# STATE OF NEW YORK

8771

# IN SENATE

March 11, 2024

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 and the judiciary law, in relation to setting hourly rates for persons representing certain persons in court or before a magistrate

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

Section 1. Section 722-b of the county law, as amended by section 1 of part GG of chapter 56 of the laws of 2023, is amended as follows:

§ 722-b. Compensation and reimbursement for representation. 1. All counsel assigned in accordance with a plan of a bar association conforming to the requirements of section seven hundred twenty-two of this article whereby the services of private counsel are rotated and coordinated by an administrator shall at the conclusion of the representation receive**:**

**(a) for representation of a person entitled to representation by law who is initially charged with a misdemeanor or lesser offense and no felony, compensation for such misdemeanor or lesser offense representation at a rate of one hundred fifty-eight dollars per hour for time expended in court or before a magistrate, judge or justice, and one hundred fifty-eight dollars per hour for time reasonably expended out of court, and shall receive reimbursement for expenses reasonably incurred; and**

**(b)** for representation of a person in all **other** cases governed by this article, including all representation in an appellate court, compensation at a rate of one hundred [~~fifty-eight~~] **sixty-four** dollars per hour for time expended in court before a magistrate, judge or justice and one hundred [~~fifty-eight~~] **sixty-four** dollars per hour for time reasonably expended out of court, and shall receive reimbursement for expenses reasonably incurred.

**1-a. (a) The hourly rates set by paragraphs (a) and (b) of subdivision one of this section shall be adjusted annually, effective April first of each year, beginning in the year two thousand twenty-six.**

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

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(b) The hourly rate for representation established under paragraph (a) of subdivision one of this section shall be adjusted to equal no less than eighty percent of the hourly rate calculated under paragraph (c) of this subdivision, rounded to the nearest dollar.

(c) The hourly rate for representation under paragraph (b) of subdivision one of this section shall be adjusted annually to equal no less than the hourly rate paid to assigned counsel in non-capital cases in federal district court pursuant to 18 U.S.C. § 3006A and related laws and regulations for the calendar year two years prior.

2. (a) Except as provided in subdivision three of this section, compensation for time expended in providing representation pursuant to subdivision one of this section shall not exceed ten thousand dollars, provided that such figure shall be adjusted annually, effective April first of each year, beginning in the year two thousand twenty-six.

(b) For representation under paragraph (a) of subdivision one of this section, the case compensation maximum shall be adjusted annually to equal no less than eighty percent of the case compensation maximum calculated under paragraph (c) of this subdivision, rounded to the nearest dollar.

(c) For representation under paragraph (b) of subdivision one of this section, the case compensation maximum shall be adjusted annually to equal no less than the case compensation maximum for assigned counsel in non-capital cases in federal district court pursuant to 18 U.S.C. § 3006A and related laws and regulations for the calendar year two years prior.

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

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

§ 2. Subdivision 3 of section 35 of the judiciary law, as amended by section 3 of part GG of chapter 56 of the laws of 2023, is amended as follows:

3. a. No counsel assigned pursuant to this section shall seek or accept any fee for representing the person for whom [~~he or she~~] such counsel is assigned without approval of the court as herein provided. Whenever it appears that such person is financially able to obtain counsel or make partial payment for the representation, counsel may report this fact to the court and the court may terminate the assignment or authorize payment, as the interests of justice may dictate, to such counsel. Counsel assigned hereunder shall at the conclusion of the representation receive compensation at a rate of one hundred fifty-eight dollars per hour for time expended in court, and one hundred fifty-eight dollars per hour for time reasonably expended out of court, and shall receive reimbursement for expenses reasonably incurred, provided that such figure shall be adjusted annually, effective April first of each year, to equal no less than the hourly rate calculated under paragraph

**(b) of subdivision one-a of section seven hundred twenty-two-b of the county law**.

b. For representation upon a hearing, compensation and reimbursement shall be fixed by the court wherein the hearing was held and such compensation shall not exceed ten thousand dollars. For representation in an appellate court, compensation and reimbursement shall be fixed by such court and such compensation shall not exceed ten thousand dollars**, provided that such figure shall be adjusted annually, effective April first of each year, to equal no less than the case compensation maximum calculated under paragraph (c) of subdivision two of section seven hundred twenty-two-b of the county law**. In extraordinary circumstances the court may provide for compensation in excess of the foregoing limits.

§ 3. This act shall take effect April 1, 2025.