

STATE OF NEW YORK

3672

2019-2020 Regular Sessions

IN SENATE

February 12, 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 assignment of counsel

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

1 Section 1. The closing paragraph of section 722 of the county law, as
2 amended by chapter 453 of the laws of 1999, is amended to read as
3 follows:
4 Upon an appeal in a criminal action, and on any appeal described in
5 section eleven hundred twenty of the family court act, article six-C of
6 the correction law or section four hundred seven of the surrogate's
7 court procedure act, wherein the party is financially unable to obtain
8 counsel, the appellate court shall assign counsel furnished in accord-
9 ance with the plan, conforming to the requirements of this section,
10 which is in operation in the county or in the city in which a county is
11 wholly contained wherein the judgment of conviction, disposition, or
12 order of the trial court was entered; provided, however, that when such
13 county or city has not placed in operation a plan conforming to that
14 prescribed in subdivision three or four of this section and such appel-
15 late court is satisfied that a conflict of interest prevents the assign-
16 ment of counsel pursuant to the plan in operation, or when such county
17 or city has not placed in operation any plan conforming to that
18 prescribed in this section, such appellate court may assign any attorney
19 in such county or city and, in such event, such attorney shall receive
20 compensation and reimbursement from such county or city which shall be
21 at the same rate as is prescribed in section seven hundred twenty-two-b
22 of this chapter. Assignment of counsel upon an appeal in a criminal
23 action pursuant to this subdivision, or pursuant to paragraph b of
24 subdivision one of section thirty-five of the judiciary law, includes
25 authorization for representation by appellate counsel, or an attorney
26 selected at the request of appellate counsel by the administrator of the

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

LBD07447-01-9

1 plan in operation in the county (or city in which a county is wholly
2 contained) where the conviction was entered, with respect to the prepa-
3 ration and proceeding upon a motion, pursuant to article four hundred
4 forty of the criminal procedure law, to vacate a judgment or to set
5 aside a sentence or on a motion for a writ of error coram nobis; compen-
6 sation and reimbursement for such representation and expenses shall be
7 governed by sections seven hundred twenty-two-b and seven hundred twen-
8 ty-two-c of this article.

9 § 2. This act shall take effect immediately.