



# Empire Justice Center

Making the law work for all New Yorkers

Albany ♦ Rochester ♦ White Plains ♦ Long Island

## **Joint Legislative Public Hearings on the 2014-15 Executive Budget Proposal:**

### **Public Protection**

**Albany, NY**

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**Presented by:**

**Anne Erickson**

**President and CEO, Empire Justice Center**



Good afternoon and thank you for the opportunity to testify on this year's Executive Budget. My name is Anne Erickson and I am President and CEO of the Empire Justice Center. The Empire Justice Center is a statewide, multi-issue, multi-strategy non-profit law firm focused on changing the "systems" within which poor and low income families live. With a focus on poverty law, Empire Justice undertakes research and training, acts as an informational clearinghouse, and provides litigation assistance to local legal services programs and community based organizations. As an advocacy organization, we engage in legislative and administrative advocacy on behalf of those impacted by poverty and discrimination. As a non-profit law firm, we provide direct legal assistance to those in need and undertake impact litigation in order to protect and defend the rights of disenfranchised New Yorkers.

Our work cuts across some 30 areas of substantive law and involves three inter-related statewide services:

**Training, technical assistance and information sharing.** As a backup center for legal services, our staff provides training and support to legal services and other community based organizations to keep them apprised of any change in law, rule or regulation that will impact their clients. In an effort to use our resources as efficiently as possible, we partner with the Western New York Law Center in running an online training center which puts critical training sessions at the fingertips of advocates across the state. In our role as an informational clearinghouse, we also run a cross cutting website, bringing information and legal resources right to the desktops of advocates. Our website saw over 4 million hits in the past two years and over 56,000 unique visitors.

**Direct legal representation and impact litigation.** We provide a range of legal assistance from our offices in Rochester, Albany, White Plains and Central Islip. We are one of the core legal services providers in the Greater Rochester area, representing clients in the areas of civil rights, Americans with Disability Act (ADA) claims, consumer, foreclosure, disability benefits and special education. In the Capital Region we provide representation to public assistance applicants and to certain immigrant populations. In the Hudson Valley we provide representation to under-served immigrants in need of a range of legal assistance, including help in adjusting their status and seeking employment authorizations. Our Long Island office provides a blend of individual representation, primarily for immigrants and local policy advocacy aimed at improving programs and services for those in need.

For the fiscal year 2012-13:

- We closed 1,593 individual cases directly impacting 3,072 people. In addition to these individual cases, we also handled a number of major cases impacting tens of thousands of low income New York families.
- We secured \$37 million in benefits for our clients – economic benefits and monthly income spent primarily in upstate communities as our clients pay their rent, buy food and clothing and make other payments in support of their daily living.

- Through our unique partnership with the United Way of Greater Rochester, we helped 14,000 households collect \$25 million in tax refunds and credits.
  - We trained and deployed 450 volunteers through our C.A.S.H program – Creating Assets Savings and Hope.
  - Importantly, in our efforts to truly move people further into economic security, we worked with our clients on longer term financial planning and we are pleased to report that:
    - 160 C.A.S.H. clients chose to purchase US Savings Bonds last year,
    - 530 new savings and checking accounts were opened by our clients, and
    - Our trained volunteers helped hundreds of clients download and review their credit reports.

**Legislative and administrative advocacy.** In order to ensure that the needs of low income families are heard within the state’s policy-making processes, we engage in both legislative and administrative advocacy on a range of issues impacting our clients. We are a resource to the Legislature on a broad range of substantive law matters and we work closely with the state’s administrative agencies to identify and help address issues that we see emerging from our work with legal services organizations across the state. We have helped lead the effort to secure funding for legal services since 1993 when the state Assembly first provided general funding for the delivery of legal services in New York.

### **The Continuing Need for Legal Services**

In the best of times, across the country and here in New York State, we have barely met 20% of the civil legal needs of the poor. Add to this the increased need for legal assistance during times of recession, and the need far outstrips all available services. In an effort to assess the ongoing unmet need for civil legal services among low income New Yorkers, in early 2010 Chief Judge Jonathan Lippmann appointed the Task Force to Expand Access to Civil Legal Services in New York.

I am honored to be a member of that Task Force which has assisted in the preparation for the public hearings held each fall in each of the four judicial departments. Leaders of the New York State Bar Association join the Chief Judge and other leaders of the Judiciary in presiding over these hearings.

As a result of these hearings, the Task Force learned that there are an estimated 2.3 million New York residents who come before our courts each year without a lawyer, and 70% of all civil matters that come before our courts involve family law, consumer credit, and housing-related cases. According to the Task Force’s initial findings:

- 99% of tenants in New York City and 98% of those outside New York City are unrepresented in eviction proceedings.

- 97% of parents are unrepresented in child support proceedings in New York City; 95% of parents in child support proceedings throughout the rest of the state face these proceedings without representation.
- 99% of consumers facing credit problems and debt collection cases are unrepresented in New York City.<sup>1</sup>

## Changing Legal Needs

The most significant changes reported in the substantive law areas in which people are seeking assistance in recent years included housing and consumer debt. Ninety percent (90%) of the legal services organizations participating in the survey reported an increase in homeowners seeking assistance in foreclosure matters, 85% are seeing an increase in tenants seeking assistance with evictions, and 81% reported an increase in consumers seeking legal assistance with credit and debt issues.

- **Housing and Homelessness.** Issues relating to housing and homelessness were among the legal issues generating the greatest increase in demand. Sixty one percent (61%) of those responding reported an increase in the number of people seeking legal assistance to address housing code violations; 85% reported an increase in those needing legal assistance to assist in eviction prevention, 91% in foreclosure assistance, 77% in homelessness, 71% in tenant rights and 61% in utility shut offs.
- **Consumer Issues.** Of those reporting an increase in demand, every area of consumer law saw a reported increase in demand: credit/debt issues 81%, bankruptcy 78%, non-mortgage loans 70%, medical debt 68%, rent to own issues 54% and tax problems 64%.
- **Domestic Violence.** In the area of family law, 67% of those responding reported an increase in demand among those seeking legal assistance for issues related to domestic violence.
- **Employment and Economic Support.** Almost 70% (69%) of those responding reported an increase in clients seeking assistance in employment insurance claims. More than half (54%) reported an increase in demand for legal assistance in dealing with wrongful termination issues. In the area of income supports, 63% of those responding are seeing an increase in requests for legal assistance on issues related to public assistance, 76% are seeing an increase in those dealing with emergency

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<sup>1</sup> The Task Force to Expand Access to Civil Legal Services, Report to the Chief Judge of the State of New York (2010), available with all related materials at: <http://www.nycourts.gov/ip/access-civil-legal-services/>.

assistance and 60% are seeing an increase in those seeking legal assistance for issues dealing with Food Stamps/Supplemental Nutrition Assistance Program.

- **Immigrants and Immigration.** In the area of immigration law, 59% reported an increase in those seeking assistance in securing special visa protections (for crime victims and victims of human trafficking for example) and 53% reported an increase in immigrant victims of domestic violence seeking legal assistance to pursue protection under the Violence Against Women Act (VAWA).

## **New York's Approach to Ensuring Access to Justice: Three Core Funding Streams**

New York now has basically three pillars of funding to support the general delivery of civil legal services: the Interest on Lawyer Account Fund (IOLA), targeted funding allocated by the Legislature and the Judiciary's funding for civil legal services.

### **The Interest on Lawyer Account (IOLA) Fund**

In 1983, New York created the Interest on Lawyer Account (IOLA) fund based on a national model to generate funding for the provision of legal assistance. Driven by the interest rates paid on lawyer's escrow accounts, IOLA funding has seen its revenue plummet as the recession hit in 2008 dropping from \$32 million on an annualized basis to approximately \$7 million.

- This loss of \$25 million has been off-set by an infusion of \$15 million from the Chief Judge in the OCA budget in each of the past few years, and which he again recommends in this year's Judiciary budget request.

### **State funding allocated by the Legislature**

The state Legislature, driven primarily by the Assembly Majority, began funding civil legal services in 1993 when the IOLA fund saw its revenues drop due to the interest rate declines of the early 1990's. In recent budgets, this general fund support has been shifted to the Legal Services Assistance Fund (LSAF) which was created in 2003 and is supported by a designated revenue stream from payments for criminal records searches. These funds have been used on an annual basis to support civil legal services, aid to prosecution, aid to defense and a loan forgiveness program for new layers who are carrying incredible law school debt and working in the public or public interest sectors.

The Legislature has also designated approximately \$1.2 million from the general fund and the Criminal Justice Improvement Account to support legal assistance specifically for victims of domestic violence.

- In this year's budget, the Executive proposes an allocation of \$8.6 million from the Legal Services Assistance Fund which last year stood at just over \$14 million. The Executive Budget makes no allocation from these funds for civil legal services.

- In the final 2013-14 state budget, the Legislature allocated approximately \$2.9 million from the LSAF to civil legal services.
- The Executive Budget again eliminates the \$1.2 million directed by the Legislature toward legal services for victims of domestic violence.

### **Judiciary Funding for Civil Legal Services**

In 2010, Chief Judge Jonathan Lippman embraced the need to support civil legal services as a component of the state's justice system. Noting that access to justice is core to our fundamental principles, Chief Judge Lippman has been tireless in his efforts to determine the level of unmet civil legal needs and to generate support for the critical new investments within the budget of the Unified Court System to meet more of those needs.

Chief Judge Lippman has again woven into the Unified Court System's budget a balanced approach to addressing the need for stable, on-going funding for legal services so that we can relieve some of the pressure on the courts and better ensure access to justice in this state. In this year's budget he requests \$55 million in funding for civil legal services to continue the investment in these critical services.

As we confront this year's budget, we again urge the Legislature to help stabilize the legal services delivery system statewide and meet as much of the unrelenting need for legal assistance as we can.

Specifically, we urge the Legislature to:

- **Support the full budget as presented by the Chief Judge including funding for Civil Legal Services and the IOLA "rescue" funds, and**
- **Maintain and distribute Legislative funding in the same manner as last year.**

### **The Need for Additional Family Court Judges**

Family Court is the often most critical court to families in crisis. New York currently has 153 Family Court Judges attempting to handle some 700,000 filings each year. The state has not added any new judgeships in New York City since 1991 and only four in counties outside of the city over the past 15 years. Clearly, the burdens on our Family Court system are overwhelming.

Overburdened court calendars lead to long adjournments and court delays. Delayed court proceedings cost every level of government unnecessary expenditures whether from repeat court appearances by county attorneys, extra months spent in foster care or institutional placement paid by the state and counties, the expense of homelessness, and missed work for

litigants. In addition, when child support awards are delayed, the daily expenses of families cannot be met. But most importantly, the instability, trauma and uncertainty of delays cause irreparable damage to New York's children and grave risk to victims of domestic violence.

Despite the tremendous efforts made by dedicated Family Court Judges and staff, it is impossible for Judges to hear cases in a timely fashion.

In this year's budget, the Office of Court Administration requests funding for an additional twenty Family Court judges in order to enhance the delivery of justice to those who are among the most vulnerable in New York.

- We urge the Legislature to support this request.

Thank you for your time and we look forward to working with you as the budget process continues to unfold.

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