



CENTER FOR COMMUNITY ALTERNATIVES
INNOVATIVE SOLUTIONS FOR JUSTICE

Statement in Support of A.8793/S.6002, The Public Defense Act of 2009

The Center for Community Alternatives (CCA) is a not-for-profit organization that works to reduce incarceration and promote reentry in ways that are consistent with public safety. In the course of this work, CCA has frequent occasion to work with attorneys who provide representation to indigent defendants in New York State, including Public Defender offices, Legal Aid offices, Special Defender offices and assigned counsel attorneys. This experience leads us to support the passage of the Public Defense Act of 2009 (A.8793/S.6002).

The need for improvements to the public defense system in New York State has been well documented by Chief Judge Judith S. Kaye's Commission on the Future of Indigent Defense Services. That Commission called for widespread reform including an independent commission to oversee public defense services and a fully and adequately state-funded, statewide public defense system. While the Public Defense Act of 2009 would not fully implement the Kaye Commission recommendations, it does address the need for creation and enforcement of public defense standards, by empowering the creation of a Public Defense Commission that would, among other duties, establish statewide standards and monitor the implementation of those standards that will ensure fairness across the state and eliminate the county-by-county variations to access to representation.

Moreover, the structure of the Commission as defined in the Legislation would create an entity that is free from political interference and can focus on providing quality representation to clients as professional conduct rules require of all attorneys. Under the current system, cost and/or political agendas other than quality representation of defendants unduly affect the delivery of public defense services. In our experience, attorneys are subject to undue pressure to keep costs down, or to quickly dispose of cases, and, as a result, they may not spend sufficient time in preparing a case, or consult with experts who may be critical at various stages of the proceedings. The proposed legislation strikes a proper balance by focusing both on the best interests of defendants, but also by requiring the Commission to consider fiscal responsibility.

Other structural elements of the Commission will improve representation of indigent defendants in the State of New York. Among these are representation by an individual from the client community, and consideration of Commission membership that reflects the "geographic, racial, ethnic and gender makeup of the State and the cultural diversity of the State's public defense clients."

The Legislation proposes a practical approach to implementation including a phase-in period during which time specific changes can be carefully planned and introduced. Yet the time to begin this work is now, and for these reasons, CCA supports the Public Defense Act of 2009 (A.8793/S.6002).

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