

WESTCHESTER COUNTY BAR ASSOCIATION
FAMILY COURT ASSIGNED COUNSEL PANELS
INFORMATION FOR APPLICANTS

Enclosed is the Application for Certification to the Family Court Assigned Counsel Panel of the Westchester County Bar Association. Included with the Application Form are:

- a) The attorney eligibility requirements
- b) County Law- Article 18B
- c) Rules of the Appellate Division, Second Department, Section 671.10

Certification to the Panel is by the Central Screening Committee of the Westchester County Bar Association. The Bar Association has the responsibility of certifying attorneys as competent to provide representation pursuant to the 18B Plan for representation. The application process, which is regulated by committee by-laws, is summarized below.

1. Complete your application by answering all questions, attaching any supporting documentation and signing the attorney affirmation. Mail your complete application to:

Chair, Central Screening Committee
Westchester County Bar Association
4 Westchester Park Drive Suite 155
White Plains, New York 10604

2. Your application will be reviewed for completeness and for demonstration of satisfaction of the minimum requirements. If it is facially deficient, it will be returned to you with instructions. Otherwise it will be referred to a committee member for review. The committee member will contact you directly.
3. The committee member will review your application and references (possibly contacting some of them) and arrange an interview with you.

PLEASE NOTE: * APPLICATION SHOULD BE MADE IN DUPLICATE*****

4. After the interview the committee member will recommend to the full committee what action should be taken. You will receive a notice of the Screening Committee's determination by mail. If you are approved for one or more of the panels, the Administrator of the Assigned Counsel Panel will be notified by the Committee. You will receive further details from the Administrator concerning rules and regulations for the conduct of the plan (including payment rules). The Administrator, who is approved by the Appellate Division, will notify the appropriate courts of your addition to the Panel. YOU MAY NOT ACCEPT 18B ASSIGNMENTS UNTIL THIS HAS BEEN DONE.

5. If you are denied certification by the Screening Committee, you will receive notice setting forth the reason(s) for the denial. The notice will contain instructions on how to seek a review by the full committee.

PLEASE REMEMBER that panel membership is not a matter of right. It involves payments from the public funds discretely set aside for a specific purpose. An attorney's certification to the panel and his or her conduct and performance is consequently regulated, inter alia, by Article 18B of the County Law and the Westchester County Plan: The Rules of the Appellate Division, Second Department and the Office of Court Administration; and the Rules and Regulations of the Screening Committee and the Administrator of the Panel. Except for the source of payment, the relationship existing between you and your client is identical to that existing between any other lawyer and client, with the same duties and responsibilities. The government, including the judicial branch, has a constitutional obligation to respect your professional independence in the representation of your client.

ATTORNEY ELIGIBILITY REQUIREMENTS

A. To be eligible for appointment to the Family Court assigned counsel panel designated pursuant to Article 18B of the County Law, under Tier I or Tier II as defined in **paragraph "J"** below, an attorney shall be admitted to practice in the State of New York, in good standing; **and** in the opinion of the Bar Association Screening Committee, which shall consider applicant's experience in civil practice, competent to give effective assistance to clients assigned under Article 18B of the County Law.

B. In addition to the minimum requirement set forth in paragraph "A" above, to be eligible for appointment to a **Tier I** panel, as defined in paragraph "J" below, an attorney shall have serve as counsel or co-counsel in the Family Court in a minimum of two (2) of each of the proceedings under Family Court Act Article 4 or 5, Article 6, Article 8, and Article 10.

C. In addition to the minimum requirements set forth in paragraph "A" above, to be eligible for appointment to a **Tier II** panel, as defined in paragraph "J" below, an attorney shall have served on the Tier I panel for a minimum of two (2) years, unless such two (2) year requirement is waived (a) pursuant to paragraph "D" below; or (b) to ensure continuity of representation on a case which progress from Tier I stages to Tier II.

D. The requirements as set forth in paragraphs "B" and "C" above may be waived if, in the opinion of the Bar Association Screening Committee, an applicant is otherwise qualified by reason of education, training or substantial trial experience.

E. The Bar Association Screening Committee shall establish co-counsel or mentoring programs to provide experience to attorneys who wish to serve on the panel but lack the qualifications requires by paragraphs "A," "B" or "C."

F. The Bar Association Screening Committee shall establish training and education programs for members of the panel(s). Such programs shall be established in conjunction with Bar Associations, law schools or other professional associations. The Screening Committee shall make attendance at training programs a requirement for continued membership on the panels.

G. The Bar Association Screening Committee may set forth such additional eligibility requirements and procedures for each panel, as it sees fit, subject to approval by the Appellate Division.

H. Appointments to the panel shall not exceed three (3) years, but successive designations may be made.

I. Any panel member on the Tier I panel wishing to be approved for the Tier II panel must make application to the Bar Association Screening Committee.

J. Tier I shall consist of all cases before the Family Court except those Article 10 of the Family Court cases involving sexual abuse allegations or proceedings involving the termination of parental rights. Tier II shall consist of Tier I matters and proceedings under Article 10 of the Family Court Act involving sexual abuse allegations or proceedings involving the termination of parental rights.

Rules of the Appellate Division, Second Department - 22 NYCRR § 671.10

§ 671.10 Duties of Assigned Counsel in the Family Court

(a) Upon the entry of an order in the Family Court from which an appeal is or may be taken under section 1112 of the Family Court Act, it shall be the duty of counsel for the unsuccessful party, immediately after the entry of the order, to give either mail or personally, written notice to his client advising his or her right to appeal or to make application for permission to appeal, and request written instructions as to whether he or she desires to take an appeal or to make such application. Thereafter, if the client gives to counsel timely written notice of his or her desire to appeal or to make such application, counsel shall promptly serve and file the necessary formal notice of appeal or application to this court. Unless counsel shall have been retained to prosecute the appeal, the notice of appeal shall contain the additional statement that it is being served and filed on appellant's behalf pursuant to this rule and that it shall not be deemed to be counsel's appearance as appellant's attorney on the appeal.

(b) In counsel's written notice to his client advising him of the right to appeal or to make application for permission to appeal, counsel shall also set forth:

- (1) the applicable time limitations with respect to the taking of the appeal or the making of the application for permission of appeal;
- (2) the manner of instituting the appeal and, if a trial or hearing was held and stenographic minutes taken, the manner of obtaining a typewritten transcript of such minutes;
- (3) appellant's right, upon proof of his financial inability to retain counsel and to pay the costs and expenses of the appeal, to make application to this court for assignment of counsel to prosecute the appeal; and, if stenographic minutes were taken for a direction to clerk and the stenographer of the trial court that a typewritten transcript of such minutes be furnished without charge to appellant's assigned counsel or, if appellant prosecutes the appeal prosecute, to appellant; and
- (4) in such notice counsel shall also request the written instructions of his client, and if the client thereafter gives counsel timely written notice of his desire to make application for permission to appeal or apply for relief provided in paragraph (3), or to make any one or all of these applications, counsel shall proceed promptly to do so

(c) Counsel shall also advise the client that in those cases where permission to appeal is require, applications for foregoing relief will be considered only if such permission is granted.

(d) In the event the unsuccessful party is the appellant, he or she must serve a copy of the notice of appeal upon the successful party and upon the attorney who last appeared for the successful party in the court in which the order being appealed was entered.

(e) If the attorney for the successful party is served with the notice of appeal, it shall be the duty of the attorney so served to give, either by mail or personally, written notice of his client of the fact that the unsuccessful party has taken an appeal. Such notice shall also advise the client of his rights:

- (1) to retain to counsel to represent him as respondent on the appeal;
- (2) to respond to the appeal pro se; and
- (3) upon proof of his financial inability to retain counsel and to pay the costs and expenses of responding to the appeal, to make application to this court for the assignment of counsel. In such notice counsel shall also request the written instructions of his client and, if the client thereafter gives counsel timely written notice of his desire to make such application, counsel shall proceed promptly to do so.

(f) In the event, however, that the attorney was the assigned counsel for the successful party in the court in which the order being appealed was entered, such assignment shall remain in effect and counsel shall continue to represent the successful party as the respondent on the appeal and until entry of the order determining the appeal and until counsel shall have performed any additional applicable duties imposed upon him by these rules, or until counsel shall have been otherwise relieved of his assignment. In the event the assignment remains in effect as herein provide, the written notice to the client provide in subdivision (e) of this section may be dispensed with, except to the extent of confirming the fact that such appeal has been taken by the unsuccessful party.

ARTICLE 18-B OF THE COUNTY LAW

§ 722. Plan for representation.

722-a. Definition of crime.

722-b. Compensation and reimbursement for representation.

722-c. Services other than counsel.

722-d. Duration of assignment.

722-e. Expenses

§ 722. Plan for representation

The governing body of each county and the governing body of the city in which a county is wholly contained shall place in operation throughout the county a plan for providing counsel to persons charged with a crime or who are entitled to counsel pursuant to section two hundred sixty-two or section eleven hundred twenty of the family court act, article six-C of the correction law, section four hundred seven of the surrogate's court procedure act or article ten of the mental hygiene law, who are financially unable to obtain counsel. Each plan shall also provide for investigative, expert and other services necessary for an adequate defense. The plan shall conform to one of the following:

1. Representation by a public defender appointed pursuant to county law article eighteen-A.
2. In criminal proceedings, representation by counsel furnished by a private legal aid bureau or society designated by the county or city, organized and operating to give legal assistance and representation to persons charged with a crime within the city or county who are financially unable to obtain counsel. In proceedings under the family court act, representation by a private legal aid bureau or society, or by any corporation, voluntary association, or organization permitted to practice law under the authority of subdivision five of section four hundred ninety-five of the judiciary law.
3. Representation by counsel furnished pursuant to a plan of a bar association in each county or the city in which a county is wholly contained whereby the services of private counsel are rotated and coordinated by an administrator, and such administrator may be compensated for such service. Any plan of a bar association must receive the approval of the state administrator before the plan is placed in operation. In the county of Hamilton, such representation may be by counsel furnished by the Fulton county bar association pursuant to a plan of the Fulton county bar association.
4. Representation according to a plan containing a combination of any of the foregoing. Any judge, justice or magistrate in assigning counsel pursuant to sections 170.10, 180.10, 210.15 and 720.30 of the criminal procedure law, or in assigning counsel to a defendant when a hearing has been ordered in a proceeding upon a motion, pursuant to article four hundred forty of the criminal procedure law, to vacate a judgment or to set aside a sentence or on a motion for a writ of error coram nobis, or in assigning counsel pursuant to the provisions of section two hundred sixty-two of the family court act or section four hundred seven of the surrogate's court procedure act, or in assigning counsel to a defendant when a case has been calendared for consideration of resentencing pursuant to subdivision four of section six hundred one-d of the correction law or when a court is otherwise called upon to consider whether a proper term of post-release supervision was imposed as part of a determinate sentence, shall assign counsel furnished in accordance with a plan conforming to the requirements of this section; provided, however, that when the county or the city in which a county is wholly contained has not placed in operation a plan conforming to that prescribed in this subdivision or subdivision three of this section and the judge, justice or magistrate is satisfied that a conflict of interest prevents the assignment of counsel pursuant to the plan in operation, or when the county or the city in which a county is wholly contained has not placed in operation any plan conforming to that prescribed in this section, the judge, justice or magistrate may assign any attorney in such county or city and, in such event, such attorney shall receive compensation and reimbursement from such county or city which shall be at the same rate as is prescribed in section seven hundred twenty-two-b of this article. When a case has been calendared for consideration of resentencing pursuant to subdivision four of section six hundred one-d of the correction law or when a court is otherwise called upon to consider whether a proper term of post-release supervision was imposed as part of a determinate sentence, the attorney appointed should be the attorney who appeared for the defendant in connection with the judgment or sentence or, if the defendant is currently represented concerning his or her conviction or sentence or with respect to an appeal from his or her conviction or sentence, such present counsel.

5. In classification proceedings under article six-C of the correction law or from an appeal thereof, representation shall be according to a plan described in subdivisions one, two, three or four of this section. If such plan includes representation by a private legal aid bureau or society, such private legal aid bureau or society shall have been designated to give legal assistance and representation to persons charged with a crime.

Upon an appeal in a criminal action, and on any appeal described in section eleven hundred twenty of the family court act, article six-C of the correction law or section four hundred seven of the surrogate's court procedure act, wherein the party is financially unable to obtain counsel, the appellate court shall assign counsel furnished in accordance with the plan, conforming to the requirements of this section, which is in operation in the county or in the city in which a county is wholly contained wherein the judgment of conviction, disposition, or order of the trial court was entered; provided, however, that when such county or city has not placed in operation a plan conforming to that prescribed in subdivision three or four of this section and such appellate court is satisfied that a conflict of interest prevents the assignment of counsel pursuant to the plan in operation, or when such county or city has not placed in operation any plan conforming to that prescribed in this section, such appellate court may assign any attorney in such county or city and, in such event, such attorney shall receive compensation and reimbursement from such county or city which shall be at the same rate as is prescribed in section seven hundred twenty-two-b of this chapter.

§ 722-a. Definition of crime

For the purposes of this article, the term "crime" shall mean a felony, misdemeanor, or the breach of any law of this state or of any law, local law or ordinance of a political subdivision of this state, other than one that defines a "traffic infraction," for which a sentence to a term of imprisonment is authorized upon conviction thereof.

§ 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 sixty dollars per hour for time expended in court or before a magistrate, judge or justice, and sixty 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 seventy-five dollars per hour for time expended in court before a magistrate, judge or justice and seventy-five dollars per hour for time reasonably expended out of court, and shall receive reimbursement for expenses reasonably incurred.

2. Except as provided in this section, compensation for time expended in providing representation:

(a) pursuant to paragraph (a) of subdivision one of this section shall not exceed two thousand four hundred dollars; and

(b) pursuant to paragraph (b) of subdivision one of this section shall not exceed four thousand four hundred dollars.

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 is assigned without approval of the court as herein provided.

§ 722-c. Services other than counsel

Upon a finding in an ex parte proceeding that investigative, expert or other services are necessary and that the defendant or other person described in section two hundred forty-nine or section two hundred sixty-two of the family court act, article six-C of the correction law or section four hundred seven of the surrogate's court procedure act, is financially unable to obtain them, the court shall authorize counsel, whether or not assigned in accordance with a plan, to obtain the services on behalf of the defendant or such other person. The court upon a finding that timely procurement of necessary services could not await prior authorization may authorize the services nunc pro tunc. The court shall determine reasonable compensation for the services and direct payment to the person who rendered them or to the person entitled to reimbursement. Only in extraordinary circumstances may the court provide for compensation in excess of one thousand dollars per investigative, expert or other service provider.

Each claim for compensation 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.

§ 722-d. Duration of assignment

Whenever it appears that the defendant is financially able to obtain counsel or to make partial payment for the representation or other services, counsel may report this fact to the court and the court may terminate the assignment of counsel or authorize payment, as the interests of justice may dictate, to the public defender, private legal aid bureau or society, private attorney, or otherwise.

§ 722-e. Expenses

All expenses for providing counsel and services other than counsel hereunder shall be a county charge or in the case of a county wholly located within a city a city charge to be paid out of an appropriation for such purposes.

**APPLICATION TO THE FAMILY COURT ASSIGNED COUNSEL PLAN
WESTCHESTER COUNTY BAR ASSOCIATION**

Date: _____

_____ Initial Certification

_____ Upgrading

_____ Re-Certification

(Please Print)

Name: _____

Home Street Address: _____

Home Phone: _____

Home City, State, Zip: _____

Cell Phone: _____

Office Street Address: _____

Office Phone: _____

Office City, State, Zip: _____

Office Fax: _____

Required Email Address: _____

Office of Court Administration Registration Number: _____

Please direct all correspondence to: _____ HOME _____ OFFICE

(Please note: the address you choose will be the published address for the courts and potential clients)

Law School: _____

Graduation Date: _____

When and where were you admitted to the New York Bar?

Date: ____/____/____ Department: _____
MM/ YYYY

Indicate if you are currently serving on the Family Court panel: (if applicable)

_____ Tier I _____ Tier II _____ Appeals*

_____ White Plains _____ Yonkers _____ New Rochelle _____ All

Indicate the panel(s) for which you are applying:

_____ Tier I _____ Tier II _____ Appeals*

_____ White Plains _____ Yonkers _____ New Rochelle _____ All

*In order to be on the Appellate Panel for Family Court you have to be approved for Tier I and II

**1. List all law positions held since graduating, including part-time employment and clerkships:
(Provide name and address of employer or judge and dates of employment)**

Employer: _____ Position: _____

Address: _____ From/To: _____

2. Present law position or title held (e.g. partner, associate, individual, private practice, etc.)

3. General nature of current practice (e.g. criminal – trial or appellate; civil litigation; corporate, etc.; general; etc.)

4. Foreign language proficiencies (Please note: proficiencies should be well enough to handle unspeaking clients.)

5. Number of proceedings applicant has served as counselor, co-counsel under Family Court Act and indicate whether counsel or co-counsel.

Neglect _____ Sexual Abuse _____

Termination of Parental Rights _____

Adoption _____ Custody/Visitation _____

Paternity _____ Support _____

Guardianship _____ Foster Care _____

Family Offense _____

Other Family Court proceedings _____

6. In how many of the above was there a trial or hearing?

7. Are you now on, or have you applied for any other assignment panels, either state or federal?

If so, list the panels and the action taken:

8. List names, addresses and phone numbers of five adversaries on cases you recently handled:

9. List two judges before whom you have conducted a preliminary hearing, a litigated motion or a trial.

10. In your law school did you complete a clinical, advocacy, trial practice or other lawyering skills training course? _____ If so, state:

Title Course _____

Name of Instructor _____ # of Credit Hours _____

Description of Course and Skills _____

11. Have you attended any continuing legal education courses that teach trial skills? ____ If so, provide particulars:

12. Have you completed any other family court techniques program? _____ If so, attach certificate of attendance or reference from instructor.

13. Do you have any other relevant legal experience that you feel will be helpful in evaluating your competence to serve on the panels for which you have applied? ____ If so, state particulars: _____

14. Indicate which type of work you would like to perform:

Trial_____ Appellate_____ Trial and Appellate_____

15. If you wish to perform appellate work, complete the following:

	Approx. # Of civil	Approx # Of criminal	Brief, Argued or Both
Appellate Term	_____	_____	_____
Appellate Division	_____	_____	_____
Court of Appeals	_____	_____	_____
U.S. Court of Appeals	_____	_____	_____

16. State membership in Bar Associations and Committees:

17. State if and to what extent you have been disciplined or had any complaints lodged against you as an attorney, whether with an appellate division grievance committee bar association or other: _____

18. Have you ever been relieved by the court for cause on a case? _____ If so, state particulars:

19. Have you ever been denied or refused certification or admission to any assigned counsel panel? ____ If so, state particulars:

20. Have you ever been suspended, removed, dropped or asked to resign from any assignment counsel panel (for reasons other than reformulation of the panel):_____

21. Have you ever been held in contempt? _____ If so, state particulars:

22. Have you ever been convicted of a crime in this state or in any other jurisdiction of an offense which if committed in New York would constitute a crime?

23. Describe any other legal experience you consider relevant to this application:

24. Any other information or comments you wish to state:

THE UNDERSIGNED, AN ATTORNEY OF LAW OF THE STATE OF NEW YORK HEREBY AFFIRMS UNDER PENALTY OF PERJURY THAT THE INFORMATION PROVIDE IN THIS APPLICATION IS TRUE, ACCURATE AND CORRECT TO THE BEST OF MY KNOWLEDGE

I similarly affirm that I have read and am familiar with Article 18B of the County Law; and Parts 671 of the 691 Rules of the appellate Division, Second Department. I agree to abide by all rules and regulations now existing or from time to time promulgated by the Appellate Division, Second Department, the WCBA Screening Committee and the Administrator of the Assigned Counsel Panel relating to the conduct of the Plan.

The undersigned further agrees to participate in any co-counsel, training and/or continuing education programs, the family Court Assigned Counsel Committee might sponsor unless such participation be waived by the committee for good cause shown.

The undersigned hereby agrees to a personal interview with one or more members of the committee regarding this application, if requested.

Date:_____

Attorney Signature