§ 832. Office of indigent legal services. 1. There is hereby created within the executive department the office of indigent legal services, hereinafter referred to in this section as the "office". The purpose of such office is to monitor, study and make efforts to improve the quality of services provided pursuant to article eighteen-B of the county law. The office shall report to the indigent legal services board established pursuant to section eight hundred thirty-three of this article, provided, however, that administrative matters of general application within the executive department shall also be applicable to such office.

2. (a) Following the initial appointment of the members of the indigent legal services board established pursuant to section eight hundred thirty-three of this article, such board shall promptly nominate a full-time director of the office and notify the governor of such nomination. After approval or disapproval of the first nominee as director of the office, or at any time thereafter when a vacancy shall exist or is anticipated in the position of director of the office, the indigent legal services board shall promptly nominate a full-time director of the office, and notify the governor of such nomination. Nothing in this paragraph shall prohibit the board from appointing an interim director if there is a vacancy.

(b) The governor, within thirty days after receiving written notice of any nomination of a director made pursuant to paragraph (a) of this subdivision, may approve or disapprove the nomination. If the governor approves such nomination, or fails to act on such nomination within such thirty day period, the nominee shall thereupon commence his or her term as director of the office. If, within such thirty day period, the governor serves upon the chair of such board a written notice disapproving such nomination, the nominee shall not be authorized to serve as director of the office provided, however, that such board may authorize an interim director appointed pursuant to paragraph (a) of this subdivision to serve or continue to serve as interim director until such time as a director of the office is approved, or not timely disapproved, by the governor. Following any disapproval, the board shall have sixty days to submit another nominee, although such period may be extended, upon request of the board, by the governor. A person appointed as interim director may exercise all of the powers available to the

director of such office.

(c) The director of the office shall serve full-time and for a term of five years. The director may be removed during this term for good cause shown, after notice and an opportunity to be heard, by a vote of two-thirds or more of the nine members of such board. The person serving as director shall, upon assuming such position, be admitted to practice law and shall have not less than five years professional experience in the area of public defense services, and have a demonstrated commitment to the provision of quality public defense representation and to the communities served by public defense providers.

(d) The director shall appoint employees and perform such other functions as are appropriate to ensure the efficient operation of the office within the amounts available therefor by appropriation.

3. Duties and responsibilities. The office shall, in consultation with the indigent legal services board established pursuant to section eight hundred thirty-three of this article, have the following duties and responsibilities:

(a) to examine, evaluate and monitor services provided in each county pursuant to article eighteen-B of the county law;

(b) to collect and receive information and data regarding the provision of services pursuant to article eighteen-B of the county law including, but not limited to:

(i) the types and combinations of such services being utilized in each county;

(ii) the salaries and other compensation paid to individual administrators, attorneys and staff providing such services;

(iii) the actual caseloads of attorneys providing such services pursuant to article eighteen-B of the county law;

(iv) how the caseloads of attorneys providing such services compare with the caseloads of attorneys providing prosecution-related services in each county;

(v) the types, nature and timing of dispositions of cases handled by attorneys providing such services and attorneys providing prosecution-related services;

(vi) the actual expenditures currently being made in each county on such services and prosecution-related services;

(vii) the time, funds and in-kind resources currently being spent on such services and prosecution-related services and the amount being spent on ancillary services such as investigators, support staff, social workers and expert witnesses, including consideration of all funds received for such services from all sources;

(viii) the criteria and procedures used to determine whether a person is eligible to receive such services, the number of persons considered for and applicants denied such services, the reasons for the denials, and the results of any review of such denials, including the number of orders issued pursuant to section seven hundred twenty-two-d of the county law; and

(ix) the standards and criteria used in programs and by each county to determine whether individual attorneys are qualified to provide indigent legal services, on a case by case basis;

(c) to analyze and evaluate the collected data, and undertake any necessary research and studies, in order to consider and recommend measures to enhance the provision of indigent legal services and to ensure that recipients of services provided pursuant to article eighteen-B of the county law are provided with quality representation from fiscally responsible providers, which shall include but not be limited to: establishing criteria and procedures to guide courts in determining whether a person is eligible for such representation; establishing standards, criteria and a process for qualifying and re-qualifying attorneys to provide such services pursuant to article eighteen-B of the county law;

(d) to establish standards and criteria for the provision of such services in cases involving a conflict of interest and to assist counties to develop plans consistent with such standards and criteria;

(e) to develop recommendations to improve the delivery of such services in a manner that is consistent with the needs of the counties, the efficiency and adequacy of the public defense plan operated in the counties and the quality of representation offered, which may include receiving applications for and distributing grants pursuant to specified criteria;

(f) to develop recommendations regarding the distribution and expenditure of any monies appropriated for indigent legal services, including but not limited to monies from the indigent legal services

fund created pursuant to section ninety-eight-b of the state finance law, for consideration by the indigent legal services board established pursuant to section eight hundred thirty-three of this article; and, in making such recommendations, may consider, in addition to measures of performance, the commitment of local resources to such services and the changes thereto; the geographic balance of funding among the regions of the state, population, crime rates, poverty rates and individual community needs;

(g) to target grants in support of innovative and cost effective solutions that enhance the provision of quality indigent legal services, including collaborative efforts serving multiple counties;

(h) to investigate and monitor any other matter related to indigent legal services that the director deems important;

(i) to request and receive from any department, division, board, bureau, commission or other agency of the state or any political subdivision of the state or any public authority such assistance, information and data, subject to limitations on the disclosure of information provided confidentially to indigent legal service providers, as will enable the office to properly carry out its functions, powers and duties;

(j) to establish measures of performance which programs and counties shall regularly report to the office, to assist the office in monitoring the quality of indigent legal services;

(k) to apply for and accept any grant or gift for any of the purposes of the office or the indigent legal services board. Any monies so received may be expended by the office to effectuate any such purpose, subject to the same limitations as to approval of expenditures and audit as are prescribed for state monies appropriated for such purposes;

(l) to present findings and make recommendations for consideration by the indigent legal services board established pursuant to section eight hundred thirty-three of this article; and

(m) to execute decisions of the indigent legal services board established pursuant to section eight hundred thirty-three of this article, including the distribution of funds.

4. Additional duties and responsibilities. The office shall, in consultation with the indigent legal services board established pursuant

to section eight hundred thirty-three of this article, have the following duties and responsibilities, and any plan developed pursuant to this subdivision shall be submitted by the office to the director of the division of budget for review and approval, provided, however that the director's approval shall be limited solely to the plan's projected fiscal impact of the required appropriation for the implementation of such plan and his or her approval shall not be unreasonably withheld:

(a) Counsel at arraignment. * Develop and implement a written plan to ensure that each criminal defendant who is eligible for publicly funded legal representation is represented by counsel physically present or pursuant to the requirements of article one hundred eighty-two of the criminal procedure law at their arraignment; provided, however, that a timely arraignment with counsel shall not be delayed pending a determination of a defendant's eligibility.

* NB Effective until September 1, 2028

* Develop and implement a written plan to ensure that each criminal defendant who is eligible for publicly funded legal representation is represented by counsel in person at his or her arraignment; provided, however, that a timely arraignment with counsel shall not be delayed pending a determination of a defendant's eligibility.

* NB Effective September 1, 2028

(i) For the purposes of the plan developed pursuant to this subdivision, the term "arraignment" shall mean the first appearance by a person charged with a crime before a judge or magistrate, with the exception of an appearance where no prosecutor appears and no action occurs other than the adjournment of the criminal process and the unconditional release of the person charged (in which event "arraignment" shall mean the person's next appearance before a judge or magistrate).

(ii) The written plan developed pursuant to this subdivision shall be completed by December first, two thousand seventeen and shall include interim steps for each county and the city of New York for achieving compliance with the plan.

(iii) Each county and the city of New York shall, in consultation with the office, undertake good faith efforts to implement the plan and such plan shall be fully implemented and adhered to in each county and the city of New York by April first, two thousand twenty-three. Pursuant to

section seven hundred twenty-two-e of the county law, the state shall reimburse each county and the city of New York for any costs incurred as a result of implementing such plan.

(iv) The office shall, on an ongoing basis, monitor and periodically report on the implementation of, and compliance with, the plan in each county and the city of New York.

(b) Caseload relief. Develop and implement a written plan that establishes numerical caseload/workload standards for each provider of constitutionally mandated publicly funded representation in criminal cases for people who are unable to afford counsel.

(i) Such standards shall apply to all providers whether public defender, legal aid society, assigned counsel program or conflict defender in each county and the city of New York.

(ii) The written plan developed pursuant to this subdivision shall be completed by December first, two thousand seventeen and shall include interim steps for each county and the city of New York for achieving compliance with the plan. Such plan shall include the number of attorneys, investigators and other non-attorney staff and the amount of in-kind resources necessary for each provider of mandated representation to implement such plan.

(iii) Each county and the city of New York shall, in consultation with the office, undertake good faith efforts to implement the caseload/workload standards and such standards shall be fully implemented and adhered to in each county and the city of New York by April first, two thousand twenty-three. Pursuant to section seven hundred twenty-two-e of the county law, the state shall reimburse each county and the city of New York for any costs incurred as a result of implementing such plan.

(iv) The office shall, on an ongoing basis, monitor and periodically report on the implementation of, and compliance with, the plan in each county and the city of New York.

(c) Initiatives to improve the quality of indigent defense. (i) Develop and implement a written plan to improve the quality of constitutionally mandated publicly funded representation in criminal cases for people who are unable to afford counsel and ensure that attorneys providing such representation: (A) receive effective supervision and training; (B) have access to and appropriately utilize

investigators, interpreters and expert witnesses on behalf of clients; (C) communicate effectively with their clients; (D) have the necessary qualifications and experience; and (E) in the case of assigned counsel attorneys, are assigned to cases in accordance with article eighteen-b of the county law and in a manner that accounts for the attorney's level of experience and caseload/workload.

(ii) The office shall, on an ongoing basis, monitor and periodically report on the implementation of, and compliance with, the plan in each county and the city of New York.

(iii) The written plan developed pursuant to this subdivision shall be completed by December first, two thousand seventeen and shall include interim steps for each county and the city of New York for achieving compliance with the plan.

(iv) Each county and the city of New York shall, in consultation with the office, undertake good faith efforts to implement the initiatives to improve the quality of indigent defense and such initiatives shall be fully implemented and adhered to in each county and the city of New York by April first, two thousand twenty-three. Pursuant to section seven hundred twenty-two-e of the county law, the state shall reimburse each county and the city of New York for any costs incurred as a result of implementing such plan.

(d) Appropriation of funds. In no event shall a county and a city of New York be obligated to undertake any steps to implement the written plans under paragraphs (a), (b) and (c) of this subdivision until funds have been appropriated by the state for such purpose.