

BY: Senator HOYLMAN-SIGAL

MEMORIALIZING Governor Kathy Hochul to proclaim
March 18, 2023, as Gideon Day in the State of New
York

WHEREAS, When what is now New York State was still a colony of Great Britain, the common law recognized that counsel should be assigned by the court for the defense of persons accused of crime unable to afford a lawyer; and

WHEREAS, The Sixth Amendment of the United States Constitution, which was ratified by New York State in 1790, and is part of the Bill of Rights, says that all accused persons in criminal prosecutions shall have the right to assistance of counsel for their defense; and

WHEREAS, The Fourteenth Amendment to the United States Constitution says that States may not deprive any person of life, liberty, or property without due process of law, and may not deny any person the equal protection of the law; and

WHEREAS, The New York State Constitution provides a right to counsel and says that no person shall be denied the equal protection of the State's laws; and

WHEREAS, Prior to 1963, New York State did not provide for routine appointment and payment of counsel for all people charged with crimes and financially unable to hire a lawyer for their cases; and

WHEREAS, The United States Supreme Court recognized in 1963, in *Gideon v. Wainwright*, that because the Sixth Amendment's guarantee of counsel is "fundamental and essential to a fair trial," it must be enforced by the States under the Fourteenth Amendment; if people who lack financial means and are accused of crime had to face their accusers without legal assistance, constitutional and other rights could not be realized, the decision said; and

WHEREAS, The *Gideon* Court said that, "from the very beginning, our state and national constitutions and laws have laid great emphasis on procedural and substantive safeguards designed to assure fair trials before impartial tribunals in which every defendant stands equal before the law"; and

WHEREAS, Following the *Gideon* decision, New York State established a statutory scheme mandating public defense under County Law article 18-B; and

WHEREAS, As New York's Court of Appeals said in 2010, "*Gideon* is not now controversial either as an expression of what the Constitution requires or as an exercise in elemental fair play"; and

WHEREAS, *Gideon*'s promise of representation has been vital for New

Yorkers in their defense and the Gideon decision continues to inspire work to improve and perfect the right to counsel; and

WHEREAS, March 18, 2023, is the 60th anniversary the right to counsel; and Gideon v Wainwright decision; now, therefore, be it

RESOLVED, That this Legislative Body pause in its deliberations to memorialize Governor Kathy Hochul to proclaim March 18, 2023, as Gideon Day in the State of New York; and be it further

RESOLVED, That copies of this Resolution, suitably engrossed, be transmitted to The Honorable Kathy Hochul, Governor of New York State; the New York State Defenders Association; and the New York State Office of Indigent Legal Services.