

LOCAL LAW 5 OF 2022

RECOMMENDATIONS

PREPARED FOR :
Mayor Eric Adams
New York City Council

2022

EXECUTIVE SUMMARY

On January 9, 2022, Local Law 5 of 2022 went into effect. This legislation tasks the Office of Civil Justice (OCJ) of the New York City Human Resources Administration [now the Department of Social Services (DSS)] with establishing a two-year pilot program to provide free brief legal assistance and full legal representation to domestic violence survivors in divorce proceedings. In compliance with Local Law 5, OCJ submits the following report with recommendations for the pilot program.

This report and recommendations were developed by a working group consisting of representatives from the Mayor's Office to End Domestic and Gender-Based Violence (ENDGBV), the Administration for Children's Services (ACS), and the Department of Social Services (DSS). The working group consulted with nonprofit domestic violence civil legal service providers who have experience representing survivors of domestic violence in divorce proceedings across the five boroughs. These providers included: Legal Services NYC, The Legal Aid Society, New York Legal Assistance Group, Sanctuary for Families, Safe Horizon, North Brooklyn Coalition Against Family Violence, Shalom Task Force, Met Council, Urban Justice Center, Her Justice, Day One, and Northern Manhattan Improvement Corporation. The working group met with civil legal service providers as individual agencies in February and March 2022, and then met with civil legal service providers as a group in April 2022.

UNDERSTANDING THIS REPORT

This report is a product of the Advisory Workgroup established pursuant to Local Law 5. In accordance with the mandates of Local Law 5 of 2022, the workgroup includes representatives from DSS, ACS and ENDGBV, and has prepared this report and the recommendations contained herein for the Mayor of New York City and the Speaker of the New York City Council. The workgroup recommendations are advisory in nature and, as set forth in Local Law 5, nothing "shall require [the City or its agencies] compliance with the workgroup's recommendations or disclosure of any information where such disclosure would violate local, state, or federal law, interfere with a law enforcement investigation or operations, compromise public health or safety, or that would result in the disclosure of proprietary information."

CURRENT LANDSCAPE/ BACKGROUND

New York City Supreme Courts and Integrated Domestic Violence Courts handle a high volume of matrimonial cases. In 2019, 27,008 divorces were filed in NYC. Civil legal service providers report that there is a high demand among survivors of domestic violence for legal representation in divorce proceedings.

Survivors of domestic violence leaving abusive relationships are a particularly vulnerable litigant population. The psychological trauma of abuse and the dynamics of power, control, and coercion in abusive relationships may make it difficult for survivors to face their abuser or effectively negotiate with their abuser without legal representation. Moreover, survivors may require a legal representative in court to protect their safety and the safety of their children. Extra procedural steps are required to safeguard survivors in matrimonial proceedings, including, but not limited to: requesting orders of protection, addressing social security number confidentiality, or protective orders related to discovery requests. Survivors may also require safety considerations around child visitation schedules and locations and/or exchanges of property. If a survivor has experienced financial abuse, legal assistance is critical to identifying assets and tracking marital or personal expenditures. Ideally, survivors of domestic violence would receive holistic services throughout their legal representation, including engagement with social workers, economic advisors, and housing specialists.

Despite the demand for legal representation and the unique needs of domestic violence survivors, many survivors do not or cannot obtain legal representation. Low- and middle-income survivors or survivors who have suffered financial abuse may not be able to afford private counsel for their divorce proceedings, and judges are not required to assign counsel for financial or other aspects of a divorce proceeding. Although many domestic violence legal providers represent survivors in divorce proceedings, they do not have the funding or staffing capacity to accept every client in need of legal representation. Legal providers' capacity to represent survivors in divorce proceedings is particularly limited due to the complex nature of contested divorces.

Contested divorces in New York City may take two to five years (or longer) to resolve and may require many court appearances, motions, depositions, and trial dates. Many divorces include requests for orders of protection, child and spousal support, custody and visitation determinations, and the division and/or sale of assets. There may also be interrelated cases ongoing in other courts as the divorce proceeds, including criminal, family, housing, or immigration court cases – all of which may have an impact on the divorce proceeding and may require coordinated legal representation.

Even uncontested divorce cases in New York City can be time-consuming for attorneys and uncontested divorces often have their own unforeseen complexities. An uncontested divorce can require a survivor and their legal team to review and/or complete over 30 court forms, and judicial intervention is required should a survivor seek to keep their address or social security number confidential. As with any other civil proceeding, a survivor must complete legal service on their spouse in any divorce proceeding. If a spouse is difficult to find or evasive, a survivor may need to hire a private investigator and/or professional process server to complete personal service. If personal service is not possible, a survivor may need to request permission from the court to serve their spouse by alternate means.

Additional factors impacting divorce processes and representation in New York City include the coronavirus pandemic and decreased levels of state (funding for nonprofit civil legal service providers). In March 2020, at the start of the pandemic, courthouses in New York City closed and gradually adapted to remote proceedings. During this period of adaptation, courts were only accepting filings and hearing essential matters such as orders of protection. Divorces were not included as essential matters, resulting in a backlog of divorce proceedings that continues to date. Further complicating divorce matters for survivors of domestic violence, civil service providers report that their legal services grant funding has decreased recently, limiting their capacity to hire attorneys and take on new divorce clients and that they've had trouble recruiting and retaining staff post-pandemic.

CHALLENGES

As of submission of this report, the required funding has not yet been allocated for the two-year pilot. The complex nature of divorce proceedings, the limited capacity of service providers, and the unknown budget create real challenges for successful implementation of this two-year pilot. In conversations with nonprofit civil legal service providers the following concerns were raised:

1) Complexities of Matrimonial Litigation

Because this is a pilot program and service providers will have limited capacity, it's important that the pilot program establish clear eligibility requirements and priorities. Providers encouraged the working group to prioritize representing survivors of domestic violence who have complex or multiple interrelated cases such as housing, immigration, or criminal cases.

Providers specifically highlighted the survivors' needs for legal assistance in completing and filing the myriad paperwork required to process an uncontested divorce in New York State.

2) Case Volume for Service Providers

Civil legal service providers reported that a matrimonial attorney in their offices can typically handle 20-25 contested divorces at a time. This estimated number considers the complexity of the proceedings as well as the trauma-informed approach of service providers. Because contested divorces can take a long time to complete, there is a possibility that attorneys will have the same 20-25 clients throughout the two-year pilot. This also means that the demand for representation in contested divorces will far exceed the capacity of this pilot program.

3) Funding and Staffing a Short-Term Pilot

Civil legal service providers reported that they would require funding in order to onboard new staff and/or supervisors that will be required to serve survivors under the two-year pilot program. Providers expressed concern that, should they lose funding after completion of the two-year pilot, they would need to cut staff and absorb or find new counsel for clients whose divorces did not resolve during the two-year pilot program. Additionally, service providers with experience representing survivors of domestic violence adopt a trauma-informed approach to representation that often requires a close partnership with social workers. Providers requested the working group consider funding for social workers as part of the pilot program.

4) Measuring success

Measuring the success of this program may be difficult given the complexity and duration of divorce proceedings. Measuring success by the number of cases providers onboard or close will not provide meaningful data reflective of the quality of services provided during the pendency of the divorce or of the impact on the survivor's life. Civil legal service providers also reported discomfort with measuring success in this way since there are often delays with matrimonial proceedings that are not within their control.

RECOMMENDATIONS

Goals: A successful pilot will provide a basis to assess and plan for the future cost of scaling matrimonial legal services for domestic violence survivors and determine the feasibility of a universal-representation model by providing a clear view of the cost of providing representation and administration of a program, including funding staff attorneys, paralegals, and social workers as full-time teams to provide full representation and brief counsel on a number of contested divorces and to provide supports for uncontested divorces.

Full-Representation: Contractors participating in the pilot should prioritize offering full legal representation that spans the life of the matrimonial case (with the understanding that many cases will not conclude within the two-year pilot). As mandated by the Law, any full legal representation of a domestic violence survivor, commenced pursuant to the pilot program, shall continue until the final disposition of the divorce proceeding, excluding subsequent appeals, and associated legal actions arising from the covered divorce proceeding.

Additionally, we recommend that the majority of cases accepted for the pilot are at the pre-commencement or newly commenced stage.

Contested Divorces: The pilot should prioritize legal assistance for matrimonial cases that are typically most challenging for domestic violence survivors to navigate, such as contested divorces. Given the increased complexity associated with contested divorces, we recommend that no more than 25% of Contractor staff attorney caseloads consist of uncontested divorces.

Cultural Responsiveness: The pilot program should provide quality individualized, trauma-informed legal assistance to meet the unique needs of domestic violence survivors within New York City that derive from the complexities of matrimonial law, as well ethnic and religious beliefs concerning divorce or even a survivor's attempt to seek redress in court rather than in community or family systems. The pilot should center survivors of domestic violence who face increased barriers when navigating court systems. These barriers may include survivors with limited English proficiency, immigrant survivors, survivors who have a disability, survivors who are elderly, and survivors of financial abuse.

Contractor Experience: As outlined in Local Law 5, the pilot will include not-for-profit organizations that have experience with domestic violence cases, are culturally responsive, and have the capacity to provide the services covered by the pilot program. To ensure a level of expertise in domestic violence and matrimonial proceedings, we recommend that Contractors demonstrate ability to employ staff attorneys with a minimum of three to five years of experience in matrimonial law and supervisory attorneys with more than five years of experience in matrimonial law. We recommend selecting Contractors with a commitment to operating with a legal team approach to providing services that increases the Contractor's capacity to meet the needs of a matrimonial caseload consisting of contested divorces, uncontested divorces, and brief legal assistance (e.g., legal consultations). A legal team approach could include employing paralegals, staff attorneys, supervising attorneys, consultants, and caseworkers for pilot activities.

RECOMMENDATIONS

EXPANSION OF RESOURCES: THIS MODEL FOR THE PROGRAM SHOULD ENSURE THAT THE PILOT TRULY EXPANDS LEGAL RESOURCES AND SOCIAL WORK SUPPORTS FOR SURVIVORS WITHOUT DIMINISHING EXISTING RESOURCES. WE RECOMMEND AN APPROACH THAT ENSURES THE FULLEST OPPORTUNITY FOR LITIGANTS TO RECEIVE QUALITY LEGAL REPRESENTATION AND ENSURES MEANINGFUL OPPORTUNITIES FOR SURVIVORS WHO WOULD OTHERWISE NAVIGATE THE SYSTEM ALONE.

EVALUATIONS: THE CONTRACTORS WHO PARTICIPATE IN THE PILOT PROGRAM WILL BE RESPONSIBLE FOR MONITORING PROGRAM PERFORMANCE AND ENSURING THAT THE OBJECTIVES OF THE INITIATIVES ARE ACCOMPLISHED. THE PROVIDERS WILL COLLECT RELEVANT DATA WITH RESPECT TO THE PROJECT AND TRACK DATA TO PROVIDE IT TO THE NEW YORK CITY COUNCIL AND THE AGENCY. AN INDEPENDENT EVALUATOR WILL DESIGN AND COMPLETE AN EVALUATION OF THIS PILOT.

APPENDIX A: LL 5 OF 2022

APPENDIX B: DEFINITIONS

APPENDIX C: PLAN FOR IMPLEMENTATION

APPENDIX A: LOCAL LAW 5 OF 2022

A LOCAL LAW IN RELATION TO CIVIL LEGAL SERVICES FOR DOMESTIC VIOLENCE SURVIVORS WHO ARE A PARTY TO A DIVORCE PROCEEDING

BE IT ENACTED BY THE COUNCIL AS FOLLOWS:

SECTION 1. A. DEFINITIONS. FOR THE PURPOSES OF THIS LOCAL LAW, THE FOLLOWING TERMS HAVE THE FOLLOWING MEANINGS:

BRIEF LEGAL ASSISTANCE. THE TERM "BRIEF LEGAL ASSISTANCE" MEANS INDIVIDUALIZED LEGAL ASSISTANCE PROVIDED IN ONE OR MORE SINGLE CONSULTATIONS BY A DESIGNATED ORGANIZATION TO A DOMESTIC VIOLENCE SURVIVOR, IN CONNECTION WITH A DIVORCE PROCEEDING.

COORDINATOR. THE TERM "COORDINATOR" MEANS THE COORDINATOR OF THE OFFICE OF CIVIL JUSTICE.

DESIGNATED ORGANIZATION. THE TERM "DESIGNATED ORGANIZATION" MEANS A NOT-FOR-PROFIT ORGANIZATION OR ASSOCIATION THAT PROVIDES LEGAL SERVICES AND IS DESIGNATED BY THE COORDINATOR PURSUANT TO THIS LOCAL LAW.

DIVORCE PROCEEDING. THE TERM "DIVORCE PROCEEDING" MEANS ANY ACTION FOR DIVORCE OR SPECIAL ACTION AS DESCRIBED IN SECTIONS 170 AND 170-A OF THE DOMESTIC RELATIONS LAW.

DOMESTIC VIOLENCE SURVIVOR. THE TERM "DOMESTIC VIOLENCE SURVIVOR" MEANS ANY INDIVIDUAL WHO IS COVERED BY THE TERM "VICTIM OF DOMESTIC VIOLENCE" AS SUCH TERM IS DEFINED IN SECTION 8-102 OF THE ADMINISTRATIVE CODE OR AS SUCH TERM IS DEFINED IN SECTION 459-A OF THE SOCIAL SERVICES LAW.

FULL LEGAL REPRESENTATION. THE TERM "FULL LEGAL REPRESENTATION" MEANS ONGOING LEGAL REPRESENTATION PROVIDED BY A DESIGNATED ORGANIZATION TO A DOMESTIC VIOLENCE SURVIVOR. THIS INCLUDES ALL LEGAL ADVICE, ADVOCACY AND ASSISTANCE ASSOCIATED WITH SUCH REPRESENTATION. SUCH FULL LEGAL REPRESENTATION SHALL ALSO INCLUDE THE FILING OF A NOTICE OF APPEARANCE IN A DIVORCE PROCEEDING AND PAYMENT OF ANY ASSOCIATED FILING FEES INCURRED IN THE COURSE OF SUCH REPRESENTATION, INCLUDING FEES ASSOCIATED WITH INDEX NUMBERS AND NOTICES OF ISSUE.

LEGAL SERVICES. THE TERM "LEGAL SERVICES" MEANS BRIEF LEGAL ASSISTANCE AND FULL LEGAL REPRESENTATION.

B. WORKING GROUP. 1. ON OR BEFORE FEBRUARY 15, 2022, THE COORDINATOR SHALL ESTABLISH A WORKING GROUP TO MAKE RECOMMENDATIONS FOR AND REPORT ON THE PILOT PROGRAM REQUIRED PURSUANT TO SUBDIVISION C OF THIS LOCAL LAW.

2. MEMBERS OF SUCH WORKING GROUP SHALL INCLUDE THE COORDINATOR AND REPRESENTATIVES FROM THE FOLLOWING OFFICES AND AGENCIES: THE OFFICE TO END DOMESTIC AND GENDER-BASED VIOLENCE, THE ADMINISTRATION FOR CHILDREN'S SERVICES AND THE HUMAN RESOURCES ADMINISTRATION. SUCH WORKING GROUP SHALL CONSULT WITH ORGANIZATIONS THAT WORK WITH OR ADVOCATE FOR DOMESTIC VIOLENCE SURVIVORS.

3. NO LATER THAN MAY 15, 2022, THE WORKING GROUP SHALL SUBMIT TO THE MAYOR AND SPEAKER OF THE COUNCIL A REPORT THAT SHALL INCLUDE, BUT NOT BE LIMITED TO, RECOMMENDATIONS FOR:

(A) THE SCOPE OF THE PILOT PROGRAM REQUIRED BY SUBDIVISION C OF THIS LOCAL LAW;

(B) CRITERIA FOR ELIGIBILITY FOR SUCH PILOT PROGRAM;

(C) A PLAN FOR IMPLEMENTATION OF SUCH PILOT PROGRAM, INCLUDING WITH REGARD TO THE PAYMENT OF ANY COSTS OR FEES; AND

(D) HOW SUCH PROGRAM CAN BE CULTURALLY RESPONSIVE TO CLIENTS.

C. CIVIL LEGAL SERVICES PILOT PROGRAM. 1. NO LATER THAN SEPTEMBER 1, 2022, SUBJECT TO APPROPRIATION, THE COORDINATOR SHALL ESTABLISH A TWO-YEAR PILOT PROGRAM FOR PROVIDING FREE LEGAL SERVICES FOR DOMESTIC VIOLENCE SURVIVORS IN DIVORCE PROCEEDINGS. THE COORDINATOR MAY TAKE INTO CONSIDERATION THE RECOMMENDATIONS SUBMITTED PURSUANT TO SUBDIVISION B OF THIS LOCAL LAW. THE COORDINATOR SHALL ESTABLISH ELIGIBILITY CRITERIA FOR PARTICIPATION IN SUCH PILOT PROGRAM, BASED UPON THE NATURE OF THE LEGAL SERVICES NEEDS OF SUCH DOMESTIC VIOLENCE SURVIVORS, THE AVAILABILITY OF OTHER FREE LEGAL SERVICES FOR SUCH DOMESTIC VIOLENCE SURVIVORS AND ANY SIMILAR FACTORS THE COORDINATOR DEEMS APPROPRIATE. THE COORDINATOR SHALL ADDITIONALLY ESTABLISH THE SCOPE OF FREE LEGAL SERVICES TO BE PROVIDED AND A TIMELINE FOR IMPLEMENTATION OF SUCH PILOT PROGRAM.

2. AT THE COMMENCEMENT OF SUCH PILOT PROGRAM, THE COORDINATOR SHALL ESTIMATE THE NUMBER OF DOMESTIC VIOLENCE SURVIVORS FOR WHOM FREE LEGAL SERVICES CAN BE PROVIDED WITHIN THE FUNDING AVAILABLE FOR SUCH PILOT PROGRAM. TO THE EXTENT THE DEMAND FOR SUCH FREE LEGAL REPRESENTATION EXCEEDS THE FUNDING AVAILABLE FOR SUCH PILOT PROGRAM, THE COORDINATOR SHALL APPORTION SUCH FUNDS IN A MANNER THAT MAXIMIZES THE EFFICIENT PROVISION OF LEGAL SERVICES.

3. THE COORDINATOR SHALL DESIGNATE ONE OR MORE NOT-FOR-PROFIT ORGANIZATIONS OR ASSOCIATIONS THAT HAVE EXPERIENCE WITH DOMESTIC VIOLENCE CASES, ARE CULTURALLY RESPONSIVE AND HAVE THE CAPACITY TO PROVIDE THE SERVICES COVERED BY THE PILOT PROGRAM REQUIRED PURSUANT TO THIS SUBDIVISION.

4. SUBJECT TO APPROPRIATION, ANY FULL LEGAL REPRESENTATION OF A DOMESTIC VIOLENCE SURVIVOR, COMMENCED PURSUANT TO THE PILOT PROGRAM REQUIRED BY THIS SUBDIVISION, SHALL CONTINUE UNTIL THE FINAL DISPOSITION OF THE DIVORCE PROCEEDING, EXCLUDING SUBSEQUENT APPEALS AND ASSOCIATED LEGAL ACTIONS ARISING FROM THE COVERED DIVORCE PROCEEDING.

D. NO LATER THAN SEPTEMBER 1, 2022, THE OFFICE TO END DOMESTIC AND GENDER-BASED VIOLENCE SHALL WORK WITH THE COORDINATOR TO:

1. OFFER TRAUMA-INFORMED TRAINING ON TOPICS RELATED TO DOMESTIC AND GENDER-BASED VIOLENCE TO THE DESIGNATED ORGANIZATIONS, INCLUDING TRAINING ON ECONOMIC ABUSE AND TRAUMA-INFORMED ENGAGEMENT PRACTICES. SUCH TRAINING MAY ALSO INCLUDE INFORMATION REGARDING THE FINANCIAL IMPLICATIONS FOR DOMESTIC VIOLENCE SURVIVORS WHO ARE PARTY TO CONTESTED DIVORCE PROCEEDINGS.

2. CREATE WRITTEN MATERIALS ABOUT THE PILOT PROGRAM ESTABLISHED PURSUANT TO SUBDIVISION C OF THIS LOCAL LAW AND ABOUT INTERPRETATION SERVICES THAT ARE AVAILABLE IN DIVORCE PROCEEDINGS. SUCH MATERIALS SHALL BE POSTED ONLINE AND MADE AVAILABLE AT FAMILY JUSTICE CENTERS AND OTHER LOCATIONS, AS PRACTICABLE, IN THE DESIGNATED CITYWIDE LANGUAGES.

E. ANY LEGAL SERVICES PERFORMED BY A DESIGNATED ORGANIZATION PURSUANT TO THIS LOCAL LAW SHALL NOT SUPPLANT, REPLACE OR SATISFY ANY OBLIGATIONS OR RESPONSIBILITIES OF SUCH DESIGNATED ORGANIZATION PURSUANT TO ANY OTHER PROGRAM, AGREEMENT OR CONTRACT.

F. NO LATER THAN APRIL 1, 2023, THE COORDINATOR SHALL SUBMIT TO THE MAYOR AND SPEAKER OF THE COUNCIL A PROGRESS REPORT ON THE PILOT PROGRAM THAT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING INFORMATION, DISAGGREGATED BY BOROUGH:

1. THE NUMBER OF DOMESTIC VIOLENCE SURVIVORS WHO HAVE RECEIVED BRIEF LEGAL ASSISTANCE THROUGH THE PILOT PROGRAM;

2. THE NUMBER OF DOMESTIC VIOLENCE SURVIVORS WHO HAVE RECEIVED FULL LEGAL REPRESENTATION THROUGH THE PILOT PROGRAM;

3. WHETHER SUCH CASES WERE CONTESTED OR UNCONTESTED; AND

4. THE AMOUNT OF FEES PAID IN TOTAL AND IN THE COURSE OF EACH FULL LEGAL REPRESENTATION.

G. NO LATER THAN NOVEMBER 1, 2024, THE COORDINATOR AND WORKING GROUP SHALL SUBMIT TO THE MAYOR AND SPEAKER OF THE COUNCIL A REPORT ASSESSING THE PILOT PROGRAM ESTABLISHED PURSUANT TO SUBDIVISION C OF THIS LOCAL LAW AND RECOMMENDATIONS FOR THE POTENTIAL EXPANSION OF THE PILOT PROGRAM. TO THE EXTENT SUCH INFORMATION IS AVAILABLE, SUCH REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO, INFORMATION AND RECOMMENDATIONS REGARDING:

1. THE NUMBER OF UNCONTESTED DIVORCE PROCEEDINGS AND CONTESTED DIVORCE PROCEEDINGS IN THE CITY OF NEW YORK INVOLVING DOMESTIC VIOLENCE SURVIVORS, AND THE APPARENT AVAILABILITY OF FREE LEGAL SERVICES FOR PARTIES TO SUCH PROCEEDINGS, INCLUDING BOTH THE SERVICES PROVIDED PURSUANT TO THE PILOT PROGRAM ESTABLISHED BY SUBDIVISION C OF THIS LOCAL LAW AND OTHER AVAILABLE SERVICES IN THE CITY;

2. THE NUMBER OF CUSTODY PROCEEDINGS, VISITATION PROCEEDINGS AND CHILD SUPPORT ENFORCEMENT PROCEEDINGS IN THE CITY OF NEW YORK INVOLVING DOMESTIC VIOLENCE SURVIVORS, AND THE APPARENT AVAILABILITY OF FREE LEGAL SERVICES FOR PARTIES TO SUCH PROCEEDINGS, INCLUDING BOTH THE SERVICES PROVIDED PURSUANT TO THE PILOT PROGRAM ESTABLISHED BY THIS LOCAL LAW AND OTHER AVAILABLE SERVICES IN THE CITY;

3. OTHER FREE LEGAL SERVICES FOR DOMESTIC RELATIONS AND FAMILY LAW MATTERS AVAILABLE TO DOMESTIC VIOLENCE SURVIVORS IN THE CITY OF NEW YORK, INCLUDING, BUT NOT LIMITED TO, SERVICES THAT ARE FUNDED BY THE CITY OF NEW YORK;

4. OBSTACLES FACED BY DOMESTIC VIOLENCE SURVIVORS WHO WISH TO PURSUE DIVORCE, CUSTODY, VISITATION OR CHILD SUPPORT ENFORCEMENT PROCEEDINGS OR WHO ARE UNREPRESENTED IN DOMESTIC RELATIONS AND FAMILY LAW MATTERS INITIATED BY ANOTHER PARTY, INCLUDING, BUT NOT LIMITED TO, INFORMATION RELATED TO EXPERT FEES, THE FILING FEES ASSOCIATED WITH SUCH PROCEEDINGS, THE REASONS FOR A CONTESTED DIVORCE AND ANY BARRIERS RELATED TO PROVIDING FREE LEGAL SERVICES;

5. RECOMMENDATIONS FOR EVALUATING, EXPANDING UPON OR CREATING ADDITIONAL PILOTS OR PROGRAMS RELATED TO DOMESTIC VIOLENCE SURVIVORS, INCLUDING, BUT NOT LIMITED TO, RECOMMENDATIONS ABOUT:

(A) THE ANTICIPATED EFFECTS OF SUCH PILOTS OR PROGRAMS;

(B) WHICH INDIVIDUALS AND PROCEEDINGS WOULD BE COVERED BY SUCH PILOTS OR PROGRAMS; AND

(C) HOW SUCH PILOTS OR PROGRAMS WOULD INTERACT WITH OTHER FREE LEGAL SERVICES THAT ARE AVAILABLE TO DOMESTIC VIOLENCE SURVIVORS IN THE CITY OF NEW YORK, INCLUDING, BUT NOT LIMITED TO, SUCH SERVICES THAT ARE FUNDED BY THE CITY OF NEW YORK; AND

6. THE WORKING GROUP SHALL DISSOLVE UPON SUBMISSION OF THE REPORT REQUIRED BY THIS SUBDIVISION.

H. NOTHING IN THIS LOCAL LAW OR THE ADMINISTRATION OR APPLICATION THEREOF SHALL BE CONSTRUED TO CREATE A PRIVATE RIGHT OF ACTION ON THE PART OF ANY PERSON OR ENTITY AGAINST THE CITY OR ANY AGENCY, OFFICIAL OR EMPLOYEE THEREOF.

§ 2. THIS LOCAL LAW TAKES EFFECT IMMEDIATELY.

APPENDIX B: DEFINITIONS

Section 8-102 of the Administrative Code: The term "victim of domestic violence" means a person who has been subjected to acts or threats of violence, not including acts of self-defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, or by a person who is or has continually or at regular intervals lived in the same household as the victim.

Section 459-a of the Social Services Law: "Victim of domestic violence" means any person over the age of sixteen, any married person or any parent accompanied by his or her minor child or children in situations in which such person or such person's child is a victim of an act which would constitute a violation of the penal law, including, but not limited to acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted assault, attempted murder, criminal obstruction of breathing or blood circulation, strangulation, identity theft, grand larceny or coercion; and

- (i) such act or acts have resulted in actual physical or emotional injury or have created a substantial risk of physical or emotional harm to such person or such person's child; and
- (ii) such act or acts are or are alleged to have been committed by a family or household member.

Source: <https://www1.nyc.gov/site/cchr/law/chapter-1.page>

Source: <https://www.nysenate.gov/legislation/laws/SOS/459-A>

APPENDIX C: PLAN FOR IMPLEMENTATION

TO SUPPORT TIMELY IMPLEMENTATION OF THE PILOT, WE RECOMMEND THAT ELIGIBLE PARTICIPANTS BE REFERRED TO THE PILOT PROGRAM BY EXISTING INTAKE AND REFERRAL PROCESSES.

THE PILOT SHOULD PRIORITIZE LEGAL REPRESENTATION SERVICES FOR LOW-INCOME, UNREPRESENTED SURVIVORS FOR WHOM CURRENT FREE LEGAL SERVICE OFFERINGS ARE LACKING AND FOR SURVIVORS WHO FACE INTERSECTIONAL BARRIERS AND CHALLENGES ACCESSING LEGAL REPRESENTATION.

- LEGAL REPRESENTATION SHOULD BE PROVIDED THROUGH A UNIVERSAL-REPRESENTATION, INSTITUTIONAL-PROVIDER MODEL WITH SCREENING BY PROVIDERS ONLY FOR INCOME ELIGIBILITY¹ AND A PRIORITIZATION FOR INTERRELATED CASES (I.E. HOUSING, IMMIGRATION, OR CRIMINAL).
- GIVEN THE LIMITED SCOPE AND DURATION OF THE PILOT, FAMILY JUSTICE CENTERS (FJCS) SHOULD SERVE AS THE EXCLUSIVE INTAKE POINT. THE FJCS ARE WELL-POSITIONED TO MAKE REFERRALS. REFERRALS FROM JUDGES, CLERKS, AND THE OFFICE FOR SELF-REPRESENTED SHOULD INITIALLY BE LIMITED IN ORDER TO NOT OVERWHELM INTAKE.
- THE AGENCY AND CONTRACTOR WILL PERIODICALLY REVIEW THE POOL OF ELIGIBLE CASES AND MAY EXPAND INTAKE TO INCLUDE REFERRALS ORIGINATING FROM PROVIDER ESTABLISHED INTAKE POINTS. IN SUCH INSTANCE, THE PROVIDER WILL REFER PROSPECTIVE CLIENTS TO THE AGENCY FOR ELIGIBILITY SCREENING AND ASSIGNMENT.
- THE CONTRACTOR SHALL ACCEPT REFERRALS OF MATTERS FOR LEGAL SERVICES FROM THE AGENCY UNLESS REPRESENTATION WOULD BE CONTRARY TO THE RULES OF PROFESSIONAL RESPONSIBILITY AND ETHICS OR ACCEPTANCE OF THE REFERRAL WOULD REQUIRE THE PROVIDER TO EXCEED ITS SERVICE TARGETS. REFERRALS WILL BE MADE IN A MANNER SPECIFIED BY THE AGENCY AFTER CONSULTATION WITH CONTRACTOR.
- THE CONTRACTOR SHALL ASSUME LEGAL REPRESENTATION OF ALL PROSPECTIVE CLIENTS THROUGHOUT THE DIVORCE PROCEEDING UNLESS ONE OR MORE OF THE FOLLOWING CIRCUMSTANCES IS APPLICABLE:
 - THE PROSPECTIVE CLIENT ALREADY HAS COUNSEL FOR THE DIVORCE PROCEEDING;
 - THE PROSPECTIVE CLIENT STATES THAT S/HE/THEY DO NOT WISH TO BE REPRESENTED;
 - THE PROSPECTIVE CLIENT'S HOUSEHOLD INCOME EXCEEDS 200 PERCENT OF THE FEDERAL POVERTY GUIDELINES;
 - THE PROSPECTIVE CLIENT IS NOT A NEW YORK CITY RESIDENT OR WAS PREVIOUSLY REPRESENTED BY OTHER COUNSEL IN THE MATRIMONIAL OR RELATED PROCEEDINGS,
 - THE CONTRACTOR IS PRECLUDED FOR LEGAL OR ETHICAL REASONS FROM REPRESENTING THE PROSPECTIVE CLIENT.

THE BUDGET CONSTRUCT SUPPORTS:

- FULL REPRESENTATION IN 125-250 CONTESTED DIVORCES CITYWIDE THROUGH FULL-TIME STAFF ATTORNEYS.
- LEGAL COUNSEL ON 1300-1500 UNCONTESTED DIVORCES CITYWIDE AS PROVIDED BY PARALEGALS.
- FULL REPRESENTATION ON A PER-CASE BASIS FOR CONTESTED DIVORCES FOR EXPERIENCED NON-PROFIT ORGANIZATIONS ACCEPTED BY ATTORNEYS WHO ARE NOT FULL-TIME STAFF ATTORNEYS FOR THE PILOT.²

¹ FINANCIAL ELIGIBILITY SHOULD BE BASED ON LIQUID ASSETS, ACCESSIBLE TO PROSPECTIVE CLIENTS AT THE TIME OF SCREENING, AS FINANCIAL CONTROL MAY BE AN ELEMENT OF ABUSE.

² COST-PER-CASE WILL BE GUIDED BY NYS FAMILY LAW ASSIGNED COUNSEL RATES CURRENTLY SET AT \$75 PER HOUR WITH A \$4400 CAP PER CASE. [HTTPS://NYCOURTS.GOV/COURTS/AD4/AFJ-LAW/AC-35-8-COMPENSATION-AND-REIMBURSEMENT-GUIDELINES.PDF](https://nycourts.gov/courts/ad4/afc/j-law/ac-35-8-compensation-and-reimbursement-guidelines.pdf) PENDING LITIGATION AND ADVOCACY COULD RESULT IN A RATE INCREASE TO \$150 PER HOUR AND \$8800 PER CASE. [HTTPS://QUEENSEAGLE.COM/ALL/2022/4/29/ASSIGNED-COUNSEL-ATTYS-RALLY-FOR-BETTER-PAY](https://queenseagle.com/all/2022/4/29/assigned-counsel-attys-rally-for-better-pay)