



## **Memorandum in Support**

### **Remove Barriers to Access to Justice in Certain Civil Proceedings**

#### **S.5162 (Hoylman-Sigal)**

Her Justice strongly supports S.5162, which will remove significant barriers to access to justice for low-income New Yorkers, especially in housing, civil and family court matters.

Her Justice is a nonprofit organization that stands with women living in poverty in New York City by providing them with free legal services, in partnership with pro bono attorneys at New York City's top law firms, in the areas of family, matrimonial and immigration law. Her Justice clients come from all over New York City – 31% live in Queens, 29% in Brooklyn, 23% in the Bronx and 13% in Manhattan. They also represent New York City: 54% are Latina, 24% are Black and 14% are Asian or from another minority group. All our clients are in critical need of legal support; 83% are survivors of intimate partner violence; 70% are mothers; and 48% need an interpreter in court. Access to civil justice is a key priority for Her Justice in our direct services – where we and our pro bono partners have represented hundreds of individual clients in Family Court cases – and in our policy reform efforts. Her Justice's policy work is informed by the lived experience of our clients – women living in poverty whose livelihood and well-being are often determined by the civil justice system. We work to reform this system such that it produces the most favorable outcomes for women like our clients, through processes that are as equitable, empowering, and as efficient as possible.

This bill would amend 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The notary requirement is an outdated barrier to access to justice in civil proceedings.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 the COVID-19 pandemic. 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. Even for litigants with legal representation, this requirement can be burdensome. For one Her Justice client, pro bono counsel had to hire a traveling notary to meet with the client to get the required Family Court documents executed because the client was physically unable to meet with the attorney in person. In this instance, the pro bono firm was able to cover the \$50 fee, but for many pro se and legal services clients this would be cost-prohibitive.

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. Some barriers facing low-income litigants are:

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

For the above reasons, Her Justice strongly supports S.5162, which will remove significant barriers to access to justice for low-income New Yorkers, especially in housing, civil and family court matters, and ensure meaningful participation by all New Yorkers in the civil justice system on which they rely for the essentials of life.