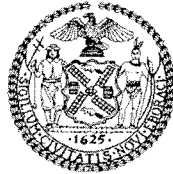


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**THE COUNCIL OF THE CITY OF NEW YORK**  
**COMMITTEE REPORT OF THE LEGISLATIVE DIVISION**  
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**COMMITTEE ON COURTS AND LEGAL SERVICES**  
**Honorable Rory Lancman, Chair**

**April 15, 2015**

**INT. NO. 736:**

By Mark Levine and The Speaker (Council Member Mark-Viverito), Chin, Dromm, Johnson, Lancman, Lander and Rose

**TITLE:**

A Local Law to amend the New York city charter, in relation to an office of civil justice.

**CITY CHARTER:**

Amends chapter 1 by adding a new section 13-b.

## **Introduction**

On April 15<sup>th</sup> 2015, the Committee on Courts and Legal Services, chaired by Council Member Rory Lancman, will hold a hearing on Int. 736, related to the creation of the Office of Civil Justice. Legal service providers, advocates, interested members of the public and representatives of New York City's Human Resources Administration ("HRA") are expected to testify.

## **Background**

In 1963, the Supreme Court established a right to counsel for indigent criminal defendants who face imprisonment in the landmark case of *Gideon v. Wainwright*.<sup>1</sup> This right recognizes that legal counsel is indispensable in those cases in which an individual's liberty is at risk. The reality, however, is that many civil cases feature stakes as high as some criminal matters. Civil case judgments can result in the loss of a home, a country, and even a family member. Although there is a federal right to counsel for low-income individuals who face civil forfeiture of their primary residence, such a right does not exist for the vast majority of civil cases, even those involving basic human needs.<sup>2</sup> For low-income New Yorkers, there has been a growing need for civil legal services that has until now been managed through a patchwork of programs and stopgap solutions.<sup>3</sup>

From litigants fighting eviction proceedings in Housing Court, to individuals being held in the Rikers Island complex on detainer warrants, to victims of domestic violence seeking refuge from their abusers, the inability to afford a lawyer often tips the scale against these low earners and creates an outcome that can be life altering. The negative consequences of the lack of legal representation in these cases go beyond individual litigants in these cases. The results of these cases often end up costing New York City more than the cost to provide proper civil legal services in the first place.

In recognizing the urgent need to provide equal justice for civil legal services for low-income residents of this state, the State Judiciary has paved the path in raising awareness. In 2010, as part of

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<sup>1</sup> 372 U.S. 335 (1963).

<sup>2</sup> The Civil Forfeiture Reform Act of 2000, 42 U.S.C. § 2996f(a)(11).

<sup>3</sup> The need for civil legal services has grown due to disasters such as Hurricane Sandy and Hurricane Irene.

Chief Judge Lippman’s approach to provide adequate civil legal services to low-income residents of New York, Judge Lippman created a task force that concentrated its efforts on establishing recommendations and solutions to the ever growing problem of low-income individuals going without representation in civil court in New York State.<sup>4</sup> From 2010 to the present, Judge Lippman’s task force, with the cooperation of the Legislature and Governor, has secured millions of public dollars for New Yorkers who are in need of civil legal assistance. Based on the recommendation of the Task Force, the Chief Judge has increased the funding from \$15 million in FY 2010 to \$55 million in FY 2015.<sup>5</sup> Each year, the funds are allocated on a need basis, and awarded through grants that are decided by a competitive bidding process managed by the State. This additional state funding has directly resulted in the representation of thousands of New Yorkers who would have otherwise been unrepresented, and been instrumental in beginning to narrow the justice gap between low income New Yorkers and their wealthier counterparts who can afford legal representation in civil cases.<sup>6</sup>

Providing civil legal service where the need would otherwise go unmet has a significant impact beyond the low-income individuals who are gaining some much needed assistance. The State and City save millions of dollars in costs that would be expended on other safety net areas due to these initiatives. For example, in the report, *The State of the Homeless 2014*, the Coalition for the Homeless<sup>7</sup> identifies evictions as one of the major immediate causes of family homelessness in New York City.<sup>8</sup> According to tenant advocates, at least half of the families that find themselves homeless due to eviction could have avoided this severe outcome, had they had the assistance of legal

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<sup>4</sup> Titled “The Task Force to Expand Access to Legal Services in New York.” Their reports and more information available at <https://www.nycourts.gov/ip/access-civil-legal-services/index.shtml>.

<sup>5</sup> Report of the Chief Judge, November 2013 – The Continuing Urgent Need To Bridge The Access-to-Justice Gap In New York State

<sup>6</sup> *Id.*

<sup>7</sup> A national not-for-profit advocacy group for the homeless.

<sup>8</sup> <http://www.coalitionforthehomeless.org/state-of-the-homeless-2014/>

representation.<sup>9</sup> In the area of domestic abuse, millions of dollars are saved by the added funds that are allotted to the prevention of domestic violence instead of the money that is currently being spent on victims who require extensive legal services in the aftermath of domestic violence.<sup>10</sup> Family matters that involve support payments are another example where the proper coordination of civil legal services would result in significant benefit to the City. For the 2013 report of Judge Lippman's task force, an update study was conducted to evaluate what effect, if any, the provision of civil legal services had on low-income New Yorkers attempting to claim their spousal or child support. The study found that in 2012, the provision of civil legal services helped low-income New Yorkers claim a total of \$3.9 million in child support and \$1.2 million in spousal support payment.<sup>11</sup> Overall, the task force estimated that every dollar invested in civil legal services creates more than six dollars in economic payback to the State.<sup>12</sup>

The Council has recognized the importance of this issue by undertaking a number of significant initiatives in recent years. For example, the Council has nearly doubled its funding for legal services in New York City from last year's budget of approximately \$12.5 million to over \$23 million in the present year. The funding for anti-eviction and SRO legal services increased from \$2 million in FY 2014 to approximately \$5 million in FY 2015, and citywide civil legal services was allotted \$3.75 million in FY 2015 compared to \$1.5 million in FY 2014. Funding for legal services for the working poor increased by \$500,000 to \$1.5 million from FY 2014 to FY 2015, and funding for immigrant battered women's legal services increased more than \$500,000 dollars between FY 2014 and FY 2015.<sup>13</sup> Finally, the Council provided funding to ensure that unaccompanied minors facing deportation, and a substantial number of indigent immigrants facing deportation, are

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<sup>9</sup> [http://www.nytimes.com/2014/12/17/nyregion//push-to-provide-lawyers-in-new-york-city-housing-courts-gains-momentum.html?\\_r=0](http://www.nytimes.com/2014/12/17/nyregion//push-to-provide-lawyers-in-new-york-city-housing-courts-gains-momentum.html?_r=0)

<sup>10</sup> 2013 Task force report, pgs.23-27

<sup>11</sup> The Task Force To Expand Access To Civil Legal Services In New York, November 2013, pg 25

<sup>12</sup> Id. pg 25

<sup>13</sup> Figures compiled by the Finance Division of the New York City Council.

represented by an attorney. The City's expansion of civil legal services has already provided significant savings to New Yorkers, and Int. No. 736 could result in additional savings by creating the Office of Civil Justice to expand and further develop available legal service programs.

Int. No. 736 is intended as a step toward remedying the unjust imbalance between those with the financial resources who can afford adequate civil counsel and those forced to face the life-altering power of the courts without the help of an attorney. The purpose of the Office of Civil Justice would be to work toward ensuring that the civil legal needs of low-income individuals are sufficiently met by identifying and evaluating the needs for such services in a central office, and then coordinating the provision of such services. The proposed legislation's requirement for a five-year plan to provide civil legal services to low-income residents of the City would have impacts relating to such basic needs as housing, immigration and family law, and represent an important step towards providing legal counseling to historically underserved communities.

#### **Analysis of Int. No. 736**

Int. No. 736 would require the creation of an Office of Civil Justice, to be headed by a Civil Justice Coordinator (CJC). This position, similar to that of the Criminal Justice Coordinator, would be responsible for the oversight and coordination in a number of areas relating to the provision of civil legal services. The CJC would advise the Mayor on implementing and coordinating the provision of civil legal services among agencies, and would review budget requests and make recommendations on budget priorities with respect to such requests.

The CJC would be responsible for assessing the efficacy and capacity of civil legal provider programs, pro bono programs, and law school programs such as clinics, to determine how many low-income New York City residents are actually being served and, more importantly, how many such residents have unmet needs for civil legal services. The CJC would be required to identify areas and populations of the City that have the most unmet needs. The bill would require the CJC to report this

information to the Mayor and the Council on an annual basis. The CJC would also be required to make recommendations on the expansion of (1) free and low-cost civil legal services programs, (2) mediation and alternative dispute resolution programs, (3) mechanisms for providing free and low-cost civil legal services during and after emergencies, and (4) the expansion of free and low-cost civil legal services programs intended to address housing-related civil legal service needs of low-income city residents.

The bill would also require that the CJC prepare a plan for providing free or low-cost civil legal services to low-income New Yorkers who need such services. The plan would be due within one year after the first civil legal services need report and would have to be updated every five years thereafter.

This bill would take effect immediately.

By Council Member Levine, The Speaker (Council Member Mark-Viverito), Chin, Dromm, Johnson, Lancman, Lander and Rose

A Local Law to amend the New York city charter, in relation to an office of civil justice.

Be it enacted by the Council as follows:

Section 1. Chapter 1 of the New York city charter is amended by adding a new section 13-b to read as follows:

§ 13-b. Office of civil justice. a. The mayor shall establish an office of civil justice. Such office may, but need not, be established in the executive office of the mayor and may be established as a separate office or within any other office of the mayor or within any department the head of which is appointed by the mayor. Such office shall be headed by a coordinator who shall be appointed by the mayor or the head of such department. For the purposes of this section only, "coordinator" shall mean the coordinator of the office of civil justice.

b. Powers and duties. The coordinator shall have the power and the duty to:

1. advise and assist the mayor in planning and implementing for coordination and cooperation among agencies under the jurisdiction of the mayor that are involved in civil justice programs;

2. review the budget requests of all agencies for programs related to civil justice, and recommend to the mayor budget priorities among such programs and assist the mayor in prioritizing such requests;

3. prepare and submit to the mayor and the council an annual report of the civil legal service needs of city residents and the availability of free or low-cost civil legal services to meet such needs, which shall include but need not be limited to (i) an assessment of the civil legal service needs of low-income city residents, as well as the type and frequency of civil legal matters, including but not limited to matters concerning housing, health insurance, medical expenses and debts relating thereto, personal finances, employment, immigration, public benefits and domestic and family matters, (ii) identification and assessment of the efficacy and capacity of free and low-cost civil legal services available for such residents (iii)

identification of areas or populations within the city that have low-income residents with civil legal service needs and (iv) identification of areas or populations within the city that have disproportionately low access to free or low-cost civil legal services;

4. study the effectiveness of, and make recommendations with respect to, the expansion of (i) free and low-cost civil legal services programs, (ii) mediation and alternative dispute resolution programs and (iii) mechanisms for providing free or low-cost civil legal services during and after emergencies; provided that the coordinator shall, to the extent practicable, prioritize the study of, and making of recommendations with respect to, the expansion of free and low-cost civil legal services programs intended to address housing-related civil legal service needs of low-income city residents;

5. serve as liaison for the city with providers of free and low-cost civil legal services and coordinate among such providers to (i) maximize the number of low-income city residents obtaining free or low-cost civil legal services sufficient to meet the needs of such residents and (ii) ensure that city residents have access to such services during and after emergencies;

6. provide outreach and education on the availability of free and low-cost civil legal service programs;  
and

7. perform other duties as the mayor may assign.

c. Five-year plan. Within one year after the completion of the first annual report required by paragraph three of subdivision b of this section, and in every fifth calendar year thereafter, the coordinator shall prepare and submit to the mayor and the council a five-year plan for providing free or low-cost civil legal services to those low-income city residents that need such services. Such plan shall also identify obstacles to making such services available to all those who need them and what additional resources would be necessary to do so.

§2. This local law shall take effect immediately.

JH

3/30/15



