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New York Legal Services Coalition Applauds the Passage of Measure that will Remove Barriers to Justice for Low-income New Yorkers

The New York Legal Services Coalition (NYLSC) celebrates the passage of long overdue reforms to the notarization process in civil proceedings in New York State. The legislation, S.5162 (Hoylman-Sigal) / A.5772 (Lavine), passed the Senate yesterday, having been previously adopted by the Assembly last week with overwhelming support. Once signed into law, New York will join the federal government and the over 20 other states who have eliminated the burdensome and often discriminatory process of requiring documents to be notarized in civil matters.

Currently, our laws require litigants in civil proceedings to have documents notarized for submission to the court with narrow exceptions for certain licensed professionals such as attorneys and dentists, who may instead submit affidavits. During the pandemic, the state instituted some limited e-notarization options, but even this process is onerous and can pose a barrier for our clients. One such client was Ms. D, a 66-year-old Brooklyn woman with an advanced stage of cancer that has recently spread to her brain.

Ms D. was a client of coalition member Brooklyn Legal Services Corporation A, she had not been in touch with their office over the past year as she struggled to manage her affairs while dealing with cancer. She reached out when a Marshal served her with an eviction notice allowing just two weeks to get an Order to Show Cause to halt the eviction. The severity of her illness made it all but impossible for her to hear her phone ringing, talk on the phone, or remember the issues being discussed, much less to be able to get out of her apartment and even to a nearby

location where documents could be notarized. Her apartment was at such a distance that made it difficult for the attorneys to go to her.

As a result, two weeks later an Order and Affirmation were drafted but had not been notarized. Legal services attorneys were able to get an Adult Protective Services referral and get a bit more time that, finally, allowed for notarization in time to comply with the court order. Ms. D's illness continued to advance, and she became all but unreachable again before being placed into hospice care.

Whether online or in-person, the archaic rule disproportionately impacts individuals, like Ms. D, with limited access to transportation and technology. S.5162 / A.5772 will provide relief to litigants and help close the justice gap by allowing sworn statements under penalty of perjury in lieu of the notarization requirement.

“This bill removes barriers to justice for many thousands of New Yorkers involved in civil cases every year. Requiring documents in civil proceedings to be notarized creates a barrier that disproportionately impacts low-income and unrepresented individuals, especially in communities of color, with no notable benefit for the justice system,” said Tina Monshipur Foster, Board President of the NY Legal Services Coalition. “We thank Senator Hoylman-Sigal, Assemblymember Lavine, Speaker Heastie, and Majority Leader Stewart-Cousins for their leadership on this issue and urge Governor Hochul to promptly sign this bill into law.”

State Senator Brad Hoylman-Sigal said, "Today, New York is one step closer to making our court processes less burdensome and more equitable for all. I am proud that the New York legislature passed our bill (S.5162) to eliminate the requirement that court participants must have their documents notarized. The outdated provision has long been removed from federal courts — it's past time New York follow suit. I am grateful to Senate Majority Leader Stewart-Cousins for putting our bill onto the floor and the New York Legal Services Coalition for their support. I look forward to Governor Hochul signing it into law this year."

Assemblyman Charles Lavine said, “By allowing litigants in civil cases to swear to a statement under penalty of perjury without having to notarize the document, this bill removes significant barriers to access to justice especially in housing, civil and family court matters. In these times of great economic uncertainty caused by the pandemic, it will undoubtedly help New Yorkers by relieving them from an undue financial burden.”

There is no evidence that notarization increases the truth of statements made. Additionally, under Federal Law, and in more than 20 states, unsworn and unnotarized declarations are accepted so long as they include a statement that the document is true under penalty of perjury.

About New York Legal Services Coalition

The New York Legal Services Coalition is a statewide association that represents the interests of civil legal services organizations and the communities they serve. Our members collectively provide services in the areas of family law, housing, immigration, and public benefits across all 62 counties of New York State.

