



May 31, 2023

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Legal Aid Lauds Passage of Bill that Removes Barriers to Justice for Low-Income New Yorkers by Eliminating the Notary Requirement in Civil Court

Advocates Call on Governor Hochul to Sign it Immediately

(NEW YORK, NY) – The Legal Aid Society issued the following statement in response to the New York State Legislature passing S5162/A5772, legislation that would remove significant barriers to justice for low-income New Yorkers in housing, civil, and family court matters by amending Civil Practice Law and Rule (CPLR) 2106 to allow litigants in civil cases to swear to a statement under penalty of perjury without having to notarize the document:

“We applaud the New York State Legislature for fully passing this critical bill that will remove the outdated burden of a notary requirement for statements made by litigants in civil cases. This barrier has for years prevented low-income, unrepresented New Yorkers — a disproportionate number of whom are from communities of color — from receiving equal access to a speedy and fair trial.

“We have long known that the notarization process is overly onerous, especially for New Yorkers with limited means. The removal of this requirement will dramatically increase access to justice for all New Yorkers, regardless of their socioeconomic status or background.

“The Legal Aid Society commends bill sponsors Senator Brad Hoylman-Sigal and Assembly Member Charles Lavine for their leadership, and we call on Governor Hochul to sign this legislation immediately into law.”

BACKGROUND:

New York State Legislature bill S5162/A5772 will remove significant barriers to access to justice for low-income New Yorkers, especially in housing, civil and family court matters.

This bill would amend Civil Practice Law and Rule (CPLR) 2106 to allow litigants in civil cases to swear to a statement under penalty of perjury without having to notarize the document. The Permanent Commission on Access to Justice, in its 2020, 2021 and 2022 reports recommended that the notary requirement be eliminated as it significantly impedes access to the courts. This recommendation has regularly been supported by the New York State Bar Association.

The notary requirement is an outdated burden to access to justice in civil proceedings.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 deepen 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.

Low-income litigants do not have printers, scanners, fax machines or computers
Many cannot pay the expenses needed to electronically submit a notarized statement.
Many lack the digital skills to navigate the internet, equipment and tools required for remote notarization.

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The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 145 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities. www.legalaidnyc.org