

Vote NO!
on Intro NO. 1258A

The purpose of bills proposed by the city council is to protect tenants from harassment, displacement, and other unscrupulous practices and to educate the consumer as to their rights.

**This Bill does NOTHING to Stop the Displacement
of Tenants**

ADDITIONAL AUDITING IS NOT GOING TO UNCOVER BAD SERVICE

**This bill will have the immediate effect of reducing the number of
Licensed and Educated Process Servers in the City of New York!**

- Reducing Licensed Process servers will increase Unregulated and Bad Service of Process on Consumers
- This bill will undermine the city's rules already in place to make service transparent
- These bills will cause unreasonable costs.
- This bill will cause unreasonable strain on an already overburdened industry.
- This bill will put more small business out of Business.

Stop Shooting the messenger.....Let us help instead!

New York State Professional Process Servers Association



My name is Gail Kagan, I am the immediate past president and current legislative chair of NYSPPSA. We are the only organization of our kind in New York State and charter member of the National Association of Professional Process Servers (NAPPS). NYSPPSA educates our members on the rules and procedures of service. We keep ourselves up to date on changing laws and regulations nationwide and make sure that the service of process which is so important to the checks and balance system of our judicial system remains relevant in an ever changing world.

To this end, a NYSPPSA member is committed to being accountable, reliable and valuable to their legal clients, the courts, and the parties and witnesses they serve.

I am conversant with NY State Rules Governing Process & the NYC Codes. In my role on the Board of NYSPPSA for the past decade, I have helped passed legislation that affects process throughout the state. I was involved in 2011 and 2012 when the new rules regarding Process Servers was amended into its current format and have on occasion functioned as the liaison of our association and independent Process Servers to the Department of Consumer Affairs (DCA).

I have studied the impact of the rules governing process on the process serving industry and consumers. As such I have an overview of how the current proposal Intro1258A will impact not only my business, but all of the agencies and independent process servers and the consumers involved in Landlord-Tenants litigation.

Re: Intro 1258: Process Server Bill

The bill in its original format presupposes that all the improper service is being done by Licensed Process Servers. Based on the 3,000,000 plus, rent controlled housing units presented by the 2018 Housing Supply Report, I believe with only 500- 650 Servers licensed in NYC a lot of unregulated service is being effectuated by people who have never studied the laws of service or taken the test to get licensed or paid over \$500 in fees to be licensed and bonded.

Why we are against unwarranted Audits?

Under Rule 89A and the DCA regulations, along with Geo-locating and creating a digital record of each and every person served in a case, a process server must at the time of service stop and make a hand written record. That record is required to be in a bound paginated book including 32 number and text fields for each person served or attempted to be served at the address, or apartment. In housing court, for instance, that means at minimum 3 individuals at one address/unit (we always have to serve a John and Jane Doe) often more.

Since this log is required to be done contemporaneously with the service, the server is often in an unsafe environment trying to accurately write this information. If there are several apartments at the address, these duplicitous records become similar to discipline sentences in grade school. The server is writing the same information over and over again. Given the environment and circumstances of rushing these records there are bound to be mistakes (transposing numbers, information accidentally left out, or sloppy illegible hand writing. No crossing out or dittos allowed!!

When these record keeping errors are found in audits the server pay \$500 per error even if it is the same error accidentally repeated at the same apartment. One error in recordkeeping causes a \$1500.fine

Continuing with these unwarranted audits, which are viewed as persecution to the servers and they will give up. It will be easier for them to get a minimum wage job for \$15.00 an hour with less stress, less pressure and more respect.

Effect of Intro- 1258

As the department of Consumer affairs agrees, blanket auditing of process server records is counterproductive (whether it be the digital records, the handwritten log, or the affidavits of the process server). The effect of such audits will:

- 1) Cause more unregulated process:

As the numbers show since 2011 NYC has lost over 70% of its licensed process servers. More and unwarranted audits will cause more process servers to leave the industry opening the field to more unregulated and improper service.

2) Unreasonable Expense:

The cost of time and money to prepare for audits, the preparation and stress just does not make sense for a process server who gets paid \$10-17 a service.

3) Close Small Business

At present, the mom and pop process serving agencies are having a hard time because there is a lack of licensed Process servers. They cannot hire Compliance officers to review and prepare for additional audits and will go out of business due to over regulation.

Conclusion:

Since NYC already has the most stringent rules of process in the country, I agree with the DCA's Proposed Revision. Process servers should be audited when they are the target of complaints or the subject of multiple traverse hearing or findings of Bad Service.

THE BILLS PURPOSE AND HOW TO ACHIEVE THESE GOALS:

It is my understanding that the purpose of bills proposed by the city council is to protect tenants from harassment, displacement, and other unscrupulous practices and to educate the consumer as to their rights.

Service of Process Rules can be improved and Process Servers can help:

I have been working with Mr. Cornegy's Office and have made suggestions as to how process servers can work with the city to improve the unfair displacement of tenants:

I have been serving process and studying the rules for years. I am an expert in this area. I believe some improvements can easily be made to help insure proper service and make it clearer to the consumer that they are being targeted for eviction.

- **We can define better ways to Prove Service was effectuated.**
- **By adjusting our affidavits we can help prevent un-licensed service.**
- **We can help by educating the consumer at the time of service.**
- **We can show you how to get the landlord to stop unfair practices.**

I have been talking to the Senate and Assembly in Albany to make improvements to the rules governing Housing law to assist in this effort.

When I say this bill will cause a drop in licensed process servers it is **not supposition**. There already is a shortage of educated, licensed servers. With millions of papers a year that go into the city to be served from all across the nation. Who will serve them with? The Police and the Sheriffs will not handle this work. **What is the plan?**

Instead, of passing this bill, **let us help**. We are not the bad guys here. **Stop shooting the messenger!** We are already on the street, we know the score, and we have the knowledge to assist.

Thank you for taking the time to include NYSPPSA in this process. Feel free to contact me if I can help I in any other way.

Sincerely,

Gail Kagan
Legislative Chair and Past President of NYSPPSA 646-275-9588