



Joint Legislative Budget Hearing on Housing

March 1, 2023

Right to Counsel Coalition Testimony on Funding for a Statewide Right to Counsel (A1493/S2721)

The Center for Elder Law & Justice (CELJ) submits this written testimony in support of a statewide Right to Counsel Law (A1493/S2721) and urges you to include \$172 million requested by Senate Sponsor Rachel May for the first-year implementation in the budget. **The passage of this vital legislation will hold landlords accountable, uphold tenants' rights, and enable tenants to remain in their homes throughout New York State.**

The Center for Elder Law & Justice (CELJ) is part of the New York Legal Services Coalition, a statewide coalition of over forty-five civil legal services and legal aid programs representing tenants in every county throughout the state. Our members range from statewide and large multi-services, multi-county and citywide organizations to pro bono programs and neighborhood-based organizations.

CELJ has been serving the Western New York region for over 40 years, providing free civil legal services primarily to older adults and persons with disabilities, but also to the general population of low-income households in cases of high need, such as eviction defense. CELJ's primary goal is to use the legal system to assure that individuals may live independently and with dignity. CELJ also advocates for policy and systems change, particularly in the areas of housing, elder abuse prevention, nursing home reform, and consumer protection. Currently, CELJ provides full legal representation in ten counties of Western New York. CELJ's Free Senior Legal Advice Helpline is open to all of New York State. CELJ operates a main office in downtown Buffalo, with two additional offices in Niagara and Chautauqua counties.

While we are encouraged by Governor Hochul's recent recognition of the success of NYC's Right to Counsel law in her 2022 State of the State, as well as the proposed program to provide funding for free legal assistance to upstate renters facing eviction with incomes at or below 200 percent of the federal poverty line, it does not go far enough to protect tenants. It does not establish the universal Right to Counsel that tenants across New York State need, nor does it help downstate tenants in NYC and the surrounding areas. In contrast, A1493/S2721 establishes the right to free legal representation for every tenant in court cases where their basic human right to a home is at risk. Passing A1493/S2721 is the only real way to address our state's long standing eviction crisis. Our statewide Right to Counsel legislation, introduced by Assembly Member Latoya Joyner and Senator Rachel May, would ensure that every tenant in New York State has the right to a lawyer when facing an eviction and:

- Covers every tenant across the state, regardless of income.
- Covers any legal proceeding that could result in a tenant losing their home.
- Requires that tenants be represented throughout their entire case, not just when they appear in court. This includes legal advice, advocacy, and assistance.
- Requires the State to contract with non-profit legal services organizations to provide Right to Counsel and with non-profit community based organizations to provide tenants' rights education and tenant organizing.

Western New York has a robust coalition of legal services organizations equipped with experts in Landlord Tenant law to provide eviction defense to tenants. CELJ, Neighborhood Legal Services, The Erie County Bar



Association's Volunteer Lawyer's Project, Legal Aid Bureau of Buffalo and the Western New York Law Center have combined their housing advocates to form the Western New York Eviction Prevention Program (WNYEPP). WNYEPP aims to represent qualifying tenants at risk of eviction in Erie, Niagara, Orleans, Wyoming and Genesee counties. Our partners staff the Attorney of the Morning Program in Buffalo City Court as well as the Erie County Hub Court. WNYEPP attorneys and paralegals are available at both venues to meet with clients who are appearing in court for the first time. Our staff conducts an intake, then represents the client from the first appearance through completion of the case.

In addition to courtroom representation through the Attorney of the Morning and Hub Court, WNYEPP also represents tenants who face eviction when landlords resort to illegal methods outside of the court process. One of the more unfortunate trends that we have seen since the pandemic began is landlords resorting to illegal, or "self help" evictions. This occurs when landlords forcibly remove a tenant from the property by resorting to methods like changing locks, shutting off utilities, or physical violence. These are some of the most urgent cases that our attorneys encounter, as the tenant is homeless at the time they reach out for assistance. **Such emergencies are particularly hard for older tenants who tend to be long-term residents and also lose home health aide and meal delivery services once they have been evicted.** Through swift action, however, our advocates are able to utilize the court system to obtain judicial orders requiring that landlords permit tenants access to their homes. In addition to these cases, our attorneys also advocate for tenants so that their legal matter can be resolved before court intervention is necessary. Through our combined efforts, WNYEPP is proud to report that we have opened 3,796 cases, benefiting 8,889 peoples in 2022 alone. The ability to reach this large number of clients would not be possible without such a strong partnership of legal services organizations here in Western New York.

While we are proud of the work we have done to help combat the homeless crisis in Western New York, we know our impact can be even greater with the passage of statewide Right to Counsel. Right to Counsel will equip us with more staff to reach even more tenants, thus correcting the power imbalance between represented landlords and unrepresented tenants. Right to Counsel is proven to stop evictions – [84 percent of tenants in New York City who had a Right to Counsel lawyer](#) were able to stay in their homes and the seven cities that now have Right to Counsel have seen up to a 77 percent reduction in evictions. Evictions across New York City also declined more than five times faster in neighborhoods where tenants had the Right to Counsel than in areas that did not. As a result of Right to Counsel, evictions have also decreased by nearly 40% and landlords are suing tenants less overall, with eviction filings dropping by 30%. Defaults also dropped by more than 30%, which means more tenants (by way of their counsel) are appearing in Housing Court to fight their cases.

The legislature has made strides in passing tenant protections both before and during the COVID pandemic. The Tenant Protection Act of 2019 brought sweeping changes to what landlords must first do before they can bring rent increases, terminate a lease, or bring an eviction proceeding; the Emergency Rental Assistance Program provided valuable financial assistance to tenants who fell behind on their rent during their pandemic; and the Tenant Safe Harbor Act prohibited landlords from evicting tenants who were unable to pay their rent during the pandemic. These protections are of little to no help to tenants who are unaware of them, or unable to assert them on their own in a legal proceeding, however. It takes skilled attorneys to craft these defenses on behalf of their clients to prevent homelessness. While the legislature made great leaps in enacting these measures, they hold little value if a tenant does not have an advocate to assert them.

To comprehensively transform our court system and keep New York tenants in their homes and in New York, we need a fully funded Statewide Right to Counsel. Funding for right to counsel includes:



- **~\$152 million for New York’s civil legal services.** The bulk of this funding would cover a significant expansion of representation both within and outside of NYC, as well as a critical expansion of resources to support affirmative, or tenant-initiated cases, outside of NYC. Funding should also be dedicated to building out NYS’s “attorney pipeline”: the strategies and resources needed to hire, train and retain the next generation of New York’s civil attorneys. New York critically needs this funding because:
 - There are many places in the state where tenants are still largely unrepresented. For example, in the third quarter of 2022, only about 1.3% of tenants in Albany eviction court had an attorney, compared to 92-94% of landlords.
 - Even in localities where tenants have greater access to representation, we are seeing multiple and overlapping significant issues. Attorney caseloads are so high as to be unmanageable, and are contributing to retention challenges. These caseloads, which could be addressed through greater funding and resources, also mean that providers are not always able to use best practices to represent tenants. We need to fund robust and effective representation, as part of eviction defense, but also beyond formal eviction defense. As mentioned, we know that landlords displace tenants through a variety of legal and extralegal means, and yet, in most places in the state, tenants are completely unable to take their landlords to court, to defend against these tactics.
- **~\$14M for community organizing to support Right to Counsel’s implementation.** Community organizing is an essential component of ensuring tenants KNOW about their rights, can use their rights effectively to protect against eviction, and are enabled to fight to protect those rights, something that tenants unfortunately must continuously do as they cannot rely on courts or landlords to uphold their rights. We need funding for community organizing because:
 - Right to Counsel has been proven to stop evictions in NYC, but many tenants who are eligible for Right to Counsel don’t know about it or are too afraid to use it. When tenants don’t know or use their rights, they are more easily harassed in their homes, disenfranchised in the court system, and evicted and displaced. Tenants might decide not to appear in court, decline representation, sign agreements with their landlord’s lawyer prior, decide not to ask for repairs in fear of being evicted, or face a variety of other serious consequences.
 - The funding we’re asking for in areas outside of NYC will enable the hiring of an estimated 42 organizers and 14 supervisors. This funding would have a transformative effect on areas outside of NYC, which often have little to no tenant organizing. Consider the success of funding for NYC organizers: In 1 year, just 4 tenant organizers who were supported by the Right to Counsel NYC Coalition - 1 in the Bronx, Brooklyn, Queens, and Manhattan:
 - Distributed information about RTC to nearly 8,000 people.
 - Conducted outreach to approximately 200 buildings.
 - Conducted 75 Know Your Rights Workshops reaching more than 1,100 tenants.
 - Formed 26 new tenants associations, in which over 700 tenants are active.
 - Stopped harassment in more than 500 households.
 - Helped more than 400 households get repairs.
 - Helped more than 350 tenants apply for a rent reduction
 - Developed approximately 150 tenant leaders
- **~\$6.4M for the Office of Civil Representation.** This new state agency, which the Statewide Right to Counsel bill would create, is critically needed to oversee New York’s civil legal services, and implement a Right to Counsel. The agency would collect and publicize data that we don’t currently have but that



we need, in order to understand the breadth of the housing crisis and respond effectively—such as representation and eviction rates in Town and Village Courts.

At full implementation, a TRUE Right to Counsel will cost around \$500 million per year. Research around the country has repeatedly demonstrated that investing in an eviction right to counsel is a good fiscal investment – creating more positive economic impact and cost savings by keeping people in their homes. We’ve also seen Right to Counsel drive down eviction filings in NYC by 30%, and anticipate that filings will drop outside the city by 19% with Right to Counsel’s implementation, saving further public dollars. Overall, we estimate that [between 45,000 and 50,000 tenants outside of New York City would be served annually through an eviction Right to Counsel.](#)

We urge you to support the full funding and passage of Right to Counsel in the budget this year. As a society, we cannot stand by any longer while New Yorkers are forced into a confusing, overwhelming and traumatizing court system without counsel by their side. No one should have to face something as devastating as eviction without even the most basic right to representation. We know that establishing this right will keep New Yorkers in their homes, prevent an array of long-lasting harms to our families and communities, and save our state money. Our team of skilled attorneys has helped so many avoid homelessness in Western New York, and we hope to further our reach through Right to Counsel. Our state has every reason to pass and fund A1493/S2721 in the budget this year, and we count on leadership to ensure that happens.

We thank you for the opportunity to submit this testimony. CELJ is available to answer any questions and provide additional information.

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