

Montana Legal Services Association

Provide, protect and enhance access to justice.

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Testimony

To: House Judiciary
From: Tara Veazey
Date: 2/6/2007
Re: HB60: Civil Access to Justice Act

Good Morning, Madame Chair and Members of the Committee. Thank you for the opportunity to testify today. My name is Tara Veazey, and I am an attorney for Montana Legal Services Association (MLSA) here in Helena.

I had the great privilege of working with many of you on the Law and Justice Interim Committee on this issue, and I want to articulate, again, on behalf of all of the stakeholders who worked with you, how thankful we are for the immense amount of time, thought, and energy you took exploring this issue- and potential solutions- with us.

I want to spend a few minutes discussing the need that this bill addresses and then offer a programmatic synopsis of the components of this bill. MLSA, the organization I work for, provides free civil legal assistance to low-income Montanans who live at or below 125% of the federal poverty line. We are the only statewide provider of civil legal assistance to low-income Montanans. Currently, MLSA has around 13 full-time attorneys available to provide legal representation to the approximately 180,000 income eligible clients in the state, spread out over 147,000 square miles. Likewise, there is only 1 reference librarian at the State Law Library providing research and resources to attorneys and pro se patrons alike.

So, what kind of need are we trying to fill with those limited resources? In 2005, the State Bar conducted a comprehensive statewide legal needs study. I am providing you with a full copy of that report as well as a one page summary. The report was based on almost 850 in-person surveys of your low-income constituents throughout the state. The results were startling even for those of us working in the field. We found that low-income households averaged 3.5 legal problems per household per year, of which only 16% received any attention by an attorney. Lest you think they were not important problems, 90% of the legal issues reported were rated as important or extremely important by the respondents. Perhaps even more troubling, 80% of the people who sought legal help and didn't get it left with negative feelings about the legal system.

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That number went down to 37% for people who had assistance from a lawyer. We also know that over 30,000 civil cases are filed in Montana's district courts each year in which at least one party is self-represented. Best estimates from the courts of limited jurisdiction tell us that almost as many are filed in those courts.

I've given you a lot of numbers. What do they mean for your constituents? They mean that our current system is depriving far too many of your constituents of the rights enacted in our constitution and the laws you work so diligently to pass every session. We're not talking about equal access or equal justice, we're talking about the most basic ability to open the courthouse door and have a case heard- for the parent fighting for custody of her child, for the poor tenant who is unjustly denied his security deposit, or for the veteran who is challenging the denial of benefits.

You'll hear from attorneys, judges, clerks of courts, and non-profit organizations today about the need for this bill, but make no mistake that this bill is not fundamentally about helping lawyers, Montana Legal Services, or even the courts. It is about ensuring that a great many of the hard working people in your districts have access to the system our democracy has established for resolving disputes and enforcing rights.

I believe you will hear today from several individuals who have struggled to access our justice system. At MLSA, I have the great privilege of watching on a daily basis what a powerful impact that adequate legal assistance can have in a person's ability to be safe, secure, and productive- allowing them the freedom to grow, contribute to their communities, and provide for and protect their children. Unfortunately, for every client that we are able to help there are many more that we can't, and unaddressed legal problems can spiral into multiple legal, personal, familial, and community problems.

I think wisely, the Law and Justice Interim Committee decided that the most effective and efficient way to tackle this problem was to devote resources to assist people in competently and confidently handling their own legal issues. MLSA already provides limited self-help assistance in some matters. I personally have worked on building these resources for over four years. What we've learned is that not every person who has a legal issue needs an attorney to represent them. What I've also learned is that self-help assistance can be much more than just a cost-effective way to get people some legal assistance where they otherwise would have none. It can be a truly transformative experience for people who face a challenge and are given meaningful resources and education to handle it on their own. At its best, self-help assistance can be a model of empowerment that truly transforms people's lives. It doesn't happen in every case, but it happens in some.

What will this bill do to meet the needs I have discussed? I have two handouts for you which summarize the core components of this bill. The first is a diagram, and the other is a chart. I hope they will help in making the services that would be offered by this bill a little more concrete.

I want to end on a personal note. Five years ago, I came to MLSA as an attorney in the Domestic Violence Unit. As a brand new attorney, I was the only person covering eastern Montana, a geographic size roughly the size of New England. It was a rude awakening for someone just out of law school where we engaged lofty ideals about the role of the Courts in democracy and the meaning of equal justice under the law. I was truly devastated by the lack of access I witnessed. That initial devastation has been assuaged by the incredible strength and promise I have seen by and in people all across this state. I have written testimony by a former client of a pilot self-help workstation I helped start in Sidney several years ago.

When I first met Donna, she had been divorced several years earlier and had not been able to afford a lawyer. Because she didn't understand the specifics of the custody arrangement designed by her husband and his attorney, she agreed to it and only found out later that the divorce decree granted him sole custody of their children, not the joint custody that they had previously agreed to. Donna wanted to know what her options were for changing her parenting plan. She was absolutely terrified at the time by the thought of doing it on her own. I helped her draw up the necessary paperwork and prepare for the hearing, where Donna went up against the same attorney that had represented her husband during the divorce. After the hearing was over, she called me and told me that she thought she'd been more prepared than her husband's attorney, and her parenting plan was changed successfully. Donna went on to volunteer for the self-help workstation for the next two years. When I met her, she was commuting an hour and a half each day to work at a fast-food restaurant. She's now an advocate and legal assistant for a local domestic violence shelter. Unfortunately, the Sidney workstation has been closed because of lack of funding. This bill would ensure that others are created in its place and that more people have access to the kinds of resources that Donna had.

House Bill 60 does not ask that every low-income person who has a legal issue get access to a free attorney. Rather it puts a system into place that gives all of those people struggling without legal counsel meaningful access to our justice system. It is also a fiscally responsible answer to a problem huge in scope.

I strongly and respectfully urge do pass on HB60.

Sincerely,

Tara Veazey
Montana Legal Services Association