

STATE OF NEW YORK

6004

2019-2020 Regular Sessions

IN SENATE

May 16, 2019

Introduced by Sen. BAILEY -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the county law, in relation to the hourly compensation rate for assigned counsel

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 722-b of the county law, as amended by section 2 of
2 part J of chapter 62 of the laws of 2003, is amended to read as follows:

3 § 722-b. Compensation and reimbursement for representation. 1. All
4 counsel assigned in accordance with a plan of a bar association conform-
5 ing to the requirements of section seven hundred twenty-two of this
6 article whereby the services of private counsel are rotated and coordi-
7 nated by an administrator shall at the conclusion of the representation
8 receive:

9 (a) [~~for representation of a person entitled to representation by law~~
10 ~~who is initially charged with a misdemeanor or lesser offense and no~~
11 ~~felony, compensation for such misdemeanor or lesser offense represen-~~
12 ~~tation at a rate of sixty dollars per hour for time expended in court or~~
13 ~~before a magistrate, judge or justice, and sixty dollars per hour for~~
14 ~~time reasonably expended out of court, and shall receive reimbursement~~
15 ~~for expenses reasonably incurred; and]~~ an hourly rate of compensation
16 to be set by the division of criminal justice services. The division of
17 criminal justice services shall review the assigned counsel rate of
18 compensation on an annual basis and must consider the following criteria
19 in the annual rate setting process: (i) for representation of a person
20 entitled to representation by law who is initially charged with a misde-
21 meanor or lesser offense and no felony, the hourly compensation for such
22 misdemeanor or lesser offense representation shall be set at a rate no
23 less than sixty percent of the hourly rate of pay for federal public
24 defenders for the applicable fiscal year; and (ii) for representation of
25 a person in all other cases governed by this article, including all

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD11867-01-9

1 representation in an appellate court, the hourly rate of compensation
2 shall be set at a rate no less than ninety percent of the hourly rate of
3 pay for federal public defenders for the applicable fiscal year.

4 ~~(b) [for representation of a person in all other cases governed by~~
5 ~~this article, including all representation in an appellate court,~~
6 ~~compensation at a rate of seventy five dollars per hour for time~~
7 ~~expended in court before a magistrate, judge or justice and seventy five~~
8 ~~dollars per hour for time reasonably expended out of court, and shall~~
9 ~~receive reimbursement for expenses reasonably incurred.~~

10 ~~2. Except as provided in this section, compensation for time expended~~
11 ~~in providing representation:~~

12 ~~(a) pursuant to paragraph (a) of subdivision one of this section shall~~
13 ~~not exceed two thousand four hundred dollars; and~~

14 ~~(b) pursuant to paragraph (b) of subdivision one of this section shall~~
15 ~~not exceed four thousand four hundred dollars.~~

16 ~~3. For representation on an appeal, compensation and reimbursement~~
17 ~~shall be fixed by the appellate court. For all other representation,~~
18 ~~compensation and reimbursement shall be fixed by the trial court judge.~~
19 ~~In extraordinary circumstances a trial or appellate court may provide~~
20 ~~for compensation in excess of the foregoing limits and for payment of~~
21 ~~compensation and reimbursement for expenses before the completion of the~~
22 ~~representation.~~

23 4.] the New York state division of criminal justice services shall
24 have the authority to waive an increase in the assigned counsel compen-
25 sation rates in any given year, provided that assigned counsel compen-
26 sation rates shall not fall below the rate thresholds established under
27 paragraph (a) of this subdivision more than three consecutive years.

28 (c) for all representation under this article counsel shall receive
29 reimbursement for expenses reasonably incurred.

30 2. Each claim for compensation and reimbursement shall be supported by
31 a sworn statement specifying the time expended, services rendered,
32 expenses incurred and reimbursement or compensation applied for or
33 received in the same case from any other source. No counsel assigned
34 hereunder shall seek or accept any fee for representing the party for
35 whom he or she is assigned without approval of the court as herein
36 provided.

37 § 2. This act shall take effect on April 1, 2020. Effective immediate-
38 ly, the addition, amendment and/or repeal of any rule or regulation
39 necessary for the implementation of this act on its effective date are
40 authorized to be made and completed on or before such effective date.