

5993

2013-2014 Regular Sessions

I N   S E N A T E

November 22, 2013

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Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the county law, the real property actions and proceedings law, the vehicle and traffic law and the state finance law, in relation to enacting the "NY Civil Gideon Act"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. This act shall be known and may be cited as the "New York  
2     Civil Gideon act".

3     S 2. The county law is amended by adding a new article 18-C to read as  
4     follows:

5                                     ARTICLE 18-C

6                     REPRESENTATION OF PERSONS IN CIVIL MATTERS

7     SECTION 723. LEGISLATIVE FINDINGS.

8             723-A. CIVIL RIGHT TO COUNSEL COMMISSION.

9             723-B. ASSIGNED COUNSEL FOR CIVIL MATTERS REVIEW PANEL.

10            723-C. COMPENSATION AND REIMBURSEMENT.

11     S 723. LEGISLATIVE FINDINGS. THE LEGISLATURE HEREBY FINDS AND DECLARES  
12     AS FOLLOWS:

13         1. EVERY YEAR, AT LEAST EIGHTY PERCENT OF THE CIVIL LEGAL NEEDS OF LOW  
14         INCOME NEW YORKERS GO UNMET.

15         2. THESE LEGAL NEEDS OFTEN CONCERN MATTERS PERTAINING TO THE ESSEN-  
16         TIALS OF LIFE INCLUDING SHELTER, FOOD, EMPLOYMENT, HEALTH, AND FAMILY  
17         SUSTAINABILITY.

18         3. THE LACK OF AVAILABLE CIVIL LEGAL ASSISTANCE UNDERMINES COMPREHEN-  
19         SIVE ASSISTANCE FOR CRIME VICTIMS.

20         4. THE LACK OF CIVIL LEGAL SERVICES TO RESOLVE A FAMILY'S LEGAL PROB-  
21         LEMS OFTEN DISRUPTS THE CHILDREN AND YOUNG ADULTS' EDUCATION, FREQUENTLY  
22         WITH A PERMANENT IMPACT.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 5. THE LACK OF CIVIL LEGAL SERVICES CAN WORSEN CHRONIC HEALTH PROBLEMS  
2 OFTEN INCREASING THE COST OF MEDICAL CARE.

3 6. THE LACK OF CIVIL LEGAL SERVICES CAN RESULT IN HOMELESSNESS NOT  
4 ONLY AFFECTING THE INDIVIDUAL FAMILIES BUT ALSO DESTABILIZING ENTIRE  
5 NEIGHBORHOODS.

6 7. IN LIGHT OF THESE TRYING ECONOMIC TIMES, THE NEED FOR CIVIL LEGAL  
7 SERVICES HAS INCREASED BEYOND INDIVIDUALS BELOW THE FEDERAL POVERTY  
8 GUIDELINES TO HOMEOWNERS AND OTHER MIDDLE INCOME NEW YORKERS THAT  
9 PROVIDE THE FOUNDATION FOR NEW YORK'S ECONOMY.

10 8. THE SUBSTANTIAL NUMBER OF UNREPRESENTED LITIGANTS IN CIVIL LEGAL  
11 MATTERS ADVERSELY IMPACTS THE QUALITY OF JUSTICE FOR ALL PARTIES IN THE  
12 COURTS OF NEW YORK STATE, INCREASES THE AMOUNT OF LITIGATION, AND UNDER-  
13 MINES THE RULE OF LAW.

14 9. IT HAS BEEN FOUND THAT WHEN A SOCIETY IS UNABLE TO MEET THEIR BASIC  
15 HUMAN NEEDS IT IS IN AN ONGOING STATE OF EMERGENCY.

16 10. THE UNMET NEED FOR CIVIL LEGAL ASSISTANCE IN THE STATE IS  
17 PROFOUNDLY IMPACTING VULNERABLE NEW YORKERS AND COSTING TAXPAYERS  
18 MILLIONS OF DOLLARS BY INCREASING HOMELESSNESS, FAILING TO PREVENT  
19 DOMESTIC VIOLENCE, AND INCREASING POVERTY.

20 11. IN ORDER TO ADDRESS THIS EMERGENCY, THIS LEGISLATURE FINDS THAT A  
21 RIGHT TO COUNSEL IN CERTAIN CIVIL MATTERS IS IMPERATIVE.

22 S 723-A. CIVIL RIGHT TO COUNSEL COMMISSION. 1. THERE IS HEREBY ESTAB-  
23 LISHED THE CIVIL RIGHT TO COUNSEL COMMISSION. THE COMMISSION SHALL BE  
24 COMPOSED OF ELEVEN MEMBERS.

25 2. A. THE MEMBERS OF THE COMMISSION SHALL BE APPOINTED AS FOLLOWS:

26 (I) ONE MEMBER SHALL BE APPOINTED BY THE GOVERNOR AND SHALL BE AN  
27 ATTORNEY WITH EXPERTISE IN CIVIL LEGAL SERVICES;

28 (II) ONE MEMBER SHALL BE APPOINTED BY THE TEMPORARY PRESIDENT OF THE  
29 SENATE;

30 (III) ONE MEMBER SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY;

31 (IV) ONE MEMBER SHALL BE APPOINTED BY THE MINORITY LEADER OF THE  
32 ASSEMBLY;

33 (V) ONE MEMBER SHALL BE APPOINTED BY THE MINORITY LEADER OF THE  
34 SENATE;

35 (VI) TWO MEMBERS SHALL BE APPOINTED BY THE CHIEF JUDGE OF THE COURT OF  
36 APPEALS;

37 (VII) ONE MEMBER SHALL BE APPOINTED BY THE ASSOCIATION OF COUNTIES;

38 (VIII) ONE MEMBER SHALL BE APPOINTED BY THE MAYOR OF THE CITY OF NEW  
39 YORK AND SHALL BE AN ATTORNEY WHO HAS PROVIDED CIVIL LEGAL SERVICES FOR  
40 AT LEAST FIVE YEARS;

41 (IX) ONE MEMBER SHALL BE APPOINTED BY THE GOVERNOR, FROM A LIST OF NO  
42 MORE THAN TWO NOMINEES SUBMITTED BY THE CHIEF ADMINISTRATOR OF THE  
43 COURTS, EACH OF WHOM SHALL BE A JUDGE OR JUSTICE, OR RETIRED JUDGE OR  
44 JUSTICE, WHO WAS ELECTED TO THE SUPREME, COUNTY OR FAMILY COURT, OR  
45 APPOINTED TO THE CRIMINAL COURT OR FAMILY COURT IN THE CITY OF NEW YORK,  
46 AND HAS SUBSTANTIAL EXPERIENCE PRESIDING AS SUCH A JUDGE OR JUSTICE IN  
47 TRIAL MATTERS BEFORE SUCH COURT; AND

48 (X) ONE MEMBER SHALL BE APPOINTED BY THE NEW YORK STATE BAR ASSOCI-  
49 ATION.

50 B. ALL MEMBERS OF THE COMMISSION SHALL BE RESIDENTS OF THE STATE OF  
51 NEW YORK.

52 C. THE MEMBERS OF THE COMMISSION SHALL SERVE TERMS OF FOUR YEARS. ALL  
53 MEMBERS SHALL SERVE UNTIL THEIR SUCCESSORS ARE APPOINTED. VACANCIES ON  
54 THE COMMISSION SHALL BE FILLED FOR THE REMAINDER OF THE TERM IN THE  
55 MANNER PROVIDED FOR BY THE ORIGINAL APPOINTMENT.

1 D. THE MEMBERS OF THE COMMISSION SHALL RECEIVE NO COMPENSATION FOR  
2 THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES  
3 INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

4 E. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF LAW, NO OFFICER OR  
5 EMPLOYEE OF THE STATE OR ANY CIVIL DIVISION THEREOF SHALL BE DEEMED TO  
6 HAVE FORFEITED OR SHALL FORFEIT HIS OR HER OFFICE OR EMPLOYMENT BY  
7 REASON OF HIS OR HER ACCEPTANCE OF MEMBERSHIP ON THE COMMISSION.

8 F. THE COMMISSION SHALL MEET AT LEAST ONCE PER YEAR.

9 G. A MAJORITY OF THE MEMBERS OF THE COMMISSION SHALL CONSTITUTE A  
10 QUORUM.

11 H. THE CHIEF JUDGE OF THE COURT OF APPEALS, OR HIS OR HER DESIGNEE,  
12 SHALL SERVE AS A NON-VOTING EX-OFFICIO MEMBER OF THE COMMISSION.

13 I. APPOINTMENT TO THE COMMISSION SHALL BE FILED BY THE CHIEF JUDGE OF  
14 THE COURT OF APPEALS, WHO SHALL CONVENE THE FIRST MEETING OF THE COMMISS-  
15 SION FOLLOWING THE FILING OF THE MAJORITY OF APPOINTMENTS. AT THE  
16 INITIAL MEETING THE MEMBERS SHALL ELECT OFFICERS.

17 3. THE COMMISSION SHALL SUBMIT TO THE GOVERNOR, TEMPORARY PRESIDENT OF  
18 THE SENATE, SPEAKER OF THE ASSEMBLY AND THE CHIEF JUDGE OF THE COURT OF  
19 APPEALS AN ANNUAL FINANCIAL REPORT ON OR BEFORE THE ANNIVERSARY DATE OF  
20 THE COMMISSION'S FIRST MEETING. SUCH REPORT SHALL CONTAIN ALL PERTINENT  
21 DATA FOR THE PRIOR TWELVE MONTHS ON THE OPERATION OF THE COMMISSION  
22 INCLUDING THE NUMBER OF ASSIGNED COUNSEL IN EACH COUNTY, THE NUMBER OF  
23 CASES ASSIGNED, THE NUMBER OF CASES RESOLVED, RECOMMENDATIONS FOR ADDI-  
24 TIONAL ATTORNEYS, IF NECESSARY, THE COST OF OPERATION AND FINANCIAL  
25 ASSISTANCE TO LOCALITIES. SUCH REPORT SHALL ALSO INCLUDE THE PROPOSED  
26 BUDGET FOR THE SUCCEEDING TWELVE MONTHS INCLUDING FUNDS FOR FINANCIAL  
27 ASSISTANCE TO LOCALITIES.

28 S 723-B. ASSIGNED COUNSEL FOR CIVIL MATTERS REVIEW PANEL. 1. THERE IS  
29 HEREBY ESTABLISHED THE ASSIGNED COUNSEL FOR CIVIL MATTERS REVIEW PANEL.

30 2. A. THE REVIEW PANEL SHALL BE COMPOSED OF FIFTEEN MEMBERS, TO BE  
31 APPOINTED AS FOLLOWS:

32 (I) ATTORNEY-IN-CHIEF FOR THE LEGAL AID SOCIETY OR HIS/HER REPRESENT-  
33 TATIVE;

34 (II) CHAIR OF LEGAL SERVICES NYC OR HIS/HER REPRESENTATIVE;

35 (III) EXECUTIVE DIRECTOR OF LEGAL SERVICES OF THE HUDSON VALLEY OR  
36 HIS/HER REPRESENTATIVE;

37 (IV) EXECUTIVE DIRECTOR OF THE LEGAL AID SOCIETY OF NORTHEASTERN NY OR  
38 HIS/HER REPRESENTATIVE;

39 (V) EXECUTIVE DIRECTOR OF THE WESTERN NY LAW CENTER OR HIS/HER REPRESENTATIVE;

40 (VI) PRESIDENT OF THE EMPIRE JUSTICE CENTER OR HIS/HER REPRESENTATIVE;

41 (VII) EXECUTIVE DIRECTOR OF THE NEW YORK LAWYERS FOR THE PUBLIC INTER-  
42 EST OR HIS/HER REPRESENTATIVE;

43 (VIII) EXECUTIVE DIRECTOR OF LAMBDA LEGAL OR HIS/HER REPRESENTATIVE;

44 (IX) THE IMMEDIATE PAST PRESIDENT OF THE NEW YORK STATE BAR ASSOCI-  
45 ATION OR A REPRESENTATIVE APPOINTED BY THE ASSOCIATION;

46 (X) THE IMMEDIATE PAST PRESIDENT OF THE NETWORK OF BAR LEADERS OR  
47 HIS/HER REPRESENTATIVE;

48 (XI) THE IMMEDIATE PAST PRESIDENT OF THE WOMEN'S BAR ASSOCIATION OF  
49 THE STATE OF NEW YORK OR HIS/HER REPRESENTATIVE;

50 (XII) THE IMMEDIATE PAST PRESIDENT OF THE METROPOLITAN BLACK BAR ASSO-  
51 CIATION OR HIS/HER REPRESENTATIVE;

52 (XIII) THE IMMEDIATE PAST PRESIDENT OF THE NEW YORK STATE DIRECTOR OF  
53 THE FUND FOR MODERN COURTS OR HIS/HER REPRESENTATIVE;

54 (XIV) EXECUTIVE DIRECTOR OF THE IOLA FUND OF THE STATE OF NEW YORK OR  
55 HIS/HER REPRESENTATIVE; AND  
56

1 (XV) ONE REPRESENTATIVE FROM THE NATIONAL COALITION FOR A CIVIL RIGHT  
2 TO COUNSEL.

3 B. THE MEMBERS OF THE REVIEW PANEL SHALL SERVE TERMS OF FOUR YEARS.  
4 ALL MEMBERS SHALL SERVE UNTIL THEIR SUCCESSORS ARE APPOINTED. VACANCIES  
5 ON THE REVIEW PANEL SHALL BE FILLED FOR THE REMAINDER OF THE TERM IN THE  
6 MANNER PROVIDED FOR BY THE ORIGINAL APPOINTMENT.

7 C. THE MEMBERS OF THE REVIEW PANEL SHALL RECEIVE NO COMPENSATION FOR  
8 THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES  
9 INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

10 D. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF LAW, NO OFFICER OR  
11 EMPLOYEE OF THE STATE OR ANY CIVIL DIVISION THEREOF SHALL BE DEEMED TO  
12 HAVE FORFEITED OR SHALL FORFEIT HIS OR HER OFFICE OR EMPLOYMENT BY  
13 REASON OF HIS OR HER ACCEPTANCE OF MEMBERSHIP ON THE REVIEW PANEL.

14 E. A MAJORITY OF THE MEMBERS OF THE REVIEW PANEL SHALL CONSTITUTE A  
15 QUORUM.

16 F. THE MEMBERS OF THE REVIEW PANEL MAY PARTICIPATE IN A MEETING OF  
17 SUCH REVIEW PANEL BY MEANS OF A CONFERENCE TELEPHONE OR SIMILAR COMMUNI-  
18 CATIONS EQUIPMENT ALLOWING ALL PERSONS PARTICIPATING IN THE MEETING TO  
19 HEAR EACH OTHER AT THE SAME TIME; PARTICIPATION BY SUCH MEANS SHALL  
20 CONSTITUTE PRESENCE IN PERSON AT SUCH MEETING.

21 3. THE PURPOSE OF THE PANEL IS TO ENSURE THAT QUALITY REPRESENTATION  
22 IS PROVIDED UNDER THIS ARTICLE. THIS INCLUDES PROCESSING COMPLAINTS  
23 AGAINST ATTORNEYS ASSIGNED UNDER THIS ARTICLE, ESTABLISHING THE PROPER  
24 REMEDY FOR AGGRIEVED PARTIES, ATTORNEY ADMISSION AS ASSIGNED COUNSEL,  
25 ATTORNEY TRAINING, AND ALL OTHER PROCEDURES THE REVIEW PANEL FINDS  
26 NECESSARY TO ACHIEVE ITS GOAL.

27 4. THE REVIEW PANEL MAY WORK TOGETHER WITH THE CIVIL RIGHT TO COUNSEL  
28 COMMISSION TO ACHIEVE THE COMMON GOALS OF THIS ARTICLE.

29 5. A. THE CHIEF JUDGE OF THE COURT OF APPEALS AND THE REVIEW PANEL  
30 APPOINTEES SHALL CONVENE THE REVIEW PANEL AND CREATE A PLAN OUTLINING  
31 THE PROCEDURE AND GUIDELINES TO GOVERN THE PANEL AND ASSIGNED COUNSEL  
32 PROGRAM IN ACCORDANCE WITH THE GOAL OF PROVIDING QUALITY CIVIL LEGAL  
33 REPRESENTATION. THE CHIEF JUDGE OF THE COURT OF APPEALS MAY CONSULT WITH  
34 THE ADMINISTRATIVE JUDGES OF EACH JUDICIAL DISTRICT TO RECEIVE GUIDANCE  
35 ON THE NEEDS OF EACH DISTRICT.

36 B. THE GUIDELINES SHALL INCLUDE BUT NOT BE LIMITED TO:

37 (I) MEETING REQUIREMENTS OF THE PANEL;

38 (II) STANDARDS OF QUALITY REPRESENTATION;

39 (III) TRAINING NECESSARY TO PROVIDE CIVIL ASSIGNED COUNSEL REPRESENTATION;  
40

41 (IV) APPLICATION PROCESS TO BE ADMITTED TO THE REVIEW PANEL;

42 (V) CONTENT FOR THE COMPLAINT FORM FOR A GRIEVANCE AGAINST AN ATTORNEY  
43 ASSIGNED AS CIVIL ASSIGNED COUNSEL; AND

44 (VI) A GRIEVANCE PROCEDURE.

45 S 723-C. COMPENSATION AND REIMBURSEMENT. 1. ALL COUNSEL ASSIGNED IN  
46 ACCORDANCE WITH A PLAN OF A BAR ASSOCIATION CONFORMING TO THE REQUIRE-  
47 MENTS OF THIS ARTICLE WHEREBY THE SERVICES OF PRIVATE COUNSEL ARE  
48 ROTATED AND COORDINATED BY AN ADMINISTRATOR SHALL AT THE CONCLUSION OF  
49 THE REPRESENTATION RECEIVE:

50 A. FOR REAL PROPERTY PROCEEDINGS NO LESS THAN FIFTY DOLLARS PER HOUR;

51 B. FOR CASES INVOLVING HEALTH NO LESS THAN FIFTY DOLLARS PER HOUR;

52 C. FOR CASES INVOLVING SUSTENANCE NO LESS THAN SIXTY DOLLARS PER HOUR;  
53 AND

54 D. FOR CASES INVOLVING CHILDREN NO LESS THAN SIXTY DOLLARS PER HOUR.

55 2. FOR ALL REPRESENTATION, COMPENSATION AND REIMBURSEMENT SHALL  
56 INCLUDE REIMBURSEMENT FOR REASONABLY INCURRED EXPENSES.

1 3. COMPENSATION FOR REPRESENTATION IN SUCH CASES SHALL BE GUIDED BY  
2 THE MINIMUM AMOUNTS SET FORTH ABOVE. THE COMPENSATION MINIMUMS ARE SET  
3 FOR COUNSEL ONLY, NOT SUPPORT OR ADMINISTRATIVE STAFF WORK. WORK FOR  
4 SUPPORT OR ADMINISTRATIVE STAFF SHOULD BE SET BY INDIVIDUAL COUNSEL,  
5 FIRM, OR ORGANIZATION AND SHOULD BE SET AT A LOWER RATE THAN COMPEN-  
6 SATION FOR COUNSEL.

7 4. THERE SHALL BE NO DIFFERENTIAL IN COMPENSATION RATE FOR OUT OF  
8 COURT TIME EXPENDED AND IN COURT TIME EXPENDED. RATES SHOULD BE SET AT  
9 THE MINIMUM STATED ABOVE OR HIGHER BASED ON THE COMPLEXITY OF THE CASE  
10 AND EXPERTISE OF THE ATTORNEY. SUCH RATES SHALL BE SUBJECT TO THE  
11 APPROVAL OF THE COURT OF JURISDICTION BASED ON THE COMPLEXITY OF THE  
12 CASE, EXPERTISE OF THE ATTORNEY, THE MARKET, AND ANY OTHER FACTORS THE  
13 COURT DEEMS JUST AND APPROPRIATE.

14 5. THERE SHOULD BE NO CAP ON THE AMOUNT OF COMPENSATION OR REIMBURSE-  
15 MENT RECEIVED FOR REPRESENTATION. THE AMOUNT OF COMPENSATION AND  
16 REIMBURSEMENT IS SUBJECT TO THE COURT APPROVAL AS DESCRIBED ABOVE.

17 6. COMPENSATION AND REIMBURSEMENT FOR APPEAL SHALL BE FIXED BY THE  
18 APPELLATE COURT NOT TO BE BELOW THE RATES SET FORTH IN THIS SECTION.

19 7. IN EXTRAORDINARY CIRCUMSTANCES A TRIAL OR APPELLATE COURT MAY  
20 PROVIDE FOR PAYMENT OF COMPENSATION AND REIMBURSEMENT FOR EXPENSES  
21 BEFORE THE COMPLETION OF THE REPRESENTATION UPON APPLICATION.

22 S 3. The opening paragraph of section 722 of the county law, as  
23 amended by chapter 7 of the laws of 2007, is amended to read as follows:

24 The governing body of each county and the governing body of the city  
25 in which a county is wholly contained shall place in operation through-  
26 out the county a plan for providing counsel to persons charged with a  
27 crime or who are entitled to counsel pursuant to section two hundred  
28 sixty-two or section eleven hundred twenty of the family court act,  
29 article six-C of the correction law, section four hundred seven of the  
30 surrogate's court procedure act or article ten of the mental hygiene  
31 law, who are financially unable to obtain counsel. THE GOVERNING BODY OF  
32 EACH COUNTY AND THE GOVERNING BODY OF THE CITY IN WHICH A COUNTY IS  
33 WHOLLY CONTAINED SHALL ALSO PLACE IN OPERATION THROUGHOUT THE COUNTY A  
34 PLAN FOR PROVIDING COUNSEL TO FINANCIALLY UNABLE PERSONS IN CIVIL  
35 PROCEEDINGS UNDER THIS SECTION, SECTIONS ONE HUNDRED NINETY-SIX-A, FIVE  
36 HUNDRED THIRTY-EIGHT, SIX HUNDRED TWENTY, SIX HUNDRED TWENTY-ONE, SIX  
37 HUNDRED TWENTY-FOUR, SIX HUNDRED SIXTY-THREE AND SIX HUNDRED EIGHTY-ONE  
38 OF THE LABOR LAW, SECTIONS TWENTY-TWO AND THREE HUNDRED FIVE OF THE  
39 SOCIAL SERVICES LAW, SECTION 21-904 OF THE ADMINISTRATIVE CODE OF THE  
40 CITY OF NEW YORK, WHERE THERE IS A REVOCATION OR SUSPENSION ISSUED  
41 PURSUANT TO SECTIONS TWO HUNDRED TWENTY-SEVEN, TWO HUNDRED FORTY-TWO AND  
42 TWO HUNDRED SIXTY-ONE OF THE VEHICLE AND TRAFFIC LAW, ARTICLE FORTY-NINE  
43 OF THE PUBLIC HEALTH LAW, SECTIONS SEVEN HUNDRED ELEVEN, SEVEN HUNDRED  
44 THIRTEEN, SEVEN HUNDRED THIRTEEN-A, FIVE HUNDRED ONE, ONE THOUSAND NINE-  
45 TY-THREE AND ARTICLE ELEVEN OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS  
46 LAW, RULE THREE HUNDRED FIVE AND ARTICLE SEVENTY-EIGHT OF THE CIVIL  
47 PRACTICE LAW AND RULES AND ARTICLE FOUR OF THE FAMILY COURT ACT. FOR THE  
48 PURPOSES OF THIS SECTION THE TERMS "FINANCIALLY UNABLE" AND "LOW INCOME"  
49 SHALL MEAN AN INDIVIDUAL WHO IS AT OR BELOW TWO HUNDRED PERCENT OF THE  
50 FEDERAL POVERTY GUIDELINES. Each plan shall also provide for investi-  
51 gative, expert and other services necessary for an adequate defense. The  
52 plan shall conform to one of the following:

53 S 4. Subdivision 3 of section 1303 of the real property actions and  
54 proceedings law, as amended by chapter 507 of the laws of 2009 and as  
55 further amended by section 104 of part A of chapter 62 of the laws of  
56 2011, is amended to read as follows:

1 3. The notice to any mortgagor required by paragraph (a) of subdivi-  
2 sion one of this section shall appear as follows:

3 Help for Homeowners in Foreclosure

4 New York State Law requires that we send you this notice about the  
5 foreclosure process. Please read it carefully.

6 Summons and Complaint

7 You are in danger of losing your home. If you fail to respond to the  
8 summons and complaint in this foreclosure action, you may lose your  
9 home. Please read the summons and complaint carefully. You should imme-  
10 diately contact an attorney or your local legal aid office to obtain  
11 advice on how to protect yourself.

12 Sources of Information and Assistance

13 The State encourages you to become informed about your options in  
14 foreclosure. In addition to seeking assistance from an attorney or legal  
15 aid office, there are government agencies and non-profit organizations  
16 that you may contact for information about possible options, including  
17 trying to work with your lender during this process. YOU MAY BE ENTITLED  
18 TO ASSIGNED COUNSEL IF YOU ARE FINANCIALLY UNABLE TO OBTAIN REPRESENTATION.  
19

20 To locate an entity near you, you may call the toll-free helpline  
21 maintained by the New York State Department of Financial Services at  
22 (enter number) or visit the Department's website at (enter web address).  
23 Foreclosure rescue scams

24 Be careful of people who approach you with offers to "save" your home.  
25 There are individuals who watch for notices of foreclosure actions in  
26 order to unfairly profit from a homeowner's distress. You should be  
27 extremely careful about any such promises and any suggestions that you  
28 pay them a fee or sign over your deed. State law requires anyone offer-  
29 ing such services for profit to enter into a contract which fully  
30 describes the services they will perform and fees they will charge, and  
31 which prohibits them from taking any money from you until they have  
32 completed all such promised services.

33 S 5. Section 722-c of the county law, as amended by section 3 of part  
34 J of chapter 62 of the laws of 2003, is amended to read as follows:

35 S 722-c. Services other than counsel. Upon a finding in an ex parte  
36 proceeding that investigative, expert or other services are necessary  
37 and that the defendant or other person described in section two hundred  
38 forty-nine or section two hundred sixty-two of the family court act,  
39 article six-C of the correction law [or], section four hundred seven of  
40 the surrogate's court procedure act, SECTION SEVEN HUNDRED TWENTY-TWO OF  
41 THIS ARTICLE, SECTIONS ONE HUNDRED NINETY-SIX-A, FIVE HUNDRED  
42 THIRTY-EIGHT, SIX HUNDRED TWENTY, SIX HUNDRED TWENTY-ONE, SIX HUNDRED  
43 TWENTY-FOUR, SIX HUNDRED SIXTY-THREE AND SIX HUNDRED EIGHTY-ONE OF THE  
44 LABOR LAW, SECTIONS TWENTY-TWO AND THREE HUNDRED FIVE OF THE SOCIAL  
45 SERVICES LAW, SECTION 21-904 OF THE ADMINISTRATIVE CODE OF THE CITY OF  
46 NEW YORK, WHERE THERE IS A REVOCATION OR SUSPENSION ISSUED PURSUANT TO  
47 SECTIONS TWO HUNDRED TWENTY-SEVEN, TWO HUNDRED FORTY-TWO AND TWO HUNDRED  
48 SIXTY-ONE OF THE VEHICLE AND TRAFFIC LAW, ARTICLE FORTY-NINE OF THE  
49 PUBLIC HEALTH LAW, SECTIONS SEVEN HUNDRED ELEVEN, SEVEN HUNDRED THIR-  
50 TEEN, SEVEN HUNDRED THIRTEEN-A, FIVE HUNDRED ONE, ONE THOUSAND  
51 NINETY-THREE AND ARTICLE ELEVEN OF THE REAL PROPERTY ACTIONS AND  
52 PROCEEDINGS LAW, RULE THREE HUNDRED FIVE AND ARTICLE SEVENTY-EIGHT OF  
53 THE CIVIL PRACTICE LAW AND RULES, AND ARTICLE FOUR OF THE FAMILY COURT  
54 ACT, is financially unable to obtain them, the court shall authorize  
55 counsel, whether or not assigned in accordance with a plan, to obtain  
56 the services on behalf of the defendant or such other person. The court

1 upon a finding that timely procurement of necessary services could not  
2 await prior authorization may authorize the services nunc pro tunc. The  
3 court shall determine reasonable compensation for the services and  
4 direct payment to the person who rendered them or to the person entitled  
5 to reimbursement. Only in extraordinary circumstances may the court  
6 provide for compensation in excess of one thousand dollars per investi-  
7 gative, expert or other service provider.

8 Each claim for compensation shall be supported by a sworn statement  
9 specifying the time expended, services rendered, expenses incurred and  
10 reimbursement or compensation applied for or received in the same case  
11 from any other source.

12 S 6. Section 227 of the vehicle and traffic law is amended by adding a  
13 new subdivision 7 to read as follows:

14 7. A FINANCIALLY UNABLE PERSON WHO IS CHARGED WITH AN OFFENSE PUNISHA-  
15 BLE BY A REVOCATION OR SUSPENSION OF HIS OR HER DRIVERS' LICENSE WHERE  
16 THE PERSON IS DEPENDENT ON DRIVING FOR THEIR EMPLOYMENT OR WHERE THERE  
17 IS A LACK OF PUBLIC TRANSPORTATION IN THE PERSON'S SURROUNDING AREA  
18 SHALL HAVE A RIGHT TO ASSIGNED COUNSEL BY THE COURT. ASSIGNMENT OF COUN-  
19 SEL UNDER THIS SECTION SHALL BE IMPLEMENTED AS PROVIDED IN ARTICLE EIGH-  
20 TEEN-B OF THE COUNTY LAW. FOR THE PURPOSES OF THIS SECTION THE TERM  
21 "FINANCIALLY UNABLE" SHALL MEAN AN INDIVIDUAL WHO IS AT OR BELOW TWO  
22 HUNDRED PERCENT OF THE FEDERAL POVERTY GUIDELINES.

23 S 7. Section 261 of the vehicle and traffic law is amended by adding a  
24 new subdivision 5 to read as follows:

25 5. ASSIGNMENT OF COUNSEL. A FINANCIALLY UNABLE PERSON WHO IS CHARGED  
26 WITH AN OFFENSE PUNISHABLE BY A REVOCATION OR SUSPENSION OF HIS OR HER  
27 DRIVERS' LICENSE WHERE THE PERSON IS DEPENDENT ON DRIVING FOR THEIR  
28 EMPLOYMENT OR WHERE THERE IS A LACK OF PUBLIC TRANSPORTATION IN THE  
29 PERSON'S SURROUNDING AREA SHALL HAVE A RIGHT TO ASSIGNED COUNSEL BY THE  
30 COURT. ASSIGNMENT OF COUNSEL UNDER THIS SECTION SHALL BE IMPLEMENTED AS  
31 PROVIDED IN ARTICLE EIGHTEEN-B OF THE COUNTY LAW. FOR THE PURPOSES OF  
32 THIS SECTION THE TERM "FINANCIALLY UNABLE" SHALL MEAN AN INDIVIDUAL WHO  
33 IS AT OR BELOW TWO HUNDRED PERCENT OF THE FEDERAL POVERTY GUIDELINES.

34 S 8. The state finance law is amended by adding a new section 98-d to  
35 read as follows:

36 S 98-D. CIVIL GIDEON ASSISTANCE FUND. 1. THERE IS HEREBY ESTABLISHED  
37 IN THE JOINT CUSTODY OF THE COMPTROLLER AND THE COMMISSIONER OF TAXATION  
38 AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE CIVIL GIDEON ASSISTANCE  
39 FUND.

40 2. SUCH FUND SHALL CONSIST OF ALL MONEYS APPROPRIATED FOR THE PURPOSE  
41 OF SUCH FUND, ALL OTHER MONEYS REQUIRED TO BE PAID INTO OR CREDITED TO  
42 SUCH FUND, AND ALL MONEYS RECEIVED BY THE FUND OR DONATED TO IT. A ONE-  
43 TIME SURCHARGE OF SEVENTY-FIVE DOLLARS SHALL BE ADDED TO THE BIENNIAL  
44 ATTORNEY FEES TO BE ADDED TO THIS FUND.

45 (A) THE PURPOSE OF SUCH FUND SHALL BE TO: (I) ASSIST COUNTIES AND, IN  
46 THE CASE OF A COUNTY WHOLLY CONTAINED WITHIN A CITY, SUCH CITY, IN  
47 PROVIDING LEGAL REPRESENTATION FOR PERSONS WHO ARE FINANCIALLY UNABLE TO  
48 AFFORD COUNSEL PURSUANT TO ARTICLE EIGHTEEN-C OF THE COUNTY LAW; (II)  
49 ASSIST THE STATE, IN IMPROVING THE QUALITY OF CIVIL LEGAL SERVICES  
50 ADDRESSING THE ESSENTIALS OF LIFE AND FUNDING REPRESENTATION PROVIDED BY  
51 ASSIGNED COUNSEL PAID IN ACCORDANCE WITH SECTION THIRTY-FIVE OF THE  
52 JUDICIARY LAW; (III) PROVIDE SUPPORT FOR THE OPERATIONS, DUTIES, RESPON-  
53 SIBILITIES AND EXPENSES FOR THE RIGHT TO CIVIL REPRESENTATION COMMISSION  
54 AND PANEL ESTABLISHED, RESPECTIVELY, PURSUANT TO THIS ARTICLE; AND (IV)  
55 PROVIDE FUNDING FOR LEGAL REPRESENTATION AS DESCRIBED HEREIN.

1 (B) STATE FUNDS RECEIVED BY A COUNTY OR CITY FROM SUCH FUND SHALL BE  
2 USED TO SUPPLEMENT AND NOT SUPPLANT ANY LOCAL FUNDS WHICH SUCH COUNTY OR  
3 CITY WOULD OTHERWISE HAVE HAD TO EXPEND FOR THE PROVISION OF COUNSEL AND  
4 EXPERT, INVESTIGATIVE AND OTHER SERVICES PURSUANT TO ARTICLE EIGHTEEN-C  
5 OF THE COUNTY LAW. ALL SUCH STATE FUNDS RECEIVED BY A COUNTY OR CITY  
6 SHALL BE USED TO IMPROVE THE QUALITY OF SERVICES PROVIDED PURSUANT TO  
7 ARTICLE EIGHTEEN-C OF THE COUNTY LAW. NOTHING IN THIS PARAGRAPH SHALL  
8 PRECLUDE A COUNTY FROM DECREASING LOCAL FUNDS AS LONG AS THE COUNTY  
9 DEMONSTRATES TO THE COMMISSION THAT THE QUALITY OF SERVICES HAS BEEN  
10 MAINTAINED OR ENHANCED NOTWITHSTANDING THE USE OF STATE FUNDS.

11 (C) AS USED IN THIS SECTION, "LOCAL FUNDS" SHALL MEAN ALL FUNDS APPRO-  
12 PRIATED OR ALLOCATED BY A COUNTY OR, IN THE CASE OF A COUNTY WHOLLY  
13 CONTAINED WITHIN A CITY, SUCH CITY, FOR SERVICES AND EXPENSES IN ACCORD-  
14 ANCE WITH ARTICLE EIGHTEEN-C OF THE COUNTY LAW, OTHER THAN FUNDS  
15 RECEIVED FROM: (I) THE FEDERAL GOVERNMENT OR THE STATE; OR (II) A  
16 PRIVATE SOURCE, WHERE SUCH CITY OR COUNTY DOES NOT HAVE AUTHORITY OR  
17 CONTROL OVER THE PAYMENT OF SUCH FUNDS BY SUCH PRIVATE SOURCE.

18 3. AMOUNTS DISTRIBUTED FROM SUCH FUND SHALL BE LIMITED TO AMOUNTS  
19 DEEMED APPROPRIATE BY THE OFFICE OF COURT ADMINISTRATION AND SHALL BE  
20 DISTRIBUTED PROPORTIONATELY BY LEVEL OF NEED AT THE COURT'S DISCRETION.

21 (A) FOR ALL STATE FISCAL YEARS, EACH COUNTY AND THE CITY OF NEW YORK,  
22 SHALL RECEIVE NINETY PERCENT OF THE AMOUNT PAID TO SUCH COUNTY IN THE  
23 PREVIOUS FISCAL YEAR.

24 (B) REMAINING AMOUNTS WITHIN SUCH FUND, AFTER ACCOUNTING FOR ANNUAL  
25 PAYMENTS REQUIRED IN THIS SECTION SHALL BE DISTRIBUTED IN ACCORDANCE  
26 WITH SECTIONS EIGHT HUNDRED THIRTY-TWO AND EIGHT HUNDRED THIRTY-THREE OF  
27 THE EXECUTIVE LAW.

28 S 9. This act shall take effect immediately, and the appointment of  
29 members to the civil right to counsel commission and the assigned coun-  
30 sel for civil matters review panel shall be completed within 90 days of  
31 such effective date.