



TESTIMONY OF:

Chief Defenders Association of New York

Written Testimony of:

Stan Germán, President

Presented before

The New York State

Senate Committee on Finance & Assembly Committee on Ways and Means

Joint Legislative Budget Hearing:

Public Protection

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I. Introduction

The Chief Defenders Association of New York (CDANY) is a membership organization of appointed Public Defenders, Conflict Defenders, Executive Directors of non-profit public defense offices and Administrators of Assigned Counsel Panels throughout New York State. Our organizations collectively provide the mandated service of indigent representation to close to 400,000 people annually in New York's criminal, family and

Chief Defenders Association of New York
PO Box 127 | Clifton Park, NY 12065
(518) 407-5720 | CDANYoffice@gmail.com
www.cdany.info

appellate courts. We are the voice of the defender organizations that are the fulcrum upon which the integrity of the criminal justice system rests.

As the direct providers of legal services, with experience derived from a street level understanding of the law and how it operates, impacts and often subjugates our clients, we have a unique perspective to bring to legislative advocacy in New York. We appreciate the legislature for taking steps to honor and protect long overdue pretrial reforms to bring us in line with other states, while also maintaining and continuing to fully support adequate funding for all mandated representation in the state.

In particular, we want to raise the alarm about our resource-starved family courts and the urgent need for investment at all levels of that court system. We urge the legislature and Governor Hochul to work with the judiciary and stakeholders like public defenders to initiate a much-needed overhaul of these courts.

II. Budget Priorities for FY 2026

This is a pivotal time for those providing defense services in the criminal and family courts of New York State. While much has been accomplished in recent years with the passage of criminal justice reforms and expansion of services pursuant to [Hurrell-Harring settlement](#) and statutory funding, much is yet to be done to assure continuation of these hard fought and achieved milestones in criminal defense. The Executive's proposed FY 2026 budget again falls short of the mark to responsibly maintain these reforms. Moreover, the budget also fails to recognize an escalating crisis in the family court system in New York.

In 2017, the State Legislature enacted Executive Law 833, which codified the ideals of *Hurrell-Harring*, a landmark lawsuit in which the State and five counties were named parties. Over the last six years, and under the watchful eye of the New York State Office of Indigent Legal Services, every New York county has benefitted from impactful reforms that have improved the quality of indigent defense representation, the result of an infusion of State funding and resources. Monumental work has been done by indigent defense providers to implement new programs, recruit, hire and onboard new attorneys and support staff, and navigate the intricacies of administering State funding. Defense providers did this work with an expectation of annualized enhancements to maintain staffing and programmatic improvements.

Defenders are therefore at the mercy of the state budget process to continue these reforms and to maintain the current ranks of attorneys and auxiliary staff hired to perform these mandates. What's more, attorney caseload caps imposed by the settlement and extended statewide for criminal attorneys, and issued by New York State Office of Indigent Legal Services for family court attorneys, effectively limit the number of cases an attorney can accept. It is incumbent therefore on individual provider offices to strive for maintenance of effort and staffing, which is wholly dependent on continuation of funding.

Even more concerning is the Executive's refusal to address the crisis inside New York's family court system in the proposed budget. On November 1, 2023, in the [Joint Public Hearing before the Senate Standing Committee on Judiciary and the Senate Standing Committee on Children and Families](#), a common refrain was that New

York's family court is in "crisis" and is a "second class court;" and, that family court is often "dehumanizing" for both litigants and attorneys appearing on their behalf.

Many of the issues highlighted in the *Hurrell-Harring* lawsuit are precariously present in family court, including crushing caseloads, lack of training and supervision, lack of supportive resources, lack of timely access to counsel, and worrisome attrition of staff. Indeed, the testimony elicited at the Joint Senate Hearing raised concerns that all the essential ingredients now exist for a "*Hurrell-Harring*" in family court, and that there is a looming specter of a similar lawsuit that would throw New York State into chaos.

To this end, CDANY strongly supports NYS Office of Indigent Legal Services funding request of \$50 million for Family Court Parental Representation, to continue and be increased the following two years as follows: \$50 million in FY27, \$100 million in FY28 and \$150 million in FY29. This investment in the family court system by the state would address mounting inadequacies that threaten the welfare of children and family stability; harsh realities that disproportionately affect Black and Latinx families. This funding would go a long way toward implementing the recommendations of the Chief Judge's Commission on Parental Representation that were issued in 2019. What's more, these funds are currently available in the Indigent Legal Services Fund. The time has come for the state to address this crisis.

CDANY also strongly supports the NYS Unified Court System's request to augment funding for the Attorney for the Child (AFC) program. Much like parental representation attorneys in Family Court, attorneys for children are laboring under crushing caseloads, unprecedented attrition, non-competitive salaries and lack of resources. Many of our member organizations provide AFC services, as well as representation for youth pursuant to Raise the Age funding. Support for this additional funding is essential to assure a voice for the most vulnerable in our family court system.

We ask you again to oppose the sweep of the Indigent Legal Services Fund (ILSF) proposed in part FF of the PPGG Article VII legislation. This proposal would authorize a transfer of up to \$234, 000,000 from the ILSF to the General Fund. The ILSF was established in 2004 after the Legislature overrode the Governor's veto of a budget bill containing the provisions that increased the assigned counsel fees and created the Fund¹. In 2004, then-Assembly Judiciary Chair Helene E. Weinstein said that the ILSF expenditures were intended to "result in real improvements in the quality of the public defense system in New York."²

State Finance Law 98-b sets out the limited purposes of this special revenue fund: assist counties and New York City "in providing legal representation for persons who are financially unable to afford counsel pursuant to article eighteen-B of the county law"; "assist the state, in improving the quality of public defense services and funding representation provided by assigned counsel paid in accordance with section thirty-five of the judiciary law"; and "provide support for the operations, duties, responsibilities and expenses of the office of indigent legal services and the indigent legal services board" established pursuant to Executive Law 832 and 833.

¹ L 2003, ch 62

² *An Explanation of the Rate Increases for Assigned Counsel*, New York Law Journal, 1/16/2004, p. 4.

This special revenue fund is meant to help the State and counties meet their constitutional obligation to provide effective assistance of counsel to those who cannot afford to hire a lawyer. All of the money in the ILSF is needed to support the ongoing efforts to improve the quality of public defense representation in New York State for all clients. While Hurrell-Harring statewide implementation has led to improvements in public defense representation in criminal cases, there is much more work to be done to achieve quality criminal defense representation in every county. And public defense representation is not just representation in criminal courts. A large percentage of public defense representation is provided in family courts but New York has failed to provide more than minimal resources for family defense representation. Counties and NYC are struggling to fulfill their mandated representation obligations and provide consistent quality representation. Every dollar in the ILSF is needed and should not be swept.

It is up to the Legislature to stop the Executive from taking money away from people who cannot afford legal counsel and the hard-working defenders and defense team members who represent them. We strongly urge you to oppose part FF and strike it from the final budget.

III. Specific Funding Asks

Defenders call upon the Governor and Legislators to acknowledge their integral role in New York's courts and provide much needed funding as follows:

Indigent Legal Services Office, Aid to Localities

Category of Funding	Executive Proposal	Defense Ask
Family Court Parent Representation	\$25,000,000	\$50,000,000 added each year for 3 years (\$50M FY27, \$100M FY28, \$150M FY29)
HH Statewide and Settlement	\$273,970,000	\$273,970,000
Distributions to NYC and Counties	\$81,000,000	\$81,900,000
Assigned Counsel Fee Increased Rate	\$92,000,000	\$92,000,000
DA & Indigent Legal Services Attorney Loan Forgiveness	\$2,430,000	\$6,430,000 (an additional \$4million for increased eligibility and award as per S161/A1602)

Division of Criminal Justice Services, Aid to Localities

Category of Funding	Executive Proposal	Defense Ask
Aid to Defense	\$7,658,000	\$7,658,000
Aid to Defense Part II	\$40,000,000	\$40,000,000
Discovery funding for the defense	\$45,000,000	\$45,000,000
Indigent Parolee Program	\$600,000	\$6,000,000 (\$600,000 restoration + \$5,400,000 to provide full reimbursement to all counties & NYC for parole representation)
New York State Defenders Association Public Defense Back up Center	\$ 1,030,000	\$3,530,000

Department of Veterans Services, Aid to Localities

Category of Funding	Executive Proposal	Defense Ask
Veterans Defense Program, NYSDA	\$0	\$720,000 (restoration: \$250k Assembly + \$250k Senate + \$250k Senate LI/NYC office)

IV. Additional Budget Issues

This year, CDANY is grateful to focus on defender budgetary requests rather than defensive discourse aimed at protecting criminal justice reform.

One area that still garners much debate, however, is creating opportunities for young people and the implementation of Raise the Age. CDANY remains steadfast in its support for the landmark legislation and the opportunities it can afford for young people. It can be shown that only a fraction of state funding allocated for implementation of services under Raise that Age has been utilized by counties to date. Without proper funding of community-based services and programs that form the underpinning of Raise the Age, the ideals of the legislation have not been realized and therefore, cases and outcomes cannot be adequately measured for efficacy.

It is the hope of our membership and a major focus of CDANY's 2026 Legislative Priorities to protect the Raise the Age legislation as written and passed, properly fund it via the Youth Justice Innovation Fund, and otherwise invest in our youth to provide pathways to opportunity.

The Innovation Fund (A8491 /S643) would be administered by New York State Division of Criminal Justice Services, making \$50 million available to community-based organizations most trusted and best-equipped to serve adolescents and young adults through a grant-making program to support young people who are at-risk for or who come into contact with law enforcement. Before this, community-based organizations have accessed state funding for youth justice through county plans, meaning that the fabric of community based support is vastly different in different parts of the state, based on local politics and priorities.

Keeping in line with our support for pathways out of criminalization, to the extent that the Judiciary Budget includes additional monies for legal services in general and resources for people in the courts, including the expansion of mental health treatment courts, we wholeheartedly support those requests and encourage the legislature to build upon them.

Indeed, we urge the legislature to expand, streamline and modernize our state's network of treatment courts in the FY27 budget. Treatment Courts differ from the traditional court process by connecting individuals in crisis with the community-based care they need to address the root cause of their criminal legal system involvement. These programs are incredibly effective at reducing recidivism while saving lives and money. NYS has been experimenting with treatment courts for decades, and the Unified Court System operates hundreds of different treatment court programs statewide. Legislation and funding are needed to modernize and streamline these courts, and make access to them more equitable across the state. Thus, CDANY calls on the legislature to pass the Treatment Court Expansion Act ([S.4547 - Ramos/A.4869 - Forrest](#)) and include in its one-house budgets adequate funding for this legislation to ensure it can be effectively implemented.

At a NYS Senate hearing on the Treatment Court Expansion Act in October, Chief Judge Rowan Wilson and Administrative Judge Zayas testified that "diverting New Yorkers living with mental illness away from the traditional court track and into treatment is one of the court system's highest priorities." With respect to the Treatment Court Expansion Act, they wrote that "passage of this legislation is important to the Unified Court System, as it represents a potential sea change in how we think about the very nature of criminal justice."

The Unified Court System estimates that the full scope of implementation will require \$51.4M in additional funding for the expansion of court operations. In addition, the sponsors of the legislation are also seeking \$75M to support the community-based treatment providers who will need to scale up their services to accommodate the new treatment court participants. This up-front investment stands to save taxpayers millions in the long run. We urge you to champion the Treatment Court Expansion Act and secure the appropriation of proper funding to implement this transformative legislation.

Finally, CDANY strongly supports expansion of the NYS District Attorney and Indigent Legal Services Attorney Loan Forgiveness (DALF) Program to address unprecedented and crippling attrition in our offices. A majority of indigent legal services attorneys are burdened with overwhelming student loan debt (at least \$100,000 of debt; 38% owing more than \$200,000) forcing many to leave the ranks of public service. The DALF expansion legislation ([S.161/ Ramos /A.1602 - Simon](#)) would accelerate debt relief and provide incentive to help recruit and retain otherwise dedicated public defenders. In FY25 the Senate allocated the \$4million of additional funding for DALF expansion in their one house budget. This year, we urge both houses of the legislature to allocate funding in the one house budgets and see it through to the final budget.

V. Positions on Article VII proposals in the proposed Executive budget, part PPGG:

With an ever vigilant eye toward the erosion of basic due process protections and the need to end the continuous expansion of criminalization, we offer the following positions on Article VII legislation proposed in the executive budget, part PPGG.

Omit Part H: Extend Orders of Protection

Part H seeks to amend CPL 530.12 and 530.13 to require that a temporary order of protection continues to be in effect until the defendant appears in court on an arrest warrant or otherwise appears. As with several other Article VII proposals, this proposal does not have a budgetary component and should be moved out of the budget and addressed as a stand-alone bill. Also, we are not aware of any cases in which the court has not continued an order of protection under these circumstances, making this amendment unnecessary.

Omit Part I: Streamline Justice by Reducing Costs and Delays in NY Grand Jury Proceedings

We urge the legislature to oppose “Part I” in the PPGG proposed Article VII legislation. The grand jury serves as a critical constitutional safeguard in the criminal legal system. U.S. Const. amend. V & NY Const, art I, § 6. New York courts have repeatedly emphasized the Grand Jury acts as a “buffer between the State and its citizens,” and it “shields against prosecutorial excesses and protects individuals from unfounded prosecutions.” Cost savings and witness convenience should never trump basic constitutional protections.

Under the budget proposal, witnesses can easily relocate 100 miles away or merely claim they live 100 miles away. But beyond that, video appearances create a shield for witnesses. They dilute the solemnity and gravity of the grand jury proceeding. Not only will a grand jury be hindered from making important credibility determinations, no safeguards will ever assure that the witness is not being influenced by another person in that room, being coached or is reading from a prepared document. Grand Jurors should be able to view an accuser or witness in person and assess their credibility with them sitting in the same room. While the Governor’s proposal seeks swifter justice, it does so at the expense of due process, a protection which should not be so easily sacrificed. CDANY strongly opposes this amendment to article 190 of the Criminal Procedure Law.

Omit Part K: Protecting Safe Access to Worship and Health Care

We oppose legislative and executive proposals that seek to create demonstration-free buffer zones around places of worship and reproductive health care facilities across New York state. We believe such proposals are unconstitutional, unnecessary and will lead to increased police interaction and criminal system involvement for New Yorkers exercising their civil rights. Indeed, these measures will stifle political speech and expose more people to the brutality of arrest and criminalization simply for speaking their minds.

The Supreme Court has long held that the state cannot create speech-free zones without a significant interest that would justify the means. This is for good reason: First Amendment principles are at the heart of maintaining democracy. Here, there is no record that comes close to justifying so drastic a solution as a statewide speech-free zone outside of all places of worship and reproductive health facilities. The First Amendment flatly prohibits it.

As an organization of public defenders we must also note that new laws that suppress public speech and increase criminalization are unnecessary when existing laws already address the problem. Indeed, our law already contains protections against harassing and violent conduct outside of religious and reproductive health facilities. And there is no record of violence, intimidation, or interference emanating from protests outside such facilities in New York City—or elsewhere in the State—that current law cannot address. The buffer zone proposals are not only unconstitutional, but criminalize speech, and so will ultimately increase the number and intensity of encounters between civilians and overzealous law enforcement—a result that will disproportionately affect not only certain viewpoints but also communities that are already over-policed. We urge the legislature to reject Part K of the executive proposal in PPGG.

Omit Part L: Sensitive Locations Protection Act in favor of NY 4 All Act

While CDANY supports the proposals contained within Part L, this proposal provides only a small slice of the protection that New York For All (S.2235-A/A.3506-A) would, and in some contexts, may offer a false promise to immigrant communities. We suggest that the legislature omit Part L and instead adopt the comprehensive NY For All Act which has broader reaching protections for immigrant New Yorkers. We strongly agree that New Yorkers should be able to attend school, access childcare, seek medical care, attend worship, and access all areas of government property in peace. Likewise, we strongly agree that enforcement should be subject to a judicial warrant. However, this proposal does not go far enough to address the manner in which the federal government is now enforcing immigration laws. Part L would prohibit access for civil immigration enforcement purposes to certain non-public areas of government properties without a judicial warrant – but only those that are deemed “sensitive” locations. New York For All would apply this protection to nearly all areas of government property, ensuring that none of our resources are misused for immigration enforcement.

This proposal purports to “empower” private facilities that are designated sensitive locations to prohibit access to ICE to maximum extent under law. This does not create any new protections for these areas, and does nothing more than reiterate the rights people already have. We urge the legislature to set aside this proposal and

swiftly pass NY 4 All and ensure that all New Yorkers are able to live without the constant anxiety that living daily life in the open and interacting with the government could lead to being torn away from family. The New York for All Act is the most comprehensive bill on the table to protect immigrant New Yorkers from ICE's cruelty and we urge you to take immediate action to pass it and work with the Governor to ensure enactment.

Amend Part M, Excise the enshrinement of the defense of “qualified immunity”

While we vehemently support efforts to hold federal immigration agents and their collaborators accountable, the current bill undermines its own stated purpose. By codifying qualified immunity into New York State law *for the first time*, this proposal gives New Yorkers a day in court — and guarantees they will almost certainly lose when the doctrine of qualified immunity is invoked. New York State can't fight federal overreach by handing federal agents a legal shield. Any real solution requires both eliminating qualified immunity and passing comprehensive legislation such as New York for All that ends all forms of collaboration between state and local law enforcement and ICE. All New Yorkers deserve to feel safe in their communities and to have a meaningful path to justice when their rights are violated. We reject any legislative effort that forces a false tradeoff between protecting immigrant communities and securing accountability for all marginalized New Yorkers. We urge the legislature to remove language in paragraph 2a. of this proposed legislation that enshrines, for the first time, qualified immunity as a defense when federal officials are sued for violating people's civil rights.

Omit Parts D, F, and R of the PPGG Article VII Bill, Part P of the ELFA Article VII Bill, and Part F of the TED Article VII Bill because they expand criminalization

CDANY opposes legislation that seeks to criminalize more conduct, adding to New York's already overwhelming number of offenses, and proposals that increase the penalties for existing offenses. Criminalization and increased penalties should not be the default method for solving problems, and it is often ineffective, punishes individuals not corporations, and/or has unintended consequences. These proposals encompass a wide range of behaviors, use vague language when defining new crimes, and may criminalize constitutionally protected activities. These proposals should be addressed outside the budget process so that the Legislature is able to carefully analyze each one and receive input from the public.

Omit TED Article VII Part D

This proposal would authorize New York City to establish an “Intelligent Speed Assistance Device” pilot program. The proposal raises several questions that cannot be adequately addressed during the budget process, creates a new class A misdemeanor, and would impose unspecified new fees on certain individuals.

VI. Protecting all New Yorkers from federal overreach

Finally, we also encourage the legislature to take up and pass NY 4 All [*S2235A Gounardes / A3506A Reyes*](#) either as a standalone or as part of this year's budget. While the Governor has made a proposal that does address collusion between ICE and local law enforcement it does not go far enough to protect New Yorkers from federal

overreach. Now, even without a 287(g) agreement, local law enforcement can and do freely share information with ICE to abduct New Yorkers, and coordinate the transfer of New Yorkers to ICE where they suffer horrific abuses. Without New York for All, our communities remain vulnerable and under threat by ICE.

As ICE terrorizes New Yorkers, now is the time to push for the full protections our communities deserve. New York has both the power and the responsibility to do more. The New York for All Act will ensure that our local tax dollars and resources are not used to aid and abet ICE's crimes against humanity and that our local agencies – including our schools, public hospitals, shelters, and more – are not acting as agents of ICE. We urge the legislature to include this crucial legislation in its one-house budgets and move New York into protecting all of its citizens.

VII. Conclusion

The Chief Defenders Association of New York issues a call to action for Governor Hochul and the New York State Legislature to change the status quo; to secure justice for all New Yorkers, protect New Yorkers from federal overreach and keep families together. We have made great strides in New York to repair a broken criminal justice system, and now the time has come to make similar strides in family court. It is our hope and request that we can continue to divert carceral funding and instead invest in our communities to fight the degradation brought on by poverty. Tangential to CDANY's aforementioned funding requests, we call for increased funding for supportive services, housing, educational and job opportunities and better healthcare for the indigent to promote public safety and racial justice.

Please also review our 2026 Legislative Priorities document for a complete list of priorities (attached as an [appendix](#) to this testimony).

If you have any questions about our testimony, please email CDANY Director Jennifer Van Ort (jlvanort@chiefdefendersny.com).