shifted more costs for juvenile detention facilities and welfare onto the shoulders of county taxpayers — a shift the Legislature rejected.

None of this means that a study commission shouldn't go forward. To the contrary, it means that the commission should consider all options and funding requirements. That would serve the best interest of counties, while ensuring a uniform standard of legal representation through New York. And it would serve the principle of justice for all.

**THE ISSUE:**

The state's system for indigent defense is fractured.

**THE STAKES:**

Reform is overdue, and the Legislature should say so.