

Testimony by the New York Legal Assistance Group (NYLAG)

**Public Hearings on the Executive Budget before the Joint Fiscal Committees of the Senate and
Assembly Public Protection**

Request for Increase in Number of Family Court Judges in New York State

February 5, 2014

Chairman DeFrancisco, Assembly Members, Senators and staff, thank you for the opportunity to submit testimony about the matter of increasing the number of Family Court judges in the State of New York. My name is Kim Susser and I am the Director of the Matrimonial & Family Law Unit at the New York Legal Assistance Group (NYLAG). NYLAG provides free civil legal services to low-income New Yorkers on myriad issues, including government benefits, immigration, family law, home care, health care, compensation for Holocaust survivors, employment rights, foreclosure prevention, special education, LGBT rights, storm relief and eviction prevention. The Matrimonial & Family Law Unit provides services to domestic violence victims including contested and uncontested divorce, child/spousal support, custody/visitation, orders of protection, paternity, adoption and child protection. Since its inception in 1990, NYLAG has prioritized representation for victims of domestic violence. The Family Law Unit has a range of projects targeting traditionally isolated populations, such as immigrant, Orthodox and LGBT communities. Last year, NYLAG served 6,309 domestic violence victims and their families.

NYLAG strongly supports the Judiciary request to increase the number of Family Court judges in New York State and urges an immediate amendment to the Family Court Act allowing for these additions. As one of the major providers of civil legal services in New York State, NYLAG attorneys are experienced representing victims of domestic violence in Supreme Court, Family Court and the Integrated

Domestic Violence Courts. I personally have been practicing in Family Court for twenty years in several capacities, including representing children while at the Juvenile Rights Division of the Legal Aid Society. The Family Courts throughout New York State are overburdened and under-resourced; it is critical to increase the number of Family Court judges from 153 to at least 173. Without an addition since 1991, the New York City Family Courts simply cannot keep up with the caseload. With nearly half the population of NYS located in the greater New York City area, this can be devastating to families who have no choice but to appear in court. Even within the rest of New York State, only four judges have been added within the past 15 years, yet 700,000 documents were filed with the Family Courts last year and that number is only expected to increase. There is no option but to increase the number of Family Court judges in the State of New York if there is any hope for timely resolution of the most sensitive, complex and profound matters in our judicial system.

The addition of 20 Family Court judges will help ease the long court delays and adjournments that leave domestic violence victims in crisis, unable to receive the protections and stability they need to rebuild their lives. Although a temporary order of protection may continue for many months, we see many clients willing to drop their case or settle on less favorable terms because of the lengthy delays in Family Court. For example, NYLAG represented a client on a family offense case where every time we appeared in court, her abuser would spit at her, threaten her, follow her and otherwise intimidate her outside of the court house. Despite reporting the violations, commencing a criminal case and otherwise working to avoid the contact, the family court case dragged on for over a year without a trial. The case was scheduled for trial, but due to an overburdened court, was adjourned several times to make room for other cases deemed more emergent. Each time she had to appear in court, after preparing again for a trial that did not happen, solely for the purpose of adjourning the matter, the client lost some of her will to proceed and obtain the final order that would allow her to move on with her life. Without NYLAG's assistance, she would most certainly have given up, as many *pro se* litigants do.

Clients tell us they want to go back to work but are afraid to start looking because of the time they will need to take off in order to appear in court. Waiting all day for a case to be called, only to be on for a “conference” where only another adjournment date is picked, significantly impedes people’s ability to work. Additionally, our clients who are often low wage hourly employees lose a day of pay in order to appear in court. Our client’s ability to support themselves and protect their families are further hampered when court delays inhibit timely requests for much needed temporary orders such as child support. Likewise, children of domestic violence victims are also put at risk by court delays, as they may be forced to stay in a violent and abusive home, or visit overnight with an abusive parent. It can take years to litigate a custody case where there are allegations of domestic violence that need to be proven at trial. There are often two or three months between conference dates in advance of a trial, leaving critical issues, like custody and visitation, unresolved. The emotional toll on families is incalculable.

Family Court delays cost the State hundreds of thousands of dollars by keeping children in foster care, sheltering the homeless, uncollected child support payments and paying court appointed attorneys and other civil legal service providers. Delays in trials not only create additional court appearances, but result in numerous hours re-preparing a case. Non-profit and court appointed legal services lawyers could easily increase the number of cases they handle if the cases were dealt with more efficiently in the court. Moreover, pro bono attorneys would be more willing to handle Family Court cases if they knew they wouldn’t be embroiled in litigation over many months or years.

An increase in the number of Family Court judges will provide a significant improvement in the lives of thousands of vulnerable New Yorkers, and ultimately be cost effective. We strongly support the Judiciary request for more judges for the Family Courts.

Respectfully submitted,

New York Legal Assistance Group