Memorandum in Support

Remove Barriers to Access to Justice Certain Civil Proceedings

S.9032A (Ryan) / A.9478A (McMahon)

The New York Legal Services Coalition supports this legislation that will take the final steps necessary to remove significant barriers to access to justice for low-income New Yorkers, especially in housing, civil and family court matters.

This bill clarifies Chapter 559 of 2023 law that eliminated the notarization requirement in civil proceedings. The changes allow a person to submit an affirmation under penalty of perjury in lieu of an affidavit in an administrative proceeding (CPLR 2106). The bill passed with broad support and was signed by the governor. Despite clear legislative intent, however, OCA is advising that the 2023 statutory change does not apply to verifications under CPLR 3020 or to administrative proceedings. This bill would merely clarify that the 2023 law also applies to verifications and administrative proceedings.

While technical in nature, the passage of this bill is critical to fully realize the original intent of the 2023 law change. The notary requirement continues to be an outdated burden to access to justice in civil proceedings. There is no evidence that notarization increases the truth of statements made. Under Federal Law and in more than 20 states unsworn and unnotarized declarations are accepted as long as they include a statement that the document is true under penalty of perjury.

The notarization process became more onerous during COVID: Litigants who do not have a lawyer have to pay a notarization fee, spend time and money to find a notary, take time off work, and travel to the notary.

Requiring a notary disproportionately affects low-income and unrepresented individuals, especially communities of color and deepens the digital divide. The “opportunity” to notarize court documents remotely only works for those who have access to the internet and necessary technology and are digitally literate.
1. Low-income litigants do not have printers, scanners, fax machines or computers
2. Many cannot pay the expenses needed to electronically submit a notarized statement.
3. Many lack the digital skills to navigate the internet, equipment and tools required for remote notarization.

Please contact Kristin Brown: kbrown@empirejustice.org or Sal Curran: scurran@vlpcny.org if you have any questions.