

Legislation: Transfer counties' indigent lawyer service costs to New York state

Legislation would start to push indigent lawyer service costs to New York

By Matthew Hamilton

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Fifty-seven counties statewide feeling pinched by the cost of legal services for the poor have a number of reasons why the state should assume those costs.

In fact, they have an estimated nearly half-billion of them.

Representatives from more than 45 counties and multiple statewide organizations will be in Syracuse Monday to build support for legislation that would force the state to assume the cost of indigent legal services that local officials say are the state's responsibility anyway. The bill, which has wide support in the Democrat-controlled Assembly and was introduced last March, would follow on an indigent legal services suit the state settled in 2014.

That settlement, which was reached with the [New York Civil Liberties Union](#), called on the state to cover over seven years the cost of the services in Suffolk, Washington, Ontario, Onondaga and Schuyler counties. At the time, the NYCLU said it hoped the lawsuit was just a first step toward larger statewide indigent legal services reform.

At a time when even Gov. [Andrew Cuomo](#) has admitted that as the state's finances have improved, some localities continue to languish financially, the vast number of counties not included in that settlement are asking, "What about us?"

"The question comes: Why aren't we working on Medicaid reform? Well, we'd love to see Medicaid reform," said [Stephen Button](#), the St. Lawrence County attorney and former public defender who organized the Monday meeting. "Why aren't we working on funding for district attorneys and prosecutors? We would love to see funding for district attorneys and prosecutors. But we have ... the Gideon v. Wainwright decision that specifically identified that indigent defense was a cost that should be borne by the state. And our state delegated that responsibility to the counties."

Part of Button's impetus for organizing the meeting is the financial state of his own county. State Comptroller [Tom DiNapoli](#) recently identified St. Lawrence County as being under significant fiscal stress. Closer to home, Albany County has been identified as being susceptible to fiscal stress.

For counties that make those lists, already expensive indigent legal services expenses aren't easy to cover, officials say. Button said St. Lawrence County, one of the state's most rural with nearly 112,000 residents, spent \$2.4 million on legal services for the poor in 2014 alone. On the other end of the spectrum, he said the cost in the five boroughs was about \$50 million.

Should such a bill pass the Legislature, where the Senate's Republican majority continually harps on the need to repeal similar mandates, the state could be on the hook for hundreds of millions of dollars. Button said statewide estimates range from \$275 million to \$450 million.

Should the legislation eventually reach Cuomo's desk, it's unclear if he'd approve such a small yet chunky additional cost in a \$140 billion-plus state budget (to be clear, the bill calls for a multiyear phase-in for the state to assume the legal bills in full). A Cuomo spokesman said Sunday that the administration will review the bill.

The bill's main sponsor, Assemblywoman [Patricia Fahy](#), D-Albany, could not be reached for comment Sunday. In a statement, she said cost savings on pretrial incarceration actually are expected.

Fahy's bill does not yet have a Senate companion, though multiple members of the Republican majority are said to be expressing interest in signing on.