



Jan 31, 2022

**Statement to the New York State Legislature's Joint Legislative Budget Hearing on
Housing: Establish a Statewide Right to Counsel in Eviction Proceedings
(S6678A/A7570A)**

Hudson Valley Justice Center (a non-profit provider of free legal services) and the Westchester Right to Counsel Coalition (a group of more than 25 nonprofit organizations, faith leaders, and concerned citizens) support increased funding for free legal representation in eviction proceedings. The FY 2023 Executive Budget proposes a \$35 million allocation for the Eviction Prevention Legal Assistance Program, which would provide free legal representation to tenants outside New York City who are at or below 200% of the federal poverty line. We commend this allocation of resources to eviction defense, but encourage the State to budget for a full right to counsel for all tenants facing eviction, as envisioned by Senate Bill S6678A/Assembly Bill A7570A.

The legislature has passed important and meaningful tenant protections in recent years. Before the pandemic, the Housing Stability and Tenant Protection Act of 2019 extended notice periods for no-cause evictions, limited security deposits, imposed financial penalties for illegal evictions, terminated vacancy increases and locked in preferential rents in regulated apartments, and excluded non-rent charges from eviction proceedings, among other things. After the pandemic, in addition to the Emergency Rental Assistance Program, the State passed the Tenant Safe Harbor Act. This law prevents landlords from evicting tenants who were unable to pay rent during the pandemic months (March of 2020 through January of 2022), restricting landlords' remedies to money judgments.

Unfortunately, many of these defenses will not protect tenants without attorneys. Landlord-tenant law is a fast-paced area of practice, governed by a dense thicket of rules and regulations, which can often bewilder even experienced attorneys. These recent tenant protections offer affirmative defenses which tenants must identify and raise at the appropriate time, in the appropriate manner. Some courts are more lenient with unrepresented litigants, but the court's role is ultimately neutral, and even sympathetic judges cannot help tenants gather the evidence they need to assert these defenses. Additionally, all new laws inevitably contain some ambiguity. Many of the finer subtleties of these new tenant protections must be clarified through case law. For example, we do not yet know, exactly, *how much* of a financial hardship tenants must have suffered before they qualify for a Tenant Safe Harbor Act defense. Tenants need access to attorneys in order to ensure that these new defenses actually protect them. *Tenant defenses that can only be identified and asserted by attorneys will not protect tenants who don't have access to attorneys.*

Again, HVJC and the Westchester County Right to Counsel Coalition applauds the increase in funding for this important work. Yet we hope the funding allocated for eviction defense can be used to establish a statewide right to counsel in eviction proceedings in the coming legislative session.

A handwritten signature in black ink, appearing to read "Jason Mays". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

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