

EDITORIAL: Justice for all

A group of lawyers, legislators and generally conscientious New Yorkers are trying to repair a badly fractured legal-defense system in this state. The people who can least afford to be defended in court are getting less than first-rate representation.

That's according to a commission assembled by New York's chief judge, Judith Kaye, which made a report two years ago calling for serious reform. So far, it has been frustrated.

But bills currently in the State Assembly and Senate aim to correct the problem, and indigent-defense experts, both government and private, are pressing hard for passage.

New York's indigent-defense network was created in 1965 by a law that required counties and the City of New York to establish a mechanism of their own. They created those mechanisms, but they are disparate and ineffective, despite occasional measures over the years to wring justice from them.

The truth is that county by county the standards of representation vary. According to the commission, "The multiple plans ... not only lack uniformity and oversight but often fail to comply with the requirements of the enabling statute. The result is a fractured, inefficient and broken system."

At the root of the problem is a lack of standards, as to who qualifies for free defense or how it will be delivered. Counties have the option of offering either the assigned-counsel plan, wherein practicing local attorneys are assigned by the judge, or the generally less expensive public-defender plan, in which an attorney or attorneys are employed for that purpose. Either way, the commission sees a lack of standards for assessing their work.

The commission strongly recommends that the state completely take over the mission of indigent legal defense. It would assemble the legal team, direct and monitor its work, establish standards for performance of the lawyers as well as qualification of applicants and pay all the bills.

That way, there would be no gaps in coverage.

Is the public infused with concern for indigent lawbreakers? It should be.

In the first place, until a court rules, we don't know whether the accused are lawbreakers, and that insistence on justice should be at or near the top of the list of requisites for a civilized society. The strong suspicion is that many indigents are being allowed or even urged to plead guilty to crimes they never committed just to move their cases along. Only broad oversight can correct this misappropriation of justice.

A statewide, impartial commission can also make sure politics is kept out of the system. Locally assigned jobs can be vulnerable to patronage.

The Kaye Commission has called the current arrangement a crisis. Bills in the Assembly and Senate would for the first time provide justice for the disenfranchised. New York cannot call itself a compassionate state if it continues to allow its most vulnerable people to be treated with utter absence of compassion.