Warren County Board of Supervisors

RESOLUTION NO. 510 OF 2012

Resolution introduced by Supervisors Westcott, Monroe, Taylor, Girard, Wood, Mason and Conover

REQUESTING THAT THE NEW YORK STATE MANDATE RELIEF COUNCIL REVIEW EXECUTIVE LAW §§832 AND 833, STATE FINANCE LAW §98-b AND COUNTY LAW ARTICLE 18-B CONCERNING THE FUNDING OF MANDATED LOCAL INDIGENT LEGAL SERVICES AND RESTRICTIONS ON THE MANNER IN WHICH THE SERVICES ARE OFFERED

WHEREAS, the New York State Mandate Relief Council has been established to review mandates that are unsound, unduly burdensome or costly so as to require to be eliminated or reformed, and

WHEREAS, there currently exists two (2) mandates with regard to the provision of indigent legal services that are unduly burdensome and costly and that through broad brush application across the State become unsound and create costs to local taxpayers that would not exist but for the statutory mandate, and

WHEREAS, one of the troublesome mandates exists within County Law, Article 18-B which not only directs that County governments will provide and pay for indigent legal services, but is also very specific as to how the legal services will be provided so that a County is not able to efficiently and economically contract directly with attorneys to provide for these legal services when the Public Defender is unable to do so as a result of a conflict, and

WHEREAS, the County of Warren has had experience with a contract defender and experienced savings when indigent legal services were delivered in that fashion, but such arrangement was eliminated when a Court ruled in another part of the State that such contracted services were not allowed under statute, and

WHEREAS, another troublesome mandate concerns the funding provided by the New York State Office of Indigent Legal Services pursuant to Executive Law §§832 and 833 and State Finance Law §98-b, which has the effect of slowly eliminating State funds in the amount of just over Two Hundred Thousand

Dollars ($200,000) per year that Warren County previously received in order to help offset some of the costs of providing indigent legal services, and

WHEREAS, the aforementioned statutes now require that funds provided by the State not supplant County funds and be used to improve legal services which requirement actually penalizes Warren County for already establishing and sufficiently staffing a Public Defender's office which provides adequate indigent legal services, and

WHEREAS, while Warren County has been able to identify some improvements that could be made to its Public Defender's office, much of the new funding needs to be used to offset the loss of the other State funding that used to be provided to the program, otherwise local taxpayers will experience increased cost and be unfairly or inequitably penalized, and

WHEREAS, it would therefore appear that both statutes are imposing burdensome requirements and costs that would not exist for the local County taxpayers but for the statutes, and further that the laudable goals of such statutes could still be accomplished by allowing for additional options and flexibility, now, therefore, be it

RESOLVED, that the Warren County Board of Supervisors hereby requests that the New York State Mandate Relief Council review the specific statutes and regulations and the effects of the same as more specifically outlined in the preambles of this resolution and that the Mandate Council take such actions as may be permitted under the rules and regulations under which it was established to address the inequities and costs established by these State mandates, and be it further

RESOLVED, that the Mandate Council consider changes to the statutes described in the preambles of this resolution which enable counties to contract with private firm conflict defenders and provide authority to the New York State Office of Indigent Legal Services to review a County's indigent legal services program and if found adequate, provide funding to the County without the need for the County to

make further unnecessary improvements to its program so long as the County does not use the State funding to supplant the amount of County funds expended for the program as of 2012, and be it further

RESOLVED, that the Chairman of the Warren County Board of Supervisors, County Administrator, and/or County Attorney be and hereby are authorized to complete the information required on the Mandate Relief Council website or in consideration of the mandate and are hereby authorized to further describe the mandates outlined in this resolution and to further develop or expand upon the recommended changes as well as the estimated savings from the recommended changes and otherwise provide any other information that these County officials should deem necessary and/or advisable in seeking assistance from the Mandate Relief Council with regard to the mandates identified in the preambles of this resolution, and be it further

RESOLVED, that a copy of this resolution be sent to the New York State Association of Counties with the request that the organization provide assistance with this particular mandate relief, and be it further

RESOLVED, that the County Administrator contact other counties that may have similar concerns regarding the case of contract defender services and/or State funding for the indigent legal services mandate and that may be interested in submitting a similar application for mandate relief.