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CYRUS R. VANCE, JR.
NEW YORK COUNTY

March 21, 2013

The Honorable Andrew M. Cuomo
Governor of the State of New York
New York State Capitol Building
Albany, NY 12224

Re: Probation Sentences and Pre-Sentence Investigation Requirements

Dear Governor Cuomo:

On behalf of the District Attorneys Association of the State of New York (DAASNY), a voluntary organization comprised of the 62 elected District Attorneys in our State and the Special Narcotics Prosecutor of the City of New York, I write in support of two legislative proposals concerning sentences of probation. The first relates to establishing terms of probation sentences and revocations thereof under certain circumstances. The second relates to eliminating the pre-sentence investigation (PSI) requirement when the maximum potential period of incarceration is one year or less. To the extent that the provisions found in these bills -- A4582, S2100 (O'Donnell, Golden) and S3073 (Golden, no same as) might be inserted into equivalent pieces of proposed legislation, DAASNY would also support that legislation.

A4582, S2100 would allow judicial discretion in establishing the term of probation for felonies at three, four, or five years and allow judicial discretion in the term of probation for misdemeanors at two or three years. Consistent with New York's approach to sentencing convicted individuals to jail or prison time, this proposal provides for judicial discretion in sentencing convicted individuals to a term of probation. Judges would be able to base sentencing decisions on the nature of the crime committed as well as the convicted individual's criminal history and risk of re-offending. This bill rightly excludes sex offenders and certain high-risk cases. Moreover, it allows judges to extend probation when a convicted individual violates the terms of probation.

S3073 would eliminate PSI requirement when the maximum potential period of incarceration is one year or less. The proposal would not affect any case that goes to trial and ends in a verdict; a PSI would continue to be required in such cases. Additionally, the Court would continue to have the discretion to order a PSI when the Court deems it appropriate. In instances where a PSI is not required under the proposed law, and the Court does not order one, the prosecutor or defendant would retain the right to submit their own pre-sentence memorandum when they deem it appropriate.

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These proposals offer pragmatic reforms that allow probation to focus resources on those most in need of supervision and are consistent with public safety and justice. DAASNY therefore supports the provisions in A4582, S2100 (O'Donnell, Golden) and S3073 (Golden) and any equivalent provisions.

Sincerely,

Cyrus R. Vance, Jr.
President, DAASNY



cc: The Honorable Jeffery Klein (*via facsimile 518-426-6887*)
The Honorable Dean Skelos (*via facsimile 518-426-6950*)
The Honorable Sheldon Silver (*via facsimile 518-455-5459*)