

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship of this proposal

S. -----  
Senate  
-----

s15 Addabbo	s49 Farley	s63 Kennedy	s40 Murphy	s10 Sanders
s46 Amedore	s17 Felder	s34 Klein	s54 Nozzolico	s23 Savino
s11 Avella	s02 Flanagan	s28 Krueger	s58 O'Mara	s41 Serino
s42 Bonacic	s55 Funke	s24 Lanza	s62 Ortt	s29 Serrano
s04 Boyle	s59 Gallivan	s39 Larkin	s60 Panepinto	s51 Seward
s44 Breslin	s12 Gianaris	s37 Latimer	s21 Parker	s09 Skelos
s38 Carlucci	s22 Golden	s01 LaValle	s13 Peralta	s26 Squadron
s14 Comrie	s47 Griffo	s52 Libous	s30 Perkins	s16 Stavisky
s03 Croci	s20 Hamilton	s45 Little	s61 Ranzenhofer	s35 Stewart-
s50 DeFrancisco	s06 Hannon	s05 Marcellino	s48 Ritchie	Cousins
s32 Diaz	s36 Hassell-	s43 Marchione	s33 Rivera	s53 Valesky
s18 Dilan	Thompson	s07 Martins	s56 Robach	s08 Venditto
s31 Espaillet	s27 Hoylman	s25 Montgomery	s19 Sampson	s57 Young

IN SENATE--Introduced by Sen

--read twice and ordered printed,  
and when printed to be committed  
to the Committee on

----- A.  
Assembly  
-----

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the multi-sponsorship of this proposal:

IN ASSEMBLY--Introduced by M. of A.

a049 Abbate	a045 Cymbrowitz	a135 Johns	a003 Murray	a016 Schimel
a092 Abinanti	a053 Davila	a077 Joyner	a133 Nojey	a140 Schimminger
a084 Arroyo	a034 DenDekker	a020 Kaminsky	a037 Nolan	a076 Seawright
a035 Aubry	a054 Dilan	a094 Katz	a130 Oaks	a087 Sepulveda
a120 Barclay	a081 Dinowitz	a074 Kavanagh	a069 O'Donnell	a065 Silver
a106 Barrett	a147 DiPietro	a142 Kearns	a051 Ortiz	a027 Simanowitz
a060 Barron	a115 Duprey	a040 Kim	a091 Otis	a052 Simon
a082 Benedetto	a004 Englebright	a131 Kolb	a132 Palmesano	a036 Simotas
a042 Bichotte	a109 Fahy	a105 Lalor	a002 Palumbo	a104 Skartados
a079 Blake	a071 Farrell	a013 Lavine	a088 Paulin	a099 Skoufis
a117 Blankenbush	a126 Finch	a134 Lawrence	a141 Peoples-	a022 Solages
a062 Borelli	a008 Fitzpatrick	a050 Lentol	Stokes	a114 Stec
a098 Brabenech	a124 Friend	a125 Lifton	a058 Perry	a110 Steck
a026 Braunstein	a095 Galef	a072 Linares	a059 Persaud	a127 Stirpe
a044 Brennan	a137 Gantt	a102 Lopez	a086 Pichardo	a112 Tedisco
a119 Brindisi	a007 Garbarino	a123 Lupardo	a089 Pretlow	a101 Tenney
a138 Bronson	a148 Giglio	a010 Lupinacci	a073 Quart	a001 Thiele
a046 Brook-Krasny	a080 Gjonaj	a121 Magee	a019 Ra	a061 Titone
a093 Buchwald	a066 Glick	a129 Magnarelli	a012 Raia	a031 Titus
a118 Butler	a023 Goldfeder	a064 Malliotakis	a006 Ramos	a055 Walker
a103 Cahill	a150 Goodell	a030 Markey	a078 Rivera	a146 Walter
a043 Camara	a075 Gottfried	a090 Mayer	a128 Roberts	a141 Weinstein
a145 Ceretto	a005 Graf	a108 McDonald	a056 Robinson	a024 Weprin
a033 Clark	a100 Gunther	a014 McDonough	a068 Rodriguez	a113 Woerner
a047 Colton	a139 Hawley	a017 McKevitt	a067 Rosenthal	a143 Wozniak
a032 Cook	a083 Heastie	a107 McLaughlin	a025 Rozic	a070 Wright
a144 Corwin	a028 Hevesi	a038 Miller	a116 Russell	a096 Zebrowski
a085 Crespo	a048 Hiking	a015 Montesano	a149 Ryan	
a122 Crouch	a018 Hooper	a136 Morelle	a009 Saladino	
a021 Curran	a097 Jaffee	a057 Mosley	a111 Santabarbara	
a063 Cusick	a011 Jean-Pierre	a039 Moya	a029 Scarborough	

with M. of A. as co-sponsors

--read once and referred to the  
Committee on

\*JUDILA\* \*Office of Court Adminis-  
tration 21\*  
(Provides for the implementation of  
a program for the free provision of  
certain services to unrepresented  
persons living at or below two  
hundred percent of the national  
poverty level)

Jud. housing court advocates

AN ACT

to amend the judiciary law, in  
relation to employment of housing  
court advocates and consumer court  
advocates to assist indigent persons  
in certain court proceedings

The People of the State of New  
York, represented in Senate and  
Assembly, do enact as follows:

1) Single House Bill (introduced and printed separately in either or both houses). Uni-Bill (introduced simultaneously in both houses and printed as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed copies of bill and 4 copies of memorandum in support (single house); or 4 signed copies of bill and 8 copies of memorandum in support (uni-bill).

1 Section 1. Subdivision 2 of section 212 of the judiciary law is  
2 amended by adding a new paragraph (t) to read as follows:

3 (t) Establish and regulate programs in the use of housing court advo-  
4 cates and consumer court advocates in accordance with article twenty-  
5 two-A of this chapter.

6 § 2. Section 478 of the judiciary law, as amended by chapter 22 of the  
7 laws of 2013, is amended to read as follows:

8 § 478. Practicing or appearing as attorney-at-law without being admit-  
9 ted and registered. It shall be unlawful for any natural person to prac-  
10 tice or appear as an attorney-at-law or as an attorney and counselor-at-  
11 law for a person other than himself or herself in a court of record in  
12 this state, or to furnish attorneys or counsel or an attorney and coun-  
13 sel to render legal services, or to hold himself or herself out to the  
14 public as being entitled to practice law as aforesaid, or in any other  
15 manner, or to assume to be an attorney or counselor-at-law, or to  
16 assume, use, or advertise the title of lawyer, or attorney and counse-  
17 lor-at-law, or attorney-at-law or counselor-at-law, or attorney, or  
18 counselor, or attorney and counselor, or equivalent terms in any  
19 language, in such manner as to convey the impression that he or she is a  
20 legal practitioner of law or in any manner to advertise that he or she  
21 either alone or together with any other persons or person has, owns,  
22 conducts or maintains a law office or law and collection office, or  
23 office of any kind for the practice of law, without having first been  
24 duly and regularly licensed and admitted to practice law in the courts  
25 of record of this state, and without having taken the constitutional  
26 oath. Provided, however, that nothing in this section shall be held to  
27 apply (1) to officers of societies for the prevention of cruelty to  
28 animals, duly appointed, when exercising the special powers conferred

1 upon such corporations under section fourteen hundred three of the not-  
2 for-profit corporation law; or (2) to law students who have completed at  
3 least two semesters of law school or persons who have graduated from a  
4 law school, who have taken the examination for admittance to practice  
5 law in the courts of record in the state immediately available after  
6 graduation from law school, or the examination immediately available  
7 after being notified by the board of law examiners that they failed to  
8 pass said exam, and who have not been notified by the board of law exam-  
9 iners that they have failed to pass two such examinations, acting under  
10 the supervision of a legal aid organization when such students and  
11 persons are acting under a program approved by the appellate division of  
12 the supreme court of the department in which the principal office of  
13 such organization is located and specifying the extent to which such  
14 students and persons may engage in activities otherwise prohibited by  
15 this statute; or (3) to law students who have completed at least two  
16 semesters of law school, or to persons who have graduated from a law  
17 school approved pursuant to the rules of the court of appeals for the  
18 admission of attorneys and counselors-at-law and who have taken the  
19 examination for admission to practice as an attorney and counselor-at-  
20 law immediately available after graduation from law school or the exam-  
21 ination immediately available after being notified by the board of law  
22 examiners that they failed to pass said exam, and who have not been  
23 notified by the board of law examiners that they have failed to pass two  
24 such examinations, when such students or persons are acting under the  
25 supervision of the state or a subdivision thereof or of any officer or  
26 agency of the state or a subdivision thereof, pursuant to a program  
27 approved by the appellate division of the supreme court of the depart-  
28 ment within which such activities are taking place and specifying the

1 extent to which they may engage in activities otherwise prohibited by  
2 this statute and those powers of the supervising governmental entity or  
3 officer in connection with which they may engage in such activities; or  
4 (4) an attorney and counselor-at-law or the equivalent who is admitted  
5 to the bar in another state, territory, district or foreign country and  
6 who has been admitted to practice pro hac vice in the state of New York  
7 within the limitations prescribed in the rules of the court of appeals;  
8 or (5) an attorney licensed as a legal consultant under rules adopted by  
9 the court of appeals pursuant to subdivision six of section fifty-three  
10 of this chapter and rendering legal services in the state within limita-  
11 tions prescribed in such rules; or (6) to a person who has been certi-  
12 fied as a housing court advocate or a consumer court advocate by the  
13 chief administrator of the courts pursuant to article twenty-two-A of  
14 this chapter when such person provides services in accordance with the  
15 provisions of such article.

16 § 3. The judiciary law is amended by adding a new article 22-A to read  
17 as follows:

18 ARTICLE 22-A

19 HOUSING COURT ADVOCATES AND CONSUMER

20 COURT ADVOCATES

21 Section 855. Program in the use of housing court advocates and consumer  
22 court advocates.

23 856. Certification of housing court advocates and consumer court  
24 advocates.

25 857. Advisory board.

26 858. Assignments.

27 859. Chief administrator to make rules.

1    § 855. Program in the use of housing court advocates and consumer  
2 court advocates. In accordance with this article, the judiciary shall  
3 implement and oversee a program for the free provision of certain  
4 services to unrepresented persons living at or below two hundred percent  
5 of the federal poverty level who must appear in the proceedings speci-  
6 fied in this article in the civil court of the city of New York and in  
7 the housing part thereof ("program"). Under this program, these services  
8 shall be provided by specially trained non-lawyers (certified as housing  
9 court advocates or consumer court advocates as provided herein) under  
10 the supervision of attorneys-at-law admitted to the practice of law in  
11 this state in the employ of not-for-profit service providers, including  
12 but not limited to legal services provider organizations, approved by  
13 the chief administrator of the courts.

14    § 856. Certification of housing court advocates and consumer court  
15 advocates. Any person may, upon his or her application, be certified by  
16 the chief administrator of the courts as a housing court advocate or a  
17 consumer court advocate provided he or she shall have satisfied such  
18 minimum educational and other qualifications, and received such train-  
19 ing, as the chief administrator shall prescribe.

20    § 857. Advisory board. 1. The chief administrator of the courts shall  
21 establish an advisory board to assist the chief administrator in  
22 discharge of his or her responsibilities under this article.

23    2. The advisory board shall consist of not more than fourteen members,  
24 each member to be appointed by the chief administrator for an initial  
25 term of two years. After serving an initial term, each member may be  
26 re-appointed to further terms of three years each. The chief administra-  
27 tor shall choose two of the members of the advisory board to serve as  
28 co-chairs thereof at his or her pleasure provided one shall be chosen

1 upon the recommendation of a bar association and the other shall be  
2 chosen upon the recommendation of an appropriate law school, college or  
3 educational institution.

4 § 858. Assignments. 1. A not-for-profit service provider, including  
5 but not limited to a legal services provider organization, may, upon its  
6 application and the submission of a plan for use of housing court advo-  
7 cates and/or consumer court advocates in accordance with this article,  
8 be approved by the chief administrator of the courts to participate in  
9 the program.

10 2. Pursuant to the plan of a not-for-profit service provider approved  
11 under subdivision one of this section and under the supervision of an  
12 attorney-at-law admitted to the practice of law in this state and in the  
13 employ of such provider, each person certified as a housing court advo-  
14 cate or a consumer court advocate in accordance with section eight  
15 hundred fifty-six of this article may provide the following services for  
16 unrepresented persons specified in section eight hundred fifty-five of  
17 this article:

18 (a) advice, counsel or other assistance in the preparation of plead-  
19 ings;

20 (b) advice, counsel or other assistance in the preparation of an order  
21 to show cause to vacate a default judgment, prevent an eviction or  
22 restore an action or proceeding to the calendar to amend or enforce  
23 provisions of a stipulation or order previously entered into; provided  
24 this shall include authority to sign an answer or order to show cause;

25 (c) negotiate with a party or his or her counsel or representative the  
26 terms of any stipulation or order to be entered into; and

27 (d) address the court on behalf of any such person.

1 Notwithstanding the foregoing, a housing court advocate or consumer  
2 court advocate may only provide such services in such parts of the New  
3 York city civil court (including the housing part thereof) and in such  
4 actions and proceedings in those parts as the chief administrator may  
5 authorize; except that: (i) for a housing court advocate, the provision  
6 of such services may not be authorized other than in (A) summary  
7 proceedings brought pursuant to 22 NYCRR 208.42(d), and (B) actions  
8 described in subdivision (n) of section two hundred three of the New  
9 York city civil court act, and (ii) for a consumer court advocate, the  
10 provision of such services may not be authorized other than in actions  
11 and proceedings in relation to a consumer credit transaction as defined  
12 in subdivision (g) of section two thousand one hundred one of the New  
13 York city civil court act.

14 § 859. Chief administrator to make rules. The chief administrator of  
15 the courts shall promulgate rules in order to effectuate the provisions  
16 of this article.

17 § 4. On or before January first of the fourth year following the date  
18 on which this act becomes a law, the chief administrator of the courts  
19 shall submit to the governor, the legislature and the chief judge of the  
20 state a report evaluating the efficacy of the program in the use of  
21 housing court advocates and consumer court advocates authorized by this  
22 act. This report shall include any recommendations the chief administra-  
23 tor may have with respect to expansion of the program into other courts  
24 and other classes of cases.

25 § 5. This act shall take effect January 1, 2016.





OCA 2015-21

**IN SUPPORT OF**

**S.**

**A.**

AN ACT to amend the judiciary law, in relation to employment of housing court advocates and consumer court advocates to assist indigent persons in court proceedings

This measure is being introduced at the request of the Chief Judge and the Chief Administrative Judge upon the recommendation of the Committee on Nonlawyers and the Justice Gap.

This measure would carve out a narrow exception to section 478 of the Judiciary Law, New York's unauthorized practice of law statute, in order to expand the availability of legal assistance to low-income persons in housing and consumer credit matters. More than 95% of tenants in eviction cases and 95% of debtors in consumer credit cases are unrepresented by counsel. This measure would authorize specially-trained and certified Housing Court Advocates (HCAs) and Consumer Court Advocates (CCAs), working under the supervision of lawyers in not-for-profit service provider organizations, to provide much needed services to unrepresented persons with incomes at or below 200% of the Federal poverty level who appear in the New York City Civil Court in landlord-tenant nonpayment matters and proceedings to remedy Housing Code violations and in consumer credit cases, respectively.

It is well-documented that the vast majority of low-income New Yorkers are unable to afford a lawyer or to obtain one to assist them with their civil legal needs, and that legal services organizations have limited resources and are forced to turn away many persons seeking their help. This phenomenon, often referred to as "the justice gap," is a matter of grave concern for the courts and all New Yorkers. Each year millions of persons unable to afford a lawyer are involved in critically important civil legal matters on their own, without receiving legal



assistance of any kind — all the while being opposed by parties who overwhelmingly are represented by counsel. Many of these unrepresented litigants risk losing their homes, their savings, even their most basic subsistence benefits.

In view of these realities, the Unified Court System, under the leadership of Chief Judge Jonathan Lippman, has sought to close the justice gap by securing stable and adequate funding for civil legal services and developing and implementing comprehensive solutions that leverage a broad and growing array of bar and law school *pro bono* programs, self-help services and technological tools. In a continuing effort to devise creative solutions to increase access to justice, the Chief Judge's Task Force to Expand Access to Legal Services in New York established the Committee on Nonlawyers and the Justice Gap and charged it with identifying appropriate, responsible roles for non-lawyers trained in discrete areas of the law who would be able to provide helpful services to unrepresented persons in the areas of greatest need. This measure is the product of the Task Force's work over many months and reflects its well considered finding that cadres of specially trained non-lawyers working under the auspices of attorney supervisors employed by reputable not-for-profit organizations can and will make a substantial impact in closing the justice gap for New York State's most vulnerable litigants.

The Legislature has previously authorized roles for non-lawyers to provide legal assistance to people in discrete administrative law contexts, including workers compensation and unemployment proceedings. *See* Workers Compensation Law § 24-a; Labor Law § 538. Also, it has previously recognized limited exceptions to the unauthorized practice of law for law students, law graduates and certain other designated persons. *See* Judiciary Law § 478. This measure draws upon these existing programs but sets clear limits on the scope of permissible HCA and CCA services. Non-lawyers must meet established training and qualification requirements before they may be certified as HCAs and CCAs. Not-for-profit providers must submit to the chief administrator satisfactory plans for the assignment and supervision of HCAs and CCAs before such providers may be approved for participation in the program. The measure creates a requirement of supervision by a New York attorney and restricts the provision of authorized services to not-for-profit settings. Except as expressly authorized by this measure, HCAs and CCAs would be prohibited from performing any other acts or providing any other services that would constitute the practice of law or from holding themselves out as being entitled to practice law in any way, and would remain subject to all the restrictions and civil and criminal penalties prescribed by law for the unauthorized practice of law. As all advice, counsel and other services provided by HCAs and CCAs will be rendered under the supervision of an attorney, the requirements of confidentiality and evidentiary privileges, including the attorney-client privilege, shall continue in effect.

Importantly, the Judiciary is authorized to oversee all aspects of the program and to promulgate court rules to effectuate the provisions and purposes of this legislation.

## SUMMARY OF PROVISIONS

### Program

In addition to amending section 478 of the Judiciary Law, this measure would add a new Article 22-A (including proposed new sections 855-859) to that chapter establishing a program to be overseen and implemented by the Judiciary in the use of HCAs and CCAs to provide limited services free of charge to unrepresented persons living at or below 200% of the Federal poverty level who must appear in certain specified housing and consumer credit proceedings. Under proposed section 855, persons certified as HCAs and CCAs shall be specially trained and must work under the supervision of attorneys admitted to the practice of law in New York and employed by not-for-profit service providers approved by the Chief Administrative Judge.

### Role of Housing Court Advocates and Consumer Court Advocates

Proposed section 856 provides that a person may be certified as an HCA or CCA by the Chief Administrative Judge upon satisfaction of minimum educational and other qualifications and completion of prescribed training requirements. Proposed section 858 provides that, pursuant to the plan of a not-for-profit service provider approved by the Chief Administrative Judge and while acting under the supervision of an attorney employed by such provider, a person certified as an HCA or CCA may provide advice, counsel or other assistance in the preparation of pleadings and specified orders to show cause; negotiate with a party or the party's counsel concerning the terms of a stipulation or order to be entered into; and address the court on behalf of the person being represented.

Under proposed section 858(2), HCAs may only provide services in the Housing Part of the New York City Civil Court in summary proceedings brought on the ground that the respondent has defaulted in the payment of rent (22 NYCRR 208.42(d)), and in actions and proceedings for the removal of housing violations under New York City Civil Court Act § 203(n). CCAs may only provide services in the New York City Civil Court in connection with proceedings relating to consumer credit transactions as defined in New York City Civil Court Act §2101(g).

### Role of Chief Administrative Judge

This measure also amends section 212 of the Judiciary Law by adding a new subdivision (2)(t) specifically authorizing the Chief Administrative Judge to establish and regulate programs in the use of HCAs and CCAs. This measure authorizes the Chief Administrative Judge to certify persons as HCAs or CCAs (proposed section 856); appoint an advisory board to assist in the discharge of his or her responsibilities under this article (proposed section 857); approve the participation of not-for-profit providers in the program upon their submission of satisfactory plans for the use of HCAs and CCAs (proposed section 858); and promulgate rules to effectuate the provisions of this legislation (proposed section 859). Finally, the measure requires the Chief Administrative Judge, no later than January 1<sup>st</sup> of the fourth year following the date on which

this legislation takes effect, to provide the Governor, Legislature and Chief Judge with a report evaluating the efficacy of the program and containing recommendations with respect to expansion to other courts and classes of cases.

#### Advisory Board

Proposed section 858 of new Article 22-A authorizes the Chief Administrative Judge to establish an advisory board consisting of up to fourteen members to assist him or her in the discharge of his or her responsibilities.

This measure, which would have no fiscal impact, would take effect January 1, 2016.

Legislative History: None. New proposal.